

# Beveridge North West Infrastructure Contributions Plan – Amendment C161

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**Expert Evidence Report, Chris De Silva Executive Director, Mesh Planning**

Victorian Planning Authority

**April 2022**



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Client	Victorian Planning Authority
Project	Beveridge North West Infrastructure Contributions Plan – Amendment C161
Version	1.0
Prepared By	Chris De Silva
Reviewed By	[Name Here]
Date	April 2022

## Acknowledgement

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## **1. EXPERT STATEMENT**

### **1.1 Name & Address**

1. Chris De Silva, Executive Director, Mesh, Level 2, 299 Clarendon Street, South Melbourne, VIC 3205.

### **1.2 Qualifications and Experience**

2. I hold a Bachelor of Applied Science (Planning) (Honours) from RMIT University. I have worked as a strategic planner, principally in the field of metropolitan and regional growth area planning for approximately 32 years.

A CV is included at Appendix 1.

### **1.3 Area of Expertise**

3. I have a broad range of experience in strategic planning and development matters (including preparation of numerous precinct structure plans and infrastructure funding plans of various types).
4. I started my career in a planning consultancy and thereafter was employed by the City of Whittlesea over an extended period (approximately 20 years). At the City of Whittlesea, I occupied various positions including Manager Strategic Planning and Director Planning and Development. After leaving Council I occupied a specialist strategic planning role in a privately-owned development company for a year.
5. I established Mesh in 2009 and have since occupied the position of Executive Director and owner/joint owner of the company.
6. Mesh acts for a combination of public and private sector clients on a broad range of metropolitan and regional and growth area projects, infill redevelopment projects, urban design of all scales and infrastructure funding frameworks including preparation and implementation of Development Contributions Plans (DCPs) and Infrastructure Contributions Plans (ICPs).
7. I was a member of the Standard Development Contributions Advisory Committee (SDCAC) that was appointed by the then Minister for Planning in 2011/12. Since being a member of the SDCAC, my company has provided on-going advice and support to Government to implement the Infrastructure Contributions Plan (ICP) system.
8. I have been responsible for provision of advice to Local Government to assist with preparation and implementation of municipal development contributions plans including appearances as an expert witness in relation to the Yarra and Maribyrnong municipal DCPs.
9. I was appointed as a member of the three-person Ministerial Advisory Committee that was appointed by the current Minister for Planning and the Treasurer to review the entire infrastructure contributions system across the State of Victoria.

### **1.4 Other Contributors**

10. This evidence statement has been prepared by Chris De Silva with no other assistance.

### **1.5 Instructions for scope of work**

11. I have been engaged by Harwood Andrews and I have been requested to:

- > Review the exhibited amendment and background materials (as relevant); and
- > Prepare an expert witness statement.

In preparing my expert witness statement, I have been specifically requested to address the following issues:

- Is the proposed ICP appropriate having regard to the relevant provisions of the Planning and Environment Act 1987 and the Ministerial Direction on The Preparation and Content of Infrastructure Contributions Plans?
- Assuming a quarry were established in WA1473, is it appropriate to levy contributions against:
  - the quarry?
  - The ultimate development of the WA1473 pursuant to the PSP?

Finally, I have been requested to provide my views on the issues that have been raised in submissions, as relevant to my area of expertise.

## **1.6 Completion of tests or experiments upon which the expert has relied**

12. No additional test or experiments have been completed.

## **1.7 Declaration**

In giving my evidence, I confirm that:

13. I will be alone in the room from which I am giving evidence and will not make or receive any communication with another person while giving my evidence except with the express leave of the Advisory Committee;
14. I will inform the Advisory Committee immediately should another person enter the room from which I am giving evidence;
15. During breaks in evidence, when under cross-examination, I will not discuss my evidence with any other person, except with the leave of the Advisory Committee;
16. I will not have before me any document, other than my expert witness statement and documents referred to therein, or any other document which the Advisory Committee expressly permits me to view; and,
17. I have made all enquires I believe are desirable and appropriate and confirm that no matters of significance, which I regard as relevant, have to my knowledge been withheld from the Advisory Committee.



Chris De Silva  
Executive Director

## 2. SUMMARY OF OPINION

18. Concurrent exhibition of Amendment C161 with Amendment C158 is considered to be a significant improvement over the previous Amendment (C106) which did not include an Infrastructure Contributions Plan (ICP).
19. I am of the opinion that the Beveridge North West Infrastructure Contributions Plan (proposed ICP) is appropriate having regard to the relevant provisions of the Planning and Environment Act 1987 and the Ministerial Direction on The Preparation of Content of Infrastructure Plans (and more specifically the requirements of section 46GI) save for:
  - Inability to identify the updated land contribution percentage for each parcel of land in the ICP plan area (46GI (1)(f));
  - Inability to identify the land credit amount or land equalisation amount in respect of each parcel of land in the ICP plan area (46GI (1)(i)); and
  - the manner in which the proposed ICP deals with the potential for part of the land to be used for a quarry.
20. Further transparency could have been provided in relation to the updated land contribution percentage for each parcel of land (as Table 11 does not appear to have been updated) and the land credit amount or land equalisation amount for each parcel however it is acknowledged that the land valuation process, notification requirements and dispute resolution are subject of separate defined procedures under Division 4 of Part 3AB of the Act and as such are not before the Committee.
21. Notwithstanding the inability to identify the updated land contribution percentage for each land parcel, it is noted that the ICP land contribution percentage of 14.1% compares favourably with other ICP examples when typical active and passive open space percentages of approximately 10-12% are taken into account.
22. With regard to the potential quarry, taking into account the scale of the impacted area, my opinion with regard to the relationship between the potential quarry and the proposed ICP is as follows:
  - Any recommendation (and subsequent decision) to support issue of a planning permit for the quarry will have land use and associated infrastructure funding and delivery implications that must be actively taken into account, that is to say that the exhibited documents cannot remain silent on the matter;
  - If the land that is impacted by the quarry and its associated buffers will be unable to be developed for a period of 30 years this should be made explicit in the PSP and such land should be excluded from the ICP (and possibly from the PSP subject to the views of other experts) as the proposed ICP is intended to operate for approximately 30 years;
  - In excluding the impacted land from the proposed ICP, the following steps are recommended to be undertaken:
    - Assess the relationship between the revenue potential of the impacted area and the value of the public purpose land and infrastructure projects that are located within or which serve the impacted area – if there is a mismatch then there may be a need to review infrastructure priorities and funding potential within the unaffected balance area and/or consideration of potential responsibility for a funding gap;
    - Assess whether there is a need and funding potential to secure land for the northern active open space reserve and the indoor recreation land in its entirety during the first 30

years (accepting that it may have limited use whilst the quarry is operating) which may necessitate a review of public land priorities;

