



7.3 Development contributions

7.3.1 Key issues

The issue of development contributions was not well considered leading up to the Hearing, nor was it well resolved. One of the difficulties in this case is not only the amount to be provided, but to which Council it should be apportioned for the Flemington Green site due to the dual municipality split. The key issues to be resolved relate to the form and amount of development contributions for each of the two sites, and how it should be apportioned for Flemington Green.

7.3.2 Policy and supporting documentation

Part 3B of the Act provides the legislative framework for the preparation and administration of Development Contribution Plans.

Section 46K of the Act sets out the requirements for the contents of a Development Contributions Plan.

The Act currently distinguishes between development and community infrastructure levies. While not defined, a development infrastructure levy is generally imposed at the planning permit stage and collected prior to a statement of compliance being issued for subdivision. A community infrastructure levy can only be imposed at the building permit stage, generally on the home builder, prior to a building permit issuing for a new dwelling. The community infrastructure levy must not exceed \$900 whereas the development infrastructure levy is not subject to any cap.

State planning policy for development contributions is set out at clause 19.03 of the SPPF. This clause confirms the role of Development Contributions Plans as the primary mechanism for securing contributions towards the timely provision of planned infrastructure and includes the current guidelines as a reference document, and states:

19.03-1 Development contribution plans

Objective

To facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans.

Strategies

Prepare Development Contributions Plans, under the Planning and Environment Act 1987, to manage contributions towards infrastructure.

Collect development contributions on the basis of an approved Development Contributions Plan.

Policy guidelines

Planning must consider as relevant:

Development Contributions Guidelines (Department of Sustainability and Environment, June 2003 – as amended March 2007).

Section 46M of the Act provides that the Minister may issue written directions to planning authorities in relation to the preparation of Development Contributions Plans.

Development contributions have been an important part of the planning and development process in Victoria since the 1990s. There have been some refinements since legislation was first introduced in 1995 to formalise the development contributions system, and the SDCAC review of 2012/2013 provided the opportunity to re-think way development contributions could applied in the future.

In this regard, the SDCAC proposed a new Development Levy System, using Standard Levies that could be applied in all Victorian municipalities, in three Development Settings: Growth Areas; Urban Areas; and Strategic Development Areas. Lists of 'Allowable Items' were recommended for each infrastructure category and Development Setting in order to set clearly defined limits on what funds can be expended on each Standard Levy.

The new system would continue to operate as a contribution towards infrastructure, and not full cost recovery, and continue to ensure the principles of need, nexus, equity and accountability are front and centre in the new system.

In taking this review forward, the Victorian Government has introduced legislation for the Infrastructure Development Contributions Bill and it is understood that DELWP is currently finalising levies for greenfield areas. Further, it is understood that the Metropolitan Planning Authority is reviewing the levies for Strategic Development Areas, of which, the Flemington Life project could be categorised. The SDCAC recommended that the levy in Strategic Development Areas be either \$4,500 or \$6,000 per dwelling. It further recommended a levy for Urban Areas at \$3,000 per dwelling in metropolitan Melbourne.

7.3.3 Submissions and evidence

The VRC relied on the evidence of Mr Matt Ainsaar of Urban Enterprise and Ms Jane Homewood of Urbis in relation to the type and form of development contributions and the extent of social infrastructure and mitigation measures to be provided. Mr Spencer of SGS Economics and Planning gave evidence for Moonee Valley City Council.

Mr Ainsaar suggested that the Standard Development Contributions Advisory Committee (SDCAC) rates of \$4500 or \$6000 per dwelling in strategic development areas is a useful starting point for consideration of appropriate development contributions, but ultimately he did not support anything in that order. Additionally he undertook various comparisons of other development contributions for like areas. These ranged from \$1,200 to \$19,000, with \$3,000 being an approximate average. Mr Ainsaar noted the development contributions for the Moonee Valley Racecourse site was in the order of \$6,000 per dwelling, which, he noted, included the public open space contribution. Ms Homewood considered \$6,000 per dwelling to be "*... excessive in terms of construction costs as well as the additional development contribution ...*".

As noted, the project proposes to make the public open space contribution through the provisions of Clause 52.01.

Due to the complexity and cost of preparation, Mr Ainsaar considered that preparing a Development Contributions Plan not warranted for this project, rather, development contributions should be mandated through a section 173 agreement as part of the approvals

process of this project. Mr Milner acting on behalf of the VRC expressed support for that position in his planning evidence.

