

INDEPENDENT PLANNING PANEL  
APPOINTED BY THE MINISTER FOR PLANNING  
PLANNING PANELS VICTORIA

IN THE MATTER of Amendment C269 to the Casey Planning Scheme

BETWEEN:

**VICTORIAN PLANNING AUTHORITY**

Planning Authority

-and-

**VARIOUS SUBMITTERS**

**AFFECTED LAND:** All land within the boundaries of the Minta Farm  
Precinct Structure Plan.

**PART C SUBMISSIONS OF THE PLANNING AUTHORITY**

**I. INTRODUCTION**

1. This Part C submission addresses a number of matters raised by the Panel, and additional issues that arose throughout the hearing process. This submission should be read in conjunction with the Part A submission circulated on 26 August 2020, the Part B submission dated 2 September 2020 and the evidence called by the VPA.

**II. CASEY CITY COUNCIL**

2. Casey City Council made submissions to the Panel as to the appropriateness of the inclusion of a three metre wide bike path on the eastern side of the north-south arterial within the ICP.
3. The Casey City Council submission identified that the PSP cross-section for the north-south arterial identifies a three metre wide bike path on both sides, within the 41 metre ultimate road reservation. The exhibited ICP and the revised Cardno March Plans do not include the bike path on the eastern side of the north-south arterial. Casey City Council's submission is that once the north-south arterial is constructed, even to its interim standard, shared paths will be required on both sides of the north-south arterial to serve development.

4. The VPA acknowledges that walking and cycling infrastructure on both sides of an arterial road, as specified in a PSP is a standard levy allowable item in Table 3 of the Ministerial Direction. However, simply because an item is an allowable item and *may* be included within an ICP does not mean that it *must* be included within an ICP. The VPA considers it is appropriate that the Minta Farm ICP fund the construction of one bike path along the first carriageway of the north-south arterial as, in accordance with the consideration of 'basic and essential infrastructure, this is properly regarded as what is required to accommodate pedestrian and bicycle traffic at the time of the interim construction of the road. This approach is also directed toward reducing future redundancies. In the event that the bicycle path were provided on the other side of the road in the interim condition, at the time of duplication, or when a developer was ready to undertake construction on that side of the arterial, the bicycle path would likely have to be replaced.
5. The Donnybrook-Woodstock ICP (GC102) panel report discussed the issue of whether shared user paths should properly be provided on both sides of the mid-block road sections in their interim configuration, or only on one side.
6. The Donnybrook-Woodstock panel found:

*The Panel considers that a shared user path on one side of the road is justified. It is consistent with the PSP and constitutes 'basic and essential' infrastructure that should be funded through the ICP. This was not disputed. The issue in contention is whether a second shared user path on the other side of the road should be costed and provided.*

*The Panel was not presented with specific evidence, or particularly detailed submissions, which explained the reasons why the VPA considered that shared user paths should only be provided on one side of the interim arterial roads, or why the Councils considered that they should be provided on both sides. The PSP cross sections show a shared user path on both sides of the interim arterial roads (both Option 1 and Option 2), but the mid-block functional road layouts in the ICP only show a shared user path on one side. This leaves the Panel in somewhat of a quandary.*

*The Panel is of the view that, consistent with its conclusions in Chapter 5.2, the ICP should include the cost of a shared user path on each side of Koukoura Drive (RD-05), but only on one side of Patterson Drive (RD-03 and RD-04) and Cameron Street (RD-01).*

*The rationale for distinguishing between the Koukoura Drive on the one hand and Patterson Drive and Cameron Street on the other is similar to the Panel's rationale with respect to the costings for interim treatments for these roads. One party owns (or is in effective control of) the land abutting both sides of Koukoura Drive. The Panel has recommended that Koukoura Drive should be constructed in the interim as a divided carriageway, effectively utilising the full width of the road reserve. It is reasonable to assume that development on both sides of*

*Koukoura Drive will occur in the shorter term, and that development on both sides of the road will need access to a shared user path.*

*Conversely, the land along each side of Patterson Drive and Cameron Street is not in single ownership. The Panel has recommended that these roads be constructed in the interim as single carriageways, and it is likely that development will occur on the eastern side of Patterson Drive (to Cameron Street) some time before development on its western side. Land on the western side needed for the second shared user path may not become available for some time. Users on the eastern side of the road will need access to a shared user path when that land develops, whereas it may be some time before the western side develops.<sup>1</sup>*

7. Accordingly, the issues relevant to the question identified as significant by the Donnybrook-Woodstock ICP panel were:
  - a) whether the land was in single ownership;
  - b) whether the interim construction of the land was as a divided carriageway; and
  - c) the likely staging of development and whether there is a need in the short term to service development on both sides.
8. Both were the case for Koukoura Drive. Accordingly, the Panel recommended a shared user path should be constructed on both sides of Koukoura Drive. Conversely, a recommendation was made that a shared user path be constructed only on one side of Patterson Drive and Cameron Street.
9. While both sides of the north-south arterial are presently within single ownership, they are not proposed to be constructed in the interim as a divided carriageway. Consistent with the reasoning of the Donnybrook-Woodstock panel, the VPA considers the ICP should fund the construction of the bike path on one side of the north-south arterial road.
10. As shared paths will be constructed on both sides of the intersections along the north-south arterial, at the mid-block section on the eastern side this will result in a situation whereby the footpath will end at the outer extent of the intersections until the ultimate construction of the north-south arterial is undertaken.

