

MINUTES

ORDINARY MEETING OF COUNCIL

Tuesday, 8 November 2011

Held at the
Council Conference and Reception Centre
City Hall, Little Malop Street, Geelong
commencing at 7.09pm

COUNCIL:

Cr. J. Mitchell (<i>Austin</i>) - Mayor	(Communications / Sport and Recreation / Democracy & Governance / Central Geelong Looking Forward)
Cr. B.H. Abley (<i>Brownbill</i>)	(Arts and Culture)
Cr. J. Doull (<i>Coryule</i>)	(Environment and Sustainability / Climate Change)
Cr. J. Farrell (<i>Beangala</i>)	(Education and Youth / Community Safety)
Cr. K. Fisher (<i>Corio</i>)	(Community Development)
Cr. C. Granger (<i>Windermere</i>)	(Heritage)
Cr. B. Harwood (<i>Kardinia</i>)	(Finance / Tourism / Major Events / Strategic Development)
Cr. E. Kontelj (<i>Cowie</i>)	(Aboriginal Affairs / Multicultural Affairs)
Cr. Dr. S. Kontelj (<i>Kildare</i>)	(Major Projects)
Cr. R. Macdonald (<i>Cheetham</i>)	(Economic Development / Planning)
Cr. R. Nelson (<i>Deakin</i>)	(Rural and Regional Affairs)
Cr. A. Richards (<i>Buckley</i>)	(Transport / Infrastructure / Parks and Gardens)

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**MINUTES OF THE ORDINARY MEETING
OF THE GREATER GEELONG CITY COUNCIL
HELD AT THE COUNCIL CONFERENCE AND RECEPTION CENTRE
CITY HALL, LITTLE MALOP STREET
TUESDAY, 8 NOVEMBER 2011
COMMENCING AT 7.09 P.M.**

PRESENT: Cr J Mitchell (Mayor), Crs B Abley, J Doull, J Farrell, K Fisher, C Granger, B Harwood, E Kontelj, S Kontelj, R Macdonald, R Nelson, A Richards

Also present: S Griffin (Chief Executive Officer), J Wall (General Manager Corporate Services), P Bettess (General Manager Economic Development, Planning and Tourism), D Frost (General Manager Projects, Recreation and Central Geelong), G Van Driel (General Manager City Services), J McMahon (General Manager Community Services), T Demeo (Manager Planning Strategy and Economic Development), J Brown (Manager Administration and Governance), J Bleazby (Governance Co ordinator), J Merlo (Senior Media Officer)

OPENING: The Mayor declared the meeting open at 7.09pm

ACKNOWLEDGEMENTS:

The Mayor acknowledged that we are here today on the land of the Wathaurong People and we pay our respects to Aboriginal elders past and present.

APOLOGIES: Nil.

CONFIRMATION OF MINUTES:

Cr Harwood moved, Cr Fisher seconded -

That the Minutes of the Ordinary Meeting held on 25 October 2011 be confirmed and signed.

Carried.

DECLARATIONS OF CONFLICTS OF INTEREST: Nil.

1. AMENDMENT C214 – ARMSTRONG CREEK EAST PRECINCT DEVELOPMENT CONTRIBUTIONS PLAN – ADOPTION OF AMENDMENT

Portfolio: Planning – Cr Macdonald
Source: Economic Development, Planning & Tourism – Urban
Growth Area Planning
General Manager: Peter Bettess
Index Reference: Project: Amendment C214
Subject: Council Reports 2011

