

**Melton Planning Scheme Amendment C232melt
Toolern Development Contributions Plan Review and
Precinct Structure Plan Refresh**

Panel Report

Planning and Environment Act 1987

31 October 2024

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Melton Planning Scheme Amendment C232melt

Toolern Development Contributions Plan Review and Precinct Structure Plan Refresh

31 October 2024



Con Tsotsoros, Chair



Andrew Grear, Member



Nicola Foxworthy, Member

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Glossary and abbreviations

ACHIA	Aboriginal Cultural Heritage Impact Assessment
Cobblebank Activity Centre	Cobblebank Metropolitan Activity Centre
Cobblebank UDF	Cobblebank Metropolitan Activity Centre Urban Design (Toolern Town Centre) Framework (November 2019)
Council	Melton City Council
CVA	Cultural Values Assessment
DCPO	Development Contributions Plan Overlay
Development Contributions Guidelines	Development Contributions Guidelines (Department of Sustainability and Environment, March 2007)
DIL	Development infrastructure levy
DSS	Development Services Scheme
DTP	Department of Transport and Planning (Transport)
GAIC	Growth Areas Infrastructure Charge
PE Act	<i>Planning and Environment Act 1987</i>
Planning Report	Toolern Development Contributions Plan Review and Precinct Structure Plan Refresh Planning Report (Melton City Council, February 2024)
Planning Scheme	Melton Planning Scheme
PSP	Precinct Structure Plan
Stantec	includes Cardno now trading as Stantec
UGZ3	Urban Growth Zone Schedule 3
VPA	Victorian Planning Authority
WT	WTP Australia

Overview

Amendment summary

The Amendment	Melton Planning Scheme Amendment C232melt
Common name	Toolern Development Contributions Plan Review and Precinct Structure Plan Refresh
Brief description	Seeks to facilitate infrastructure delivery in the Toolern Precinct by: <ul style="list-style-type: none"> - incorporating the revised Toolern Development Contributions Plan (DCP) - incorporating the revised Toolern Precinct Structure Plan (PSP) - revising Urban Growth Zone Schedule 3 (UGZ3), Development Contributions Plan Overlay Schedule 3 (DCPO3) and associated provisions
Subject land	Toolern Precinct Structure Plan area shown in Figure 1
Planning Authority	Melton City Council
Authorisation	8 December 2023, subject to conditions
Exhibition	11 April to 16 May 2024
Submissions	<p>Submissions were received from:</p> <ol style="list-style-type: none"> 1. Growland 2. Lian Cung Thang Tla Hnie and Kling Aye Tla Hnie 3. Country Fire Authority 4. Melton City Council 5. Tim Jones 6. Dilaver Ibraimoski 7. Melton City Council 8. Work Safe Victoria 9. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation 10. Yechen Yu 11. Environment Protection Authority 12. Miravor Robinsons Rise Estate 13. Victorian Health Building Authority 14. Rohan Parmar 15. Mount Cottrell Project Management Pty Ltd 16. Roman Catholic Trust Corporation 17. Australian Unity Funds Management 18. Miravor 19. Exford Waters Pty Ltd 20. Thornhill Gardens Dev Co 21. Ecnam Properties Pty Ltd 22. Melbourne Archdiocese Catholic Schools 23. Ellerton Estate owner 24. Awesome Deer Park Pty Ltd 25. Burke Leading Pty Ltd 26. Homes Victoria 27. Low Cost Housing 28. Atherstone Estate 29. Zdravko Jelic 30. Marinko Jelic 31. 1156 Harmony Estate Pty Ltd 32. Investment Experts Aus 1165 Pty Ltd 33. Joe Tedesco 34. Melbourne Water 35. Department of Transport and Planning 36. Miravor Robinsons Rise Estate 37. Australian Unity Funds Management

Panel process

The Panel	Con Tsotsoros (Chair), Andrew Grear and Nicola Foxworthy
Supported by	Georgia Brodrick and Georgia Thomas
Directions Hearing	Planning Panels Victoria and by video, 23 July 2024
Panel Hearing	In person with video conference, 26, 27, 28 and 29 August and 2, 3, 5 and 9 September 2024
Site inspections	Unaccompanied, 16 August 2024
Parties to the Hearing	<ul style="list-style-type: none"> - Melton City Council represented by Greg Tobin of Harwood Andrews, who called expert evidence on: <ul style="list-style-type: none"> - development contribution plans and strategic planning from Chris De Silva of Mesh - development contribution plans from Matt Ainsaar of Urban Enterprise - transport planning from Marco Lucioni of Stantec - costings from Sian McKenna of WTP Australia - Department of Transport and Planning represented by Daniel Zaslona - Melbourne Water Corporation represented by Louise Hicks of Counsel - Australian Unity Funds Management, Miravor Property Group, Roman Catholic Trust Corporation, and Thornhill Gardens Dev Co represented by Jason Black of Insight Planning, who called expert evidence on development contributions plans from Brock Jeffery-Monck of Cossill & Webley - Exford Waters Pty Ltd represented by Clydie Brewer and Phillip Miller of Marshal Melbourne - Growland represented by John Cicero of Best Hooper, who called expert evidence on traffic engineering from Henry Turnbull of Traffix Group - Lendlease Communities (Atherstone) represented by Jarryd Gray of MinterEllison, who called expert evidence on civil engineering from Stephen Watters of SMEC
Citation	Melton PSA C232melt [2024] PPV
Date of this report	31 October 2024

Executive summary

The Victorian government extended Melbourne's Urban Growth Boundary in late 2005 to include, among other areas, Toolern generally between Werribee River and Paynes Road south of the Western Freeway. Melton City Council (Council) began the strategic planning process for this urban growth area which later introduced the Toolern Precinct Structure Plan (PSP) and Toolern Development Contributions Plan (DCP) into the Melton Planning Scheme (Planning Scheme) in late 2010. About 24,000 dwellings and 55,000 people are anticipated in the Toolern PSP area.

When the Toolern PSP and DCP were completed, functional layout plans and designs and project cost sheets were not prepared for certain projects. This includes projects for the transport system, bridges, and community and open space infrastructure. Since then, relevant authorities identified the need for new projects and more drainage assets, the Cobblebank Activity Centre was reclassified a Metropolitan Activity Centre, Cobblebank train station open in 2019, and the Toolern PSP area has been substantially developed with an average density of 21 dwellings per hectare rather than the anticipated 15 dwellings per hectare.

The Toolern DCP states it should be reviewed every five years or more if required. Council started reviewing the Toolern PSP and DCP in 2021. The review found the evolving circumstances over the previous 10 years has resulted in a significant departure from original expectations including a shortfall of about \$223.2 million in both the development infrastructure levy and community infrastructure levy.

Melton Planning Scheme Amendment C232melt (the Amendment) seeks to incorporate the revised Toolern PSP and DCP and revise Urban Growth Zone Schedule 3 (UGZ3), Development Contributions Plan Overlay Schedule 3 (DCPO3) and associated provisions. The Amendment was exhibited from 11 April to 16 May 2024 and received 18 submissions.

Key issues raised in submissions related to the increased development infrastructure levy and infrastructure costs, housing affordability, drainage infrastructure costs, overall project justification including the 19 bridges, infrastructure scale and design, Future Urban Structure content, activity centres, Aboriginal cultural heritage, employment, and amenity.

Strategic issues

Strategic justification

Council is commended for investing significant resources into this review, based on a robust methodology and sound strategic basis. It has resulted in a revised Toolern DCP that reflects more accurate infrastructure costs based on current information and expectations.

The proposed development infrastructure levies will increase development costs that may increase housing prices, however there is no evidence they will unreasonably impact housing affordability to the point where other broad policy objectives cannot be met.

For the reasons set out in this report, the Panel considers the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

Increased development infrastructure levy impacts

Minimum density amounts should not be increased to offset increased development infrastructure levies. The Toolern PSP should be revised to specify a minimum of 20 dwellings per net developable hectare across the precinct, consistent with what planning policy and guidance seek to achieve.

Aboriginal cultural heritage

The current Toolern PSP would have benefitted from a more consultative process and comprehensive response to Aboriginal cultural heritage if prepared today. However, it does not need to be revised now considering:

- the significant proportion of the Toolern PSP area already developed
- the existing legislation and associated guidance in the proposed Toolern PSP that help protect and manage Aboriginal cultural heritage.

Cultural heritage considerations associated with two heritage places identified in the heritage Overlay (HO129 and HO130) can be managed through other processes and are beyond the scope of the Amendment.

Project costs and levies

The Development Infrastructure Levy amounts specified in the Toolern DCP and DCPO3 should be indexed to July 2024 dollars rather than the indexed 2021/22 dollars.

The Toolern DCP has appropriately applied:

- the project costing methodology, annual land valuation and Development Infrastructure Levy indexation
- the approach to justifying the inclusion and apportionment of projects
- the method for scoping the construction and completion of existing projects
- the Development Contributions Plan charge areas.

Council should review all intersection and road projects to identify and correct any overlap of projects before finalising the project cost estimates and adopting the Amendment.

Proposed project designs*Bridge BD04 and Road RD08*

It is appropriate and justified to include Bridge BD04 (pedestrian bridge) in the Toolern PSP and DCP.

The road cross-section for Road RD08 (Exford Road / Toolern Road):

- has been appropriately designed
- should accommodate off-road bicycle paths in the final design within the 34-metre road reservation.

Intersection IT23

The Toolern PSP and DCP should retain Intersection IT23 as a three-way intersection. A developer can propose Intersection IT23 to be a four-way intersection through a detailed design and permit application process because the Toolern PSP and DCP enables proposals that are generally in accordance with specified plans.

Project justification and apportionment

Property 126

The Mount Cottrell Road and Western Freeway intersection (Bridge BD19 and Road RD12) is justified and appropriate to include in the Toolern DCP. Land required for the interchange that is already developed will need to be acquired through a separate process such as a planning scheme amendment to apply the Public Acquisition Overlay. The Toolern DCP should recognise that 0.45 hectares of Property 126 land is needed for 'Arterial roads and bridges'.

Bridges

It is appropriate and justified for the Toolern PSP and DCP to require:

- seven bridges (BD01, BD02, BD03, BD04, BD05, BD06, BD14) across Toolern Creek
- Bridge BD07 between Bridges BD01 and BD06
- railway bridge projects BD15, BD16, BD17, BD18, BD20 and BD21.

Road RD12

The road reservation width for Road RD12 should remain at 41 metres. If information that justifies a wider road reservation is made available in the future, land can be acquired through a separate process such as a planning scheme amendment to apply the Public Acquisition Overlay.

Roads RD14 and RD19

It is appropriate and justified for the Roads RD14 and RD19 to ultimately be a 6-lane road within a 45-metre reservation. The conflict between the existing sewer pumping station and the future Shogaki Drive alignment should be resolved before the Amendment is finalised and adopted.

Road RD15

The Toolern DCP should specify a road reservation width of 45 metres for Road RD15. Council should further investigate the revised design for Intersection IT18 and consult with relevant land owners regarding changes to the exhibited land budget required by the revised design. Council should resolve and revise the land budget required for the revised Intersection IT18 design before adopting the Amendment.

Development and site-specific issues

Ferris Road Neighbourhood Activity Centre

The UGZ3 should retain the reference to "*The precise boundary of the Business 1 area, Business 2 area and the Mixed Use Zone will be determined by the approved Urban Design Framework Plans*" that currently exists in the Planning Scheme. The Ferris Road Neighbourhood Activity Centre should not be extended east to 363 Ferris Road (Property 44).

Property 27

The Toolern PSP and DCP should revise the regional park area identified on Property 27 from 15.66 hectares to 13.46 hectares to account for the 2.2 hectare drainage asset and to accurately reflect the net development areas.

Property 45

The proposed east-west road and north-south road alignments, passive and active open space, community facilities and government school site will not unreasonably affect the net developable area of Property 45. The proposed alignment of the north-east road will not unreasonably restrict access for Property 45.

Property 86

The Toolern PSP should show a local road on the eastern boundary of Properties 86 and 87 so that Property 86 has access to the road network when Drainage Asset 01 is developed to its ultimate form. The passive open space areas for Properties 86 and 87 should be reduced by 600 square metres to account for the increased Drainage Asset 01 area.

Passive open space contributions

The Toolern DCP approach for passive open space contributions is appropriate and justified. Submissions relating to this issue were withdrawn during the Hearing.

Drainage and stormwater assets and land uses

The Toolern PSP:

- enables drainage and stormwater assets to be proposed and approved generally in accordance with assets shown in the plan
- does not need to be revised to show approved drainage and stormwater assets because they would have been approved generally in accordance with the plan
- should be revised so that relevant plans show Assets 17, 22 and 23 consistent with the polygon areas that Melbourne Water provided to Council on 21 June 2021, as shown in Figure 11.

The sequence of development, drainage and sewerage is hampering development on some parcels that cannot be resolved through the Amendment.

Additional requested projects

The Toolern DCP should not include additional projects requested by submitters. This is because:

- Urban Core Street A, as identified in the Cobblebank Urban Design Framework, are typical local streets that will provide access to abutting properties
- Urban Core Street C, as identified in the Cobblebank Urban Design Framework, is solely proposed for public purposes and should be funded through a separate mechanism
- infrastructure works underway around Intersection IT05 make it impractical to extend Ferris Road from Intersection IT05 to the Toolern PSP southern boundary as requested.

Private hospital and social and affordable housing exemptions

It is appropriate for Council to require private hospitals to pay development contributions. The Toolern DCP should be revised to reflect the Ministerial Direction that Development Infrastructure Levies and Community Infrastructure Levies charges must not be imposed on development of land for housing provided by or on behalf of the Department of Families, Fairness and Housing.

Drafting matters

The Panel considers that drafting matters agreed to by Council and outlined in Chapter 7 will clarify the Toolern DCP and PSP and improve the operation of the planning provisions.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Melton Planning Scheme Amendment C232melt be adopted as exhibited subject to the following:

1. **Before adopting Melton Planning Scheme Amendment C232melt, Melton City Council should:**
 - a) resolve the location and alignment of the existing sewer pumping station and future Shogaki Drive in consultation with relevant stakeholders
 - b) investigate the design for Intersection IT18 and consult with relevant landowners regarding changes to the exhibited land take required by the revised design
 - c) revise the cross section of Road RD15 to reflect the proposed 45 metre cross section.
2. **Amend the Toolern Precinct Structure Plan to:**
 - a) specify a minimum average of 20 dwellings per net developable hectare across the precinct
 - b) revise the polygons for Assets 17, 22 and 23 in relevant plans to reflect those requested by Melbourne Water and shown in Figure 12
 - c) revise in Table 2 the passive open space area for Property 86 from 1.96 hectares to 1.90 hectares
 - d) revise in Table 2 the passive open space area for Property 87 from 0.64 hectares to 0.58 hectares
 - e) show a local road along the eastern boundaries of Properties 86 and 87 next to the retarding basin in Plans 5, 6, 8, 9, 10, 11, 14, 16 and 17
 - f) replace in Section 4.5.6 (Integrated water management) the third point under 'Planning and design requirements and guidelines' with:
 - Drainage, flood protection and stormwater quality treatment assets must be designed generally in accordance with the Development Services Scheme (as amended from time to time), Plan 14 and Table 9 to the satisfaction of Melbourne Water Corporation and the responsible authority.*
 - g) replace the Plan 14 note with:
 - Drainage, flood protection and Stormwater quality treatment assets shown on this plan are subject to detailed design to the satisfaction of Melbourne Water Corporation*
 - h) make drafting changes specified in Table 3.
3. **Amend the Toolern Development Contributions Plan to:**
 - a) index the Development Infrastructure Levy amounts to July 2024 dollars
 - b) correct any overlap between intersection and road projects
 - c) revise the Functional Layout Plan for Bridge BD19 to show Property 126 within the Toolern Precinct Structure Plan area
 - d) revise Table 2 (Property Specific Land Use Budgets) to specify 0.45 hectares of land for Property 126 in 'Arterial roads and bridges'
 - e) revise in Table 2 the regional park area for Property 27 from 15.66 hectares to 13.46 hectares
 - f) revise in Table 2 the passive open space area for Property 86 from 1.96 hectares to 1.90 hectares

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment seeks to facilitate infrastructure delivery in the Toolern Precinct Structure Plan (PSP) area by:

- incorporating the revised Toolern Development Contributions Plan (DCP)
- incorporating the revised Toolern PSP
- revising Urban Growth Zone Schedule 3 (UGZ3), Development Contributions Plan Overlay Schedule 3 (DCPO3) and associated provisions.

Specifically, the Amendment proposes to:

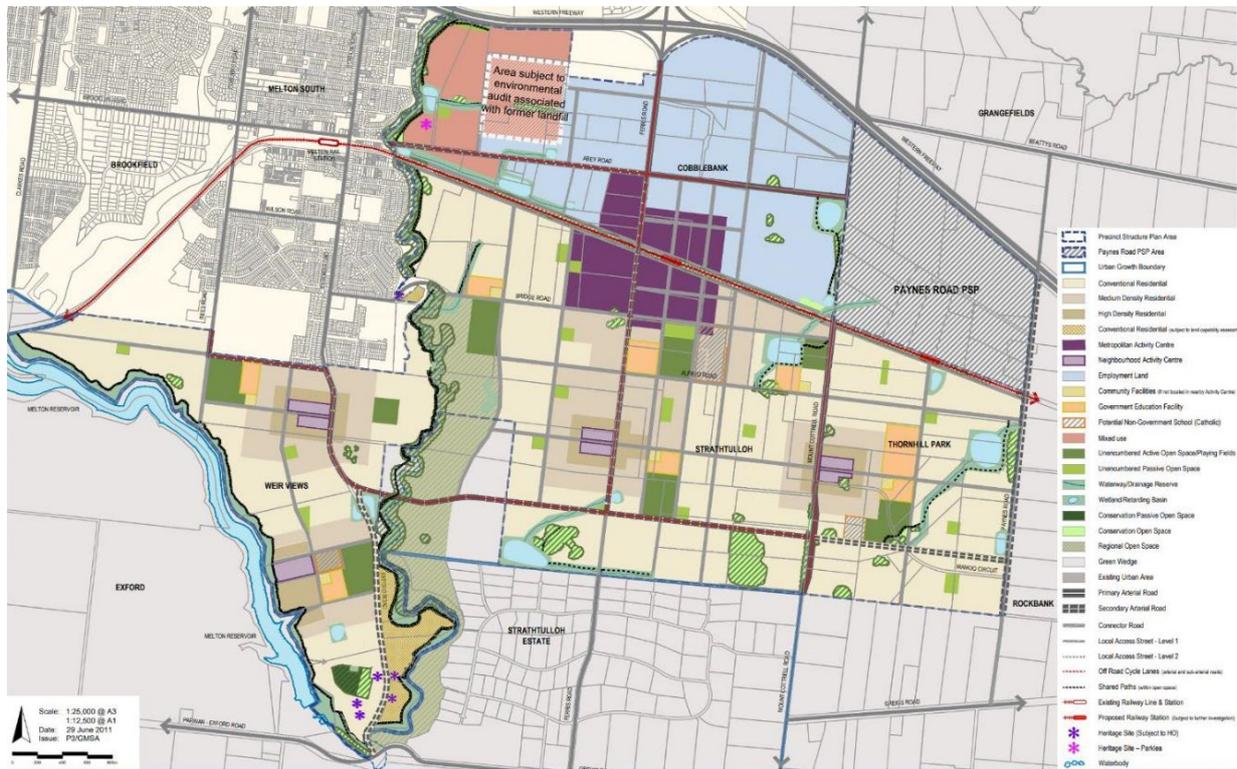
- revise the development infrastructure levies (DIL) in DCPO3 for:
 - Charge Area 1 from \$270,536 to \$439,563
 - Charge Area 2 from \$279,474 to \$441,988
 - Charge Area 3 from \$259,691 to \$369,583
 - Charge Area 4 from \$124,616 to \$228,563¹
- revise UGZ3 to:
 - not require a permit for non-government schools
 - increase the shop floor area in Cobblebank Metropolitan Activity Centre where no permit is required
 - require a permit for a dwelling with a frontage of more than two metres in a Commercial 1 Zone
 - add a building and works provision for non-government schools
- remove the Heritage Overlay (HO74) from 148-200 Abey Road, Cobblebank
- incorporate the Toolern PSP and DCP into the Planning Scheme through the Clause 72.04 Schedule.

(ii) The subject land

The Amendment applies to about 2,200 hectares of land in the Melton municipality (shown as 'Precinct Structure Plan Area' in Figure 1). The subject land is within Weir Views, Strathtulloh, Cobblebank, and Thornhill Park. Weir Views is a southern extension of Brookfield and Melton South, and Strathtulloh as the central part of the Amendment area. Thornhill Park is the western part of the Amendment area and Cobblebank is the northern most suburb.

¹ All levy amounts are indexed to \$2021/22

Figure 1 Subject land



Source: Toolern PSP Plan 5

1.2 Background

Since the Toolern PSP and DCP were introduced into the Planning Scheme, 21 per cent of the Toolern PSP area has been developed and subdivision permits have been issued to:

- 87 per cent of Charge Area 1
- 77 per cent of Charge Area 2
- 21 per cent of Charge Area 3
- 17 per cent of Charge Area 4.

