

Planning and Environment Act 1987

Panel Report

Yarra Planning Scheme Amendment C238

Yarra Development Contributions Plan

1 April 2019

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

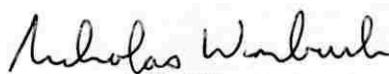
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1 April 2019



Rodger Eade, Chair



Nick Wimbush, Member

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Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
Council	Yarra City Council
CPI	Consumer Price Index
DCP	Development Contributions Plan
DCPO	Development Contributions Plan Overlay
EIWS	Encouraging and Increasing Walking Strategy
HIA	Housing Industry Association
LAPMs	Local Area Place Making districts
PPF	Planning Policy Framework
PPI	Producer Price Index
VPA	Victorian Planning Authority

Overview

Amendment summary

The Amendment	Yarra Planning Scheme Amendment C238
Common name	Yarra Development Contributions Plan
Brief description	Introduces a Development Contributions Plan to apply to new residential, industrial and commercial development in the City of Yarra
Subject land	All land in the City of Yarra
The Proponent	Yarra City Council
Planning Authority	Yarra City Council
Authorisation	Letter from the Minister for Planning dated 22 July 2018
Exhibition	23 August to 21 September 2018
Submissions	26, including one late submission. Of these, 12 supported the Amendment, 7 opposed it, and 6 supported it subject to changes to the Development Contributions Plan.

Panel process

The Panel	Rodger Eade (Chair) and Nick Wimbush
Directions Hearing	Planning Panels Victoria, 17 December 2018
Panel Hearing	Planning Panels Victoria, 25, 27 and 28 February 2019
Site inspections	None required
Citation	Yarra C238 (PSA) [2019] PPV
Date of this Report	1 April 2019

Executive summary

Yarra Planning Scheme Amendment C238 seeks to insert a Development Contributions Plan and Development Contributions Plan Overlay Schedule 1 into the Yarra Planning Scheme and make consequential changes including inserting relevant maps.

Key issues raised in submissions were whether:

- the Amendment and projects proposed are strategically justified
- the Development Contributions Plan complies with the principles set out in the Act and relevant guidelines
- there is appropriate nexus between the charges levied for projects and the likely future users
- the charges imposed will inappropriately impact on housing affordability
- the choice of projects is appropriate
- the charge areas are appropriate
- costs are shared equitably between users and between charge areas
- the projections of future commercial floor space provision are appropriate
- the use of the Consumer Price Index to adjust charges for future project cost increases is appropriate
- the timing of payment of charges levied is appropriate
- transitional arrangements should be made for development applications commenced
- exemptions proposed are appropriate
- the proposed allowance for external use of projects is appropriate.

The resulting Development Contributions Plan proposes to part fund 777 projects over the period to 2036. It is based on projected growth in population, commercial, industrial and retail uses over that period. Approximately 30 per cent of the total project cost is funded through Development Contribution Plan levies on new development in these categories. The balance of the total project costs will be funded by existing residents through rates and other Council revenue sources.

The Development Contributions Plan is based on significant strategic work undertaken by Yarra Council. Some of these adopted plans, policies and strategies are referenced in the planning scheme and some not.

A significant number of issues were raised in submissions, but many were resolved prior to the Hearing. These included dividing charge area 10 Cremorne and Burnley – Richmond South into charge area 10, Burnley – Richmond South and charge area 11, Cremorne. Further strategic work will be done in Cremorne.

The key conclusions reached by the Panel are:

- Amendment C238 to the Yarra Planning Scheme is strategically justified
- The Development Contributions Plan has been well prepared, with rigorous processes used to identify the projects to be funded
- The apportioning of costs between the 11 charge areas and between existing and future users is appropriate

- In preparing the Development Contributions Plan and the associated Overlay Schedule, relevant legislation, Ministerial Directions and guidelines have been broadly followed
- The few outstanding issues considered by the Panel are minor and can be readily resolved by minor changes to the Development Contributions Plan and the Development Contributions Plan Overlay Schedule 1.

Recommendations

The baseline documents for the recommendations set out below are:

Table 1: Baseline documents

Document	Version
Development Contributions Plan	Tabled document 16 – Changes accepted version of DCP dated 26/2/19
Development Contributions Plan Overlay Schedule	Tabled Document 14 – Changes accepted version of DCPO1 dated 26/2/19

Based on the reasons set out in this Report, the Panel recommends:

- 1. Adopt Yarra Planning Scheme Amendment C238 as exhibited, subject to the inclusion of the revised Development Contributions Plan included in Tabled Document 16, and the Development Contributions Plan Overlay Schedule 1 as shown in Appendix D to this report, subject to:**
 - **Setting the infrastructure levies for charge area 10, Burnley - Richmond South, and charge area 11, Cremorne at the exhibited level and updating relevant tables in the Development Contributions Plan and Development Contributions Plan Overlay Schedule 1.**
 - **Replacing the sentence in Clause 3.0 of the Development Contributions Plan Overlay Schedule 1 commencing “*The amount of the adjustment ...*”, with the words “*The amount of the adjustment will be in accordance with the Consumer Price Index for Melbourne (All Groups) as published by the Australian Bureau of Statistics in any adjustment period*” and making the same wording change to the section headed Indexation of Development Contribution Plan Charges in section 7. of the Development Contributions Plan.**
 - **Updating all costings in the Development Contributions Plan and Development Contributions Plan Overlay Schedule 1 to latest year costings and amending relevant tables accordingly.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment will introduce a Development Contributions Plan (DCP) into the Yarra Planning Scheme to apply a charge to all new residential, commercial and industrial development to partly fund new and upgraded infrastructure.

Specifically, the Amendment proposes to:

- insert a new Clause 45.06 Development Contributions Plan Overlay (DCPO) and a new Schedule 1 to the Clause 45.06
- amend the Schedule to Clause 72.03 to include new Planning Scheme Maps: 1DCPO1, 2DCPO1, 3DCPO1, 4DCPO1, 5DCPO1, 6DCPO1, 7DCPO1, 8DCPO1, 9DCPO1
- amend the Schedule to Clause 72.04 to incorporate the Yarra Development Contributions Plan –2017.

(ii) The subject land

The Amendment applies to all land in the City of Yarra. Land developed for public purposes, for non-government schools and certain types of development including renovations, alterations, demolition and construction of a replacement building, outbuildings, and reinstatement of damaged buildings will be exempt from contributions.

1.2 Background

The Amendment implements the municipal-wide *Yarra Development Contributions Plan 2017*. The DCP imposes a development infrastructure levy and/or a community infrastructure levy to fund a range of social and physical infrastructure throughout the municipality. The DCP includes capital infrastructure projects such as roads, footpath, streetscape works as well as community infrastructure projects (for example- a community centre).

The infrastructure is required to cater for the growing population of the municipality and the consequential increased demand on infrastructure.

The DCP will provide certainty for Yarra City Council (Council), developers and the broader community about how and to what extent new residential, commercial and industrial developments will be levied to ensure the necessary infrastructure is delivered in a timely manner. The DCP will further reduce the uncertainty and resource intensity associated with the current case-by-case agreements for contributions between Council and proponents.

The DCP provides for approximately 30 per cent of the costs of the projects listed in the DCP to be funded by new development. The balance will be funded from existing means such as rates.

1.3 Panel process

Parties appearing at the Panel Hearing are listed in Appendix B.

1.4 Procedural issues

On 15 February 2019, the Panel received correspondence from Norton Rose Fulbright on behalf of SZM Holdings Pty Ltd (SZM)¹ informing the Panel that it had been in discussions with Council and that they had reached agreement, summarised as follows:

- the Cremorne and Burnley - Richmond South charge area would be divided into two charge areas
- existing projects would be split between the two charge areas such that there would be no net increase in proposed charges in either area
- the DCP would be amended to refer to future strategic work in the area which will result in further projects being added in the Cremorne charge area.

In the correspondence, Norton Rose Fulbright stated that if the Panel supported the changes by way of a recommendation, SZM would no longer call evidence or require the allocated time at the Hearing.

Subsequently Harwood Andrews on behalf of Council confirmed the agreement reached between it and SZM.

On the first day of the Hearing, Mr Townshend QC, outlined the agreement to the Panel and explained the background and reasoning behind it.

The Panel stated that it was not common practice to make recommendations during a Hearing and, unless there were contrary submissions during the remainder of the Hearing, it could see no reason why it needed to hear further submissions from SZM. The Panel assured Mr Townshend that if opposing submissions were subsequently made it would afford SZM the opportunity to make further submissions and if necessary, call the evidence it had initially proposed. No further submissions on this issue were made.

In its correspondence, SZM requested that the amended DCP wording refer to the DCP in the Cremorne area being regarded as 'interim'. At the Hearing, SZM acknowledged that the DCP would not be 'interim' in a statutory sense but that the DCP would need to be revised through either a regular review or a future process.

Mr Cooper for Cremorne Properties Pty Ltd, attended the first day of the Hearing and supported the agreement reached between Council and SZM. He subsequently withdrew his request to be heard during the Hearing.

The issues raised by SZM are addressed in chapter 4.2.

1.5 Summary of issues raised in submissions

The key issues raised in submissions were whether:

- the Amendment and projects proposed are strategically justified
- the DCP complies with the principles set out in the *Planning and Environment Act 1987* (the Act) and relevant guidelines

¹ SZM Holdings was not a submitter to the exhibited Amendment, however Winehall Pty Ltd was submitter 9. At the request of the Panel, Mr Townshend explained that Winehall is the nominee purchaser of property in Cremorne for SZM Holdings.

- there is appropriate nexus between the charges levied for projects and the likely future users
- the charges imposed will inappropriately impact on housing affordability
- the choice of projects is appropriate
- the charge areas are appropriate
- costs are shared equitably between users and between charge areas
- the projections of future commercial floor space provision are appropriate
- the use of the Consumer Price Index (CPI) to adjust charges for future project cost increases is appropriate
- the timing of payment of charges levied is appropriate
- transitional arrangements should be made for development applications commenced
- exemptions proposed are appropriate
- the proposed allowance for external use of projects is appropriate.

The Panel considered all written submissions made in response to the exhibition of the Amendment, submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has been selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Appropriateness of the DCP
- Content of the DCP
- Implementation of the DCP
- DCP Amendment documentation.