- Review whether the balance of the transport network can function without the northern part of the eastern north-south road connection (RD-04) – if it determined that the network cannot function satisfactorily during the first 30 years without the connection I recommend inclusion of the cost of finance (excluding unnecessary intersections) within the proposed ICP be considered to enable the link to be delivered (provided that the road can be constructed within the blast zone or sensitive use buffer noting comments from the VPA about possible realignment of the link to the west);
23. If a planning permit is not issued for the quarry then no changes to the proposed ICP would be required however there may be some changes required to the PSP.
24. I do not consider that it would be appropriate to levy contributions against the quarry as there is no nexus between the quarry use and the planned infrastructure.
25. I support levying the ultimate development of the quarry land (if it is suitable for urban development purposes) and the associated buffer land but not via the proposed ICP if such land cannot be developed until cessation of the quarry use approximately 30 years into the future.
26. It is understood from the background material that the reason for the imposition of the Supplementary Levy is associated with the presence of sodic/dispersive soils that are prone to erosion which have an impact on construction costs.
27. Imposition of a Supplementary Levy is appropriate having regard to the test that is set out in paragraph 17 of the Ministerial Direction however a transparent explanation of the basis for imposition of the Supplementary Levy is not contained within the PSP or the proposed ICP nor is the presence of sodic soils defined as a key precinct influence.

Taking into account this summary of opinion, it is recommended that:

- A transparent explanation of the need for imposition of a Supplementary Levy be included within the BNWICP and that the presence of sodic/dispersive soils be referenced in the PSP as an important site condition that will require active management throughout the development process.
  - The explanatory material should confirm that the impact of the presence of sodic soils (in terms of increased construction costs) is not solely related to those projects that are proposed to be funded via the Supplementary Levy.
  - A deliberate decision be made in relation to the quarry which takes into account the land use and infrastructure funding and delivery implications and the recommendations that are contained in paragraph 22 above if the quarry is supported.
28. The following detailed matters are reviewed:
- Plan 02 – RD-04 is broken into five segments but the corresponding table only has one project cost – clarification is required to confirm whether the project cost is correct;
  - Table 4 specifies the NDA and the Contribution Land and confirms that the monetary component is payable on the NDA and the land component is calculated based on the contribution land. Whilst it is acknowledged that 'contribution land' is defined in the proposed ICP, inclusion of a reference to Table 17 which defines the NDA and the contribution land for each land parcel would be useful;
  - Table 7 – the entries under the second, fourth, fifth and sixth columns appear to be in error for the community building projects;

- Table 8 – the infrastructure project descriptions refer to a land and construction component – it is recommended that the project descriptions be modified to refer to the land component only – for example ‘Provision of land to enable construction of 34m wide road reserve’;
- Table 8 – the entries from IN02-IN13 inclusive are construction projects rather than land projects and appear to be in error;
- Page 22 – the paragraph in relation to ‘Open Space Contributions’ may warrant review within the context of the table above (Table 8) which identifies all categories of public land – i.e. the reference to ‘Public Open Space Contributions’ specifically may lack relevance; and
- Page 23 – notes that 35.44 hectares of inner public purpose land is to be equalised across all parcels however this figure does not match that in Table 10, which identifies 36.6 hectares of inner public purpose land is to be provided over the ICP land contribution percentage; and
- Table 11 – the purpose of Table 11 is understood however: -
  - the data in the table does not appear to have been updated to reflect the ICP land contribution of 14.01%;
  - column 4 is providing the ICP land contribution percentage of 14.01% in hectares i.e. it is showing the land contribution liability for each parcel which is used to determine whether a land credit amount or land equalisation amount is payable. It is recommended that the column heading be updated to read “ICP Land Contribution Percentage 14.01% (in hectares)” to provide further clarity; and
- column 9 appears to provide the actual parcel contribution percentage (based on the hectares calculated in column 8) however the values are not represented as percentages and the word “hectares” should be removed from the column heading. Page 26 – typographical error in section 5.4 as the last sentence does not identify the relevant Table numbers.

### 3. SUMMARY OF AMENDMENT

29. The primary purpose of Amendment C161 to the Mitchell Planning Scheme is to incorporate the ‘*Beveridge North West Infrastructure Contributions Plan, November 2021*’, updated to April 2022 (proposed ICP) into the Planning Scheme via an amendment to the Schedule to clause 72.04.
30. The Proposed ICP applies to land affected by the Beveridge North West Precinct Structure Plan (PSP).
31. More specifically, the proposed Amendment proposes to make the following changes to the Planning Scheme:
  - insert Clause 45.11 - Infrastructure Contributions Overlay; and
  - insert Schedule 3 (ICO3) into Clause 45.11 - Infrastructure Contributions Overlay.
32. It is also important to note that the associated Amendment (Amendment C158) proposes to make a number of additional changes to the Planning Scheme.
33. Those changes are summarised on pages 11 and 12 (section 2.4.1) of the VPA Part A submission.

#### 3.1 Summary of Beveridge North West Infrastructure Contributions Plan

34. The infrastructure contributions plan includes a **Monetary Component** and a **Land Component**.
35. The Monetary Component is comprised of a standard levy and a supplementary levy which total a levy rate of \$294,645/ha – (see Table 1 below) that will fund a total of \$226,551,037 of infrastructure costs.



