

CELEBRATING
30
YEARS
1989-2019

urban planning
economics+tourism
enterprise

AMENDMENT C387GGEE: JETTY ROAD STAGE 2 DCP

EXPERT EVIDENCE STATEMENT

MATT AINSAAR, MANAGING DIRECTOR, URBAN ENTERPRISE PTY LTD

CITY OF GREATER GEELONG

7TH APRIL 2024



www.urbanenterprise.com.au

CONTENTS

1. NAME AND QUALIFICATIONS	4
2. ENGAGEMENT	5
2.1. INSTRUCTIONS	5
2.2. INFORMATION REVIEWED	5
2.3. STRUCTURE OF STATEMENT	5
3. AMENDMENT C387	6
3.1. THE SUBJECT LAND	6
3.2. OVERVIEW OF AMENDMENT C387	6
4. DEVELOPMENT CONTRIBUTIONS PLAN	8
4.1. INTRODUCTION	8
4.2. CONTEXT	8
4.3. METHODOLOGY	8
4.4. DEVELOPMENT OUTCOMES AND DEMAND UNITS	9
4.5. INFRASTRUCTURE REQUIRED	9
4.6. INFRASTRUCTURE COSTS AND LEVY CALCULATIONS	10
5. SUBMISSIONS	14
5.1. INTRODUCTION	14
5.2. SUBMISSION 7	14
5.3. SUBMISSION 32	20
5.4. SUBMISSION 51	20
5.5. SUBMISSION 52	21
5.6. SUBMISSION 53	21
6. CONCLUSIONS AND RECOMMENDATIONS	22
6.1. DECLARATION	23
APPENDICES	24
APPENDIX A QUALIFICATIONS	24
APPENDIX B INSTRUCTIONS	25
FIGURES	
F1. SUBJECT LAND	6
F2. DCP INFRASTRUCTURE ITEM MAP	10
F3. CHARGE AREA MAP	12
TABLES	
T1. LAND BUDGET	9
T2. INFRASTRUCTURE COST SUMMARY	11
T3. DEVELOPMENT AND COMMUNITY INFRASTRUCTURE LEVIES	11
T4. SUMMARY OF SUBMISSION 7 AND RESPONSE	14

1. NAME AND QUALIFICATIONS

1. My name is Matt Ainsaar and I am the Managing Director and Founder of Urban Enterprise Pty Ltd, with offices situated at 1/302-304 Barkly Street Brunswick, VIC 3056.
2. Urban Enterprise is a firm of urban planners, land economists and tourism planners based in Melbourne. The firm has 35 years' experience providing consultancy services to all levels of Government and a wide range of private sector organisations in Victoria and other states of Australia.
3. I am a qualified planner and land economist with 45 years' experience.
4. I have substantial expertise in the preparation of Development Contributions Plans for Councils and developers and the provision of advice regarding development contributions in Victoria for more than three decades. I also have substantial experience in providing advice regarding urban economic and property matters.
5. I have appeared as an expert witness at numerous Planning Panel hearings and VCAT hearings in respect of development contributions, urban economics and open space contributions.
6. My educational qualifications and memberships of professional associations include:
 - a. Bachelor of Town and Regional Planning, University of Melbourne;
 - b. Graduate Diploma of Property, RMIT University;
 - c. Member, Planning Institute of Australia;
 - d. Member, Victorian Planning and Environmental Law Association;
 - e. Fellow, Australian Property Institute (Certified Practising Professional).
7. I have prepared this statement of evidence with the assistance of Brett Hannah, Senior Associate. Brett was a co-author of the DCP along with Paul Shipp, Executive Director. Brett's expertise and experience includes:
 - a. Bachelor of Environments (urban planning major) and Master of Urban Planning (University of Melbourne);
 - b. 9 years' experience at Urban Enterprise in preparing DCPs, ICPs and providing advice regarding development contributions to Councils and developers.
8. The opinions in this statement are my own.

2. ENGAGEMENT

2.1. INSTRUCTIONS

9. I have been instructed by Maddocks Lawyers to prepare an expert evidence statement to present at the Planning Panel hearing in relation to this matter on behalf of City of Greater Geelong.
10. My written instructions dated 19th February 2024, are to prepare an expert witness statement and appear before the Planning Panel, which:
 - a. provides an overview of the Stage 2 DCP, including the methodology used in the Stage 2 DCP and my opinions regarding the same;
 - b. responds to issues raised by submissions related to the Stage 2 DCP and the Amendment, as relevant to my expertise; and
 - c. outlines my recommended changes, if any, to the Amendment and / or Stage 2 DCP in response to the submissions.

2.2. INFORMATION REVIEWED

11. I have reviewed the amendment documentation and other relevant documents, including:
 - a. The exhibited Amendment C387ggee documentation (the **Amendment**);
 - b. Jetty Road Urban Growth Area Stage 2 Development Contributions Plan (Oct 2023) (**Exhibited DCP**);
 - c. Submissions made to the Amendment which raise issues relevant to the DCP (numbers 7, 32, 51, 52 and 53);
 - d. The Ministerial Direction on the Preparation and Content of Development Contributions Plans, 11 October 2016 (**Ministerial Direction**);
 - e. Development Contributions Plan Guidelines, Department of Environment, Land, Water and Planning, March 2007 (**DCP Guidelines**); and
 - f. The Planning and Environment Act 1987 (as relevant to development contributions) (the **Act**).
12. I point out that I was not involved in the preparation of the Stage 2 DCP. I was involved in the preparation of the Stage 1 DCP in 2011. However, I have reviewed the material and formed my own opinions regarding the Stage 2 DCP and the submissions to the Amendment as they relate to the DCP.

