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AGENDA OF THE PLANNING COMMITTEE MEETING

**Planning Committee Meeting to be held on Monday
14 February 2022 at 6.30pm.**

This Meeting will be held virtually.

**This meeting will be closed to the public pursuant to
Section 395 of the Local Government Act 2020.**

**This meeting will be livestreamed and may be accessed
from Councils website www.darebin.vic.gov.au.**




ACKNOWLEDGEMENT OF TRADITIONAL OWNERS AND ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITIES IN DAREBIN

Darebin City Council acknowledges the Wurundjeri Woi-Wurrung people as the Traditional Owners and custodians of the land we now call Darebin and pays respect to their Elders, past, present and emerging.

Council pays respect to all other Aboriginal and Torres Strait Islander communities in Darebin.

Council recognises, and pays tribute to, the diverse culture, resilience and heritage of Aboriginal and Torres Strait Islander people.

We acknowledge the leadership of Aboriginal and Torres Strait Islander communities and the right to self-determination in the spirit of mutual understanding and respect.



English

This is the Agenda for the Council Meeting. For assistance with any of the agenda items, please telephone 8470 8888.

Arabic

هذا هو جدول أعمال اجتماع المجلس لصلحصول على معلومات عن أي من جدول الأعمال يرجى الاتصال بالهاتف 8888 8470.

Chinese

这是市议会会议议程。如需协助了解任何议项，请致电8470 8888。

Greek

Αυτή είναι η Ημερήσια Διάταξη για τη συνεδρίαση του Δημοτικού Συμβουλίου. Για βοήθεια με οποιαδήποτε θέματα της ημερήσιας διάταξης, παρακαλείστε να καλέσετε το 8470 8888.

Hindi

यह काउंसिल की बैठक के लिए एजेंडा है। एजेंडा के किसी भी आइटम में सहायता के लिए, कृपया 8470 8888 पर टेलीफोन करें।

Italian

Questo è l'ordine del giorno della riunione del Comune. Per assistenza con qualsiasi punto all'ordine del giorno, si prega di chiamare il numero 8470 8888.

Macedonian

Ова е Дневниот ред за состанокот на Општинскиот одбор. За помош во врска со која и да било точка од дневниот ред, ве молиме телефонирајте на 8470 8888.

Nepali

यो परिषद्को बैठकको एजेन्डा हो। एजेन्डाका कुनै पनि वस्तुसम्बन्धी सहायताका लागि कृपया 8470 8888 मा कल गर्नुहोस्।

Punjabi

ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਵਾਸਤੇ ਏਜੰਡਾ ਹੈ। ਏਜੰਡੇ ਦੀਆਂ ਕਿਸੇ ਵੀ ਆਈਟਮਾਂ ਸੰਬੰਧੀ ਸਹਾਇਤਾ ਵਾਸਤੇ, ਕਿਰਪਾ ਕਰਕੇ 8470 8888 ਨੂੰ ਟੈਲੀਫ਼ੋਨ ਕਰੋ।

Somali

Kani waa Ajandaha Kulanka Golaha. Caawimada mid kasta oo ka mid ah qodobada laga wada hadlay, fadlan la xiriiir 8470 8888.

Spanish

Este es el Orden del día de la Reunión del Concejo. Para recibir ayuda acerca de algún tema del orden del día, llame al teléfono 8470 8888.

Urdu

یہ کاؤنسل کی میٹنگ کے آئیٹمز کے بارے میں مدد کے لیے براہ مہربانی 8470 8888 پر فون کریں۔

Vietnamese

Đây là Chương trình Nghị sự phiên họp Hội đồng Thành phố. Muốn có người trợ giúp mình về bất kỳ mục nào trong chương trình nghị sự, xin quý vị gọi điện thoại số 8470 8888.

