

**MANNINGHAM PLANNING SCHEME
AMENDMENT C30 & C37
DONCASTER HILL DEVELOPMENT
CONTRIBUTIONS PLAN**

PANEL REPORT

DECEMBER 2004

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PANEL REPORT



.....
Robin Saunders, Chair



.....
Esther Kay, Member



.....
David Brous, Member

DECEMBER 2004

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1. SUMMARY

Amendment C30 proposes to incorporate the Doncaster Hill Development Contributions Plan into the Manningham Planning Scheme, introduce the Schedule that specifies the infrastructure items and amounts to be paid through development levies, require a mandatory public open space contribution rate of 5% for subdivision applications within the Doncaster Hill Activity Centre, and applies the Public Acquisition Overlay 1 (PAO1, Open Space) and Public Acquisition Overlay 7 (PAO7, Road) to individual parcels of land in the Doncaster Hill Activity Centre. Amendment C37 corrects an error on Amendment C30, applies the PAO1 to five properties for the purpose of open space (which had incorrectly been designated PAO7 in Amendment C30), and rectifies two further minor errors in the C30 documentation.

While there was some concern from residents affected by the proposed open space overlay, and by existing owners of commercial properties who were concerned about the possibility of double dipping, there was little concern expressed in submissions about the quantum and detail of the Development Contributions Plan.

To ensure that the Doncaster Hill Development Contributions Plan was soundly based, the Panel undertook a fairly rigorous examination of the detail of the plan. It became apparent that the Development Contributions Guidelines, promulgated by the Department of Sustainability and Environment, lacked considerable precision in defining terminology, detailing analytical methods and specifying reporting requirements. Further, the Guidelines were based on their application to green field sites, and caused considerable difficulty when they were used to address a situation such as Doncaster Hill, a developed site set in an existing urban environment.

The initial examination of the Doncaster Hill Development Contributions Plan revealed two serious errors; one relating to the incorrect application to external funding of the percentage for external use assigned to each infrastructure item, and the second the failure to account for and report the funding associated with existing development that Council must pick up.

Council decided to revise and re-notify all parties of the changes to the Development Contributions Plan and the Amendment C30 documentation, and the hearings were deferred for this to take place.

At the end of the Panel Hearings, the Panel came to conclusions which may be broadly summarised as follows:

- While the City of Manningham has provided reasonable avenues for informed public consultation, pre-lodgement advice provided to some applicants failed to draw attention to the proposed Doncaster Hill Development Contributions Plan.
- The Doncaster Hill Development Contributions Plan has been well supported by strategic studies carried out by Doncaster City Council, is appropriate, and should not be so onerous as to undermine Council's long term strategy for Doncaster Hill.
- The re-notified Doncaster Hill Development Contributions Plan (April 2004) satisfies considerations of adequacy, fairness and good administration, subject to its amendment

by a number of specific changes to make it more accurately reflect the substance of the Plan, and to include some minor additional points.

- The Schedule 1 to the Development Contributions Plan Overlay should be amended to accurately show the actual quantum of levies predicted from new development, to specify the units used throughout for dollar values (generally 2003 nominal dollars), the index to be used for inflation, and clarification of the contribution requirements of Westfield Limited.
- Implementation of a mandatory 5% development contribution to open space infrastructure is appropriate and justified on the basis of strategic planning for Doncaster Hill, the inclusion of key elements of open space provision in the planning scheme, and the identification of projects to which collected contributions will be applied.
- Council's intention to acquire land that it has identified for infrastructure development by a combination of methods is prudent and acceptable. It intends to apply a Public Acquisition Overlay to specified residential properties, and a negotiated approach to specified commercial properties. The proposed local park at 9–15 Hepburn Road will serve the anticipated population of this part of Doncaster Hill.
- Amendments C30 and C37 as advertised should proceed, subject to the matters referred to above, and some further minor technical drafting corrections. Consequential amendments should await future formal amendment processes.
- The Department of Sustainability and Environment should review the Development Contributions Guidelines, and the standard VPP Clause 45.06 Development Contributions Plan Overlay and its Schedule, with a view to clarifying the very considerable number of matters to which the Panel has drawn attention in its report.

These conclusions are detailed in Chapter 14 of the report, together with recommendations to address the matters of concern.

2. THE PANEL PROCESS

2.1 THE PANEL

This Panel was appointed under delegation on the 9 January 2004 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* to hear and consider submissions in respect of Amendments C30 and C37 to the Manningham Planning Scheme. Amendment C30 proposes to incorporate the Doncaster Hill Development Contributions Plan into the Manningham Planning Scheme, introduce the Schedule that specifies the infrastructure items and amounts to be paid through development levies, require a mandatory public open space contribution rate of 5% for subdivision applications within the Doncaster Hill Activity Centre, and apply the Public Acquisition Overlay 1 (PAO1, Open Space) and Public Acquisition Overlay 7 (PAO7, Road) to individual parcels of land in the Doncaster Hill Activity Centre.

Amendment C37 corrects an error on Amendment C30, applies the PAO1 to five properties for the purpose of open space (which had incorrectly been designated PAO7 in Amendment C30), and rectifies two further minor errors in the C30 documentation.

The planning authority is Manningham City Council and the proponent is Manningham City Council.

The Panel consisted of:

- Chairperson: Robin Saunders
- Member: Esther Kay
- Member: David Brous

2.2 HEARINGS, DIRECTIONS AND INSPECTIONS

A Directions Hearing was held on 26 February 2004 at Manningham City Council Offices, Heide Room, 699 Doncaster Road, Doncaster. The only Direction made related to the date for the exchange of Expert Witness reports.

The Panel Hearing was held on 2, 6 and 7 April 2004 at Manningham City Council Offices, 699 Doncaster Road, Doncaster on which latter day it was adjourned to allow the Council to consider errors in the exhibited Development Contributions Plan. Following amendment and re-notification, the Panel held a further Directions Hearing on 23 July 2004, and Panel Hearings on 30 and 31 August and 1 September 2004.

The Panel members inspected the site and surrounding areas on Tuesday 6 April 2004.

It should be noted that the Panel was also appointed to hear submissions on Amendment C35 to the Manningham Planning Scheme, which proposed to introduce the Doncaster Hill Parking Precinct Plan. The hearings on C35 ran concurrently with the first hearings on C30 and C37, with a common site inspection.

It was the original intention to report on all three amendments in a single report. In view of the substantial time required for the re-notification for the Development Contributions Plan, the Panel reported on C35 separately in June 2004.

2.3 SUBMISSIONS

A list of all written submissions to Amendment C30 is included in Appendix A.

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter. The Panel notes that a number of the submissions raised issues that are not relevant to its consideration of Amendments C30 and C37. Most of these issues were previously addressed by the Panels that reviewed Amendment C33 and Amendment C35. The Panel acknowledges these submissions but it has not commented on them further where issues are not relevant to the current Amendment.

The Panel heard the following parties.

Submitter	Represented By
Manningham City Council	Ms Sue Vujcevic, Strategic Planner Ms Teresa Dominic, Manager Economic Development and Environmental Planning Unit Mr. Terry Montebello, Partner of the firm Maddocks, Lawyers. He called the following witnesses: <ul style="list-style-type: none"> ▪ Mr Marcus Spiller, Urban Economist of SGS Planning & Economics ▪ Mr David Graham, Transportation Engineer, Manningham City Council ▪ Mr Gary Bateman, Urban Design Coordinator, Manningham City Council ▪ Ms Tina Beltramin, Social Planner, Manningham City Council
Westfield Limited	Mr Chris Townshend, Barrister instructed by Mr Chris Lovell, Solicitor of Holding Redlich and Mr Jeff Breen of Westfield
Mr Ronald Ivan Smith	Ms Coral Newstead
Claude Centofanti and Locktan Pty Ltd	Mr. William Kuszniczuk, Managing Director, Clement Stone Town Planners.

3. WHAT IS PROPOSED?

3.1 THE SUBJECT SITE AND SURROUNDS

Amendments C30 and C37 apply to the area defined in the Manningham Planning Scheme as the Doncaster Hill Activity Centre. The site extends along Doncaster, Williamsons and Tram Roads, as shown in Figure 1.

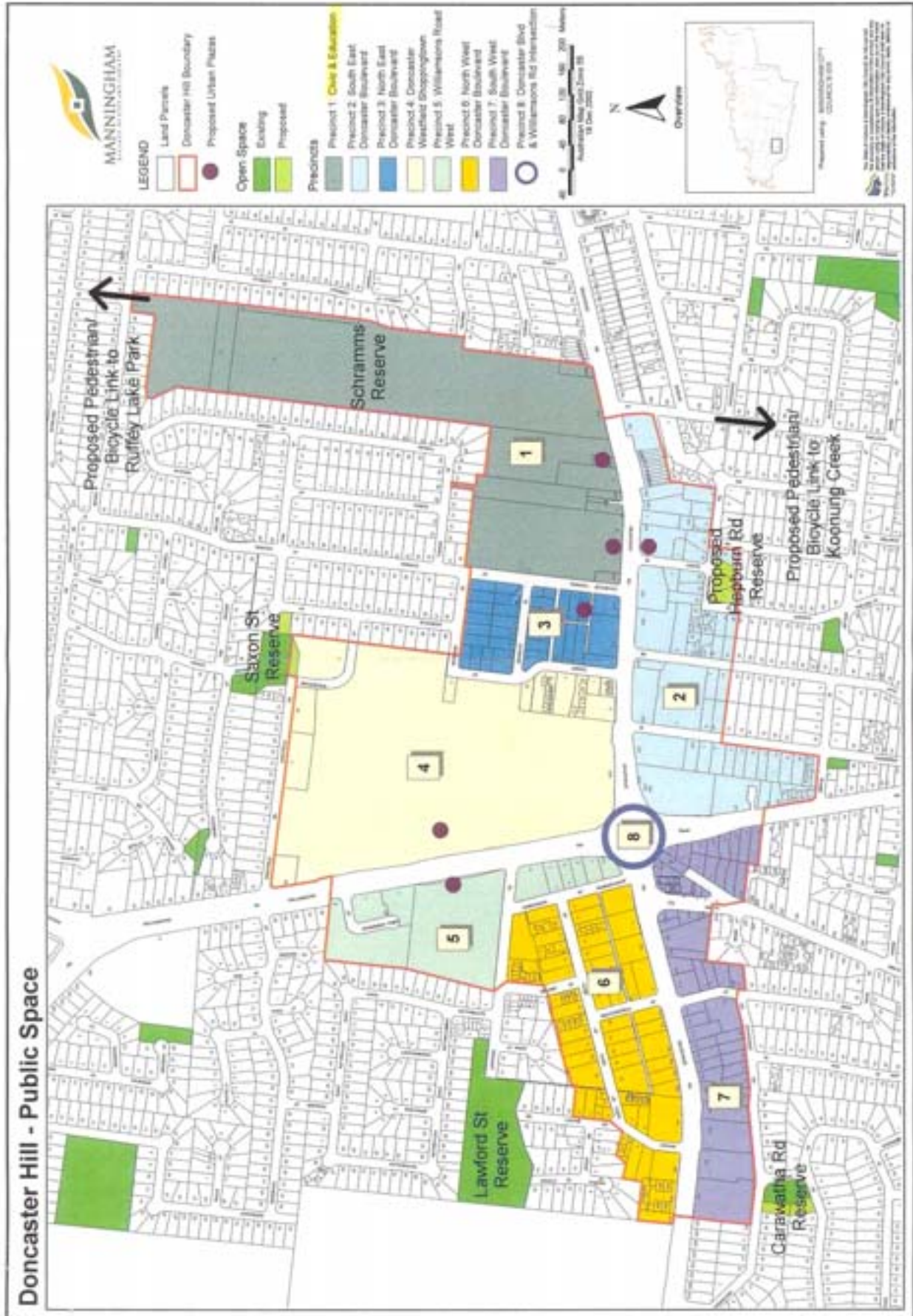
The major uses within the Doncaster Hill Activity Centre include:

- Westfield Doncaster Shoppingtown, which is a major regional shopping centre with significant frontages to both Williamsons Road and Doncaster Road. It includes 60,000 m² of existing retail floor space, a major bus interchange, regional library, Westfield Tower offices and cinemas. Council has recently (January 2004) approved a major expansion of Westfield Shoppingtown, with an increase in floor space to a new total of 103,540 m². The expansion includes new pedestrian and transport networks and a new library and cinema complex.
- Manningham Municipal Offices, including the Manningham Function Centre and Gallery.
- Doncaster Playhouse.
- Doncaster Primary School.
- A Maternal and Child Health Care, Childcare and Preschool facility.
- Recreational facilities including Doncaster Bowling Club, Schramms Reserve and badminton court.
- Shoppingtown Hotel.
- Many community organisations including services, clubs and churches.
- Offices, showrooms, factories, restaurants and retail premises.
- Sovereign Point and The Crest Apartments (existing high rise residential tower developments in Williamsons Road).
- Detached housing and medium density residential development.

The area surrounding Doncaster Hill is predominantly residential in nature, featuring detached housing of one and two storeys.

The vision for the Doncaster Hill Activity Centre, introduced into the Manningham Planning Scheme in Amendment C33, is for the creation of a sustainable urban village and the development of a vibrant and contemporary mixed-use activity centre by 2021.

Figure 1 The Doncaster Hill Activity Centre



3.2 THE AMENDMENT

Amendment C30:

- Makes changes to Clause 21.05 Urban Design of the Municipal Strategic Statement. The amendment introduces a new Key Issue 6 – Infrastructure requirements in the Doncaster Hill Activity Centre.
- Introduces Schedule 1 to Clause 45.06 Doncaster Hill Development Contributions Plan Overlay (DCPO1) that sets out infrastructure items and amounts to be paid through development levies in the Doncaster Hill Activity Centre. The area affected by the overlay will be shown on Planning Scheme Map No. 7DCPO and corresponds with the area of the Doncaster Hill Activity Centre.
- Incorporates the Doncaster Hill Development Contributions Plan (June 2003) in Clause 81 Incorporated documents.
- Updates the existing schedule to Clause 52.01 Public open space contribution and subdivision with a new schedule that specifies a mandatory open space contribution rate of 5% for subdivision within the Doncaster Hill Activity Centre.
- Updates the existing schedule to Clause 45.01 Public Acquisition Overlay to introduce the Public Acquisition Overlay 7 (PAO7) – Roads.
- Applies the Public Acquisition Overlay 1 (PAO1) and Public Acquisition Overlay 7 (PAO7) to individual parcels of land in the Doncaster Hill Activity Centre. The affected properties will be shown on Planning Scheme Map No. 7PAO and include the following Doncaster properties:
 - 14 Roseville Avenue (PAO1)
 - 1 Goodson Street (PAO1)
 - 12 and 12A Clay Drive (PAO7)
 - 1/49 and 2/49 Walker Street (PAO7)
 - 9, 11, 13 and 15 Hepburn Road (PAO7)
 - 28 Carawatha Avenue (PAO1)
 - 9 Koolkuna Avenue (PAO1)
 - 2 Briar Court (PAO7)

The Council indicated that Amendment C30 was originally placed on exhibition on 24 July 2003 for a period of two months. The schedule to Clause 45.06 and the Development Contributions Plan were revised and re-exhibited in May 2004 following identification of arithmetic errors in the previously exhibited documentation.

Amendment C37 rectifies mapping errors in the exhibition of Amendment C30:

- Application of PAO7 (road) rather than PAO1 (public open space) to properties in Hepburn Road. Amendment C37 applies PAO1 to these properties.
- Application of PAO1 to 1 Goodson Street instead of 1 Council Street, Doncaster. Amendment C37 applies PAO1 to 1 Council Street and removes the PAO from 1 Goodson Street.
- Corrects the 7PAO map reference from JJ Tully Drive to Council Street.

Council indicated that Amendment C37 was placed on public exhibition on 11 September 2003 for a period of one month.

3.3 NATURE OF THE PROPOSAL

The Doncaster Hill Activity Centre has been identified as an area for transformation into a sustainable urban village with a mix of land uses. The Doncaster Hill Strategy (October 2002) sets out a vision for the area (p.9):

The Doncaster Hill Strategy aims to create a 'state of the art', contemporary, sustainable, high density mixed use village that enhances the social, environmental, economic, social and cultural elements of the region. Based on a triple bottom line approach, Doncaster Hill aims to promote positive economic, environmental and social performance over the long term. Doncaster Hill will be a 21st century urban village for 8,300 residents and provide 10,000 employment opportunities by 2020. With 4,080 new residences and an additional 20,000m² of commercial/office floor space and 10,000m² retail floor space (excluding Westfield Shoppingtown expansion), Doncaster Hill will become a key destination in Melbourne's east.

... The development of the self contained Doncaster Hill village will be based on high quality environmental and urban design principles. Integrated land use and transport planning for Doncaster Hill will showcase Council's sustainability policies and will be the municipality's major contributor towards a sustainable future.

The Council is preparing sequential packages of amendments to implement the Doncaster Hill Strategy in the Manningham Planning Scheme. Amendment C33 Part 1 introduced substantive changes to the planning scheme:

- The Doncaster Hill Strategy Framework Plan and strategy vision in Clause 21.21.
- Environmental sustainability requirements in Clause 22.13.
- Urban design and built form requirements in Schedule 6 to Clause 43.02 Design and Development Overlay.

Further changes primarily relating to environmental sustainability will be introduced through Amendment C33 Part 2.

Amendment C35 introduces a Parking Precinct Plan, which provides one element of an integrated land use and transport strategy for Doncaster Hill. Amendment C35 has been adopted by the Council, approved by the Minister, and was gazetted on 16 September 2004.

Amendments C30 and C37 focus on public infrastructure required to support the future population at Doncaster Hill. The types of infrastructure identified include:

- Social and community facilities including library expansion, a community youth facility, Aquarena redevelopment, an indoor recreation facility and a multi-purpose recreational facility
- Streetscape improvements including street furniture, paving, landscaping and lighting
- Public open space acquisition and development
- Transport infrastructure in the form of road links, footpaths, shared paths, traffic signals and local threshold treatments
- Public art

The infrastructure will enhance the social, cultural and recreation elements of the Doncaster Hill Activity Centre, as well as upgrading existing infrastructure and providing new open space within and surrounding the Doncaster Hill Activity Centre.

Funding contributions from developers are introduced via a Development Contributions Plan along with a mandatory contribution rate to fund public open space at the time of subdivision. Council cannot levy contributions for infrastructure unless a Development Contributions Plan is incorporated in the Manningham Planning Scheme. Key parcels of land are identified for Council acquisition to enable it to complete its 20-year infrastructure program for Doncaster Hill. The intention of the Amendments is to provide certainty and transparency with respect to the funding obligations of developers, and greater certainty and commitment in terms of infrastructure provision on the part of the Council.

4. ISSUES

4.1 NATURE OF SUBMISSIONS

In the submission to the Panel by the Planning Authority (marked M1), Council summarised issues raised in submissions as shown in Table 1 below. For ease of reference, Table 1 also has a column showing where the issue is addressed by the Panel.