2.3. STRUCTURE OF STATEMENT

13. My statement includes the following sections:
 - Section 3 - description of the Amendment and the DCP area.
 - Section 4 – a summary of the DCP.
 - Section 5 – a summary of the submissions relating to the DCP and a response to the issues raised.
 - Section 6 – conclusions and recommendations.

3. AMENDMENT C387

3.1. THE SUBJECT LAND

- 14. The Amendment applies to an area generally bounded by Port Phillip Bay to the north, McDermott Road to the west, Portarlington Road to the south and existing residential development (that is, the Jetty Road Stage 1 area) to the east as shown in Figure F1.
- 15. The land is currently within the Farming Zone (FZ) north of the Bellarine Rail Trail, and Rural Living Zone (RLZ) south of the Rail Trail.

F1. SUBJECT LAND



Source: C387 Explanatory Report

3.2. OVERVIEW OF AMENDMENT C387

- 16. The exhibited Amendment proposes the following:

- a. Rezoning Farming and Rural Living zoned land to the General Residential Zone Schedule 1 (**GRZ1**);
- b. Applying a Development Plan Overlay Schedule (**DPO46**) to require the form and conditions of future use and development to be shown on a plan before a planning permit can be granted;
- c. Applying a Development Contributions Plan Overlay Schedule (**DCPO9**) for the purposes of levying contributions for the provision of works, services and facilities before development can commence;
- d. Applying an Environmental Audit Overlay (**EAO**) to part of the land to manage any potential contamination; and
- e. Incorporating the Jetty Road Urban Growth Area Stage 2 Development Contributions Plan (City of Greater Geelong, October 2023) into the planning scheme.

4. DEVELOPMENT CONTRIBUTIONS PLAN

4.1. INTRODUCTION

17. Urban Enterprise was engaged by City of Greater Geelong to prepare a Development Contributions Plan (DCP) for the subject land. Paul Shipp, Executive Director was the lead author of the DCP and was assisted in its preparation by Brett Hannah, Senior Associate.
18. The DCP was prepared by Urban Enterprise in conjunction with City of Greater Geelong officers. The background technical information to inform the DCP was commissioned and co-ordinated by the City of Greater Geelong, with input from technical consultants commissioned by a landowner consortium.

4.2. CONTEXT

19. A DCP is a statutory mechanism which is commonly applied as part of a Planning Scheme Amendment which rezones land for urban development. The Planning and Environment Act 1987 provides for the introduction of a DCP in a Planning Scheme.
20. DCPs are Incorporated Documents in the relevant Planning Scheme and are implemented through a Schedule to the Development Contributions Plan Overlay (DCPO).
21. The role of a DCP and associated DCPO is to identify the shared infrastructure required to support development of a precinct and to equitably apportion the cost of that infrastructure between current and future users of the infrastructure.
22. DCPs provide a transparent mechanism through which developers can contribute to the delivery of public infrastructure in a staged manner, with residents of the new development able to access necessary infrastructure in a timely fashion.
23. DCPs are particularly important in areas of fragmented landownership to provide confidence that all contributions made to public infrastructure will be equalised across landowners.
24. In the case of the subject land, land ownership is relatively fragmented. The DCP ensures that all developers within the subject land make an equitable contribution to infrastructure within the relevant charge area. The DCPO applies to all land in the Amendment area.

4.3. METHODOLOGY

25. The methodology used to prepare the DCP is consistent with the preparation of other DCPs throughout the State and in line with the DCP Guidelines, Ministerial Direction and the Planning and Environment Act 1987.
26. The method can be summarised as follows:
 - a. Define the Main Catchment Area for the DCP;
 - b. Review the characteristics and yield of the proposed development of the subject land;
 - c. Ensure the proposed development yield is in common demand units;
 - d. Review technical studies which identify the need for public infrastructure to support the development and identify items suitable for inclusion in the DCP;
 - e. Classify DCP infrastructure items as either within the Development Infrastructure Levy (DIL) or Community Infrastructure Levy (CIL);

- f. Identify the location, standard of provision, strategic justification, provision trigger and estimated cost of each DCP item;
- g. Identify the catchment area served by each DCP item and identify the need for apportionment of costs beyond the Main Catchment Area for the DCP (external apportionment);
- h. For each item, divide the item cost by the number of demand units within the relevant catchment area to derive a levy for each item;
- i. Add the levies within each levy type (DIL and CIL); and
- j. Identify charge areas within which all development is required to pay a common levy.

4.4. DEVELOPMENT OUTCOMES AND DEMAND UNITS

- 27. A summary of the DCP land budget is shown in the following Table T1. The subject land has a total area of 150.345 hectares, 120.208 hectares of which is defined as Net Developable Area (NDA).