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Agenda

1. MEMBERSHIP

Cr. Lina Messina (Mayor) (Chairperson)

Cr. Trent McCarthy (Deputy Mayor)

Cr. Emily Dimitriadis

Cr. Gaetano Greco

Cr. Tom Hannan

Cr. Tim Laurence

Cr. Susanne Newton

Cr. Susan Rennie

Cr. Julie Williams

2. APOLOGIES

3. DISCLOSURES OF CONFLICTS OF INTEREST

4. CONFIRMATION OF THE MINUTES OF PLANNING COMMITTEE

Recommendation

That the Minutes of the Planning Committee Meeting held on 13 December 2021 be confirmed as a correct record of business transacted.

5. CONSIDERATION OF REPORTS

5.1

DEVELOPMENT CONTRIBUTIONS PLAN - PLANNING SCHEME AMENDMENT C170DARE

Author: Senior Strategic Planner

Reviewed By: Chief Executive Officer

EXECUTIVE SUMMARY

Amendment C170dare to the Darebin Planning Scheme is now in the final stages to implement a new Development Contributions Plan (DCP) applying to all land in the municipality.

Following exhibition in late 2020, Council considered submissions at its meeting on 22 March 2021, and referred all submissions to an independent Planning Panel. The Panel considered objectors' and Council's submissions at a hearing in May 2021, with a report provided on July 29 (**Appendix A**). The Panel supports Council's position on the majority of issues raised by submitters, and considers that Amendment C170dare is strategically justified, well founded and should be implemented as proposed, subject to some relatively minor changes.

This report addresses the changes recommended by the Panel, which range from very minor administrative matters, some of which were identified by Council following exhibition, to more notable changes concerning the exemption mechanism. Following assessment, it is proposed that Council decline to support one of the Panel's recommendations on transitional provisions for the reasons detailed in this report.

Fundamentally, it is recommended that Council adopt the amendment with changes and submit to the Minister for Planning for approval.

The implementation of a new municipal DCP will support Council's long-term financial sustainability and its ability to deliver infrastructure necessary to meet the needs of the Darebin community over the next 20 years. The DCP relates to 70 projects with a total estimated cost of \$115.5 million. Through the DCP, future development is estimated to contribute \$28 million, or about 24% of the total costs of these projects.

Officer Recommendation

That the Planning Committee:

- (1) Considers the Amendment C170dare Panel Report (**Appendix A**), pursuant to section 27 of the *Planning and Environment Act 1987*.
- (2) Adopts Amendment C170dare and the Darebin Development Contributions Plan 2019 (November 2021) in accordance with section 29 of the *Planning and Environment Act 1987*, with changes reflected in **Appendix B and C**.
- (3) Authorise the Manager City Futures to make any further minor changes to the amendment documents where these are insubstantial but required for correctness, clarity or the like, including changes after approval of the Amendment by the Minister for Planning to ensure consistency with the approved planning provisions.

- (4) Submit the adopted Amendment C170dare, together with the prescribed information, to the Minister for Planning for approval pursuant to section 31 of the *Planning and Environment Act 1987*.
 - (5) As part of its submission requesting approval of Amendment C170dare, advise the Minister for Planning that Council has not accepted all of the Panel's recommendations, for the reasons detailed in **Appendix D**.
 - (6) Write to all submitters thanking them for their submission and advising them of Council's decision.
-

BACKGROUND / KEY INFORMATION

Implementing a new municipal-wide Development Contributions Plan (DCP) is a specific action (Action 4-22) in the Council Plan 2021-25.

The DCP will ensure that the cost of required new and upgraded infrastructure is shared equitably between developers and the wider community as the City grows. Securing developer contributions is part of a prudent financial management approach and will support Council to provide the necessary infrastructure to meet community needs.

Planning Scheme Amendment C170dare – Development Contributions Plan, was exhibited between 12 November and 14 December 2020. 12 submissions were received through this process, of which eight were in objection. At its meeting on 22 March 2021, Council considered submissions and, in accordance with the *Planning and Environment Act 1987* (the Act), referred all submissions to an independent Planning Panel.