Summary

- This report is to consider the recommendations of the Amendment C214 *Armstrong Creek East Precinct Development Contributions Plan* Panel and to adopt the Amendment.
- The Amendment was initiated by Council.
- The amendment seeks to include the Development Contributions Plan (DCP) as an incorporated document in the Greater Geelong Planning Scheme and apply a Development Contributions Plan Overlay to the Armstrong Creek East Precinct. (See Appendix 1-1 and 1-2 for Armstrong Creek East Precinct Structure Plan and Development Contributions Plan Overlay map).
- The amendment also seeks to amend the Armstrong Creek East Precinct Structure Plan – May 2010 to implement some of the changes recommend in this report.
- The Amendment was exhibited between 20 January 2011 and 21 February 2011.
- At its meeting of 12 April 2011, Council resolved to refer the submissions to an independent Panel appointed by the Minister for Planning.
- The Panel was held over 7 days between Wednesday 25th May and Tuesday 21st June 2011. The Panel recommended that Amendment C214 be approved with a number of changes (discussed in detail in the body of this report).
- It is recommended that the majority of these changes be adopted.
- It is recommended that the Panel's proposed changes relating to the reclassification of the Development Infrastructure Levy (DIL) to the Community Infrastructure Levy (CIL) are not supported: The Panel proposed changes would put all improvements to open space into the \$900 per lot capped – community infrastructure levy and make the improvements of the open space across the precinct the responsibility of Council and place an increased cost of approximately \$ 10.2M of Council from the exhibited developer contribution plan.
 - All improvements to the regional, neighbourhood activity centre and local activity centre active public open space other than the basic improvements,
 - The multipurpose indoor stadium on the State School site on the Burvilles Road extension.
- The Panel also included two specific recommendation, being:
 - that Council should seek independent planning advice as to the underlying zoning of the proposed land required from the property commonly known as "Hoopers Paddock" for the widening of Horseshoe Bend Road (13.6m strip of land). This advice is required to appropriately inform valuation of this section of land. Council officers have addressed this issue within the report.

**1. AMENDMENT C214 – ARMSTRONG CREEK EAST PRECINCT
DEVELOPMENT CONTRIBUTIONS PLAN – ADOPTION OF AMENDMENT
(CONT'D)**

- That Council should consider the exclusion of a proposed Catholic School (2.8ha) from the net developable area, and hence not be subject to DCP levies. Council officers have addressed this issue within the report
- The Panel's recommendations are found in the Panel Report which is available in the Councillor's lounge and on Council's website. A list of the DCP rates is included in the body of this report.
- In addition to adopting the modified developer contribution plan it has also recommended that the precinct structure plan be amended in a minor manner to take the adopted Developer Contribution Plan.

Cr Macdonald moved, Cr Richards seconded -

That Council:

- 1) Adopt Amendment C214 (including the Armstrong Creek East Precinct Development Contribution Plan and amended Precinct Structure Plan);**
- 2) Submit the adopted Amendment together with the prescribed information to the Minister for Planning requesting approval.**

Carried.

Report

Background

The Amendment proposes to introduce the *Armstrong Creek East Precinct Development Contributions Plan, November 2010*, into the Greater Geelong Planning Scheme as an incorporated document, includes a new Development Contributions Plan Overlay schedule (DCPO3) in the Planning Scheme and applies the Schedule (DCPO3) to the entire Armstrong Creek East Precinct. (See Appendix 1-1 - Armstrong Creek East Precinct Urban Structure Plan – Amended November 2011 and Appendix 1-2 - Development Contributions Plan Overlay map).

The *Armstrong Creek East Precinct Development Contributions, November 2010* (DCP) has been prepared by Urban Enterprise Pty Ltd on behalf of Council and in close partnership with the Armstrong Creek Development Corporation (ACDC). The DCP is required to collect levies to ensure that the infrastructure set out in the East Precinct Structure Plan is funded.

Currently the funding of infrastructure for interim stages of development within the precinct is addressed by a Section 173 Agreement between Council and the early landowners/developers. The DCP will replace these interim S173 Agreements (as far as developer contributions are concerned) once this amendment has been approved by the Minister for Planning.

The Amendment was formally exhibited between 20 January 2011 and 21 February 2011. At its meeting of 12 April 2011, Council resolved to refer the submissions to an independent Panel appointed by the Minister for Planning. As a result, a Panel to consider Amendment C214 to the Greater Geelong Planning Scheme was appointed under delegation from the Minister for Planning on 30th March 2011. The Panel members were Mr Andrew Clarke (Chair) and Mr Rodger Eade.

**1. AMENDMENT C214 – ARMSTRONG CREEK EAST PRECINCT
DEVELOPMENT CONTRIBUTIONS PLAN – ADOPTION OF AMENDMENT
(CONT'D)**

A Directions Hearing was held in relation to the amendment on Wednesday 4th May 2011 in Geelong. The Panel then met at the offices of Planning Panels Victoria on 7 days (or part days) between Wednesday 25th May and Tuesday 21st June 2011 to hear submissions to the Amendment C214.

Discussion

The Panel has now provided its report to Council and has recommended the Amendment be approved subject to changes.

The Panel's recommendations are found in the Panel Report which is available in the Councillor's lounge and on Council's website.