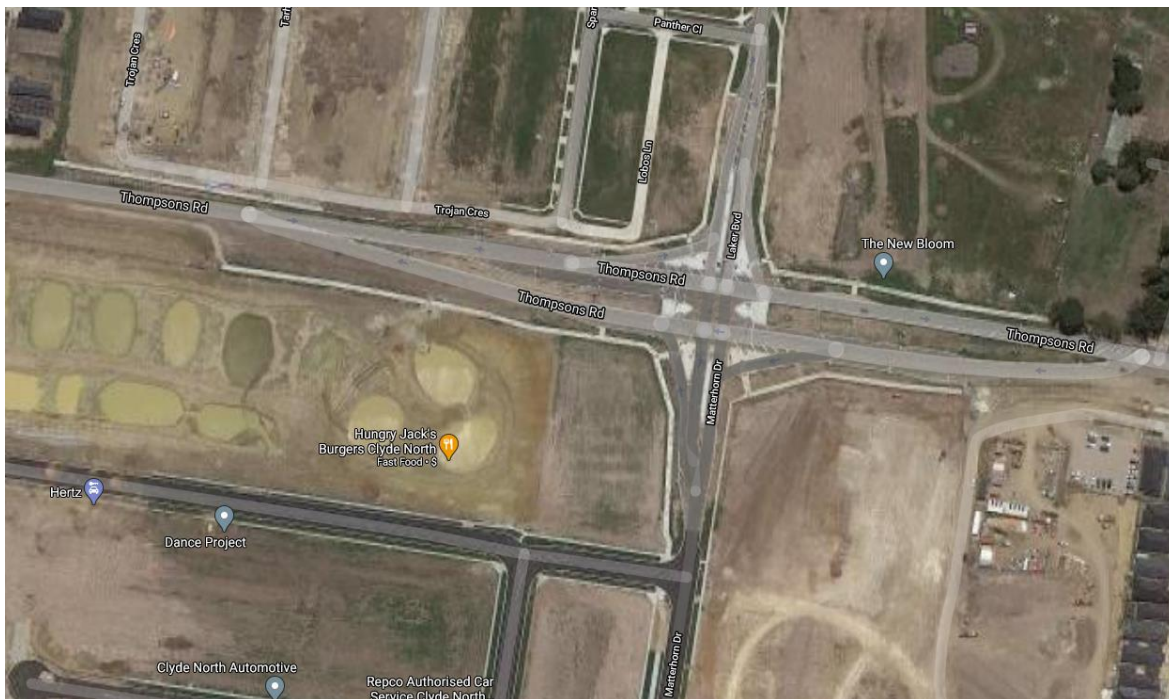
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<sup>1</sup> Mitchell and Whittlesea Planning Schemes Amendment GC102, panel report (9 December 2009), page 50-51.

11. This is standard practice and can be observed throughout growth area suburbs. For example, within the Westbrook PSP, the Ballan Road intersection with a boulevard connector:



12. And within the Thompsons Road/Clyde North PSPs within Casey, at the Thompsons Road intersection with a connector Road:



13. The addendum to the submission of Casey City Council is addressed below.

### **III. CARDINIA SHIRE COUNCIL**

14. Cardinia Shire Council made submissions to the Panel seeking contribution from the Minta Farm ICP toward construction of a section of Grices Road west of Cardinia Creek that was not included in the Clyde North DCP. Cardinia Shire Council submitted that it is not fair and equitable that the Officer South Employment ICP be required to pay for the construction of the road on both the east and west side of Cardinia Creek.
15. Cardinia Shire Council noted that while it participated in the Minta Farm PSP panel hearing, it only made a submission in regard to the employment precinct based on a misapprehension that the 'missing' section of Grices Road was in fact fully funded.
16. Cardinia Shire Council also sought confirmation that the proposed Grices Bridge over Cardinia Creek is considered State infrastructure.
17. While the VPA agrees that the future connection over the Grices Bridge including the unfunded section of road is a desirable connection that will prove beneficial for the broader community, this does not satisfy the requirement of nexus to the Minta Farm ICP area required for funding to be properly apportioned.
18. The Minta Farm ICP area can properly develop without the construction of the unfunded section of road to facilitate the bridge connection.
19. The VPA anticipates that the Grices Bridge will ultimately be funded by the State and the unfunded section of Grices Road will be properly considered at that time, though it notes no current commitment to funding has been made.

### **IV. STOCKLAND DEVELOPMENT PTY LTD**

20. Stockland's submissions to the Panel have sought the following changes and inclusions to the Amendment:
  - a) that the ICP be amended to externally apportion IN-05, in lieu of apportionment of a number of ICP items including the north-south arterial, the early delivery works financing (EDW-01) and IN-05;
  - b) that the lot cap identified in both the PSP and the UGZ be varied from 1,000 to 1,500 lots;
  - c) intersection IN-01 be redesigned in accordance with the evidence of Mr Hunt;and

d) the Option 2 versions of IN-02 and IN-03 be adopted.

21. Further, Stockland made submissions with regard to uncertainty and inequity created by the Amendment process. The VPA's response to each of these submissions is set out below.
22. Stockland also made oral submissions to the Panel to the effect that the VPA had not conducted itself through the ICP process and hearing as a model litigant – both in terms of its response to submissions and evidence presented to the Panel. The VPA rejects those submissions. The VPA has a strong and acknowledged track record of comprehensive engagement with all submitters to panels and, with particular regard to ICP planning scheme amendments, has uncommon success in positively resolving submissions. It is evident that the VPA works diligently and successfully to resolve many, if not the majority, of issues raised in submissions either prior to or during the panel hearing process.

A. UNCERTAINTY CREATED BY THE PROCESS

23. Stockland has submitted to the Panel that there has been a fundamental shift in the planning process from the time of the PSP panel to the commencement of the current process such that the Amendment will “...lead to inequitable outcomes and they will impact upon the price that lots can be delivered to end purchasers here”.<sup>2</sup>
24. The VPA appreciates Stockland may have had some uncertainty regarding the roll out of the new ICP system and how it would ultimately be applied. However, in circumstances where:
- a) the infrastructure items to be funded by the ICP were identified and the subject of rigorous debate at the panel hearing for the PSP;
  - b) participants at the PSP panel hearing, and the PSP panel, were well aware of the totality of the costs likely to be included within the ICP; and
  - c) those costs have in fact been reduced through the ICP process,
- any actual prejudice suffered by Stockland is illusory.

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<sup>2</sup> Panel Document 100, Stockland submissions, September 2020.