Table 1 Chronology of events

Background summary	
28 Nov 2005	- Victorian government extended Melbourne’s Urban Growth Boundary which included Toolern generally between Werribee River and Paynes Road south of the Western Freeway – this includes the Toolern PSP area [Amendment C51]
Oct 2009	- Toolern PSP was used as a pilot study for the Precinct Structure Plan Guidelines introduced by the (then) Growth Areas Authority (now Victorian Planning Authority)
Aug 2010	- Victorian government extended Melbourne’s Urban Growth Boundary which included all land between the Melton township and Caroline Springs
Nov 2010	- Toolern PSP and DCP introduced into the Planning Scheme [Amendment C84 Part 1]
Jul 2011	- Toolern PSP and DCP revised [Amendment C84 Part 2]
2011	- Work started on the Atherstone residential estate (a major estate in the Toolern PSP area)

Background summary

2012	<ul style="list-style-type: none"> - Growth Areas Authority released the West Growth Corridor Plan that: <ul style="list-style-type: none"> - identified the Toolern Town Centre as a Principal Town Centre - identified two future train stations in the Toolern PSP area at Ferris Road (Cobblebank) and Paynes Road (Thornhill Park) - changed the land in the Paynes Road PSP area from employment to residential, which set the scene for the Paynes Road PSP
2012	<ul style="list-style-type: none"> - Council adopted the Toolern Town Centre Urban Design Framework
Apr 2014	<ul style="list-style-type: none"> - Council adopted the Melton Retail and Activity Centre Strategy that identified: <ul style="list-style-type: none"> - Cobblebank (Toolern) as the highest order activity centre in the City of Melton – Metropolitan Activity Centre - each remaining Toolern PSP town centre as a Neighbourhood Activity Centre
May 2014	<ul style="list-style-type: none"> - Victorian government released Plan Melbourne that identified Cobblebank (Toolern) as a Principal Activity Centre
Oct 2014	<ul style="list-style-type: none"> - Toolern Park PSP and DCP was introduced into the Planning Scheme [Amendment C122]
2014	<ul style="list-style-type: none"> - Melbourne Water Corporation started reviewing all Drainage Service Schemes in the Toolern PSP area
Mar 2015	<ul style="list-style-type: none"> - Paynes Road PSP was introduced into the Planning Scheme [Amendment C161]
Nov 2016	<ul style="list-style-type: none"> - Rockbank PSP was introduced into the Planning Scheme [Amendment C145]
2017	<ul style="list-style-type: none"> - Plan Melbourne 2017-2050 redesignated the Toolern Principal Activity Centre as a Metropolitan Activity Centre
Jul 2018	<ul style="list-style-type: none"> - Victorian government introduced Infrastructure Contributions Plans into the planning system
Oct 2018	<ul style="list-style-type: none"> - Victorian government announced the Western Rail Plan project to electrify the rail line to Melton, include a new Thornhill Park station and provide separated tracks to Ballarat
Dec 2019	<ul style="list-style-type: none"> - Council adopted the Metropolitan Activity Centre Urban Design Framework - Cobblebank train station opened
Jan 2020	<ul style="list-style-type: none"> - Council started reviewing the Toolern PSP and DCP
Dec 2020	<ul style="list-style-type: none"> - Council finalised the Paynes Road DCP and is being implemented through section 173 agreements
Aug 2021	<ul style="list-style-type: none"> - The Public Acquisition Overlay was applied to the Melton Hospital site [Amendment GC190]
15 Aug 2022	<ul style="list-style-type: none"> - Council adopted the reviewed Toolern PSP and DCP and resolved to seek authorisation to prepare and exhibition a Planning Scheme amendment
Oct 2022	<ul style="list-style-type: none"> - Victorian Government announces the Ferris Road level crossing will be removed by 2026
8 Dec 2023	<ul style="list-style-type: none"> - Minister for Planning authorised the Amendment subject to conditions
11 Apr – 16 May 2024	<ul style="list-style-type: none"> - The Amendment was publicly exhibited

1.3 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be 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:

- Strategic issues
- Project costs and levies
- Proposed project designs
- Project justification and apportionment
- Development and site-specific issues
- Drafting matters.

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix B highlights key imperatives of relevant provisions and policies.

Table 2 Planning context

	Relevant references
Victorian planning objectives	section 4 and Part 3B of the PE Act
Municipal Planning Strategy	Clauses 02-03-1 (Activity Centres), 02.03-6 (Housing), 02.03-7 (Economic Development), 02.03-8 (Transport), 02.03-9 (Infrastructure)
Planning Policy Framework	<ul style="list-style-type: none"> - Clauses 11.01-1R (Settlement – Metropolitan Melbourne), 11.02 (Managing Growth) 11.03 (Planning for Places) - Clause 12.01-2S (Biodiversity) - Clause 13.02-1S (Bushfire Planning) - Clauses 16.01-1R (Housing Supply-Metropolitan Melbourne), 16.01-2S (Housing affordability) - Clause 17.01.1R (Diversified economy – Metropolitan Melbourne), 17.02-1S (Business), 17.03-3R (Regionally significant industrial land – Metropolitan Melbourne – Western Metro Region) - Clauses 18.01.1S (Land use and transport integration), 18.01-1L (Land use and transport planning), 18.01-2S (Transport system), 18.02-1S (Walking), 18.02-2R (Cycling – Metropolitan Melbourne) - Clauses 19.02-1L (Health facilities), 19.03.1S (Development and infrastructure contributions plans), 19.02-6R (Open space – Metropolitan Melbourne), 19.03-3S (Integrated water management)
Other planning strategies, policies and guidelines	<ul style="list-style-type: none"> - Plan Melbourne Direction 1.1, Direction 2.2, Direction 3.3, Direction 4.1, Direction 5.1, 5.2, 5.3 and 5.4 - Toolern Precinct Structure Plan - Toolern Native Vegetation Precinct Plan - Toolern Development Contributions Plan - <i>Development Contributions Guidelines</i>, Department of Sustainability and Environment, March 2007 (Development Contributions Guidelines) - <i>Precinct Structure Planning Guidelines</i>, Victorian Planning Authority and Department of Environment, Land, Water and Planning, October 2021
Planning scheme provisions	<ul style="list-style-type: none"> - Urban Growth Zone - Development Contributions Plan Overlay - Heritage Overlay
Planning scheme amendments	C249, VC250, C84 (Part 1) and C84 (Part 2)

Relevant references	
Ministerial directions	<ul style="list-style-type: none"> - Ministerial Direction on the preparation and content of development contributions plans and Ministerial reporting requirements for development contributions plan - Ministerial Direction 1 (Potentially Contaminated Land) - Ministerial Direction 9 (Metropolitan Planning Strategy) - Ministerial Direction 11 (Strategic Assessment of Amendments) - Ministerial Direction 12 (Urban Growth Zones) - Ministerial Direction 19 (Preparation and Content of Amendments that may significantly impact the environment, amenity and human health) - Ministerial Direction 20 (Major Hazards Facilities)
Planning practice notes	<ul style="list-style-type: none"> - Planning Practice Note 1 (Applying the Heritage Overlay) - Planning Practice Note 7 (Vegetation protection in urban areas) - Planning Practice Note 30 (Potentially contaminated land) - Planning Practice Note 47 (Urban Growth Zone) - Planning Practice Note 46 (Strategic Assessment Guidelines) - Planning Practice Note 56 (Activity Centre Zone)

2.2 Amendment strategic justification

(i) Background

The *Toolern Development Contributions Plan Review and Precinct Structure Plan Refresh Planning Report* (Planning Report) states issues identified in the Toolern PSP area include:

- community and recreation infrastructure funding shortfalls
- higher than expected residential development density
- insufficient drainage assets identified by Melbourne Water's Development Services Scheme review.

There were significant funding shortfalls for transport, community and recreation infrastructure because:

- functional layout plans were not prepared for the transport system, resulting in:
 - inadequate land reserved for transport projects
 - there was uncertainty in how the transport system will look and perform once it is delivered
 - inadequate money was collected to construct the interim road and intersection works
- project cost sheets were not prepared for transport projects
- bridge designs and project cost sheets were not prepared for the 14 bridges in the Toolern PSP area, and inadequate money was collected for their construction
- the Paynes Road PSP and Rockbank PSP identified new transport projects in the Toolern PSP area and apportioned some of their construction costs to the Toolern DCP, however they are not included in the Toolern PSP or DCP, and the existing Toolern DCP is not collecting money to construct these projects
- the *Cobblebank Metropolitan Activity Centre Urban Design Framework* (Cobblebank UDF) identified two bridge projects and one intersection project not included in the Toolern

PSP or DCP, and the existing Toolern DCP is not collecting money to acquire land or construct these projects

- the community centre, active recreation reserve and pavilion designs were not prepared
- project cost sheets were not prepared for community and recreation infrastructure.

(ii) The issues

The issues are:

- whether the proposed development infrastructure levy (DIL) amounts will unreasonably impact housing affordability
- whether the Amendment is strategically justified and should proceed.

(iii) Evidence and submissions

Council referred to the Explanatory Report which states the Amendment supports and implements planning policy objectives because it proposes to:

- redesignate the Cobblebank Major Activity Centre to a Metropolitan Activity Centre and identifies it as an area suitable for transit-oriented development
- increase the retail floor area in the Cobblebank Activity Centre from 30,000 square metres to 70,000 square metres consistent with the approved Cobblebank Metropolitan Activity Centre Urban Design Framework
- facilitate development in the Toolern PSP area to encourage economic development and maximise economic opportunities in the Cobblebank Activity Centre
- add transport projects to the Toolern DCP so that appropriate transport infrastructure is delivered to service the growth of the community
- add transport projects from the Paynes Road and Rockbank PSPs, and the Cobblebank UDF
- change the land areas and project costs for most transport projects to ensure adequate money is being collected to acquire the land and construct the projects identified in the Toolern PSP and DCP
- introduce provisions that protect the Werribee River and Melton Reservoir.

No submission considered the Amendment should be abandoned because it had insufficient strategic justification.

Council called Mr De Silva of Mesh and Mr Ainsaar of Urban Enterprise as development contributions experts. Both experts supported the Amendment subject to recommended changes. They agreed that without review and adjustment to the existing Toolern DCP and PSP:

- an increasing gap in infrastructure funding capacity will need to be met by the Council
- delivery of the higher order infrastructure will be delayed due to underfunded projects
- proponents of works-in-kind will be discouraged from delivering infrastructure due to shortfalls in credit values.

Mr De Silva considered the Amendment is needed to meet the objectives of State policy, the Toolern PSP and Toolern DCP regarding the timely delivery of infrastructure that meets the needs of newly emerging communities.

Housing affordability

Seven submissions considered the proposed increased DILs would negatively impact housing affordability. Thornhill Gardens Dev Co submitted that housing would be less accessible to low

and moderate income individuals and families. Australian Unity, Miravor and Roman Catholic Trust Corporation for the Diocese of Melbourne each submitted:

The increase in levy amount will undoubtedly be passed on to future homeowners as increased land costs. At a time when Victoria is facing an affordability and housing supply crisis, both Council and State Government need to be doing more to minimise the cost of developing land to facilitate increased supply in the short term.

Mount Cottrell Project Management Pty Ltd objected to the proposed DIL because it considered a 58 per cent increase to be too high during a housing crisis where affordable housing is sought. It submitted that Victoria's housing affordability is at its lowest in 30 years and the Victorian Government's Housing Statement:

- states that without change, there will be a shortfall of more than 25,000 homes each year for the next 10 years
- sets a bold target of building 800,000 homes by 2034.

Growland submitted it would pass on any additional cost to its purchasers. It explained the increased \$6.1 million across its 643 lots would equate to almost \$10,000 more for each lot.

Council, Mr Ainsaar and Mr De Silva each considered the proposed DILs are comparable with those in surrounding areas. Mr De Silva stated that Clauses 16.01-2S (Housing affordability) and 16.01-1R (Housing supply) are relevant because the Amendment "*seeks to facilitate well-located, integrated and diverse housing that meets community needs and deliver affordable housing closer to jobs, transport and services*".

Council submitted:

- submitters have not provided evidence to support assertions regarding housing affordability
- the gross increase to the DIL is large only because the underlying DCP costs are too low
- it relied on Mr De Silva's expert advice that housing affordability is:
 - more complex than saying the increased DILs will increase the average cost for each lot by that amount
 - based on many factors such as land tenure costs, development costs, and the market.

Council concluded:

The sound basis for the Panel to proceed to recognise that these contributions are of an order which is higher than some and lower than others and therefore unlikely to distort costs in the market materially and therefore the Amendment will not impact affordability through its process to provides a proper estimate of costs of development.

(iv) Discussion

The Toolern DCP anticipates about 24,000 dwellings and 55,000 people in the Toolern PSP area.

The Amendment seeks to implement the first review of the Toolern DCP since it was introduced 13 years ago. The Toolern DCP states that it "*should be reviewed and if necessary updated every five years (or more if required)*". The Toolern DCP includes a method for indexing specified construction costs and revaluing properties to ensure they are as accurate as possible when transactions are made. There has been significant development in the Toolern PSP area since 2011.

When prepared, the Toolern DCP was not informed by functional layout plans for the transport system and project cost sheets for transport projects.

Council started reviewing the Toolern PSP and DCP in early 2020 that found a shortfall of over \$223 million (in \$2021/22 dollars) in contributions needed to fund the plan. Council is currently unable to collect:

- further DIL or Community Infrastructure Levy on land where they have been collected
- more than what is specified in the existing Toolern DCP.

This is financially unsustainable and will result in important infrastructure and open space not being delivered when needed by the community. The Amendment is needed to:

- provide for the fair, orderly, economic, and sustainable use, and development of land
- ensure a pleasant, efficient, and safe working, living and recreational environment
- protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community
- facilitate development in accordance with the objectives of planning in Victoria.

These are policy outcomes consistent with planning objectives a), c), e) and f) set out in section 4(1) of the PE Act.

The Panel understands that developers will now have to pay significantly higher DILs than those specified in existing Toolern DCP. This is otherwise referred to as 'bill shock' and was not previously accounted for. From another perspective, developers who have already developed a significant proportion of the Toolern PSP area have benefitted from lower than required DILs and from Council funding the shortfall. The exhibited Toolern DCP more accurately reflects what developers should be contributing to ensure that infrastructure and open space can be practically delivered.

Planning Scheme Clause 71.02-3 (Integrated decision making) asks planning to assess competing policy objectives to determine whether the Amendment is achieving net community benefit and sustainable development. Accordingly, the Panel considered how increasing the DILs needed to achieve settlement and urban growth area policy objectives will affect the ability to meet housing affordability policy objectives.

Housing affordability

Of the submissions which considered the increased DILs would negatively impact housing affordability, none provided information to support these claims. Information may have included the yearly income of typical purchasers compared with the median housing prices in the Toolern PSP area.

The Panel heard that a portion of developers may decide to absorb the increased costs while others may pass it on to the purchaser. However, increased housing costs do not automatically translate into negatively impacting the ability to achieve housing affordability policy objectives.

The Panel agrees with Council that there is no simple straight-line relationship between the increased DILs and possible increased housing prices that may follow. This is because, as acknowledged by developers at the Hearing, some may pass on part or all the increase amount while others may absorb the costs. It may also be difficult to single out the DILs as the predominant contributor to any future housing price increase. For example, a future housing price increase may be predominantly attributable to increased market demand.

Council's comparison of DILs in other areas demonstrates the Toolern DCP is comparable, however it still falls short of understanding how potential increased housing costs may affect housing

affordability. It can only be assumed that other comparable DILs are not negatively impacting affordable housing.

Without supporting information, the Panel is unable to conclude that increased development costs will increase housing prices that unreasonably impact housing affordability to the point where policy objectives cannot be met.

(v) Conclusions

The Panel concludes:

- The proposed development infrastructure levies will increase development costs which may increase housing prices, however there is no evidence they will unreasonably impact housing affordability to the point where the broad policy objectives cannot be met.
- For the reasons set out in this report, the Amendment:
 - is supported by, and implements, the relevant sections of the Planning Policy Framework
 - is consistent with the relevant Ministerial Directions and Practice Notes
 - is well founded and strategically justified
 - should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

2.3 Increased development infrastructure levy impacts

(i) The issues

The issues are:

- whether minimum specified housing densities should be increased to offset the increased costs
- the impact of increased DILs on property value and subsequent compensation when land is acquired.

(ii) Background

Planning Scheme Clause 11.03-2S (Growth areas) states:

Encourage average overall residential densities in the growth areas of a minimum of 15 dwellings per net developable hectare, and over time, seek an overall increase in residential densities to more than 20 dwellings per net developable hectare.

The Precinct Structure Planning Guidelines state at Target T2:

The PSP should facilitate increased densities with an average of 20 dwellings or more per NDHA² across the entire PSP area.

Toolern PSP Section 3.2.2 specifies an average density of at least 15 dwellings per net developable hectare across the precinct that includes:

- high density housing (more than 30 dwellings per net developable hectare) generally located in Activity Centres, and within 200 metres of Neighbourhood Activity Centres

² Net developable hectare

- medium density housing (above 15 to 30 dwellings per net developable hectare) generally located within 400 metres of Neighbourhood Activity Centres and 800 metres of Cobblebank Railway station, framing the Metropolitan Activity Centre
- conventional density housing (10 to 15 dwellings per net developable hectare).

(iii) Evidence and submissions

Numerous submissions considered the increased DIL charges:

- could negatively affect development viability and the affordability of dwellings in the Toolern PSP area
- will negatively affect the valuation of land being acquired for infrastructure delivery.

Submissions proposed the Toolern PSP encourage or mandate higher dwelling densities to enable developers to offset increased DIL charges.

Mr De Silva and Mr Ainsaar stated:

- the proposed infrastructure is required for the population forecasted for the Toolern PSP
- the proposed DIL is consistent with charges for similar PSPs
- underestimated DIL charges distort land acquisition values.

Council submitted:

- development in the Toolern PSP area was currently delivering a dwelling density of over 21 dwellings per net developable hectare, which exceeds the target of 20 dwellings specified in the Planning Scheme and Victorian Planning Authority (VPA) guidance
- the overall target of 15 dwellings per hectare specified in the Amendment did not reflect the higher 'on the ground' density being achieved
- the Toolern PSP and the Planning Scheme express density requirements as minimums rather than not maximums, and allow an application for increased density development on a specific site to be considered by Council on its merits
- infrastructure included in the Toolern PSP was required to service the updated population forecast and that increasing densities in the Toolern PSP area would also increase the infrastructure needed to service the additional population that would result from increased densities.

Council proposed to revise the Toolern PSP to reflect a target of 21 dwellings per hectare.

(iv) Discussion

No submission questioned the revised population forecast reflected in the Council Planning Report or expert evidence that additional infrastructure would be required to serve a larger population resulting from increased density development.

There is a direct relationship between the expected future population and the level of infrastructure required for the Toolern PSP area. This means increasing development density is not an effective means of offsetting increased DIL charges because the increased density generates increased demand for additional infrastructure that would need to be planned for and costed in the DIL for the Toolern PSP area.

The Planning Scheme and Precinct Structure Planning Guidelines clearly establish a minimum average of 20 dwellings per hectare as the target to facilitate across the Toolern PSP area. This

target should apply because over 10 years have passed since the Toolern PSP was introduced into the Planning Scheme.

It is beyond the scope of the Panel process to comment on existing processes to establish a fair and reasonable price for land required for infrastructure. However, an increase in a DIL will be relevant when valuing land.

The PE Act requires planning to consider, among other things, the economic impact of a planning scheme amendment. This impact is at a community level and does not extend to private financial impact such as property value. No submission or expert suggested that an increased DIL on property values will negatively and unreasonably impact the broader community.

(v) Conclusions and recommendation

The Panel concludes:

- Minimum densities should not be increased to offset increased Development Infrastructure Levies.
- The Toolern Precinct Structure Plan should be revised to specify a minimum of 20 dwellings per net developable hectare across the precinct, consistent with policy, guidance and what is currently being achieved.

The Panel recommends:

Amend the Toolern Precinct Structure Plan to specify a minimum average of 20 dwellings per net developable hectare across the precinct.

2.4 Aboriginal cultural heritage

(i) The issue

The issue is whether the Toolern PSP has appropriately considered Aboriginal cultural heritage.

(ii) Background

The Toolern PSP includes:

- maps identifying areas with a high probability of occupation and sites identified as Aboriginal sites (Plans 4 and 12)
- discussion on 56 sites in or near the study area of Aboriginal significance listed on the Aboriginal Affairs Victoria Heritage Register
- the following planning and design guidelines:
Proponents undertaking development of land identified on the Victorian Aboriginal Heritage Register, and/or with high Aboriginal cultural heritage values including those on Plans 4 and 12, should liaise with the designated Registered Aboriginal Party to ascertain whether heritage interpretation is appropriate in these identified locations, and how the heritage site(s) should be incorporated into the design of the subdivision.

(iii) Evidence and submissions

The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation submitted:

- it regards it good practice for a PSP to undertake an Aboriginal Cultural Heritage Impact Assessment (ACHIA) and Cultural Values Assessment (CVA)
- an Aboriginal Cultural Heritage Impact Assessment does not appear to have been completed for the Toolern PSP

- it advocates for a developer to apply protective measures for Aboriginal cultural heritage, typically through avoiding or minimising harm to registered Aboriginal Places, in accordance with section 61 of the *Aboriginal Heritage Act 2006*
- the Toolern PSP should give developers with scope to protect cultural heritage and be flexible to allow changes if Aboriginal cultural heritage and cultural values are identified.

Regarding Melton Heritage Overlay (HO129 and HO130), Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation submitted:

- the Elders have identified that HO129 is likely to be a location of Aboriginal cultural heritage significance and encourage it be included in the Heritage Overlay
- the Elders consider HO129 and HO130 to be important to the Wurundjeri Woi-wurrung community
- the Staughton family developed strong relationships with the Wurundjeri Woi-wurrung people while they occupied the Exford Estate.