Table 1 Issues raised in submission

Issue No.	Description	See Report Section
i	highlighting mapping errors	Section 12.1.4
ii	perceived lack of public consultation or no mention of public acquisition in previous consultation processes	Sections 7.1 and 11.2.3
iii	strong opposition to acquisition of properties based on appropriateness of sites nominated for acquisition, timing of acquisition, adequate compensation, imposition of restrictions on properties and stress associated with the process	Section 11.2.3
iv	concern as to whether the developer contribution charges to developers are adequate	Included under Issue x
v	concern that developers may be able to delay payments for as long as possible	Section 9.3.1
vi	concern that there is discretion to exempt developments from payment if the Development Contributions Plan is too flexible	Section 9.2.1
vii	concern with potential traffic/transport issues, pedestrian/cycling plan and streetscape and urban design	Section 6.3
viii	concern that the main objective of the project is to assist developers, and that needs of the community are being ignored	Sections 6.3 & 9.3.3
ix	concern that Precinct 2G was shown as part of the boundary in the amendment documentation	Not relevant, C33 issue
x	concern that the Development Contributions Plan, Public Acquisition Overlay and 5% open space contribution requirement is inadequate to meet future needs	Sections 6.5, 9.3.3 & 10.5
xi	Submitters also raised a number of matters specifically relating to Amendments C33 (Doncaster Hill Strategy) and C35 (Parking Precinct Plan), including the survey of 502 residents undertaken in 1999	Not relevant, C33 or C35 issue
xii	it is unreasonable/inequitable that the Schedule 1 to Clause 45.06 does not specifically list exemptions from payment of DCP contributions for existing/approved developments (e.g. subdivisions of existing buildings or a subdivision of a building that has planning approval, particularly where planning approval was issued prior to the DCP being incorporated into the planning scheme)	Section 6.5

xiii	it is unreasonable/inequitable to impose a mandatory public open space contributions of 5% for existing or approved developments	Chapter 10
xiv	summary of costs and contributions as provided in Clauses 2 and 3 of Schedule 1 to Clause 45.06 are considered excessive and unjustified (e.g. what constitutes a nexus is not credible)	Section 6.3
xv	oppose retrospective charges on existing permits, and concerned that Council will have the ability to 'double-dip', particularly where contributions are listed as planning permit conditions for developments with planning approval	Section 6.5, 10 & 12.1.2
xvi	concern that pre-lodgement advice did not make reference to a future DCP, and therefore that further cost implications were not factored into the development costing	Section 7.1.1
xvii	concern that as DCP implications were not considered throughout the planning permit process, voluntary developer contributions were offered for the public realm and, in some instances, these were negotiated as planning permit conditions e.g. public art	Section 6.5
xviii	seeking confirmation on the manner in which Council intends to operate the DCP	Section 9.3.4
xix	additional cost implications of developments incorporated in the DCP may be a determining factor in the viability of projects/developments	Section 6.5
xx	if Council is to be a key driver in facilitating Activity Centre Development, Council should not impose further imposts	Section 6.5
xxi	the basis on which DCP demand units have been determined is flawed, inequitable and unable to be substantiated	Section 9.3.5
xxii	the Amendment fails to acknowledge the existing community and development contributions framework applicable to Westfield Shoppingtown Doncaster	Section 12.1.2
xxiii	the Amendment will restrict highest and best use of site(s) through the application of the PAO	Sections 11.2.3 & 11.2.4
xxiv	application of the PAO7 will have implications for development of property owners' land, and greater certainty would be provided if PAO7 was extended from 1 Briar Court to 8 Rose Street, Doncaster	Section 11.2.5
xxv	concern that the proposed physical boundary of the Doncaster Hill precinct is based on no particular science, and that the boundary could have been extended further to the south to incorporate additional residential lots to provide an opportunity for mixed use/more intensive residential development (these areas should be recognised as parcels of land on the 'interface' with an opportunity for higher density residential development)	Not relevant, C33 issue
xxvi	although interface areas are opportunity areas for higher density development, there is no basis to incorporate the Development Contributions Plan overlay affecting this land, as land is outside of the Doncaster Hill precinct	Not relevant, C33 issue

4.2 GROUPING OF ISSUES

The Panel has grouped these issues and proposes to deal with them in the order shown in Table 2 below:

Table 2 Grouping of Issues in the Report

Report Chapter	Heading	Issues
6	The purpose of the DCP, Amendment C33 and the Guidelines	vii, viii (in part), x (in part), xii, xiv, xv (in part), xvii, xix and xx
7	The DCP process and consultation	ii (in part) and xvi
8	Internal and external use	(this issue is raised by the Panel)
9	Adequacy, fairness and implementation of the DCP	v, vi, viii (in part), x (in part), xviii, xxi
10	The Public Open Space levy	xiii, xv (in part)
11	Acquisition for Public Open Space, road links and paths	ii (in part), iii, xxiii, xxiv
12	Statutory Drafting	i, xv (in part), xxii

5. STRATEGIC CONTEXT

5.1 STRATEGIC PLANNING FRAMEWORK

This Section identifies the strategic context within which issues associated with Amendments C30 and C37 must be considered.

The relevant documents that provide the strategic context for considering Amendments C30 and C37 are as follows:

- Metropolitan Strategy – Melbourne 2030.
- Manningham Planning Scheme – SPPF and LPPF.

5.2 METROPOLITAN STRATEGY - MELBOURNE 2030

Doncaster is nominated as a Principal Activity Centre in *Melbourne 2030*. The key directions of *Melbourne 2030* that are of most direct relevance to this matter include:

- Direction 1 – A more compact city, which encourages concentration of new development at activity centres near existing infrastructure.
 - Policy 1.1 – Build up activity centres as a focus for high-quality development, activity and living for the whole community.
 - Policy 1.2 – Broaden the base of activity of centres that are currently dominated by shopping to include a wider range of services over longer hours, and restrict out-of-centre development.
 - Policy 1.3 – Locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport.
- Direction 2 – Better management of metropolitan growth, including:
 - Policy 2.3 – Manage the sequence of development in growth areas so that services are available from early in the life of new communities.
- Direction 5 – A great place to be, to create urban neighbourhoods and spaces that people want to live in and visit.
 - Policy 5.1 – Promote good urban design to make the environment more liveable and attractive.
 - Policy 5.2 – Recognise and protect cultural identity, neighbourhood and a sense of place.
 - Policy 5.3 – Improve community safety and encourage neighbourhood design that makes people feel safe.
 - Policy 5.5 – Promote excellent neighbourhood design to create attractive, walkable and diverse communities.

- Policy 5.6 – Improve the quality and distribution of local open space and ensure long-term protection of public open space.
- Direction 6 – A fairer city, including:
 - Policy 6.2 – Plan for a more equitable distribution of social infrastructure.
 - Policy 6.3 – Improve the coordination and timing of the installation of services and infrastructure in new development areas.
 - Policy 6.4 – Develop a strong cultural environment and increase access to arts, recreation and other cultural facilities.
- Direction 8 – Better transport links, under which:
 - Policy 8.3 – Plan urban development to make jobs and community services more accessible.
 - Policy 8.5 – Manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure.
 - Policy 8.7 – Give more priority to cycling and walking in planning urban development and in managing our road system and neighbourhoods.
 - Policy 8.8 – Promote the use of sustainable personal transport options.

5.3 STATE PLANNING POLICY FRAMEWORK (SPPF)

Many of the elements of the SPPF that are relevant to Manningham Amendments C30 and C37 also reflect policies in the Metropolitan Strategy. Relevant elements of the SPPF include:

- 11.01 Introduction...It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development.

Clause 11 of the SPPF contains seven principles of land use and development planning, addressing settlement, environment, management of resources, infrastructure, economic well-being, social needs and regional cooperation.
- Clause 11.03-1 relates to Settlement, and states that:

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.
- Clause 11.03-4 relates to Infrastructure, and states that:

Planning for development of urban physical and community infrastructure should enable it to be provided in a way that is efficient, equitable, accessible and timely. Growth and redevelopment of settlements should be planned in a manner that allows for the logical and efficient provision and maintenance of infrastructure, including the setting aside of land for the construction of future transport routes.

Planning authorities are to consider the use of development contributions (levies) in the funding of infrastructure.
- Clause 11.03-6 relates to Social Needs, and states that:

Planning is to recognise social needs by providing land for a range of accessible community resources, such as affordable housing, places of employment, open space, and education, cultural, health and community support... facilities. Land use and development planning must support the development and maintenance of communities with adequate and safe physical

and social environments for their residents, through the appropriate location of uses and developments and quality of urban design.

- Clause 14 of the SPPF relates to Settlement. Clause 14.01 includes the following objectives for urban settlements:

To ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses.

To facilitate the orderly development of urban areas.

- Clause 14.01-2 under General Implementation, states that:

Planning authorities should plan to accommodate projected population growth over at least a 10 year period, taking account of opportunities for redevelopment and intensification of existing urban areas as well as...the costs of providing infrastructure

Planning authorities should facilitate the orderly development of developing areas through the preparation of structure plans. The plans should take into account the strategic and physical context of the location, provide for the development of sustainable and liveable urban areas in an integrated manner, facilitate the development of walkable neighbourhoods and facilitate the logical and efficient provision of infrastructure.

- Clause 14.02-1 relates to metropolitan development and requires planning for a metropolis that achieves in part:

Improved functioning through best practice management of its infrastructure and urban development.

- Clause 14.02-2 under General Implementation, states that:

Planning decisions should assist the creation of linked parkland and open space systems...

- Clause 15 of the SPPF relates to Environment. Clause 15.10-1 contains the objective:

To assist creation of a diverse and integrated network of public open space commensurate with the needs of urban communities...

- Clause 15.10-2 under General Implementation, states that:

Planning and responsible authorities should ensure that open space networks:

- *Are linked through the provision of walking and cycle trails and rights of way.*
- *Are integrated with open space contributions from abutting subdivisions.*
- *Incorporate, where possible, links between major parks and activity areas...*

Planning and responsible authorities should ensure that land is set aside and developed in residential areas for local recreational use and to create pedestrian and bicycle links to commercial and community facilities.

- Clause 17 of the SPPF relates to Economic Development. Clause 17.01-2 under General Implementation, and states in part that:

Activity centres should be planned to:

- *Incorporate and integrate a variety of land uses, including retail, office, education, human services, community facilities, recreation, entertainment and residential uses where appropriate.*
- *Provide good accessibility by all available modes of transport...and safe pedestrian and cycling routes...to such centres.*
- *Maximise opportunities for the co-location, multiple use and sharing of facilities.*
- *Provide child care facilities to a level consistent with the role of the centres.*
- *Provide attractive environments for community activities.*

- Clause 18 addresses Infrastructure. Clause 18.02-1 contains the following objective:

To ensure access is provided to developments in accordance with forecast demand taking advantage of all available modes of transport and to minimise impact on existing transport networks and the amenity of surrounding areas.
- Clause 18.03-1 contains the following objective:

To integrate planning for bicycle travel with land use and development planning and encourage cycling as an alternative mode of travel.
- Clause 18.12-1 contains the following objective:

To facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans.
- Clause 18.12-2 under General Implementation, states that:

Development Contributions Plans, prepared and approved under the Planning and Environment Act 1987, should be used to manage contributions towards infrastructure.

Development contributions may be collected on the basis of an approved Development Contributions Plan.

When preparing Development Contributions Plans planning authorities should have regard to the Development Contributions Guidelines (Department of Sustainability and Environment, June 2003).
- Clause 19 deals with Particular Uses. Clause 19.01-2 under General Implementation, states in part that:

Planning schemes should enable:

 - *The placing of open space requirements on development proposals.*

5.4 LOCAL PLANNING POLICY FRAMEWORK (LPPF)

There are various elements of the Manningham Planning Scheme LPPF that are relevant to Amendments C30 and C37. Many of the issues addressed by the LPPF and its objectives directly overlap with those of the SPPF and the Metropolitan Strategy. The following clauses are of particular relevance.

- Clause 21.05 Urban Design contains a number of statements and objectives, including:

General

Effective urban design will influence and establish an identifiable character for the municipality and its individual areas including commercial, industrial, residential, open space...areas.

Emphasis should be placed on improving the image and appearance of Activity Centres, residential and commercial developments.

Gateways

To clearly define, improve and identify gateways to the municipality, which promote the identity of the City.

Landmarks, vistas and views

To retain and strengthen key landmarks, views and vistas.

Public art

To achieve an increase in the number of art works incorporated in public and private building and development works and infrastructure.

- Clause 21.06 Streetscapes contains the following objective:

To improve the physical features of the municipality and create high quality streetscapes.

- Clause 21.10 Open Space contains a number of statements and objectives, including:

General

The focus will be on the effective management of open space assets and provision of future open space opportunities, including sporting, community use and facility development... The use and development of open space assets needs to respond to the cultural, interpretive, ecological values and changing needs of the community.

Open space system

To develop and maintain open space to a standard that maximises recreational opportunities and environmental potential.

To provide comprehensive pedestrian, bike and trail networks.

- Clause 21.17 Community and Social Equity contains the following objectives:

Social, cultural and educational opportunities

To provide ready access to quality community amenities, educational institutions, diverse leisure, sporting and cultural opportunities and resident support services and programs.

Opportunities for community/social interaction

To ensure that the public realm will promote:

- *A sense of place.*
- *Community identity.*
- *Social interaction.*
- *A safe environment.*

Impact of changing demographics

To ensure that development is supported by appropriate physical/community infrastructure and social services which is provided to meet the changing needs of existing and future residents.

- Clause 21.18 Traffic and Transport contains the following objective:

To maximise opportunities along Doncaster Road to facilitate pedestrian and cyclist activity and provide higher levels of user amenity.

- Clause 21.21 Doncaster Hill Activity Centre contains a number of statements and objectives, including:

Vision

To ensure that the future infrastructure requirements of the Doncaster Hill Activity Centre are met in a comprehensive timely and equitable manner.

Design and built form

Protect and enhance key views and vistas.

Achieve the development of a strong boulevard character along Doncaster Road, Williamsons Road and Tram Road based on creating:

- *a strong sense of place and a safe and comfortable environment;*
- *active street frontages and mixed uses within buildings along Doncaster and Williamsons Roads (and part of Tram Road) as a focal point for appropriate uses and vibrant pedestrian generating activities including, café, leisure and other entertainment activities; and*
- *boulevard landscape treatment that comprises of high quality landscape treatment (including boulevard planting, canopy tree planting, screen planting, extensive tree plantings and theme plantings in appropriate locations) to be complemented by appropriate setbacks and built form.*

Apply gateway treatments to signal entry into and to enhance the special identity of the Activity Centre including the main intersection of Doncaster Road, Williamsons Road and Tram Road. Gateway treatments can include buildings showcasing unique contemporary architecture, artwork, lighting, distinctive tree planting and well-designed signage.

Ensure that development incorporates high quality public and private open spaces that are useable, accessible, safe, well landscaped and provide opportunities for recreation and social interaction. These spaces should be well linked to major facilities for pedestrian networks to assist with permeability and pedestrianisation.

Provide high quality pedestrian and bicycle linkages in both public and private areas, which improve the street level environment to create connections that are accessible, safe, interesting and pleasant..

Provide high quality public art which significantly contributes to the development of a contemporary and distinctive sense of place by creating an appropriate scale and location marker, defining image and reflecting the character for individual precincts.

Infrastructure

To ensure that the future infrastructure requirements of the Doncaster Hill Activity Centre are met in a comprehensive timely and equitable manner.

To apply a Development Contributions Plan that will ensure the provision of all relevant infrastructure, with all costs equitably apportioned between developers and the responsible authority.

6. THE PURPOSE OF THE DCP

6.1 CONTEXT

This section sets out the context in which the Doncaster Hill Development Contributions Plan has been prepared and related issues that have been raised about the Plan.

The Doncaster Hill Activity Centre has been identified by Manningham City Council as a location for high-density, mixed use development. The Doncaster Hill Strategy and associated documents articulate the longer term vision for redevelopment of the area. In summary, Doncaster Hill is to become a place where a mix of high-density, residential, retail and commercial buildings are developed. This development is to be complemented by improved pedestrian and bicycle connections and, in the longer term, better public transport services. The essence of Council's planning is to create a desirable precinct which takes advantage of its natural attributes such as the views to the Melbourne CBD and Dandenong Ranges and which encourages an aesthetically pleasing and functional place to live. Central to this goal is the creation of an active public realm, particularly through encouragement of site responsive architecture, application of urban design principles, enhancement of individual streets and creation or enhancement of parks and other gathering places. The aims of the Strategy and its spatial implementation were supported by the Manningham C33 Panel and many of its elements are now incorporated in the Manningham Planning Scheme.

Changes to Clause 25.01 included in Amendment C30 would bring infrastructure requirements for Doncaster Hill into the planning scheme. Clause 25.01 provides strategic support for the statutory mechanisms that implement the Development Contributions Plan, ie. the Clause 45.06 overlay and incorporation of the Plan at Clause 81.

The key issues addressed in this Section are whether the projects proposed for inclusion in the Development Contributions Plan are appropriate, the basis for inclusion of a Plan in the planning scheme, and any transitional arrangements that the Council should put in place.

6.2 PURPOSE AND BASIS OF DEVELOPMENT CONTRIBUTIONS PLAN

The Development Contributions Plan included in Amendment C30 is a mechanism to partly fund public infrastructure through collection of monetary contributions from developers. Amendment C30 incorporates the Development Contributions Plan in the Manningham Planning Scheme and amends the schedule to Clause 45.06 consistent with the Plan. The schedule provides a statutory basis for levying a contribution within Doncaster Hill.

Part 3B of the Planning and Environment Act 1987 states:

46I. Development contributions plan

... a planning scheme may include one or more development contributions plans for the purpose of levying contributions for the provision of works, services and facilities.

46J. What can a plan provide for?

A development contributions plan may provide for either or both of the following—

- (a) the imposition of a development infrastructure levy;
- (b) the imposition of a community infrastructure levy—

in relation to the development of land in the area to which the plan applies.

Section 46 of the Act contains other requirements, which are also covered in the Victorian Government publication *Development Contributions Guidelines* (version 5.9, Department of Sustainability and Environment, June 2003).

The Guidelines have been published to provide Councils with direction when preparing a Development Contributions Plan. The Guidelines cover the principles and methodology for preparing Development Contributions Plans. The guidance given is quite detailed, with examples that assist in explaining key concepts such as:

- the Development Contributions Plan area;
- the Development Contributions Plan timeframe;
- analysis areas;
- quantifying development;
- demand units;
- equivalence ratios;
- main catchment area;
- external usage and future usage;
- basic calculation of infrastructure levy demand unit;
- simple formula for calculating infrastructure levies; and
- charge areas.