1.6 Limitations

Some submissions suggested further project types be included in the DCP, most notably further open space projects. Council indicated that projects which will be funded under the open space provisions of the Planning Scheme or the *Subdivision Act 1988* were specifically excluded from the DCP project list. For this reason, this issue is not addressed by the Panel.

2 Planning context

2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework (PPF), which the Panel has summarised below.

Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the Act by:

- providing for the fair, orderly, economic and sustainable use, and development of land
- enabling the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.

The Amendment will assist in implementing the following clauses of the PPF.

Clause 19 (Infrastructure)

The Amendment supports Clause 19.03 -1S, which has the objective of facilitating the timely provision of planned infrastructure to communities through the preparation and implementation of DCPs. The Clause lists strategies to achieve this:

- prepare development contribution plans and infrastructure contribution plans under the Act, to manage contributions towards infrastructure
- collect development contributions based on approved development and infrastructure contributions plans
- require annual reporting by collecting and development agencies to monitor the collection and expenditure of levies and the delivery of infrastructure.

In the exhibited Explanatory Statement, Council stated that the Amendment is consistent with the following clauses in the Council's Local Planning Policy Framework:

Clause 21 (the Municipal Strategic Statement)

Clause 21.05-4 - Public environment

The Clause requires new development to contribute positively to Yarra's overall character and help create a safe and engaging public environment where pedestrian activity and interaction are encouraged.

Clause 21.06-1 - Walking and cycling

Strategy 31 encourages improved pedestrian and cycling links in association with development where possible.

Clause 21.07 – Water quality

Strategy 38.1 encourages the use of stormwater retention and treatment devices to improve water quality.

Clause 21.10 – Future work

This Clause nominates the investigation of an appropriate contributions system for areas forecast to experience significant rates of residential development as further work required.

Clause 22 (local planning policies)

There are no local planning policies included in the Yarra Planning Scheme referred to in the exhibited Explanatory Statement or Part A submission. There are however a number of Council adopted plans strategies and policies which it indicates support the DCP or more particularly the projects listed within it and these are listed in chapter 2.2(iii).

2.2 Other relevant planning strategies and policies

(i) Plan Melbourne

Plan Melbourne 2017-2050 (Plan Melbourne) sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is to be regularly updated and refreshed every five years.

Plan Melbourne is structured around seven desired outcomes. The outcomes are supported by directions and policies, which outline how the outcomes will be achieved. Those particularly relevant to the Amendment are summarised in Table 2.

Table 2: Relevant sections of Plan Melbourne

Outcome	Directions	Policies
2. Housing choice near jobs	2.1 Housing in right locations	2.1.2 Increased housing in established areas.
	2.2 Housing closer to jobs and transport	2.2.3 Housing in activity centres close to jobs. Plan Melbourne lists five major activity centres in Yarra.
3. Vibrant and healthy neighbourhoods	5.1 Create 20-minute neighbourhoods	5.1.1 Mixed use neighbourhoods
		5.1.2 Support vibrant neighbourhood activity centres
	5.2 Neighbourhoods that support safe communities and healthy lifestyles	5.2.1 Neighbourhoods that enable walking and cycling

To accommodate the type of population growth, neighbourhoods and activity centres envisaged in Plan Melbourne, new and upgraded infrastructure is needed.

(ii) Local Structure Plans

Council is currently preparing structure plans, built form frameworks and local plans for each of its major and neighbourhood activity centres.

Plan Melbourne lists five major activity centres and in its Part A submission. Council listed seven designated neighbourhood activity centres.

(iii) Other local plans and policies

Council's Part A Submission listed a significant number of other endorsed plans strategies and policies which it submitted underpin the DCP and more particularly the projects listed within it. These are:

- Access and Inclusion Plan 2014 to 2017
- Arts and Cultural Strategy 2016 to 2020
- Asset Management Policy 2011
- Asset Management Policy 2017
- Bike Strategy 2010-2015 part 1
- Bike Strategy 2010-2015 part 2
- Bike Strategy September 2016
- Bridge Rd Streetscape Masterplan
- Buildings Asset Management Plan adopted 2013
- Buildings Asset Management Plan revision 2017
- Community Infrastructure Planning Framework
- Events in Public Places Policy
- Early Years Strategy 2015-2018
- Economic Development Strategy 2015-2020
- Encouraging and Increasing Walking Strategy 2005
- Final Stage Two Action Plan 2014-2017
- Guidelines for Public Art in Private Development in Yarra
- Local Area Traffic Management Policy 2013
- Local Area Place Making Policy 2017
- Long Term Financial Strategy June 2016
- Long Term Financial Strategy 2017/18 to 2026/27
- Middle Years Strategy 2014- 2017
- Nicholson Street Place Making Initiative Concept Design
- Night Time Economy Strategy 2014-2018
- Open Space Strategy 2006-2016
- Parking Management Strategy Action Plan 2013-2015
- Positive Ageing Strategy 2007-2016
- Public Art Policy 2015 to 2020
- Road Management Plan 2013
- Social and Affordable Housing Strategy 2012-2014
- Strategic Advocacy Framework November 2013
- Stormwater Drainage Management Strategy
- Strategic Transport Statement 2006
- Victoria Street Streetscape Masterplan
- Urban Design Strategy 2011
- Water Sensitive Urban Design Policy 2016
- Yarra Health Plan 2013-2017
- Yarra Youth Policy Action Plan 2013 to 2016.

The Panel was informed that the *Yarra Housing Strategy* and the *Spatial and Economic Strategy* were endorsed by Council subsequent to exhibition of this Amendment.

In addition, three background papers informed the preparation of the DCP. These are:

- Background Paper No. 1 *Demographics* – which identifies relevant population change
- Background Paper No. 2 *DCP Projects* - which lists projects and the methodology identifying them
- Background Paper No. 3 *DCP charge areas* – which outlines the basis for identifying the proposed charge areas.

2.3 Planning scheme provisions

The DCP applies to most land in Yarra which is predominantly in residential, commercial and industrial zones. No changes to zones are proposed as part of this Amendment.

There are a range of overlays applied across the municipality which are not listed here as they are not directly relevant to the Amendment. It is noted that there is a significant number of Design and Development Overlays and Development Plan Overlays in place, indicative of the development pressure which is occurring in the municipality. In particular, there appears to be significant development pressure in and around a number of the major activity centres.

Recently, interim controls have recently been approved for:

- Johnston Street (DDO15 gazetted on 2 March 2018 through Amendment C237)
- Queens Parade (DDO20 gazetted on 23 August 2018 through Amendment C241)
- Swan Street (DDO17 gazetted on 22 November 2018 through Amendment C236)
- Bridge Road (DDO21 gazetted on 15 November 2018 through Amendment C248)
- Victoria Street (DDO22 gazetted on 15 November 2018 through Amendment C249).

Of these, Swan Street, Bridge Road and Victoria Street are amongst the five major activity centres listed in Plan Melbourne.

2.4 Amendment VC148

Amendment VC148, gazetted on 31 July 2018 made substantial changes to the structure and content of the planning policy framework, as well as other provisions in the Planning Scheme. In its submission, Council has referenced the updated Clause numbers in the State section of the Planning Scheme. Changes made as part of this Amendment appear to have only marginal relevance to the current Amendment.

2.5 Ministerial Directions and Practice Notes

The Explanatory Report indicates that the Amendment is consistent with each of:

- Ministerial Direction on the Preparation and Content of Development Contributions Plans
- Ministerial Direction on the Form and Content of Planning Schemes.

No reference is made in the Explanatory Report or the Council submission of how the Amendment complies with the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46).

There is however a strategic assessment of the Amendment in the Part A submission and further comment is made on the strategic underpinning of the DCP projects in chapter 3.1.

2.6 Discussion and conclusion

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Appropriateness of the DCP

3.1 Strategic justification

(i) The issues

The issue addressed is whether the proposed DCP projects are strategically justified.

(ii) Relevant policies, strategies and studies

The strategies, plans and policies which underpin the DCP projects are listed in chapter 2.2(iii).

(iii) Evidence and submissions

Ms Liddell for Meydan Group (Meydan) submitted that a review of the DCP raises questions about the strategic basis of the projects chosen. In his cross examination of the two Council expert witnesses, Mr Chiappi for Salta Properties (Salta) focussed on a small number of the projects which involved works in existing laneways and rights of way. He put to the witnesses that the major beneficiaries of the laneway works were the abutting landowners and that they did not have broader strategic justification. Mr Hrelja, called by Council, responded that he understood that the basis of the inclusion of these projects was included in the documents listed in the 'Reference Document' column in the DCP project table at Appendix 2 to the DCP.

The Panel requested Council explain in more detail the strategic justification of laneway works, pointing out that Council's *Encouraging and Increasing Walking Strategy, 2005*, (EIWS) appears to make no reference to the use of laneways as part of the movement network. The *Road Management Plan 2013* refers to laneways as part of the responsibilities of Council but does not appear to refer to them in terms of active transport networks.

In closing, Mr Finanzio SC for Council tabled a detailed project sheet for the laneway project used as an example by Mr Chiappi together with an extract from the EIWS which does make specific reference to the use of laneways as short cuts and proposed that these are retained when redevelopment occurs.

Mr Townshend for SZM and Mr Cooper for Cremorne Properties submitted that further strategic work in Cremorne would result in further projects being added to the DCP and that this DCP should be regarded as interim as far as Cremorne is concerned. The procedural issues raised by SZM and Cremorne Properties are outlined in chapter 1.4.

Riverlee Management Pty Ltd (Riverlee) submitted that some of Yarra's local strategies listed are not linked in any way to any of the projects listed.

Others, including submitters 6, 15 and 19, referenced further strategies which are required in Yarra.

(iv) Discussion

The Panel notes that the strategic justification of projects such as laneway works might not in all cases have been obvious from the documentation. The Panel is satisfied with Council's response. The Panel notes that in at least some cases works are proposed in laneways one dwelling distant from a trafficable street and that the use of the lane as a short cut may not

always be a desirable option. The Panel does not see its role as individually assessing the details and strategic underpinning of each of the 777 DCP projects. No examples or evidence were drawn to the Panels attention to lead to conclude that projects are not sufficiently strategically justified.