Council acknowledged it is now standard practice to create an ACHIA and CVA when preparing a PSP. It submitted:

- the Toolern PSP was prepared in 2010 when it was not common practice for a PSP to be informed by a ACHIA and CVA
- it would be difficult to prepare an ACHIA or CVA now, given a significant percentage of the Toolern PSP has now been permitted or being considered through current applications
- the Toolern PSP has been refreshed rather than rewritten so the Amendment does not propose new requirements and guidelines
- if Council prepared the Toolern PSP today:
 - the process would have been supported by a more thorough examination of Aboriginal cultural values and included improved guidance on Aboriginal cultural value management
 - there would be administrative challenges from many planning permits being non-compliant
 - there would be compliance and enforcement challenges result from the ambiguity between the former and new Toolern PSP.

Regarding Melton Heritage Overlay (HO129 and HO130), Council submitted:

- both heritage listings were introduced by Amendment C198melt on 1 September 2021
- the strong relationship between the Staughton family and the Wurundjeri Woi-wurrung people during the family's occupation of the Exford Estate:
 - should be considered through a future review of Statements of Significance for places with the Melton Heritage Overlay
 - can be recognised through notes on the Victorian Heritage Database.

(iv) Discussion

The Toolern PSP identifies areas of cultural sensitivity and registered Aboriginal sites which are subject to separate heritage legislation and processes. A significant proportion of the Toolern PSP area has been developed with this guidance in place. This content continues to guide future development on how planning and design should respond to identified Aboriginal cultural heritage.

As acknowledged by Council, a more consultative process and comprehensive response to Aboriginal cultural heritage would have informed the Toolern PSP if it was applied to a mostly greenfield area today. This would have improved guidance on Aboriginal cultural value management. However, these circumstances do not apply here.

After 13 years since the Toolern PSP was introduced:

- a significant proportion of the Toolern PSP area has been developed
- there is existing legislation and processes help protect and managing Aboriginal cultural heritage
- the Toolern PSP provides guidance on these heritage areas, sites and processes
- no new heritage place has been subsequently identified
- the Amendment is implementing a 'light' review of the Toolern PSP.

The Panel notes Council's support to recognise the strong relationship between the Staughton family and the Wurundjeri Woi-wurrung people during the family's occupation of the Exford Estate. The process for achieving this is separate to the Amendment.

(v) Conclusion

The Panel concludes:

- The Toolern Precinct Structure Plan would have benefitted from a more consultative process and comprehensive response to Aboriginal cultural heritage if prepared today, however it did does not need to be revised when considering:
 - the significant proportion of the Toolern Precinct Structure Plan already developed
 - existing legislation and processes and associated guidance in the Toolern Precinct Structure Plan that help protect and manage Aboriginal cultural heritage.
- Matters relating to the Melton Heritage Overlay (HO129 and HO130) can be managed through separate processes and are beyond the scope of the Amendment.

3 Project costs and levies

3.1 Development infrastructure levy baseline year

(i) The issue

The issue is whether the DIL amounts specified in the Toolern DCP and DCPO3 should be indexed to current dollars rather than the indexed 2021/22 dollars.

(ii) Evidence and submissions

Four submissions requested that the exhibited DIL be revised from 2021/22 dollars to 2024 dollars to reflect the rate at the time of approval. They explained it is difficult to determine the full impact of the increased rate on the development contribution liability for sites without knowing the 2024/2025 dollar value of that liability.

Mr De Silva and Mr Ainsaar considered it common practice to index project costs to the current year, on or before approving a DCP.

Council submitted it intended to use 2024/25 indexed costs in the adopted Toolern DCP, as reflected in the Version 1 documents that it provided at the start of the Hearing. It said it was open to the Panel to recommend the levy rates in DCPO3 be indexed at the time of approval.

(iii) Discussion

No submission objected to using 2024/25 indexed DIL costs in the Toolern DCP. Landowners have a need for clarity of development contribution liability. The use of costs indexed to 2024/25 will address this need.

(iv) Conclusion and recommendation

The Panel concludes the Development Infrastructure Levy amounts specified in the Toolern Development Contributions Plan and Development Contributions Plan Overlay Schedule 3 should be indexed to July 2024 dollars rather than the indexed 2021/22 dollars.

The Panel recommends:

Amend the Toolern Development Contributions Plan and Development Contributions Plan Overlay Schedule 3 to index the Development Infrastructure Levy amounts to July 2024 dollars.

3.2 Toolern DCP construction and land value costs and indexation

(i) The issue

The issue is whether the Toolern DCP construction and land value costs and indexation are appropriate.

(ii) Background

All versions of the Toolern DCP since 2011 including the exhibited version have stated the following with different baseline dollar years:

CONSTRUCTION AND LAND VALUE COSTS AND INDEXATION

The construction costs for all infrastructure projects are in July 2021 dollars and the cost of land is in July 2021 dollars and will be indexed by the Collecting Agency annually for inflation in the following way.

In relation to the costs associated with infrastructure items other than land, the cost must be adjusted according to the following method:

- The capital cost for each infrastructure item will be adjusted by applying the Building Price Index, as published in the latest edition of Rawlinsons Australian Construction Handbook on 1 July each year;

In relation to the cost of land, the land value must be adjusted by adopting a revised value determined according to the following method:

- The land value will be adjusted on 1 July each year following site specific land valuations undertaken by a registered valuer. Within 14 days of the adjustments being made, the Collecting Agency will publish the amended contributions on the Collecting Agency's website.

(iii) Evidence and submissions

Project cost estimates

Exford Waters submitted that the Cardno costings reflected in the exhibited DIL and the project cost estimates provided by Ms McKenna are moderately and excessively high, respectively.

Growland raised general concern about project costs. It called Mr Turnbull of Traffix Group as a traffic engineering expert. Mr Turnbull considered that further review and justification is needed where proposed intersection costs significantly exceed the VPA Benchmark Costings.

Lendlease submitted:

- the existing Toolern DCP is underfunded and should be rectified
- actual costs for road and intersection projects delivered as Works-In-Kind correlated well with the VPA benchmarks relied on by Council, and clarified verbally that this statement would remain true if rock allowances were reduced
- project cost estimates should not be revised to reflect Ms McKenna's independent estimates as her evidence relied on a desktop review and was not informed by any geotechnical analysis or actual costs for projects within the Toolern PSP.

No other submitter provided information on actual project delivery costs for like projects in the Toolern DCP area.

Australian Unity Funds Management, Miravor Property Group, Roman Catholic Trust Corporation, and Thornhill Gardens Dev Co called Mr Jeffrey-Monck as an expert on development contributions plans. Mr Jeffrey-Monck considered:

- the construction rates in the Benchmark Costings were too high
- Council should have used local construction projects to inform costings
- Cardno's allowance for rock excavation was too high
- some project costings duplicated costs between road and intersection plans.

Council called Ms McKenna of WTP Australia (WT) as an expert on costings. Ms McKenna stated:

- WT had undertaken independent estimates of the cost to deliver infrastructure projects in the Toolern DCP
- the estimates were prepared using first principles estimating based upon current day rates and benchmarking from WT's internal database to derive a base case cost estimate

- the initial project cost estimates prepared by WT were higher than the project cost estimates in the exhibited Toolern DCP by \$97.9 million, mostly resulting from differences in road, intersection and bridge costings
- WT reduced costing allowances for rock excavation, drainage and surface paint to shared paths, following additional information received from the engineering and transport expert meeting
- this adjustment reduced WT estimated road costs by \$9.1 million and intersection costs by \$10.2 million
- WT concluded that cost estimates in the Toolern PSP are about:
 - 26 per cent lower than the WT estimate for transport projects
 - 12 per cent lower for community infrastructure projects.

The engineering and costing expert statement identified an overlap between Intersection IT01 and Road RD01 in the Toolern DCP costings and agreed that the extent of works for transport projects should be confirmed before transport costings are finalised.

Council submitted that the transport project costings were drawn from the Transport Project Review conducted by Cardno in March 2022 which developed Functional Layout Plans for all identified projects and used VPA benchmark designs and costings unless a bespoke cross-section was required. Council acknowledged that projects can be costed numerous ways. It outlined the rationale for the method adopted in the exhibited Toolern DCP where costs are:

- based on many projects across 26 DCPs in the growth areas
- based on DCP projects where arterial roads, intersections and bridges are funded, and therefore the costings are based on like projects
- used by the VPA for costing projects in the growth areas and so their use is consistent with other contemporary growth areas – costs and their indexation have been the subject of detailed mathematical analysis to determine appropriate P50 and P90 costings.

At the Hearing in response to questions, Mr Turnbull acknowledged that land is not included in the VPA benchmark cost estimates, which accounts for a substantial part of the cost estimate differences.

Council submitted:

- Mr Jeffery-Monck drew on a small pool of projects that were not directly comparable and reflected a single point in time. As a result, Mr Jeffery-Monck's evidence did not demonstrate that Council's estimation method was not reasonable
- varying views about the appropriate allowance for rock do not undermine the reasonableness of the existing project costing estimates
- based on the Lend Lease submissions, 15 per cent rock allowance applied in the Cardno costings is likely to result in a reasonable approximation of costs
- there is an overlap between Intersection IT01 and Road RD01 in the Toolern DCP costings and the Panel is invited to recommend a review to correct any overlap between intersection and road projects before the Amendment is adopted.

Land valuation

Exford Waters considered it should not have pay for recent land rate increases for land that Council should have purchased years ago. It submitted:

- Open Spaces OS01, OS02 and OC3 are yet to be purchased by Council from each relevant developer, and are the main cost increase to Charge Area 1

- relevant developers have already developed most of their land having paid historically low DCP rates
- open space land that was valued about \$426,000 for each hectare in the 2011 Toolern DCP is valued at \$2,000,000 for each hectare in 2021/22 rates.

Council submitted:

- the DIL annual indexations are informed by and include annual land valuations
- it could advise when it is likely to acquire Open Space OS03 if Exford Water requested this in writing.

Mr De Silva and Mr Ainsaar of Urban Enterprise gave evidence that the indexing methodology applied for the DIL was common practice for the development of DCPs.

Construction indexation

Lendlease requested the preferred annual cost escalation for projects be clarified. It explained that Toolern DCP section 3.1.1 states the annual cost escalation should apply the Rawlinsons Australian Construction Handbook, however Cardno escalated costings using the VPA Benchmark Infrastructure Costing.

Council clarified that construction costs would be escalated using the Rawlinsons Australian Construction Handbook, consistent with what is specified in Toolern DCP section 3.1.6. Lendlease subsequently acknowledged that Council's clarification resolved the issue.

(iv) Discussion

Project cost estimates

Project cost estimates can be established numerous ways. The Panel has considered whether the cost estimation method proposed by the Toolern DCP is reasonable.

Mr Turnbull's acknowledgement that land is not included in the VPA benchmark cost estimates negates the need for further review and justification where proposed intersection costs significantly exceed the VPA Benchmark Costings.

The project allowances in the Cardno cost estimates are appropriate to apply for projects in the Toolern DCP. The Panel had regard to:

- varying expert views regarding the appropriate rock and other allowances for the Toolern DCP transport project cost estimates
- Lendlease's submission that estimated project costs correlated well with actual project delivery costs.

Actual figures are likely to vary from project to project, however this does not make the project allowances inappropriate. There was insufficient information to enable the Panel to consider alternative allowances.

Reasonable cost estimates must be drawn from a broad range of comparable projects over an adequate time period to avoid distortion from 'outlier quotes' and short-term market impacts. The Panel accepts that the use of VPA benchmarks, adjusted to reflect specific projects, achieves this outcome.

Land valuation

The need for annual land valuations conducted by a registered land valuer has been clearly outlined in every version of the Toolern DCP since 2011. No submission raised concern about the proposed valuation process. It is beyond the scope of the Panel to comment on existing processes and timing for the collection of Council rates from landowners or the acquisition of land by Council.

Construction indexation

The Panel acknowledges that landowners need clarity about how construction project costs will be indexed. The Panel considers that Council's confirmation that construction costs will be escalated using the Rawlinsons Australian Construction Handbook provides this clarity.

(v) Conclusions and recommendation

The Panel concludes:

- The project costing methodology in the Toolern Development Contributions Plan is reasonable.
- Council should review all intersection and road projects to identify and correct overlap of projects before finalising project cost estimates and adopting the Amendment.
- The Toolern Development Contributions Plan annual land valuation and Development Infrastructure Levy indexation that have applied since 2011 are appropriate.

The Panel recommends:

Amend the Toolern Development Contributions Plan to correct any overlap between intersection and road projects.

3.3 Approach to project justification and external apportionment

(i) The issue

The issue is whether the approach to justifying the inclusion and apportionment of projects in the Toolern DCP is appropriate.

(ii) Background

The Development Contributions Guidelines advise on preparing DCPs and relevant extracts are summarised below.

Principles:

- DCPs must have a strategic basis
- Justification of infrastructure projects
- Nexus between new development and the need for new infrastructure
- DCPs must have a reasonable time horizon
- Infrastructure costs must be apportioned based on projected 'share of usage'
- A commitment to provide the infrastructure
- Accountability
- Transparency
- DCP must be in the planning scheme.

To qualify for inclusion in a DCP, all infrastructure:

- must be used by a broad cross-section of the community, and

- must serve a neighbourhood-sized catchment or larger area.

This means that the infrastructure provided is likely to be used by a broad range of people, given the likely profile of the expected community (age, ethnicity, sex) which justifies the selection of the infrastructure.

To justify an infrastructure project to be included in a DCP, the type and standard of infrastructure must be either:

- basic to the health, safety or well-being of the community, or
- consistent with current community expectations of what is required to meet its health, safety or well-being.

(iii) Evidence and submissions

Submissions considered:

- the extent and level of infrastructure proposed for inclusion in the Toolern DCP exceeded the standard required by the PE Act and Precinct Structure Plan Guidelines
- the apportionment of some infrastructure to the Toolern DCP was too high
- some infrastructure should be funded by Growth Areas Infrastructure Contribution (GAIC) rather than through the Toolern DCP
- it is not fair and equitable to transfer increased cost resulting from earlier inadequate planning onto developers and that a substantial portion of the infrastructure projects should be funded directly from GAIC collected in the precinct
- the Toolern DCP should only include 'essential' infrastructure projects by assessing "*what we can do without*"
- grade-separated railway crossings are not an essential item and, if required by state transport policy should be funded through State programs such as GAIC or the Level Crossing removal Program
- what is 'basic and essential infrastructure' must be considered in the context of what the community can afford.

Mr Turnbull stated:

- the need for all projects should be reviewed because the proposed DIL is too high and proposed some projects be redesigned or removed to reduce costs
- decoupling the Toolern Park PSP from the Toolern PSP potentially creates inequitable apportionment of costs for Bridge BD03 and Roads RD05 and RD06.

Exford Waters submitted that increased developer contributions were not justified because additional projects are about 5 kilometres away and not connected with the Exford Water site and that contributions should only be apportioned to a charge area where direct infrastructure benefit is received.

Two groups of experts each met separately to document what they agreed to. One group comprised development contributions experts, while the other was traffic and engineering experts. The traffic and engineering experts included, among other participants:

- Mr Lucioni of Stantec called by Council and Mr Turnbull (traffic engineering)
- Mr Watters of SMEC called by Lendlease (civil engineering).

The traffic and engineering experts agreed the apportionment of Roads RD05 and RD06 and Bridge BD03 in the Toolern Park PSP should be reassessed, subject to funding viability and prior

agreements between Council, Department of Transport and Planning (Transport) (DTP), VPA and the Victorian government.

Lendlease submitted that it would not be appropriate to allocate any of the costs of projects RD05, RD06 and BD03 to the Toolern Park DCP as the infrastructure has a network role and the need for the projects is overwhelmingly generated by the Toolern PSP, as confirmed by Mr Lucioni.

Mr Ainsaar considered the apportionment of cost to be in line with accepted practice for the apportionment of costs of transport projects on the boundary of two or more DCPs.

The development contributions experts agreed that the exhibited Toolern DCP is supported by comprehensive and detailed technical reports and strategic studies that provide the strategic justification for changes to projects and the evidence base for project costs.

In relation to project justification, Council submitted:

- 97 per cent of infrastructure projects included in the exhibited Toolern DCP (87 out of 90 projects) are in the existing Toolern DCP and have been tested through a planning system amendment or Planning Panel process
- the three new projects (Bridges BD15 and BD16 and Intersection IT24) are justified by the Cobblebank UDF that has been through a consultation process
- the Victorian planning system does not require all documents and decisions to be put to a planning scheme amendment or Panel process to be validly adopted
- the process of adoption of the Cobblebank UDF included a right-of-review for specified persons (including landowners) under the PE Act
- the Planning Scheme already depicts the detail of most infrastructure proposed in the Amendment and, along with the Rockbank PSP and DCP and the Paynes Road PSP, this creates the community expectations of what will be delivered within the area
- the new construction and land acquisition values have been applied to developed and undeveloped land
- where land has already been developed and DIL paid, Council will miss out on receiving money from the DIL uplift
- Council is responsible for meeting any funding gap created by existing development contributing at lower DCP rates
- any funding shortfall is not included in DCP costings for future development
- it does not control GAIC funding so relying on GAIC funding may delay or threaten planned infrastructure delivery.

Regarding the assessment of essential infrastructure, Council submitted:

- the term 'basic and essential' is applied in the Infrastructure Contributions Plan Guidelines and the Infrastructure Contributions Plan Ministerial Direction – it is not used in the DCP process
- the Toolern DCP uses 'essential' in the context of infrastructure items being essential to the health and safety of the community
- the framework of strategic documents defines what is essential and what is expected in the area
- it disagrees that 'essential' infrastructure should be assessed based on '*what we can do without*'

Regarding project apportionment, Council submitted:

- the existing Toolern DCP was tested and gazetted based on all transport projects being linked and shared across a single charge area
- the Amendment C84 Panel ‘tested’ the question of infrastructure allocation to charge areas and concluded the allocation of items to the four charge areas is appropriate
- the exhibited Toolern DCP includes new transport projects that were apportioned from the adopted Paynes Road and Rockbank DCPs but are not included in the existing Toolern DCP
- the Toolern DCP reflects an apportionment of 50 per cent of the relevant transport project, except for Bridges BD17 and BD18, which are proposed be apportioned:
 - 25 per cent to the Toolern PSP area
 - 25 per cent to the Paynes Road PSP area
 - 50 per cent to the Rockbank PSP area
- the Toolern PSP apportions all transport (road, intersection and bridge) projects to all four Charge Areas based on them providing a holistic, integrated road network to service the entire PSP area –reflecting the assumptions in the existing Toolern DCP
- open space, community and indoor recreation, and outdoor recreation infrastructure projects have been allocated based on the proximity of the project to the catchment
- the treatment of Bridge BD03 and Roads RD05 and RD06 reflects a historic anomaly caused by the excision of the Toolern Park PSP area from Toolern PSP, following the inclusion of Toolern Park in the Urban Growth Boundary
- these projects formed part of the Toolern DCP road network when the Toolern DCP was first approved
- the Toolern Park did not include no external apportionment when that PSP was introduced
- the Amendment takes a consistent approach to historic anomalies – seeking to include projects where other DCPs have previously apportioned costs to Toolern, but not seeking to amend other DCPs prepared after Toolern that would have been prepared cognisant of the infrastructure funded by the Toolern DCP
- Bridge BD03 and Roads RD05 and RD06 should not be apportioned to Toolern Park.

(iv) Discussion

All projects in the Toolern DCP reflect the revised population forecasts for the area and have been subject to the relevant planning system process, including consultation and decision review rights. The DCP guidelines set out the criteria for project justification. Community expectations of infrastructure provision evolve over time, and it is reasonable to expect that existing strategic planning frameworks and current government policy are reflected in the evolution of expectations. Project or DIL cost, alone, is not a sufficient trigger for project review or exclusion.

There will be a funding shortfall for delivering projects in the exhibited Toolern DCP resulting from existing development having contributed at lower DCP rates. Council has acknowledged it is responsible for this funding gap. New development will be required to pay a higher DIL rate to address their share of the revised infrastructure need, but the exhibited DIL does not incorporate costs to address any past funding gap, so land holders are not being asked to address an historic shortfall.

The Development Contributions Guidelines make it clear that councils must ensure that new infrastructure needed by the community is provided when and where it is needed and that funds are available to provide the infrastructure. This outcome cannot be adequately achieved by relying on uncommitted GAIC or other state government funding programs.

No submission raised concerns about the methodology or outcome of apportioning costs for community infrastructure proposed in the Toolern PSP.

Regarding the apportionment of transport infrastructure, the Panel acknowledges the Toolern DCP review has had to consider methodologies applied in the original Toolern DCP, the subsequent adoption of other adjoining PSPs and historic anomalies. The Panel considers that apportioning transport infrastructure on a network basis, consistent with the existing Toolern PSP, is appropriate given that changing methodologies at this point would create difficulties.

The approach to apportioning transport projects from adjoining PSPs is appropriate because it reflects current practice where infrastructure is on the boundary of two or more PSP areas.

The need for Bridge BD03 and Roads RD05 and RD06 is overwhelmingly generated by the Toolern PSP. It is not appropriate to reassess the apportionment of these project costs given that the Toolern Park PSP is not being revised and there is no commitment to GAIC funding for the projects.

It is beyond scope of the Amendment to consider alternative projects, and any such alternatives should be exhibited to give landowners and other stakeholders with an opportunity to comment.

(v) Conclusion

The Panel concludes that the approach to justifying the inclusion and apportionment of projects in the Toolern Development Contributions Plan is appropriate.

3.4 Existing project scoping approach

(i) The issue

The issue is whether the approach for scoping the construction and completion of existing projects is appropriate.

(ii) Evidence and submissions

Exford Waters requested the Toolern DCP clarify how construction and completion of existing projects have been accommodated in project scope. It referred to Road RD04 as an example where part of the road has been constructed and the project cost is proposed to be increased from \$8,900,000 to \$15,487,554 (74 per cent increase).