The Minister's Direction regarding Development Contributions Plans was issued on 15 May 2003. The Direction must be considered when formulating plans and planning scheme amendments. Section 4 of the Direction lists the types of projects that are classified as development infrastructure. These include:

(a) Acquisition of land for:

- roads
- public transport corridors
- drainage
- public open space, and
- community facilities, including, but not limited to, those listed under clause 4(f).

(b) Construction of roads, including the construction of bicycle and foot paths, and traffic management and control devices.

(c) Construction of public transport infrastructure, including fixed rail infrastructure, railway stations, bus stops and tram stops.

(d) Basic improvements to public open space, including earthworks, landscaping, fencing, seating and playground equipment.

(e) Drainage works.

(f) Buildings and works for or associated with the construction of:

- a maternal and child health care centre*
- a child care centre*
- a kindergarten, or*
- any centre which provides these facilities in combination.*

The distinction between development infrastructure and community infrastructure is an important one because community infrastructure contributions are currently capped at \$450 per dwelling by Section 46L of the Act. Although the Government has previously foreshadowed a change to the cap, at this point in time the cap is still in place. Legislation currently before Parliament (introduced following completion of the Panel hearings) would lift the cap to \$900 per dwelling. The Panel has been able to ascertain from the Council the financial impact of the community infrastructure cap and the implications if there is no cap. Financial implications where the cap is in the order of \$900 have not been provided, however the Panel does not consider this to be a serious impediment to its deliberations as it has primarily focused on Manningham's use of the Development Contributions method and it cannot predict the outcome of the Government's legislation. Presumably the final figures of the Doncaster Hill Development Contributions Plan can be adjusted if the legislative change to the cap proceeds.

Public art is not specifically included in the Minister's list of development infrastructure, however, it is an item of infrastructure that the Council has included in the Doncaster Hill Development Contributions Plan. The Panel is of the view that public art can be classified in this way for the following reasons. Public art will be a component of road infrastructure through streetscape upgrades, and of public open space. The Doncaster Hill Strategy and related documents articulate the importance of public art as an essential component of urban design and public infrastructure in Doncaster Hill. Clause 21.21 of the Manningham Planning Scheme contains the following summary statement as a strategy to implement built form objectives:

Provide high quality public art which significantly contributes to the development of a contemporary and distinctive sense of place by creating an appropriate scale and location marker, defining images and reflecting the character for individual precincts.

It is clear that the Act and the current Development Contributions Plan planning framework envisages the use of a Development Contributions Plan to implement a user pays scheme by the municipality. A Development Contributions Plan alleviates the cost to the municipal rate base by allocating a fair proportion of the cost of planned works and services to developers, who will in turn benefit from the infrastructure program. The Panel concurs that use of a Development Contributions Plan is supported by the Doncaster Hill Strategy and its background studies, and that it is an appropriate funding mechanism for the Council's longer term infrastructure program for the area.

6.2.1 DCP PRINCIPLES

Council referred the Panel to the State Government website on Development Contributions, where the principles of the Development Contributions Plan are listed. Council noted that the following principles were relevant.

Justification of Infrastructure Projects

Infrastructure projects can be included in a DCP if they will be used by the future community of an area, including existing and new development. This means that new development does not have to trigger the need for new infrastructure in its own right. It can only be charged in accordance with its projected share of usage. This is all that is required to demonstrate 'need'.

Nexus between new development and the need for new infrastructure

It must be demonstrated that the new development to be levied is likely to use the infrastructure to be provided. New development should not be considered on an individual basis, but as part of the wider community that will use an infrastructure project. The wider community may also include existing development. This is all that is required to demonstrate 'nexus' to justify the application of the charge.

Infrastructure costs must be apportioned on the basis of projected 'share of usage'

For the purposes of calculating levies in a DCP, the costs of infrastructure projects are shared amongst all the likely users. The likely users will include existing and future development. In this way, new development will not be charged for the whole cost of an infrastructure project that others will use and costs are distributed on a fair and equitable basis.

However, while the levy is calculated on the basis that all the users pay for the cost of the infrastructure, only new development can actually be charged the levy. Therefore, a DCP will rarely cover the full cost of providing the infrastructure.

The issue of external usage is considered in Chapter 8, while the issues of justification and nexus are considered below in Section 6.3.

6.3 INFRASTRUCTURE PLANNING

The Council's background planning studies that underpin the Doncaster Hill Strategy have identified public infrastructure investment that will be required to support the future population. These studies include:

- Doncaster Hill Traffic Study (September 2003)
- Doncaster Hill Urban Master Plan (September 2003), supplemented by a report to Council "Doncaster Hill Urban Masterplan: PART A: Urban Plazas and Parks" (24 June 2003)
- Doncaster Hill Preliminary Assessment of Social, Recreational and Open Space Infrastructure Requirements (ASR, October 2002)

The required infrastructure investment identified by these studies is, according to the Council, consistent with its infrastructure commitments in other parts of Manningham. The Council acknowledged that provision of public infrastructure may also provide an incentive for developers to invest private funds in the Doncaster Hill area.

An overview of the infrastructure projects included in the Development Contributions Plan is described at page 14 (April 2004 version):

Transport Infrastructure projects include the necessary infrastructure to ensure safe and efficient movement of vehicles, cyclists and pedestrians. The types of projects identified include additional traffic signals, footpath widening and new footpaths, and road extensions and road narrowing.

Streetscape infrastructure consists of items that will provide for improved local amenity especially in relation to ensuring high pedestrian usage. The types of items identified include street furniture; tree planting, lighting and boulevard treatment.

Public art projects have been identified on the basis of further enhancing local amenity and promoting local character, in line with local community expectations. The items identified are all incorporated into functional elements of the public realm. Together with the streetscape treatments these items will ensure that public areas complement the standards being required from private developments.

Social infrastructure has been identified on the basis of current and projected usage and the need for services and facilities and include infrastructure responsive to the needs of children, youth and the elderly.

Most of the infrastructure projects covered by the Development Contributions Plan are scheduled to occur within the Doncaster Hill precinct. Non-residential development will not be asked to contribute to social infrastructure, as the Council cannot at this point definitively establish social infrastructure needs for the anticipated worker population.

Some submitters felt that the level of infrastructure to be provided through the Development Contributions Plan is not justified, with submitters stating either that this level is too high or that it is too low. Some submitters also felt that the only purpose of the proposed infrastructure is to assist developers. The Panel agrees that forward planning for infrastructure should occur and it did not receive submissions suggesting an alternative standard of infrastructure provision that could or should be adopted. Council officers provided information during the hearing about the infrastructure requirements for Doncaster Hill contained in its studies and, where necessary for clarification, the principles underlying their method and findings. On the whole, the studies appear to the Panel to be well researched and based on sound planning for a future community at Doncaster Hill. The Panel reviews open space aspects of the proposed works further in Chapters 10 and 11 of its report.

Submitters have questioned some of the specific locations nominated for new public open space and road infrastructure. The Panel discusses the identification of properties in Hepburn Road for a local park in Section.11.2.1. This is the only change to nominated locations since review of Amendment C33 by a previous Panel. Although not always individually discussed in the Amendment C33 Panel report, proposed road links, public open space and urban plazas were presented to the Panel as part of a comprehensive urban design package for development at Doncaster Hill. The current submitter issues either repeat matters already canvassed (such as boulevard treatment of Doncaster Boulevard), or else query the need for particular links in the future road and path system. The Council has investigated through various studies the current road network, existing and future traffic volumes, and the opportunities to connect different areas of Doncaster Hill to promote walking and cycling. The Panel notes that connectivity plays a key role in planning for Doncaster Hill and is satisfied that the Council has taken into account relevant factors in identifying the locations for road infrastructure.

The Panel acknowledges that some of the shared pathways will be too steep for all bicycle users. It may be that some bicycle users may have to dismount and wheel their bicycles up

some steep sections. That consideration, however, does not obviate the need for the system of shared pathways to provide adequate connectivity through and within Doncaster Hill.

The Panel accepts that the supporting documentation cited by Council on each category of infrastructure demonstrates the nexus between the new development and the new infrastructure.

The Panel is also satisfied that the specified infrastructure is necessary to serve the needs of the users of Doncaster Hill. Council was also keen to emphasise that the listed infrastructure also facilitates the creation of Doncaster Hill, but this is not an acceptable criterion in itself.

It should be noted that the Development Contributions Plan does not cover all the possible infrastructure that will be required on Doncaster Hill. In the Panel's opinion, the DCP need not fund all infrastructure that is required. Amendment C30 acknowledges the need for other forms of funding, through the Public Open Space contributions. There may well be other projects that arise during the life of the Plan that are directly funded through Council's normal budget process.

Finally, it should be noted that the timing of the DCP development and the timing of implementation of infrastructure projects may not proceed as presently envisaged. Corrective mechanisms exist, however, to deal with this situation as follows:

- The present value methodology equalises the effects of timing changes;
- Council may seek to have changes made to the Development Contributions Plan if they appear to be required (through an Amendment process); and
- Council can assume a greater proportion of the costs of infrastructure, should development at Doncaster Hill lag beyond that predicted. In this respect, it should be noted that Council has already underwritten two thirds of the entire cost of the Doncaster Hill Development Contributions Plan infrastructure (\$19.3 million out of \$29.6 million in nominal 2003 dollars, without GST, and with the cap—see Section 7.2).

6.4 SCHEDULE 1 TO THE DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY

The Development Contributions Plan for Doncaster Hill has a planning horizon (time span) of 20 years, which approximates the planning horizon for the Doncaster Hill Strategy. The boundary of the proposed Development Contributions Plan Overlay is consistent with that of the Doncaster Hill Activity Centre.

Schedule 1 to Clause 45.06 (the Development Contributions Plan Overlay) is a standard VPP schedule that contains:

- 1.0 A description of the area to which the Schedule applies.
- 2.0 A summary of costs, by infrastructure type, including the total cost, the year of anticipated provision, and the actual cost and proportion of cost attributable to existing and future development within the overlay area.
- 3.0 A summary of the contributions that will be required from residential and non-residential development.

4.0 The land or development that will be excluded from the Plan.

The re-exhibited schedule provides the summary of contributions to be collected from each residential dwelling and each non-residential unit (121 m² of commercial floor space, 19 m² of retail floor space; these equivalent demand units are provided by the Guidelines) over the life of the Plan. Table 3 includes an extract from this schedule, indicating the contribution for the nominated land use types.

Crucial to the effective application of the Development Contributions Plan and the accuracy of its costing is the determination of the amount of retail and residential floor space on Doncaster Hill that will be subject to the DCP. The Panel was concerned that the calculations of these figures were subject to correction during the Panel hearings but satisfied that the ultimate calculations were based on acceptable estimates of the floor space that would exist in 2021. However, the Panel notes that if the calculation is an over estimate, the gap in developer funding will need to be met by Council.

The Development Contributions Plan also makes some attempt to identify other, future development types that could occur at Doncaster Hill. Section 5, Development Projections, of the DCP (April 2004) states: "*The Doncaster Hill DCP explicitly identifies infrastructure demands from residential, commercial and retail development. In addition, a general assumption has been made that 2% of the usage of the infrastructure items in Doncaster Hill will be generated by 'other' development types in Doncaster Hill, that is institutional, community and specialised activities that are not amenable to reliable forecasting.*"

Section 6.3, Equivalence Ratios and Common Demand Units, of the Development Contributions Plan (April 2004) sets out in Table 2 Equivalence Ratios for Retail and Commercial Development, as follows (consistent with the Guidelines and subject to the qualification that Social Infrastructure attracts a contribution only from Residential Development):

- *For Residential Development* *1 dwelling = 1 demand unit*
- *For Retail development* *19 m² floor space = 1 demand unit*
- *For Commercial Development* *121 m² floor space = 1 demand unit*
- *For Other Development* *Calculation on application*

Both the original and revised Schedule 1 to the Development Contributions Plan Overlay as exhibited, in Part 3.0, specifies contributions under the headings "Residential" and Non-residential", and repeats only the quantified equivalence ratios above, with the line commencing "For Other Development" is not included.

The Panel infers from Schedule 1 that for a mixed development, consisting of any mix of residential, retail, commercial and other use, Council would calculate the Development Contribution on the basis of the amount of residential, retail and commercial development proposed.

Given that Schedule 1 to the Overlay provides for levies only on the basis of the specified equivalent demand units of dwellings, commercial floor space and retail floor space, introducing a calculation for other development types now seems unnecessary and incorrect. The Panel notes that the cash flow analysis sheets for each project contained in Appendix 4 of the Doncaster Hill Development Contributions Plan (April 2004) assigns the levies for the 2% of other development to Council, as for existing development. The Panel therefore concludes that with the exception of Table 2 of the Plan, the Plan and its implementing Schedule 1

assume that no levy will be charged for other development types. It is acknowledged that this could create an anomaly in the operation of the Development Contributions Plan, in that the Plan states that all development and subdivision is to be charged a levy (Section 8.1). However, the Panel is not comfortable endorsing a change to Schedule 1 that has not been requested by the Council and following its formal exhibition on two previous occasions. The listing of "For Other Development" in Section 6.3 of the DCP (April 2004) now seems unnecessary and misleading, particularly when read in conjunction with other parts of the Plan and Amendment, and it should be deleted.

Table 3 Development Contributions Plan levies payable by the development

LEVIES PAYABLE BY THE DEVELOPMENT						
FACILITY	Development Infrastructure		Community infrastructure		All infrastructure	
	Residential	Non-residential	Residential	Non-residential	Residential	Non-residential
TOTAL	\$1364	\$941	\$450	None specified	\$1814	\$941
TOTAL with community infrastructure cap removed	\$1364	\$941	\$1406	None specified	\$2770	\$941

Panel Note: These are 2003 nominal dollars inclusive of GST. Contributions will be indexed for inflation and adjusted yearly.

It is intended that infrastructure charges apply to all new development in Doncaster Hill. Infrastructure costs not recouped through development contributions will be covered through Council's normal capital works budget.

6.5 IMPACT ON DEVELOPMENT

Some submitters had a general objection to the infrastructure charges proposed, stating Council should not impose further costs if it is serious about facilitating development in the Doncaster Hill precinct, or that the additional infrastructure charges could be a determining factor in the viability of future projects. The Panel is aware that several factors will influence the form, timing and cost of future projects in Doncaster Hill. These include the cost of land, construction and finance costs, market demand and pricing for residential dwellings and non-residential space, general economic cycles and the like. On the other hand, provision of the public infrastructure envisaged by the Development Contributions Plan may increase sales prices and increase demand for dwellings and commercial or retail space.

It is generally accepted in the development community that some form of contribution is likely to be sought as a condition of approval, especially for more substantial developments such as those anticipated at Doncaster Hill, and Council has already negotiated contributions from recently approved developments. One benefit of a Development Contributions Plan that is incorporated in the planning scheme is that developers can factor in an anticipated cost requirement as part of their economic feasibility analysis. The Panel was not provided with

any information to establish the point at which a contribution might be considered so high that a development would not proceed, and in any event, this point is likely to differ for each project. Subject to its discussion elsewhere in this report, the Panel is generally satisfied with the quantum of contribution listed in Part 3.0 of Schedule 1 to Clause 45.06.

The issue of double-dipping was raised by several submitters, primarily those who have contribution arrangements in place and were concerned that adoption of the Development Contributions Plan would lead to a second assessment, ie at the time of subdivision or building approval. By the conclusion of the Panel hearing, the Council had satisfactorily resolved the concerns of most of these submitters and their objections have been withdrawn. The Panel is comfortable with the Council's approach to resolving this potential problem. To the Panel's knowledge there are no other applications requiring resolution. Once the Doncaster Hill Development Contributions Plan is in the Manningham Planning Scheme, then the arrangements provided for by Clause 45.06 and the Plan will apply.

The submissions and their resolution highlight the need for transitional arrangements, albeit informal ones, until a Development Contributions Plan can be incorporated into the planning scheme. The Panel expects that Council will continue to work with any other affected developers to ensure fairness and equity in its contribution program up to and following gazettal of any Plan within the planning scheme. The Panel's comments also apply to transitional arrangements for introduction of the amended schedule to Clause 52.01.

The remaining party in this position is Westfield Limited, who is committed to financial or equivalent contributions through the existing Incorporated Plan Overlay that affects Doncaster Shoppingtown. Westfield Limited made submissions to the Panel in which it favoured use of Section 4 of Schedule 1 to the Development Contributions Overlay to exempt Westfield from a contributions charge in addition to existing commitments. Westfield Limited stated in support of its argument that:

- The proposed Development Contributions Overlay should acknowledge that the Manningham Planning Scheme already provides for development contributions up to 135,000 m² of leasable floor area.
- The Notice of Decision dated 16 December 2003 giving Westfield Limited approval for works (within this floor limit) details the existing obligations.
- Any reference in the planning scheme to particular works to be undertaken by Westfield Limited, such as those required in the Notice of Decision, should be expressed with sufficient flexibility to accommodate changed circumstances without necessitating a planning scheme amendment.

The Council has clarified with the Panel that it agrees in principle with the submission. The Panel is inclined to agree. This issue is discussed further in Section 12.1.2 of the report.

6.5.1 IMPACT MITIGATION

Section 6.5 of the Doncaster Hill Development Contributions Plan (April 2004) has the heading Impact Mitigation, and deals with infrastructure charges that are relevant to a particular development, rather than to group of developments.

In general, the cost (or provision) of the infrastructure required for a particular development, but not other such developments, is not (and cannot) be included in the DCP. Instead it will be specified by Council, generally as a planning permit condition.

Section 6.5 gives notice that it may "condition development approvals" additionally if the particular development requires modification of the timing or specification of planned works, or new works are required. Conditions on a planning permit are appealable to VCAT, if, for example, a developer thought they were unfair.

It would be useful to note more clearly in Section 6.5 that the requirements for impact mitigation are outside of the DCP, would be in addition to the Development Contributions Plan statutory levy, and would generally be appealable if the developer thought they were unfair.

6.6 CONCLUSIONS AND RECOMMENDATIONS

The Panel concludes that:

- The Council's Doncaster Hill studies support the need for the infrastructure items listed in the Development Contributions Plan.
- Use of a Development Contributions Plan is an appropriate mechanism to fund the identified infrastructure requirements.
- The proposed infrastructure charges are not so onerous as to undermine the Council's longer term strategy for Doncaster Hill.
- Double-dipping should as a matter of principle be avoided, with different mechanisms available to deal with this issue. The Council should ensure that suitable transitional arrangements are in place with respect to the Development Contributions Plan and Clause 52.01 (Public open space contribution and subdivision).
- Table 2, "Equivalence Ratios for Retail and Commercial Development" (see Section 6.3 of the Development Contributions Plan, April 2004), should be amended by removal of the column headed "For Other Development" to avoid confusion. Any mixed use development which has components of residential dwellings, retail or commercial development will be assessed on the proscribed equivalence ratios for those uses.
- Section 6.5 of the Development Contributions Plan (April 2004) should be amended to clarify that impact mitigation measures are outside the ambit of the DCP, would be in addition to the statutory levy and would generally be appealable by developers if it was thought they were unfair.