**Table 1 Monetary Component ICP Levy Summary**

CLASS OF DEVELOPMENT	NET DEVELOPABLE AREA (HECTARES)	LEVY RATE	LEVY TO BE PAID
<b>STANDARD LEVY</b>			
<u>Residential Development</u> <small>Residential Development</small>	<u>768.89</u> <del>703.22</del>	<u>\$216,564</u> <del>\$216,564</del>	<u>\$166,514,825</u> <del>\$171,783,082</del>
<u>Subtotal</u> <small>Subtotal</small>	<u>768.89</u> <del>703.22</del>		<u>\$166,514,825</u> <del>\$171,783,082</del>
<b>SUPPLEMENTARY LEVY</b>			
<u>Residential Development</u> <small>Residential Development</small>	<u>768.89</u> <del>703.22</del>	<u>\$78,081</u> <del>\$60,065</del>	<u>\$60,036,212</u> <del>\$54,783,002</del>
<u>Subtotal</u> <small>Subtotal</small>	<u>768.89</u> <del>703.22</del>	-	<u>\$60,036,212</u> <del>\$54,783,002</del>
<b>TOTAL LEVY</b>			
<u>Residential Development</u> <small>Residential Development</small>	<u>768.89</u> <del>703.22</del>	<u>\$294,645</u> <del>\$285,629</del>	<u>\$226,551,037</u> <del>\$226,566,084</del>
<u>Total</u> <small>Total</small>	<u>768.89</u> <del>703.22</del>	-	<u>\$226,551,037</u> <del>\$226,566,084</del>

36. The Standard Levy rate of **\$216,564.00/NDHa** is comprised of a Community and Recreation Construction component of **\$92,194.00/NDHa** and a Transport Construction Component of **\$124,370.00/NDHa** and the Supplementary Levy for Transport Construction is **\$78,081.00/NDHa** which results in a total monetary levy of **\$294,645.00/NDHa**.
37. The Land Component includes a residential ICP land contribution percentage of **14.01%** and a commercial and industrial ICP land contribution percentage of 0.00%.
38. Table 3 of the ICP specifies for each parcel of land in the ICP plan area:
  - The area of inner public purpose land to be provided by the parcel; and
  - Land credit amount for the land equalisation amount in relation to the parcel.
39. Whilst the land areas are specified in Table 3, it is noted that the land credits and land equalisation amounts – total \$'s and \$'s per NDHa are yet to be completed pending preparation of land valuations that are intended to be prepared following completion of the Advisory Committee process.
40. With regard to the supplementary levy, a total of **\$60,036,212** of infrastructure is proposed to be funded via the supplementary levy at a rate of **\$78,081/NDHa**.
41. The need for the supplementary levy is specifically associated with the presence of sodic soils within the precinct which have the impact of increasing the construction costs of the transport projects.
42. The ICP proposes to fund the following infrastructure:
  - 5 community construction projects
  - 4 open space construction projects
  - 7 road projects
  - 15 intersection projects (including two pedestrian crossings)

- 5 culvert and bridge projects
  - 20 transport inner public purpose land projects
  - 32 community and recreation inner public purpose land projects
43. Whilst most projects are intended to be fully funded by the Infrastructure Contributions Plan, there are two categories of projects where external apportionment applies.
44. The first category is where a proportion of external apportionment applies as a result of the same project being part funded by another ICP (typically an abutting ICP for transport projects) and the second category is where the funding capacity of the standard levy (transport component) has been exceeded and the balance of the cost of the project has been allocated to the Supplementary Levy.
45. In this context, it is important to note that each of the transport construction projects include an allowance for additional costs associated with the presence of the sodic soils. This allowance has been included for each of the projects that are included within the standard levy (up to its funding potential) and the balance of the project costs that could not be funded within the Standard Levy have been included within the Supplementary Levy.
46. An alternative would have been to include the entirety of the additional costs associated with the presence of the sodic soils as a single project to be funded via the Supplementary Levy however the impact of that approach would have been reduced transparency in the detailed project sheets and potential difficulties associated with management of works in kind. It is also noted that this approach was not supported in other Panels.
47. A detailed list of the Standard Levy projects and the Supplementary Levy Projects are included in section 8.3 of the VPA Part A submission.
48. In relation to timeframe, section 2.4 of the proposed ICP states that *'the ICP commences on the date of incorporation into the Mitchell Planning Scheme'* and that *'this ICP will end when development within the ICP area is complete, which is projected to be 30 years after gazettal, or when this ICP is removed from the Mitchell Planning Scheme'*.<sup>1</sup>

### 3.2 Strategic Justification

49. Strategic justification for preparation of the proposed ICP is contained within the Beveridge North West Precinct Structure Plan.
50. According to the ICP, at section 2.3,

*This ICP has been prepared in conjunction with the Beveridge North West PSP.*

*The Beveridge North West PSP sets out the vision for how land should be developed, illustrates the future urban structure and describes the outcomes to be achieved by the future development. The PSP also identifies the infrastructure projects required as well as providing the rationale and justification for the infrastructure items. The background reports for the PSP provide an overview of the planning process for the Beveridge North West ICP area.*

*The PSP has confirmed:*

- *All road, intersection and bridge projects required to service the new community.*
- *The sporting reserves, local parks, schools and community facilities required to service the new community;*