The Panel understands that strategies and plans are prepared for a number of purposes and while there may be a lack of project detail in some underpinning documents, it is satisfied that detail is generally available and that the projects included in the DCP are broadly strategically justified.

It is not the Panel's role in the context of this Amendment to assess the need for further strategies in Yarra.

(v) Conclusion

The Panel concludes the DCP projects are strategically justified.

3.2 Conformity with DCP principles and guidelines

(i) The issues

The issues addressed are whether the proposed DCP conforms with the principles of DCPs as set out in Part 3B of the Act, the *Ministerial Direction on the Preparation and Content of Development Contributions Plans, October 2016* and the *Development Contributions Guidelines* (the Guidelines).

(ii) Evidence and submissions

Council submitted that it appears to be common ground that the Act and the Ministerial Direction are complied with.

The Guidelines set out the following nine principles headed:

- DCPs must have a strategic basis
- infrastructure projects must be justified
- nexus between new development and new infrastructure
- DCPs must have a reasonable time horizon
- infrastructure costs must be apportioned on the basis of project share of usage
- a commitment to provide the infrastructure
- accountability
- transparency
- DCP must be in the planning scheme.

Council submitted that Mr Hrelja's evidence demonstrates that these principles informed and were actively considered in the preparation of the DCP. Principles 1, 2, 5, and 9 are addressed in other sections of this report. Except for the nexus principle which is addressed in chapter 3.3, conformity with other principles was not contested.

(iii) Discussion

The Panel accepts that the relevant sections of the Act and the Ministerial Directions and Guidelines not discussed elsewhere have been complied with.

The Panel observes that the Guidelines were prepared in the context of DCPs mainly applying in greenfield growth areas and some aspects, for example the equitable sharing of costs which is addressed in chapter 4.3 do not readily translate to an existing area such as Yarra.

(iv) Conclusion

The Panel concludes as relevant, the Act, the *Ministerial Guideline on the Preparation and Content of Development Contribution Plans* and the Guidelines are broadly complied with.

3.3 Nexus

Nexus between users of infrastructure and who pays for it is one of the underpinning principles of DCPs. It is addressed separately from consideration of other principles because of the emphasis placed on it by some submitters and the Panel's view that it is desirable to clearly spell out the parameters for establishing nexus in this inner urban environment.

(i) The issue

The issue addressed is whether there is sufficient nexus between the development to be levied and likely use of the infrastructure.

(ii) Evidence and submissions

As indicated in chapter 3.2, the DCP guidelines set out nine principles for DCPs. One is headed:

Nexus between new development and the need for new infrastructure

It must be demonstrated that the new development to be levied is likely to use the new infrastructure to be provided. New development should not be considered on an individual basis, but as part of the wider community that will use the infrastructure project. The wider community may also include existing development. This is all that is required to demonstrate 'nexus' to justify the application of the charge.²

In cross examination of Mr Hrelja, Mr Chiappi took him to DCP project 162, a laneway project near Fitzroy and Mahoney Streets, Fitzroy and put to him that the only beneficiaries of work in that laneway would be the abutting land owners. In response Mr Hrelja responded that each laneway is part of a network of paths and contribute to the permeability of the area and should be viewed as part of the wider network.

When questioned by the Panel on what needs to be done to ensure nexus between users of development and DCP charges, both Mr Hrelja and Mr De Silva (also called by Council) addressed the issue in terms of the need to ensure that the charge areas chosen are appropriate.

Ms Liddell presented a table assessing the nexus of a range of project categories in the Abbotsford and Richmond Central charge areas which assessed the nexus between Meydan's

² Guidelines for Development Contributions Plans 2003 (revised 2007) p13.

commercial sites and users of them. In many cases, she assessed the nexus as low. The Housing Industry Association (HIA), Vicinity Centres (Vicinity) and Salta each submitted levies were proposed to be charged without legitimate nexus having been established. The Epworth Hospital submitted that several projects were maintenance items, there was no nexus established, and that this was not a proper use of a DCP. Salta submitted that some footpath works will be required regardless of new development.

(iii) Discussion

The relevant principle in the Guidelines for Development Contributions Plans states:

It must be demonstrated that the new development to be levied is likely to use the infrastructure to be provided ...

The principle has three interrelated elements as follows:

- new development
- likely to use
- infrastructure provided.

Through established practice, each of these have become relatively straight forward in greenfield areas, but each requires exploration and refinement in existing urban areas. There is a growing body of work on existing urban area DCPs and their related Panel reports; the Yarra DCP and this report add to this.

New development

Most greenfield DCPs and indeed ICPs, provide for mostly new urban development. This is not the case with DCPs in existing urban areas where existing development users will be significant contributors to projects. In Yarra's case about 70 per cent of the provision is for existing development. This impacts significantly on the remaining two elements of the principle listed above.

Likely to use

The Moreland Panel³ quoted by Council stated that development may be required to contribute to development even though it might not derive direct benefit from it. This Panel concurs. In Yarra, about 70 per cent of the project costs will effectively be met by existing users, so the 'nexus' between charges levied and 'new development' arguably can be interpreted differently than in greenfield development. The Panel agrees with Mr Hrelja and Mr De Silva meeting the 'likely to use' criterion is getting the charge areas right and not seeking to define a clear nexus between a levy on a particular user and an individual project. For example, the Panel accepts Ms Liddell's submission that users of the Meydan developments may not use the public toilet in their charge area. However, these projects are important to the broad amenity of the areas being redeveloped, particularly where external users visit the area, and thus it is appropriate that a portion of the infrastructure be charged to new development.

³ Moreland C133 (PSA) [2014] PPV157

Infrastructure provided

Clearly, any infrastructure provided must be strategically justified and must be strategically linked to future development. It is not appropriate to provide infrastructure just for existing residents. However, if enhanced or improved infrastructure is provided as a result of new development, and will be used by existing development, it is appropriate that it is in part paid for by existing users.

The Panel accepts the submission by Salta that some footpath works would be required anyway but disagrees with Salta that these should not be included. The reason for this is that the Guidelines use terms such as 'replacement' and 'upgrading'. These are less common in greenfield DCPs and ICPs but by necessity are going to be common in existing area DCPs.

Many of the projects listed in the DCP were referred to as 'renewal'. The Panel is satisfied that the process to prepare this DCP was sufficiently rigorous to eliminate most maintenance (discussed further in chapter 4.1). The Panel regards it as unfortunate that the term renewal was used extensively and would prefer the terms 'upgrading' and 'replacement' as used in the Guidelines.

In most greenfield settings, completely new road, open space and community infrastructure is required to accommodate new communities. This differs significantly from new development in existing areas more often characterised as infrastructure which:

- replaces and upgrades existing infrastructure which may have reached the end of its economic life
- upgrades the standard of existing infrastructure to increase capacity within a restricted land or building footprint
- Increases the broad amenity of an area so it aligns with current community expectations.

The Panel is of the view that each conforms with the Guidelines.

(iv) Conclusions

Based on the discussion above, the Panel concludes that:

- consistent with the Moreland Panel and as appropriate for the differing categories of development, that all development contribute to infrastructure in a charge area even though it may not derive direct benefit from the infrastructure
- there needs to be a strategic justification linking a project to new development and this may be as broad as improved public realm
- suburb wide charge areas are appropriate to establish the principle of nexus
- there is a need to clearly define maintenance and use terminology to describe projects which is both consistent with the Guidelines and makes clear that the project is not maintenance.

The Panel is of the view that, while the principles underpinning these conclusions are broadly complied with, some changes in detailed wording could improve compliance. The Panel understands and accepts however, that the wording derives from background strategic documents and has been used for consistency.

3.4 Impacts on housing affordability

(i) The issue

The issue addressed is whether the proposed DCP levies will have an unacceptable impact on the affordability of housing.

(ii) Evidence and submissions

The HIA submitted that it opposes the application of development contributions on several grounds, including its potential impact on housing affordability. It further submitted that governments should be required to prepare full cost-benefit analysis of the impact of development levies on housing affordability prior to implementation. Council submitted that the HIA had made similar submissions to other recent DCPs, including Moreland, Brimbank and Banyule and quoted from each of the relevant Panel reports. Each of the previous Panels rejected the case put by the HIA, variously citing, no corroborating evidence, that DCP levies could be absorbed in ways other than increases in the price of the housing end product and that the HIA's objection was essentially a broad-based objection to the use of development levies to fund infrastructure.

In his expert witness statement, Mr De Silva provided context, stating that the quantum of charges proposed is modest compared with charges in greenfield locations and in line with those proposed in other recent DCPs in existing areas.

(iii) Discussion

The HIA did not expand on its detailed written submission at the Hearing. The Panel concurs with the findings of other recent Panels. It notes that housing affordability is a complex issue which is being addressed by government in a number of ways. No evidence was produced to convince this Panel to deviate from the conclusions reached by the other recent panels quoted by Council. This Panel notes that the proposed DCP funded infrastructure is justified and that the cost will need to be borne by home owners and taxpayers in some form or other. Alternative approaches to funding such infrastructure would impose a financial 'burden' on some group in society. Until it can be shown that the burden unnecessarily and inappropriately impacts housing affordability, it is appropriate to reject the argument put by the HIA. In drawing this conclusion, the Panel is cognisant of the relatively modest charges proposed, as identified by Mr De Silva.

(iv) Conclusion

The Panel concludes that the proposed development contributions will not impact housing affordability.

4 Content of the DCP

Council submitted that there are four things that a DCP proposal must get right:

- the demographics
- choosing the correct projects
- defining appropriate charge areas
- a proper basis for sharing costs.

The first of these was not contested and is not addressed. The other three are the subject of the first three sections of this chapter followed by the accuracy of the forecast of future commercial floor space as raised by Meydan.

4.1 Choice of projects

(i) The issues

The issues addressed are:

- whether there is appropriate project detail given
- whether the proposed projects are appropriate and whether further projects should be included in the DCP.

(ii) Relevant policies, strategies and studies

Project detail

In cross examining Mr Hrelja, Mr Chiappi put to him that it was not clear what the projects were in any detail. He further put it that the result may be significant change to projects without the developer being able to understand what the changes may be.

Council responded that project detail is in its long-term financial plan which is publicly available.