T1. LAND BUDGET

Land Budget	Area (ha)	% of total	% of NDA
Total Area	150.345		
Transport	4.473	2.98%	3.72%
Waterways and Drainage	12.620	8.39%	10.50%
Encumbered Open Space	6.114	4.07%	5.09%
Unencumbered Open Space (Clause 53.01)	6.930	4.61%	5.77%
Net Developable Area (NDA)	120.208	79.95%	

Source: Jetty Road Stage 2 DCP, March 2023; City of Greater Geelong, 2023 based on the Framework Plan

- 28. All Net Developable Area is proposed to be developed for residential purposes.
- 29. In DCPs, the level of demand that a particular land parcel will generate for each infrastructure item is expressed in terms of **demand units**. The demand unit used for this DCP is “net developable hectares of land”. That is, one net developable hectare of land is equal to one demand unit.

4.5. INFRASTRUCTURE REQUIRED

- 30. The types of infrastructure that can be included in a DIL is defined by the Ministerial Direction. This includes roads, intersections, public transport, open space, drainage, and associated land.
- 31. The types of infrastructure that can be included in a DCP Community Infrastructure Levy (CIL) is not defined, however these commonly include community centres, libraries and sports pavilions.
- 32. Based on a review of technical reports, the following infrastructure items were included in the Exhibited DCP:
 - a. 25 Development Infrastructure items, comprising 12 transport items, 5 open space items, 5 drainage items, 1 planning item and 3 community facility items (two of which are classified as “development infrastructure”).
 - b. One Community Infrastructure item, being a contribution to the construction of a new Regional Community and Learning Hub in Drysdale.
- 33. A map showing the location of infrastructure items is provided in the following Figure F2.

F2. DCP INFRASTRUCTURE ITEM MAP



Source: Exhibited Jetty Road Stage 2 DCP (PDF pg. 13)

4.6. INFRASTRUCTURE COSTS AND LEVY CALCULATIONS

34. The DCP infrastructure items have a combined cost of approximately \$75.384m, of which \$53.057m (70%) is apportioned to the DCP area. The balance of funding for the DCP infrastructure items comes from levies collected through the Stage 1 DCP and also from Council. A summary of the DCP infrastructure items is shown in Table T2 below.

T2. INFRASTRUCTURE COST SUMMARY

Infrastructure Type	Total cost \$	Actual cost contribution attributable to development \$	Proportion of cost attributable to development %
Roads	\$17,297,574	\$15,740,948	91%
Paths	\$3,418,000	\$1,710,937	50%
Open Space	\$10,486,749	\$4,827,205	46%
Drainage	\$21,731,570	\$20,139,276	93%
Community facilities	\$21,393,253	\$9,581,322	45%
Planning	\$1,057,674	\$1,057,674	100%
Total	\$75,384,821	\$53,057,362	70%

Source: Exhibited DCP09.

- 35.** The apportioned cost of each individual infrastructure item is divided by the number of demand units within its catchment. The resulting levies are shown in Table T3 below.
- 36.** There are three charge areas in the DCP with a separate DIL for each area.
- 37.** Charge Areas have been based on the drainage catchments identified in the Water Technology report, titled "Jetty Road Rezoning – Stage 2 SWMS", (Feb 2023).

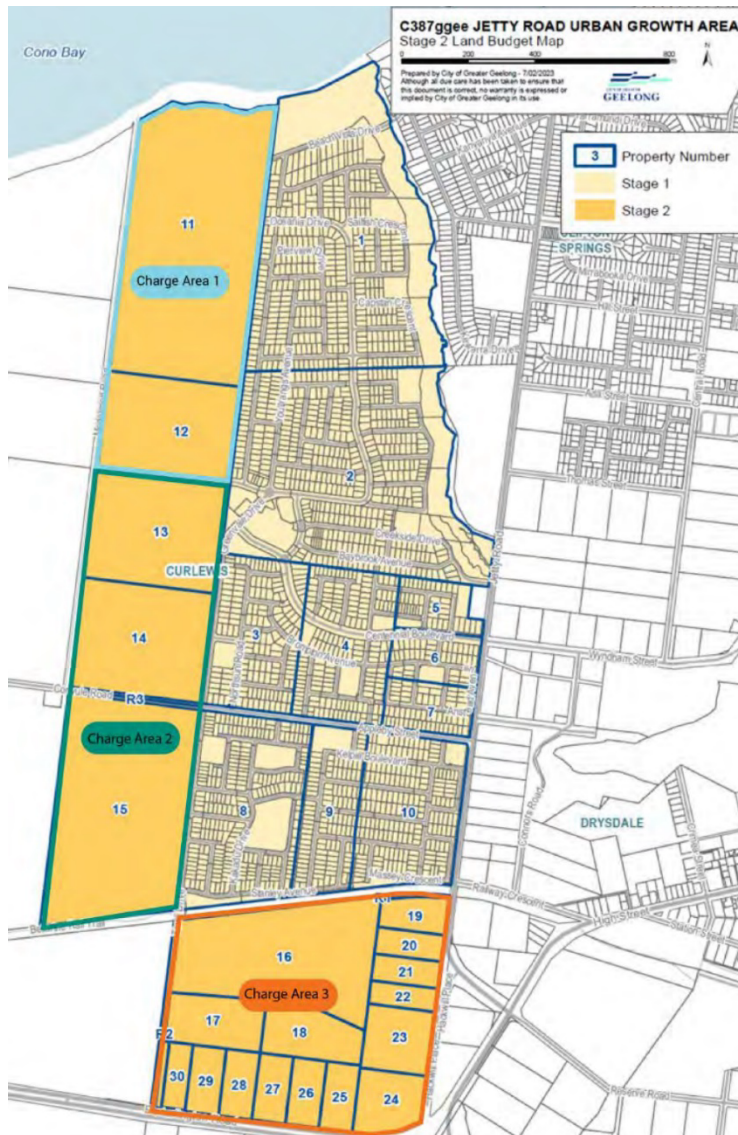
T3. DEVELOPMENT AND COMMUNITY INFRASTRUCTURE LEVIES