25. The VPA does not accept that any misapprehension as to the amount required specifically by the Supplementary Levy resulted in uncertainty in the process. In circumstances where the likely total of the cost was reflected in existing known estimates and the total hectares within the Minta Farm precinct were known – this is a calculation Stockland could readily have undertaken.
26. The only matter about which Stockland could properly claim surprise or uncertainty relates to the land equalisation amount in the ICP, which Stockland alleged in its initial submission to the Panel, was too high. The VPA realises upon its previous submission to the Panel<sup>3</sup> that, pursuant to the provisions of the Act, namely ss 21(5), 22(5), 23(5) and 25(5), Stockland is prevented from making such a submission, the VPA as planning authority is prevented from considering such a submission and referring it to Panel, and the Panel has no authority to make recommendations about any such submission.

#### B. INEQUITY BETWEEN MINTA FARM AND OTHER ICP/DCP AREAS

27. The submissions of Stockland have alleged inequity between the treatment of the Minta Farm and other ICP/DCP areas, in that Minta Farm is being asked to contribute to a level that is said to be unreasonable, based on the contribution made by other precincts.
28. The VPA does not accept that this submission is correct.
29. As Mr Shipp's analysis demonstrates, Minta Farm is not required to make a land contribution in excess of what is required in other ICP areas. The cost of infrastructure identified within the ICP is not excessive. Indeed, the benchmark comparison demonstrates the overall cost of infrastructure is comparable to benchmark costs.
30. Rather, as Mr McNeill repeated, it is because the costs are distributed over a relatively smaller area that the supplementary levy is larger than some other areas.
31. Table 4 of the Ministerial Direction expressly contemplates this situation. The criteria for including arterial roads and intersections with council and declared State arterial roads in a supplementary levy include where construction cannot be funded from the standard levy *because the area of the precinct in net developable hectares is limited*.

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<sup>3</sup> Panel Document 15, 4 March 2020.

**Table 4: Transport construction supplementary levy allowable items**

| Supplementary levy allowable item   | Criteria for applying a supplementary levy  |
|---|---|
| <p>Arterial roads</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• upgrades to existing local roads to arterial road standards; and</li> <li>• new arterial roads.</li> </ul>   | <p>At least one of the following apply:</p> <ul style="list-style-type: none"> <li>• The Precinct Structure Plan or equivalent strategic plan requires: <ul style="list-style-type: none"> <li>• arterial road spacing above the standard set out in Table 3; or</li> <li>• the interim construction of two through lanes in each direction.</li> </ul> </li> <li>• Construction costs of the council arterial road cannot be wholly or partially funded from the standard levy because: <ul style="list-style-type: none"> <li>• of the topographical, geographical, environmental or other physical conditions of the land; or</li> <li>• the road is designed to primarily service industrial development; or</li> <li>• the area of the precinct in net developable hectares is limited.</li> </ul> </li> </ul>             |
| <p>Intersections with council and declared State arterial roads</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• arterial and arterial road intersections; and</li> <li>• arterial and connector road intersections.</li> </ul> | <p>At least one of the following apply:</p> <ul style="list-style-type: none"> <li>• The Precinct Structure Plan or equivalent strategic plan requires: <ul style="list-style-type: none"> <li>• additional number of intersections above the standard set out in Table 3; or</li> <li>• intersection design requirements above the standard set out in Table 3.</li> </ul> </li> <li>• Construction costs of the intersections cannot be wholly or partially funded from the standard levy because: <ul style="list-style-type: none"> <li>• of the topographical, geographical, environmental or other physical conditions of the land; or</li> <li>• the road is designed to primarily service industrial development; or</li> <li>• the area of the precinct in net developable hectares is limited.</li> </ul> </li> </ul> |

32. This criterion applies in addition to and independent of the criterion related to distinctive physical conditions of the land which may also justify application of a supplementary levy. It is not just the hilly terrain of Sunbury that makes a supplementary levy allowable.

33. The *Infrastructure Contributions Plan Guidelines* (November 2019) (the **Guidelines**) specifically state:

*The ICP system recognises that each development context is different in terms of size, location, scale and infrastructure requirements, and so a standard levy, by itself, may not always provide enough funding to deliver the basic and essential infrastructure a community needs. It also recognises that additional infrastructure is sometimes required to unlock the growth capacity of the area.*

34. Neither the Ministerial Direction, nor the Guidelines provide any stipulation that levies should be the same or within a nominated margin of difference to ensure fairness between PSP areas.

35. Needless to say, there will be variations in levies payable across different ICP/DCP areas and some levies will sit at the higher end and others at the lower end. It is evident



from the analysis undertaken by Mr Shipp that both the monetary contribution and the land contribution are within the range of contributions which have been made in recent ICPs and neither can be described as an “outlier”.

36. Further, none of the Ministerial Direction, the Guidelines or basic principles of fairness support the notion that the order in which precincts develop should fundamentally alter their required contribution. If Minta Farm was the first precinct in the corridor to develop it certainly would require the interim construction of the north-south arterial road. The fact that the north-south arterial performs a regional role in Minta Farm is no different to the regional role of the arterial through every other PSP area in the corridor. Each other PSP area in the corridor through which the north-south arterial runs has been required to fund the construction of its first carriageway. Minta Farm is no different. The fact that Minta Farm is being developed later in the growth corridor may mean that the sequencing was not as orderly as might be preferred or that landholder interests delayed in progressing planning of their precincts, but it does not mean that Minta Farm should get a “free ride” on the road, by benefiting from the existing regional demand for the road but avoiding paying for its own dependence on the road. The reliance of Minta Farm on the north-south arterial to access the wider network and the reliance of the wider area on the north-south arterial has always been planned for. The fact that the reliance of the wider area on the north-south arterial is will be realised sooner (rather than forecast for the future) does not diminish the dependence of Minta Farm on the north-south arterial nor reduce its responsibility to pay for the use of the road by Minta Farm residents and workers.

37. The duplication of the road will be funded by the road authority. Accordingly, the ultimate construction of the north-south arterial *is* apportioned externally to Minta Farm.

#### C. APPORTIONMENT

38. It has been submitted to the Panel that where a PSP and its accompanying ICP are decoupled, this provides a new opportunity for matters which were ventilated at the PSP hearing to be reheard.