Panel Recommendations

A summary of the key issues raised in the submissions, the Panel's position and Council officer comments are provided below:

Cost And Affordability

The issue here is whether the DCP levies proposed are at such a level that housing affordability in ACEP is undesirably impacted. Addressing this issue requires considering both the range of infrastructure items being proposed to be provided within the DCP and the extent to which the standard of provision may be excessive.

Panel Position:

The Panel concluded that that there was no evidence presented to it which would allow it to confidently draw the conclusion that the level of development infrastructure levies proposed in the Armstrong Creek East Precinct (ACEP) Developer Contribution Plan (DCP) is unacceptably and inappropriately high and that it will therefore have an undesirable impact on housing affordability. The Panel found that in the context of housing affordability there was no reason not to recommend that the DCP as proposed be accepted.

Officer Comment:

Officers support the Panel's findings.

Cost Apportionment

A number of the developers of adjoining precincts raised concerns that because costs being incurred for major infrastructure in each precinct are not being apportioned across the whole growth area this may result in an inequitable apportionment.

Panel Position:

The Panel found that in this instance the cost apportionment approach taken by Council is acceptable.

Officer Comment:

Officers accept the Panel's findings.

**1. AMENDMENT C214 – ARMSTRONG CREEK EAST PRECINCT
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(CONT'D)**

Community Infrastructure And Development Infrastructure

There were two interrelated issues raised in relation to the provision of community infrastructure and development infrastructure. These were:

- Whether particular infrastructure items should be characterised as community infrastructure or development infrastructure
- Whether the level of improvement of active open space with sporting facilities was a basic improvement.

Panel Position:

The Panel recommends that the following facilities included as Development Infrastructure items in the DCP should either be included as Community Infrastructure items or deleted from the DCP:

- All sporting pavilions,
- All improvements to the regional, neighbourhood activity centre and local activity centre active public open space other than the basic improvements including earthworks, landscaping, fencing and seating,
- The multipurpose indoor stadium on the State School site on the Burvilles Road extension.

Officer Comment:

Officers support the Panel recommendation regarding sporting pavilions, as this classification is consistent with the growth Areas Authority (GAA) and other recently approved DCPs. However, it should be noted that the reclassification of the sporting pavilions will mean that there will be insufficient funds collected to fund both the sporting pavilions and the regional library. It is proposed therefore that the DCP fund the sporting pavilions and that the funding for the library is sought from alternative funding sources, such as grants etc.

Officers recommend that Council does not support the last two recommendations (i.e., the last two dot points, above) as they are inconsistent with the way similar infrastructure is dealt with in other recently approved DCPs and will result in a significant financial loss to Council.

Examples of recent DCPs approved across Melbourne's five major growth areas have included costs associated with the construction of ovals, pitches, tennis courts, cricket nets, etc with costs being comparable to those reflected in the ACEP DCP; not just basic earthworks and fencing.

If Council were to adopt the Panel's recommendation, be it inconsistent with recent Melbourne DCPs prepared by the GAA, it would result in a \$10.2M loss of income from DCP levies.

**1. AMENDMENT C214 – ARMSTRONG CREEK EAST PRECINCT
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(CONT'D)**

Community Centres

There are five community facilities projects identified in the DCP. These are:

Development Infrastructure Levy projects:

- The construction of two community complexes, one in the local activity centre and one in the neighbourhood activity centre
- Land acquisition associated with both community complexes

Community Infrastructure Levy projects:

- Regional library and cultural space.

During the course of the hearing, Council officers agreed to the reclassification of sports pavilions as community infrastructure (i.e. subject to the community infrastructure levy), and therefore due to the \$900 / dwelling cap on the Community Infrastructure Levy would need to seek alternative funding sources for the Regional Library.

There was generally little difference between the expert social planning witnesses who gave evidence to the Panel about the number and function of the community complexes. However there was difference of opinion on:

- The land area requirement for the neighbourhood activity centre community complex site
- The size of the two proposed community centre buildings.

Panel Position:

The Panel recommends no change to the DCP with respect to the provision of the two community centres as exhibited.

Officer Comment:

Officers support the Panel's position on this issue.

Drainage

Some submitters were critical of the extent of landscape restoration works associated with the drainage corridor along the alignment of Armstrong Creek given that the landscape costs comprise a sizeable portion of the overall drainage costs and in the western section significantly exceed the engineering costs.