RECOMMENDATION

The Panel recommends that:

- a Development Contributions Plan should be used to fund public infrastructure investment at Doncaster Hill.
- transitional arrangements should be documented by the Council to avoid the potential for “double-dipping”.
- Council should remove the column headed “For Other Development” from Table 2, “Equivalence Ratios for Retail and Commercial Development” in Section 6.3 of the Doncaster Hill Development Contributions Plan, April 2004, to bring it into line with the exhibited Schedule 1 to the Development Contributions Plan Overlay and the cash flow analysis in Appendix 4 of the Plan.
- Section 6.5 of the Doncaster Hill Development Contributions Plan (April 2004) should be amended to state that impact mitigation measures are outside the ambit of the DCP, would be additional to the statutory levy and would generally be appealable by developers if it was thought they were unfair.

7. THE CONSULTATION PROCESS AND ERRORS IN THE DCP

7.1 CONSULTATION

The Panel was informed that Council conducted two information sessions for Amendment C30. The first session was conducted on 7 August 2003 with 48 attendees and provided general information on all aspects of the Amendment. Session 2 attracted 13 attendees on 13 August 2003 and focused on traffic issues. Additional sessions were convened on 6, 12 and 19 November 2003 and the following matters related to the DCP were raised:

- ratepayers will be unduly burdened with infrastructure costs for Doncaster Hill;
- developers may be able to delay payments for as long as possible and that money collected would not fund identified projects;
- the Council funding proportion would increase if developments did not proceed;
- the identification and costing for infrastructure items was not soundly based or realistic;
- a parking station was not included in the DCP and this might preclude consideration of funding a station in the future and remove a trigger for identifying future need;
- threshold treatments referred to and mapped in the DCP are not limited to locations at the top of streets but would logically include treatments along affected street; and
- current development applications would miss out on paying the developer contribution.

The Panel was informed that other consultations on various topics had been held in September, October and December 2002 and June 2003, primarily with residents. No issues relating to the funding of infrastructure were reported as being raised at these meetings.

The Panel was informed that Council wrote to six developers and/or their representatives in December 2003, following a Council resolution to:

Extend an opportunity for developers who submitted to Amendments C30 & C37 to meet with Council Officers (prior to any Panel Hearing) to clarify any perceived inconsistencies in relation to calculation of DCP costs

A lack of response resulted in a second invitation in February 2004 to the developers to discuss submissions and potentially resolve issues or clarify perceived inconsistencies in relation to the calculation of DCP costs. Of the six responses:

- Westfield agreed to work through issues with Council prior to the Panel hearing and present the outcomes to the Panel;
- Sinclair Knight Merz acting on behalf of Burton Ridge Pty Ltd, agreed, amongst a range of matters, to remove existing conditions on a current permit requiring works and contributions, in favour of the application of DCP levies; and

- none of the remaining respondents raised issues of relevance to the application of the DCP.

The Panel notes with interest that despite Council exhibiting the DCP and the invitation for responses on its thrust and content, not one submission either examined the detailed calculations within the DCP or questioned its accuracy. The Panel notes that the document was in the public domain from at least July 2003, one month after the Final Report was prepared for the Council. The Panel concludes that for developers, there was little concern with regard to the quantum of the funding required to be contributed by developers, the manner in which it had been calculated or the impact that it would have on the cost structure and pricing of the development products that would be subjected to the DCP. This conclusion is qualified to the extent of acknowledging that at least two of the written submissions by (or on behalf of) developers have raised concern about the quantum of charges in general terms.

The Panel Report for Amendment C33 on the Doncaster Hill Activity Centre (September 2003) noted (P33) that:

From the evidence presented to the Panel, the Council appears to have engaged in an extensive public consultative process with all aspects of its planning process. It may well be that residents have not taken particular interest in the specifics of the consultative process or may be suffering from 'consultation fatigue'. Alternatively, it may be that until there is a specific proposal on the table ... it is difficult for residents to fully appreciate the implications for them of some of the planning work being undertaken

In the case of Amendments C30 and C37 the situation has not changed. Whilst the technical aspects of the DCP may not be clear to many residents (see Section 7.3 below), the Panel is satisfied that in other respects the Council has provided reasonable avenues for informed public consultation on the DCP and its content.

7.1.1 PRE-LODGE MENT ADVICE

A criticism of the consultation process was that pre-lodgement advice did not make reference to the future DCP, therefore further cost implications were not factored into the development costing. Several applicants seeking planning permits stated in their submissions that they were not told of the preparation of the DCP in the discussions they had with Planning Officers prior to lodging their planning permit application.

In the *Submission for Manningham Council Part 2, Detailed Response to Submissions* (marked as Exhibit M2), *Council's Response* to this matter is as follows (see page 22 of 80):

The proposed DCP and related levy charges were not raised during the projects pre-application negotiations or as part of final planning permit requirements as Amendment C30 was not placed on public exhibition until August 2003. However the proposal to introduce a Development Contributions Plan has been public knowledge for some time it being referred to within Newsletters.

The inference that might be drawn here is that of "Developer beware!"— the imminent DCP was public knowledge, the developer should have known about it, and there was no need for Council Officers to draw it to the attention of any Developer.

The Panel does not support such an attitude, if it did indeed exist. Alternatively it may simply be that the officer handling the permit application was not conscious of the impending DCP, in spite of its reference in the Municipal Strategic Statement and through Amendment C33, or

that the officer failed to understand its importance to prospective developers. There may also have been poor communication between different sections of the Planning Department within Council.

The Panel views this lack of advice as a serious omission. Officers attending the Panel hearing could give no explanation for the failure to properly advise applicants of Council's developing policy, which would affect them.

In the event, and as detailed above, Council has resolved this issue with those applicants who were concerned. It remains to Council to rectify this systematic error in its procedures.

7.2 THE MECHANICS OF THE DCP

7.2.1 AN OVERVIEW

The Doncaster Hill Development Contributions Plan is a complex document, drawing from a range of subsidiary studies and analyses. Central to the Plan is the specification of the costing framework that determines the monetary sums that will be payable by developers during the course of the 20 year life of the Plan.

The Panel was keen to ensure that it fully understood the basis of the Plan and that this basis would be able to be communicated to all parties involved in the Doncaster Hill Strategy. There was little comment and no analysis in any of the submissions to the Panel on the technicalities of the Doncaster Hill DCP. The Panel anticipated that it would be able to place a high degree of reliance on the authors of the Plan to explain those technicalities. Unlike much of the other expert advice on the requirements and costing of individual infrastructure items, where Council officers were fully conversant with the contents and thrust of specific background reports and were able to readily satisfy the Panel of their accuracy, advice on the technicalities of the DCP was not coherent.

Consequently, both Council and the Panel allocated a great deal of attention to the structure and mechanics of the Plan. As has already been noted, that process uncovered very serious errors in the Development Contributions Plan, and Council decided to correct these errors and re-notify the revised DCP.

Before examining the detail of the various problems with the Doncaster Hill DCP, it may be useful to summarise the broad components of the DCP costs and charges. The Panel has had to construct these figures from a number of sources, having had to hunt for the figures and verify whether they included GST. The Panel is now confident it has a clearer picture of the potential costs but it is concerned that the quality and presentation of information contained in both versions of the Plan and the Council documentation limits its clarity and is not supported by a clear, independent financial analysis by Council's auditors or other financial specialists.

Nowhere in the Amendment C30 documentation was a summary of the overall and apportioned costs presented in a manner that allowed for clear comparison between different sets of figures. The Panel has more to say on this matter in Section 7.3.1.

Based on information contained in the revised April 2004 DCP and other documentation, with nominal 2003 dollars, and GST *excluded*, the costs and charges appear to be as follows:

- Infrastructure requirements were identified by Council as approximately \$42¹ million;
- Council decided the funding sources, cited as \$12.5² million from public open space contributions, with the remainder from the DCP—about \$29.6³ million);
- Each item of infrastructure was assessed for its proportion of external usage (together with 2% for “other usage”), and the cost apportioned either to the DCP contributions (considering both existing and new development) for internal use (\$19.7⁴ million), and to Council for the external use (\$9.9⁵ million);
- The remaining DCP funding (\$19.7 million) was spread over all development in the charge area, but only new development is required to pay, at a rate struck using net present value methodology. Council must pick up the payments associated with existing development. Of the \$19.7 million, new developers are expected to pay \$13.4⁶ million with no Community Infrastructure cap, or \$10.3⁷ million with the current cap of \$450 per dwelling. Council must pick up the remaining \$6.3⁸ million with no cap, or \$9.4⁹ million with the current cap.
- As the cap has not yet been removed by Government, Council’s share of the \$29.6 million DCP cost is expected to be \$19.3¹⁰ million, the sum of \$9.9 million and \$9.4 million. The impact of changing the cap level (as proposed in recently introduced legislation) upward to \$900 per dwelling (or some other figure) has not been calculated.

The superscript numbers associated with the figures above are references to the origin of each of the dollar values quoted, as follows:

- 1 Cited in Section 1 Introduction of the DCP (both June 2003 and April 2004 versions)
- 2 Cited in Section 1 Introduction of the DCP (both June 2003 and April 2004 versions)
- 3 The difference, cited in Section 1 Introduction of the DCP (June 2003). Note that the value cited in the DCP (April 2004) includes GST.
- 4 Cited in Part 2.0, Summary of costs, in the revised Schedule I to the DCP Overlay. While the heading is “Actual cost attributable to development” the note states that it is the cost of all infrastructure items that is attributable to both existing and new development. The value of \$21,939,966 includes GST, but with GST removed and rounded it becomes \$19.7 million.
- 5 The figure is the difference between the (3) and (4)
- 6 Cited in the DCP (April 2004) on page 19, the Grand Total of the “*Estimated Minimum Contribution Received via Doncaster Hill DCP (\$) (Nominal Inc GST)*”. The figure quoted of \$14,890,213 appears to be the sum of the Cash Inflow (Nominal Dollars) cited at the right hand side of each page of Appendix 4, which is the sum projected to be collected from new development, with no cap. The Panel has subtracted GST from the figure.
- 7 Cited in the DCP (April 2004) on page 19, the Grand Total of the “*Estimated Minimum Contribution Received via Doncaster Hill DCP (\$) (Nominal Inc GST)*”. The figure quoted of \$11,384,577 is the sum expected to be collected from new

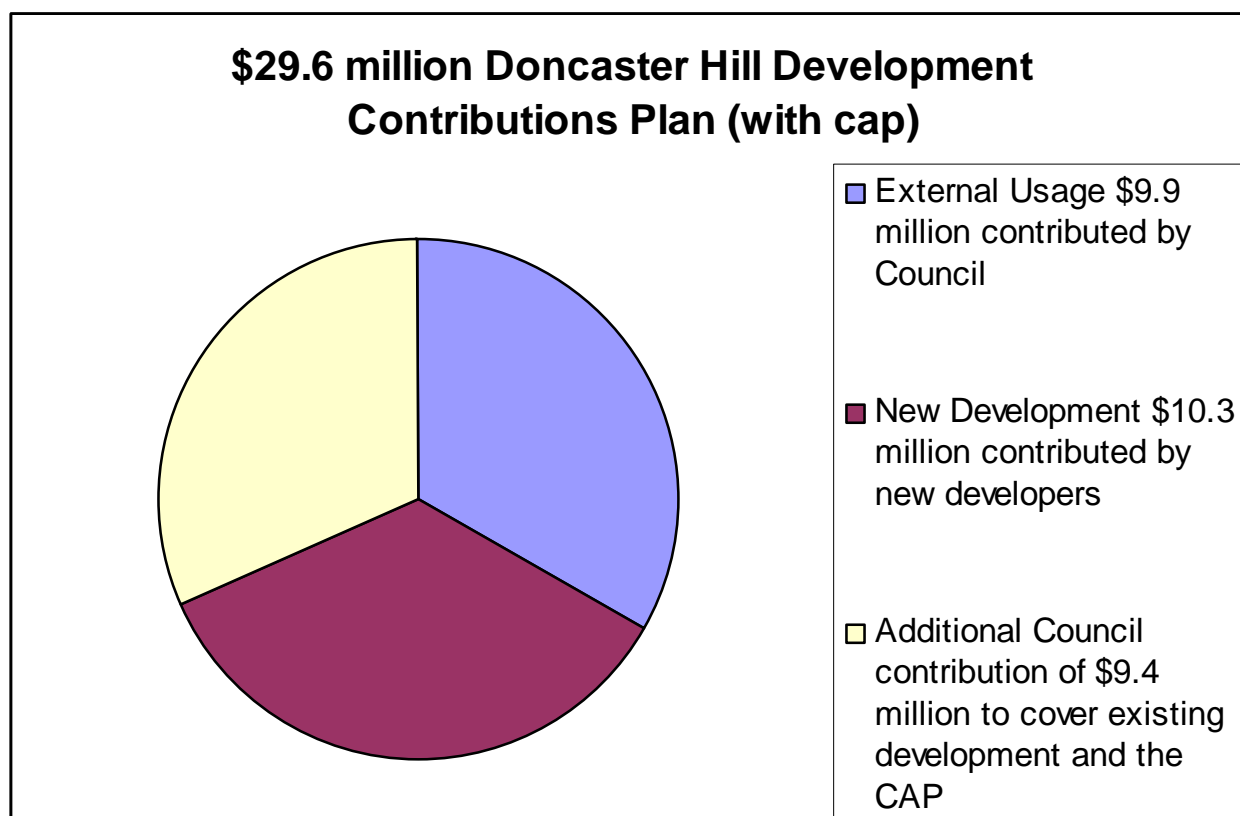
development with the cap in place. The Panel has subtracted GST from the figure.

- 8 The figure is the difference between the remaining DCP funding (\$19.7 million), and the amount expected to be paid by new developers (\$13.4 million with no cap) i.e. (4) – (6)
- 9 The figure is the difference between the remaining DCP funding (\$19.7 million), and the amount expected to be paid by new developers (\$10.3 million with the cap) i.e. (4) – (7)
- 10 The sum of (5) and (9)

The Panel has had to infer the above figures following a detailed analysis of all documentation provided to it during the course of the Hearings. The Panel is not equipped to establish whether the figures are correct and is not on a position to warrant their accuracy. The above analysis is provided merely to display the complexities that were created by the Council's inability to prepare a clear, simple and accurate analysis of the overall costs of the proposed Doncaster Hill Development Contributions Plan to both the Council and developers over the proposed twenty year period.

The overall financial picture embedded in the figures above can be more readily understood in Figure 2 below.

Figure 2 Percentage contributions to new infrastructure requirements at Doncaster Hill



7.2.2 THE EXHIBITED JUNE 2003 DCP

Spiller Gibbons Swan Pty Ltd (SGS) was engaged by Council in October 2001 to prepare a Development Contributions Plan for the Doncaster Hill Activity Centre. The Panel heard evidence from Mr Marcus Spiller of SGS on the contents and workings of the DCP at the hearings in April 2004. The Panel was informed that the Plan is the outcome of a collaborative process using the SGS methodology with input from Council officers on the projects required to be funded.

It became clear at the April hearings that two significant errors had been made in the preparation of the Development Contributions Plan (June 2003).

The first of these concerned an allowance for external funding. Where some external funding for a project is known (for instance, a government grant towards the cost of a swimming pool) only the residual amount is taken forward in the DCP. A systematic error had, however, been made in the June 2003 DCP. The external use percentage had been applied as the External Funding percentage.

The second error concerned the failure of Council to show clearly that existing development cannot be charged DCP levies, and that the Council must make up the notional contribution from existing development which is a part of the DCP methodology.

In relation to the originally exhibited Development Contributions Plan (June 2003), the funding arrangements (which did not include GST) were stated as:

- public open space acquisition and works funding of approximately \$12.5 million would be recouped through the specification of a Public Open Space contribution (see Introduction to both versions), leaving some \$29.6 million to be funded ;
- the "Actual cost contribution attributable to development" was cited as about \$19.9 million or \$17.5 if the cap is not lifted, and is to be funded through the DCP.
- it might be inferred from a comparison of the "Total cost of the DCP" with the "Actual cost contribution attributable to development" shown in the Summary of Costs in Schedule 1 that \$9.6 million would be provided by Council, or about \$12 million if the \$450 cap on community infrastructure is not lifted.

This conclusion appears to be supported by the "Frequently Asked Questions" circulated with the originally exhibited amendment for the Doncaster Hill Development Contributions Plan, where, in response to the question "What is Manningham's Contribution towards the DCP?", the answer given was "The financial contribution from Council is estimated at just under \$10 million dollars over a 20 year period. This is subject to change as the figure is dependant on the annual Consumer Price Index (CPI)."

The conclusion is put beyond question by the written advice from Council provided to owner/occupiers on 10 May 2004, where in relation to the originally exhibited amendment, the Council contributions of \$12 million with the cap, and \$9.6 million without the cap are confirmed.

However Council now has clarified that these figures were not correct, even had the double counting of the external funding being set to the external use percentage not occurred. The "Actual cost contribution attributable to development" included the contribution from both existing and future development. As existing development cannot be charged the levy, Council must contribute the share attributable to existing development.

7.2.3 THE REVISED APRIL 2004 DCP

Following the identification of errors in the calculations of contributions, a revised version of the Doncaster Hill Development Contributions Plan (April 2004) was re-notified to owners and occupiers, who were invited to make a submission by 10 June 2004. A copy of this letter is attached at Appendix B. The letter contained a revised Schedule 1 to the Development Contributions Plan Overlay. The hearings were reconvened in August-September 2004, and submitters and witnesses who had not been heard at the earlier hearings, and those who responded to the re-notification of the revision to the DCP and who wished to be heard, presented further verbal and written submissions. In addition, staff from within the Council presented reports on how the relevant infrastructure projects to be funded were chosen as part of the DCP process.

In considering the Development Contributions Plan (April 2004), the Panel focussed its attention on the following matters:

- Whether the re-notification provided a clear view of the changes to the DCP resulting from the correction of errors;
- Whether the information in Schedule 1 to the Development Contributions Plan Overlay, and in particular Part 2.0, Summary of costs, gives a fair picture of the contributions to be made by developers;
- The application of present value discounting in determining the unit rate to be applied to equivalent demand units;
- The base year for costing;
- Treatment of GST; and
- Indexation of the levies.

The Panel has investigated each of these matters, and they are discussed below. Clarification on the issues emerged progressively, with many of the concerns being addressed in the April 2004 version of the Development Contributions Plan. The Panel requested some very detailed and specific information to address these concerns, and a response from Council was received well after the last Hearing day. The response was titled "Draft Response to Questions on Notice" and was prepared for Manningham City Council by SGS Economics and Planning. It was forwarded to the Panel by Council on 6 October 2004 by email. A copy is attached as Appendix C.