39. The VPA rejects this submission: it is contrary to a fair, orderly and economic approach to planning and it is inconsistent with the incorporation of the PSP into the planning scheme.
40. It is evident from a proper reading of the policy framework<sup>4</sup> and Precinct Structure Planning Guidelines that the role of the PSP and its associated PIP is to identify the need for infrastructure and to identify who is responsible for paying for it, that is, how its hypothetical cost should be apportioned amongst prospective payers. That is why PIPs include notes as to apportionment and/or an apportionment column referable to each item of infrastructure. By contrast, the complementary role of the ICP is to define the scope of the planned infrastructure, cost it and manage collection and reporting of payments.
41. Stockland has made submissions to the Panel that a number of items within the ICP ought properly be the subject of apportionment. These include the early works financing package, the north-south arterial and IN-05. Stockland made oral submissions to the Panel that it was not anticipating the Panel would apportion all of these items, but that apportionment was appropriately considered in each instance.
42. The VPA's submission in relation to equity and apportionment of the north-south arterial are addressed in Part IV(B) above.
43. With regard to apportionment of the financing of early works, Table 4 of the Ministerial Direction requires that the supplementary levy allowable items be '*essential to the orderly development of the area*'. The VPA submits this requirement fundamentally links the need for the supplementary levy item to the need arising from the development area and excludes the need generated by a wider area. Accordingly, any proposed apportionment of the financing of early works would not accord with the requirements of the Ministerial Direction. Further, the PSP panel made a recommendation that the PSP include provision for the financing of a supplementary levy if required to facilitate the development of Minta Farm. This finding of the PSP panel should not be revisited.
44. The VPA also does not accept the intersection IN-05 should be the subject of apportionment. IN-05 is a benchmark template design and does not include features which indicate it is more properly classified as infrastructure which should be funded

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<sup>4</sup> Clauses 11.02-2S, 11.02-3S, 11.03-2S and 19.

by the State. It is now standard practice for arterial roads in growth areas to be signalised. When the Clyde North PSP was developed, approximately ten years ago, standard practice was to incorporate roundabout treatments. The Clyde North area fully funded the land and construction of this roundabout, including some sections of road which will be retained in the second ‘interim’ design of this intersection, funded by Minta Farm. The Cardno interim design showing a signalised intersection was agreed to be appropriate at the functional design conclave (acknowledging Mr Hunt noted the retention of the existing roundabout would also be sufficient). While the design standard of the intersection is now higher than the Clyde North area was required to construct, this is not to the point. The standard of IN-05 is appropriately funded pursuant to the requirements of the Ministerial Direction and its inclusion in the ICP was supported pursuant to the functional design evidence presented to the Panel.

45. The VPA does not support any further apportionment of items identified as being fully funded by both the PSP and the exhibited ICP.
46. Matters of apportionment were properly before the PSP panel during the previous hearing and were the subject of submissions to that panel. The PSP panel report identified as one question before it in the following terms:

*Should there be apportionment of any PIP road and intersection items to Casey or Government agencies for their interim construction.<sup>5</sup>*

47. The conclusion of the PSP panel was:

*Except where already specified in the exhibited PSP, PIP items for the interim treatment of roads and intersections should not be partly apportioned to external agencies.<sup>6</sup>*

48. The VPA submits that unless there is a valid reason to depart from the findings of the PSP panel, it is not in the interest of proper and orderly planning to reargue issues which have already been the subject of debate and considered findings of a planning panel. There is no such reason here.
49. As would be expected, the scope (and associated costings) of a number of items within the ICP has been developed through the ICP process, including through the traffic and costings conclave. This evolution reflects the distinctive purpose of the ICP. But the planned infrastructure items identified in the PSP have not changed. The fundamental

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<sup>5</sup> Casey Planning Scheme Amendment C228, panel report, page 60.

<sup>6</sup> *ibid*, page 66.

assumptions regarding their utility or function have not changed. The expectations as to the users of the infrastructure items have not changed.

50. In the situation where there has been no change of circumstances relating to need or apportionment, it would be contrary to an orderly and proper process for this Panel to seek to revisit the issue of apportionment.

#### D. LOT CAP

51. Stockland made submissions to the Panel that the lot cap within the PSP and the UGZ be altered from 1,000 to 1,500 lots, though it has not identified the appropriate mechanism by which the Panel may properly make such a recommendation. Rather, Stockland has invited commentary from the Panel such that Stockland might have a stronger bargaining position with Casey City Council in future lot cap negotiations.
52. The VPA submits any such recommendation would not properly be 'about the Amendment' as required by the Act, would improperly revisit findings of the PSP panel which have already been translated into the planning scheme and should not be entertained.

#### E. INTERSECTION DESIGN

##### **Identification of intersections as 'interim' in the PSP**

53. Stockland has made submissions to the Panel that the design of the intersections included within the ICP is of a higher standard than was identified as appropriate within the PSP, as the PSP referenced the intersections as 'interim' and the ICP seeks that the connector legs of the intersections be constructed to an ultimate standard.
54. The VPA submits PSPs commonly refer to intersections as 'interim' by reference to the interim standard of construction for the arterial road leg, but that this designation typically involves an ultimate standard of construction for the connector legs of the intersection.
55. A fundamental principle of ICPs is the land and first carriageway principle for arterial road works. The ICP funds the basic and essential component which is the first carriageway and is the contribution for the use of the road by the local community (ie residents and workers of the PSP area). Duplication work (and any further upgrade) is funded by the road authority and represents the contribution for the use of the road by the wider community. Connector roads are local roads delivered by developers for

use by local residents and workers; they do not undergo a staged delivery. They are built to their ultimate standard up front as they primarily serve the local community.