Panel Position:

The Panel recommends no change to the DCP with respect to the three drainage items.

Officer Comment:

Officers support the Panel's position on this issue.

**1. AMENDMENT C214 – ARMSTRONG CREEK EAST PRECINCT
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(CONT'D)**

Commitments & Agreements

A consistent theme put forward by the representatives of the Armstrong Creek West Consortium and Villawood Properties was that various commitments made by Council in its submission and expert evidence should be interpreted to apply to the whole of the Armstrong Creek Urban Growth Area. On this basis, they requested that these commitments be recorded in the DCP or elsewhere in the planning scheme. The issue was whether the Panel should support such an approach.

Panel Position

The Panel concluded that it is both unnecessary and inappropriate to use the DCP as a mechanism to document Council projects unfunded by the DCP.

Officer Comment

Officers support the Panel's position on this issue.

Valuation of Land for Road Widening – Hoopers Paddock

"Hooper Paddock" is a 16 ha property nominated within the Armstrong Creek East Precinct Structure Plan as Rural Conservation Zone and has been protected for its significant native vegetation values.

The DCP and PSP nominate Horseshoe Bend Road as requiring a 13.6m widening along its eastern side to accommodate the potential long term duplication of this road.

The DCP nominates this land as a DCP project and Council has valued the land based on its applied zone of "Rural Conservation".

Panel Position:

The Panel recommended that Council seek independent planning advice as to the underlying zoning of the proposed land required from the property commonly known as "Hoopers Paddock" for the widening of Horseshoe Bend Road (13.6m strip of land). This advice is required to appropriately inform valuation of this section of land.

Officer Comment:

Officers accept the Panel's findings.

Officers have received independent planning advice from Planning and Property Partners P/L regarding the above matter. The advice recommends that the use of Rural Conservation Zone to inform land valuation would not be appropriate in this case but instead a more appropriate basis of the valuation would be something like a Rural Living Zone.

The difference in valuation is only minor in terms of dollars per hectare and impact on the DCP. This land will be valued according to this advice as part of Council annual obligation to revalue all land projects within the DCP.

**1. AMENDMENT C214 – ARMSTRONG CREEK EAST PRECINCT
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(CONT'D)**

Proposed Catholic School

A submission was received by the Catholic Education Office informing Council and the Panel that they were about to purchase a 2.8ha site within the Armstrong Creek East Precinct for the purpose of constructing a primary school and would like to seek the Panel's support in being exempt from DCP levies.

The Catholic Education Office has presented this position to a large number of Panel's during recent years and has had mixed results. The GAA and State Government are currently in the process of finalise a definitive position regarding the treatment of Non-Government schools within PSPs / DCPs and is expected to support their position of being removed from the net developable area of future DCPs and hence not subject to DCP levies.

This position is based on these sites being primarily a community service facility similar to State Government education sites and Council community centres.

Panel Position:

The Panel recommend that the proposed Catholic School (2.8ha south of Armstrong Creek and west of Charlemont Road) be excluded from the net developable area and hence not subject to DCP levies.

Officer Comment:

Based on advice provided by the GAA on this matter, officers accept the Panel's findings.

The above change requires the Armstrong Creek East Precinct Structure Plan – May 2010 to be amended to reflect the exclusion of the proposed Catholic School from the Precinct's net developable area (currently nominated as residential land within the Land Use Budget) and additional commentary regarding the inclusion of the new community facility within the Precinct.

Requirement for A S173 Agreement Prior To DCP Approval

Due to the Armstrong Creek East Precinct Structure Plan being implemented via a separate earlier amendment than that of the DCP (C206), both the PSP and the Schedule to the Urban Growth Zone required the inclusion of a specific condition relating to a developer obligation to pay future DCP levies. This condition set outs a requirement to enter into a s173 Agreement with Council confirming payment of any DCP levies included within a future Development Contributions Plan.

Council made a submission to the Panel that once this amendment (C214) was approved it would supersede the need for such a condition and in fact add confusion to development industry.

Panel Position:

The Panel recommended the existing Part 4.0 of Schedule 2 to the Urban Growth Zone which deals with 'Development Contributions' should be deleted. Consequential text changes should be made to Section 5.1.2 of the Armstrong Creek East Precinct Structure Plan. Neither of these changes requires a separate planning scheme amendment or additional notification and should be undertaken as part of the approval of this amendment.

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Officer Comment:

Officers accept the Panel's findings.