The Panel is concerned that the understanding by Council officers of the basis of the Doncaster Hill Development Contributions Plan was not coherent, despite the fact that the original DCP had been provided to Council in June 2003, providing sufficient time for its absorption and comprehension by officers. The processes of the DCP's preparation and clarification, described in this chapter, emphasise Council's strong reliance on a single external source for advice on the development and the operations of the DCP. This perception is reinforced by the fact that during the Panel hearings Council officers were unable to deal with queries on the DCP without reference to the consultant.

7.3 ISSUES ARISING FROM THE REVISED DCP

7.3.1 WHETHER THE RE-NOTIFICATION PROVIDED A CLEAR VIEW OF THE CHANGES TO THE DCP RESULTING FROM THE CORRECTION OF ERRORS

The quantum of Council's financial contribution to the Doncaster Hill Development Contributions Plan is a matter that is now clearer to the Panel as a result of its own efforts at interpreting the complex material presented by Council. As noted earlier, the Panel has ongoing concerns about the way the relevant information was presented in the summary information, with the potential for confusion arising from the use of a variety of dollar values:

- sometimes in nominal terms (though without the year stated),
- sometimes in discounted terms, and
- sometimes with no descriptor;

with the treatment of GST varying from the original DCP and the revised DCP, and the arrangement of columns that might tend to misinform readers. As an example of the latter point, the letter sent to Owner/Occupiers on 10 May 2004 included Table 4 (reproduced from the letter).

Table 4 Comparison between the exhibited DCP and the amended DCP

		DCP AS EXHIBITED 24 JULY 2003 (Excluding GST)	MAJOR CORRECTION OF EXTERNAL FUNDING ERROR (Including GST)	
			Present Value	Nominal
Total Project Expenditure	Constant	\$29,588,894	\$19,066,581	\$32,547,783
Total Value of Developer Contributions received via DH DCP	With cap	\$17,545,424	\$6,236,316	\$11,256,327
	Without Cap	\$19,945,424	\$8,249,590	\$14,890,213
Amount to be funded by Council	With cap	\$12m	\$12,830,265	\$21,291,456
	Without Cap	\$9.6m	\$10,816,991	\$17,657,570

The reader may easily compare the figures at the bottom of the table relating to the amount to be funded by Council, and note the incremental charge from \$12m to \$12,830,265, and without the cap from \$9.6m to \$10,816,991. Such a change is not large, but it is an entirely inaccurate reading of the matter, as is shown in Section 7.2.1.

Consider the difference in understanding if the Table had been presented as shown below in Table 5.

Table 5 Alternative Comparison between the exhibited DCP and the amended DCP

		DCP AS EXHIBITED 24 JUNE 2003 (Excluding GST)	MAJOR CORRECTION OF EXTERNAL FUNDING ERROR and NEED FOR COUNCIL TO FUND CONTRIBUTIONS FROM EXISTING DEVELOPMENT (Excluding GST)	
			Nominal (2003 dollars)	Nominal (2003 dollars)
Total Project Expenditure	Constant	\$29,588,894	\$29,588,894	\$17,333,255
Total Value of Developer Contributions received via DH DCP	With cap	\$17,545,424	\$10,233,025	\$5,669,378
	Without Cap	\$19,945,424	\$13,536,557	\$7,499,627
Amount to be funded by Council	With cap	\$12	\$19,355,869	\$11,663,877
	Without Cap	\$9.6	\$16,052,336	\$9,833,628

Note: the Panel does not warrant the accuracy of the information in Table 5 above, which remains the responsibility of Council.

The Alternative Comparison in Table 5 above has the following changes to that supplied to Owners and Occupiers:

- the Columns headed MAJOR CORRECTIONS: acknowledge the error made previously in not including Council's funding of the contributions attributable to existing development;
- the column headed "DCP AS EXHIBITED" is correctly labelled "Nominal (2003 dollars)";
- the figure all exclude GST, allowing sensible comparisons;
- the order of the columns is changed, to allow easy comparison of like with like.

With the revised Table, the reader can readily see the difference between the Council contribution previously advised, and the revised contribution, and that comparison is, with the cap, an increase from \$12 million to \$19,355,869 (Nominal 2003 dollars).

It is the last matter that concerned the Panel the most for it had been difficult to gain a clear understanding of the sum – discounted or expressed in real dollars – that the Council and the Manningham community will need to allocate to support the completion of projects specified in the DCP. The Panel was provided with draft advice of the information to be sent to residents, and drew to Council's attention the confusion likely to arise from the proposed communication. In the event, the draft information was not amended to address the concerns that the Panel noted.

It is not the responsibility of the Panel to ensure that the Council is fully aware of the financial implications that would flow from the adoption of the Plan, nor that Council has communicated the information with clarity. It is sufficient for the Panel to report its view that the reporting was confusing, giving no clear picture of the real increases.

7.3.2 WHETHER THE INFORMATION IN SCHEDULE 1 TO THE DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY, AND IN PARTICULAR PART 2.0, SUMMARY OF COSTS, GIVES A FAIR PICTURE OF THE CONTRIBUTIONS TO BE MADE BY DEVELOPERS

In relation to the revised Schedule 1, 2.0 Summary of costs, carries a footnote, explaining that the "Actual cost contribution attributable to development" includes both existing development (cost picked up by Council) and new development (cost picked up by new development), as follows:

Value of contributions reflects the sum of the charges payable by all new development forecast to take place within the Doncaster Hill DCP area. It is not possible to determine the extent to which existing development within the DCP area will be subject to redevelopment over time. Redevelopment of existing land uses within the DCP area will be subject to the appropriate contribution rate.

No such footnote appeared in the originally exhibited Schedule 1. Additionally, in the letter to Owner/Occupier sent out by Council on 10 May 2004, which addressed the errors in the exhibited Amendment C30, Council specifically advised: "*Council expects to raise approximately \$11,256,327 (nominal value/constant prices undiscounted – this amount will be \$14,890,213 if the cap on community infrastructure is lifted) from development contributions and the balance from other sources including allocations from Council's capital works programme.*"

As noted in Section 9.1.3, development projections have been undertaken as part of the strategic planning for Doncaster Hill, and are set out in Section 5 of the Development Contributions Plan. To now qualify that work, and state that there is an unknown amount of redevelopment of existing development that will attract the levy, undermines the previous projections. Such an approach does not appear to be allowed in the Development Contribution Guidelines, and certainly does not provide clarity and transparency.

Table 1, Summary of Infrastructure Projects, in the revised Development Contributions Plan (April 2004), sets out a more transparent picture of the summary of project costs and apportionment figures (although the word "Minimum" in columns 3 and 6 is incorrect — it is simply the estimated contribution or proportion, if all the projected development occurs. If they do not, then fewer contributions will be received). The Grand Total from Table 1 is reproduced below as Table 6.

Table 6 Table 1 of the Doncaster Hill Development Contributions Plan (April 2004) showing Grand Total Summary of Infrastructure Projects

	Total Cost Including GST (\$) (Nominal)	Estimated Time of Provision	Estimated Minimum Contribution Received via Doncaster Hill DCP (\$) (Nominal Inc. GST)	Balance of Total Project Cost (\$) (Nominal)	Estimated Minimum Proportion of Total Project Cost Funded Via DCP
All Projects	\$32,547,783		\$14,890,213	\$17,657,570	46%
<i>All Projects with cap on Comm. Inf. charges</i>	<i>\$32,547,783</i>		<i>\$11,384,577</i>	<i>\$21,163,207</i>	<i>35%</i>

The Panel has noted that the Table has a column that sets out the "Estimated Minimum Contribution Received via Doncaster Hill DCP (\$) (Nominal Inc. GST)", and the next column

that sets out the "Balance of Total Project Cost (\$ (Nominal Inc. GST)). These two columns state clearly the funds that are expected to be raised from new development, and the funds that Council will have to contribute.

The revised Schedule 1 to the Development Contributions Plan Overlay, Part 2.0 Summary of costs, does not, however, bring these proportions forward, and instead quotes the combined proportion for existing development and new development. As the existing development is funded by Council, the proportion cited in the Council's proposed Schedule is misleading, notwithstanding that it is explained in a footnote.

The presentation of Part 2.0 in the re-exhibited Schedule 1 provides a distorted picture of the true financial implications of the DCP. It would be better to require a presentation closer to the form in the revised Development Contributions Plan, where the expected levy from development, and the consequent shortfall to be provided by Council, are tabled.

The Panel heard from Council that the use of the footnote in the revised Schedule 1 would clarify the situation and provide greater transparency of the difference between what new development would contribute and what Council would contribute. The Council offered no alternative view of how Section 2.0 could be used. To further explore options, the Panel reviewed a variety of published advice from DSE including its Practice Notes but it was unable to find any reference to the means by which the Schedule might present a cost summary. The Guidelines also do not directly address this issue. The parent clause 45.06-2 of the Development Contributions Plan Overlay states that the plan must "*Specify the proportion of the total estimated costs of the works, services and facilities which is to be funded by a development contributions levy or community infrastructure levy or both.*" Table 1 of the Doncaster Hill Development Contributions Plan (April 2004) meets this requirement by identifying the total nominal value (including GST) and the proportion of project costs that will be received from development levies.

Having considered the whole matter of Schedule 1, the Panel is of the view that the key to the figures that should be used in Part 2.0 of the Schedule is the reference to the levy (and not the Plan or Plan area) in Clause 45.06-2. This suggests that the figures should be taken directly from Table 1 of the Doncaster Hill DCP. This seems entirely consistent with the relevant headings of the Part 2.0 table that read "Actual cost contribution attributable to development \$" and "Proportion of cost attributable to development %". To use the exhibited figures that include existing development and new development is not only misleading but it also creates yet more confusion between the summary figures in Schedule 1 and the summary figures contained in Table 1 of the Doncaster Hill Development Contributions Plan.

While the originally exhibited Schedule 1 to the Development Contributions Plan Overlay, Part 2.0 Summary of costs provided totals for the cases with and without the Community Infrastructure cap, the Panel notes that the revised Schedule 1 provides only the case without the cap. This should be corrected as required.

7.3.3 THE APPLICATION OF PRESENT VALUE DISCOUNTING IN DETERMINING THE UNIT RATE TO BE APPLIED TO EQUIVALENT DEMAND UNITS

The Development Contributions Guidelines provide for the use of present value discounting (see page 73) and give examples of the present value discounting (PVD) method. The PVD method is useful as a means of more equitably providing for the funding of infrastructure where the timing of expenditure is at variance with the timing of receiving the levies.

In his evidence, Mr Spiller was keen to emphasise the importance of present value discounting as a means of resolving this dilemma and in his submission, he stated (page 9)

The calculation of the charge per equivalent dwelling in the DCP area has been made using the 'present value discounting' method. That is, the cost attributed to the DCP area is expressed in present value terms (using a discount rate of 6% real) and the stock and stream of equivalent dwelling units are expressed in present value terms (using the same discount rate) before the project cost is divided by total equivalent dwellings to arrive at the charge. The method accounts for the fact that, for individual projects, Council may sometimes be expending funds in advance of receipt of substantial development contributions (in which case it will be suffering an implicit interest cost) while with other projects it may be in receipt of contributions in advance of carrying out the works (in which case it will enjoy an interest 'windfall'). Present value discounting allows calculation of charges adjusted for both interest costs and windfalls.

The general formula used for the PVD method is stated on page 26 of the Doncaster Hill Development Contributions Plan (April 2004), in the following terms.

Infrastructure charges are calculated using the following formula:

Present Value (Project Cost minus % external/future usage) divided by the Present Value (total number of demand units for analysis areas within MCA)

The Panel had some difficulty understanding the notion of discounting the total number of demand units for the Doncaster Hill Activity Area.

The difficulty was considerably lessened by conceptualising the method as a means of setting the net present value (NPV) of future costs equal to the net present value of future levies. Seen in this light, the net present value of the future levies can be seen as a series of terms, of the form:

$(NPV_n \times [\text{Levy per demand unit expressed in nominal 2003 dollars}] \times \text{Number of demand units}),$

where NPV_n is the net present value factor for a nominal dollar in year n .

If the levy per demand unit expressed in 2003 dollars was called L , and the number of demand units in year n was called D_n , and the net present value of the cost of providing the infrastructure in year m was called NPV_m (Cost),

the equation would be:

$$\text{NPV}_m (\text{Cost}) = (\text{NPV}_1 \times L \times D_1) + (\text{NPV}_2 \times L \times D_2) + (\text{NPV}_3 \times L \times D_3) + (\text{NPV}_4 \times L \times D_4) + (\text{NPV}_5 \times L \times D_5) \dots \dots \text{for 19 terms}$$

This can be re-written as:

$$\text{NPV}_m (\text{Cost}) = L \times \{(\text{NPV}_1 \times D_1) + (\text{NPV}_2 \times D_2) + (\text{NPV}_3 \times D_3) + (\text{NPV}_4 \times D_4) + (\text{NPV}_5 \times D_5) \dots \dots \text{for 19 terms}\}$$

In using the formula, the known values are the net present value factors (for 6% discounting, factors such as 0.943, 0.890, 0.840, 0.792 etc), etc, the capital cost and the year it is expended, and the number of demand units. The unknown value is the levy per demand unit [Nominal 2003 dollars] — L.

Rearranging these elements gives the formula quoted. Instead of thinking about the net present value of the number of demand units, it is now clear that it is the product of the number of demand units in each year and the Net Present Value factor for 6% discounting. A full worked example in the Guidelines would assist the general application of the NPV methodology.

One aspect of the calculations performed that may give some concern arises from the detailed application of the methodology for a particular case, illustrated by the cash flow and charging details in Appendix 4 of the Development Contributions Plan (April 2004).

Take, for example, the Multipurpose Community Facility. The NPV methodology adopted by SGS Consulting is used to set the infrastructure charge per demand unit at \$1120.16 shown at the bottom left of the page, being the result of the division of the NPV of the expenditure (\$2,659,448) by the net present value of the demand units (2,374). The income per year is that value times the 200 annual demand units, generating \$224,031.50 each year in nominal dollars. The total sum expected to be collected is then \$224,031.50 for 19 years, giving \$4,256,598. All these figures are set out in the Appendix 4 to the DCP (April 2004), on the page headed **CI_CR005**.

One might assume that Council's contribution for the existing development would be obtained by multiplying the 285 demand units of existing development by \$1120.16, generating \$319,246. However if that sum is added to the new development contribution of \$4,256,598, the result is \$4,575,844, and this differs from the \$4,488,000 expenditure attributed to the Main Catchment Area on the page in Appendix 4 headed **CI_CR005**.

Accordingly it appears that applying a NPV methodology to the cost per demand unit will result in nominal value charges (including the Council's responsibility to fund existing development) and costs that do not balance.

The Net Cash Flow calculation on each page in Appendix 4 takes the nominal payments into account, together with the external and other funding. The sum of the total Net Cash Flow (nominal 2003 dollars) shown on the bottom right of each page in Appendix 4 is Council's overall contribution to that item. These amounts are transferred to Table 1, Summary of Infrastructure Projects, and are reported in the column headed "Balance of Total Project Cost (\$ (Nominal Inc. GST)". Their total is \$21,163,207 (see Development Contributions Plan, April 2004, page 19).

The small discrepancy in the total nominal levies for Multipurpose Community Facility illustrated above, results in a small difference between the pro-rata charge for existing development and the assigned charge. Such a result does not represent a failure or error in the use of VPV discounting: it is a consequence of balancing the NPV of costs and levies by calculating the unit charge, and then applying that unit charge to the nominal values. The Panel is unable to say whether these small differences, which are absorbed by Council, taken over all projects, are systematically positive or negative, or whether they are significant overall.

There was an arithmetical discrepancy between the Development Contributions Plan (April 2004) and the letter to residents. As detailed above, the nominal amount (including GST, and with the cap) to be funded by Council was \$21,163,207 in the former, while it was \$21,291,456 in the latter (see table at top of Page 3), and in Table 10 of Draft Response to Questions on Notice. The Panel was somewhat disturbed to find this further discrepancy in the latest figures.

7.3.4 THE BASE YEAR FOR COSTING

The "Draft Response to Questions on Notice" (Appendix C) states that all nominal inputs are in 2003 dollars.

This information should be noted in the Doncaster Hill Development Contributions Plan (April 2004) and Schedule 1 to the Development Contributions Plan Overlay.

7.3.5 TREATMENT OF GST

The treatment of GST in the various documents is bewildering. Consider the summary of treatments listed in Table 7 below:

Table 7 Summary of GST treatments in the DCP and Schedule 1

Location	GST Excluded	GST Included
Development Contributions Guidelines	not mentioned	not mentioned
DCP Project summaries (Appendix 3)	June 2003 April 2004	
the DCP Charges by Projects (Appendix 4)		June 2003 April 2004
DCP Summary of Infrastructure Projects	June 2003	April 2004
Part 2.0, Summary of costs in Schedule 1 to the DCP Overlay	June 2003	April 2004
Part 3.0, Summary of contributions in the Schedule 1 to the DCP Overlay		June 2003 April 2004
(Section 3.0) Summary of Contributions Table – Draft Response to Questions on Notice: Attachment 1	April 2004	

The more consistent treatment of GST is detailed in the "Draft Response to Questions on Notice". The Panel was informed by the Council that the exclusion of GST in Development Contribution Plans is now envisaged by government, and Council is seeking definitive advice on this matter. Following a final decision on whether GST should be included, all relevant figures in both the Doncaster Hill Development Contributions Plan and Schedule 1 to the Development Contributions Plan Overlay should be reviewed. A consistent treatment should be adopted and a notation added to indicate whether GST is included in the cited figure.

This is an issue that requires clear treatment in the Guidelines, to minimise confusion.

7.3.6 INDEXATION OF THE LEVIES

Council indicated that the development contribution rates applied by the Development Contributions Plan would need to be indexed at an appropriate rate over the 20 year period, to ensure parity of contributions with costs of infrastructure. Accordingly, Council submitted that it would adjust rates in accordance with cost changes identified in the **Output of the General Construction Industry Price Index** published by the Australian Bureau of Statistics on a quarterly basis. Council indicated the index and the means of applying it would be made clear in the adopted DCP. The Council's option differed from that put forward by Mr Spiller, where his calculations were to be adjusted for movements in the CPI at June 30 each year, in accordance with the Development Contributions Guidelines.

The Panel supports the use of an appropriate index, noting that the cited index may change over the period of the DCP. Accordingly, it would be appropriate for the Council to nominate the Australian Bureau of Statistics consultancy service as the source of advice on the appropriate index to use. The recommended index should be cited in the DCP, with the qualification that it will be replaced by another index only on the advice of the Australian Bureau of Statistics. The index should also be cited in Schedule 1 to the Development Contributions Plan Overlay.