56. There will be no duplication of the connector legs (in terms of additional lanes) of these intersections at a later date. Accordingly, for the connector legs, the interim design is the ultimate design.
57. At signalised intersections, the same principle applies. The arterial legs of intersections are built in stages. Typically, the first stage of the arterial legs of intersections primarily services local development, and is funded by the ICP. Subsequent upgrades are funded by road authorities and are deemed to reflect the share attributable to the wider community. The connector legs of intersections, at all stages of development, primarily service the local community. Accordingly, it is appropriate that they are fully funded by an ICP. Consequently, they would normally be delivered in their ultimate configuration up front. In regards to the connector legs of IN02, there could be agreement (between Casey City Council and developers) regarding staging their delivery. But this does not affect the funding model. The funding model does not change because of the access limitations to the east and north and the proposed density of development (which have caused the increased scale of the connector legs of the intersection).
58. Within the Plumpton & Kororoit ICP, the ICP describes construction of Intersection 4 (IN-04) Hopkins Road and East-West Road 1, to its interim standard.
59. The PIP within the PSP provides:

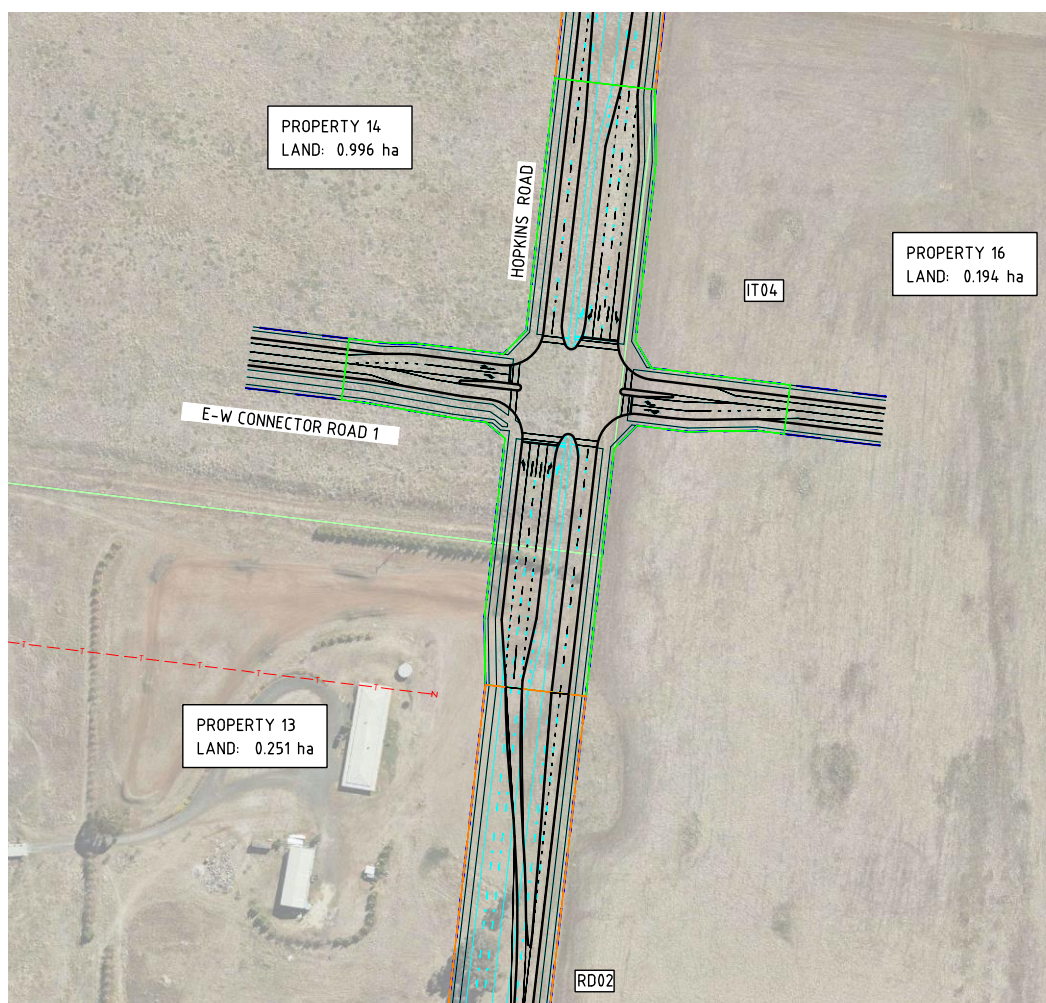
| PROJECT CATEGORY | PIP PROJECT ID | TITLE   | PROJECT DESCRIPTION  | INCLUDED IN ICP | LEAD AGENCY         | STAGING |
|------------------|----------------|---|--|-----------------|---------------------|---------|
| Intersection     | IN-03          | Intersection: North-South Road 1 and Melton Highway | Provision of land (ultimate standard - Hopkins Road only), construction of primary arterial to primary arterial signalised T intersection (interim standard) and habitat compensation obligations. | Yes             | Melton City Council | L       |
|                  |                |   | Construction of signalised T intersection (ultimate standard).   | No              | VicRoads            | L       |
| Intersection     | IN-04          | Intersection: Hopkins Road and East-West Road 1     | Provision of land (ultimate standard) and construction of primary arterial to connector road/focal road signalised 4-way intersection (interim standard).  | Yes             | Melton City Council | L       |
|                  |                |   | Construction of signalised 4-way intersection (ultimate standard).   | No              | VicRoads            | L       |
| Intersection     | IN-05          | Intersection: Hopkins Road and East-West Road 2     | Provision of land (ultimate standard) and construction of primary arterial to connector road signalised 4-way intersection (interim standard).   | Yes             | Melton City Council | L       |
|                  |                |   | Construction of signalised 4-way intersection (ultimate standard).   | No              | VicRoads            | L       |

60. The ICP provides:<sup>7</sup>

<sup>7</sup> Plumpton & Kororoit Road Infrastructure Contributions Plan, page 16.