Infrastructure Type	Charge Area 1	Charge Area 2	Charge Area 3
Roads	\$130,948	\$130,948	\$130,948
Paths	\$14,233	\$14,233	\$14,233
Open Space	\$30,527	\$30,527	\$56,689
Drainage	\$11,222	\$31,162	\$417,161
Community facilities	\$42,402	\$42,402	\$42,402
Planning	\$8,799	\$8,799	\$8,799
DIL per net developable hectare	\$238,129	\$258,070	\$670,231
Community Infrastructure Levy (CIL) per dwelling	\$1,206	\$1,206	\$1,206

Source: Exhibited DCP09.

- 38.** Figure F3 below shows a map of the charge areas.

F3. CHARGE AREA MAP



Source: Exhibited Jetty Road Stage 2 DCP (PDF pg. 26)

39. Since the exhibition of the DCP, I understand that Council has agreed to put to the panel that the exhibited DCP should be modified to account for the encumbered nature of part of DR-04L and for drainage construction works that were omitted from the exhibited DCP particularly within property 23 and smaller areas within adjacent properties. Land identified in the Framework Plan as Drainage Reserve land was considered to be creditable (unencumbered land), while land identified as Waterway Corridor was considered to be not creditable (encumbered land).
40. I understand there was a misunderstanding internally at Council, regarding the status of the waterway south of the rail trail which led to an error in the instructions to Urban Enterprise in preparing the DCP.
41. During exhibition of the Amendment, it was confirmed that the Corangamite Catchment Management Authority (CCMA) does, in fact, identify all of the waterway as a designated waterway.
42. On the basis of the waterway being designated, I understand that the authors of the DCP have recommended

to Council to adopt the 'post-development' 40m wide constructed waterway corridor¹ as the encumbrance due to the waterway, with only land outside this waterway to be classified as unencumbered land and therefore "creditable" under the DCP.

43. I understand that this was the preferred approach by Council and the authors of the DCP for the following reasons:
 - a. The CCMA does not provide a clear definition of the extent of the existing waterway encumbrance.
 - b. The existing encumbrances (including the on-site dam) will no longer be relevant after the re-alignment and 'construction' of the waterway under 'post-development' conditions.
 - c. There is certainty regarding both the hydraulic width (17.3m total) and waterway width (40m total) in the SWMS.
44. My interpretation of this change is that DR-04-L will relate only to the unencumbered drainage land area that is located outside the constructed waterway corridor of 40m width.
45. In my opinion, this is an appropriate change to make and is consistent with the treatment of encumbered drainage land in other DCPs.
46. I point out that the implications for the DCP of making this change are as follows:
 - a. The land budget should be updated to reflect revised calculations of encumbered and unencumbered drainage land for DR-04-L based on the amended approach outlined above.
 - b. The corresponding value of land for DR-04-L should be revised to reflect the revised unencumbered (creditable) drainage land area.
 - c. A new infrastructure item will need to be added to the DCP which is the constructed waterway traversing Properties 23 and 24.
 - d. The DCP should be amended and the calculation of the levies should be revised, to take account of the above change.

¹ Jetty Road South of Rail Trail SWMS, Water Technology (Sept 2023) (PDF pg. 36)

5. SUBMISSIONS

5.1. INTRODUCTION

47. Of the 58 submissions made to the Amendment, five submissions raise issues about the DCP. In this section I respond to each of the issues raised in these submissions relevant to the DCP.

5.2. SUBMISSION 7

48. The submission raises several issues in respect of the DCP, including queries of costs, land valuation, infrastructure items and indexation. I have summarised these points in Table T4 along with my opinion and response to each issue.

T4. SUMMARY OF SUBMISSION 7 AND RESPONSE

#	Issue	Opinion / Response
1	<p>The Coriyule Road Drainage item DR-02 should be removed from the DCP. Submission 52 also raises this issue.</p> <p>If DR-02 is to remain in the DCP, the apportionment should be adjusted down to reflect the relevant share of the catchment, which the submitter identifies as 16% of the catchment area.</p>	<p>Afflux Consulting prepared a letter of advice dated 29 September 2023, which concluded that the external Coriyule Drainage item (DR-02) is needed by the Stage 2 development under EPA 2021 drainage standards.</p> <p>The advice from Afflux also states that regarding apportionment of costs, “no properties outside of this area should be applied the drainage charge for the outfall pipe given that the land development is the agent of change that requires the pipe (i.e., no external catchments to be applied)” (p.17)</p> <p>The Exhibited DCP outlines the apportionment calculations in Appendix B, which is broadly consistent with the apportionment principles outlined in the Afflux letter. The apportionment adopted gross land area of the internal drainage catchments, along with the benefiting Council Road reserve to determine the apportionment.</p> <p>I recommend that no change be made to the DCP in respect of this item.</p>