7.4 CONCLUSIONS AND RECOMMENDATIONS

The Panel concludes that:

- The Council has provided reasonable avenues for informed public consultation on the Doncaster Hill Development Contributions Plan and its content.
- The absence of reference to the future Doncaster Hill Development Contributions Plan in the pre-lodgement advice to some applicants was a failure in communication.
- To avoid the confusion that has arisen at Manningham in clearly setting out the respective contributions to be made by new developers under a Development Contributions Plan and the funding to be provided by Council for the infrastructure nominated in the DCP, the Development Contributions Guidelines should be amended to clarify the reporting framework in the DCP and in the standard Schedule to the Development Contributions Plan Overlay, and in particular the treatment and reporting of GST, present value discounting, contributions anticipated from new development, and funding to be provided by Council.
- Schedule 1 Doncaster Hill to the Development Contributions Plan Overlay should be amended to provide headings where applicable to indicate that the values below the heading are "nominal 2003 dollars". The headings "Actual cost contribution attributable to development \$" and "Proportion of cost attributable to development %" in Part 2.0, Summary of costs, should be clarified so that they represent the levies to be charged to development (i.e. new development), and the figures should be brought into line with those in the columns in Table 1 of the Doncaster Hill Development Contributions Plan (April 2004) headed "Estimated Minimum Contribution Received via Doncaster Hill DCP (\$) (Nominal including GST), and "Estimated Minimum Proportion of Total Project Cost Funded via DCP, and deletion of the misleading term "Minimum" in both headings. In addition, the footnote relating to "other development" should be removed. Values should be included to show the case where the Community Infrastructure cap continues to apply.

- The calculation of the potential contributions of Council and developers to the capital works program to be supported by the Development Contributions Plan has been difficult to determine and is neither transparent nor clear. The Panel is concerned that ratepayers and residents in the City of Manningham will not be able to establish the financial commitments of the Council towards the completion of the specified works.
- The Panel is not averse to Council specifying an index to be applied to levies under the Development Contributions Plan different to that specified in the Guidelines (i.e. CPI), provided that it is also included in Schedule 1 to the Development Contributions Plan Overlay, and based on independent external advice.

7.4.2 RECOMMENDATION

The Panel recommends that:

- The Council initiate further training of officers to ensure that relevant policies contained or foreshadowed in the Municipal Strategic Statement or proposed planning scheme amendments are drawn to the attention of those seeking pre-notification advice for potential development within the municipality.
- The Department of Sustainability and Environment should review the requirements for setting out the provisions in a Development Contributions Plan and in the standard Schedule to a Development Contributions Plan Overlay, to ensure that unambiguous and clear information is provided to all parties. The review should clarify and detail the use and reporting of GST, present value discounting (including a fully worked example), prescribe clear headings indicating where dollar values are nominal dollars, and the year associated with them, and require the provision of individual project and summary information including total project cost, contributions attributable to the DCP (internal usage), contributions anticipated from new development (actual levies to be collected) and funding to be provided by Council (both external usage and existing and other exempt development), and direct that these are all clearly specified in dollar values (subject to the above) and as a percentage of total project cost.
- Council should amend the Part 2.0 of the Schedule 1 to the Development Contributions Plan Overlay to provide headings where applicable to indicate that the values below the heading are “nominal 2003 dollars”. The headings “Actual cost contribution attributable to development \$” and “Proportion of cost attributable to development %” should make clear that they represent the levies to be charged to development (i.e. new development), and revised figures (as shown in the Doncaster Hill Development Contributions Plan (April 2004, page 19—adjusted for consistent reporting of GST) should be adopted. In addition, the footnote relating to “other development” should be removed. Values should be included to show the case where the Community Infrastructure cap continues to apply.
- If Council wishes to use an index different to that specified in the Guidelines (i.e. CPI) for indexation, it should consult with DSE, and include any different index explicitly in Schedule 1.
- Table 1 in the Doncaster Hill Development Contributions Plan should be modified to delete the misleading term “Minimum” in both relevant headings.

8. EXTERNAL USAGE

8.1 THE BASIS OF THE DCP

8.1.1 CONCEPTS SET OUT IN THE DCP GUIDELINES

The Development Contribution Guidelines defines external usage as follows (see page 29):

External usage is the proportion of usage drawn from outside the MCA (Main Catchment Area).

Advice for estimating external usage is provided on page 65 of the Guidelines, as follows:

External usage represents the proportion of the infrastructure project costs that will not be charged through the DCP. This proportion may be quite significant, for example, in the case of a main road carrying a large amount of through traffic. This proportion of the cost must be funded by another source such as general rates, taxes or grants.

If a project does not have a closed catchment you must make an allowance for the percentage of usage coming from outside the MCA.

To estimate external usage, use:

- *expert assessment and professional advice relevant to the type of infrastructure, for example consult a traffic engineer for road infrastructure, and*
- *local knowledge of the development patterns in the area.*

An example is given on page 69 of the Guidelines for a community facility, where against “% of external use” is the entry “10% - Around 10% of users of the existing facility originate from outside the MCA”.

8.1.2 THE DCP TREATMENT OF EXTERNAL USAGE

The exhibited Doncaster Hill Development Contributions Plan (June 2003) provides no description of the basis of allocating external usage. The Project Summaries (Appendix 3) provide a line item for each project, where the percentage external usage is nominated. The “Summary of Infrastructure Projects” (Table 1, page 15) repeats these percentages.

For Transport Infrastructure, external usage is nominated at 20% for most projects (shared paths, footpaths, new streets, traffic lights). Two transport infrastructure projects, however, have an external usage of 50% nominated (a shared path to Ruffey Lake Reserve, and local threshold treatments on the boundary of the Doncaster Hill precinct).

For Streetscape Infrastructure, Public Art Infrastructure, and Type 1 Social Infrastructure (Occasional Childcare and Children’s Services Redevelopment) external usage is nominated at 30%.

Type 2 Social Infrastructure has a range of external usage percentages nominated. These are:

- | | |
|---|-----|
| ▪ Multipurpose Community Facility | 30% |
| ▪ Doncaster Shoppingtown Library Expansion | 70% |
| ▪ Youth Activities Facility | 30% |
| ▪ Aquarena Redevelopment | 80% |
| ▪ Redevelopment of a local indoor recreation facility | 20% |

8.1.3 FURTHER EVIDENCE FROM THE PROPONENT

Mr Marcus Spiller, Urban Economist of SGS Planning & Economics was an expert witness for the City of Manningham. In his evidence (marked M4 at the Hearing), Mr Spiller quotes Stage 6 in the Development Contribution Guidelines ("*Identify the main catchment area for each infrastructure project*") as follows:

For infrastructure projects with closed catchments, for example drainage, the boundary for this catchment area can be precisely defined but for most infrastructure items, usage tends to drop with increasing distance, with no obvious boundary evident."

and commented:

Council officers considered the main catchment area (MCA) for each infrastructure project in turn and made an assessment of the proportion of usage that can reasonably be ascribed to the Doncaster Hill DCP Area. These assessments are shown in Table 1.

The justification for these external use estimates is cited in the Project Summaries (Appendix 3).

This latter statement (quoted from the submission marked M9, on page 9) is in direct conflict with the definitions provided in the Guidelines, where the term Main Catchment Area is confined to an assemblage of Analysis Areas all within the DCP Area. Had "the main catchment" or some such phrase been used, the sentence would be consistent with the Guidelines. The Panel does not dispute the general conclusions drawn about the external use, What is of concern is that such incorrect usage of what the Guidelines define as "external usage" has led to a situation where different Council officers have given quite different interpretations of the Guidelines to the Panel.

Prior to adjourning the hearings to allow Manningham City Council to correct errors in the exhibited documents, and re-exhibit them, the Panel indicated that it would like to see a fuller assessment of the apportionment issue associated with each class of infrastructure. It noted that Council needs to:

- clarify what is an external user;
- explain how external usage has been determined; and
- explain how apportionment across classes of infrastructure was determined.

When the Hearings resumed, Mr Montebello (Counsel for Council) advised (Submission for the Planning Authority marked M14) that the Main Catchment Area for the Doncaster Hill Development Contributions Plan is the entire Doncaster Hill Strategy area (The Panel notes that the entire area is also the Analysis Area and the Charge Area and that there are no sub-units within the Development Contributions Plan area). Mr Montebello then detailed that:

In determining the cost component of infrastructure that is to be attributed to external usage, it is necessary to ask a number of related questions, namely:

- *why is the infrastructure being provided*
- *what is the service &/or function/utility the infrastructure delivers? and*
- *who is the infrastructure servicing?*

In relation to the third question, Mr Montebello advised that Council had categorised those whom the infrastructure was servicing into two groups, namely:

- *Users of infrastructure located within Doncaster Hill Strategy area (residents of Doncaster Hill and employees working at Doncaster Hill);*
- *Users of infrastructure who come from outside of the Doncaster Hill Strategy area.*

It became clear to the Panel with the explicit evidence of Mr Spiller that the external use of infrastructure included in the Development Contributions Plan did not apply to the first of these two groups, as residents of Doncaster Hill and employees working at Doncaster Hill were treated as internal users.

Mr Montebello posed several questions with respect to use of infrastructure. *"Should the use of an outdoor seat be confined to those who actually sit in it? If a person derives pleasure from viewing street furniture and a landscaped boulevard, does the pleasurable viewing experience amount to use of the infrastructure as distinct from an enjoyment of it?"*

Mr Montebello then proposed a number of broad principles to be used in characterising internal and external users, including:

- *If the primary service or utility of the infrastructure item and/or classes of infrastructure in question was assessed to be directed at residents and workers in Doncaster Hill, a relatively small proportion of external usage from the main catchment area was allowed for;*
- *If the primary service or utility of the infrastructure item and/or classes of infrastructure in question was assessed to be directed towards a wider market of users (users outside of the Doncaster Hill Strategy area), then the level of external usage was set at higher levels.*

Mr Montebello also cited from the VCAT report on the case of Christian Brothers Vic Pty Ltd v Banyule City Council as follows:

Apportionment in such a situation cannot be exact, and I am not satisfied that traffic volumes are the be all and end all of such an assessment. Ultimately, one has to make a judgement on a question like this, having considered the relevant circumstances.

During the discussion on external usage at the hearing, Mr Montebello remarked that visitors from outside Doncaster Hill to residences at Doncaster Hill should not be considered as external. While the Panel has some empathy with this view, the Panel is at a complete loss to understand how such a view is compatible with the Guidelines.

Mr David Graham provided an addendum to the transport infrastructure evidence (marked M18). Mr Graham advised that his assessment was based on all trips by residents or workers in Doncaster Hill being viewed as internal. Where improvements were made on major arterial roads (pedestrian crossings of Doncaster Road, for example), he considered the purpose of the infrastructure to be the improvement of access and traffic flows within Doncaster Hill rather than through it.

Mr Graham drew to the Panel's attention that Council had been conservative in exercising its judgement about the degree of external usage of shared paths. Where that usage might, by detailed analysis, be shown to be only 10%, Council had, in the absence of detailed data, used a figure of 20%.

In relation to the new traffic signals, Mr Graham notes that "I have no doubt that the vast majority of users of these facilities will have a destination and origin to or from within Doncaster Hill. There is a very small component of external usage associated with through traffic 'rat-running'.

The inference here is that it is the "rat-running" (a trip completely through the precinct, with no origin or destination within the Development Contributions Plan) that constitutes external use. This is not the definition in the Guidelines, which focus on usage drawn from outside the Main Catchment Area. A delivery of materials, or a visitor, or a shopper commencing his or her trip, from outside the DCP and using the traffic signals is therefore external usage in addition to any "rat runners".

Mr Gary Bateman provided an addendum to the Streetscape, Open Space & Public Art Infrastructure and Public Acquisition Open Space Evidence (marked M20). Mr Bateman made the point that *"the urban design vision for Doncaster Hill is based on a self-contained urban village where all the various design elements are inter-related and considered together as part of an integrated whole. Individual streetscape items such as trees or bins located on a side street are as important to the overall vision and special sense of identity as similar items placed on main roads"*.

Mr Bateman stated that there would be some 8,000 to 9,000 new residents at Doncaster Hill, and an employment base of approximately 10,000 based at Doncaster Hill. In relation to the iconic pedestrian sculpture proposed at the intersection of Doncaster Road, Williamsons Road and Tram Road, Mr Bateman remarked:

Given that the intersection of Doncaster Road and Williamsons Road carries approximately 23,000 vehicles per day, a large component of passer-by's "benefiting" from the infrastructure are external users to Doncaster Hill.

Mr Bateman went on to draw out the significant benefits of the proposed sculpture that will accrue to Doncaster Hill through giving it a sense of place. The external usage for this item is 30%.

8.2 DISCUSSION

The Panel accepts that the apportionment of external usage is a matter requiring some degree of judgement. The Panel does not wish to dispute the percentage of external use attributed by Council to the various infrastructure projects, and notes that no submission challenges the Council's figures. The Panel is, however, quite at a loss to reconcile the methodology pursued by Council and its consultants and experts with the provisions of the Development Contribution Guidelines, which state:

External usage is the proportion of usage drawn from outside the MCA (Main Catchment Area).

It seems to the Panel that the apportionment of external usage should flow from the concepts set out in Section 8.1.1 above. The key words that will guide the analysis (whether the

analysis is quantitative or qualitative) are, in the view of the Panel, the definitions of "Main Catchment Area", "usage" and "external". These three key words are considered below.

8.2.1 MAIN CATCHMENT AREA (MCA)

The meaning of the term "Main Catchment Area" is very specific in relation to Development Contributions Plans. The Development Contributions Plan Area should first be divided into 'analysis areas', small geographic units used as a basis for collecting and quantifying information about existing and future development. Page 29 of the Development Contribution Guidelines states that each infrastructure project included in a Development Contributions Plan will have an area from which it will draw all or most of its usage. This is the main catchment area (MCA). The diagram associated with this description shows a grid of 30 cells (5 across by six down), being the 'analysis areas'. A Main Catchment Area for a particular infrastructure project will cover one or more 'analysis areas'. It follows that the Main Catchment Area for an infrastructure project is wholly within the Development Contributions Plan area.

It appears that the Development Contribution Guidelines have been based on considerations of green-field sites, and do not necessarily wholly translate to a situation like Doncaster Hill, where the redevelopment is occurring within an area where there is already development and which is situated within an older, built-up urban environment already containing substantial infrastructure.

The Council's description of its approach to the issue of external use, as quoted above in Section 9.1.3 is:

Council officers considered the main catchment area (MCA) for each infrastructure project in turn and made an assessment of the proportion of usage that can reasonably be ascribed to the Doncaster Hill DCP Area.

This description uses the term 'Main Catchment Area' in a way not envisaged in the Guidelines, for at Doncaster Hill, the Main Catchment Area and the Development Contributions Plan Area are synonymous. An estimation of the usage outside the Main Catchment Area is needed. This refinement could be seen as no more than a technical quibble, were it not for the continued use of terms inconsistent with the Guidelines (see below).

The evidence of Ms Tina Beltramin concerning social infrastructure (marked submission M23) posed no conflict with the Guidelines, stating merely that "Facilities such as the public pool and public library are expected to have a broader population catchment than Doncaster Hill and therefore this is reflected in the estimated cost attributable to Doncaster Hill DCP."

The redevelopment of the Aquarena Centre, which is one kilometre north of the northern boundary of the DCP, has been assigned an external usage of 80%. The Panel views this figure as quite appropriate, given the future population of Doncaster Hill and its relative proximity to the facility. This example raises a further issue of equity: would it not be more equitable to introduce a further Development Contributions Plan over the remainder of the City of Manningham to ensure that other new residents who use the Aquarena Centre contribute to its redevelopment? While there is merit in this proposition, the alternative (of funding the remainder of the cost from rates) is equally equitable, and far less complicated.

8.2.2 USAGE

The Guidelines quoted above in 9.1.1 give an example of through traffic on a main road. It is taken for granted (though not spelled out) that the through traffic is using the main road. Where through traffic goes through a pedestrian crossing at Doncaster Hill, should the traffic be considered to constitute "usage" of the crossing. Following Mr Graham's discussion of this issue above, the direct answer is "no". The question of whether the through traffic is external should not arise, given that the view is taken that the through traffic is not using the proposed pedestrian crossing and receives no benefit from it. In fact, the opposite may be true, as through traffic is likely to be slowed, particularly along Doncaster Boulevard, by the introduction of additional traffic signals triggered by pedestrian and bicycle crossings.

Usage may have different connotations in different contexts. For a specific facility, like the Aquarena Centre, usage would correspond to actual visits to the facility. These visits might include patrons, persons (such as parents) accompanying patrons, employees, persons making deliveries and servicing the facility, and other visits associated with management and promotion.

For a pedestrian crossing, the usage could be defined as use by pedestrians and cyclists.

For a civic precinct, including the street furniture, streetscape improvements and artwork, usage might be defined as all those who are in the precinct, whether passing through or stopping in it. Such a definition would encompass the idea of "enjoyment" spoken of by Mr Montebello. A shopper who drives and parks under Shoppingtown, shops only in Shoppingtown, and then drives away would not be included in this definition of usage of the civic precinct.

What then of a motorist driving past the precinct, and admiring the streetscape and artwork? Perhaps the assessment of whether that is "use" might revolve around whether the motorist is supporting the purpose of the streetscaping, in making the precinct a more desirable place. Given the negative impacts associated with traffic (noise, air quality and safety come to mind), that question could be answered in the negative.

This aspect of the wording of the Development Contributions Guidelines has not received systematic consideration in the Doncaster Hill Development Contributions Plan, and as a result the concept of "external" has had to do double duty, in ways that lead to contradictions. This is discussed further below. These contradictions also point to difficulties in using the Guidelines in situations such as Doncaster Hill in contrast to that of green-field areas. The Guidelines provide little helpful guidance to the Panel in defining usage and the way that usage should be determined in the context of the Main Catchment Area.

8.2.3 EXTERNAL

The definition of external in the Guidelines is clear. It is usage drawn from outside the Main Catchment Area. Council's basis for excluding employees at Doncaster Hill from the class of "external" users, where they are not residents of Doncaster Hill, seems to proceed from a consideration that being at work, they are already within the Main Catchment Area. Could not the same be said of a shopper, who then makes a trip to the Council Office or library? And what of the proposition that visitors to residences from outside the precinct should not be considered to be external?

Suppose a worker at Doncaster Hill makes the following trips:

- a) From her home in Box Hill to work;
- b) From work at lunch time to pay Council rates;
- c) From paying the rates to shopping for groceries;
- d) The return to work;
- e) From work at a break time to get some fresh air in a plaza;
- f) The return home.

The Panel believes that trips (a) and (f) conform to the Guidelines definition of external, while the others would be internal.