In response, Council submitted:

- it did not prepare new designs and costings for projects already constructed
- for completed projects, the costs from the existing Toolern DCP have been indexed and no new costing or design work has been undertaken for the Amendment
- rather, these have been indexed from the values in the existing Toolern DCP to 2022 dollars (in the Amendment) using the Rawlinsons Building Price Index – being the index nominated in the exhibited Toolern DCP
- the functional layout plans prepared by Cardno have taken the approved plans for Road RD04 and have shown these as blue linework on the Cardno functional layout plans

- Road RD04 has been delivered in an interim standard only, with large sections without kerb and channel, footpaths, bicycle infrastructure, nature strips or public lighting to date
- the exhibited Toolern DCP reflects revised costings that ensure all Road RD04 infrastructure can be delivered.

Mr Ainsaar stated the Cardno report provides a sound evidence base for the transport infrastructure projects identified in the Toolern DCP, including the scope of those projects and estimates of cost, based on current approaches for DCPs and ICPs. He added, for transport projects already constructed or underway, the approach to retaining and indexing the construction cost was fair and practical.

(iii) Discussion

The Panel notes the significant increase to development costs in recent years is challenging for developers. Many factors influencing these increased costs are beyond the Toolern DCP or even the broader planning process. The Toolern DCP's approach for scoping existing projects cannot be considered based on cyclical market forces.

The Toolern DCP provides a sound approach to addressing completed or under construction projects. Interim infrastructure has been considered and incorporated in cost estimates to ensure the ultimate infrastructure provision is accurately reflected in the Toolern DCP.

(iv) Conclusion

The Panel concludes that the method for scoping the construction and completion of existing projects is appropriate.

3.5 DCP charge areas

(i) The issue

The issue is whether the Toolern DCP charge areas have been appropriately applied.

(ii) Evidence and submissions

Council explained the Amendment does not seek to change the existing charge areas.

Exford Waters submitted that:

- an alternative tiered DIL rate be applied, based on proximity to new projects or the application of separate assessments for already developed areas. The alternative approach would result in DIL charges as follows:
 - Charge area 1 to go down by \$30,000 per hectare
 - Charge area 2 to go up by \$4,750 per hectare
 - Charge area 3 and 4 to go up by \$2,000 per hectare
- the above proposed change could have a similar effect to creating additional Charge Areas and would result in DCP rates that are directly apportioned to the benefit provided

Growland submitted that any review of the charging areas is beyond the scope of the Amendment and that any change to the charge areas would need to be the subject of further notice.

Council considered the Exford Waters alternative DIL charges to be arbitrary, and without a rational basis that respond to the DCP guidelines.

(iii) Discussion

Alternative DIL charges sought by Exford Waters have not been justified in line with the Development Contributions Guidelines. The Panel was not presented with information demonstrating that justification, costings or apportionment of the projects making up the charge are inappropriate or unreasonable.

The Toolern DCP does not propose any change to the charge areas established in the Toolern PSP in 2011, which were considered and supported by the Amendment C84 Panel at that time. Consideration of alternative charge areas are beyond the scope of this Amendment because the Panel has not been presented with adequate evidence to demonstrate that the existing charge areas are not resulting in fair or reasonable DIL charges.

(iv) Conclusion

The Panel concludes the Development Contributions Plan charge areas have been appropriately applied.

4 Proposed project designs

4.1 Bridge BD04 – Shared Use Pedestrian Bridge 1: Toolern Creek

(i) The issue

The issue is whether it is appropriate and justified to include Bridge BD04 (pedestrian bridge) in the Toolern PSP and DCP.

(ii) Background

Bridge BD04 is a shared use (cycling and walking) pedestrian bridge across Toolern Creek with an estimated project cost of \$1,389,467 (2021 dollars).

Figure 2 Bridge BD04



Source: Toolern PSP Plan 15 extract

(iii) Evidence and submissions

Lendlease submitted the Toolern DCP should exclude Bridge BD04, while acknowledging it may link to a shared path at creek level. It explained the bridge is proposed in a steep gorge where there is a drainage outlet into Toolern Creek.

Mr Watters stated the Bridge BD04 cross-section and plan in the Toolern DCP Appendix 5 (sourced from a report prepared in 2022)³ indicated the bridge would be 30 metres long, with a deck width of 4 metres.

Mr Watters considered that Bridge BD04:

- is inappropriate because its atypical design had not considered the actual incised nature of the actual location
- would therefore be underfunded and may have a detrimental financial impact on Council's capacity to deliver the bridge
- should either be deleted from the Toolern DCP or if it is to remain, there should be a more detailed investigation to more accurately cost the project.

At the expert meeting, all traffic engineering/quantity surveying experts agreed:

- it is reasonable for Council to seek GAIC funding for a range of items including Bridge BD04
- further investigation into Bridge BD04 is required to ensure viability and relevance of cost estimates.

³ Recommended changes to Toolern PSP and DCP Documents (Cardno, March 2022)

Mr Watters agreed the location of Bridge BD04 is subject to the principle of ‘generally in accordance with’ and as such its precise location may ultimately be more north or south while still providing the required linkage to the pertinent community facilities and active open space.

In response, Council submitted that Bridge BD04:

- is unlikely to be delivered through works-in-kind or through the public infrastructure plan as part of the Urban Growth Zone requirements
- will likely require a bespoke design due to its location
- should be included in the Toolern DCP so that developers can contribute towards it, even if Council must fund the difference between the specified and ultimate bridge.

(iv) Discussion

The Panel agrees with Council that using standard VPA DCP costings is a suitable approach for a DCP refresh. Having said that, the bridge design would have benefitted from a bespoke design that considered the local incised topography to better understand the construction costs and Toolern DCP project cost. However, not having costings based on a bespoke design at this stage is a not a flaw and aligns with the standard VPA DCP costings.

(v) Conclusion

The Panel concludes it is appropriate and justified to include Bridge BD04 (pedestrian bridge) in the Toolern Precinct Structure Plan and Development Contributions Plan.

4.2 Road RD08 – Exford Road: Mount Cottrell Road (IT06) to Paynes Road (IT07)

(i) The issue

The issue is whether the road cross section for Road RD08 (Exford Road / Toolern Road) has been appropriately designed.

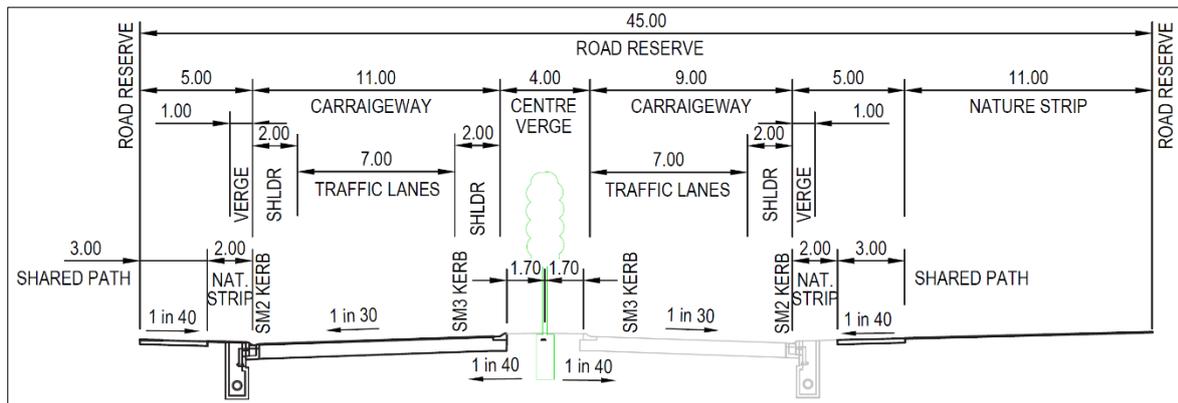
(ii) Background

As shown in Figure 3, the Toolern PSP includes Road RD08. It is a Secondary Arterial Road 4-Lane located between Mount Cottrell Road and Paynes Road with a road reservation width of 45 metres. Figure 4 shows the Road RD08 cross-section.

Figure 3 Road RD08 context plan



Source: Toolern PSP Plan 4 extract

Figure 4 Road RD08 cross-section

Source: Toolern PSP Cross-section 12

(iii) Evidence and submissions

DTP acknowledged discussions with Council in 2015 and 2020, and advised its current position regarding the preferred road design for Road RD08 was informed by its ongoing investigation. It submitted:

- the Amendment proposes Road RD08 (approximately 1,650 metres long) to be 34 metres wide (4 lanes with a 11-metre nature strip), which reduces the carriageway width by 9 metres but retains the overall road reserve width
- it did not support reducing the road reserve width for network integrity reasons.

Mr Lucioni stated the proposed road design was consistent with the Rockbank PSP and that projected vehicle volumes of up to 12,000 vehicles each day in a proposed 4 lane carriageway was below the Austroads capacity threshold of 38,000 to 40,000 vehicles each day. He added:

- the proposed 4 lane secondary arterial cross section is aligned with the vision for the abutting section of roadway in the Rockbank PSP
- the nature strip is set aside for a potential southern aligned local frontage roadway a coordinated structure plan approach.

(iv) Discussion

Road RD08 is proposed to be a secondary arterial road, as affirmed in February 2020 meetings between Council and DTP. The Amendment was prepared using the VPA's Benchmark Infrastructure Costings report and methodology. These costings do not include on-road bicycle lanes or dedicated off-road bicycle paths on secondary arterial roads. As agreed between Council and DTP on road hierarchy, the exhibited design is consistent with the VPA benchmark costings for lane widths. This includes an increased shared path width of three metres and a reduced centre verge from six metres to four metres.

Mr Lucioni highlighted the changing nature of cycling corridor requirements. DTP released the *Treatment of Strategic Cycling Corridors Road and Roadside Safety Policy Fact Sheet* in June 2024 which indicates that secondary arterials should physically separate cycling lanes from vehicles. The Panel agrees with Mr Luciano that the verge should be increased to absorb the shoulder width (without change to the nominated road reserve width) to include a separate pedestrian footpath and separate bike path. The exhibited plan is based on concept layouts so the detailed design can resolve this within the 34-metre wide road reservation, consistent with Mr Lucioni's evidence.

(v) Conclusions

The Panel concludes that the road cross-section for Road RD08 (Exford Road / Toolern Road):

- has been appropriately designed
- should accommodate off-road bicycle paths in the final design within the 34-metre road reservation.

4.3 Intersection IT23 – Exford Road and Western North-South Connector Road

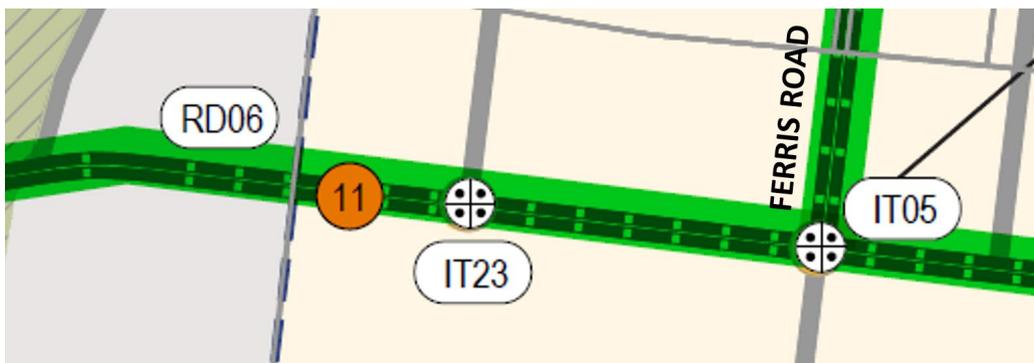
(i) The issue

The issue is whether the Toolern PSP and DCP should be revised to show Intersection IT32 as a four-way intersection rather than a three-way intersection.

(ii) Background

Figure 5 shows the location of Intersection IT33.

Figure 5 Intersection 23 – West Arterial and Western North-South Connector Road intersection



Source: Toolern DCP Plan 15, annotated extract

(iii) Evidence and submissions

Lendlease submitted that a southern leg to Intersection IT23 is warranted to be included in the Toolern DCP to make it a four-way intersection.

Mr Watters agreed with Lendlease, noting recent Council discussion (Council decision not yet made), indicates that Intersection IT23 is proposed to be upgraded to a 4-way intersection rather than a change to Intersection IT01 and supplemented by a new arrangement opposite Palara Drive as depicted in Mr Watters' expert report (see Figure 6).

Figure 6 Land developed south of Intersection IT23



Source: Mr Watters expert report

Council did not propose to change the Amendment in response to this Lendlease's request. It submitted:

- through its subdivision design, Lendlease has deprioritised Intersection IT01 and seeks to make Intersection IT23 a four-way intersection
- the changes sought by Lendlease can be addressed through detailed design because the Toolern PSP and DCP enable a proposal to be 'generally in accordance' with what is specified in the plans.

(iv) Discussion

Expert engineering evidence demonstrates it is possible to deprioritise Intersection IT01 and change Intersection IT23 to a four-way intersection. However, there is no need to revise the Toolern PSP or DCP to show a modified Intersection IT23 design. This is because the detailed design process and the 'generally in accordance' principle provide an opportunity for Council to consider such a proposal.

(v) Conclusions

The Panel concludes:

- The Toolern Precinct Structure Plan and Development Contributions Plan should retain Intersection IT23 as a three-way intersection.
- A developer can propose Intersection IT23 to be a four-way intersection through detailed design and permit application process because the Toolern Precinct Structure Plan and Development Contributions Plan enables proposals that are generally in accordance with specified plans.

5 Project justification and apportionment

5.1 Property 126 – Mount Cottrell Road (RD12) and Mount Cottrell Road and Western Freeway intersection (BD19)

(i) The issues

The issues are:

- whether the Mount Cottrell Road and Western Freeway half diamond intersection (Road RD12 and Bridge BD19) is justified and appropriate to include in the Toolern DCP
- whether land identified at 766-784 Mount Cottrell Road, Cobblebank (Property 126) for Road RD12 and Bridge BD19 has been appropriately specified in the Toolern DCP.

(ii) Evidence and submissions

Council explained:

- the Mount Cottrell Freeway Interchange is identified as a land acquisition only project in the Toolern DCP – the Victorian government will fund its construction
- the Functional Layout Plan prepared for Road RD12 and Bridge BD19 (Mount Cottrell Road Freeway Interchange) was based on a Functional Layout Plan prepared for the Paynes Road PSP and has subsequently been used for the upgraded Mount Cottrell Road design
- the Functional Layout Plan shows 3,203 square metres of land required from Property 126 for Bridge BD19 and 1,277 square metres required for Road RD12
- the Functional Layout Plan for Road RD12 and Bridge BD19 incorrectly shows Property 126 as outside the Toolern PSP area, resulting in Toolern DCP Table 2 not requiring land from Property 126 for any project.

Growland submitted the proposed freeway interchange at Mount Cottrell Road is a state infrastructure project that should be fully funded by GAIC collected in the precinct.

Regarding the interchange, Mr Turnbull stated:

- the Toolern DCP indicates that the land acquisition costs relate to the Bridge BD19 southern approach only, and 100 per cent is allocated to the Toolern PSP, with no external usage component
- there is existing access to the Western Freeway at Mount Cottrell Road, so the land acquisition would be for an upgrade to an existing State Freeway interchange, not a new freeway access point
- land should be acquired through the Public Acquisition Overlay, especially since it was not included in the existing Toolern PSP.

Regarding 766-784 Mount Cottrell Road, Cobblebank (Property 126), Miravor submitted:

- the Toolern DCP be revised to correct the land budget and to delete Bridge BD19
- the proposed increase in the land budget for Road RD12 from 0.08 to 0.13 hectares is inconsistent with Permit PA2020/6946 approved for the development of Property 126
- the proposed land budget for Property 126 is inconsistent with the permit because:
 - the permit reflects 800 square metres for Road RD12 only

- the Functional Layout Plan reflects 1,277 square metres required for Road RD12 and 3,203 square metres required for Bridge BD19
- the land budget for Bridge BD19 has not been considered as part of the approved permit, and subdivision works are well progressed
- notwithstanding Council's support to apply the Public Acquisition Overlay to affected land, the Toolern DCP (Version 1) specifies a land area of 3,203 square metres for Bridge BD19 for Property 126 that should be deleted.

DTP submitted that adequate land provision for the future freeway interchange at Mount Cottrell Road needs to be considered and provided.

Mr De Silva supported the Toolern DCP including Bridge BD19 because it reflects the coordination between government and the development industry to deliver key infrastructure items and reflects the approach adopted by the adjoining DCPs. He agreed the land budget for Property 126 should be revised to require 0.45 hectares of land for arterial roads and bridges from Property 126.

Mr Ainsaar stated:

- the Bridge BD19 treatment reflects standard practice for State transport projects where land is provided/funded by the Toolern DCP and construction is funded by the Victorian government
- it is not unusual for subdivision layouts and development plans to be amended during development and the land budget for Road RD12 should remain as 0.13 hectares in accordance with the Functional Layout Plan
- the Functional Layout Plan should be corrected to show Property 126 in the Toolern PSP area
- the Public Acquisition Overlay is required to acquire the land for Bridge BD19.

Council submitted:

- the Functional Layout Plans and Property Specific Land Use Budgets should remain unchanged
- PSPs, DCPs and the Urban Growth Zone schedules allow spatial arrangements to be generally in accordance with the specified amounts
- DTP was provided with three opportunities to comment on the adequacy of the project's land budget through the two rounds of Functional Layout Plans and agency exhibition
- Planning permit PA20/6946 enabled a subdivision that did not reserve land for Bridge BD19
- DTP did not request to reserve land for the future freeway interchange when the subdivision application was referred, but it has subsequently indicated land is needed
- the Public Acquisition Overlay should be applied to land required for Bridge BD19 through a separate planning scheme amendment initiated by DTP intersections referred to by DTP on Ferris Road between Intersection IT10 (Shogaki Drive) and Bridge BD19 (Freeway Interchange) are not Toolern DCP items
- developers should provide any land for these intersections (left-in and left-out arrangements) without reimbursement from the Toolern DCP
- Bridge BD19 is appropriately included in the Toolern DCP, though the Amendment cannot address the additional land reservation issue
- the land budget for Property 126 should be corrected to show 0.45 hectares for 'Arterial roads and bridges', as now reflected in the Toolern DCP (Version 1).

The Toolern DCP (Version 1) specified \$750,000 for purchasing land for the half diamond interchange (Bridge BD19) that was revised to \$1,025,000 in Toolern DCP (Version 2).

(iii) Discussion

The Panel agrees with relevant evidence and submissions that Bridge BD19 and Road RD12 are required and should be included in the Toolern DCP. Should land needed for the half diamond interchange be acquired through the public acquisition process, there is a mechanism to enable Council to refund any contributions to affected developers. The Panel forms this view while noting both sides of Mount Cottrell Road are either developed or under construction.

Collectively, these 'arterial road and bridge' projects would require 0.45 hectares from Property 126. This should be reflected in all relevant tables.

The approved permit issued for Property 126 did not reserve all 0.45 hectares of land required for Bridge BD19 and Road RD12. Development contributions cannot be retrospectively applied so DTP would need to consider other options such as applying the Public Acquisition Overlay to the remaining land required to facilitate the freeway interchange.

The Property 126 land budget does not need to reflect land reserved through an approved permit, particularly as this amount falls short of what is needed for the interchange. The proposed 0.45 hectares is based on Functional Layout Plans, reasonable for including in the Toolern DCP and for requiring future proposals to generally accord with it.

As discussed in Chapter 3.3, relying on uncommitted GAIC or Victorian government funding would not provide certainty that infrastructure will be provided when it is needed. There is specific legislation and processes for deciding what projects will be funded by GAIC that are beyond the scope of the Amendment. Given there is no committed GAIC or other external funding for Bridge BD19, the Panel agrees with Council that the project should be included in the Toolern DCP.

(iv) Conclusions and recommendations

The Panel concludes:

- The Mount Cottrell Road and Western Freeway interchange (Bridge BD19 and Road RD12) is justified and appropriate to include in the Toolern Development Contributions Plan.
- Land required for the interchange that is already developed will need to be acquired through a separate process such as a planning scheme amendment to apply the Public Acquisition Overlay.
- The Toolern Development Contributions Plan should include a land budget of 0.45 hectares from Property 126 for 'Arterial roads and bridges'.