Appropriate projects

Council submitted that both the *Ministerial Direction on Preparation and Content of Development Contributions Plans* and the *Development Contributions Guidelines* provide guidance to what projects can be included in DCPs. Mr De Silva quoted the relevant part of the Ministerial Guideline which outlines projects which can be included in DCPs:

5. The following works, services or facilities may be funded from a development infrastructure levy:
 - a) Acquisition of land for:
 - roads
 - public transport corridors
 - drainage
 - public open space, and
 - community facilities, including, but not limited to, those listed under clause 5(f).
 - b) Construction of roads, including the construction of bicycle and foot paths, and traffic management and control devices.

- c) Construction of public transport infrastructure, including fixed rail infrastructure, railway stations, bus stops and tram stops.
- d) Basic improvements to public open space, including earthworks, landscaping, fencing, seating and playground equipment.
- e) Drainage works.
- f) Buildings and works for or associated with the construction of:
 - a maternal and child health care centre
 - a child care centre
 - a kindergarten, or
 - any centre which provides these facilities in combination.⁴

The Guidelines lists the type of projects which can be included in a DCP:

- a new item of infrastructure
- an upgrade in the standard of provision of an existing infrastructure item
- an extension to an existing facility
- the total replacement of an infrastructure item after it has reached the end of its economic life⁵.

The Guidelines state that infrastructure may not be included if it results from poor maintenance.

Mr Hrelja explained the process used to identify the 777 projects included in the DCP. Included projects were refined down from an initial list of over 1,300. He described the iterative process between himself and Council officers to ensure only eligible projects were included. This iterative process included removing maintenance projects required as a condition of authorisation of the Amendment.

Several submitters suggested projects be added. These included open space and green roofs (submissions 1,4, and 9); more emphasis on community facilities (submissions 16, and 25); more emphasis on projects which would supports active transport modes (submissions 6, 15, 16); and inclusion of more innovative projects including a percentage of project costs contributing to public art (submission 2). Submission 24 indicated that Alphington- Fairfield was not receiving its fair share of infrastructure projects and that only 1.2 per cent of the total project budget would be spent in that charge area.

Council explained that open space projects funded through open space levies had been deliberately excluded from the scheme. The Alphington Fairfield Appropriate Development Association suggested projects for Alphington, not all of which fall within the category of permissible DCP projects.

Submitter 12 claimed that some projects involved repair and maintenance, but this was not pursued at the Hearing.

Submitter 15 stated that most projects were from Council's Capital Plan and urged that Council be more ambitious and forward looking in its choice of projects.

⁴ Ministerial Guideline on the Preparation and Content of a Development Contributions Plan 2016, paragraph 5.

⁵ Development Contributions Guidelines 2003 (revised 2007) p16.

(iii) Discussion

The Panel is satisfied that a suitably rigorous process was followed to reduce the initial list of 1,300 projects by almost half, to the proposed 777 DCP projects. The interaction between Mr Hrelja as expert preparing the DCP and Council officers appears to have been a useful one. DCP guidelines allow facilities to be replaced if beyond their economic life. The Panel notes that much of Yarra's physical infrastructure, most notably laneways, will be more than 100 years old and beyond their economic life so the arguments of lack of maintenance becomes difficult to advance.

The Panel cannot be sure that there are some projects included in the list that might with closer scrutiny include elements of maintenance or works arising from lack of maintenance. However, the Panel is satisfied that the process followed appears likely to have excluded the majority of such projects. This is an issue which has not generally arisen in the context of greenfield DCPs and an issue where process and practice are probably still evolving in areas such as Yarra.

The DCP includes a large number of relatively small projects compared with many greenfield growth area DCPs. Because of this, the Panel agrees with Mr Hrelja that extensive project details don't need to be included in the DCP, provided adequate detail is publicly available to assure developers that the integrity of the DCP is maintained. The Panel notes that technological and other changes over the life of the DCP will necessarily mean that some projects will change.

The Panel is broadly satisfied that the projects chosen are appropriate and as a group appear to comply with the relevant Ministerial Direction and Guidelines. Further projects suggested by some submitters could be included but it is not the Panel's role to recommend adding or deleting projects on the basis of submissions which in general lacked specific detail and which were not supported at the Hearing.

The Panel notes that there will be different types of projects proposed in DCPs in existing areas, many of which will be small scale in nature and broadly aimed at improving the public realm. An upgraded public realm will support both new and existing development.

Council gave no specific reason for the number of projects identified in Alphington-Fairfield other than to refer to the project identification processes. The Panel was presented with no evidence that the project allocation in this charge area is inappropriate and notes that the DCP levies in this charge area are relatively lower.

Council could be more ambitious in its choice of projects, but the Panel notes that projects must be strategically justified, and that Council has made a reasonable judgement on the projects included and their impact on the total charge to be imposed.

(iv) Conclusions

The Panel concludes:

- project detail is sufficient and publicly available to an acceptable level
- the list of projects included is the result of a satisfactorily rigorous process
- that the proposed projects are appropriate.

4.2 Charge areas

(i) The issues

The issues are whether the charge areas are appropriate and whether the proposal to divide the Cremorne and Burnley - Richmond South charge area into two, is appropriate.

(ii) Relevant policies, strategies and studies

DCP Guidelines do not provide specific guidance on charge areas but do say that infrastructure:

- must serve a neighbourhood or larger area
- must be used by a broad cross section of the community⁶.

(iii) Evidence and submissions

The exhibited DCP proposed 10 charge areas which broadly align with suburb boundaries. Getting the charge areas right was one of the key issues which Council indicated was a necessary underpinning of a DCP. Council submitted that basing charge area boundaries on existing suburb boundaries was an approach used in the Moreland DCP. Council submitted that the Moreland Panel observed that a larger number of charge areas might serve to reduce cross subsidisation across charge area boundaries but could result in other anomalies and complexities. In his peer review of the DCP, Mr De Silva supported the proposed charge areas.

Three submitters referred to the appropriateness of the charge areas, SZM, Cremorne Properties and Streets Alive Yarra.

As indicated in chapter 1.4, SZM appeared at the commencement of the Hearing to outline an agreement reached with Council to split charge area 10, *Cremorne and Burnley - Richmond South* into two; charge area 10 *Burnley - Richmond South* and charge area 11, *Cremorne*.

Mr Townshend outlined recent development in Cremorne and tabled *Cremorne Remix - Strategic Vision* prepared for SZM and based on consultation with government agencies⁷. It sets out a vision for Cremorne which ties it in with proposed development north to Richmond Station and south to the Forrest Hill precinct of Stonnington. The Panel was informed that the Victorian Planning Authority (VPA) has programmed strategic work in this precinct for the current year.

Streets Alive Yarra, proposed 20 charge areas based on the existing 20 Local Area Place Making districts (LAPMs). As part of their submission they comment on the inappropriateness of including Cremorne and Burnley in the one charge area.

(iv) Discussion

The Panel endorses the agreement between Council and SZM and supported by Cremorne Properties, to divide the Cremorne and Burnley – Richmond South charge area into two. The Panel is cognisant that Burnley, that is the area east of Brighton Street, the proposed border is more residential in nature than Cremorne which is already undergoing significant urban

⁶ Guidelines for Development Contributions Plans 2003 (revised 2007), p16

⁷ Document 5.

transformation with a number of high-profile international technology related companies locating in the area. The Panel is further cognisant of the further aspirations for the area supported by the VPA's priority project to undertake strategic work.

What aspects of the *Cremorne Remix - Strategic Vision*, if any, might be implemented through the VPA's strategic work is unknown.

It is not the Panel's role to comment in detail on the strategic planning to be undertaken in Cremorne as its focus must be on the DCP Amendment. However, the Panel accepts the arguments that Cremorne is an area needing further intensive strategic planning to help it reach its potential. The type of development already occurring and further proposed in Cremorne is likely to need more and different infrastructure than that envisaged in the exhibited DCP. It will be in the interests of good planning outcomes for the current DCP to be amended as soon as possible with the required infrastructure projects when identified.

The Panel acknowledges that a case could be made for a series of charge areas based on boundaries other than existing suburbs, including the LAPMs proposed by Streets Alive Yarra. However, no submissions or evidence were presented to the Panel to convince it that an alternative approach would result in a better and more equitable outcome. Consequently, the Panel endorses the 11 charge areas proposed in the amended DCP documentation.

(v) Conclusions

The Panel concludes:

- the division of the exhibited Cremorne and Burnley - Richmond South charge area into two new charge areas, 10 Burnley - Richmond South and charge area 11, Cremorne is appropriate
- the 11 charge areas proposed in the amended DCP documentation is appropriate.

4.3 Sharing of costs

(i) The issue

A significant proportion of project costs in the DCP will be borne by existing residents. The issues addressed are:

- whether the proposed cost allocation both between charge areas and between existing and future residents and business is appropriate
- whether the proposed reallocation of projects between the new Cremorne and Burnley - Richmond South charge areas is appropriate
- whether the proposed allocation of a proportion of costs to external users is appropriate.

(ii) Relevant policies, strategies and studies

With respect to cost sharing, the DCP Guidelines state:

For the purposes of calculating levies in a DCP, the costs of infrastructure projects are shared amongst all the likely users. The likely users are will include existing and future development. In this way new development will not be charged for the whole cost of an

infrastructure project that others will use and costs are distributed on a fair and equitable basis⁸.

The Guidelines go on to say that included infrastructure must be used by a broad cross section of the community, but importantly don't say that it must be used by all members of the relevant community.

(iii) Evidence and submissions

Cost allocation

The exhibited DCP allocates the cost of projects to a single charge area where the main users are from that charge area. Where the benefits flow to multiple charge areas the costs are allocated equally to those areas. A small number of projects have their cost spread across all charge areas where the benefits are municipality wide. Splitting costs equally across multiple charge areas departs from most greenfield DCPs which split costs on the estimated share of usage.

Council submitted that the cost allocation processes are fit for purpose and broadly consistent with those adopted in other established area DCPs. They are supported by the peer review and evidence of Mr De Silva.

Council submitted that the DCP is intended to collect 31.5 per cent of the total project costs of \$177.2 million over the plan life, with the remaining costs being allocated to existing users and borne by Council.

In evidence, Mr De Silva said that the population of Yarra was estimated to grow by 31.8 per cent between 2016 and 2031, which aligns approximately with the proportion of total DCP costs allocated to new users. On this basis, he regarded the cost allocation as appropriate.