The statement in relation to traffic signals by Mr Graham that: *"I have no doubt that the vast majority of users of these facilities will have a destination and origin to or from within Doncaster Hill. There is a very small component of external usage associated with through traffic 'rat-running' implies that an "external" to "external" trip is necessary to meet the requirements of usage being "external". This view may well have proceeded from the example of through traffic given in the Guidelines (and quoted above in Section 8.1.1), but it is an incomplete view of what constitutes external use. Any trip through the traffic signals which is "drawn from outside the MCA" should be considered as "external".*

A more serious philosophical objection can be raised to the arrangements provided in the Guidelines. The success of the precinct will revolve to some considerable extent on its continuing to attract shoppers and visitors from a wide catchment. The definition of external seems to proceed from a view that might be expressed by a resident or businessman in the precinct who would say: *"we are paying for these facilities, why should we subsidise their use by people external to the precinct?"* It follows that Council should then pick up the cost of external users of the facilities. However, another way of approaching the matter, particularly in relation to business and commercial owners in the precinct, would be to see all usage as contributing to a thriving precinct, and benefiting the success of the businesses within it. From that perspective, external use would cease to be viewed differently from internal use.

Based on evidence from Mr Spiller and Mr Montebello, it appears that the Council set about identifying internal usage on the basis that the Doncaster Hill Strategy seeks to add significant residential and worker population to the Doncaster Hill Activity Centre. Hence only residents and workers are classified as internal users and all other users of the centre are by definition external users. However, in discussions with Mr Montebello and Council staff during the hearing, it was acknowledged that the Council's vision for Doncaster Hill includes it becoming a magnet for Melbourne's east. Success of the Strategy is not solely dependent on attracting new housing and employment but also on attracting external users to the centre, especially to provide part of the customer base for new businesses. This inferred to the Panel that customers would form part of internal usage at Doncaster Hill.

The Panel was not able to take this concept further as the Panel was ultimately constrained in its view on the matter of *"external use"* by what is set out in the Development Contributions Guidelines. The Panel again points out the difficulty in using the Guidelines for situations like Doncaster Hill where the likely realities of internal and external use do not sit well with the approach set out in the Guidelines.

Overall, the Panel accepts the Council's percentages for external use, given the likely usage and the conservative nature of Council apportionment of the internal/external split. Further detailed guidance on the issue of external use in the Guidelines, and the broadening of the focus of the Guidelines on green-field sites, are improvements that would assist their future application in both built-up and green-field sites.

8.3 CONCLUSIONS AND RECOMMENDATIONS

8.3.1 CONCLUSIONS

While the Panel has no serious reservations about Council's overall apportionment of external use made in the Doncaster Hill Development Contributions Plan, it is clear that the officers and experts presenting evidence to the Panel had quite varying views on what external use means. The Panel believes that this confusion has arisen in part from the Development Contributions Guidelines having been conceived in the context of a green-field development, where "external" is a concept more readily grasped, and partly from the absence of detailed guidance and examples that illustrate the concept.

The Panel concludes that it would be helpful if the Department of Sustainability and Environment were to amplify the Development Contributions Guidelines in several ways, as follows:

- Provide some treatment of the situation where a Development Contributions Plan lies within a built-up area;
- Provides some guidance on the meaning of "usage";
- Amplifies the concept of external use ("drawn from outside the MCA") by providing examples that deal with the situations encountered at Doncaster Hill—for example, pedestrian crossings, public art, traffic signals, and boulevard treatments, and the clarification of the concept with respect to workers, visitors and shoppers.

8.3.2 RECOMMENDATION

The Panel recommends that the apportionment for "external use" proposed by Council in the Doncaster Hill Development Contributions Plan be adopted.

The Panel recommends that the Department of Sustainability and Environment reviews the Development Contributions Guidelines, addressing the following matters:

- the treatment of the situation where a Development Contributions Plan lies within a built-up area;
- guidance on the meaning of "usage";
- amplifying the concept of external use (*"drawn from outside the MCA"*) by providing examples that deal with the situations encountered at Doncaster Hill—for example, pedestrian crossings, public art, traffic signals, and boulevard treatments, and the clarification of the concept with respect to workers, visitors and shoppers—where the DCP lies within a built-up area with a significant proportion of through traffic and where public infrastructure is intended to attract and benefit visitors as well as benefit occupants of the area.

9. ADEQUACY, FAIRNESS AND IMPLEMENTATION OF THE DCP

9.1 REQUIREMENTS OF THE ACT

The Development Contributions Guidelines set out the requirements of Section 46K(1) of the Act on page 18, and these requirements, and the manner in which the Doncaster Hill Development Contributions Plan has met them, are outlined below.

9.1.1 CLEARLY IDENTIFY THE GEOGRAPHICAL AREA THAT THE DCP APPLIES TO. THE DCP MUST DOCUMENT AND JUSTIFY THE AREA SELECTED.

The Development Contributions Plan Overlay - Schedule 1 identifies the entire Doncaster Hill Activity Centre as the geographical area that the Development Contributions Plan applies to. Council resolved to treat the whole area as a single *Charge Area*, and similarly the whole area is treated as a single *Analysis Area*, and as the *Main Catchment Area*.

The justification for this treatment is well documented in the Doncaster Hill Development Contributions Plan, "*on the basis that the Centre will embody a clear 'community of interest' and that all of the infrastructure projects planned for Doncaster Hill will deliver relatively even usage benefits across the centre.*" (see page 11 of the Development Contributions Plan).

9.1.2 SET OUT IN A SCHEDULE THE INFRASTRUCTURE TO BE FUNDED THROUGH THE DCP AND THE STAGING OF THE PROVISION AND CLASSIFY EACH ITEM AS DEVELOPMENT INFRASTRUCTURE OR COMMUNITY INFRASTRUCTURE.

Table 1 of the Development Contributions Plan meets the requirement for listing the infrastructure to be funded by the Development Contributions Plan, and specifying the staging and type of infrastructure.

9.1.3 RELATE THE NEED FOR THE INFRASTRUCTURE TO THE PROPOSED DEVELOPMENT OF LAND IN THE AREA.

The strategic basis for the Development Contributions Plan has been documented in a series of reports, development projections have been undertaken, and the infrastructure projects "*have either been identified through Council's strategic planning processes, or are required to replace existing assets that have surpassed their effective operating life.*" Section 5, Development Projections, in the Development Contributions Plan (April 2004) updates the projections for retail floor space, but otherwise is consistent with the June 2003 version.

The Panel has considered the issues of need and nexus in Section 6.3 above.

Council is to be complimented on the thoroughness of their analysis of infrastructure needs.

9.1.4 SPECIFY THE ESTIMATED COST OF EACH OF THE INFRASTRUCTURE PROJECTS

The Project Summaries in Appendix 3 to the Development Contributions Plan provide a cost estimate (2003 Prices, GST Exclusive) for each item, together with a strategic justification for the costing.

9.1.5 CLASSIFY THE INFRASTRUCTURE PROJECTS INTO DEVELOPMENT OR COMMUNITY INFRASTRUCTURE

Infrastructure is classified under Development and Community as required. Further sub-classification is provided as shown below in Table 8. One effect of the sub-classification is to clarify that some social infrastructure is included within Development Infrastructure. This means that it will be levied at the time of the issue of the planning permit. Only residential development is levied for this component.

Table 8 Classification of infrastructure

Required classification	Components within that classification
Development	<ul style="list-style-type: none"> • Transport Infrastructure • Streetscape Infrastructure • Public Art Infrastructure • Social Infrastructure classified as Development (Children's Services Redevelopment, Occasional Childcare)
Community	<ul style="list-style-type: none"> • Social Infrastructure classified as Community (e.g. Youth Facility, Multipurpose Community Facility)

9.1.6 SPECIFY THE PROPORTION OF THE TOTAL ESTIMATED COST OF THE INFRASTRUCTURE WHICH IS TO BE FUNDED BY A DEVELOPMENT INFRASTRUCTURE LEVY OR COMMUNITY INFRASTRUCTURE LEVY OR BOTH

A discussion of this issue is provided in Section 7.3.2 above, with specific conclusions and recommendations.

9.1.7 CLEARLY IDENTIFY WHERE THE LEVIES WILL APPLY AND WHAT TYPES OF DEVELOPMENT WILL BE CHARGED.

A discussion of this issue is provided in Section 6.4 above, with specific conclusions and recommendations.

9.1.8 DESCRIBE THE METHOD USED FOR CALCULATING THE LEVIES PAYABLE

The method to be used for calculating the levies payable are clearly set out in Part 3.0 of Schedule 1 to the Development Contributions Plan Overlay, and apply specified 2003 dollar amounts against demand units. These values are subject to indexation.

A discussion of indexation is provided in Section 7.3.6 above, with a specific conclusion and recommendation.

9.1.9 PROVIDE FOR THE PROCEDURES FOR THE COLLECTION OF A DEVELOPMENT INFRASTRUCTURE LEVY WHERE A PLANNING PERMIT IS NOT REQUIRED FOR THE DEVELOPMENT

The Development Contributions Guidelines set out the usual process for collecting the Development Contributions Plan levies (see page 97 and page 100). The development infrastructure levy is usually required as a condition on a planning permit, and the community infrastructure levy is a requirement at the building permit stage.

Clause 45.06 is the standard VPP provision governing use of the Development Contributions Plan Overlay. Amendment C30 would include this clause in the Manningham Planning Scheme. Clause 45.06-1 stipulates that a permit granted must be consistent with the provisions of the relevant development contributions plan. Clause 45.06-2 specifies that the provisions of the Development Contributions Plan should indicate the procedures for collecting a contribution when a permit is not required.

The Doncaster Hill Development Contributions Plan (April 2004) clarifies in Section 8.1 that all development and subdivision will be liable for infrastructure charges subject to any exemptions in Schedule 1 to the Development Contributions Plan Overlay.

9.2 FURTHER PROVISIONS OF THE ACT

The Development Contributions Guidelines nominate two further matters which may be provided in a DCP (exemptions, and different levy amounts for different types of development or for different areas), and draw attention to the requirements of Section 46Q of the Act that sets out the requirements for an administrative system to track payments and expenditures. These three matters are considered below in Sections 9.2.1 to 9.2.3.

9.2.1 EXEMPTIONS

Land or development excluded from development contribution levies is clearly set out in Part 4.0 of Schedule 1 to the Development Contributions Plan Overlay. The Panel is satisfied that the exemptions listed in Schedule 1 are acceptable subject to the modification for Westfield Limited recommended in Chapter 12.

9.2.2 DIFFERENTIAL LEVIES

The Doncaster Hill Development Contributions Plan contains a single charge area, so the potential for different levies for different areas does not arise. Within the unitary charge area, residential, retail and commercial development are levied per demand unit. The only difference in the levies relates to the application of that component of the levy for social infrastructure (whether it is classified as Community Infrastructure or Development Infrastructure) to residential development only.

Council has stated in the Development Contributions Plan (April 2004) that: "*Commercial and retail developments are deemed to make use of only three project categories, those being Transport, Public Art and Streetscape infrastructure. Thus non-residential development will not be liable for the costs associated with Social infrastructure projects.*" (see page 15).

The Development Contributions Guidelines set out standard equivalence ratios for converting existing and projected development into common demand units. For all land use other than residential, parkland and community facilities are marked "*not applicable*" (see page 45 of the Guidelines). A note on page 46 of the Guidelines states:

The standard equivalence ratios assume that non-residential land uses generate very little demand for parks and gardens and community infrastructure and hence, do not list conversion factors for these items. Councils can choose to charge non-residential development for parks and gardens and community facilities, but will need to develop customised equivalence ratios for these land uses.

Council advised the Panel that although the non-residential land might generate some demand for social infrastructure, the Council had no data on which to base an estimate of such usage. For simplicity, Council had adopted the broad assumption quoted above from the Guidelines.

The Panel is satisfied that Council's adoption of the assumption in the Guidelines that non-residential land generates little demand for community infrastructure is pragmatic at this point.

9.2.3 IT IS NECESSARY TO ESTABLISH AN ADMINISTRATIVE SYSTEM THAT ENABLES PAYMENTS AND EXPENDITURES TO BE TRACKED OVER THE LIFE OF THE DCP

Section 8.3 of the Doncaster Hill Development Contributions Plan (April 2004) sets out Council's response to the requirements of Section 46Q of the Planning and Environment Act 1987. The Panel is satisfied that the proposed arrangements will provide the required audit trail and transparency, subject to the Panel's comments in Section 9.3.1 below.

The Panel notes that s46Q of the Act makes provision for the repayment of contributions in circumstances where a Development Contributions Plan is not fully implemented. However, it is also clear that Council can substitute alternative projects that are warranted within the context of the Doncaster Hill Strategy plan. The Panel understands that the Council is likely to make amendments on the basis of sound criteria.

9.3 CONCERNS RAISED BY SUBMITTORS

9.3.1 ISSUE V CONCERN THAT DEVELOPERS MAY BE ABLE TO DELAY PAYMENTS FOR AS LONG AS POSSIBLE

The discretion provided in Section 8.2 of the Development Contributions Plan (April 2004) provides for the time for payment of levies to be delayed, including the option of staged payments by way of a Section 173 Agreement.

It is not in Council's interest to have developers in arrears of the levies attributable to their development, although adjustments for inflation are applicable.

The requirement for auditing of the funds collected does not specify reporting of uncollected funds, and the Panel believes that such a requirement would strengthen the overall monitoring of the scheme.

9.3.2 ISSUE VI CONCERN THAT THERE IS DISCRETION TO EXEMPT DEVELOPMENTS FROM PAYMENT IF DEVELOPMENT CONTRIBUTIONS PLAN IS TOO FLEXIBLE

This matter has been considered in Section 9.2.1 above.

9.3.3 ISSUE X CONCERN THAT THE DEVELOPMENT CONTRIBUTIONS PLAN, PUBLIC ACQUISITION OVERLAY AND 5% OPEN SPACE CONTRIBUTION REQUIREMENT IS INADEQUATE TO MEET FUTURE NEEDS (SEE ALSO CHAPTERS 10 AND 11)

The planning of the infrastructure projects included in the Doncaster Hill Development Contributions Plan is discussed in Section 6.2 above and the Panel has concluded that the infrastructure items listed are needed (see Section 6.5). Submitters have queried whether the levies for infrastructure are adequate.

Clearly, the method for calculating the levies excludes that proportion of the funding attributable to external usage and existing development from being levied, and are limited by the cap on Community Infrastructure. In fact the DCP is anticipated to provide only about one third of the \$29.6 million (nominal 2003 dollars, GST exclusive) total expenditure, with Council providing the remaining two-thirds (using the current \$450 per dwelling cap figure). The judgement on adequacy must be made in the context of what is fair and reasonable, and the Development Contributions Guidelines support the approach taken by Council. Charging developers a greater proportion of the costs for the provision of the infrastructure specified in the DCP would be outside the provisions of the Guidelines.

Other aspects of this matter are also discussed in Sections 10.4 and Chapter 11.

9.3.4 ISSUE XVIII SEEKING CONFIRMATION ON MANNER IN WHICH COUNCIL INTENDS TO OPERATE THE DCP

The operation of the Development Contributions Plan is detailed in the governing Clause 45.06 and Schedule 1 to the Development Contributions Plan Overlay, and is further qualified by the Act and the Guidelines. The Panel has some sympathy with submitters who seek confirmation of how Council intends to operate the Development Doncaster Hill Contributions Plan, as the operation of the Development Contributions Plan is quite technical. An overview of the process is given in Section 6.4 above.

The Panel believes the operation of the Development Contributions Plan is adequately specified, involving as it does the elements of levies on new development (as set out in Schedule 1), accounting of the monies collected, and a commitment to providing the specified infrastructure by the dates nominated.

9.3.5 ISSUE XXI BASIS ON WHICH DCP DEMAND UNITS HAVE BEEN DETERMINED ARE FLAWED, INEQUITABLE AND UNABLE TO BE SUBSTANTIATED

This issue has been discussed in Chapter 6 and Section 9.2.2 above.

9.4 CONCLUSIONS AND RECOMMENDATIONS

9.4.1 CONCLUSIONS

The Panel concludes that the Doncaster Hill Development Contributions Plan satisfies considerations of adequacy, fairness and good administration, subject to amending Section 8.3, Funds Administration, in the DCP (April 2004) by the inclusion of a paragraph that requires Manningham City Council to report the quantum of infrastructure funds levied, but not paid, whether due to deferral, Section 173 Agreement, or other cause, and the scrutiny of such arrangements by the auditor.

9.4.2 RECOMMENDATION

The Panel recommends that Section 8.3, Funds Administration, in the Doncaster Hill Development Contributions Plan (April 2004) should be amended by the inclusion of a paragraph that requires Manningham City Council to report the quantum of infrastructure funds levied, but not paid, whether due to deferral, Section 173 Agreement, or other cause, and allows for the scrutiny of such arrangements by the auditor.

10. THE PUBLIC OPEN SPACE LEVY

The investigation into infrastructure needs for Doncaster Hill found that with a substantial increase in population, additional and improved open space will be required. This led to proposals to expand and improve the municipal open space system through a combination of land acquisition and enhanced development of open space reserves in and around Doncaster Hill. Open space reserves will be complemented by a system of urban plazas. Open space reserves and plazas are included on the Doncaster Hill Strategic Framework Plan, which is incorporated in the Manningham Planning Scheme at Clause 21.21.

The key issues are whether the use of Clause 52.01, to stipulate a mandatory public open space contribution at the time of subdivision, can be supported on strategic planning grounds, and if so, the rate that should be established in the schedule to the clause.

10.1 PURPOSE AND BASIS OF USING CLAUSE 52.01

Clause 52.01 provides a means to levy developers for contributions to open space infrastructure. Amendment C30 amends the schedule to the clause to impose a contribution of 5% of land or a cash contribution equivalent to 5% of land value at the time of subdivision. Collected funds are to be used to acquire land and undertake necessary open space improvements.

Development in Victoria has long been subject to an open space contribution at the time of subdivision. Manningham's open space contributions are currently levied through the provisions of Section 18(1) of the Subdivision Act 1988. Under this Act, the contribution is assessed at the time of subdivision based on the criteria contained in Section 18(1A). The maximum levy is 5% of land or equivalent cash contribution. Developers may seek review of contribution assessments at the Victorian Civil and Administrative Tribunal (VCAT).

The Council indicated that having carried out its strategic work for Doncaster Hill, a more strategic and certain approach is needed in achieving the collection of open space contributions. Clause 52.01 specifically makes provision for this by allowing planning authorities to mandate a contribution rate that will apply to subdivision. Some submitters were concerned with the operation of the contribution requirement and the unfairness of levying existing or approved developments. Clause 52.01 applies at the time of subdivision and provides a check on when a contribution can be levied:

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under Section 18 of the Subdivision Act 1988.

A public open space contribution may be made only once for any of the land to be subdivided. This does not apply to the subdivision of a building if a public open space requirement was not made under Section 569H of the Local Government Act 1958 or Section 21A of the Building Control Act 1981 when the building was constructed.