Following the appointment of a Planning Panel, a Directions Hearing was held on 16 April and the main hearing was conducted over four-days on 24, 25, 26 and 28 May 2021. The Panel considered all submissions to the amendment and heard Panel submissions put by six parties and Council.

Following the Hearing, the Panel completed its deliberations and issued a Panel Report to Council on 29 July 2021. Under section 27 of the Act Council must consider the Panel's report before deciding whether or not to adopt the amendment.

More detail on the DCP project background and planning scheme amendment process can be found in **Appendix E**.

Previous Council Resolution

At its meeting held on 22 March 2021, Council resolved:

'That Council having prepared and exhibited Amendment C170dare to the Darebin Planning Scheme under section 19 of the Planning and Environment Act 1987:

- (1) *Formally considers all written submissions received in response to Amendment C170dare to the Darebin Planning Scheme.*
- (2) *Endorses the officer's response to submissions outlined in this report and attached at **Appendix A** and recommended changes to the Amendment, including the changes as attached at **Appendices B and C** of this report, to form the basis of Council's submission to an independent Planning Panel.*
- (3) *Requests that the Minister for Planning appoint an independent Panel under Part 8 of the Planning and Environment Act 1987 to consider submissions to Amendment C170dare to the Darebin Planning Scheme.*

- (4) *Refers all submissions to the Panel to be appointed by the Minister for Planning.*
- (5) *Authorises the Manager City Futures to support any minor changes to Amendment C170dare that may be required as part of Council's submission to the Panel.*
- (6) *Writes to all submitters to inform them of Council's decision to proceed to the Panel stage.*

ALIGNMENT TO 2041 DAREBIN COMMUNITY VISION

Strategic Direction 1: Vibrant, Respectful and Connected

Strategic Direction 2: Prosperous, Liveable and Flourishing

Strategic Direction 3: Climate, Green and Sustainable

ALIGNMENT TO 2021-25 COUNCIL PLAN

Strategic Direction 4 Responsible, Transparent and Responsive

Strategic Direction 1: Vibrant, Respectful and Connected

Strategic Direction 2: Prosperous, Liveable and Flourishing

Strategic Direction 3: Climate, Green and Sustainable

ALIGNMENT TO COUNCIL PLAN STRATEGIC OBJECTIVES

4.5 We will improve the sustainability, accessibility, and design of development on private land in our city

4.2 We will ensure our assets are optimised for the benefit of our community

4.1 We will ensure balanced and responsible financial decision making that meets the needs of our community now and into the future

Amendment C170dare delivers on Action 4-22 to complete planning reform work to 'Introduce a developer contributions scheme'.

DISCUSSION

Post exhibition review and changes

On 22 March 2021, in considering submissions to exhibition of Amendment C170dare, Council endorsed the following changes to the DCP:

- In response to La Trobe University's submission, a provision was included in the DCP that would allow Council to defer levy payments where alternative community infrastructure was to be provided
- Revised wording for the section 173 exemption, to give greater clarity as to the types of agreements that would provide for an exemption
- Future changes to DCP project costings as a result of Council successfully securing State Government grants to deliver some projects

These changes formed part of Council's Part A submissions to Panel.

Planning Panel report

The Panel supported Council's position on the majority of issues raised by submitters and considers that Amendment C170dare is strategically justified and well-founded and should be implemented as proposed, subject to some changes.

The recommended changes range from very minor administrative matters, some of which were identified by Council, to more notable changes concerning the exemption mechanism. None of the recommendations significantly affect the operation of the DCP, however extending the exemptions to include transitional arrangements (for developments approved before gazettal) in the manner suggested by Panel is not recommended to be accepted by Council.

The following provides a summary discussion of the key issues and recommendations in the Panel Report. **Appendix D** provides a detailed account of the Panel's recommendations, officers' response and the proposed changes to the amendment.

La Trobe University

The greater portion of the Panel Hearing was dedicated to La Trobe University's (LTU) submission which contended that the university should be exempt from the DCP on the basis that it already provides a significant contribution to community infrastructure to the benefit of the wider community. On this matter, Panel agreed with Council that there is no case for granting LTU a full exemption from the DCP.