#	Issue	Opinion / Response
2	<p>Clarification is sought regarding how the cost was escalated from the \$3.6 million (actual expenditure) to \$3.94 million included in the DCP.</p> <p>Given the cost has already been incurred, the relevant escalation that should apply is the Consumer Price Index (CPI).</p>	<p>Council officers have advised that the cost of the actual delivery of the Stage 2 Coriyule Road drainage item was \$3,667,601. The delivery date for this item was unknown at the time of preparing the DCP, so I understand the value was conservatively assumed by Urban Enterprise to have a June 2022 base value, so as to not overstate the impact of indexation.</p> <p>I now understand that the Stage 2 drainage item was delivered in 2021 and hence the cost should be revised to reflect the additional 12 months of cost escalation (ie from June 2021).</p> <p>This value was indexed in accordance with Rawlinsons BPI from June 2022 into June 2023 (using March quarter index values, given that the March quarter is the latest available index at the July 1 indexation time).</p> <p>Mar-22 = 132.33, Mar-23 = 142.22 (Index factor = 1.0747)</p> <p>The final resulting value included in the DCP is \$3,941,708.</p> <p>Rawlinsons BPI was used for the indexation of construction costs in order to be consistent with the indexation methodology of the both the Stage 1 and Stage 2 DCPs. I am satisfied with the use of this indexation method.</p>
3	<p>Changes to the DCP cost for the Southern Wetland (DR-04) by reducing the area required for batters.</p>	<p>The costs and scope adopted in the DCP are consistent with the detailed costs and designs shown in the Appendix to the DCP. Costs were prepared by Stantec through an engagement with the landowner consortium and provided to Council for review and inclusion in the DCP.</p> <p>It is not a matter for the DCP as to whether the batters should or could be steeper.</p>
4	<p>The Southern Waterway (DR-04) costs should be amended to include the correct land area.</p> <p>DR-04 should also include additional landscaping costs that have not been included in the DCP.</p>	<p>I note that a revised land budget was circulated on 30/8/23 which is not reflected in the exhibited DCP.</p> <p>My evidence at paragraphs 39 to 45 deals with the issue of unencumbered land area for DR-04-L in detail.</p>

#	Issue	Opinion / Response
5	DR-04 should also include additional landscaping costs that have not been included in the DCP.	<p>The landscape costs prepared by SMEC referred to in the submissions were not provided to Urban Enterprise prior to the preparation of the DCP and therefore the DCP includes the detailed costs prepared by Stantec for the landowner consortium which included landscape costs.</p> <p>The detailed costs included in the DCP are shown in Appendix E (specifically PDF pages 97-99).</p> <p>The Opinion of Probable Cost (OPC) presented by SMEC is dated 10 July 2022. This OPC forms part of a Landscape Masterplan prepared by SMEC for APD Projects dated 11 July 2023. It is not clear whether this is a mistaken date, or whether the cost is not reflective of the detailed design used in the DCP (dated 22 June 2023).</p> <p>The OPC includes several footpaths which are typically required as part of local road construction.</p> <p>The OPC appears to include several items (under Wetland Works – below Q100) that are already included in the DCP cost under Earthworks.</p> <p>Therefore, I do not consider the isolated and direct comparison of the OPC cost with the <i>Landscape Works</i> component of the DCP cost to be a reasonable approach.</p> <p>I do not agree with including an additional cost of \$1,094,312.50 to DR-04, given it appears that several items included in the OPC are non-drainage items (ie. footpaths) or other works are included in other sub-headings within the DCP cost (ie. earthworks).</p> <p>If the cost for this item is to be revised, the estimated costs of the entire item should be reviewed in conjunction with Council officers.</p> <p>In any case, costs for DR-04 are apportioned primarily to properties within the ownership of the submitter, meaning that additional costs will largely be borne by the submitting land owner upon development.</p>

#	Issue	Opinion / Response
6	Land valuation methodology for DR-04L should be revised to adopt a site-specific methodology.	<p>I understand that the land valuation report was prepared consistent with the 'method for calculating estimated value of inner public purpose land' within the <i>Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans</i>, which states:</p> <p><i>For each parcel of land for which an estimate of inner public purpose land value report is to be prepared, the valuer engaged by the planning authority must:</i></p> <p><i>“(a) determine the estimate of value of all the inner public purpose land identified in the parcel using the following assumptions:</i></p> <ul style="list-style-type: none"> <i>(i) the subject land is zoned for an urban purpose as identified in the relevant precinct structure plan or equivalent strategic plan and valued at its unencumbered, highest and best use within this context;</i> <i>(ii) land in and around town centres identified in the relevant precinct structure plan or equivalent strategic plan will be assumed to be zoned for residential purposes;</i> <i>(iii) if the highest and best use is residential, the relevant density per parcel is the average density (expressed as dwellings per net developable hectare) identified in the relevant precinct structure plan or equivalent strategic plan;</i> <i>(iv) the subject land is accessible by road;</i> <i>(v) any GAIC (if within the GAIC area) has been paid; and</i> <i>(vi) the subject land is at the development front;</i> <p><i>(b) calculate a \$/hectare rate for all the inner public purpose land identified in the parcel.”</i></p> <p>The land valuation report (dated 31 August 2023) considers the land relevant to the land for DR-04 to be "irregular in shape". Therefore, "for the purposes of this valuation, the highest and best use of each irregular section of public land has been determined based on the broad hectare value of the property within which the irregular public land area is situated." (p.15)</p> <p>The DCP has been prepared in accordance with the land valuation report.</p> <p>It is normal for a land valuation report to be updated prior to finalisation of the DCP, however in accordance with the current valuation methodology. Given the recommended revisions regarding treatment of unencumbered drainage land, the valuation report will require updating.</p>