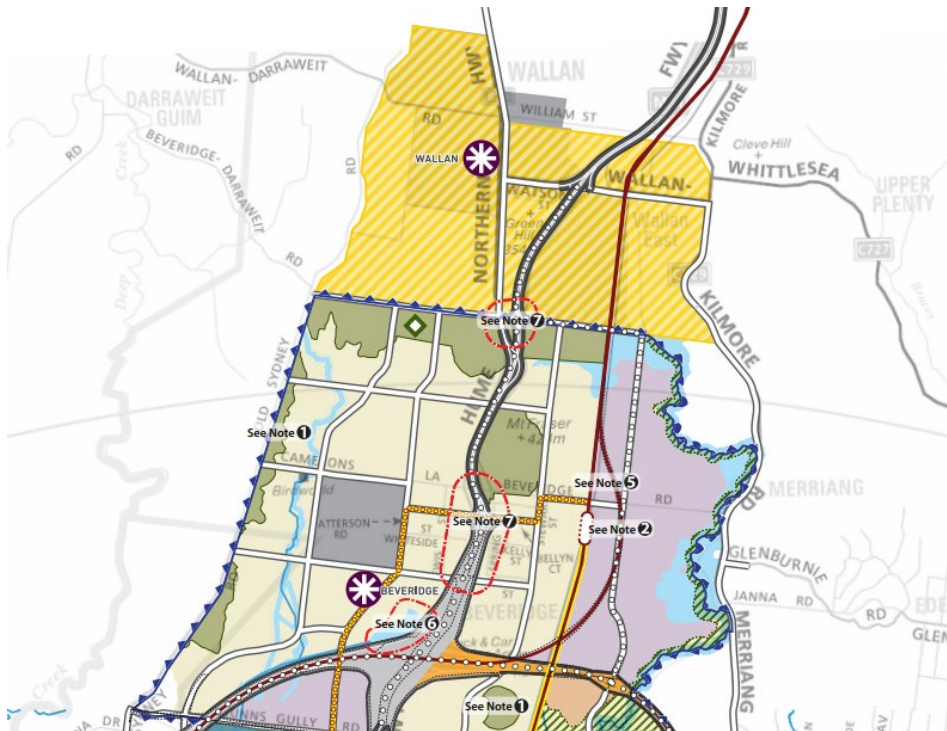
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<sup>1</sup> Beveridge North West Infrastructure Contributions Plan , April 2022, pg 7

- *The public purpose land required for the above; and*
  - *The parcel specific land budget detailing the encumbrances, the net developable area (NDA) and the contributions land.*
51. It is important to acknowledge that there is a direct relationship between the PSP and the proposed ICP and that the physical or other strategic planning considerations that have influenced the PSP are also likely to have some influence on the infrastructure planning and delivery.
52. In this context, it is relevant to note that (as set out in part 1 of the PSP at page 5) the PSP has been informed by:
- *Plan Melbourne – Metropolitan Planning Strategy, May 2017*
  - *The State Planning Policy Framework as set out in the Mitchell Planning Scheme*
  - *The Growth Corridor Plans Managing Melbourne's Growth (Growth Areas Authority, June 2012)*
  - *The Local Planning Policy Framework as set out in the Mitchell Shire Planning Scheme*
  - *The Biodiversity Conservation Strategy and Sub Regional Species Strategies for Melbourne's Growth Areas (Department of Environment and Primary Industries, June 2013)*
  - *The Precinct Structure Planning Guidelines.*
53. A comprehensive list of background documents is also set out in Section 2.6 of the VPA Part A submission – these include infrastructure needs assessments and costings.
54. Preparation of the PSP has also been influenced by the passage of the previous Amendment (C106) and the associated Panel Report and the current acknowledgement that *'the precinct may develop in conjunction with a time restricted quarry at WA1473'*<sup>2</sup>.
55. The potential for the precinct to develop in conjunction with a time restricted quarry is an important condition that has implications for the proposed ICP that will be discussed in later parts of this statement however there are also other important influences on infrastructure planning that arise from a combination of the influences of the documents that are set out in paragraph 43 above and the site conditions.
56. Part 4 of the VPA Part A submission sets out information in relation to the role and status of the Plan Melbourne and the North Growth Corridor Plan.
57. Specifically in relation to the North Growth Corridor Plan, the 'structural conditions' that have influenced preparation of the PSP and in turn the proposed ICP include (see extract of North Growth Corridor Plan below):
- North-south transport connectivity in the form of two parallel, high order road links (with some recognition that the alignment of the western link will be influenced by the topography and the Kalkallo Creek);
  - East-west transport connectivity across the northern third of the PSP area and via Camerons Lane;
  - Potential intersections at Hatfield Drive and at Camerons Lane (subject to more detailed design);
  - A regional Active Open Space Reserve (under investigation); and
  - Some land with landscape value.

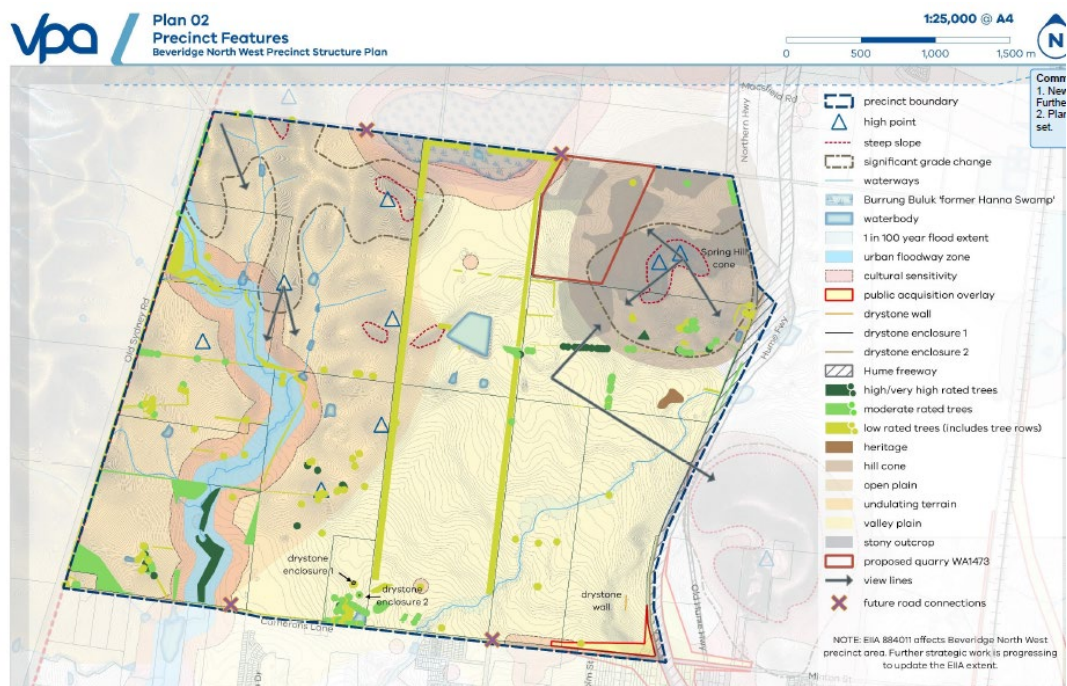
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<sup>2</sup> Beveridge North West Precinct Structure Plan , April 2022, pg 5