| ICP PROJECT ID | PROJECT TITLE & DESCRIPTION  | STAGING | APPORTIONMENT TO THIS ICP | APPORTIONMENT FUNDING SOURCE | ESTIMATED COST | COST APPORTIONED TO ICP |
|----------------|--|---------|---------------------------|------------------------------|----------------|-------------------------|
| RD-13          | Taylor Road: Hopkins Road (IN-14) to Sinclairs Road (IN-15)<br>Construction of a 2-lane arterial road (interim standard) and habitat compensation obligations  | M       | 100%                      | N/A                          | \$1,189,905.14 | \$1,189,905.14          |
| RD-14          | Taylor Road: Sinclairs Road (IN-15) to Saric Court (IN-16)<br>Construction of a 2-lane arterial road (interim standard) and habitat compensation obligations   | S       | 100%                      | N/A                          | \$1,958,755.64 | \$1,958,755.64          |
| RD-15          | Taylor Road: Saric Court (IN-16) to City Vista Court (IN-17)<br>Construction of a 2-lane arterial road (interim standard) and habitat compensation obligations | S       | 100%                      | N/A                          | \$1,189,905.14 | \$1,189,905.14          |

61. The drawings associated with this intersection included within the ICP show the ultimate construction of the connector legs of the intersection and the interim construction of the arterial road legs:



62. Similarly, the Donnybrook-Woodstock ICP describes the funding of construction of intersection IN-13, Gunns Gully Road to proposed connector road, to its interim standard<sup>8</sup>, while the drawings associated with this intersection depict the interim treatment of the connector road legs as being constructed to their ‘ultimate’ standard.

<sup>8</sup> Donnybrook-Woodstock ICP, page 12.

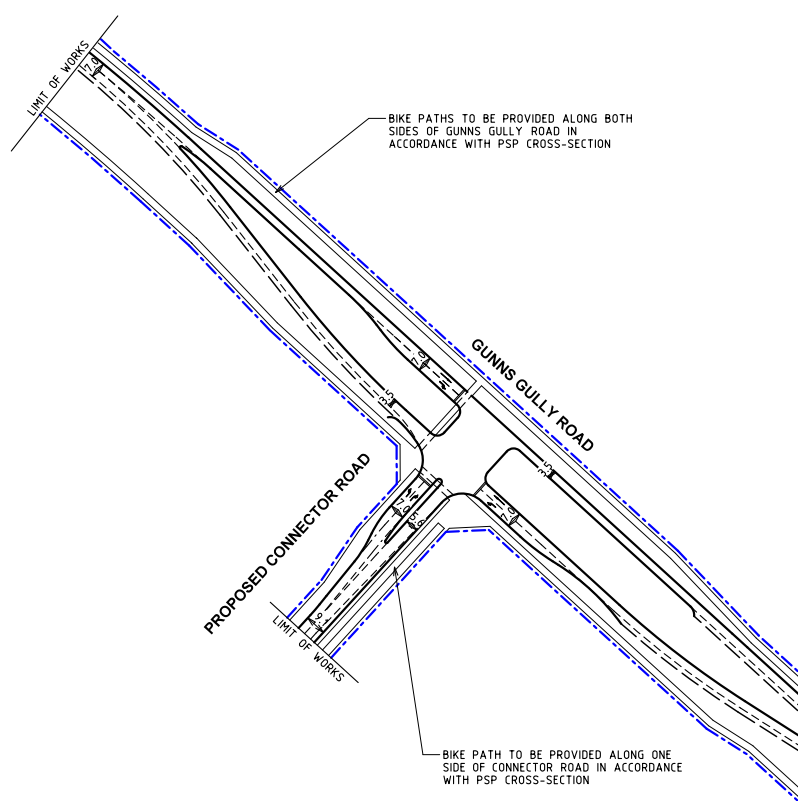


63. The PIP within the PSP provides:

| CATEGORY     | TITLE                              | DESCRIPTION  | LEAD AGENCY             | TIMING | INCLUDED IN ICP | ICP REFERENCE NO. |
|--------------|------------------------------------|--|-------------------------|--------|-----------------|-------------------|
| Intersection | Gunns Gully Road / N-S Connector 2 | Purchase of land (ultimate treatment) and construction of an arterial to connector road 3-way intersection (interim treatment) | Whittlesea City Council | M      | Yes             | IN-13             |
|              |                                    | Construction of an arterial to connector road 3-way intersection (ultimate treatment)  | VicRoads                | L      | No              | N/A               |
| Intersection | Gunns Gully Road / Patterson Drive | Purchase of land (ultimate treatment) and construction of an arterial to arterial road 4-way intersection (interim treatment)  | Whittlesea City Council | M      | Yes             | IN-14             |
|              |                                    | Construction of an arterial to arterial road 4-way intersection (ultimate treatment)   | VicRoads                | L      | No              | N/A               |
| Intersection | Gunns Gully Road / Koukoura Drive  | Purchase of land (ultimate treatment) and construction of an arterial to arterial road 4-way intersection (interim treatment)  | Whittlesea City Council | M      | Yes             | IN-15             |
|              |                                    | Construction of an arterial to arterial road 4-way intersection (ultimate treatment)   | VicRoads                | L      | No              | N/A               |

64. The ICP provides:

|       |   |             |      |     |             |             |         |
|-------|---|-------------|------|-----|-------------|-------------|---------|
| IN-14 | Construction of primary arterial to a secondary arterial road 4-way intersection (interim treatment)  | M (interim) | 100% | N/A | \$8,337,000 | \$8,337,000 | \$8,073 |
| IN-15 | <b>Intersection: Gunns Gully Road &amp; Koukoura Drive</b><br>Construction of a primary arterial to a secondary arterial road 4-way intersection (Connector road north of Gunns Gully Road) (interim treatment) | M (interim) | 100% | N/A | \$7,562,000 | \$7,562,000 | \$7,323 |
| IN-16 | <b>Intersection: Patterson Drive / Connector St (East-West Connector)</b><br>Construction of secondary arterial to connector road 3-way intersection (interim treatment)  | M (interim) | 100% | N/A | \$4,027,000 | \$4,027,000 | \$3,899 |
|       | <b>Intersection: Patterson Drive / Connector St (East-West Connector)</b>   | M           |      |     |             |             |         |



65. Further examples can be found within the Mt Atkinson and Tarneit Plains ICP (IT-06) and the Wyndham West DCP (intersections IN-10 and IN-11). The Wyndham West DCP, in a similar fashion to Minta Farm, has restricted access to the east (due to rail infrastructure), employment land on the eastern side of the arterial and a town centre to the west. While neither the employment land nor the town centre is of the scale

anticipated within Minta Farm, the connector legs designed and funded under the DCP are larger than usual to accommodate traffic flows.