The Panel recommends:

Amend the Toolern Development Contributions Plan to:

- a) **revise the Functional Layout Plan for Bridge BD19 to show Property 126 within the Toolern Precinct Structure Plan area**
- b) **revise Table 2 (Property Specific Land Use Budgets) to specify 0.45 hectares of land for Property 126 in 'Arterial roads and bridges'.**

5.2 Railway bridge projects

(i) The issue

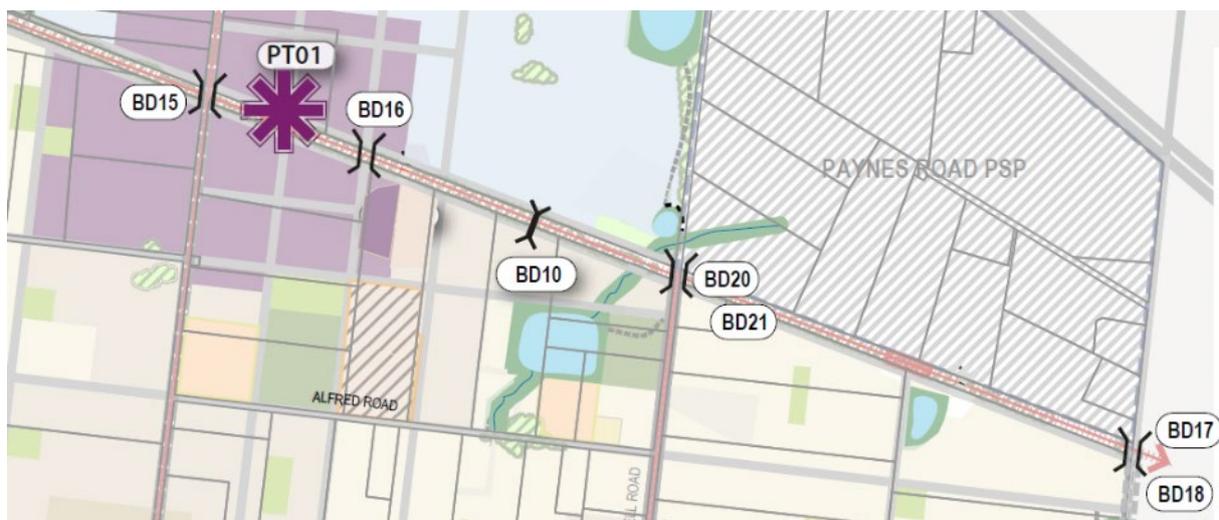
The issue is whether railway bridge projects BD15, BD16, BD17, BD18, BD20 and BD21 are justified to be included in the Toolern DCP.

(ii) Background

Figure 7 shows:

- BD15 – Ferris Road overpass of the rail corridor (Melbourne to Ballarat) note no project costs are attributed to the Toolern DCP
- BD16 – East Road overpass of the rail corridor (Melbourne to Ballarat)
- BD17 – Paynes Road overpass
- BD18 – Paynes Road automatic gates and pedestrian crossing gates which will be removed when BD17 is completed and the level crossing is closed
- BD20 – Mount Cottrell Road overpass on a future primary arterial (land acquisition only)
- BD21 – Mount Cottrell Road automatic gates and pedestrian crossing gates which will be removed when BD20 is completed, and the level crossing is closed.

Figure 7 Bridges BD15, BD17, BD18, BD20 and BD21



(iii) Evidence and submissions

Council submitted the bridge projects are all strategically justified. It explained:

- 97 per cent of projects proposed in the Toolern DCP have already been justified through a previous planning scheme amendment
- Bridge BD15 (Ferris Road):
 - has been identified in the authorised Cobblebank UDF
 - adds no cost to the Toolern DCP because the Level Crossing Removal Authority will construct it
 - is shown to clarify land budgets and to calculate net developable areas.
- Bridge BD17 (Paynes Road):
 - is shown in the Rockbank PSP
 - planning permit PA18/6025 has reserved the required land
 - 25 per cent of its construction cost is funded through the Toolern DCP

- Bridge BD18 (Paynes Road):
 - planning permit PA18/6025 has reserved the land
 - this is a companion project to BD07 in the Rockbank DCP which will fund half of the Paynes Road level crossing before the ultimate grade separation.

Growland and Mr Turnbull requested to delete Bridges BD20 and 21 and review the costs for land acquisition. They considered the overpass should be paid for by the Victorian government because grade separation is considered not to be a local requirement. Council submitted the Toolern DCP seeks to fund the acquisition of land to enable the overpass to be developed.

Submissions noted the level of detail in the West Growth Corridor plan did not reflect the detail of the projects in the Toolern DCP.

Bridge BD16 – East Road Rail Overpass

Council submitted that Bridge BD16 is strategically justified, as it is in the Cobblebank Activity Centre and is needed to facilitate north-south movement of cars, freight, buses, pedestrians, and cyclists across the railway line that bisects the centre. The Toolern DCP includes the bridge's construction cost but excludes land acquisition because it will be a connector road.

Council further submitted:

- the (then) Growth Areas Authority prepared the *Toolern Town Centre Urban Design Urban Design Framework* in 2012, that was superseded by Council's *Cobblebank Metropolitan Activity Centre Urban Design Framework* (the Urban Design Framework) in 2018
- both Urban Design Frameworks stated that Bridge BD16 is needed to distribute the large number of vehicle, pedestrian and cyclist movements that will be generated by the Cobblebank Activity Centre
- the Urban Design Framework recommended the Toolern DCP be revised to include Bridge BD16.

Growland, Miravor and Australian Unity requested that Bridge BD16 be removed from the Toolern DCP. They submitted the bridge:

- is not essential infrastructure for the precinct, as there are other nearby bridges across the rail line (Ferris Road and Mount Cottrell Road) that can be used
- would add \$13,833,445 million to the Toolern DCP, which equates to \$17,403 per net developable hectare to the DIL for this project
- should be funded through GAIC rather than passing on the cost to developers and future homeowners.

They considered:

- the increase levy rate will need to be passed on to future homeowners through increased land costs during an affordability and housing supply crisis
- Council and the Victorian Government should minimise the cost of developing land to facilitate increased supply.

No traffic expert objected to Bridge BD16 being included in the Toolern DCP.

Council acknowledged increased development costs may impact land sale prices. It submitted the Toolern DCP has removed some infrastructure items (Bridges BD09 and BD11) from the existing Toolern DCP to help offset the cost of adding new infrastructure items but all proposed infrastructure is justified and has been since originally authorised.

Council considered Bridge BD16 was not eligible for GAIC funding because both Urban Design Frameworks identify East Road as a connector road.

(iv) Discussion

Railway bridges BD15, BD17, BD18, BD20 and BD21 have been included in the Toolern DCP since it was introduced into the Planning Scheme in 2011. These projects have been through an assessment process that found them to be justified and appropriate to include in the Toolern DCP. No submission provided reasons to persuade the Panel to consider otherwise.

Bridge BD15 (Paynes Road) has benefitted from being included in the Victorian government level crossing removal program. The Victorian government's level crossing removal program may consider other existing at grade level crossings to improve the major road network. However, such decisions are beyond the scope of the Amendment.

If this program did not exist, all railway bridges are likely to have been funded through the Toolern DCP.

The Panel agrees with Council that Bridge BD15, though it will be funded by the Victorian government, should be included in the Toolern DCP to clarify land budgets and to calculate net developable areas associated with this project. Bridges BD17, BD18, BD20 and BD21, as exhibited, should be funded through the Toolern DCP.

As Bridge BD16 is new to the Toolern DCP, the Panel discussed this in more detail.

Bridge BD16

The 2012 and 2018 versions of the Cobblebank UDF identify the Cobblebank Activity Centre accommodating a public hospital, private hospital, law courts, a civic centre, tertiary education, and other uses in notably sized precincts. Collectively, they will generate large volumes of vehicle, cyclist and pedestrian movements that will require a finer grain road network with good traffic circulation.

If Bridge BD16 was not constructed, other roads such as Ferris Road and Mount Cottrell Road would have capacity to absorb increasing traffic volumes generated by the Cobblebank Activity Centre over the next 20 years. Traffic advice suggests Ferris Road would be close to capacity during certain times. Activity centre users south of the railway line seeking to avoid heavy or stalled traffic along Ferris Road would have to weave through local streets for over 1.5 kilometres to access the northern side of the centre from Mount Cottrell Road. This is not good planning for a Metropolitan Activity Centre. Better connectivity is needed in a centre proposed to support better traffic circulation and the centre's economic growth.

Bridge BD16, as shown in the Cobblebank UDF since 2019, is needed to better connect the Cobblebank Activity Centre rather than having two distinct centres separated by a railway line. No traffic expert objected to including Bridge BD16 in the Toolern DCP. The Panel gives this notable weight.

Bridge BD16 is a local bridge needed to better connect a local activity centre. It cannot be regarded as state infrastructure simply because it will be crossing state owned railway land. Accordingly, as a local infrastructure item, any potential to fund Bridge BD16 through an alternative external source is beyond the scope of the Amendment. That said, East Road currently does not exist so there is no existing level crossing for the Victorian government to consider for removal through a state program.

The Panel does not support:

- removing Bridge BD16 simply because it is yet to be approved
- applying the Public Acquisition Overlay to the relevant land.

Good planning requires a vision to help facilitate intended outcomes. Removing Bridge BD16 from the Toolern DCP would seriously affect the ability to build an important connection within the Cobblebank Activity Centre, particularly if development contributions are not collected from now.

Bridge BD16 will be part of a local connector road (East Road) so:

- the Toolern DCP should not seek contributions to acquire the land for this project
- any affected landowner would not be entitled to financial compensation through the Public Acquisition Overlay.

(v) Conclusion

The Panel concludes that railway bridge projects BD15, BD16, BD17, BD18, BD20 and BD21 are justified and appropriate to be included in the Toolern Development Contributions Plan.

5.3 Other bridges

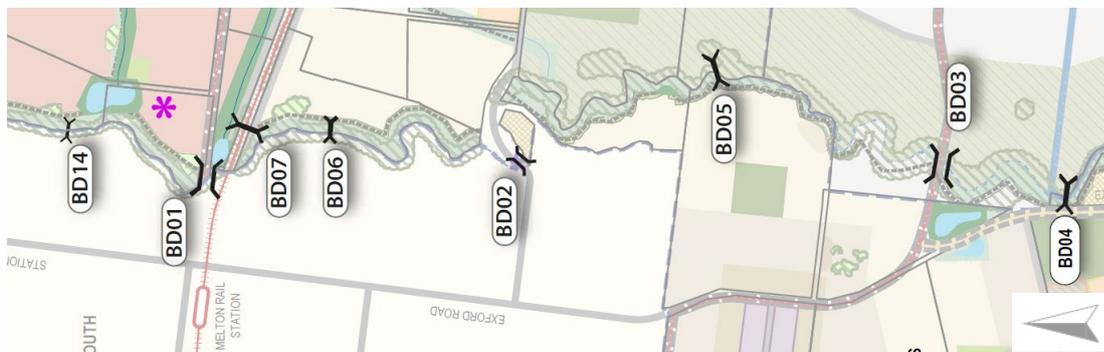
(i) The issue

The issue is whether it is appropriate and justified for the Toolern PSP and DCP to require:

- seven bridges (BD01, BD02, BD03, BD04, BD05, BD06, BD14) across Toolern Creek
- Bridge BD07 between Bridges BD01 and BD06.

(ii) Background

Figure 8 Bridges BD01, BD02, BD03, BD04, BD05, BD06, BD07 and BD14



Source: Toolern DCP Plan 5

(iii) Evidence and submissions

Council explained that Bridges BD01,02,03,04,05,06,07,14 have been through a previous planning scheme amendment process which incorporate the bridges into the Planning Scheme.

Growland considered the number of bridges crossing Toolern Creek is excessive and was not strategically justified. It regarded the 19 bridges (railway and others) as “ridiculous”. Mr Turnbull stated that Bridge BD07 could be removed, given there is an existing underpass on the western side of Toolern Creek and that BD06 fulfills the pedestrian access needs.

Council submitted that the existing footway underpass is outside the Toolern PSP boundary and would not assist the objective of creating an active transport corridor along the eastern side of the creek. It added that Bridge BD03:

- is outside the Toolern PSP boundary but reflects an historical anomaly after Toolern Park was included within the Urban Growth Boundary
- was part of the original approved Toolern DCP road network and this Council review is not undoing such matters previously authorised.

Council disagreed with Mr Turnbull to apportion the Bridge BD07 cost as it reflects an historic anomaly caused by the excision of the Toolern Park PSP area from the Toolern PSP. It considered the Amendment does not unpick this historic anomaly.

(iv) Discussion

Bridges BD01,02,03,04,05,06,07,14 have been through a previous planning scheme amendment which considered them to be strategically justified for inclusion in the Toolern DCP. Reasons for including the bridges include need and nexus to the surrounding area, and the number of bridges needed will be determined by different factors including topography and natural features. For example, removing the previously justified Bridge BD07 would result in an indirect route through an additional or existing inappropriately designed bridge. The surrounding community would benefit from having a more direct and safer route.

Accordingly, the Panel does not agree that it is 'excessive' to have eight bridges.

(v) Conclusions

The Panel concludes that it is appropriate and justified for the Toolern Precinct Structure Plan and Development Contributions Plan to require:

- seven bridges (BD01, BD02, BD03, BD04, BD05, BD06, BD14) across Toolern Creek
- Bridge BD07 between Bridges BD01 and BD06.

5.4 Road RD12 – Mount Cottrell Road

(i) The issue

The issue is whether the cross-section for Mount Cottrell Road (Road RD12) is appropriate and justified.

(ii) Background

Road RD12 is a section of Cottrell Road between Western Freeway to Melbourne Ballarat Rail Line (refer to Figure 9). The current and previous versions of the Toolern DCP describe it as:

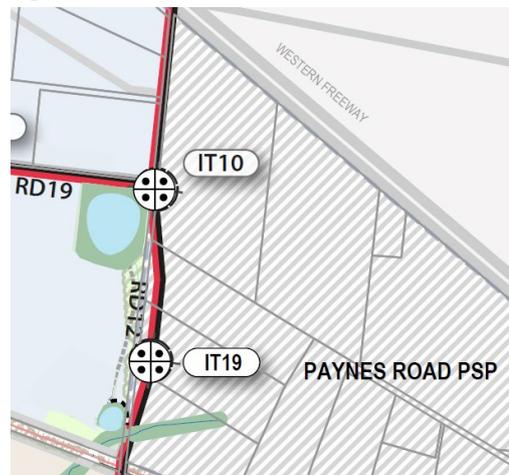
Upgrade of existing 2-lane unsealed road to provide 2-lane carriageway of primary arterial road (45 metre road reserve, length 1,680 metres) *Interim layout*

Purchase land (including native vegetation re-alignment) to increase reserve width from 20m to 45m for 1,680 metres (ultimate).

The exhibited Toolern DCP proposes to reduce the road width from 45 metres to 41 metres:

Construction of a 2-lane arterial road (interim layout). Purchase land (including native vegetation re-alignment) to increase reserve width from 20m to 41m (ultimate).

Figure 9 Road 12 – Mount Cottrell Road



(iii) Evidence and submissions

Council submitted that the Cobblebank Employment and Mixed Use Precinct Urban Design Framework identifies a 41-metre width for Mount Cottrell Road.

Miravor objected to the Toolern DCP requiring additional land for either widening Mount Cottrell Road or for the interchange works. It submitted the proposal to increase the land required from Property 126 for Road RD12 to widen Mount Cottrell Road from 0.08 hectares to 0.13 hectares is inconsistent with the approved permits for the site.

DTP:

- sought a 45-metre-wide road reserve for Mount Cottrell Road to support the current *Western Freeway Upgrade – Melton to Caroline Springs Business Case* prepared by Major Roads Projects Victoria
- could not provide details of the need for the wider cross section because information in the business case is classified as Cabinet-in-Confidence
- did not support reducing Road RD12 from 45 metres to 41 metres because current designs indicate that a minimum of 45 metres will be required to ensure the drainage infrastructure for the retardation and treatment of water can be maintained until the Melbourne Water Development Services Scheme (DSS) is fully developed
- explained the transport infrastructure (roads – interim and possibly ultimate configurations) will be required before the ultimate DSS has been constructed.

Council submitted:

- meetings were held with VicRoads, DTP and VPA in 2015 and 2020 where it was agreed by all parties that Council would reduce the road cross-section for Road RD12 from 45 metres to 41 metres
- DTP was given three opportunities to provide comments on the reduced road width shown in the Amendment, and did not raise any concern
- the width of Road RD12 is consistent with VPA's approach in contemporary PSPs where a 41 metre road cross-section is applied to primary arterial roads.

Council considered a road reserve of 45 metres to be unachievable because:

- land on the eastern side of Mount Cottrell Road is fully developed
- it has approved a planning permit on the western side of Mount Cottrell Road with a mid-block road width of 41 metres
- it is considering a planning permit on the western side of Mount Cottrell Road which has adopted a mid-block road width of 41 metres.

Council acknowledged a 45-metre road reserve could be achieved by applying the Public Acquisition Overlay, which is not proposed through the Amendment.

Melbourne Water responded that the Development Services Schemes that it prepared between 2009 and 2011:

- considered drainage for developed road conditions for existing and planned roads shown in the original Toolern PSP
- do not provide for interim drainage requirements if roads were constructed before permanent drainage was delivered in the catchment
- do not account for any subsequent road design changes since the original Toolern PSP.

Melbourne Water advised:

- DTP may have to meet drainage requirements such as suitable flows storage and treatment when designing and delivering Mount Cottrell Road
- it would consult with DTP if future detailed designs deviate from the original Toolern PSP to assess whether the changes can be accommodated by the existing Development Services Schemes or whether other road-related drainage requirements are necessary.

Subsequently, DTP submitted:

- it now understands the ultimate design of the Drainage Service Scheme addresses retardation and treatment of developed road conditions
- the transport infrastructure (roads – interim and possibly ultimate configurations) will be required before the ultimate Drainage Service Scheme has been constructed.
- the 45-metre road reserve is still needed to mitigate drainage and flooding in its interim configuration until the Drainage Service Scheme is fully developed.

(iv) Discussion

Council, DTP and Melbourne Water appear to agree that Mount Cottrell Road could be 41 metres wide when the DSS is fully development. The 41-metre road width and associated configuration is consistent with:

- the VPA Precinct Structure Plan Guidelines
- Cobblebank Employment and Mixed Use Precinct Urban Design Framework.

Given existing development and permits issued on properties along Mount Cottrell Road, a cross section of 45 metres is unlikely to be achievable. Council has demonstrated how necessary road carriageways and other infrastructure can be accommodated in a 41-metre road reservation for Road RD12. There is insufficient justification to specify a 45-metre cross section as the ultimate road reservation for Road RD12. This does not preclude the ability to use a separate process to secure additional land when information that helps justify this change is made available. As suggested, this may be through a planning scheme amendment that seeks to apply the Public Acquisition Overlay.

The Panel acknowledges the request from DTP to increase the Road RD12 reservation width is for drainage purposes for an interim period until the full DSS is delivered by Melbourne Water.

(v) Conclusions

The Panel concludes:

- The Road RD12 road reservation should remain 41 metres wide.
- If information that justifies a wider road reservation is made available in the future, land can be acquired through a separate process such as a planning scheme amendment to apply the Public Acquisition Overlay.

5.5 Roads RD14 and RD19 – Shogaki Drive

(i) The issue

The issue is whether the cross section for Shogaki Drive (Roads RD14 and RD19) is appropriate and justified.

(ii) Evidence and submissions

DTP submitted:

- the ultimate Shogaki Drive alignment, including the intersections and consideration towards the existing sewer pumping station is unresolved
- it sought further discussion with Council to resolve this matter, including how the sewer pump may be relocated or protected and the potential associated costs and responsibilities
- discussions were held between Major Road Projects Victoria and Council about the ongoing need for Shogaki Drive to be included as a 6-lane, primary arterial road corridor
- it is unclear why, following the advice from Major Road Projects Victoria that a 4-lane arrangement is appropriate, the updated Toolern PSP and DCP shows a 6-lane corridor.

Mr Lucioni considered that, based on traffic forecast modelling provided in his expert report, a 6-lane road reservation should be retained for Roads RD14 and RD19.

Council submitted:

- Shogaki Drive (Roads RD14 and RD19) is shown with a 45-metre cross section in both the current and exhibited versions of the Toolern DCP, which retains a 6 lane cross section
- Mr Lucioni supported the 45-metre width in light of the traffic forecasts cited in his expert report
- it needs to resolve the potential conflict between the sewer pumping station and the intersection before adopting the Amendment
- it has sought a preliminary indication of the costs to relocate the pumping station but has been unable to do so in the timelines afforded by the present process
- for each additional million dollars of project cost for transport projects, the DIL for each charge area would increase by \$650 per hectare
- it proposes to retain the designation of Shogaki Drive as a primary arterial road, consistent with its internal engineering advice that in the ultimate configuration the road will require a six lane profile.

(iii) Discussion

Council and Mr Lucioni provide sound reasons to justify a 6 lane road with 45-metre cross section for Roads RD14 and RD19. Issues regarding the location of the sewer pumping station remain unresolved. Immediate discussion between relevant stakeholders is required to determine the ultimate location and design of the sewer pumping station and the intersection.

(iv) Conclusions and recommendation

The Panel concludes:

- It is appropriate and justified for the Roads RD14 and RD19 to ultimately be a 6-lane road within a 45-metre wide reservation.
- The conflict between the existing sewer pumping station and the future Shogaki Drive alignment should be resolved before the Amendment is finalised and adopted.

The Panel recommends:

Before adopting Melton Planning Scheme Amendment C232melt, Melton City Council should resolve the location and alignment of the existing sewer pumping station and future Shogaki Drive in consultation with relevant stakeholders.

5.6 Road RD15 – Ferris Road**(i) The issue**

The issue is whether the cross-section for Road RD15 (Ferris Road) is appropriate and justified.

(ii) Evidence and submissions

DTP preferred to maintain the full extent of the existing road easement to ensure future upgrades without delay or additional costs. It explained:

- there needs to be adequate land for Intersection IT18 (Ferris Road/Treeleaf Lane/Shakamaker Drive)
- it did not support reducing the Road RD15 width from 45 metres to 41.8 metres because preliminary work indicates 41 metres is insufficient to deliver the ultimate configuration.

Mr Lucioni stated:

- the alignment of Intersection IT18 is influenced and constrained by the existing offset in the road reserves of Shakamaker Drive and Treeleaf Lane
- it is understood that through the design process, the following compromises were adopted, exacerbated by supplementary constraints of land ownership in the southwest corner and topography of the northeast corner:
 - omission of the eastbound through movement (ie left and right turn exit only from Shakamaker Drive)
 - adoption of split phasing for the eastern and western approaches
 - abrupt alignment for the westbound through movement
- the Intersection IT18 layout and operational constraints are undesirable and there is opportunity through further design development to provide an improved outcome
- the Road RD15 cross-section in the Toolern PSP for Ferris Road (north of Shogaki Drive) is incorrect and should be a 45-metre reserve width, as shown in the relevant functional layout plan that includes pedestrian and off-road bicycle facilities

- Ferris Road, south of Shogaki Road, progressively adopts a different cross-section under Roads RD16 and RD17 where it transitions from a Primary Arterial to a Secondary Arterial Road.