Source: Extract from North Growth Corridor Plan

58. The VPA Part A report also details some of the relevant site features at section 2.3.
59. The key features are described as being (see Precinct Features Plan following):
- The Kalkallo Creek
  - Spring Hill cone and the dispersed valleys
  - Steep rises in the north-west corner; and
  - Areas of cultural heritage importance including the historic swamp area (now referred to as Burrung Buluk).



60. The significant influence of the topography is also shown in the PSP in Plan 05 – Image, Character and Housing, Plan 06 – Slope and Landform and Plan 08 – Bushfire Hazard Areas.
61. Whilst not specifically referenced in the PSP in Plan 02 or elsewhere (other than in relation to integrated water management – section 3.6.1) as an important precinct feature, it is noted that the presence of sodic/dispersive soils that may be prone to erosion was a matter of submission and recommendation in the Amendment C106 Panel Report.
62. It is for others to demonstrate whether the recommendations of the Amendment C106 Panel Report have been appropriately carried forward from a general planning and implementation perspective for soil management and drainage design and construction, however it is my understanding that the presence of the sodic soils has also impacted on the costings of each of the infrastructure projects.
63. The impact of the presence of sodic soils and the need for active management of erosion risk is a condition that is specific to this growth area that warrants recognition as a key precinct feature that will not only influence the design and construction of infrastructure but is also the strategic justification for introduction of a supplementary levy.
64. An obvious example of the relationship between the key site features and construction standards and associated costs is the western north-south road connection through the precinct, the alignment of which has been heavily influenced by the landform and proximity to the Kalkallo Creek.
65. Due to the strategic relationship between the presence of sodic soils, the specific implementation requirements (preparation of erosion management plans) and the need or justification for a supplementary levy, it is considered important for the PSP to recognise the presence of sodic soils as a key site feature and to recognise its presence as justification for increased construction costs.
66. It is noted that there is also a positive precinct feature which does not appear to be recognised in the PSP or the proposed ICP.
67. The positive precinct feature is consolidated land ownership.
68. The presence of consolidated landownership is a key strategic advantage which is likely to increase the likelihood of works in kind as a preferred method of infrastructure delivery which in turn will ease complexity in administration of the proposed ICP.
69. The other precinct feature which has a relationship to infrastructure planning, funding and delivery is the potential quarry and its associated buffers.
70. The impact of the potential quarry and its associated buffers will be discussed in a later section of this statement.

#### **4. LEGISLATIVE FRAMEWORK FOR INFRASTRUCTURE CONTRIBUTIONS**

71. Part 3AB of the Planning and Environment Act 1987 (the Act) (Divisions 1-8) establish the ability to prepare and implement an infrastructure contributions plan, specific procedures that must be adopted and the roles and responsibilities of the collecting and development agencies, amongst other matters.
72. Section 46GI of the Act sets out in detail the contents of infrastructure contributions plans.
73. Part 3 AB of the Act is also accompanied by A Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans and Ministerial Reporting Requirements for Infrastructure Contributions Plans (1 July 2018).