#	Issue	Opinion / Response
7	Financing costs associated with the early delivery of enabling infrastructure for the Southern Development Area (RD-03, DR-04 and OS-05) should be included in the DCP.	<p>It may be possible to include a financing component in the DCP, however in my view this would require compelling justification, for example:</p> <ul style="list-style-type: none"> - The infrastructure is needed to “open up” the development area and the infrastructure benefits the entire development area; and - The landowner bearing the cost of the upfront infrastructure would be significantly in credit in relation to DCP levies for a substantial amount of time; and - A large proportion of the development area may not be developed for several years. <p>I am not sure whether these circumstances exist in this case, and in any event, the landowner requesting this change owns the majority of the land in the Southern development Area and hence would be paying the largest proportion of the financing costs.</p>
8	DCP construction costs for DR-01 and DR-03 have been incorrectly allocated and should be swapped to reflect the correct project costings submitted by Stantec.	<p>The costs adopted for the DCP have been based on the PDF file title 2023.08.31 13588-14 DCP Cost Estimates.pdf, or the associated Excel file if no cost is provided in the PDF. In the case of DR-01 the DCP cost as shown in Appendix E of the DCP accords with the PDF file.</p> <p>There is a discrepancy for the cost estimate for DR-03 between the PDF file (\$323,364.40) and Excel file (\$360,014.65). Stantec needs to confirm which is the correct value of the two different values provided.</p> <p>The final DCP should include the correct cost estimate.</p>
9	Construction of Coriyule Road and the traffic calming treatment should be included in the DCP and project costs and apportioned 50% each to property 14 and property 15.	<p>The DCP does not include this item on the basis that it is a local road construction which provides only local benefits to the two properties identified by the submitter. Typically, this item would not be included in a DCP, so there ought to be a compelling reason to include it.</p> <p>Including this item and associated apportionment would have the following implications:</p> <ul style="list-style-type: none"> - The need for the creation of a fourth charge area in the DCP; - The financial obligation on Council as the Development Agency to deliver the works on Coriyule Road; - Additional administrative time/cost for Council. <p>I see no reason why this item could not be included in the DCP and apportioned only to Property 14 and 15 if there is a compelling reason to do so. However, if it is included, I recommend that a Section 173 Agreement be prepared and executed prior to the adoption of the final DCP to ensure that the responsibility for delivery remains solely with the owners of Property 14 and 15.</p>

#	Issue	Opinion / Response
10	<p>The Foreshore Works (OS-01) cost should be amended or have more information provided to clarify the source and method to determine the cost</p>	<p>My understanding is that the DCP cost for the Foreshore Works (OS-01) include both:</p> <ul style="list-style-type: none"> - Revised cost for the remaining scope of works (Stage 2 works) - Indexed value of scope of works completed in accordance with the Jetty Road Stage 1 DCP. <p>The value of the scope completed as part of the Jetty Road Stage 1 DCP was equivalent to \$853,521.81 in DCP values (2011 dollars).</p> <p>This value was then indexed to current values (June 2023) by using the BPI index values for Mar-11 and Mar-23. The resulting value in current dollars is \$1,231,738.93</p> <p>Mar-11 = 98.55, Mar-23 = 142.22, Index Factor = 1.4431</p> <p>The total value adopted for the OS-01 project in the Stage 2 DCP is: \$3,064,812.50 + \$1,231,738.93 = \$4,296,551.43</p> <p>I agree with the submission that the DCP should include more transparent and clear information in Appendix E for OS-01 to demonstrate the calculation I have outlined above.</p>
11	<p>The DCP Overlay Schedule drafting should be amended to ensure that projects completed prior to the introduction of the DCP are indexed in accordance with the Consumer Price Index (CPI).</p>	<p>The DCP adopts an indexation mechanism for construction costs which states:</p> <p>“The capital costs of each infrastructure item must be adjusted by reference to the Building Price Index (Melbourne) published by Rawlinsons, or a similar index determined by the Collecting Agency if the Building Price Index (Melbourne) is not available.” (PDF p.31)</p> <p>The adopted method for indexing construction costs is consistent with the Jetty Road Stage 1 DCP.</p> <p>The value of land projects is to be adjusted each year by reference to a revised land valuation report.</p> <p>The DCP does not include any reference to a change in indexation mechanism after the delivery of an infrastructure item.</p> <p>I note that the Jetty Road Stage 1 DCP requires land (other than land acquired under the Public Acquisition Overlay (PAO)) to be indexed by CPI. Appendix D of the Stage 1 DCP states that the land for Childrens and Community Hub facilities (CF-01-L) has been indexed by CPI into July 2023 dollars. My understanding is that this item has already been acquired by Council.</p> <p>In my opinion, the Exhibited Stage 2 DCP should be amended to include a specific indexation provision for CF-01-L which requires this item to be indexed by CPI. This will ensure consistency with the Stage 1 DCP.</p> <p>Other than this, I consider the indexation provisions to be suitable and I do not recommend further changes.</p>