Council submitted:

- the Road RD15 width was reduced from 45-metres to align with the VPA Benchmark Infrastructure Costings cross sections that show a 41-metre width
- Mr Lucioni identified a revised design for Intersection IT18, expressed as a 'concept layout' and 'subject to further design development and investigation'.
- in principle, it was comfortable with Mr Lucioni's design, subject to further investigation and consultation with affected landowners, and noting it requires more land than the exhibited version.

Council accepted Mr Lucioni's recommendation to amend Road RD15 to reflect the 45-metre cross-section proposed north of Shogaki Drive. Council noted that differing cross-sections apply to other parts of Ferris Road, south of Shogaki Drive (Roads RD16 and RD17).

(iii) Discussion

The Panel considers it is appropriate and justified to apply a 45-metre width to Road RD15 for reasons expressed in the DTP and Council submissions and by Mr Lucioni. Mr Lucioni's revised 'concept layout' design for Intersection IT18 is likely to improve its function. It should be further investigated in consultation with affected landowners to resolve the detailed intersection and any changes to exhibited land budget for the project before adopting the Amendment.

(iv) Conclusions and recommendations

The Panel concludes:

- The Toolern Development Contributions Plan should specify a road reservation width of 45 metres for Road RD15.
- Council should further investigate the revised design for Intersection IT18 and consult with relevant landowners regarding changes to the exhibited land budget required by the revised design.
- Council should resolve and revise the land budget required for the revised Intersection IT18 design before adopting the Amendment.

The Panel recommends:

Before adopting Melton Planning Scheme Amendment C232melt, Melton City Council should:

- a) **investigate the design for Intersection IT18 and consult with relevant landowners regarding changes to the exhibited land take required by the revised design**
- b) **revise the cross section of Road RD15 to reflect the proposed 45 metre cross section.**

6 Development and site-specific issues

6.1 Ferris Road Neighbourhood Activity Centre

6.1.1 The issues

The issues are whether it is appropriate and justified for the Ferris Road Neighbourhood Activity Centre to:

- allow more flexible land uses
- be extended east to 363 Ferris Road, Strathtulloh (Property 44).

6.1.2 Land uses

(i) Evidence and submissions

Lendlease requested flexibility over land uses in the Southern Neighbourhood Activity Centre. It submitted:

- the original intention of the Ferris Road Neighbourhood Activity Centre has changed because the Cobblebank Activity Centre has been redesignated to a Metropolitan Activity Centre
- Council will consider the highest and best uses during a permit application for development
- the exhibited UGZ3 does not acknowledge the activity centre boundary will be determined through the future Urban Design Framework.

Council explained the Ferris Road Neighbourhood Activity Centre:

- is not proposed to be changed through the Amendment
- still needs to meet every day good and services for a catchment of about 10,000 people
- contributes to the Toolern PSP comprising 20-minute neighbourhoods.

At the Hearing, Lendlease referred to UGZ3 in the Planning Scheme that:

- does not clearly show the boundary of the proposed Southern Neighbourhood Activity Centre in Plan 2
- includes at Clause 2.2 (Applied zone provisions):

The precise boundary of the Business 1 area, Business 2 area and the Mixed Use Zone will be determined by the approved Urban Design Framework Plans.

Lendlease explained the exhibited UGZ3 excludes the Clause 2.2 reference. Council subsequently reinstated this reference in UGZ3 Version 1.

(ii) Discussion

The Panel agrees with Council and Lendlease that the provision referring to approved Urban Design Framework Plans determining the precise boundary of the activity centre areas should be reinstated. UGZ3 Plan 2 provides a broad scale map which does not clarify the precise activity centre boundaries. The reinstated provision explains that future strategic work will resolve this.

6.1.3 Activity Centre area

(i) Evidence and submissions

Council submitted:

- the Amendment did not seek to change the size or location of Neighbourhood Activity Centres in the Toolern PSP
- the Amendment seeks to increase the size of the Cobblebank Activity Centre from 30,000 square metres to 70,000 square metres to recognise it as the highest order retail centre in the City of Melton
- Neighbourhood Activity Centres had been optimally located to create 20-minute neighbourhoods
- a significant portion of residential areas in the Toolern PSP have had planning permits issued or have planning permits being considered.

The 363 Ferris Road owners requested the Toolern PSP be revised to extend the Neighbourhood Activity Centre identified along Ferris Road to its land at 363 Ferris Road (Property 44). Both are shown at Figure 10.

Figure 10 Identified Neighbourhood Activity Centre and Property 44



Neighbourhood Activity Centre shown in purple | Source: Council Part A submission

The 363 Ferris Road owners submitted the Neighbourhood Activity Centre function should be reviewed given the Cobblebank Major Activity Centre has been elevated to a Metropolitan Activity Centre. It added that extending the Ferris Road Neighbourhood Activity Centre to its land would:

- support high-density residential development
- create a more appropriate pedestrian friendly outcome
- would create more flexibility rather than relying on one developer.

The 363 Ferris Road owners considered that Neighbourhood Activity Centres should provide mixed use living and buildings that accommodate businesses that support the catchment.

Council explained the Ferris Road Neighbourhood Activity Centre:

- is expected to be a lower order centre that meets the needs of its catchment of about 10,000 people
- not expected to be negatively affected by the Cobblebank Metropolitan Activity Centre about 830 metres to its north.

Council did not support the request from the 363 Ferris Road owners, and submitted that Property 44 is:

- identified for medium and higher density housing, with the latter being opposite the Neighbourhood Activity Centre

- in the heart of the proposed neighbourhood surrounded by various non-residential uses
- within walking distance to the future Cobblebank Metropolitan Activity Centre that will contain a health precinct, a justice precinct, a large retail centre, and a large civic precinct
- subject to the applied General Residential Zone, and Schedule 3 to that zone enables office space of up to 100 square metres.

(ii) Discussion

The 363 Ferris Road owners did not provide supporting information to demonstrate:

- demand to justify the need for more activity centre floorspace beyond what is proposed for the Melton municipality
- the Ferris Road Neighbourhood Activity Centre, as proposed, cannot achieve the functions of a typical neighbourhood activity centre
- how reclassifying the Cobblestone Metropolitan Activity Centre relates to the Ferris Road Neighbourhood Activity Centre.

The Panel agrees with Council's reasons for not extending the Ferris Road Neighbourhood Activity Centre.

6.1.4 Conclusions and recommendation

The Panel concludes:

- The Urban Growth Zone Schedule 3 should retain the reference to *"The precise boundary of the Business 1 area, Business 2 area and the Mixed Use Zone will be determined by the approved Urban Design Framework Plans."* that currently exists in the Melton Planning Scheme.
- The Ferris Road Neighbourhood Activity Centre should not be extended east to 363 Ferris Road (Property 44).

The Panel recommends:

- 2. Amend Urban Growth Zone Schedule 3 to add in Clause 2.0 (Applied zone provisions):**
The precise boundary of the Business 1 area, Business 2 area and the Mixed Use Zone will be determined by the approved Urban Design Framework Plans.

6.2 Property 27 (1247-1255 Mount Cottrell Road, Thornhill Park)

(i) The issue

The issue is whether the net developable area for Property 27 is accurately represented in the Toolern PSP and DCP.

(ii) Evidence and submissions

Lendlease requested the net developable area figures for Property 27 be revised to resolve a discrepancy. It submitted:

- the 2.2 hectare drainage reserve is in the regional park, however there is no corresponding decrease in the regional park area to account for the drainage reserve
- the Amendment appears to double-count the drainage and regional park areas on Property 27.

Mr Ainsaar and Council agreed to revise the regional park area identified on Property 27 from 15.66 hectares to 13.46 hectares to reflect the 2.2 hectare drainage.

(iii) Discussion

Council's proposal to revise the regional park area identified on Property 27 from 15.66 hectares to 13.46 hectares to reflect the 2.2 hectare drainage resolves the issue raised by Lendlease. Council's changes also corrects corresponding net developable areas for Property 27.

(iv) Conclusion and recommendation

The Panel concludes that the Toolern Precinct Structure Plan and Development Contributions Plan should revise the regional park area identified on Property 27 from 15.66 hectares to 13.46 hectares to account for the 2.2 hectare drainage asset and to accurately reflect the net development areas.

The Panel recommends:

Amend the Toolern Development Contributions Plan to revise in Table 2 the regional park area for Property 27 from 15.66 hectares to 13.46 hectares.

6.3 Property 45 (143-169 Alfred Road, Strathulloh)

(i) The issues

The issues are:

- whether the proposed east-west road and north-south road alignments, passive and active open space, community facilities and government school site will unreasonably affect the net developable area of Property 45
- whether the proposed alignment of the north-east road will unreasonably restrict access for Property 45.

(ii) Background

The Toolern PSP designates Property 45 for residential development, passive open space, part of a community facility, part of a government primary school and part of an active open space reserve.

(iii) Evidence and submissions

The owner of Property 45 was concerned that proposed roads and land uses would unreasonably affect the net developable area of the property. The submission considered the north-east road alignment would unreasonably restrict access to Property 45.

Regarding Property 45, Council explained the Toolern PSP and DCP does not propose to change the size or location of:

- the east-west road
- the government primary school
- active open space reserve or passive open space.

Council submitted the relocated north-south road approved on the adjoining Properties 33 and 34 through planning permit PA2022/8039:

- does not impact the location of the north-south road shown on the boundary of Properties 45 and 46

- will not impact access to Property 45, noting that all estates being developed along Alfred Road gain access through local roads created from Alfred Road.

(iv) Discussion

Property 45 has frontages along Alfred Road and Sicklefern Drive with existing access and future access opportunities. The Panel agrees with Council that the relocated north-south road approved on the adjoining Properties 33 and 34 will not impact access to Property 45. It is premature to discuss potential future development layout impact on Property 45 because the owner has not lodged a permit application with details to inform such an assessment.

(v) Conclusions

The Panel concludes:

- The proposed east-west road and north-south road alignments, passive and active open space, community facilities and government school site will not unreasonably affect the net developable area of Property 45.
- The proposed alignment of the north-east road will not unreasonably restrict access for Property 45.

6.4 Property 86 (136-146 and 148-200 Abey Road, Cobblebank)

(i) The issues

The issues are:

- whether the passive open space areas for Properties 86 and 87 should be reduced by 600 square metres to account for the Drainage Asset 01 area being increased from 7.26 hectares to 8.65 hectares
- whether Drainage Asset 01, in its ultimate larger form, will unreasonably restrict access for Property 86 for an interim time, thereby affecting its ability to develop in a timely manner.

(ii) Evidence and submissions

ECNAM Properties requested the Toolern PSP be revised to:

- reduce the passive open space area for Property 86 by 0.35 hectares by reducing the setback distance from the Western Freeway from about 60 metres to about 40 metres
- correct the land budget for Property 86 that currently double counts passive open space proposed to be replaced by encumbered drainage reserve open space
- show a road connection between Properties 86 and 87
- correct the Property 87 land area from 10.36 hectares to 10.18 hectares
- align the Toolern PSP boundary along the Toolern Creek with the property boundary.

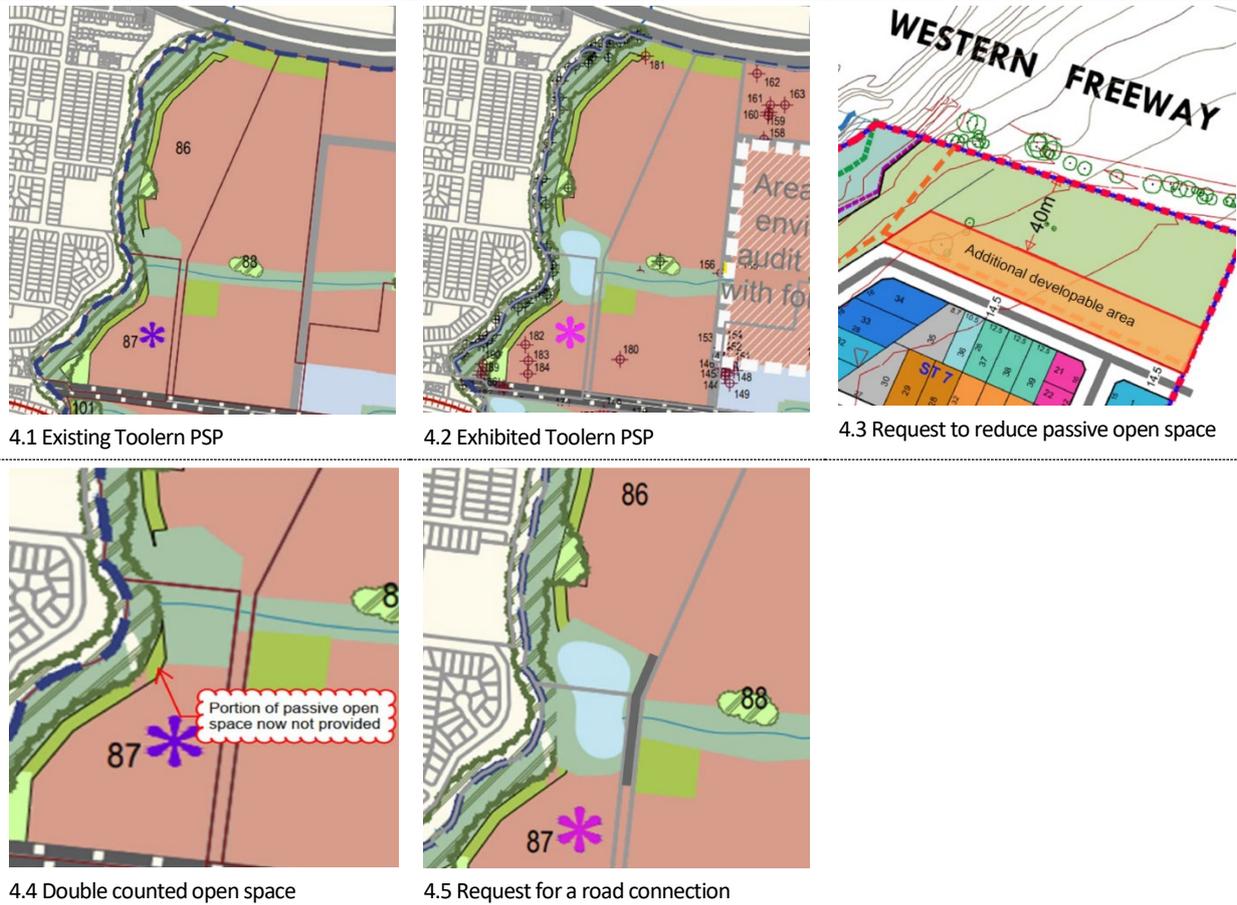
To support its requests, ECNAM Properties included images in its submission (refer Figure 11) and submitted:

- the exhibited Toolern PSP proposed to increase the Drainage Asset 01 area from 7.26 hectares (existing Toolern PSP) to 8.65 hectares – a loss of 1.39 hectares of developable area
- its planning approach to reducing passive open space would:
 - allow for developable land with a suitable setback distance

- maintain an open space link to Toolern Creek that supports plantings and a shared path
- the exhibited Toolern PSP suggests Property 86 will be landlocked until Property 88 is developed.

Figure 11 ECNAM Properties submission images

Toolern PSP maps and requested changes



Council submitted:

- Melbourne Water requested to increase the size of Drainage Asset 1 on properties 86 and 87 to accord with its Abey Road Development Service Scheme
- it proposed to reduce the passive open space area for Properties 86 and 87 by 600 square metres to account for the larger Drainage Asset 1
- DTP would need to consider whether it is appropriate to decrease the development setback from the Western Freeway from 60 metres to 40 metres
- it is unclear how the property owner derived a 10.18 hectare area for Property 87 but would consider amending the Land Use Table if further information was provided.

Council agreed to revise:

- relevant plans in the Toolern PSP to show a local road along the eastern boundaries of Properties 86 and 87 next to the retarding basin
- Table 2 in the Toolern DCP and PSP to reduce the amount of passive open space for Properties 86 and 87 by 0.06 hectares.

These changes were reflected in Toolern DCP and PSP Version 1. Mr De Silva supported the reduced passive open space proposed for Properties 86 and 87.

(iii) Discussion

The Panel considers Council's proposal to show a local road on the eastern boundary of Properties 86 and 87 and reduce the amount of passive open space for these properties resolves the issues raised by ECNAM. The local road will ensure that Property 86 is not landlocked by the retarding basin.

(iv) Conclusions and recommendations

The Panel concludes:

- The Toolern Precinct Structure Plan should show a local road on the eastern boundary of Properties 86 and 87 so that Property 86 has access to the road network when Drainage Asset 01 is developed to its ultimate form.
- The passive open space areas for Properties 86 and 87 should be reduced by 600 square metres to account for the increased Drainage Asset 01 area.

The Panel recommends:

Amend the Toolern Precinct Structure Plan to:

- a) **revise in Table 2 the passive open space area for Property 86 from 1.96 hectares to 1.90 hectares**
- b) **revise in Table 2 the passive open space area for Property 87 from 0.64 hectares to 0.58 hectares**
- c) **show a local road along the eastern boundaries of Properties 86 and 87 next to the retarding basin in Plans 5, 6, 8, 9, 10, 11, 14, 16 and 17.**

Amend the Toolern Development Contributions Plan to revise in Table 2 the passive open space area for Property 86 from 1.96 hectares to 1.90 hectares.

6.5 Passive open space contributions

(i) The issue

The issue is whether the Toolern DCP approach for passive open space contributions is appropriate and justified.

(ii) Background

Toolern DCP Section 3.1.4 states:

Only active open space is funded under this DCP. Passive open space is funded by the specification of an open space requirement in the schedule to Clause 53.01 – Public Open Space Contribution and Subdivision of the Planning Scheme.

(iii) Evidence and submissions

Council explained the Toolern PSP and DCP have:

- operated since 2010, and a significant number of planning permits have been issued or are being considered
- guided changes to how it has approached passive open space provision for 14 years.

Lendlease noted the Amendment:

- did not propose to change the Toolern DCP requirement for each property to contribute land for passive open space at identified locations.
- included an annual cost indexation that may significantly impact the future cash contribution 'in lieu' of land required by Planning Scheme Clause 53.01.

Lendlease requested that Toolern PSP Section 4.5.2 be revised to allow Council to accept additional credited open spaces if developers provide passive open space contributions above the requirements specified in Table 3. It sought the endorsed additional credited land be included in the required 3.97 per cent contribution.

Council did not support the request to revise the passive open space contribution wording in Toolern PSP Section 4.5.2. It considered that changing the approach to passive open space contribution could have unintended consequences on:

- planning permits that have been issued
- passive open space that has been provided
- planning permit applications that are in-flight.

Council was concerned the proposed wording:

- could result in developers seeking financial compensation from Council for providing additional passive open space
- would result in a shortfall in cash collected from public open space contributions, and negatively impact Council's financial position
- would distort the equalised provision of public open space contributions in land and cash.

At the Hearing, Lendlease advised it no longer pursued this issue because Council did not agree with the requested change.

(iv) Discussion and conclusion

The Panel acknowledges that Lendlease no longer seeks to pursue this issue and makes no further comment.

The Panel concludes the Toolern Development Contributions Plan approach for passive open space contributions is appropriate and justified.

6.6 Drainage and stormwater assets and land uses

(i) The issue

The issue is whether the location and size of drainage assets and land uses shown in the Toolern PSP and DCP are appropriate.

(ii) Background

The Urban Growth Zone:

- includes a purpose which seeks to *"provide for a range of uses and the development of land generally in accordance with a precinct structure plan"*
- requires a permit to use, subdivide or develop land to be generally in accordance with the precinct structure plan applying to the land.

(iii) Evidence and submissions

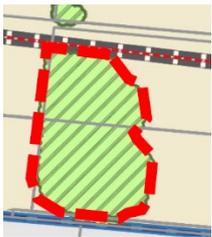
Melbourne Water supported updates to the size and location of drainage assets in the Toolern PSP subject to:

- revising Assets 17 (on Plan 14), 22 and 23 to align with the polygon provided to Council on 17 June 2021
- revising the Planning Report to state on page 12 *“The DSS Review has broken the three catchments into seven DSS areas”* rather than eight Development Services Schemes areas.

Melbourne Water noted that several developments were not strictly consistent with the Toolern PSP land use configuration and layout infrastructure shown in the Melbourne Water development services scheme.

Council agreed to change the polygon for Assets 14, 22 and 23 as requested by Melbourne Water (see Figure 12).

Figure 12 Melbourne Water’s requested changes to Assets 14, 22 and 23

Asset 17		Assets 22 and 23	
Toolern PSP Plan 14	Requested polygon	Toolern PSP Plan 5	Requested polygons
			

Source: Council Part A submission

The Toolern DCP (Version 3) included revising Plans 2, 4, 5, 6, 7 and 8 to change the shape of:

- Asset 17 on Properties 58 and 60
- Assets 22 and 23 on Property 124.

There were requests from:

- Miravor to revise the future urban structure to reflect what was approved on Properties 40 and 41 through planning permit PA2020/7140
- Thornhill Gardens to revise the Toolern PSP and DCP to reflect approved and proposed basins for Properties 67, 75 and 76
- Lendlease to revise the Toolern PSP to show the drainage assets agreed to between itself, Council and Melbourne Water.