As indicated in chapter 3.3, Ms Liddell identified projects in the Abbotsford and Richmond Central charge areas which she submitted would not be used by Meydan developments. In particular, she identified footpath works in Central Richmond as remote from the Meydan site and the provision of public toilets as unlikely to be used by the Meydan developments.

Ms Liddell identified one footpath project apparently abutting a Meydan development as one where Meydan was required by permit condition to carry out restitution works on the completion of development. She submitted that paying a DCP contribution for these works would constitute inappropriate double dipping. Council responded that if this situation arose, the works should be eligible for a 'works in kind' credit.

Allocating projects to new charge areas

The agreement between Council and SZM states that:

The existing exhibited projects within the Cremorne and Burnley – Richmond South charge area will be split between the two new areas such that there is no additional cost to persons within either the new Cremorne charge area or the new Burnley charge area.⁹

⁸ Guidelines for Development Contributions Plans 2003 (revised 2007) p 13.

⁹ See Document 1.

Council explained that when the work was undertaken to allocate projects between the two new charge areas the calculated DCP charge was slightly higher than exhibited in Burnley and slightly lower than exhibited in Cremorne. Consistent with the agreement reached it proposed that the charge in Burnley be capped at the exhibited rate with Council picking up the shortfall. However, Council proposed that the rate in Cremorne be retained at the exhibited rate, potentially resulting in an excess of funds being collected.

Norton Rose Fulbright responded on behalf of SZM, stating that:

If the new Cremorne charge area is to be burdened by DCP rates that are higher than the calculations indicate are owed by Cremorne, then it would be appropriate that additional infrastructure items be included for the Cremorne area.

... significant strategic funding is required to develop a structure plan for Cremorne. We consider that this project should be added as a further item to be funded from contributions from this DCP¹⁰.

Council responded that adding the suggested new project was not possible as section 46k(1)(d) of the Act does not allow planning work other than the preparation of a DCP.

External use

The exhibited DCP proposed to allocate five per cent of the total costs to 'external users', that is users external to the relevant charge area or users receiving benefits outside the life of the DCP. Council's two expert witnesses took different positions on this. Mr Hrelja supported the proposed external allocation on the basis that the DCP Guidelines require that consideration be given to external demand and that the proposed allocation was considered reasonable by Council officers. He further stated that the proposed five per cent is consistent with the Brimbank and Banyule DCPs.

In his evidence, Mr De Silva acknowledged that there will be some external usage but that the proposed five per cent figure was not supported by any analysis and he proposed that it be removed. He cited the Moreland DCP as one which does not have any allowance for external demand. Council indicated that it would seek the Panel's view on this difference of opinion between its two witnesses. However, in its submission in reply Council indicated that it preferred Mr De Silva's position on the basis that Council's 70 per cent contribution was already sufficient to allow for external demand.

Mr Chiappi identified the Walmer Street Bridge which connects with the neighbouring municipality of Kew as an instance where it was inappropriate for Yarra users to be allocated the total cost because a significant proportion of users would be external to Yarra.

(iv) Discussion

No evidence was presented to indicate that the proposed cost allocation is inappropriate. The sharing of some costs equally between two or more charge areas may be regarded as a rough approximation when compared with the more nuanced approach taken in some greenfield areas. However, the Panel regards this as a pragmatic and acceptable approach where many small projects are involved.

¹⁰ See Document 18.

The Panel notes Council's response to Ms Liddell's submission about required footpath restitution works and likely works in kind credit.

The Panel endorses the Council decision to not increase the exhibited charge rates¹¹ in Cremorne and Burnley – Richmond South. Further, the Panel agrees with Council that adding strategic planning for Cremorne as a project does not appear to be allowable under the Act. Even if it was, the Panel would be hesitant to include such a sum in the absence of any knowledge of funding already allocated to strategic planning in Cremorne.

The Panel understands Council's argument for keeping the DCP charge in Cremorne at the exhibited level. It further notes the likelihood that an amended DCP for Cremorne in future will lead to the requirement to reconcile funds collected under this DCP with what is proposed in the amended DCP. One view, to maintain consistency with the Guidelines, is that the charge should be at the calculated level in the Cremorne charge area after its separation from Burnley – Richmond South. The Panel, however, accepts Council's approach to keep the exhibited charges is a pragmatic response in the circumstances when the new or expanded projects are unknown and the charge is likely to increase, not decrease.

With respect to external demand, the Panel understands Mr De Silva's position and the basis of Council's support for it. However, as stated elsewhere while the Guidelines are not always entirely appropriate to inner urban locations such as Yarra, they should be adhered to where possible. Rejecting Guidelines because they do not suit a desired outcome is not a good precedent. On this basis, the Panel believes that there should be an allowance for external usage. This will allow projects such as public toilets which will mainly benefit external users to be more readily justified.

The Panel accepts that there is no clear rationale for the five per cent allowance proposed, but in the absence of evidence to the contrary, accepts that this is reasonable.

The Panel notes that the Walmer Street Bridge which connects to the neighbouring municipality of Kew appears highly likely to attract significant external usage. It appears to be part of the Yarra Main Trail and the Panel is a little surprised that there are not external resources available, at least in part, for these works. Putting this aside, it is inevitable in a DCP such as this there will be 'border' issues arise which present anomalies. This is no doubt a case of 'swings and roundabouts' and the Panel is of the view that there is no case for a different external allowance being made for this single project. To do so would introduce undesirable levels of complexity into the DCP and make them less attractive for Councils to prepare.

(v) Conclusions

The Panel concludes:

- the sharing of costs as proposed in the DCP is equitable and appropriate
- the DCP charge imposed in the new Cremorne (area 11) and Burnley – Richmond South (area 10) charge areas should be capped at the rate exhibited (adjusted for

¹¹ Any reference to the exhibited charge rate should be interpreted as the rate exhibited but amended for other minor changes made by Council such as including project GO12 as development infrastructure, and not interpreted literally as the dollar amount in the exhibited documents.

other changes to charge rates proposed in the amended DCP and DCPO set out in Documents 14 and 16)

- consistent with the Guidelines, an allowance should be made for external usage
- five per cent of the total project costs in the DCP should be allocated to external usage.

The Panel notes that section 7 of the revised DCP at tabled document 16, retains the section which provides for a five per cent allowance for external demand, so a recommendation to implement the Panel's conclusion on this matter is not required.

4.4 Forecast of future commercial floor space

(i) The issue

The issue addressed is whether the forecasts of future commercial floor space which underpin the charges in the DCP are appropriate.

(ii) Evidence and submissions

Background paper 1, *Demographics*, forecasts the further population in 2036 by charge area. It does not provide forecasts of future commercial, industrial or retail floor space. Consequently, in preparing the DCP, Mr Hrelja prepared forecasts of these uses.

Forecasts of floor space relevant to Ms Liddell's submission are summarised in Table 3.

Table 3: Commercial floor space in DCP (square metres)

Area No.	Area name	2016	2036	Increase
Area 07	Abbotsford	113,268	194,815	81,547
Area 09	Central Richmond	61,373	85,368	23,995
Yarra Total		724,869	1,247,216	522,347

Ms Liddell submitted that the three permits issued to the Meydan allow for 71,159 square metres of commercial floor space in Abbotsford and for 36,196 square metres of floor space in Central Richmond. She submitted that the Meydan permits constitute 87 per cent of the forecast increase in Abbotsford and already exceed the 20-year forecast in Central Richmond. On this basis Ms Liddell submitted that the forecasts in the DCP are 'simply not realistic'.

In reply, Council explained the timing of the preparation of the forecasts and acknowledged that they will need to be reviewed.

(iii) Discussion

The Panel notes that forecasting future demand for and supply of commercial floor space on a small area basis is notoriously difficult as a small number of developments or a single development can make those forecasts appear inappropriate, as has happened in this case. It is also possible that the Meydan developments are of such a scale that potential competing developments don't proceed, resulting in over forecasting.

On another level 'under forecasting' by Council is understandable as in this instance it lessens the risk of development not occurring and resulting in under-funding of the DCP. This said it appears highly likely that the forecast commercial floor space in Abbotsford and certainly Central Richmond for 2036 needs to be revisited. The Panel agrees with Council that this should be done and incorporated into a revised DCP at the time of the first DCP review.

(iv) Conclusions

The Panel concludes:

- it is likely that forecasts of future commercial floor space provision in at least the Abbotsford and Central Richmond charge areas are too low
- forecasts of all industrial, commercial and retail floorspace should be reviewed with each review of the DCP and the DCP revised accordingly.

4.5 Recommendations

The Panel recommends:

- **Setting the infrastructure levies for charge area 10, Burnley – Richmond South, and charge area 11, Cremorne at the exhibited level and updating relevant tables in the Development Contributions Plan and Development Contributions Plan Overlay Schedule 1.**

5 Implementation of the DCP

5.1 Indexation of DCP charges

(i) The issue

The issue addressed is the appropriate index or indices to use to adjust the DCP levies for cost changes over the life of the DCP.

(ii) Evidence and submissions

The exhibited DCP proposed to index the approved levy amount annually using the Consumer Price Index for Melbourne – all groups (CPI). Council submitted that it wished to explore the issue of indexation with the expert witnesses at the Hearing.

In presenting his expert evidence, Mr Hrelja stated that he supported the use of the CPI because it was easy to access and well understood. He made this statement in response to the statement in the peer review by Mr De Silva that consideration be given to using Producer Price Indices (PPI) as follows:

Table 4: Indices

Item	Directions
Community Infrastructure	Australian Bureau of Statistics Producer Price Indexes – Non-residential Building Construction Index, Victoria (catalogue 6427.0, Table 17 Output of the Construction Indices)
Roads, drainage and paths	Australian Bureau of Statistics Producer Price Indexes - Road and Bridge Construction Index, Victoria (catalogue 6427.0, Table 17 Output of the Construction Industries)

Mr Hrelja stated that these indices were more volatile, and this was a further reason to support use of the CPI. Recent volatility in the PPI was confirmed in a document produced by Mr De Silva¹². Mr Hrelja further stated that the application of the PPI would involve work to determine which was the appropriate PPI to use but acknowledged this would be a one-off exercise.