5.3. SUBMISSION 32

49. Submission 32 does not support the inclusion of the Tivoli Drive and Greenvale Drive works (RD-01, RD-02 and RD-03) forming part of the DCP. The submission states that:

"In line with typical arrangements whereby standard collector roads are not DCP funded items, we do not support the inclusion of the Tivoli Drive and Greenvale Drive works forming part of the DCP.

Tivoli Drive – Rail Trail to Corriyule Road (RD-01 & RD-01-L), Greenvale Drive (RD-02 & RD-02-L) and Tivoli Drive - Portarlington Rd to Rail trail (RD-03 & RD-03-L) generally have development fronting the subject road (subject to retirement village outcomes) and as such should be developer funded."

50. The Development Contributions Guidelines (March 2007) identifies types of works, services or facilities that may be funded from a DIL, which includes land for road and construction of roads. There is no definition of the hierarchy of road that is allowable for funding under a DCP.
51. I do not agree with the statement that standard collector roads are not DCP funded items under typical arrangements. There are many existing DCPs which include collector roads as funded DCP items on the basis that the inclusion meets need and nexus principles.
52. My understanding is that the Tivoli Drive / Greenvale Drive duplication is ultimately required to service the needs of all residents within the Jetty Road Urban Growth Area. This understanding is consistent with the Jetty Road Stage 1 DCP which notes in the description of R002 North South Collector Road Part A – Land Acquisition, that "the interim construction works for the north south collector road requires land acquisition from private landowners in Stage 2. Duplication is to be provided as part of Stage 2 development." (PDF p. 42), noting that the North South Collector Road refers to Tivoli Drive / Greenvale Drive.
53. The Traffic Engineering Assessment, Traffix Group (Nov, 2022), states that the road is likely to be of greater importance to the precinct than a typical connector boulevard, given that it is the main transport 'spine' and is the major transport link between Portarlington Road and Jetty Road.
54. In my view, the duplication of Tivoli Drive / Greenvale Drive has sufficient need and nexus generated by the whole of the Jetty Road Stage 2 area to be included in the DCP and apportioned across all properties.

5.4. SUBMISSION 51

55. Submission 51 proposes to "remove reliance on a deferred timing for a community facility that was committed for Stage 1, and which is yet to be provided. This will require that the Stage 2 Development Contributions Plan be amended to remove all references to CF-01 Children and Community Hub, being a provision that is connected to Stage 2". This relates to the provision trigger in the Stage 1 DCP relating to this facility, namely 2022-23 or after 1,800 lots.
56. The Stage 2 DCP has the provision of CF-01 "at approximately 2031 or at an alternative time as determined by Council having regard to demand".
57. This timing accords with the advice by ASR in a memo to Council officers (25/1/23) which concludes that "delaying the delivery of proposed the Curlewis Early Years and Community Hub in the Jetty Road Urban Growth area can be justified until at least 2031".
58. Clearly, the timing or trigger for provision of CF-01 in the Stage 1 DCP is different to that in the Stage 2 DCP. The Stage 2 DCP trigger or timing for this item is based on the advice of ASR, as provided by Council officers. The issue raised by Submission 51 is a matter for the Stage 1 DCP, which should be amended to reflect the updated trigger/timing of this item. I consider that the approval of the Stage 2 DCP, with the updated timeframe for provision, would in turn, be implicit approval for updating the timeframe for provision in the

Stage 1 DCP.

5.5. SUBMISSION 52

59. Submission 52 queries the legality of Council being able to retrospectively seek collection of levies towards an asset that has already been delivered, namely DR-02 – the Coriyule Road drain.
60. I understand the drain was constructed in two stages. The Jetty Rd Stage 2 DCP seeks to recover costs associated with stage 2 only. The drain is external to the DCP Main Catchment Area and provides an outfall to the bay via Coriyule Rd and Scarborough Rd. As I have previously outlined in Table T4, the Afflux Consulting report confirms that the drain is needed for the development of the Jetty Road Stage 2 area and also confirms an appropriate apportionment of costs.
61. I understand that Council has sought legal advice on this matter that confirms that it is appropriate to include this item in the DCP.