66. The VPA has identified only one instance where the relevant standard of proposed construction for an intersection in a PSP is labelled as ‘ultimate’: this is within the Pakenham East PSP and relates to a connector road on fragmented land, rather than on an arterial road.
67. When the planning of the Minta Farm precinct commenced, as is common with most PSPs, template intersections were used to provide an initial intersection layout. At a meeting of VicRoads and the VPA in February 2018, it was agreed to review IN-02 and IN-03 from first principles to ensure they were fit for purpose. Accordingly, over the course of 2018 (as documented in the Traffix Group analysis referred to in the evidence of Mr Mentha), the design of these intersections moved away from a ‘template’ design. Whether template or bespoke intersections are utilised depends entirely on the circumstances of the precinct in question.

#### **The appropriate design standard for intersections IN-01, IN-02 and IN-03**

68. Stockland made submissions to the Panel that intersection IN-01 be redesigned in accordance with the evidence of Mr Hunt and that the Option 2 versions of IN-02 and IN-03 be adopted.
69. The intensity of the land uses proposed and the request from the Department of Transport that the intersections be developed from a first principles analysis, rather than a template approach, has resulted in bespoke intersections with some design elements which are beyond a template approach. This is neither unusual nor inappropriate.
70. The VPA does not propose any amendments to the ICP in this regard and relies upon its Part B submissions, and the evidence of Mr Mentha provided to the Panel.

#### **V. THE MINTA GROUP**

71. The Minta Group made submissions seeking that the Panel recommend adoption of the Option 1 plans for intersections IN-02 and IN-03. These submissions are made on the basis that the Option 1 plans cater for the demand generated by the development of land within the ICP area and are not properly regarded as ‘gold plating’. Further,



The Minta Group also identified potential inequities in the staged development of these intersections should its land ultimately be subdivided and developed by multiple parties, inefficiencies and redundancy associated with the staged development of intersections and the potential for this approach to result in scope creep. The VPA agrees with these submissions.

72. The Minta Group also made submissions in support of Stockland's request for additional apportionment of ICP items in light of what is described as the '*particularly high*' contributions of Minta Farm. For the reasons already discussed, the VPA does not consider that the contributions proposed for the Minta Farm precinct are unreasonably or unfairly high simply because they are higher than some other precincts. The costs of the infrastructure are not disproportionately high; it is only because they are distributed over a comparatively small area that the levy is higher than other recent levies, other than Sunbury. Further, in circumstances where the matter of apportionment was before the PSP panel, the totality of the costs of the infrastructure items was known to the parties and the function of the infrastructure items has not changed it would be inappropriate to revisit the findings of the PSP panel and the apportionment gazetted in the planning scheme.
73. The VPA notes the withdrawal of The Minta Group's submission with regard to GAIC liability.

## **VI. ADDITIONAL MATTERS**

### **A. THE SCOPE & COST OF CU-01**

74. The supplementary statement of Mr Charlton received the day before the start of the hearing advised that a different design of culvert for CU-01 was required by Melbourne Water , and accordingly different costs would need to be included within the ICP.
75. The VPA provided a memorandum to the Panel on 9 September 2020 outlining the steps undertaken by the VPA since receipt of the Charlton addendum, including subsequent communications with Melbourne Water in an effort to ascertain the appropriate sizing of the culvert and steps taken to cost a revised culvert sizing for inclusion in the ICP. The VPA supports the inclusion of CU-01 as part of the early delivery of works package, and notes its exclusion from the package in the exhibited ICP was in error.

76. As indicated in Table 6 Supplementary Levy Transport Construction Projects, the full cost of CU-01 under the interim carriageway should be apportioned to the ICP. Expansion of the culvert would occur in the future when the road is duplicated. There is no Development Services Scheme to support apportionment of the culvert costs to Melbourne Water. The additional culvert extension will be funded at the time of the duplication works for the north-south arterial.

77. The VPA understands the Panel will provide the submitters to the hearing an opportunity to respond to the material filed, and the VPA will have a right of reply.

#### B. FINANCING COSTS OF THE EARLY DELIVERY OF WORKS

78. During the hearing the Panel asked the VPA to address how the financing costs to be funded by the ICP comply with the Ministerial Direction, in the event that the works are to be delivered as works-in-kind rather than by the development agency.

79. The Ministerial Direction provides at Table 5:

**Table 5: Other supplementary levy allowable items**

| Supplementary levy allowable item               | Criteria for applying a supplementary levy   |
|---|--|
| Other local works, services or facilities       | <ul style="list-style-type: none"> <li>The item is essential to the development of the area;</li> <li>The item is not listed as a standard levy allowable item; and</li> <li>The Minister agrees to the item being funded from a supplementary levy.</li> </ul>  |
| Early delivery of works, services or facilities | <ul style="list-style-type: none"> <li>The early delivery of the item is essential to the orderly development of the area; and</li> <li>The financing costs are: <ul style="list-style-type: none"> <li>incurred by the development agency responsible for providing the item; and</li> <li>associated with the early delivery of the item which is listed as a standard levy allowable item or a supplementary levy allowable item; or</li> <li>associated with the early acquisition of public purpose land referred to in section 46GV(8) of the Act which is required for the early delivery of the item.</li> </ul> </li> </ul> |
| Intersections with council local roads          | The intersection is on or adjoins land in fragmented ownership.  |

80. The financing costs available within the ICP are used only if required by the development agency, in this case Casey City Council. Accordingly, if a developer delivers the works as works-in-kind those financing costs will not be used.