Panel supported Council's approach in providing LTU relief from paying the levy where alternative infrastructure is provided. At the request of Panel, Council put forward a further iteration of the proposed mechanism for achieving a 'middle ground' position with LTU. The Panel Report recommended the DCP be amended in accordance with this proposal, which removes the specific levy deferral criteria previously adopted by Council and introduces a provision allowing Council to accept, by agreement with LTU, a substitute project as 'works in kind' as an offset against cash levy liabilities. In combination with the ability to defer levy liabilities and/or grant an exemption by legal agreement, this gives Council flexibility to consider levy offsets, deferrals or exemptions on a case-by-case basis and according to merit, in return for La Trobe University providing alternative infrastructure.

This is very similar to the previous approach adopted by Council, but slightly more flexible to consider a broader range of infrastructure that benefits the broader community on a merits basis. Officers support this recommendation.

Changes in response

The DCP and DCP Overlay Schedule have been changed in accordance with this recommendation.

Deal Corporation

Submissions on behalf of Deal Corporation argued that the exemptions in the DCP should be extended to include:

- Use or development approved by a permit granted prior to the approval of Amendment C170dare; and
- Subdivision of building or works constructed or approved prior to approval of Amendment C170dare.

The Panel expressed agreement with Deal Corporation's arguments with respect to these exemptions and stated that it would be unreasonable to impose costs on development "*that is approved or 'exists' but may not have been subdivided...*". Therefore, the Panel recommended that similarly worded exemptions be included in the DCP.

A broad exemption of this nature is not featured in other municipal-wide DCPs and it has been standard practice that where there is a trigger to pay the DCP levy, the levy can apply, i.e. at the planning permit stage, building permit stage or subdivision permit stage. The lack of transitional provisions for the DCP has been part of Council's communications about the amendment since November 2020. Further, the long process of establishing the DCP and carrying out the planning scheme amendment, including a public exhibition process, is considered to provide enough notice of the changes to the development community to factor into their projects, ahead of them being gazetted in the Scheme.

Acceptance of this recommendation would also have a financial impact as exempting permitted development reduces the amount of levy that can be collected, while the exempted developments continue to create additional demands on community infrastructure.

Officers recommend that this recommendation is **not** accepted as:

- It is a departure from DCP practice in other municipalities and has not been supported by previous Panels
- The planning scheme amendment process provides a long lead-in time for the levy (in excess of a year from public exhibition of C170dare)
- It would reduce the revenue collected during the DCP timeframe
- If the Minister ultimately considers that such an exemption is appropriate practice for DCPs across Victoria from now on, he can make this change before approving the amendment or introduce it in the Ministerial Direction to apply to all DCPs in Victoria

Changes in response

None.

Other matters

Submitters raised issues related to the method used to prepare the DCP, including development forecasts, demand units and equivalence ratios, the nexus between infrastructure projects and development, and the charge areas.

Some submissions argued for a broadening of exemptions to include social and affordable housing provided by the private sector, and for situations where infrastructure works were/are provided by a developer as part of a rezoning process, or in satisfaction of planning permit conditions.

Panel agreed with Council's position on all of these matters in that:

- It is fair and reasonable for the DCP to apply to strategic development sites to collect contributions for broader community infrastructure, even when site specific infrastructure is provided as part of a rezoning or development process
- The DCP's current exemptions are appropriate to account for any infrastructure above and beyond what is normally required
- Any exemption for affordable housing more broadly should be made by the Minister through a Ministerial Direction

The Panel concluded that the amendment was methodologically sound and supported Council's position on additional exemptions in relation to social housing and privately provided infrastructure as part of developments.

Arising from Panel's deliberations on these matters, the Panel recommended further explanatory information about how the DCP operates regarding charge areas, strategic redevelopment sites and other exemptions. This recommendation is supported by officers.