Mr Ainsaar relied on the Urbis report where it estimated the infrastructure works for the project to be \$12.73 million, which if all passed on to the development and based on the number of dwellings, is costed at \$11,199 per dwelling. He noted that some of this development is needed for the development project and some would provide wider benefits to the community. Without giving a considered reason, Mr Ainsaar advised that he:

... considers 25% of the cost of roadworks and intersections to be an appropriate cost apportionment to the FL development, on the basis that there will be a share of usage of the infrastructure by the wider community.

This infrastructure includes:

- bicycle paths and associated works
- pedestrian connections
- DDA compliant bus stops
- Improvements to the 'Village Green' public open space
- Improvements to the publicly accessible space adjacent to the VRC's Hill Gate, including DDA compliant access to the railway station
- contributions to improvements to Newmarket Reserve, including upgrading the access path to the tram stop
- a signalised pedestrian crossing across Epsom Road.

Taking these matters into account, Mr Ainsaar calculated the infrastructure items of public open space contributions, public open space improvements to Village Green/VRC forecourt, improved bicycle connectivity, improved pedestrian connections, bus stops and 25 per cent contribution to roads and intersections resulted in a total cost of \$4,798.22 per dwelling (based on 1134 dwellings).

The community facilities contribution costs of kindergarten places, multipurpose facility spaces, open space and recreation enhancements and improvements to Newmarket Reserve result in a total cost of \$1,922.84 per dwelling. Together, these add up to \$6,721.06 per dwelling (The cost estimates in Mr Ainsaar's evidence are based on costs provided by WT Partnership, none of which were disputed).

With regard to each site, Mr Ainsaar calculated that the per dwelling contribution for Flemington Green should be \$1,877.92 and for Epsom Road it should be \$2,005.90.

Both Councils made submissions regarding the impact of the population that would be accommodated in the Greenland proposal on municipal services such as health centres and local schools and pre-schools. Both Councils stated that their forward planning did not anticipate a new population at this current non-residential site, and that the population increase would present problems of over-capacity and a strain on services which would require capital investment to overcome.

Mr Spencer for Moonee Valley City Council took a different approach to development contributions. His starting point was that the entire Flemington Green project should be included in Moonee Valley Council area as he argued that locationally and functionally, it is a

logical outcome. He then outlined four frames for consideration of development contributions, these being:

- inclusionary requirements
- user pays contributions
- impact mitigation
- value capture.

When questioned about these frames and how they have previously been used and accepted in practice, Mr Spencer advised that he used them previously in a Stonnington matter. He said that in his opinion, they were accepted by that Panel as in they were not challenged, but there was no commentary or mention of these frames in the Panel report. He advised no other consultant apart from SGS Economics and Planning uses these frames. Through her cross examination of Mr Spencer, Ms Porter sought to understand the rationale of these frames and questioned him on whether he had in fact prepared any development contribution plans or whether he knew of any plans that used these frames. He was not able to assist in this regard. Neither, through questioning, did it appear Mr Spencer had reviewed the work of the SDCAC and its key recommendations relating to the development settings and the allowable items. Ms Porter saw this as a shortcoming of his work, and contended that he tried to introduce a new and untried methodology to land that led to a significantly higher development contribution outcome.

In its submission, the City of Melbourne stated that:

There must be a commitment to mitigating the impact on local infrastructure and community facilities. The developer should be required to construct all physical infrastructures, including the proposed park, the intersection upgrades, and the pedestrian crossing at Epsom Road at their own cost and to the satisfaction of the Council. A sum per dwelling to contribute to the upgrade of community infrastructure in the area should be provided.

A number of community submissions commented that in their opinion, the VRC was not contributing very little to the local community.

In terms of how the development contributions might be realised, in his closing submission at paragraph 53, Mr Townshend advised that:

The VRC and the Councils are in agreement that development contributions should be secured by a s173 agreement required by the CDZ, with a monetary contribution payable in respect of each dwelling. In calculating that contribution, both Councils have assumed a high-density level of impact on community infrastructure.

7.3.4 Discussion

The Committee considers the independent evidence of Mr Ainsaar provided the key basis for which to determine the appropriate development contributions to be made. Ms Homewood deferred to his calculations, and the approach adopted by Mr Spencer was somewhat frustrating and not helpful. There has been a significant body of work undertaken on development contributions with the established principles of need, nexus, equity and accountability standing the test of time in Victoria for several decades. To try and introduce

a new methodology through this Committee process when there are established mechanisms for considering development contributions is at best, as Mr Spencer contended, ambitious, but without rigour and an understanding of current thinking.