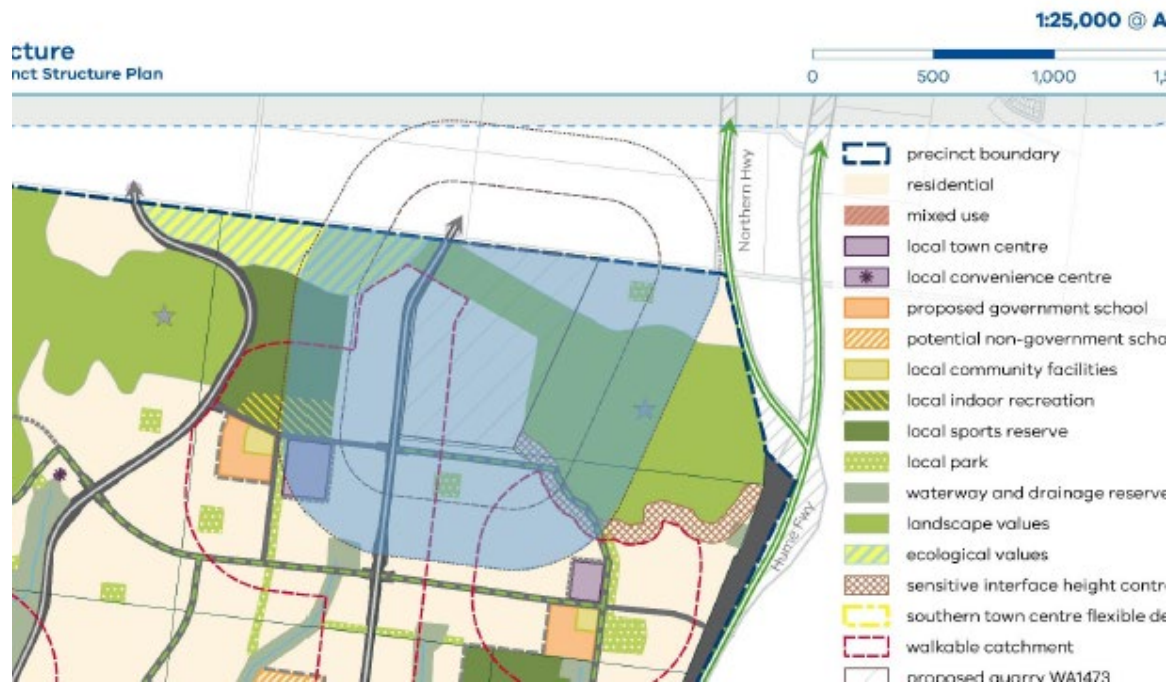
74. Annexure 1 to the Ministerial Direction relates specifically to Metropolitan Greenfield Growth Areas and specifies the standard levy amounts and allowable items and provides detailed guidance on the method for calculating land equalisation amounts, land credit amounts and a range of other matters (*see Attachment 2*).
75. The Act and the Ministerial Direction are also accompanied by Infrastructure Contributions Plan Guidelines, 2019 that were prepared by the Department of Environment, Land, Water and Planning (DELWP) (updated 2021).
76. I have reviewed the proposed Beveridge North West Infrastructure Contributions Plan, April 2022 (proposed ICP) against the requirements of the Act, and in particular section 46GI.
77. My findings are as follows:
78. The form and content of the April 2022 version of the proposed ICP is consistent with the requirements of Section 46GI, save for:
- Inability to identify the updated public land contribution percentage for each parcel of land in the ICP plan area (46GI (1)(f));
  - Inability to identify the land credit amount or land equalisation amount in respect of each parcel of land in the ICP plan area (46GI (1)(i))
79. With regard to the first and second bullet points above it is noted that the April 2022 version of the proposed ICP includes the Tables 3 and 11 that are intended to provide the necessary information however the entries in Table 3 are blank noting that it is intended to prepare the necessary land valuations 'following completion of the MAC process'.
80. It is acknowledged that the land valuation process, notification requirements and dispute resolution are subject of separate defined procedures under Division 4 of Part 3AB of the Act and as such are not before the Committee.
81. Calculation of the updated ICP land contribution percentage is helpful information to gain an understanding of whether each of the land parcels are under or over contributors of public purpose land.
82. If this information is available, it may be appropriate for the VPA to provide the updated Table 11 during the course of the hearing noting that land valuation information will not be available.
83. Notwithstanding the inability to identify the updated public land contribution percentage for each land parcel, it is noted that the ICP land contribution of 14.1% compares favourably with other ICP examples when typical active and passive open space percentages of approximately 10-12% are taken into account.
84. It is also important to acknowledge that concurrent exhibition and assessment of the current Amendment (C161) including the proposed ICP is considered to be a significant improvement over the previous Amendment (C106) which did not include an Infrastructure Contributions Plan.
85. The next finding is in relation to the proposal to apply a Supplementary Levy.
86. Whilst Section 46GI of the Act does not specify procedures in relation to Supplementary Levies, part 17 of the Ministerial Direction specifies that the planning authority must consider a number of matters in deciding whether to impose a supplementary levy.
87. One such matter is justification in terms of whether 'the land has particular topographical, geographical, environmental or other physical constraints or conditions that significantly affect the estimated cost of allowable items to be funded through the infrastructure contributions plan'.
88. Active consideration of the matters that are set out in part 17 of the Ministerial Direction implies that some form of justification for imposition of a Supplementary Levy should be set out transparently within the PSP and/or the ICP.

89. It is understood from the background material that the reason for the imposition of the Supplementary Levy is associated with the presence of sodic/dispersive soils that are prone to erosion which have an impact on construction costs, which is appropriate having regard to the test that is set out in paragraph 87 above, a transparent explanation of the basis for imposition of the Supplementary Levy is not contained within the PSP or the proposed ICP nor is the presence of sodic soils defined as a key precinct influence.
90. It is recommended that a transparent explanation of the need for imposition of a Supplementary Levy be included within the proposed ICP and that the presence of sodic/dispersive soils be referenced in the PSP as an important site condition that will require active management throughout the development process.
91. This explanatory material should also confirm that the impact of the presence of sodic soils (in terms of increased construction costs) is not solely related to those projects that are proposed to be funded via the Supplementary Levy.
92. Beyond compliance with the relevant provisions that are contained with the Act and the Ministerial Direction, the following formatting and other issues are noted:
  - Plan 02 – RD-04 is broken into five segments but the corresponding table only has one project cost – clarification is required to confirm whether the project cost is correct;
  - Table 4 specifies the NDA and the Contribution Land and confirms that the monetary component is payable on the NDA and the land component is calculated based on the contribution land. Whilst it is acknowledged that ‘contribution land’ is defined in the proposed ICP inclusion of a reference to Table 17 which defines the NDA and the contribution land for each land parcel would be useful;
  - Table 7 – the entries under the second, fourth, fifth and sixth columns appear to be in error for the community building projects;
  - Table 8 – the infrastructure project descriptions refer to a land and construction component – it is recommended that the project descriptions be modified to refer to the land component only – for example ‘Provision of land to enable construction of 34m wide road reserve’;
  - Table 8 – the entries from IN02-IN13 inclusive are construction projects rather than land projects and appear to be in error;
  - Page 22 – the paragraph in relation to ‘Open Space Contributions’ may warrant review within the context of the table above (Table 8) which identifies all categories of public land – i.e. the reference to ‘Public Open Space Contributions’ specifically may lack relevance;
  - Page 23 – notes that 35.44 hectares of inner public purpose land is to be equalised across all parcels however this figure does not match that in Table 10, which identifies 36.6 hectares of inner public purpose land is to be provided over the ICP land contribution percentage; and
  - Table 11 – the purpose of Table 11 is understood however: -
    - the data in the table does not appear to have been updated to reflect the ICP land contribution of 14.01%;
    - column 4 is providing the ICP land contribution percentage of 14.01% in hectares i.e. it is showing the land contribution liability for each parcel which is used to determine whether a land credit amount or land equalisation amount is payable. It is recommended that the column heading be updated to read “ICP Land Contribution Percentage 14.01% (in hectares)” to provide further clarity; and
    - column 9 appears to provide the actual parcel contribution percentage (based on the hectares calculated in column 8) however the values are not represented as percentages and the word “hectares” should be removed from the column heading.