Changes in response

Additional explanatory information has been incorporated into the DCP document.

Corrections and Clarifications

The Panel recommendations include amending project costings in the DCP to take account of any external funding received prior to adoption of the amendment (e.g. recent state government grants for projects in the DCP), and correcting minor errors identified in the DCP and DCPO Schedule. These recommendations are consistent with Council's Part A submission to Panel and are supported by officers.

Changes in response

The Amendment documentation has been updated to account for grants received for the following projects:

- Projects 6 KP Hardiman Hockey Pitch Redevelopment
- Project 14 KP Hardiman Reserve Hockey Lighting Upgrade
- Project 15 IW Dole Reserve Lighting Upgrade (reduced to \$25,000)
- Project 12 Moore Park North Lighting Upgrade (reduced to \$25,000)

Projects 6 and 14 are being delivered as one, so have been consolidated in the DCP and the overall cost reduced by \$800,000 to reflect the amount of grant funding received.

Other minor corrections have been made in the DCP and DCPO Schedule (refer **Appendix D**).

Project 7

Although not a recommendation, Panel encouraged Council to cross-check the attribution of projects to charge areas in response to a query related to Project 7, BT Connor Reserve Pavilion upgrade. On review, officers found that Project 7 had been apportioned to the wrong charge areas. Correcting this error in the DCP would have the effect of increasing levies in some charge areas when compared with what was exhibited.

Change in response

To avoid increasing levies in some areas, and the prospect of re-exhibiting the amendment, Project 7 has been removed from the DCP entirely. This is expected to reduce the overall collection of levies by approximately \$630,000 over 20 years.

Open Space Levy and the DCP

The Panel report addressed the view put by Deal Corp that open space projects should not be included in the DCP because they would be more appropriately funded through the Open Space Levy (OSL). Further, Deal Corp raised concern about the potential for 'double-dipping' from two sources of funding to deliver open space projects. The Panel concluded, in accordance the DCP Guidelines and the relevant Ministerial Direction, that inclusion of open space projects in the DCP is appropriate. In the discussion, the Panel also states that total funding for any DCP project may be sourced from multiple funding streams, including rates, DCP levies or OSL.

Council has also received legal advice that OSL funds can be used to fund open space projects included in the DCP while still avoiding 'double-dipping'. In light of this, officers recommend an adjustment to Council's previous approach in keeping OSL and DCP funding sources and projects separate. This provides Council with greater fiscal flexibility to ensure it can continue to deliver infrastructure and open space improvements in a financially sustainable and responsible way. It will also enable Council to potentially utilise OSL funds to fund infrastructure projects that are have greater capacity, a more diverse recreational offer and/or more expensive than the indicative estimates used to calculate DCP contributions.

To maintain the principle of apportionment and to avoid 'double dipping', it is proposed that Council include guidance within its internal procedures and guidelines regarding when and how OSL funds should be expended on projects within the DCP.

Change in response

Remove the wording in the DCP which states that the OSL will not be used to fund projects in this DCP.

Replacing Darebin's expired DCP

Darebin's previous DCP expired on 30 June 2021, though it remains in the Darebin Planning Scheme. The amendment documents for C170dare have been slightly changed to facilitate removal of the expired DCP and DCPO Schedule from the planning scheme at the same time as the new one is implemented. The required changes are reflected in **Appendix C**.

CONSIDERATION OF LOCAL GOVERNMENT ACT (2020) PRINCIPLES**Financial Management**

As the population grows, new infrastructure and expansion of existing infrastructure is needed to meet needs of a larger population. Council has legislated obligations to provide a range of infrastructure for community including drainage infrastructure, roads and other services. The implementation of a new municipal DCP will support Council's long-term financial sustainability and its ability to deliver infrastructure necessary to meet the needs of the Darebin community over the next 20 years.

The DCP has identified and is planning for 70 projects that will be required to meet infrastructure needs of Council's community. The total estimated cost of these is \$115.5M over 20 years, and financial contributions from developers would contribute \$28M, or about 24% of the total costs. The actual delivery timeline will be determined by how fast population growth occurs.