81. The text of the Ministerial Direction states that the costs are '*incurred by the development agency*'.

82. A question has arisen through the course of the hearing as to whether a landowner can benefit from early works financing by the development agency borrowing funds for the landowner to undertake works on its behalf.
83. The *Addendum to Written Submission for Casey City Council*<sup>9</sup>, inter alia, provided:
6. *If components of the EDW package are delivered by a land owner in the precinct, to the extent that the costs incurred in delivering the EWP are greater than the owner's overall ICP monetary liability and the credits available, Council (as development agency) will then reimburse the shortfall in cash when it is invoiced. The WTK agreement will set out a procedure for reimbursement. Note, this process excludes the Land Equalisation Payments as these are quarantined for the IPPL.*
  7. *To make those cash payments, Council will as development agency (assuming there are insufficient other funds left in the ICP account<sup>1</sup>) borrow money and pay the reimbursement amounts as per the Section 173 agreement to the owner. To be clear, for the purpose of clause 22 of Annexure 1 of the ICP Ministerial Direction, it is the development agency that must (and does) incur the financing costs, not the Owner, and Council as development agency is then reimbursed for the interest costs via the ICP EDW funding line item.*
84. The VPA accepts this approach is consistent with the text of the Ministerial Direction as presently drafted, but has reservations about whether this approach accords with the intent that the costs are incurred by the development agency in association with the early delivery of an item. It will be appropriate for the VPA to review practice in relation to early works financing as an allowable supplementary item and consider adjustments to the text of the Ministerial Direction as necessary in the future.
85. To the extent that financing costs for the early delivery of works within the ICP may not be required, the VPA considers it is appropriate any such funds not required are not collected from landowners within the ICP area. To the extent that those funds have already been collected, the VPA considers it appropriate that those funds be reimbursed. The VPA understands these funds would typically be reimbursed by the collecting agency simply reducing the future ICP liability to the extent required.
86. The VPA considers the wording of the 'switch off' provision as identified in the Part B submission appropriately allows for this circumstance. The VPA records its agreement with the further adjustment to the 'switch off' provision recorded in the Casey City Council submission in reply.

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<sup>9</sup> Panel Document 89.

87. The VPA notes the section 173 Agreement tabled by Casey City Council shows that Stockland has not yet paid any supplementary levies. If a works-in-kind agreement was finalised prior to the collection of such levies, one presumes Stockland would never pay the levies associated with the financing costs of early delivery of works. Accordingly, no reimbursement is or will be required.
88. Stockland made additional submissions to the Panel to the effect that the totality of the early delivery of works package will never be required as:
- a) Casey City Council has already collected some levies, so it already has some funding for the early delivery of works package; and
  - b) Stockland is anticipating full development significantly earlier than 2040, being the life of the ICP, and accordingly the financing will not be required over the totality of this time.
89. As noted, pursuant to the section 173 Agreement it does not appear that Stockland has in fact paid supplementary levies. Further, while the anticipated timeframe of development may be reduced in the future, it is appropriate that the ICP accommodate a situation in which this circumstance does not eventuate. As the proposed 'switch off' provision accommodates circumstances in which the early delivery of works funds are not required, the VPA does not consider any further changes are required in response to these submissions.

C. DEPARTMENT OF TRANSPORT SUBMISSION TO THE PANEL

90. The ultimate design for IN-01 adopted the *Austroads Guide to Road Design and Austroads Design Vehicles*, which requires two lanes be dedicated to truck movements. Traffix Group in its design ran swept paths for a 19 metre long semi-trailer from east to south in conjunction with B99 vehicles, in accordance with 2016 design standards.
91. On 3 September 2020, the Department of Transport (**DoT**) wrote to the VPA noting that the design vehicle for Arterial Road to Arterial Road should be a PBS-Level 2 vehicle (26m long semi-trailer), in accordance with updated design standards introduced in July 2019.
92. The VPA commissioned Traffix Group to redesign the three east to south turning lanes to accommodate a PBS-level 2 vehicle turning in each three lanes.

93. On 9 September 2020, DoT made a submission to the Panel<sup>10</sup> in addition to DoT's written submission regarding the Amendment. It said:

2. *...As part of the finalisation of this submission it has come to DoT's attention that there is a potential minor misinterpretation of the required design vehicles for IN01, being the east to south left turn slip lane within the ultimate design plans. DoT are reviewing these requirements in partnership with the VPA and will provide the Panel with an update as soon as possible.*

...

9. *The Department has reviewed a revised ultimate functional intersection design plan for IN01 prepared by the VPA (Figures 3 and 4) which has sought to address this issue, noting that the vehicles used in undertaking the turns are in compliance with the required vehicle types for PBS Level 2 vehicles demonstrating that adequate swept paths can be accommodated.*

10. *It is noted that the revised ultimate functional plan (Figure 4) does not account for any land required to provide for the batters to support the design. DoT understand that any additional land to provide the battering will be in general accordance with the evidence provided by Cardno. Any calculations when considering the total amount of additional land required, will need to be incorporated into the detailed design plan.*

94. To accommodate the revised design, additional land of approximately 116 square metres in area is required to be set aside for the ultimate land take in the south eastern corner of IN-01.

95. It is noted PAO3 is required to be amended to accommodate a number of changes proposed throughout the conclave and Panel process.

96. The VPA requests a recommendation from the Panel that the exhibited PAO3 map be updated to reflect:

- the Stockland approved plans for the southern end of the ICP area;
- the realignment of the north-south arterial in accordance with the One Mile Grid plans in the northern end of the ICP area;
- the land required for batters associated with IN-01;
- the ultimate land required for the slip lane in the north-east corner of IN-02;
- and
- the updated land take for IN-01 as identified in the corrected DoT vehicle specifications.

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<sup>10</sup> Panel Document 104.

## **VII. FURTHER CHANGES TO THE ICP AND AMENDMENT**

97. The VPA has identified changes to the ICP in response to submissions, conclaves and evidence and submissions to this Panel. The changes are identified in the table and plans attached to this submission and in a track change version of the exhibited ICP which identifies agreed changes and further changes which have arisen during the course of the Amendment process.

## **VIII. CONCLUSION**

98. The ICP is supported by robust background and strategic work and the VPA respectfully requests that it be recommended for adoption by the Panel.

**Susan Brennan**

**Carly Robertson**

**Counsel for the Planning Authority**

**11 September 2020**