Mr Watters included a plan of the agreed proposed water bodies and realigned waterway along Ferris Road in his expert report (see Figure 13).

Figure 13 Agreed proposed water bodies and realigned waterway

Source: Mr Watters expert report, page 9

Mr Watters recommended the Toolern PSP be revised to:

- show changes to the retarding basin / wetland's size, alignment and location agreed to by Council, Melbourne Water and Lendlease
- show the waterway alignment and width which is now proposed to follow the Ferris Road alignment
- alternatively, give Council the flexibility to propose an alternative configuration of drainage assets to the satisfaction of Council and Melbourne Water if the requested changes regarding the retarding basin / wetland are not accepted.

Council noted that a PSP, DCP and Urban Growth Zone Schedule allow some flexibility in the spatial arrangements that are approved through the planning permit process. This is referred to in a PSP as *"being generally in accordance with"*.

Council did not support revising the Toolern PSP and DCP to reflect changes approved through the subdivision permit process. It submitted:

- PSPs, DCPs and Urban Growth Zone schedules allow some flexibility by enabling spatial arrangements approved through the planning permit process to be 'being generally in accordance' with them
- updating the land use budgets to reflect the outcomes negotiated on a site-by-site basis would make it more complex to administer the Toolern PSP and DCP
- it would be more rigid to apply the Toolern PSP and DCP if certain outcomes were locked in.

Council confirmed it had come to an agreement with Lendlease and Melbourne Water to develop an alternative spatial arrangement of drainage assets on Property 29 to facilitate an improved drainage outcome. It advised the Future Urban Structure and Property Specific Land Use Budgets would remain unchanged.

(iv) Discussion

The Panel acknowledges the Toolern PSP identifies infrastructure that does not exactly reflect what has been approved and constructed. The Urban Growth Zone specifies that this is acceptable if what has been approved or constructed is generally in accordance with what is shown in a PSP – in this instance, the Toolern PSP.

The Toolern PSP does not have to be revised to reflect approved or constructed drainage and stormwater assets, as this degree of accuracy is not required or appropriate. The Toolern DCP provides upfront certainty about expected land use budgets. Readjusting the land use budgets would reduce this certainty. The Panel therefore agrees with Council that this would make it more difficult to administer the Toolern DCP.

Nonetheless, the polygons for Assets 17, 22 and 23 that Melbourne Water provided to Council in June 2021 should be included in the Toolern PSP.

(v) Conclusions and recommendation

The Panel concludes the Toolern Precinct Structure Plan:

- enables drainage and stormwater assets to be proposed and approved generally in accordance with assets shown in the plan
- does not need to be revised to show approved drainage and stormwater assets because they would have been approved generally in accordance with the plan
- should be revised so that relevant plans show Assets 17, 22 and 23 consistent with the polygons that Melbourne Water provided to Melton City Council on 21 June 2021, as shown in Figure 12.

The Panel recommends:

Amend the Toolern Precinct Structure Plan to revise the polygons for Assets 17, 22 and 23 in relevant plans to reflect those requested by Melbourne Water and shown in Figure 12.

6.7 Sequence of development, drainage and sewerage

(i) The issue

The issue is whether the sequence of development, drainage and sewerage anticipated in the Toolern PSP and DCP is appropriate.

(ii) Evidence and submissions

Growland submitted that several of its parcels have not been developed because there is no access to drainage or sewer infrastructure. It requested Melbourne Water and Greater Western Water create easements to facilitate the drainage installation. Growland noted that legislation may have to change to address this issue.

Council acknowledged this unfortunate outcome and submitted it is an implementation issue broader than the Amendment and cannot be resolved by the Amendment. Council advised it would continue to:

- advocate to Greater Western Water to resolve the sewerage problems in the eastern half of the Toolern PSP
- work with Melbourne Water and developers to identify measures to appropriately capture, retard, treat and transport stormwater.

Council explained:

- Properties 75, 83 and 84 are in the Iramoo Circuit development service scheme area
- development has proceeded in an out-of- sequence manner, affecting the drainage staging and outfall works in the development service scheme area in the eastern part of the Toolern PSP area

- the Iramoo Circuit development service scheme requires stormwater to outfall to the Kororoit Creek through the Melton East PSP area
- significant drainage assets are required to convey stormwater to the Kororoit Creek and affects development in the Toolern and Rockbank PSP areas
- the Melton East PSP currently being prepared is expected to provide some certainty on the outfall requirements to service the development service scheme area.

(iii) Discussion

The Panel agrees with Council that the situation associated with Properties 75, 83 and 84 is unfortunate. The Panel does not recommend any change to the Amendment because Growland has requested changes beyond the scope of the Amendment, and subject to legislative processes beyond the PE Act. Council's indication of advocacy and support to help resolve the sewerage and stormwater issues is acknowledged.

(iv) Conclusion

The Panel concludes the sequence of development, drainage and sewerage is hampering development on some parcels that cannot be resolved through the Amendment.

6.8 Additional requested projects

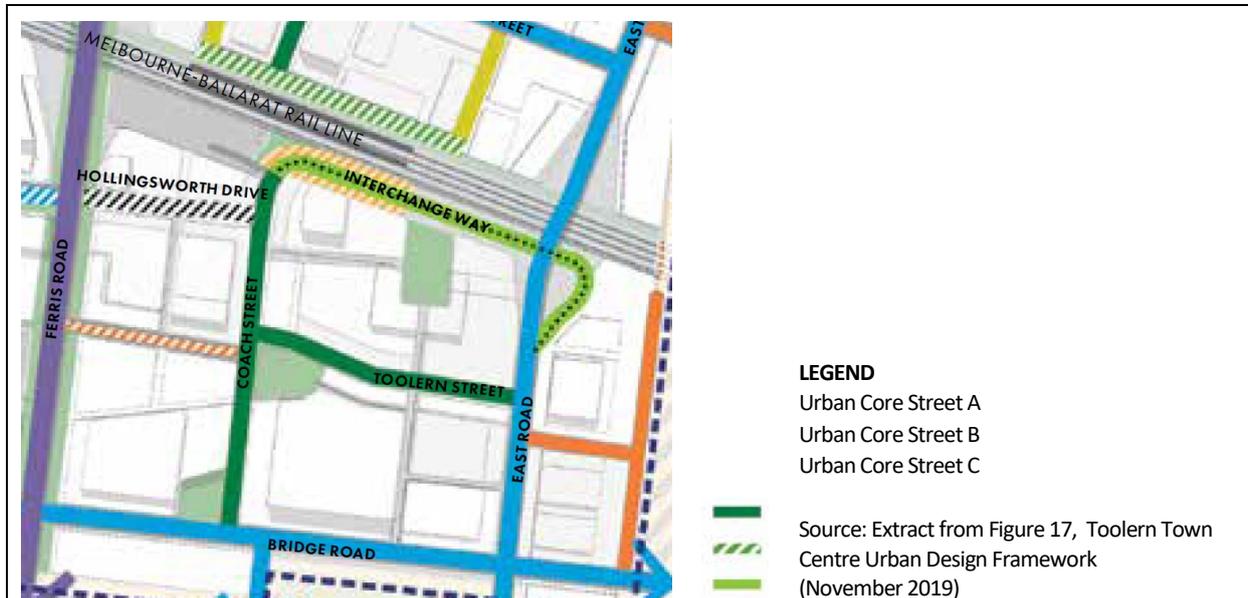
(i) The issues

The issue are:

- whether the Toolern DCP Urban Core Street A and Urban Core Street C identified in the Cobblebank UDF should be included in the Toolern DCP
- whether it is appropriate for Ferris Road from Intersection IT05 to the Toolern PSP southern boundary:
 - to be included as a project in the Toolern PSP and funded through the Toolern DCP
 - be reclassified as a secondary arterial road.

6.8.2 Urban Core Street A and Urban Core Street C

(i) Background



(ii) Evidence and submissions

Australian Unity requested that Urban Core Streets A and C (Interchange Way), as identified in the Cobblebank UDF, be funded through the Toolern DCP. It submitted:

- Urban Core Street A connects the town centre from the external road network and benefits multiple landowners in the town centre
- the location and funding of Urban Core Street A should be shared by those that directly benefit from its delivery
- the primary purpose of Urban Core Street C is to provide a bus link from the existing bus interchange to the external road network that services the broader community
- like the existing bus interchange land, Urban Core Street C land should be included in the Toolern DCP and the road constructed by the Victorian government when required.

At the Hearing, Australian Unity requested the Public Acquisition Overlay be applied to land identified for Interchange Way if Council and DTP seek to maintain this alignment. It explained this is to “*protect it from development, and to ensure fair valuation and compensation of this land under the acquisition process since it offers no benefit to Australian Unity or their future development of the Site and will be solely utilised by PTV as a bus-only connection*”.

Council and Mr Ainsaar did not support Urban Core Street C being funded through the Toolern DCP. Mr Ainsaar explained:

- it is an internal street typically constructed by developers to provide access to their developments
- DCPs rarely fund the construction of local access streets and connector streets unless there are site-specific issues such as a high degree of land ownership fragmentation.

In response to questions, Mr Ainsaar:

- acknowledged the Cobblebank UDF identified Interchange Way as a bus-only route
- agreed it would be problematic to access properties from a bus-only route

- considered the Victorian government generally pays for a bus interchange.

Council did not support Urban Core Street A being funded through the Toolern DCP. It submitted that Urban Core Streets A and C:

- have an internal function like connector roads, though they form part of the future Cobblebank Activity Centre road network
- should be delivered as developer works, just as connector roads in other developments are subdivisional works delivered by the developer during subdivision
- will increase costs to the Toolern DCP if they are included.

(iii) Discussion

The Development Contributions Guidelines state that roads, including land acquisition and construction costs may be funded from a DIL. This is reflected in *Ministerial Direction on the preparation and content of development contributions plans and Ministerial reporting requirements for development contributions plan*. Neither differentiate between road types such as local and secondary roads. Similarly, the PE Act does not specify any road type. This provides some discretion as to whether a local street is included in a DCP.

Whether a local street will be used by other people is not the test to whether it should be funded from a DIL. If this was the case, a DCP would include a detailed more complicated methodology for apportioning the cost of local streets to others in a charge area. A commonly applied approach is for developers to construct internal streets that give access to their developments. The question is whether proposed Urban Core Street A or C present exceptional circumstances that justify departing from this approach.

Urban Core Street A (Coach and Toolern Streets) are typical local streets that will provide access to abutting properties. They may be proposed in the Cobblestone Activity Centre but their use is not recognised beyond local streets. Should had they been recognised at a higher level in the road hierarchy with significantly more external users, it may have been considered for the Toolern DCP.

Urban Core Street C (Interchange Way) differs because it is proposed to be a bus-only route that services a local bus interchange integrated with the train station. This means that no property owner, tenant, work or visitor would be able to use their vehicle along Interchange Way to access an abutting property. The main beneficiaries of Interchange Way are likely to be business owners in the Cobblebank Activity Centre and public transport users from a broader catchment area.

The Panel agrees with Council and Mr Ainsaar that the Toolern DCP should exclude Interchange Way but for a different reason. This street is required solely to form part of the public transport network, and the lead authority seeking this street should be considered as the financial acquiring authority. While the Public Acquisition Overlay is one mechanism to help deliver Interchange Way, the Panel is unable to recommend it because this is beyond the scope of the Amendment.

6.8.3 Ferris Road extension

(i) Evidence and submissions

Lendlease original requested the Toolern DCP include Ferris Road south of Intersection IT05. It explained:

- the future full extent of Ferris Road will continue south of Intersection IT05 through the Strathtulloh estate for about 2 kilometres to Greigs Road, similar to Mt Cottrell Road

- Ferris Road will ultimately be a main thoroughfare for traffic travelling both directions, and while possibly not accommodating the same traffic volumes as Mt Cottrell Road, Ferris Road will likely have volumes that justify inclusion in the Toolern DCP.

At the expert meeting, traffic experts, Mr Lucioni and Mr Watters agreed the Toolern DCP should include a project for Ferris Road south of Intersection IT05 at an interim standard of one lane in each direction. They noted that ending Road RD17 at Toolern Road presented a missing link to a potential secondary road corridor.

In his report, Mr Watters stated:

- Intersection IT05 is currently being constructed and scheduled to be completed in December 2024, and its road reserve has already been created
- if the intersection project is included, the Toolern PSP should either:
 - clarify this road section can remain at 25 metres wide, or
 - reclassify Ferris Road as a secondary arterial road with a width of 35 metres, which may impact developments on both sides of the road.

Lendlease agreed with Council that it would not be appropriate for the Toolern DCP to include the southern section of Ferris Road after reviewing Mr Watters' expert report and aerial photography and plans of works currently underway. It submitted the drainage works have assumed a 25-metre-wide cross section that includes:

- a branch sewer completed in 2023 (runs north-south on the eastern side)
- an open channel completed in early 2024 (runs north-south on the eastern side)
- drainage and stormwater pipes on the east side that will start being constructed in October 2024.

Lendlease explained a road reserve of 38 metres in the southern section of Ferris Road would:

- impact already constructed and future infrastructure
- be a significant factor in the project cost.

(ii) Discussion

Lendlease and traffic experts presented plausible reasons why the section of Ferris Road between Intersection IT05 and the Toolern PSP southern boundary should be considered as an infrastructure item in the Toolern DCP.

However, as infrastructure works are well underway, the Panel considers this project would be impractical to achieve and inappropriate to include in the Toolern DCP.

6.8.4 Conclusions

The Panel concludes the Toolern Development Contributions Plan should not include the additional requested projects because:

- Urban Core Street A, as identified in the Cobblebank Urban Design Framework, are typical local streets that will provide access to abutting properties
- Urban Core Street C, as identified in the Cobblebank Urban Design Framework, is solely proposed for public purposes and should be funded through a separate mechanism
- infrastructure works underway around Intersection IT05 make it impractical to extend Ferris Road from Intersection IT05 to the Toolern Precinct Structure Plan southern boundary as requested.

6.9 Private hospital and social and affordable housing exemptions

(i) The issues

The issues are whether private hospitals and social and affordable housing should be exempt from paying the DIL.

(ii) Evidence and submissions

Australian Unity advised it proposed to develop a private hospital on part of its land. It requested that the land used for the hospital be exempt from paying development contributions through DCPO3. It referred to:

- DCPO3 which exempts government and non-government schools from development contributions
- an incorporated document associated with Specific Controls Overlay Schedule 7 that exempts the Melton Public hospital from paying development contributions.

In their statement, development contributions experts agreed:

- the exemptions from paying levies should not extend beyond those outlined in the statutory framework for DCPs
- there should be a section in the Toolern DCP that outlines the exemptions, consistent with the DCPO.

Council explained:

- it is standard practice in DCPs for few uses to be exempted from making development contributions a DCPO
- exemptions have been provided for government schools and non-government schools, consistent with DCP guidelines
- it has discretion to decide whether to exempt a land use such as a private hospital from development levies.

Council did not support exempting private hospitals, because it was more equitable for a wide variety of land developments to pay the DIL. Council referred to the discussion in the Panel report on Stonnington Amendment C296 which did not support exempting Cabrini Hospital from development contributions. The Panel discussed a number of issues, including:

- private hospitals may be delivered on a for or a not for profit basis, and include a variety of uses including what would otherwise be characterised (if on a standalone basis) as offices or retail premises
- anomalies in treatment of like-uses could lead to the equity principle underpinning DCPs being breached
- exempting Cabrini could lead to applications for exemptions from a wide range of not-for-profit organisations in future DCP based Amendments thereby further increasing potential inequities by the re-allocation of the levies to other development or Council
- other organisations which provide a wide range of community services might argue that they should be exempt. This is potentially a larger and much more nebulous group of uses.

Council submitted that many aspects of the Stonnington Panel's reasoning applied to the proposed private hospital in Toolern.

Homes Victoria requested the Toolern DCP be revised to reflect the Ministerial Direction regarding DIL and Community Infrastructure Levy charges on development of land for housing provided by or on behalf of the Department of Families, Fairness and Housing (formerly the Department of Health and Human Services). Council supported this change.

(iii) Discussion

The Toolern DCP is required to reflect the Ministerial Direction on the preparation and content of DCPs. That guidance provides clarity that a DCP must not be imposed on a non-government school or housing provided by or on behalf of the Department of Families, Fairness and Housing (previously Department of Health and Human Services).

The Ministerial Direction regarding land being developed for housing by or on behalf of the Department of Families, Fairness and Housing is not currently reflected in the Toolern DCP.

Council has discretion to exempt other land uses from the Toolern DCP. Council has outlined its rationale for deciding not to use the available discretion to exempt private hospitals from the Toolern DCP. The Panel has not been provided with evidence to demonstrate Council's rationale is unreasonable or inappropriate.

(iv) Conclusions and recommendation

The Panel concludes:

- It is appropriate for Council to require private hospitals in the Toolern Precinct Structure Plan area to pay development contributions.
- The Toolern Development Contributions Plan should be revised to reflect the Ministerial Direction that Development Infrastructure Levies and Community Infrastructure Levies charges must not be imposed on development of land for housing provided by or on behalf of the Department of Families, Fairness and Housing.

The Panel recommends:

The Toolern Development Contributions Plan should be revised to specify that Development Infrastructure Levies and Community Infrastructure levies must not be imposed on development of land for housing provided by or on behalf of the Department of Families, Fairness and Housing.

7 Drafting matters

7.1 Toolern Precinct Structure Plan

Submissions requested drafting changes the Toolern PSP that Council agreed to, as outlined in Table 3.

Table 3 Council agreed Toolern PSP drafting changes

Ver	Section	Agreed change	Response to
1	2.25	Revise reference to the Outer Metro Ring project from a 'committed' to a 'potential future' project	DTP
1	3.1	Update reference to schools to government and nongovernment schools	Melbourne Archdiocese of Catholic Schools
1	Table 3	Replace 'underpass' with 'overpass' in Character Area 8	DTP
1	Table 8	Replace 'Dept Health and Human Services (DHHS)' with 'Dept of Health' in responsibility for Melton Hospital	Victorian Health Building Authority
1	Table 8	Delete the Emergency services precinct row	Council
1	Table 8	Revise the Justice facility row to: <ul style="list-style-type: none"> - revise the title to 'Justice and emergency services precinct (law court and police)' - revise the change area from 3.5 Ha to 2 Ha - replace 'Dept Health and Human Services (DHHS)' with 'Dept of Health' in responsibility for Melton Hospital 	Roman Catholic Trust Corporation and Department of Justice and Community Safety
1	4.6.3	Replace 'underpass' with 'overpass' in Character Area 8	DTP
1	Table 10	<ul style="list-style-type: none"> - Add RD05 in East-West Arterial - Delete the ultimate reserve width column - Delete the indicative vehicles per day column 	DTP
1	Table 10	Relabel the following columns: <ul style="list-style-type: none"> - Indicative vehicles per day to traffic lanes - Traffic lanes to median - Median to posted speed - Posted speed to bus - Bus to property access and parking - Property access and parking to on road cycle lane 	DTP
1	Table 11	Replace Exford Road with East West Arterial in RD03, RD04, RD05, RD06, RD07, RD08, RD17, RD20, RD21, RD23, RD24, IT03, IT05, IT06, IT07, IT21, IT22 and IT23, BD03	DTP

Ver	Section	Agreed change	Response to
1	Table 11	Revise reference for: - RDO3 from layout to standard - RD14 from IT14 to IT13 - IT07 from 'Purchase of land and construction' to 'construction' - IT24 from 'connector' to 'Elpis'	DTP
1	Table 11	Revise responsibility for BD16 from Department of Transport to Melton City Council	DTP
1	Table	Delete the 'Mount Cottrell Road Level Crossing Upgrade' title from BD21	DTP
1	6.2	Reference Ambulance Victoria Stations and mental health facilities in the definition of community facilities	Victorian Health Building Authority

(i) Section 4.5.6 (Integrated Water Management) and Plan 14

Lendlease requested changes to section 4.5.6 (Integrated Water Management) to maintain sufficiently flexibility when preparing detailed design of stormwater assets. Melbourne Water Corporation supported a modified version of what Lendlease sought. Melbourne Water also requested the Toolern Plan 14 note be revised. These requested changes are shown in Table 4.

Table 4 Lendlease and Melbourne Water Integrated Water Management requested changes

Exhibited	Lendlease	Melbourne Water
Planning and design requirements and guidelines		
Stormwater conveyance must be designed in accordance with the Developer Services Scheme, Plan 14 and Table 9 to the satisfaction of Melbourne Water and the responsible authority.	Stormwater assets must be designed generally in accordance with the Developer Services Scheme, Plan 14 and Table 9 to the satisfaction of Melbourne Water and the responsible authority.	Drainage, flood protection and stormwater quality treatment assets must be designed generally in accordance with the Development Services Scheme (as amended from time to time), Plan 14 and Table 9 to the satisfaction of Melbourne Water Corporation and the responsible authority.
Plan 14 note		
Stormwater quality treatment assets shown on this plan are subject to confirmation through preparation of Melbourne Water Development Service Schemes and through detailed design to the satisfaction of Melbourne Water.	-	Drainage, flood protection and Stormwater quality treatment assets shown on this plan are subject to detailed design to the satisfaction of Melbourne Water Corporation.

Melbourne Water Corporation explained:

- the current term is 'Development Services Schemes', though there have been different terms over time
- 'as amended from time to time' is sought because a drainage strategy (the spatial plan for drainage infrastructure forming part of a Development Services Scheme) may change over time in order to, among other things, respond to identified land constraints and opportunities, detailed planning and design, and new standards
- 'conveyance' should be deleted to expand the term 'assets' because Table 9 and Plan 14 comprise different types of assets (including waterways, drainage assets, retarding assets for flood protection and assets for stormwater quality treatment) that are not all 'conveyance' assets
- it supported including 'generally' with 'in accordance with'.
- 'designed' should be deleted:
 - to clarify the land identified on Plan 14 is required for the asset, and the asset is to be generally in accordance with the development services scheme
 - because it is not strictly a 'design' requirement, and relates to all aspect of design, construction and delivery including land reservation and creation of easements as necessary.