Community Engagement

Submitters to Amendment C170dare will receive:

- Notification that the Amendment will be considered by Council, in advance of the relevant meeting, and
- An email notifying them of the decision Council makes on the next steps for the planning scheme amendment.

The broader community will be able to access updates via the Council's Your Say page on the DCP project.

Overarching Governance Principles and Supporting Principles

- (g) the ongoing financial viability of the Council is to be ensured;
- (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;

Public Transparency Principles

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;

Strategic Planning Principles

- (b) strategic planning must address the Community Vision;

Service Performance Principles

- (a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;

COUNCIL POLICY CONSIDERATIONS**Environmental Sustainability Considerations (including Climate Emergency)**

A number of the infrastructure projects included in the proposed DCP, such as sustainable transport projects, will contribute to sustainability outcomes. The Climate Emergency and Sustainable Transport Department has been consulted in the preparation of the DCP.

Equity, Inclusion, Wellbeing and Human Rights Considerations:

Project selection for DCP has been based on Council's long-term capital work program, is guided by Council and community priorities through existing adopted strategies and plans (including the Council Plan), many of which have been the subject of community engagement. Projects which meet set criteria for inclusion in a DCP have been selected and the DCP itself must equitably apportion the share of the cost of new infrastructure.

The Equity and Inclusion team was consulted and provided input on the Communications and Engagement Plan prior to sign-off. Key information about the DCP, including promotion of the online Community Information Sessions, was translated in 12 languages to improve reach to CALD communities. Provision was also made for requesting and using an interpreter at the online sessions.

Economic Development and Cultural Considerations

As Victoria experiences continued economic impacts related to COVID-19, it is acknowledged that the introduction of a levy on new development may be considered ill-timed by some parts of the development industry. However, the proposed levy rate is relatively modest in the context of other recent municipal DCPs and is not expected to unreasonably affect development feasibility or housing affordability. It is noted that a number of developers who objected to Amendment C170dare were supportive of a DCP as a fair and equitable mechanism to collect contributions to required infrastructure.

Identified infrastructure projects include upgrades that will support economic development in Darebin through increased accessibility, improved transport links and increased participation in sport and leisure.

In a broader sense, the DCP will support delivery of key capital works projects which can provide important stimulus for the local economy and contribute to its recovery from the impacts of COVID-19.

Operational Impacts

The DCP is concerned with funding and delivery of capital works projects. If it is introduced Council will need to manage and monitor the completion of infrastructure works in line with the DCP, which would be undertaken by operational staff.

A level of resourcing will be required to ensure the new DCP is effectively managed, monitored and reviewed once it is in place. Steps will need be taken to ensure an accounting and management system is in place to administer the DCP prior to the amendment being approved.

Management of the DCP will require additional resources.

Legal and Risk Implications






Adopting a DCP will create an obligation for Council to proceed with the works identified. This risk has been managed through prudent project selection process in the Capital Works Plan, and again in the DCP list of works.

Should Council not accept the Panel's recommendations on Amendment C170, the relevant changes may be made by the Minister at the approval stage regardless.

IMPLEMENTATION ACTIONS

- By 8 February 2021 – submit Amendment C170dare to the Minister for Planning for approval
- TBC – Minister for Planning makes a decision on Amendment C170dare

Attachments

- Darebin C170dare Panel Report (**Appendix A**) [↓](#) 
- Darebin C170dare Darebin Development Contributions Plan 2019 (November 2021) incorporated document tracked changes (**Appendix B**) [↓](#) 
- C170dare PSA documents Approval (**Appendix C**) [↓](#) 
- Panel Recommendations and DCP changes (**Appendix D**) [↓](#) 
- Background C170dare Development Contributions Plan (**Appendix E**) [↓](#) 

DISCLOSURE OF INTEREST

Section 130 of the *Local Government Act 2020* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.

The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.