However, the Committee considers that the final development contributions figure for each site is rather low (\$1,877.92 for Flemington Green and \$2,005.90 for Epsom Road) in the context of the extent of residential development proposed to be introduced. This proposal is introducing a new residential component into an area not previously planned, and if the recommendations of this Committee are adopted, it will result in an increase of some 900 dwellings and a potential population of up 1,620 to 1,800 people (based on 1.8 to 2 persons per dwelling). It is difficult for the Committee to advocate that the site represents a Strategic Development Area when there has been no structure planning to lead to that outcome. The Committee considers adopting a development contributions of \$3,000 per dwellings is reasonable in these circumstances.

Once the strategic planning process through the revised Comprehensive Development Plans is completed, the final allocation and apportionment to each municipality of the development contribution to be collected can be resolved. This accords with the intent of the evidence of Mr Ainsaar, where he noted that he supported the inclusion of a s173 agreement to be the main instrument for establishing the development contributions, “... with the details finalised at the time the development plans are finalised”.

There was some discussion at the hearing about the need for, and the benefit of, providing improvements to the forecourt area adjacent to the VRCs Hill Gate. This proposal includes providing Disability Discrimination Act (DDA) compliant access to the railway station. While this may be needed, the Committee is at a loss to understand how this aspect of the development can be considered as part of a development contribution from the new residents. Even if there was to be access to the railway station due to the activation of the rail spur, it would be difficult to support such an item. The Committee cannot see any meaningful nexus between this item and providing infrastructure to the new residents. This item should be deleted in any future resolution of the project. Mr Spencer argued that the forecourt area is not and will not be used as public land and the \$2million cost of its development will have very limited value to the local community residing in the new development. He contended that it will not serve the function of local open space and it is really just doing up an existing asset owned by the VRC.

The Committee agrees and considers this aspect will mainly serve racegoers, not the local new community.

7.3.5 Findings and recommendations

(i) Findings

The Committee finds that the proposed development contributions of \$2005.90 per dwelling for Epsom Road, and \$1877.92 per dwelling for Flemington Green is low for a new residential area where there will be significant, and unplanned population influx in the area. While the Committee thought about increasing the development contributions to be in line with that agreed for the Moonee Valley Racecourse redevelopment, it considers that given it

has ultimately recommended a lower number of dwellings and subsequent population, the 'urban areas' rate of \$3000 is appropriate.

The Committee acknowledges that there remains significant work to be undertaken in finalising the planning stage for the sites, however, establishing the rate through a section 173 agreement in the Comprehensive Development Zone will at least provide certainty and the opportunity for the Councils to further explore how this contribution might be apportioned and allocated once the planning stage is finalised.

(ii) Recommendation

16. Require a development contribution of \$3,000 per dwelling through Clause 9 of Schedule 3 to the Comprehensive Development Zone for Flemington Green, and through Clause 7 of Schedule 4 to the Comprehensive Development Zone for Epsom Road.

7.4 Affordable and diverse housing

7.4.1 Key issues

The key issue to be reconciled is how to provide for affordable, adaptable and diverse housing opportunities.

7.4.2 Policy and supporting documentation

Clauses 11 and 16 of the SPPF provide the most explicit reference to housing affordability, ensuring that planning has regard to provision of affordable housing through land use strategies, or in making planning decisions. The SPPF focuses on providing public transport, encouraging various modes of transport, providing good connection with surrounding centres and locating new development amongst existing services, thus all contributing to housing affordability. Development of housing strategies and other housing related policy are incorporated in planning schemes. Specifically:

- Clause 11.04-2 *Housing choice and affordability*: To provide a diversity of housing in defined locations that cater for different households and are close to jobs and services.
- Clause 11.04-3 *A more connected Melbourne*: To provide an integrated transport system connecting people to jobs and services, and goods to market.
- Clause 16.01-1 *Integrated housing*: To promote a housing market that meets community needs.
- Clause 16.01-2 *Location of new residential development*: To locate new housing in or close to Activity Centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.
- Clause 16.01-4 *Housing diversity*: To provide for a range of housing types to meet increasingly diverse needs.
- Clause 16.01-5 *Housing affordability*: To deliver more affordable housing closer to jobs, transport and services.

The City of Melbourne did not pursue the issue of affordable housing in great detail, but referred the Committee to the Council's Housing Strategy – Homes for People (adopted by