At the Hearing, Council and Lendlease agreed to the version proposed by Melbourne Water Corporation. These changes were reflected in the Toolern PSP (Version 3).

7.2 Toolern Development Contributions Plan

(i) Railway bridge projects descriptions

DTP requested that the scope of railway bridges BD17, DB18, BD19 and BD20 be better described in the Toolern DCP.

Panel response

Bridges should be more clearly described in the Toolern DCP. Given the interaction between the Toolern DCP and other adjacent authorised DCPs, a clear understanding of which infrastructure is associated with which DCP is important to ensure when periodic reviews such as this occur matters are clear.

The Planning Scheme depicts the detail of most proposed infrastructure and the pertinent PSP and DCP documents are all incorporated documents. Incorporated documents have been through a planning process.

(ii) Council agreed drafting changes

Submissions requested drafting changes the Toolern DCP that Council agreed to, as outlined in Table 5.

Table 5 Council agreed Toolern DCP drafting changes

Ver	Section	Agreed change	Response to
1	1.3	Revise the land area from 2,200 hectares to 2,100 hectares	Mr De Silva
1	1.4.3	Replace Exford Road with East West Arterial in RD03, RD05, RD06, RD07, RD08, RD17, RD20, RD21, RD23, RD24, IT03 and BD03	DTP
1	1.4.3	Replace East West Arterial to Exford Road in RD03	DTP
1	2.2.6	Change 'MCA' to Charge Area	Mr De Silva
1	Table 3	Replace Exford Road with East West Arterial in RD03, RD03A, RD04, RD04A, RD05, RD05A, RD06, RD06A, RD07, RD07A, RD08, RD08A, RD17, RD17A, RD20, RD20A, RD21, RD23 and RD24, BD03, IT03, IT05, IT06, IT07, IT21, IT22 and IT23	DTP
1	Table 3	Identify RD01, RD01A, RD12, RD17, RD17A, RD18, RD18A, RD18B, RD20, RD20A, IT14, IT15, IT19, IT24, IT26, IT27, IT28, IT29, BD01, BD02, BD18, BD21, PT01, OS01, OS02, CI01, CI02, CI18A, CI18B, CI19A, CI19B, CI20, AR15A, AR15B, AR16, TR01 and PL01 as completed projects	Mr De Silva
1	Table 3	Correct the infrastructure category for CI04, CI07, CI10, CI13 and CI16 from Development to Community	Council
1	Table 4	Replace Exford Road with East West Arterial in RD03, RD03A, RD04, RD04A, RD05, RD05A, RD06, RD06A, RD07, RD07A, RD08, RD08A, RD17, RD17A, RD20, RD20A, RD21, RD23, RD24, IT03, IT05, IT06, IT07, IT21, IT22, IT23 and BD03	DTP
1	Table 4	Add land acquisition value of BD21 to BD20	Mr De Silva
1	Table 4	Correct the infrastructure category for CI04, CI07, CI10, CI13 and CI16 from Development to Community	Council
1	Table 5	Replace Exford Road with East West Arterial in RD03, RD03A, RD04, RD04A, RD05, RD05A, RD06, RD06A, RD07, RD07A, RD08, RD08A, RD17, RD17A, RD20, RD20A, RD21, RD23, RD24 IT03, IT05, IT06, IT07, IT21, IT22, IT23 and BD03	DTP
1	Table 5	Add land acquisition value of BD21 to BD20	Mr De Silva
1	Table 5	Correct the infrastructure category for CI04, CI07, CI10, CI13 and CI16 from Development to Community	Council
1	Table 6	Replace Exford Road with East West Arterial in RD03, RD03A, RD04, RD04A, RD05, RD05A, RD06, RD06A, RD07, RD07A, RD08, RD08A, RD17, RD17A, RD20, RD20A, RD21, RD23, RD24 IT03, IT05, IT06, IT07, IT21, IT22, IT23 and BD03	DTP
1	Table 6	Add land acquisition value of BD21 to BD20	Mr De Silva
1	Table 6	Correct the infrastructure category for CI04, CI07, CI10, CI13 and CI16 from Development to Community	Council

Ver	Section	Agreed change	Response to
1	Table 7	Replace Exford Road with East West Arterial in RD03, RD03A, RD04, RD04A, RD05, RD05A, RD06, RD06A, RD07, RD07A, RD08, RD08A, RD17, RD17A, RD20, RD20A, RD21, RD23, RD24 IT03, IT05, IT06, IT07, IT21, IT22, IT23 and BD03	DTP
1	4.2	Reference Ambulance Victoria Stations and mental health facilities in the definition of community facilities	Victorian Health Building Authority

7.3 Development Contributions Plan Overlay Schedule 3

Homes Victoria requested the Department of Health and Human Services in Clause 4.0 be changed to Department of Families, Fairness and Housing. The Panel agrees with this change, consistent with Council's proposed change in DCPO3 (Version 1).

7.4 Drafting recommendations

The Panel recommends:

Amend the Toolern Precinct Structure Plan to:

- a) replace in Section 4.5.6 (Integrated water management) the third point under 'Planning and design requirements and guidelines' with:

Drainage, flood protection and stormwater quality treatment assets must be designed generally in accordance with the Development Services Scheme (as amended from time to time), Plan 14 and Table 9 to the satisfaction of Melbourne Water Corporation and the responsible authority.

- b) replace the Plan 14 note with:

Drainage, flood protection and Stormwater quality treatment assets shown on this plan are subject to detailed design to the satisfaction of Melbourne Water Corporation

- c) make drafting changes specified in Table 3.

Amend the Toolern Development Contributions Plan to make drafting changes specified in Table 5.

Amend Development Contributions Plan Overlay Schedule 3 to replace 'Department of Health and Human Services' with 'Department of Families, Fairness and Housing' in Clause 4.0.

Appendix A Document list

No.	Date	Description	Provided by
2024			
1	3 Jul	Directions Hearing notice letter	Planning Panels Victoria (PPV)
2	4 Jul	Submitter location plan	Melton City Council (Council)
3	17 Jul	Melton PSA C84 [2010] PPV	PPV
4	17 Jul	Melton PSA C84 Part 2 [2011] PPV	PPV
5	25 Jul	Panel Directions and Hearing timetable (Version 1)	PPV
6	2 Aug	Panel Directions and Hearing timetable (Version 2)	PPV
7	5 Aug	Email - change in expert and site inspection suggestions	Australian Unity et al
8	19 Aug	Part A Submission	Council
9	19 Aug	Expert report – Chris De Silva	Council
10	19 Aug	Expert report – Marco Lucioni expert	Council
11	19 Aug	Expert report – Matt Ainsaar	Council
12	19 Aug	Expert report – Henry Turnbull	Growland Pty Ltd
13	19 Aug	Expert report – Stephen Watters	Lendlease Communities (Atherstone) Pty Ltd
14	19 Aug	Expert report – Brock Jeffery-Monck	Australian Unity et al
15	19 Aug	Expert report – Sian McKenna	Council
16	21 Aug	Correspondence – regarding expert meetings	Council
17	23 Aug	Part B Submission	Council
18	23 Aug	Council Day 1 version of the Amendment: <ul style="list-style-type: none"> a) Explanatory Report b) Instruction Sheet c) Clause 37.07 Schedule 3 d) Clause 43.01 Schedule e) Clause 45.06 Schedule 3 f) Clause 66.04 Schedule g) Clause 72.04 Schedule h) Spreadsheet Revised DCP background document i) Toolern DCP June 2022 track changes j) Toolern PSP June 2022 track changes 	Council
19	23 Aug	Development Contributions Plan expert meeting – Statement of agreed opinions and facts	Council

No.	Date	Description	Provided by
20	23 Aug	Traffic engineering and quantity surveying expert meeting – Statement of agreed opinions and facts	Council
21	23 Aug	Panel Directions and Hearing timetable (Version 3)	PPV
22	26 Aug	Replacement image at paragraph 81.5 of Part B Submission	Council
23	27 Aug	Addendum to Sian McKenna expert report	Council
24	27 Aug	Expanded appendix 3 of Chris De Silva expert report	Council
25	27 Aug	Table – DIL charge area and dwelling density	Council
26	27 Aug	Updated table – DIL charge area and dwelling density	Council
27	27 Aug	Hearing submission	DTP Transport (DTP)
28	27 Aug	Hearing submission	Melbourne Water
29	29 Aug	Standard Development Contributions Advisory Committee: Report 1 (extract)	Council
30	29 Aug	Toolern Employment and Mixed Use UDF and Revision of the Toolern Town Centre UDF: Transport Modelling Report	Council
31	29 Aug	Toolern Employment and Mixed Use UDF and Revision of the Toolern Town Centre UDF: Technical Report - Transport	Council
32	29 Aug	Victorian Planning Authority Benchmark Infrastructure Report	Council
33	29 Aug	Cobblebank Metropolitan Activity Centre UDF: Consultation Report	Council
34	29 Aug	Bridge 17 – Paynes Road Rail Overpass - Apportionments	Council
35	30 Aug	Panel Directions and Hearing timetable (Version 4)	PPV
36	30 Aug	email – Further information requested by the Panel	PPV
37	30 Aug	email – Extension of time for further information	PPV
38	30 Aug	Hearing submission	Lendlease Communities (Atherstone) Pty Ltd
39	30 Aug	Hearing submission	Exford Waters Pty Ltd
40	30 Aug	Mount Cottrell Road – Aerial	Council
41	30 Aug	Mount Cottrell Road – Summary	Council
42	30 Aug	Mount Cottrell – Permit Summary	Council
43	30 Aug	Mount Cottrell – Width Diagram	Council
44	2 Sep	Appendix 2 (table to submission) with permit information	Melbourne Water
45	2 Sep	Hearing submission	Australian Unity Funds Management
46	2 Sep	Hearing submission	Roman Catholic Trust Corporation

No.	Date	Description	Provided by
47	2 Sep	Hearing submission	Miravor Property Developments
48	2 Sep	Hearing submission	Thornhill Gardens Dev Co
49	4 Sep	Hearing submission	Growland Pty Ltd
50	4 Sep	Further Hearing submission	DTP
51	4 Sep	Amendment documents (Version 2): a) Change table b) Revised comments on Mr De Silva recommendations c) UGZ3 d) Heritage Overlay Schedule e) DCPO3 f) Clause 66.04 Schedule g) Clause 72.04 Schedule h) Spreadsheet Revised DCP background document i) Toolern DCP June 2022 track changes j) Toolern PSP June 2022 track changes	Council
52	5 Sep	Summary Diagram for Hearing	Growland Pty Ltd
53	6 Sep	Part C Submission with: a) Appendix A - Bridge Distances within Metropolitan Activity Centres b) Appendix B – Transport project costing sheets SMEC – July 2015 – Rockbank DCP Appendix B (1) c) Appendix C – Victorian Government land being acquired by contributions plans	Council
54	6 Sep	Further Hearing submission	Melbourne Water
55	10 Sep	Second supplementary Hearing submission	DTP
56	11 Sep	Supplementary Hearing submission	Council
57	11 Sep	Toolern PSP June 2022 (tracked changes) – Version 3	Council
58	11 Sep	Toolern DCP June 2022 (tracked changes) – Version 3	Council
59	11 Sep	Table of changes – Version 3	Council
60	11 Sep	Submitter response table – Version 3	Council

Appendix B Planning context

B:1 Planning policy framework

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

i) Victorian planning objectives

State policy objectives set out in section 4 of the PE Act which seek:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- (e) Protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community
- (f) to facilitate development in accordance with the objectives of planning in Victoria.

Part 3B of the PE Act by enabling Development Infrastructure Levy and Community Infrastructure Levy for the development of land in the municipality.

ii) Planning Policy Framework

Table 6 legend: ■ State policy | ■ Regional policy | ■ Local policy

Table 6 Planning Policy Framework clauses

Municipal Planning Strategy

02.03 (Strategic directions)

■ 02.03-1 (Settlement – Activity centres)

The proposed Cobblebank Metropolitan Activity Centre (previously known as the Toolern Metropolitan Activity Centre) will eventually be the largest in the City. It will be a significant retail, employment and business generator into the future and will provide civic, education and health facilities. Maximising economic opportunities here is an economic development priority for Council.

The design of activity centres plays a key role in activating centres, promoting development and creating a sense of place. Poor amenity, accessibility and connectivity to and within activity centres are issues that can be addressed through design.

■ 02.03-6 (Housing)

There is a need to ensure future development provides a range of housing choice and diversity to meet the needs of a growing and changing community and reduce the disparity between the current housing supply and the demand for different housing types.

■ 02.03-7 (Economic development)

Facilitate development that provides opportunities for local employment and education that are close to homes and are accessible by a variety of transport options.

Facilitate the provision of infrastructure and services that support economic growth, particularly in growth areas and in existing, planned and proposed activity centres.

Foster a diverse local economy that encourages investment and results in local business growth.

■ 02.03-8 (Transport)

Facilitate the development of an integrated transport system that connects various transport modes. Promote active travel by providing a flexible, accessible, safe and connected active transport network that is segregated from road traffic.

Municipal Planning Strategy

Integrate land use with transport infrastructure.

02.03-9 (Infrastructure)

Enhance educational and recreational opportunities through the provision of community infrastructure, including new schools and youth services.

Facilitate an increase in the number of health facilities and improve access to them across the City.

Provide community facilities, infrastructure and services in an equitable and timely way.

Discourage out of sequence development within growth areas.

Protect existing and major infrastructure assets from the encroachment of incompatible development.

Facilitate the development of a communications network where its infrastructure is sensitively deployed.

Planning Policy Framework

11 (Settlement)

11.01 (Victoria)

11.01-1R (Settlement – Metropolitan Melbourne)

Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city and protect the values of non-urban land.

11.02 (Managing growth)

11.02-1S (Supply on urban land)

To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

11.03 (Planning for places)

11.03-1S (Activity centres)

To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

12 (Environmental and landscape values)

12.01 (Biodiversity)

12.01-2S (Native vegetation management)

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

13 (Environmental risk and amenity)

13.02 (Bushfire)

13.02-1S (Bushfire planning)

To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

16 (Housing)

16.01-1R (Housing Supply – Metropolitan Melbourne)

Manage the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are:

- In and around the Central City.
- Urban-renewal precincts and sites.
- Areas for residential growth.
- Areas for greyfield renewal, particularly through opportunities for land consolidation.
- Areas designated as National Employment and Innovation Clusters.
- Metropolitan activity centres and major activity centres.
- Neighbourhood activity centres - especially those with good public transport connections.
- Areas near existing and proposed railway stations that can support transit-oriented development.

16.01-2S (Housing affordability)

To deliver more affordable housing closer to jobs, transport and services.

17 (Economic development)

17.01 (Employment)

17.01-1R (Diversified economy - Metropolitan Melbourne)

Support the Central City to become Australia's largest commercial and residential centre by 2050, by planning for office, retail, residential, education, health, entertainment and cultural activity spaces.

Plan for the redevelopment of Major Urban-Renewal Precincts in and around the Central City to deliver high-quality, distinct and diverse neighbourhoods offering a mix of uses.

17.02 (Commercial)

17.02-1S (Business)

To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

17.03 (Industry)

17.03-3R (Regionally significant industrial land – Metropolitan Melbourne – Western Metro Region)

To protect industrial land of regional significance and facilitate continual growth in freight, logistics and manufacturing investment.

To support the transition from manufacturing land uses to other employment uses in strategically identified areas well connected to transport networks.

18 (Transport)

18.01 (Land use and transport)

18.01-1S (Land use and transport integration)

To facilitate access to social, cultural and economic opportunities by effectively integrating land use and transport.

18.01-1L (Land use and transport planning)

To facilitate the efficient, coordinated and reliable movement of people and goods by developing an integrated and efficient transport system.

18.01-2S (Transport system)

To facilitate access to social, cultural and economic opportunities by effectively integrating land use and transport.

18.02 (Movement networks)

18.02-1S (Walking)

To facilitate an efficient and safe walking network and increase the proportion of trips made by walking.

18.02-2R (Cycling – Metropolitan Melbourne)

Develop local cycling networks and new cycling facilities that support the development of 20-minute neighbourhoods and that link to and complement the metropolitan-wide network of bicycle routes - the Principal Bicycle Network.

19 (Infrastructure)

19.02 (Community infrastructure)

19.02-6R (Open space – Metropolitan Melbourne)

To strengthen the integrated metropolitan open space network.

19.02-1L (Health facilities)

Support the development of a hospital within the Cobblebank Metropolitan Activity Centre.

Improve access to health services through the provision of integrated community services hubs and the co-location of complementary community facilities.

19.03 (Development infrastructure)

19.03-1S (Development and infrastructure contributions plans)

To facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans and infrastructure contributions plans.

19.03-3S (Integrated water management)

To sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.

B:2 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
- is accompanied by a separate implementation plan that is regularly updated and refreshed every five years
- is structured around seven Outcomes, which set out the aims of the plan.

The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. The Explanatory Report discusses the relevant Outcomes and Directions. The Panel has included these in Table 7.

Table 7 Relevant parts of Plan Melbourne

Outcome	Directions
1: Melbourne is a productive city that attracts investment, supports innovation and creates jobs	1.1: Create a city structure that strengthens Melbourne's competitiveness for jobs and investment
2: Melbourne provides housing choice in locations close to jobs and services	2.2: Deliver more housing closer to jobs and public transport

Outcome	Directions
3: Melbourne has an integrated transport system that connects people to jobs and services and goods to market	3.3: Improve local travel options to support 20-minute neighbourhoods
4: Melbourne is a distinctive and liveable city with quality design and amenity	4.1: Create more great public spaces across Melbourne
5: Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1: Create more 20-minute neighbourhoods 5.2: Create neighbourhoods that support safe communities and healthy lifestyles 5.3: Deliver social infrastructure that support strong communities and healthy lifestyles 5.4: Deliver local parks and green neighbourhoods in collaboration with communities

B:3 Planning scheme provisions

The Urban Growth Zone, Development Contributions Plan Overlay and Heritage Overlay apply to the subject land. A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework. Other zone and overlay purposes are outlined in Table 8.

Table 8 Relevant zone and overlay provisions

Zones and overlays	
Zone	
Urban Growth	<p>To manage the transition of non-urban land into urban land in accordance with a precinct structure plan.</p> <p>To provide for a range of uses and the development of land generally in accordance with a precinct structure plan.</p> <p>To contain urban use and development to areas identified for urban development in a precinct structure plan.</p> <p>To provide for the continued non-urban use of the land until urban development in accordance with a precinct structure plan occurs.</p> <p>To ensure that, before a precinct structure plan is applied, the use and development of land does not prejudice the future urban use and development of the land.</p>
Overlays	
Development Contributions Plan	To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.

Zones and overlays

Heritage	<p>To conserve and enhance heritage places of natural or cultural significance.</p> <p>To conserve and enhance those elements which contribute to the significance of heritage places.</p> <p>To ensure that development does not adversely affect the significance of heritage places.</p> <p>To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.</p>
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B:4 Ministerial Directions, Planning Practice Notes and guides

The Ministerial Directions, Planning Practice Notes and guide in Table 9 are relevant to the Amendment.

Table 9 Ministerial Directions, Practice Notes and guides

Title	Description
Ministerial Directions	
Ministerial Direction 1 (Potentially Contaminated Land)	Seeks to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by contamination
Ministerial Direction 9 (Metropolitan planning strategy)	Seeks to ensure that a planning scheme amendment has regard to the Metropolitan Planning Strategy (Plan Melbourne 2017-2050)
Ministerial Direction 11 (Strategic Assessment of Amendments)	Seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces
Ministerial Direction 12 (Urban growth areas)	Seeks to manage the provision of sustainable and coordinated urban development in growth areas
Ministerial Direction and Requirement 19 (Preparation and content of amendments that may significantly impact the environment, amenity and human health)	Requires planning authorities to seek the views of the Environment Protection Authority when preparing planning scheme reviews and amendments that could result in use or development of land that may result in significant impacts on the environment, amenity and human health due to pollution and waste
Ministerial Direction 20 (Major hazard facilities)	Requires planning authorities to seek and have regard to the views of WorkSafe Victoria and the Minister for Economic Development when preparing a planning scheme amendment which rezones land for, or is within the threshold distance of, a major hazard facility
Planning Practices Notes	
Planning Practice Note 1 (Applying the Heritage Overlay)	Guide to the Heritage Overlay, including criteria and how to write a statement of significance
Planning Practice Note 7 (Vegetation protection in urban areas)	How to assess the significance of vegetation in urban areas and how to protect significant vegetation through the planning scheme

Title	Description
Planning Practice Note 30 (Potentially contaminated land)	How to identify potentially contaminated land and how to assess it, and about provisions in amendments and conditions on permits
Planning Practice Note 46 (Strategic Assessment Guidelines)	Provides a consistent framework for preparing and evaluating a proposed planning scheme amendment
Planning Practice Note 47 (Urban Growth Zone)	Explains the purpose and provisions of the Urban Growth Zone and the role of precinct structure plans in the zone
Guide	
A Practitioner's Guide to Victorian Planning Schemes	<p>Sets out key guidance to assist practitioners when preparing planning scheme provisions, and seeks to ensure:</p> <ul style="list-style-type: none"> - the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy - a provision is necessary and proportional to the intended outcome and applies the Victorian Planning Provisions in a proper manner - a provision is clear, unambiguous and effective in achieving the intended outcome