

Mt Atkinson & Tarneit Plains Infrastructure Contributions Plan



Part C Submission: Reply

Amendment C201 to the Melton Planning Scheme

4 July 2019

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INTRODUCTION

The Victorian Planning Authority (VPA) is the planning authority for Amendment C201 (the **Amendment**) to the Melton Planning Scheme.

This Part C Submission in reply addresses the submissions made in relation to the substantive contents of the Amendment that the VPA has not yet addressed in the Part A (Part 1) submission, Part A (Part 2) submission, Response to Questions of the Panel or Part B submission.

RESPONSE TO SITE SPECIFIC OUTSTANDING ISSUES BY SUBMITTERS

Submitter 1: Mount Atkinson Holdings Pty Ltd

Issue 1: Proposed wording for sections 5.10 and 5.11 of the ICP

By letter dated 2 July 2019, Mount Atkinson Holdings Pty Ltd circulated proposed changes to the wording of clauses 5.10 and 5.11 of the ICP.

The proposed alterations to the text of the clauses is:

5.10 WORKS IN KIND

...

If the Collecting and Development Agencies accept the provision of works in kind:

The value of the works in kind will be ~~negotiated between the Collecting Agency and the applicant~~ equal to the value of the works identified in this ICP, taking into account the impact of indexation;

The monetary component the infrastructure contribution payable by the applicant will be offset by the ~~agreed~~ value of the works in kind; and

~~If the agreed value of the works in kind exceeds the monetary component the infrastructure contribution, the applicant will be reimbursed the difference between the two amounts at a time negotiated between applicant and the Collecting and Development Agencies.~~

Notwithstanding whether an infrastructure item is funded via the standard levy or the supplementary levy, the administrative provisions relating to credit for works in kind shall remain the same.

The land component and any land equalisation amounts or land credit amounts cannot be accepted as works in kind.

5.10.1 INTERIM AND TEMPORARY WORKS

Interim and temporary works are not considered as eligible for works in kind credits against this ICP, unless agreed to by the Collecting and Development Agencies.

~~**5.11 WORKS IN KIND REIMBURSEMENT**~~

~~*If the Collecting Agency agrees to accept works under section 46GX of the Act and the value of those works is greater than the monetary component of the infrastructure contribution payable by the applicant, the applicant is entitled to be reimbursed the difference between the two amounts.*~~

~~*The details of a reimbursement must be negotiated with and agreed to by the Collecting Agency*~~

~~and Development Agency.~~

The VPA has reviewed the proposed alterations to Clause 5.10 and the deletion of Clause 5.11, noting the text identified in the Recommended Changes (June) ICP is standard for the ICP system.

As works-in-kind agreements are negotiated between the collecting and/or development agency and landowners, the VPA will accept the recommendations of the Panel in this regard.

Council also did not accept the proposed deletion of Clause 5.11, instead proposing the following alterations:

Credit for Over Provision

Where the Collecting Agency agrees that a development proponent can provide an infrastructure item the situation may arise where the development proponent makes a contribution with a value that exceeds their ICP monetary component obligation.

In such a case the development proponent ~~would be~~ is entitled to a cash reimbursement for the value above their monetary obligation.

The details of credits and reimbursements must be negotiated with, and agreed to by the Collecting Agency.

The April 2019 Plumpton Kororoit ICP submitted to DELWP notes:

If the Collecting Agency agrees to accept works under section 46GX of the Act and the value of those works is greater than the monetary component of the infrastructure contribution payable by the applicant, the applicant is entitled to be reimbursed the difference between the two amounts.

The ~~details timing~~ of a reimbursement must be negotiated with, and agreed to by, the Collecting Agency and Development Agency.

The VPA submits that the text of the provision as submitted to the Minister for the Plumpton Kororoit ICP is appropriate, and would ensure consistency moving forward.

[Issue 2: Additional information to be provided in Appendix 3](#)

Mount Atkinson Holdings Pty Ltd also seeks that the following information be included within Appendix 3 of the ICP:

- inclusion of the measured road lengths for each of the road projects; and
- inclusion of a column in the table identifying the authority responsible (either Council or VicRoads) for the ultimate project.

The VPA agrees that it would be of benefit to provide the measured road lengths for each of the road projects.

The VPA submits that it is unnecessary to include an additional column in Appendix 3 specifying the authority responsible for the delivery of ICP project. Clauses 5.1 and 5.2 of the ICP clearly state that Melton City Council is both the collecting and development agency for the ICP.

Submitter 2: Melton City Council

[Issue 1: The VPA's approach regarding allocation of line items to the supplementary levy](#)

The Council's written submission (**Document 105**) provides that the approach taken by the VPA with regard to the allocation of individual line items to the supplementary levy is inconsistent with the Ministerial Direction, because (at paragraph 59):

- *The strategic justification for the allowable items describes the projects at a whole of project generality.*
- *The ICP, consistent with Clause 17(c) follows the format of the strategic justification.*
- *The language of the Ministerial Direction is to describe projects such as intersections or roads. It does not describe line items as allowable projects.*
- *The structure of the Ministerial Direction is consistent with a whole of project approach – eg Clause 20.*
- *The other exemptions in Table 4 are clearly whole of project exemptions (roads servicing industrial development and limited area within precinct).*

The VPA submits that the allocation of individual line items to the supplementary is consistent with the Ministerial Direction and is both reasonable and appropriate.