In closing, Council, submitted that its preferred approach was to use the PPI when it was greater than the CPI, but in other years to use the CPI.

(iii) Discussion

The Panel notes that recent DCPs in other municipalities have varied in their approach to indexation, with Brimbank and Banyule opting for the CPI and Moreland opting for the Building Price Index as published by Rawlinsons.

The Panel is not attracted by the approach submitted by Council in closing; that is using the CPI as a floor, but taking advantage of a higher PPI when it exists; as it is both adds a further degree of complexity and appears to be an attempt to set a higher minimum floor on

¹² Tabled document 9.

indexation. The Panel is concerned about the volatility of the PPI as it could result in perverse outcomes where a development pays lower levies in a particular year but out of context with broadly rising costs over time. The Panel also does not see the CPI as particularly appropriate as it is based on price increases in a 'basket' of consumer items and bears little relationship to cost changes in the civil construction sector. However, in this case it seems the least worst option. The Panel is aware that the index published by Rawlinsons was used in some greenfield DCPs in the past and although its use was not canvassed at the Hearing would not be opposed to its use in Yarra instead of the recommended CPI. The Panel is unsure why this option was not investigated.

On balance, the Panel considers the 'shandy' approach suggested by Council a step too far. The Guidelines state good practice:¹³

- includes an annual adjustment for inflation based on the General Consumer Index for Capital Cities.

The Panel understands that many of the issues relating to underfunding of DCPs go to the issue of project costing rather than indexation. If a change to a more contemporary approach such as suggested by Council is warranted, this should be considered at the policy level rather than through individual DCPs.

(iv) Conclusion

The Panel concludes that infrastructure levies should be indexed using the Consumer Price Index Melbourne (All Groups).

5.2 Timing of payments due under the DCPO

(i) The issue

The issue addressed is whether the timing schedule for payments to be made as set out in section 8 of the DCP and in Clause 3.0 of the DCPO1 is appropriate.

(ii) Evidence and submissions

The exhibited DCP proposed that the Development Infrastructure Levy can be paid at one of three stages:

- *Subdivision stage* - payment made prior to the issue of a Statement of Compliance
- *Planning permit stage* – payment made prior to the commencement of any development or works
- *Building permit stage* – payment made no later than the date of the issue of a building permit.

The Community Infrastructure Levy payment must be made no later than the date of issue of the building permit.

In evidence and in response to submissions, Mr Hrelja stated that these were the legally available payment timing options. Mr De Silva pointed out that the wording appeared to give discretion to Council as to timing of the levy and that this was unfair.

¹³ On page 19.

Zero Nine Pty Ltd submitted that the trigger for applying the levies under the DCP should be the issue of a building permit.

Salta submitted that typically, development levies are required to be provided at the end of the building stage, before occupation. It acknowledged that the controls purport to be flexible, allowing Council to choose the stage at which the levy is paid but that Salta's concern that this flexibility may mean that the levy is required at a stage when funds are not available.

Vicinity echoed Salta's concerns, pointing out the additional commercial pressure of the flexibility Council proposed and that it was a departure from the norm.

Council responded in the form of amended documentation, replacing the previous text with references to the timing of payments as set out in 46N and 46O of the Act in the DCPO1 and deleting the reference in the DCP.

(iii) Discussion

The Panel endorses the approach of deleting the detail of the levy payment schedule from both the DCP and the DCPO1 and replacing it in DCPO1 with a reference to the relevant sections of the Act. This is appropriate as it eliminates the possibility of interpretation in the Amendment where that may differ from the provisions in the Act. It is assumed that the concerns of the submitters have been met in that current arrangements will apply including the possibility of agreement on timing levy payments between the collecting agency and the applicant.

(iv) Conclusions

The Panel concludes that replacing specific levy payment timing clauses in the DCP and DCPO1 with reference to relevant provisions in the Act is appropriate.

5.3 Transitional provisions

(i) The issue

No transitional provisions are proposed for developments part way through the planning process. The issue is whether this is appropriate.

(ii) Evidence and submissions

The exhibited DCP makes no provision for transitional arrangements, a position supported by both Council's expert witnesses. Mr De Silva said that he was satisfied that transitional arrangements are not necessary.

Salta submitted that the lack of transitional provisions made it unclear what would happen if an application was made to amend an existing permit. Riverlee expressed concern about the lack of transitional provisions. Ms Liddell expressed concern about the uncertainty for developers if transitional provisions are not provided.

In response, Council submitted that other recent existing area DCPs have not included transitional provisions. It further stated that it would be extremely difficult to draw the line as to where in the process a development would be up to for it to be exempt under transitional

provisions. Council stated that the negotiations on exemptions provisions during the Hearing had in part picked up some concerns that had been raised about the lack of transitional provisions and that Council understood that submitters involved in these discussions were happy with outcomes.

(iii) Discussion

The Panel understands that as a matter of principle, 'rules' should not change during a process and this principle underpins the transitional provisions that often accompany changes in policy. The Panel accepts that in practical terms, 'drawing the line' and drafting clear transitional provisions would be a difficult but probably not impossible exercise. On balance, the Panel accepts the pragmatic position taken by Council to not include transitional provisions. In accepting this position, the Panel notes it is possible that there may be developers not party to these proceedings who may be part way through the process and who may incur charges under this DCP. Similarly, there will be others who are far enough advanced to escape the new charging regime. These appear to be inevitable consequences of the lack of transitional provisions and while not dismissive of these issues, the Panel is reassured by the modest level of the charges as identified by Mr De Silva.

The issue of levies being triggered by a change to a planning permit was not addressed by Council. The Panel is satisfied that the issue can be addressed in the negotiations around the issuing of the new planning permit at the point where the DCP and section 173 agreements may intersect.

(iv) Conclusion

The Panel concludes the proposal to not include transitional provisions is accepted.

5.4 Exemptions

(i) The issues

The DCP and DCPO1 propose that certain uses be exempt from DCP charges. The issues are whether the proposed exemptions are appropriate and whether further exemptions should apply.

(ii) Evidence and submissions

The exhibited DCPO1 proposed a list of exemptions provided for in legislation and Ministerial Directions or covered by a legal agreement with the Council. In his peer review of the DCP, Mr De Silva recommended that construction of and upgrades to existing servicing infrastructure be added as an exemption. Council accepted this.

Council explained that it was working with submitters on wording to be included in the DCPO which would capture the range of agreements which had been entered into by Council to collect contributions from developers and to exempt them from further infrastructure charges. Mr Finanzio indicated that the challenge was to develop appropriate wording to ensure that all existing agreements were captured. This issue was raised by Lend Lease and Riverlee.

Epworth Hospital submitted that large hospitals and medical centres should be exempt from the proposed levies. Lend Lease expressed concern that the while social housing was exempt, that private housing developed by the Department of Health and Human Services and housing associations are not exempt.

Zero Nine Pty Ltd submitted that developments that have a planning permit should be exempt.

The revised DCPO tabled as Document 14 includes revised exemptions provisions. Subsequently further revisions were tabled as Document 19. Council assured the Panel that the tabled wording satisfied the concerns of those consulted during the process, including some who expressed concern about the of lack of transitional provisions.

(iii) Discussion

The Panel accepts that the redrafting set out in Document 19 and included in the Panel recommended version of the DCPO1 at Appendix D meets the concerns of submitters on this issue and who were consulted during the drafting process.

The issue of other exemptions raised by Epworth are broader policy matters and as such are not commented on.

(iv) Conclusion

The Panel concludes the exemptions proposed in Clause 4 of the DCPO, including minor changes proposed in Tabled Document 19 as attached at Appendix D are appropriate.

5.5 Review of the DCP

(i) The issues

As with all DCPs, this DCP is required to be reviewed on a regular basis. The issue addressed here is the nature and timing of reviews.

(ii) Relevant policies, strategies and studies

The Guidelines state that a DCP should be monitored annually and reviewed every three years.

(iii) Evidence and submissions

The DCP states that it should be reviewed every three years. It notes that future conditions will invariably depart from future estimates and that the review should be in full or part as considered necessary by Council.

The peer review of the DCP by Mr De Silva recommended that the review period be four years. Mr Hrelja responded that the timing should be up to Council and that either three or four years was reasonable.

No other submitter raised this as an issue.

(iv) Discussion

Because of the large number of relatively small projects involved and the acknowledgment that future conditions will dictate changes to infrastructure required, the DCP review in this

instance is likely to differ substantially to reviews of greenfield DCPs. It is important that the project list is reviewed regularly so that it meets needs current at the time of the review and not the needs identified at the time of preparation of the DCP. The Panel draws no specific conclusion on the precise timing of the DCP review and agrees with Mr Hrelja that timing should be at Council's discretion but not normally be more than four years apart. The timing of the first review should coincide with the strategic review of the projects in the Cremorne charge area. It is hoped that this will occur by 2022.

In particular, the first review of the DCP should revise the projections of further commercial floor space in all charge areas as discussed in chapter 4.4.

(v) Conclusion

The Panel concludes the DCP should be reviewed regularly with reviews not normally more than four years apart.

5.6 Recommendations

The Panel recommends:

- **Replacing the sentence in Clause 3.0 of the Development Contributions Plan Overlay Schedule 1 commencing "*The amount of the adjustment ...*", with the words "*The amount of the adjustment will be in accordance with the Consumer Price Index for Melbourne (All Groups) as published by the Australian Bureau of Statistics in any adjustment period*" and making the same wording change to the section headed Indexation of Development Contribution Plan Charges in section 7. of the Development Contributions Plan.**

Replacing the sentence commencing "The amount of the adjustment..." in Clause 3.0 of the Development Contributions Plan Overlay Schedule 1, with the words "The amount of the adjustment will be in accordance with the Consumer Price Index for Melbourne (All Groups) as published by the Australian Bureau of Statistics in any adjustment period" and making the same wording change to the section headed Indexation of Development Contribution Plan Charges in section 7. of the Development Contributions Plan.

6 DCP Amendment documentation

6.1 Final form of Development Contributions Plan

Minor amendments were made to the exhibited DCP because of the submissions received upon exhibition. Further changes were made during the Hearing because of:

- agreement between Council and SZM Holdings which resulted in some wording changes and dividing the Cremorne and Burnley - Richmond South into two, namely charge area 10, Burnley - Richmond South and charge area 11, Cremorne.
- changes, including extra tables resulting from recommendations arising from the peer review undertaken by Mr De Silva.
- deletion of reference to the timing of payment of DCP levies.
- minor errors identified post exhibition.