5.6. SUBMISSION 53

62. It is submitted that the apportionment of costs for DR-04 should be reduced or changed to include Charge Area 2. Reasons submitted include:
 - a. The item having a significant upstream catchment (to the south-east) of approximately 82 hectares, although due to some upstream works, the overland flows into the Jetty Rd Stage 2 catchment have been reduced.
 - b. It would appear that the land south of the Rail Trail is undertaking significant works to capture, treat and detain water before discharging to the north-west.
63. The DCP has adopted a charge area consistent with the internal component of the catchment south of the rail trail identified in the *Jetty Road South of Rail Trail SWMS, Water Technology (Sep, 2023)*.
64. The Afflux Consulting letter of advice (Sep, 2023) notes that the constructed waterway and basin area is “required for water quality and quantity treatments for the entire orange area”, the ‘orange area’ being the land south of the rail trail.
65. There is no evidence to the contrary that costs should be apportioned externally, so I adopt the Afflux recommendations.

6. CONCLUSIONS AND RECOMMENDATIONS

66. My conclusions and recommendations in respect of the proposed Amendment C387ggee and the Stage 2 DCP are as follows:
- a. The DCP has been prepared in accordance with the statutory framework for Development Contributions Plans in Victoria;
 - b. DR-04L should be amended to reflect a post-development waterway width of 40m which would be classified as encumbered land. Consequently, the DCP land budget should be updated to reflect revised calculations of encumbered and unencumbered drainage land based on this waterway width. The corresponding value of land credits for DR-04L should be revised to reflect the revised unencumbered (creditable) drainage land area. I do not recommend any change to the land valuation approach, but as is normal practice, the land valuations be updated prior to the adoption of the DCP.
 - c. A new drainage infrastructure item should be added to account for the cost of the constructed waterway traversing Properties 23 and 24.
 - d. I recommend that no change be made to the DCP in respect of the apportionment of the cost of DR-02 on the basis that this item is needed by both Stage 1 and Stage 2 DCP areas. In addition, I recommend that the cost of DR-02 be indexed from June 2021 when stage 2 of the item was delivered. I recommend no change to the indexation method.
 - e. The cost of the entire scope of works for DR-04 should be revisited, including landscaping costs, and the revised cost included in the DCP. I do not recommend any change to the apportionment of the cost of DR-04.
 - f. A financing cost for RD-03, DR-04 and OS-05 could be included in the DCP, but I am not convinced that it is necessary.
 - g. The cost of DR-03 should be clarified and the correct cost included in the DCP.
 - h. The cost of construction of Coriyule Road could be included in the DCP with the project costs apportioned 50% each to property 14 and property 15. This would require an additional charge area to be included in the DCP. I am unsure that a compelling case exists for including this item, ie that the orderly and proper planning of the area would be compromised, but if it is to be included, I recommend that this occur only if the owners of Property 14 and 15 enter into a Section 173 Agreement to deliver the road for the cost specified in the DCP to mitigate any financial risk to Council.
 - i. The DCP should include more transparent and clear information regarding the calculation of costs for OS-01 in Appendix E.
 - j. The DCP should be amended to include a specific indexation provision for CF-01-L which requires this item to be indexed by CPI. This will ensure consistency with the Stage 1 DCP. Other than this, I consider the indexation provisions to be suitable and I do not recommend further changes.
 - k. I consider that the duplication of Tivoli Drive / Greenvale Drive has sufficient need and nexus generated by the whole of the Jetty Road Stage 2 area to be included in the DCP and apportioned across all properties.
 - l. The Stage 2 DCP trigger or timing for CF-01 is based on the advice of ASR based on updated data. The timeframe for this item is different and later than timeframe in the Stage 1 DCP. Given the updated assessment of need, I consider this to be a matter for the Stage 1 DCP which should be amended to

reflect the updated trigger/timing of this item. I consider that the approval of the Stage 2 DCP, with the updated timeframe for provision, would in turn, be implicit approval for updating the timeframe for provision in the Stage 1 DCP.

6.1. DECLARATION

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

A handwritten signature in black ink, appearing to read 'Matt Ainsaar', written in a cursive style.

Matt Ainsaar

Managing Director, Urban Enterprise Pty Ltd

BTRP, Grad Dip Prop, MPIA, FAPI

APPENDICES

APPENDIX A QUALIFICATIONS

Matt Jacques Ainsaar

Founder and Managing Director of Urban Enterprise Pty Ltd.

Level 1, 302-304 Barkly Street, Brunswick, Vic 3056.

Qualified planner and land economist with 47 years' experience.

Substantial expertise in the preparation of Development Contributions Plans for Councils and developers and the provision of advice regarding development contributions in Victoria for more than three decades.

Appeared as an expert witness at numerous Planning Panel hearings, Advisory Committee hearings and VCAT hearings in respect of development contributions, urban economics and open space contributions.

Educational qualifications and memberships of professional associations include:

Bachelor of Town and Regional Planning, University of Melbourne;

Graduate Diploma of Property, RMIT University;

Member, Planning Institute of Australia;

Fellow, Australian Property Institute (Certified Practising Professional);

Member, Victorian Planning and Environmental Law Association.

APPENDIX B INSTRUCTIONS

My written instructions dated 19th February 2024, are to prepare an expert witness statement and appear before the Planning Panel, which:

- i. provides an overview of the Stage 2 DCP, including the methodology used in the Stage 2 DCP and my opinions regarding the same;
- ii. responds to issues raised by submissions related to the Stage 2 DCP and the Amendment, as relevant to my expertise; and
- iii. outlines my recommended changes, if any, to the Amendment and / or Stage 2 DCP in response to the submissions.