Post Panel Discussions

Subsequent to the Panel Report being received and distributed to all stakeholders there has been discussions with the developers across the Armstrong Creek Growth Corridor. The Armstrong Creek East Developers (the proponents of the East Precinct principally affected by the Developer Contribution Plan in this instance), and other developers who will be affected by future Developer Contribution Plan in particular.

The Armstrong Creek East Precinct developers are generally comfortable with the position outlined in this report in respect to the adoption of the Panel recommendations with the modified approach to the improvement of open space (retention of this requirement within the uncapped development infrastructure classification)

Other developers have expressed concerns in relation to the Panel report generally and have suggested major modification to the Developer Contribution Plan, in particular the reduction in the levy imposed for the construction of the community buildings to service the precinct, with the reduction in this money being redirected to improvements to open space, which it is suggested would some how deliver a more robust Developer Contribution Plan for Council. Officers consider that a compromise that moved away from the recommendations of the Panel (save for the embellishment of the open space which is considered inconsistent with the metropolitan examples) would place Council in a completely inappropriate position in respect to being able to fund infrastructure across this precinct moving forward.

Revised DCP Rates

As a result of these recommended changes, the revised DCP rates are as follows:

Levy Category	Residential Land	Commercial Land
Development Infrastructure Levy (DIL) – Per Developable Hectare	\$ 207,450.96	\$ 103,407.06
Community Infrastructure Levy (CIL) – Per Dwelling	\$ 913.67 (capped at \$900)	NA

Environmental Implications

This amendment gives effect to the Armstrong Creek Urban Growth Plan and Armstrong Creek East Precinct Structure Plan. The planning for the growth area and precinct has addressed potential environmental implications of the development. This amendment is expected to result in positive environmental outcomes as it will, in particular, facilitate the collection of development contributions that will enable the rehabilitation of the Armstrong Creek waterway and delivery of significant open space assets across the precinct.

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Financial Implications

All items of development and community infrastructure are to be funded entirely by the developers, with the exception of Stadiums, which are to be 70% funded by the Department of Education and Early Childhood Development (DEECD) and Council.

As noted above, the reclassification of the sporting pavilions will mean that insufficient funds will be collected to fund both the sporting pavilions and the regional library. It is proposed therefore that the CIL levy will be used to construct the sporting pavilions.

It should be noted that the DCP will not be the sole source of funding for all infrastructure in the Armstrong Creek Integrated Infrastructure Development Plan (IIDP) and the Armstrong Creek East Precinct. During the 20 year life of the DCP many of the projects will require supporting funds to ensure delivery of the ultimate services to the community.

The supporting funds required by Greater Geelong City Council have been identified in Council's 10 Year Long-Term Financial Plan, with approximately \$5M allocated.

There will also be an ongoing requirement for Council to resource the management of DCPs and their consolidated delivery program.

Policy/Legal/Statutory Implications

The DCP has been developed in accordance with the provisions of Part 3B of the *Planning and Environment Act 1987* and the Ministerial direction under Section 46M of the *Planning and Environment Act 1987*.

Officer Direct or Indirect Interest

No Council staff involved in the preparation of this report has a direct or indirect interest in the matter to which this report relates.

Risk Assessment

At their core, DCPs are a local government financial and risk management tool aimed at providing infrastructure funding that has a direct nexus to the urban growth of the municipality, and to ensure Council receives appropriate contributions for required infrastructure without burdening other rate payers with these costs.

The practice of negotiating with developers on a site-by-site basis has the potential to create inconsistency in the quality and quantity of infrastructure delivered within the municipality and has had limited potential to get contributions for larger scale facilities outside the particular site (e.g.: community complexes or sports grounds).

A key risk with the implementation of the Armstrong Creek East Precinct DCP is the long-term management of these Council liabilities (i.e.: income versus expenditure), the assurance that the works are delivered in accordance with the DCP and the collected funds are managed within a robust accounting structure.