Because of its substantial appendices including details of the 777 projects, the DCP is not appended to this report. The approved version should be the version dated 26 February 2019 and tabled as Document 16 on 27 February 2019, further amended as follows:

- all costings updated to current year dollars as indicated in the response to the Panel's list of questions issued by Council with its part A submission
- include levies for Cremorne (area 11) and Burnley – Richmond South (area 10) charge area levies at the exhibited rate (see chapter 4.3)
- remove reference to using the CPI in years when the PPI is negative (see chapter 5.1).

6.1.1 Final form of the Development Contributions Plan Overlay Schedule 1

The exhibited DCPO1 was amended as a result of:

- changes resulting from the agreement on dividing the Cremorne and Burnley – Richmond South charge area detailed in chapter 6.1
- changing the reference on the levy payments schedule to refer to the relevant sections of the Act (see chapter 5.2)
- redrafting clause 4, on development exempted from levies (see chapter 5.4)
- changes made as a result of the peer review undertaken by Mr De Silva
- other changes to correct minor errors and improve readability.

The Panel recommended version is Appendix D; and should be further amended as follows:

- tables in Clauses 2 and 3 amended to reflect updated project costings (see Council response to Panel questions)
- tables in Clause 2 and 3 updated to reflect changes to the Cremorne and Burnley – Richmond South charge area (see chapter 4.2).

Mr Finanzio for Council submitted there are notes at the end of Section 3.0 in DCPO1 which seek to summarise legislative provisions from the *Planning and Environment Act 1987*¹⁴, which is unnecessary and unhelpful. He submitted they should be removed, and the Panel agrees. Track changes are shown in Appendix D.

¹⁴ Part 3B provides the administrative regime for development contributions.

6.2 Recommendations

The Panel recommends:

- **Updating all costings in the Development Contributions Plan and Development Contributions Plan Overlay Schedule 1 to latest year costings and amending relevant tables accordingly.**

Appendix A Submitters to the Amendment

No.	Submitter
1	Alex Koumoundouros
2	Laila Costa
3	Transport for Victoria
4	Chris and Alan Purton
5	Helen Askew
6	Nathan Moresi
7	Leah McPherson
8	Emily Collins
9	Winehall Pty Ltd
10	Jess Kilby
11	238 Coppin Street Pty Ltd
12	Riverlee
13	Housing Industry Association
14	Cremorne Properties Pty Ltd
15	Streets Alive Yarra
16	Salta Properties Pty Ltd
17	Environment Protection Authority
18	Tract Consultants Pty Ltd for Astrodome Hire Pty Ltd
19	Epworth Health Care
20	Lend Lease Apartments Pty Ltd
21	Meydan Group
22	Collingwood Toy Library
23	Vicinity Centres
24	Alphington Fairfield Appropriate Development Association Inc
25	Fitzroy Residents Association
26	Zero Nine Pty Ltd

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Yarra City Council	Adrian Finanzio SC assisted by Barnaby Chessell of Counsel, instructed by Greg Tobin of Harwood Andrews, Lawyers, calling the following expert evidence: <ul style="list-style-type: none"> • Development Contributions from Alex Hrelja of HillPDA • Development Contributions from Chris De Silva of Mesh Consultants
SZM Holdings (Winehall Pty Ltd)	Chris Townshend QC instructed by Jess Kaczmarek of Norton Rose Fulbright, Lawyers
Astrodome Hire Pty Ltd	Nick Sutton of Planning and Property Partners
Meydan Group	Natasha Liddell
Lend Lease Apartments Pty Ltd	Tamara Brezzi, of Norton Rose Fulbright, Lawyers
Salta Properties Pty Ltd	Paul Chiappi of Counsel instructed by Planning and Property Partners
Cremorne Properties Pty Ltd	Gus Cooper

Appendix C Document list

Version – Close of Hearing 28/2/2019

No.	Date	Description	Presented by
1	25/2/19	Email including plan from Norton Rose Fulbright to Panel Chair for SZM Holdings regarding agreement reached with Council dated 15 February 2019	Circulated by SZM prior to Hearing
2	25/2/19	Email from Harwood Andrews for Council accompanying documents and confirming agreement with SZM dated 15 February 2019	Circulated by Council prior to Hearing
3	25/2/19	Hearing Document Folder from Council	Mr Finanzio for Council
4	25/2/19	Submission from SZM Holdings	Mr Townshend for SZM
5	25/2/19	Brochure re Cremorne Remix	Mr Townshend for SZM
6	25/2/19	<i>Arthur Land Pty Ltd v Yarra CC</i> [2018] VCAT 946	Mr Townshend for SZM
7	25/2/19	Council Part A submission circulated on 15 February 2019	Circulated by Council prior to Hearing
8	25/2/19	Submissions for Council	Mr Finanzio for Council
9	25/2/19	Comparison Table of Indices	Mr De Silva called by Council
10	25/2/19	DCP Figure 11 with Meydan land identified	Ms Liddell for Meydan
11	25/2/19	DCP Figure 11 with just footpath works shown	Ms Liddell for Meydan
12	27/2/19	Table of 2036 Demand Units identified in Evidence of Mr Hrelja	Circulated by Council on 26/2/19
13	27/2/19	Track changes version of DCPO1 dated 26/2/19	Circulated by Council on 26/2/19
14	27/2/19	Changes accepted version of DCPO1 dated 26/2/19	Circulated by Council on 26/2/19
15	27/2/19	Track changes version of DCP dated 26/2/19	Circulated by Council on 26/2/19
16	27/2/19	Changes Accepted version of DCP dated 26/2/19	Circulated by Council on 26/2/19

No.	Date	Description	Presented by
17	27/2/19	Note from Mr Hrelja to explain changes in levies relating to areas 8, 9, new 10 and 11	Mr Finanzio for Council
18	28/2/19	Email from Norton Rose Fulbright to Panel Chair for SZM Holdings regarding proposed 'caps' in Cremorne and Burnley dated 27 February 2019	Circulated on 27/2/19
19	28/2/19	Revised Clause 4.0 to the DCPO1	Mr Finanzio for Council
20	28/2/19	Submission for Meydan Group	Ms Liddell for Meydan
21	28/2/19	Meydan Holdings in Abbotsford	Ms Liddell for Meydan
22	28/2/19	Meydan Holdings in Richmond	Ms Liddell for Meydan
23	28/2/19	DCP Figure 9 maps	Ms Liddell for Meydan
24	28/2/19	DCP Figure 11 maps	Ms Liddell for Meydan
25	28/2/19	Detailed plan of Meydan Abbotsford Holdings	Ms Liddell for Meydan
26	28/2/19	Abbotsford Recommended Local Area Place Making Plan	Ms Liddell for Meydan
27	28/2/19	Extract from Yarra Council Minutes dated 18 December 2018 relating to Abbotsford place making	Ms Liddell for Meydan
28	28/2/19	Submission for Lendlease	Ms Brezzi for Lendlease
29	28/2/19	Note re: detail in project descriptions compared to other approved urban DCPs	Mr Finanzio for Council
30	28/2/19	Information for discussion on Project 162	Mr Finanzio for Council
31	28/2/19	Closing submission for Council	Mr Finanzio for Council

Appendix D Panel preferred version of the Development Contributions Plan Overlay Schedule 1

SCHEDULE 1 TO THE DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY

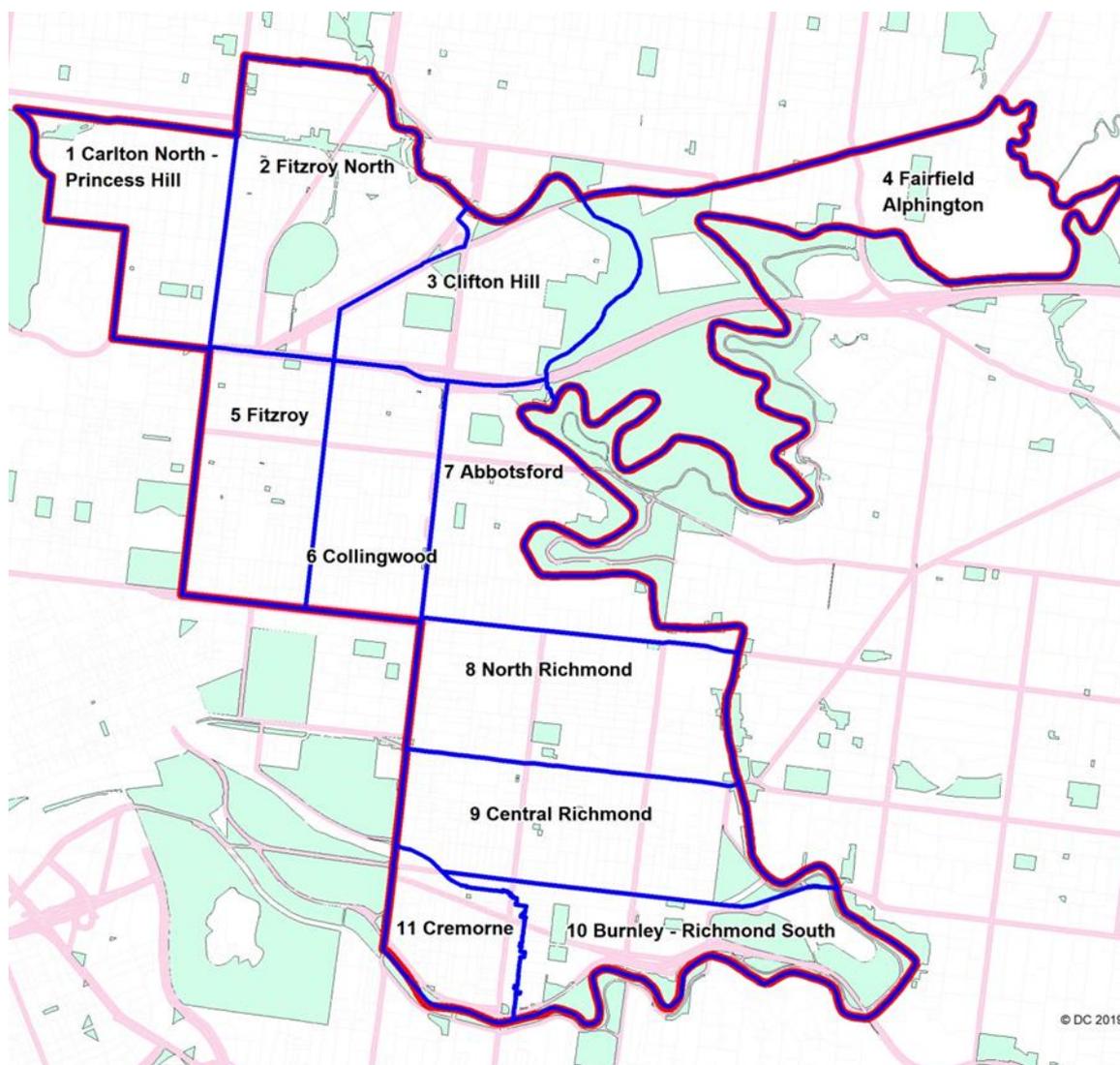
Shown on the planning scheme map as **DCPO1**.