- Page 26 – typographical error in section 5.4 as the last sentence does not identify the relevant Table numbers.

93. Aside from the relatively detailed matters that have been identified in the paragraphs above, I am of the opinion that the proposed ICP is appropriate having regard to the relevant provisions of the Planning and Environment Act and the Ministerial Direction on The Preparation of Content of Infrastructure Plans save for the manner in which the ICP deals with the potential for part of the land to be used for a quarry.
94. Recommendation 1 of the Panel Report in relation to the previous Amendment (C106) was to *revise Mitchell Planning Scheme Amendment C106 to explicitly include precinct level planning for resource extraction from Work Authority 1473*.
95. It will be subject of the opinion of others as to whether this recommendation has been implemented from a planning perspective however from an ICP perspective I have some concerns.
96. According to the amended version of the PSP and the proposed ICP it is assumed, although not explicitly stated, that if a Planning Permit is issued for the quarry and the resource is extracted over the time limited period of 30 years, that the land that is subject of the extraction and the land that is affected by the associated buffers will be withheld from development for the same 30 year period.
97. The difficulty I have with this approach is that the ICP is forecast to operate within a 30 year frame in which case, if a planning permit is issued, there will be a shortfall in ICP funding and an inability to deliver all of the costed infrastructure within the 30 year timeframe.
98. If a Planning Permit is however not issued it is assumed, although it is not explicitly stated, that the potential impact of the quarry will be removed (including its buffers) and the land will be able to be developed in accordance with the PSP and the ICP over the 30 year period.
99. In the absence of clarity regarding whether the quarry approvals will be recommended for approval by the Committee and subsequently issued by the Minister for Planning, I support part of the approach that has been adopted to date by the VPA.
100. The part of the approach that I support is preparation of the PSP and proposed ICP to define the 'end state' – that is, the ultimate extent of development and infrastructure funding that will be realised irrespective of time and irrespective of whether part of the land will be used for extractive purposes.
101. Adoption of an 'end state' approach enables the impact of the quarry on the developable area and any public land and/or infrastructure projects to be understood and quantified.
102. According to the extract from the PSP below, should a permit be issued for extractive industry, the land shaded in blue would be withheld from development for a period of up to 30 years and the public land and infrastructure that lies within this area presumably will not be able to be delivered or used for the intended purpose.





103. Examples of public land and infrastructure that would be impacted include the north-south road (in part) – RD04, part of the local indoor recreation reserve, part of the local sports reserve and two local parks (it is noted that reference has been made to the possibility of realigning the north-south road such that it is outside the blast zone buffer – this matter will be addressed following).
104. Aside from this infrastructure and public land other land uses that would be impacted include residential land, ecological values land, landscape values land and a local town centre (on the assumption that the presence of the buffers would remove the potential to construct sensitive land uses).
105. In terms of the impact on funding potential, the VPA Part A submission provide some insight into this matter in stating that exclusion of the quarry land and the associated buffers would result in a funding shortfall of approximately \$57M<sup>3</sup> although these calculations have not been able to be verified in the absence of the updated detailed public land table calculations and the associated land valuations (e.g. 64 hectares multiplied by the total monetary component levy of \$294,645/Ha is \$18.8M).
106. Taking into account the scale of the impacted area, my opinion with regard to the relationship between the potential quarry and the proposed ICP is as follows:
- Any recommendation (and subsequent decision) to support issue of a planning permit for the quarry will have land use and associated infrastructure funding and delivery implications that must be actively taken into account, that is to say that the exhibited documents cannot remain silent on the matter;
  - If the land that is impacted by the quarry and its associated buffers will be unable to be developed for a period of 30 years this should be made explicit in the PSP and such land should be excluded from the proposed ICP (and possibly from the PSP subject to the views of other experts) as the ICP is intended to operate for approximately 30 years;
  - In excluding the impacted land from the proposed ICP, the following steps are recommended to be undertaken:
    - Assess the relationship between the revenue potential of the impacted area and the value of the public land and infrastructure projects that are located within or which serve the

<sup>3</sup> \$14M for the 49ha quarry area and \$43M for the 15ha buffer

impacted area – if there is a mismatch then there may be a need to review infrastructure priorities and funding potential within the unaffected balance area and/or consideration of potential responsibility for a funding gap;

- Assess whether there is a need and funding potential to secure land for the northern active open space reserve and the indoor recreation land in its entirety during the first 30 years (accepting that it may have limited use whilst the quarry is operating) which may necessitate a review of public land priorities;
- Review whether the balance of the transport network can function without the northern part of the eastern north-south road connection (RD-04) – if it determined that the network cannot function satisfactorily during the first 30 years without the connection then consider inclusion of the cost of finance (excluding unnecessary intersections) within the ICP to enable the link to be delivered (provided that the road can be constructed within the blast zone or sensitive use buffer noting comments from the VPA about possible realignment of the link to the west);

107. If a planning permit is not issued for the quarry then no changes to the proposed ICP would be required however there may be some changes required to the PSP.

108. Finally, I have been requested to comment on:

- *Assuming a quarry were established in WA1473, is it appropriate to levy contributions against:*
  - *the quarry?*
  - *The ultimate development of the WA1473 pursuant to the PSP?*

109. In response, firstly I do not consider that it would be appropriate to levy contributions against the quarry as there is no nexus between the quarry use and the planned infrastructure.

110. Secondly, I support levying the ultimate development of the quarry land (if it is suitable for urban development purposes) and the associated buffer land but not via the proposed ICP if the land cannot be developed until cessation of the quarry use approximately 30 years into the future.

## **5. RESPONSE TO SUBMISSIONS – ICP ISSUES**

### **5.1 Whether the quarry should be excised**

111. See my response to this matter in the previous section.

### **5.2 ICP timeframe**

112. I am of the opinion that it is appropriate as a matter of general practice to align the timeframe of the ICP with the projected life of development of the corresponding PSP.