**1. AMENDMENT C214 – ARMSTRONG CREEK EAST PRECINCT
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(CONT'D)**

Social Considerations

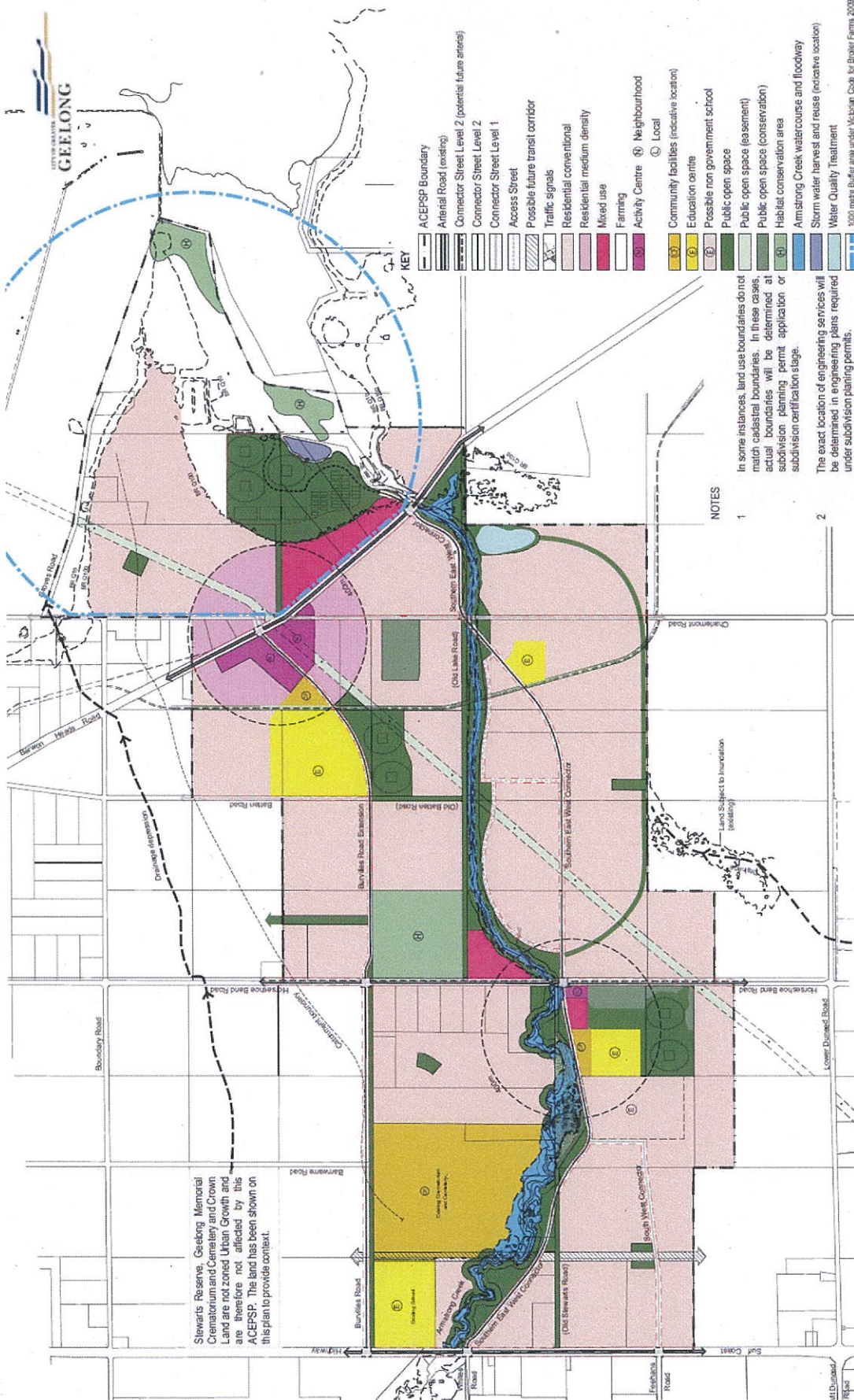
This amendment will ensure the equitable collection and distribution of development contributions in the Armstrong Creek East Precinct. It will also ensure that the infrastructure provided at the inception of the Growth Area community meets the needs and expectation of the community.

The revised DCP will no longer provide for a financial contribution to delivery of a Regional Library within the growth areas central Major Activity Centre precinct.

Communication

The amendment was placed on formal exhibition between 20 January 2011 and 21 February 2011. Exhibition included the usual statutory notice requirements and also notices being mailed to all owners and occupiers of property in the whole of the Armstrong Creek Growth Area.

In addition, the major developer of the Armstrong Creek East Precinct (the Armstrong Creek Development Corporation) and all relevant authorities have been closely involved in the preparation of the DCP.



Appendix 1-2 – Development Contributions Plan Overlay