YARRA DEVELOPMENT CONTRIBUTIONS PLAN 2017

1.0 Area covered by this development contributions plan

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This Development Contributions Plan (DCP) applies to all new development within the 11 Charge Areas as shown below.



2.0 Summary of costs

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Facility Type and Code	Total Cost	Time of Provision	Actual Cost Contribution Attributed to New Development	Proportion of Cost Attributed to New Development
Community Facility CFCI	\$72,963,969	2016-2036	\$24,426,587	33.48%
Community Facility CFDI	\$825,000	2016-2036	\$246,299	29.85%
Path PADI	\$72,600,362	2016-2036	\$22,454,018	30.93%
Road RDDI	\$16,349,427	2016-2036	\$4,640,648	28.38%
Drainage RDDI	\$14,352,825	2016-2036	\$4,017,998	27.99%
Development Contributions Plan DCPP	\$79,725	2016-2036	\$24,382	30.58%
Total	\$177,171,308		\$55,809,932	31.50%

Notes:

This table sets out a summary of the costs prescribed in the Development Contributions Plan. Refer to the incorporated document (Yarra Development Contributions Plan 2017) for full details.

Yarra City Council commits to delivering the DCP projects by 31 December 2036, but may deliver projects earlier. It is likely that projects will be progressively delivered over the DCP period.

Yarra City Council is Collecting Agency for this DCP and all its projects.

Yarra City Council is Development Agency for this DCP and all its projects.

Should Council not proceed with any of the infrastructure projects listed in this DCP, the funds collected for these items will be either:

- Used for the provision of other infrastructure as approved by the Minister responsible for the Planning and Environment Act, or
- Refunded to owners of land subject to these DCP charges.

3.0 Summary of contributions

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AREA Charge Area Number and Name		LEVIES PAYABLE BY RESIDENTIAL DEVELOPMENT		
		Development Infrastructure Per Dwelling	Community infrastructure Per Dwelling	All infrastructure Per Dwelling
Area 01	Carlton North - Princes Hill	\$1,303.43	\$970.94	\$2,274.37
Area 02	Fitzroy North	\$1,697.82	\$970.94	\$2,668.76
Area 03	Clifton Hill	\$2,682.79	\$970.94	\$3,653.73
Area 04	Fairfield - Alphington	\$202.35	\$970.94	\$1,173.29
Area 05	Fitzroy	\$1,221.98	\$1,109.16	\$2,331.15
Area 06	Collingwood	\$786.44	\$1,109.16	\$1,895.61
Area 07	Abbotsford	\$882.33	\$1,109.16	\$1,991.50
Area 08	North Richmond	\$496.24	\$1,087.92	\$1,584.17
Area 09	Central Richmond	\$679.37	\$1,087.92	\$1,767.29
Area 10	Cremorne and Burnley - Richmond South	\$525.52	\$1,150.00	\$1,675.52

AREA		LEVIES PAYABLE BY RETAIL DEVELOPMENT		
Charge Area Number and Name		Development Infrastructure	Community infrastructure	All infrastructure
		Per Square Metre (SQM) of Floorspace	Per Square Metre (SQM) of Floorspace	Per Square Metre (SQM) of Floorspace
Area 01	Carlton North - Princes Hill	\$30.30	-	\$30.30
Area 02	Fitzroy North	\$25.56	-	\$25.56
Area 03	Clifton Hill	\$40.87	-	\$40.87
Area 04	Fairfield - Alphington	\$3.42	-	\$3.42
Area 05	Fitzroy	\$17.61	-	\$17.61
Area 06	Collingwood	\$14.78	-	\$14.78
Area 07	Abbotsford	\$15.00	-	\$15.00
Area 08	North Richmond	\$8.08	-	\$8.08
Area 09	Central Richmond	\$13.39	-	\$13.39
Area 10	Cremorne and Burnley - Richmond South	\$12.10	-	\$12.10

AREA		LEVIES PAYABLE BY COMMERCIAL DEVELOPMENT		
Charge Area Number and Name		Development Infrastructure	Community infrastructure	All infrastructure
		Per Square Metre (SQM) of Floorspace	Per Square Metre (SQM) of Floorspace	Per Square Metre (SQM) of Floorspace
Area 01	Carlton North - Princes Hill	\$20.65	-	\$20.65
Area 02	Fitzroy North	\$28.17	-	\$28.17
Area 03	Clifton Hill	\$41.03	-	\$41.03
Area 04	Fairfield - Alphington	\$2.41	-	\$2.41
Area 05	Fitzroy	\$21.34	-	\$21.34
Area 06	Collingwood	\$12.56	-	\$12.56
Area 07	Abbotsford	\$15.77	-	\$15.77
Area 08	North Richmond	\$9.15	-	\$9.15
Area 09	Central Richmond	\$11.97	-	\$11.97
Area 10	Cremorne and Burnley - Richmond South	\$8.38	-	\$8.38

AREA Charge Area Number and Name		LEVIES PAYABLE BY INDUSTRIAL DEVELOPMENT		
		Development Infrastructure Per Square Metre (SQM) of Floorspace	Community infrastructure Per Square Metre (SQM) of Floorspace	All infrastructure Per Square Metre (SQM) of Floorspace
Area 01	Carlton North - Princes Hill	\$7.42	-	\$7.42
Area 02	Fitzroy North	\$6.17	-	\$6.17
Area 03	Clifton Hill	\$11.16	-	\$11.16
Area 04	Fairfield - Alphington	\$1.15	-	\$1.15
Area 05	Fitzroy	\$3.47	-	\$3.47
Area 06	Collingwood	\$3.58	-	\$3.58
Area 07	Abbotsford	\$3.15	-	\$3.15
Area 08	North Richmond	\$1.60	-	\$1.60
Area 09	Central Richmond	\$2.83	-	\$2.83
Area 10	Cremorne and Burnley - Richmond South	\$2.93	-	\$2.93

Note: Square metres of floorspace (SQM) refers to gross floorspace.

The above listed contribution amounts are current as at 30 June 2017. They will be adjusted annually on July 1 each year to cover the cost of inflation and fluctuations in the cost of construction. ~~The amount of adjustment will be in accordance with the indices specified in respect of Road and Bridge Construction in Victoria and Non-Residential Building Construction in Victoria in Table 17 of ABS PPI 6427.0, provided that the amount of any adjustment will be no lower than the Consumer Price Index for Melbourne (All Groups) as published by the Australian Bureau of Statistics in any adjustment period.~~ The amount of the adjustment will be in accordance with the Consumer Price Index for Melbourne (All Groups) as published by the Australian Bureau of Statistics in any adjustment period. A list showing the current contribution amounts will be held at Council's Planning Department.

For land uses not falling within an expressly defined land use term within this Planning Scheme the applicable rate is determined as commercial.

~~Payment of development contributions is to be made in cash.~~

~~The Collecting Agency may accept the provision of land, works, services or facilities by the applicant in part or full satisfaction of the amount of levy payable.~~

~~Each net additional demand unit shall be liable to pay the DCP levy (unless exemptions apply). This includes a new dwelling or building or an extension to an existing non-residential building.~~

~~Payment of the Development Infrastructure Levy must be made in accordance with section 46N of the Act.~~

~~Payment of the Community Infrastructure Levy must be made in accordance with section 46O of the Act.~~

4.0

Land or development excluded from development contributions plan

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No land or development is exempt from this Development Contributions Plan unless exempt by Legislation or Ministerial Direction or Legal Agreement with Yarra City Council or stated below. The following development is exempt from a development contribution:

- Land developed for a non-government school, as defined in Ministerial Direction on the Preparation and Content of Development Contributions Plans of 11 October 2016;
- Land developed for housing by or for the Department of Health and Human Services, as defined in Ministerial Direction on the Preparation and Content of Development Contributions Plans of 11 October 2016. This applies to social housing development delivered by and for registered housing associations. This exemption does not apply to

private dwellings developed by the Department of Health and Human Services or registered housing associations;

- Land which has a section 173 Agreement under the Planning and Environment Act 1987 and/or a Deed of Agreement which:
 - requires the payment of a development contributions levy; or
 - requires the ~~construction~~ [provision](#) of specified works services or facilities beyond those ~~that the responsible authority considered~~ necessary on or to the land or other land as a result of the grant of any permit; or
 - requires the payment of any development contributions or the provision of specified works services or facilities required to be provided [public and/or community infrastructure](#) ~~as a development contribution~~ by any other provision of this scheme.
 - requires the provision of land for works services or facilities (other than land required to be provided as public open space [pursuant to clause 53.01 or section 18 of the Subdivision Act 1988](#)); or
 - explicitly excludes further development contributions to be made.

For the avoidance of any doubt, the exemption is limited to the extent of any contribution secured by the section 173 Agreement.

- Construction of a building or carrying out of works or a subdivision that do not generate a net increase in additional demand units, including:
 - Replacement of a building;
 - Renovations or alterations to an existing building;
 - Construction of a fence;
 - Outbuildings normal to an existing dwelling;
- Dwelling units that are replaced within a development. This exemption does not apply to net additional dwelling units created by the development.