Intersections IT-01, IT-02, IT-03, IT-04, IT-14 and IT-16 are classified as standard levy items, other than the inclusion of the line items for the construction costs that are required to address the physical constraints of the land, being “high-pressure gas protection slab” and “demolition”. For this reason the VPA considers that only these line items should be listed under the supplementary levy.

The classification of these line items as supplementary should not trigger the ability to allocate additional standard costs into the supplementary levy so that the supplementary levy acts as an “overflow” when the standard cap is exceeded. It is considered that the standard costs can still be “partially funded from the standard levy” as identified in Clause 17, and this is consistent with the intent of the levy to provide a ‘contribution’ towards future infrastructure.

The Advisory Committee on the Standard Development Contributions considered that the supplementary levy “*is not an alternative to the standard levy, but rather an additional levy available only under specific circumstances. The Planning Authority cannot of its own volition simply choose to pursue the introduction of one or more supplementary levies*” (Standard Development Contributions Advisory Committee Report 2 page 60).

The VPA considers that the allocation of individual line items associated with construction costs to address the physical constraints to the supplementary levy is appropriate.

Issue 2: Community and Recreation Construction Costs

The VPA acknowledges the Council's submissions regarding the discrepancy between the Community and Recreation Levy to fund all community and recreation infrastructure required. The VPA made detailed submissions in this regard within its Part B submission (**Document 104**) at pages 4-6, and submits it is outside the scope of this amendment to address any discrepancy between the funds to be collected and the community and recreation infrastructure required.

At paragraph 65 of its submission, Council submitted that the Panel should recommend the ICP be updated to include the community and recreation levy rates at the time the ICP is gazetted. As provided within the *Response to Questions of the Panel* (**Document 99**) at page 7, for the purposes of the Panel hearing, the VPA proposes to rely on the 2018/19 levy rates, with a view to indexing these rates once they are finalised pursuant to the requirements of the *Planning and Environment Act 1987* and the Ministerial Direction.

Council also made submissions regarding the VPA's adoption of cost estimates for community and recreation projects based on Cardno's *Benchmark Infrastructure Report, 1 March 2019*. The Council has had the opportunity to test the appropriateness of the community and infrastructure rates proposed to be included in the ICP, including by calling expert evidence, as it has done with regard to all transport projects. It has elected not to do so. The VPA has provided the Panel with material regarding the extensive work undertaken by Cardno with regard to development of the Benchmark costs, including with regard to the community and recreation projects.

The VPA submits that the rates provided by Cardno are reasonable and appropriate.

Issue 3: Discrepancies between the PSP and the ICP

Pages 14-15 of Council's submission seek that the PSP and the ICP should be consistent, and that the ICP be amended to the extent of any inconsistency.

The VPA's *Response to Questions of the Panel (Document 99)* at page 8 provides that the VPA agrees with Council's submissions that the PSP and the ICP should be consistent. However, the ICP must also be consistent with the allowable item descriptions contained within the Ministerial Direction.

The July ICP as recommended to the Panel is consistent with the Ministerial Direction. It is also consistent with the PSP to the extent practicable, ensuring that it does not conflict with the Ministerial Direction. It is proposed to address any remaining inconsistency between the PSP and the ICP by seeking to amend the PSP to ensure it is consistent with the Ministerial Direction at the time the ICP is submitted to the Minister.

RESPONSE TO QUESTIONS FROM THE PANEL

Clarification of the data used by Cardno for the indexing process

Cardno confirms that the Benchmark Costings report (11 April 2019) was indexed as follows:

- For road and bridge construction – The Australian Bureau of Statistics Producer Price Index for Road and Bridge Construction – Victoria; and
- For community and recreation construction – The Australian Bureau of Statistics Producer Price Index for Non-residential building Construction – Victoria

Cardno notes that the presentation provided by Stephen Howe incorrectly noted that the Benchmark Costings report was indexed for “*for CPI at the end of the stakeholder feedback process and estimates re-costed (rates are as of 1/7/2018 and subject to subsequent indexation)*”.

Version of the ICP which highlights all proposed changes since exhibition

The panel has requested that the VPA provide a version of the ICP that clearly highlights all changes made to the document since exhibition.

At **Appendix A** the VPA has provided the final proposed July ICP, with all text that has been altered since exhibition of the document highlighted in green.

This version of the ICP also provides (highlighted in green), a number of suggestions raised by the Panel during the hearing, including:

- a notation of the road lengths for each road project included in the table located at Appendix 3;
- an updated Contents page at page ii by removing the appendices from sections 6 to 10;
- provision of a key to Table 6 to clarify how the table is to be understood;
- an update to project headings within the cost sheets such that they refer to relevant ICP project numbers;
- clarification of the cost sheet for road projects, to reflect that all road projects use the same cost per linear metre rate;
- incorporation of the tapering cost sheet into the cost sheets for intersection items IT-05 to IT-15;
- numbering of all pages, including appendices; and
- provision of a key to Table 18 to clarify how the table is to be understood.

A clean copy of the proposed ICP has been provided at **Appendix B**.

CONCLUSION

The VPA submits that the Amendment has strategic justification and respectfully requests that the Panel recommend adoption of the Amendment.

This completes the submissions for the VPA.