113. In this example however there is a complicating factor which is the proposal to limit the operational life of the quarry to a period of 30 years.

114. I have not been provided with any assessment which seeks to assess whether it is expected that the PSP area that is unaffected by the quarry or its associated buffers is expected to be developed over a 30 year period or a lesser timeframe.

115. What is clear however is that if a planning permit is issued for the quarry and the quarry is active for a period of 30 years then part of the land within the PSP will be impacted and will not be developed within a 30 year timeframe.

116. In this context, I do not support simply extending the life of the ICP to an undefined timeframe that is beyond 30 years as it has been my experience that growth areas such as this are typically developed within shorter timeframes particularly where there is consolidated landownership.

### **5.3 Justification for Supplementary Levy**

117. See my response to this matter in the previous section and the associated recommendation.

### **5.4 Interim (non residential) class of development**

118. In accordance with the comments in the previous section, my recommendation is to exclude the quarry land and the associated buffers from the ICP if a planning permit is issued for the quarry.
119. On this basis, as per previous comments, I do not support levying of the quarry use but I do support levying the land that is ultimately developable (post the 30 year life of the quarry) via a separate ICP or equivalent instrument.

### **5.5 Kindergartens**

120. Support VPA position and response.

### **5.6 RD-05 Missing from ICP**

121. Support VPA position and response.

### **5.7 Western Arterial Road Alignment – RD-03**

122. It is acknowledged that the alignment of the western arterial road is complex due to a combination of landform, spacing and other design and accessibility issues.
123. Taking into account the relative complexity of the alignment which will require detailed review, it is noted that the alignment is wholly contained within the Yarr Valley Water land and as such there may be the opportunity to review its alignment prior to approval of the PSP and post its approval but prior to development.

### **5.8 Eastern Arterial Road Alignment – RD-04**

124. In accordance with previous comments, it is recommended that an assessment be conducted to determine whether the northern part of RD-04 is required within 30 years (if a planning permit is issued for the quarry).
125. If it is determined that the road is required within the initial 30 year period, then a westerly realignment (outside the blast zone buffer) may improve the ability to deliver the link without conflicting with the operations of the quarry.
126. The ability to construct the road within the sensitive use buffer will however need to be confirmed.

### **5.9 Include Camerons Lane West of IN-03 within the ICP**

127. Support VPA position and response.

### **5.10 Include East-West Connector Between IN-07 and IN-10**

128. Support the VPA position and response and note that this section of connector road has a town centre/community facilities context.

### **5.11 Kalkallo Creek DSS**

129. Support the VPA position and response.

### **5.12 Include Pedestrian Crossing between IN-06 and IN-05**

130. It is noted that the distance between IN-06 and IN-05 is approximately 1km and that this section of road is proposed to adjoin the creek corridor.
131. In this context and pending the broader review of the alignment it may be prudent to assess whether pedestrian accessibility is required however it is noted that the cost of the signals would need to be included within the Supplementary Levy if supported.

### **5.13 Include Bridge/Culvert on Property B-14 within the ICP**

132. Support VPA position and response.

### **5.14 Amend Apportionment of Intersections IN-08 and IN-09**

133. Support VPA position and response and note that a similar approach has been adopted with respect to land for road widening purposes in the Epping/Wollert corridor.

### **5.15 Changes to the Exhibited ICP (April 2022)**

134. Support the VPA position and response and note that other changes may be required in relation to the matters and recommendations that have been made in this statement.

## **6. CONCLUSION**

135. In conclusion, I am of the opinion that the proposed ICP is generally consistent with and will complement the implementation of the proposed PSP.
136. The potential use of the part of the land for a quarry has land use and ICP implications that need to be addressed before the ICP finalised in my opinion.
137. The presence of sodic soils is a key precinct feature that warrants introduction of a Supplementary Levy.
138. Subject to the recommendations that are contained within this statement I support the proposed ICP.



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2021

PLANNER OF THE YEAR



PLANNING INSTITUTE OF AUSTRALIA  
NATIONAL AWARDS FOR PLANNING EXCELLENCE 2021

Chris De Silva is highly respected in the planning industry for his ability to conceptualise the strategic merits of any given project.

Chris has over 30 years experience as a planner, primarily in the specialized field of growth area planning.

Spending 18 years at the City of Whittlesea, occupying the positions of Manager Strategic Planning and Director Planning and Development Chris was broadly responsible for conceptualising and implementing the Whittlesea Growth Areas framework. This process involved in-house preparation of Precinct Structure Plans for each of the growth areas and formulation of integrated transport plans and development contributions plans for the City.

The approach adopted by the City under Chris's guidance culminated in a total of 11 State awards from the Planning Institute of Australia for Planning Excellence and visits from all other growth areas.

education.

- + Bachelor of Applied Science (Planning) RMIT University

employment.

- + 2009 – Mesh, Director
- + 2008 – Villawood Properties, Strategic Development Director
- + 1991 – City of Whittlesea, Director of Planning and Development (and formerly Manager Strategic Planning)
- + 1990 – Wilson Sayer Core, Town Planner

key projects.

Chris has been the mastermind behind the following key projects:

- + Armstrong Creek West Precinct Structure Plan and Development Contributions Plan, Geelong
- + Wollert Precinct Structure Plan, Whittlesea
- + Davies Hill, Woodend
- + Strathfieldsaye East Development plan, Bendigo
- + Schofields Indicative Layout Plan Urban Design Review, New South Wales
- + Trillium Estate Masterplan, Hume
- + Redstone Hill Masterplan and Town Centre, Sunbury
- + Greenvale Central Precinct Structure Plan and Masterplan, Hume
- + North of the Merri Local Structure Plan, Development Contributions Plan and Development Plan, Warrnambool
- + Crinigans Road Development Plan, Morwell
- + Cross' Road Development Plan, Traralgon

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