A subdivision is exempt from a public open space requirement, in accordance with Section 18(8) of the Subdivision Act 1988, if:

- *It is one of the following classes of subdivision:*
 - *Class 1: The subdivision of a building used for residential purposes provided each lot contains part of the building. The building must have been constructed or used for residential purposes immediately before 30 October 1989 or a planning permit must have been issued for the building to be constructed or used for residential purposes immediately before that date.*
 - *Class 2: The subdivision of a commercial or industrial building provided each lot contains part of the building.*
- *It is for the purpose of excising land to be transferred to a public authority, council or a Minister for a utility installation.*
- *It subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided.*

The above limitations are derived from conditions contained in the Subdivision Act 1988. As developers are regularly asked to make an open space contribution at the time of subdivision, introduction of a contribution requirement into the Manningham Planning Scheme does not in itself introduce a new requirement of development. The difference between a contribution obtained under the Subdivision Act 1988 and Clause 52.01 is that the quantum of the former is negotiable and appealable while the latter is not. Subdivision will continue to be dealt with under the Subdivision Act 1988 until a revised schedule to Clause 52.01 can be included in the scheme. Developers can therefore only be levied once, whether under the old arrangements or under the new planning scheme provision.

The Council could have included open space contributions in its Development Contributions Plan. However, there is sufficient flexibility in the Victorian planning system so that either option can be used. The Panel has no particular issue with the use of Clause 52.01 if a mandatory open space contribution is to be levied.

10.2 OPEN SPACE PROJECTS PROPOSED FOR FUNDING

Council's submission to the Panel confirmed the general directions of the Doncaster Hill Strategy and its identification of open space reserves, particularly the local reserves identified for each quadrant of the larger Doncaster Hill precinct. A significant change has been proposed through Amendments C30 and C37 for the southern part of the Doncaster Hill precinct (Precinct No.2), south of Doncaster Boulevard and east of Tram Road. The Panel discusses this change in detail in Sections 11.2.1 to 11.2.3 below.

The Council supplied a list of projects to be funded by open space contributions collected through Clause 52.01. Details of the locations and funding breakdown are shown in Table 9.

Table 9 Projects to be funded through Clause 52.01 open space contributions

Location - Doncaster Hill precinct or reserve	Funding type	Total cost \$
Precinct 1 – Civic space/urban plaza	Development costs, public art	5,000,000
Precinct 2 – Church space/urban plaza	Land acquisition, development costs, public art	900,000
Precinct 3 – Urban plaza	Land acquisition, development costs, public art	1,250,000
Precinct 4 – Shoppingtown	-	-
Precinct 5 – Viewing platform/urban plaza	Development costs, public art	450,000
Lawford Reserve	Development costs, public art	500,000
Caratha Reserve	Land acquisition, development costs, public art	1,070,000
Hepburn Reserve	Land acquisition, development costs, public art	2,140,000
Saxon Reserve	Land acquisition, development costs, public art	1,010,000
Schramms Reserve	Development costs	250,000
Total		12,570,000

The Panel notes that contributions funds are to be allocated to public art within the open space system. Some submitters raised concerns about the inclusion of public art as an item of expenditure when Clause 52.01 contributions are clearly earmarked to fund open space infrastructure. The Panel acknowledges that public art has been identified as a significant contributor to creating a sense of place at Doncaster Hill. It is true that public art is not always a component of open space development, and some caution may be warranted to ensure that other open space needs are not ignored in the pursuit of providing public art. However, where public art is to become an intrinsic part of the development of publicly owned land, and that land is identified as part of the municipal space system, the Panel agrees that it is acceptable to include public art in the list of projects to be funded by the contributions.

10.3 MANDATORY CONTRIBUTION REQUIREMENT

Public open space is widely acknowledged as a contributor to community amenity, health and well-being. Provision of public open space is supported by well-defined planning principles, objectives and policies, which the Panel does not see the need to repeat here. From a practical perspective, the high rise development of Doncaster Hill is likely to increase the importance of public open space in the minds of the local population, whether as a restful break in the urban environment or as a place for recreational and community activities.

The Doncaster Hill Strategy provides for adequately-sized and well-designed open space reserves that are accessible to the local population. While some ideal standard of open space may be difficult to achieve for Doncaster Hill because of the constraints imposed by the existing built fabric, local open space needs can reasonably be provided within walking or

bicycling distance (200 – 400 m) through expansion and upgrade of existing open space reserves, supplemented by a system of urban plazas.

The Council's approach is consistent with that adopted in Clause 56.05 which contains the objective:

To ensure that public open space of appropriate quality and quantity is provided to contribute towards meeting the recreational and social needs of the community in convenient locations.

Clause 56.05 also includes a standard of provision for local parks which is broadly consistent with proposals for Doncaster Hill:

- *Provide for large local parks of 1 hectare minimum, for active and passive use, within 500 metres safe walking distance from all dwellings.*
- *Provide for small local parks within 150 metres to 300 metres safe walking distance of all dwellings.*

In support of its position that use of Clause 52.01 is justified, the Council tabled the Panel report for Amendment C20 of the Glen Eira Planning Scheme. The C20 Panel found that use of Clause 52.01 should be justified on planning grounds, not the tests of Section 18(1A) of the Subdivision Act 1988 (although the Panel noted that these considerations may also be useful). This Panel generally concurs with that conclusion and notes that without sufficient planning justification, it would be difficult to support use of Clause 52.01 in the same way that it would be difficult to support use of any of the other VPP provisions that may be selectively applied by a planning authority. The Panel is satisfied that a mandatory contribution rate through use of Clause 52.01 is justified in this instance because:

- Manningham has undertaken broad strategic planning for growth at Doncaster Hill;
- it has identified the open space components that comprise its planning strategy;
- it has incorporated these elements in its planning scheme; and
- it has identified the projects to which collected funds will be applied.

10.4 5% CONTRIBUTION RATE

The question of which contribution rate is appropriate is a vexed one. Unlike a Development Contributions Plan where a comprehensive planning framework and method has evolved over time, there is no clear guidance for calculating the rate for the schedule to Clause 52.01.

The Glen Eira C20 Panel provides some thoughtful direction about the matters that should be considered in applying a contributions rate. Drawing on the principles articulated in *Eddie Baron Construction PL v Pakenham City Council* 6 AATR 10, the C20 Panel suggests that a Council's planning work should meet a minimum set of criteria. This Panel finds these criteria both relevant and useful and adopts them for the purpose of reviewing the contribution rate proposed by Amendment C30. These criteria are:

1. Establish a framework for increasing and / or improving upon open space to satisfy the community's expectation.
2. Develop a formula for improving / increasing open space based on increased densities and changing demography.

3. Understand the open space requirements of new dwellings in a more comprehensive and rigorous manner. For example, how much more demand for open space is likely to be generated by certain types of development? Will a three-unit development on a 1000 square metre site place different demands on municipal open space than a ten-unit multi-storey apartment block? If so, what are these demands?
4. Develop an open space contribution based on the need to bring existing open space to a reasonable level based on an anticipated population density on a precinct by precinct basis.
5. When completed, ... establish the relationship between the new contribution rate and the City's open space strategies.

With respect to criteria numbers 1 and 2, Manningham has established an open space framework for the Doncaster Hill area, which is based on its assessment of the open space infrastructure that will be required by, and expected by, the changing population during its 20-year planning horizon. The strategic planning studies that underpin this framework were supported by the Amendment C33 Panel. The framework has now been incorporated in the planning scheme. The factors that have influenced Council decisions about where to provide improved or expanded open space in Doncaster Hill are discussed in Sections 10.3 and Section 11.2. The Council has committed to land acquisition of identified parcels to expand the open space system, subject to the restrictions it has placed on itself to avoid compulsory acquisition of land.

The Panel considers criteria no. 3 to be less important in Doncaster Hill than in the Glen Eira case. The Panel's reasons for saying this are that by definition Doncaster Hill is to become a high rise precinct based on apartment living and a mix of retail and commercial spaces. The building envelopes are already established in the planning scheme. The yield on each site will be influenced by these envelopes but also by the size of dwellings, retail and commercial areas and ultimate building configuration. Based on the available evidence, it would be difficult to fine tune the anticipated 'use' of open space further. It would also be difficult to account for what may be varying land values unrelated to planning scheme requirements (eg. relative position, orientation, access to views, etc.) that would then affect the actual dollar value of the contribution required of a developer. Overall the Panel believes it is sufficient to treat Doncaster Hill as a single case in terms of setting a contribution rate for what may eventuate as different development scenarios on different parcels of land. The actual demand created by the increased / changed population has been factored into the open space infrastructure planning for Doncaster Hill, and it would seem reasonable to allocate this demand at a uniform rate across all development parcels.

Criteria nos. 4 and 5 provide a basis for setting the contribution rate to be used. The Council is not constrained by a limit of 5% when using Clause 52.01 and some submitters felt that this contribution rate would be inadequate to meet future open space needs. On the other hand, developers will want to minimise costs and may feel that a 5% contribution imposes inequitable costs on development. The Panel did not hear evidence from any parties other than the Council on this matter.

The Council argued in its submission that notwithstanding the planning justification required for implementation of Clause 52.01 (which the Panel has already stated it believes has been satisfied in principle), the matters contained in Section 18(1A) of the Subdivision Act 1988 overwhelmingly support a 5% open space contribution. On the Council's own figures, the

infrastructure costs for all projects is around \$12.5 million, and this is also the estimate of funds it expects to recoup through Clause 52.01. The Panel acknowledges that the return from open space contributions may vary from that estimate due to varying and unforeseen factors. If a higher figure is collected, then there is opportunity to supplement the anticipated infrastructure program with additional projects. If a lower figure is collected, then projects may be delayed or not completed at all.

10.5 CONCLUSIONS AND RECOMMENDATION

10.5.1 CONCLUSIONS

The Panel concludes that:

- The Victorian planning system is sufficiently flexible to allow Clause 52.01 to be used (to levy open space contributions) even when a Development Contributions Plan is available.
- A range of projects have been identified for which expenditure of open space contributions is appropriate.
- Implementation of a mandatory development contribution to open space infrastructure in the planning scheme is justified on planning grounds by:
 - the Council's strategic planning for Doncaster Hill;
 - inclusion of key elements of open space provision in the planning scheme; and
 - identification of projects to which collected contributions will be applied.
- The proposed 5% contribution rate is appropriate.

10.5.2 RECOMMENDATION

The Panel recommends that the exhibited Schedule to Clause 52.01, providing for a 5% contribution for public open space from any subdivision of land in the Doncaster Hill DCPO1 area, be adopted.

11. ACQUISITION FOR PUBLIC OPEN SPACE, ROAD LINKS AND PATHS

The Doncaster Hill Strategy and supporting documents identify the locations for open space, road links and paths links where acquisition of land will be necessary to achieve the infrastructure and urban design outcomes envisaged for the precinct. These infrastructure requirements were broadly supported by the Amendment C33 Panel. The open space elements are included in the Doncaster Hill Strategic Framework Plan already included at Clause 21.21. Changes to Clause 25.01 included in Amendment C30 would bring infrastructure requirements for Doncaster Hill into this section of the planning scheme and provide strategic support for application of the Public Acquisition Overlay.

The key issues are whether the Public Acquisition Overlay should be used where Council intends to acquire land and the effects of this decision on individual land owners.

11.1 ACQUISITION OF LAND FOR OPEN SPACE AND ROAD LINKS

Through its planning for Doncaster Hill, the Council has identified a number of locations where private land is required for first, expansion of the public open space system and second, to create linking roads and paths that will improve circulation within and across Doncaster Hill.

The Council intends to purchase land in one of two ways:

- Identify through application of the Public Acquisition Overlay those parcels of land where residential titles are required. This method is proposed for acquisition of open space (PAO1) and some road connections (PAO7). The combined effect of Amendments C30 and C37 results in application of the overlay over these parcels of land:
 - PAO1: 14 Roseville Avenue; 1 Council Street; 9, 11, 13 and 15 Hepburn Road; 28 Carawatha Avenue; and 9 Koolkuna Avenue.
 - PAO7: 1/49 and 2/49 Walker Street; 12 and 12A Clay Drive; and 2 Briar Court.
- Negotiate acquisition of partial parcels of land for new roads where the current land use is commercial or industrial, and where acquisition following the imposition of a Public Acquisition Overlay would be both complex and potentially expensive. Such situations typically involve a range of commercial considerations such as good-will, forward contractual obligations, and the like. In these cases Council prefers to wait until there is a proposal to change the land use (often through redevelopment of the site, or a group of sites), and then negotiate with the developer to excise the required road space from the development. Council has had significant experience in successfully negotiating such arrangements. This method is proposed for acquisition of road connections at the following locations (shown as "Indicative location of new road" on Figure 3):
 - a) Connection between 2 Briar Court and Rose Street, to provide a continuation of Carawatha Road to Briar Court;

- b) A connection between Carawatha Road and Doncaster Road, in line and opposite Firth Street;
- c) Through the car park of Shoppingtown Hotel, providing a new link between Williamsons Road (at the intersection at the entrance to Westfield Doncaster Shoppingtown, and Lawford Street);
- d) A continuation to the west of Hepburn road, beyond that from Walker Street to Clay Drive (facilitated by the PAO7 described above), to extend from Clay Drive to Frederick Street.

The Public Acquisition Overlay provides a transparent basis for identifying land that will be needed in the future for public works. It also creates a formal process for ensuring fairness in compensation for that land. Acquisition can be triggered by either the acquiring authority or the land owner. Typically acquisition is triggered when an application is received that is contrary to the purpose of the overlay.

The use of the two methods – application of the Public Acquisition Overlay and negotiated purchase – created significant discussion at the Panel hearing, in varying ways. The Panel comments on the soundness of the Council's approach in broad terms below. It then addresses specific issues raised by submitters in the following sections of the report.

The Panel initially expressed concerns about the Council adopting a dual method of land acquisition. However, it became evident in the hearing that Council has effectively negotiated similar land purchases in the past when it suits its needs, without the need for the Public Acquisition Overlay. The expectation is that negotiations to acquire land for road / path links will be triggered when new development is proposed on these parcels. The Council maintained that a negotiated outcome would provide flexibility in deciding the final physical arrangements, and that this would result in mutual benefits for Council and the developer.

Manningham is financially able to take advantage of strategic opportunities as they arise. The Panel was advised that five of the Doncaster Hill parcels had already been acquired by negotiation by the conclusion of the hearing. This gave the Panel greater confidence that the Council could achieve its strategic goals without the use of the Public Acquisition Overlay in all circumstances.

Council's track record on acquisition does raise the question of whether the Public Acquisition Overlay should be used at all. However, the Panel believes there is merit in the principle of applying the overlay where individual residential lots are affected. In the absence of a PAO, residential lots may change hands without potential buyers being aware of Council's interest. This situation is much less likely to occur in existing commercial and industrial sites, where sale is often associated with redevelopment, and a road link can be negotiated as part of the redevelopment plan.

On balance, the Panel accepts the principles the Council has adopted for application of the Public Acquisition Overlay.

11.2 APPLICATION OF THE OVERLAY

11.2.1 STATUS OF HEPBURN ROAD UNDER AMENDMENT C33

The four properties numbered 9, 11, 13 and 15 on the southern side of Hepburn Road have been included in the Doncaster Hill precinct through Amendment C33. There was no change to the Precinct designation of this land between exhibition and adoption of that Amendment.

The Hepburn Road properties are consequently now designated as Precinct 2G in Schedule 6 to the Design and Development Overlay, which allows for construction of buildings to 11.0 m. Located at the southernmost boundary of the Doncaster Hill Strategy area, Precinct 2G is described as an area which seeks "a high quality form that exists as a transitional scale between the higher intensity of other sub areas and the lower scale of existing residential areas to the south." The opposite properties on the northern side of Hepburn Road are included in Precinct 2C (40 m maximum building height stepping down with the land form) and Precinct 2F (14.5 m maximum building height).

The Amendment C33 Panel received objections to major change to the existing built form in Precinct 2G. These submitters were concerned about the intrusion of the Doncaster Hill Activity Centre into the single story, single dwelling residential subdivision south of Hepburn Road. They requested that Precinct 2G be removed from the Doncaster Hill Activity Centre.

During the course of the Amendment C33 hearing, Council flagged that Precinct 2G should be deleted from the Doncaster Hill Activity Centre and instead should be reserved for public open space. At that point, the Council had identified Walker Reserve as the local park that would serve the Doncaster Hill population in the southeast quadrant. However, this reserve is located south of the Doncaster Hill Strategy area, the area where significant population increase is anticipated. The Hepburn Road properties were identified during the hearing as an alternative solution.

The Amendment C33 Panel recommended inclusion of the Hepburn Road properties in Precinct 2G primarily on urban design grounds. It did not support any significant strategic change from the exhibited amendment without further consultation with the Hepburn Road property owners. The Panel expressed concern that only one of the Hepburn Road property owners (no. 9) had requested removal of Precinct 2G from the Doncaster Hill Activity Centre. Further, the Panel wanted to ensure that Hepburn Road owners understood the "implications of the alternative courses of action if Precinct 2G is removed..."

The Amendment C33 Panel concluded that:

The Panel's overall conclusions with respect to Precinct 2G are that at this stage it should be retained within the Doncaster Hill Activity Centre Area as exhibited in Amendment C33. A more comprehensive review of the area should be undertaken and there should be further consultation with the residents to better explain the practical implications of development within this precinct. If, after such a review and consultation, Council wishes to proceed with its acquisition of these areas for public open space, this can be done in the context of Amendment C30. Apparently the properties in Precinct 2G have been included in the Public Acquisition Overlay in Amendment C30 and are part of the Development Contributions Plan, which will be incorporated in the Development Contributions Plan Overlay.

This Panel raised two issues with the Council at the commencement of the Amendments C30 and C37 hearing. First, what was the Council's rationale for now identifying the Hepburn Road properties as the preferred location for public open space for this part of the Doncaster Hill population? Second, what discussions have been held with the owners of these properties?

11.2.2 RATIONALE FOR USING HEPBURN ROAD PROPERTIES FOR OPEN SPACE

The Council referred the Panel to earlier statements with respect to Amendments C33 that identified Precinct 2G as a transitional buffer between high rise development to the north and single storey residential development to the south. The Council's premise was that this buffer can be created just as well by public open space.

The Council's submission was based on arguments around providing public open space in an alternative location at Hepburn Road. It did not address what effect this change would have on overall population numbers at Doncaster Hill or its broader urban design objectives. One answer perhaps lies in the Council's Draft Residential Character Guidelines, which were recently on public exhibition. These Guidelines propose redevelopment of the single story residential area immediately south of Precinct 2G to a height of 11.0 metres, once sites are consolidated to a minimum of 2,000 m². The Panel is aware that a number of hurdles exist before such a policy can be put into place. These include: the interaction between what is proposed and an underlying rationale of the Doncaster Hill Strategy - to consolidate much of Manningham's population growth so as to protect intact residential areas; the removal of covenants in residential subdivisions; and the community's acceptance of such a policy. The preparation of draft Guidelines responds to the Amendment C33 Panel's concern that planning policies are needed for the Doncaster Hill interface areas, to manage expected development pressures in these areas. However, the Guidelines have not yet been adopted by the Council nor have they been incorporated in a planning scheme amendment. For these reasons, the Panel does not put too much weight on them.

Turning to the benefits of creating a public open space reserve in Hepburn Road, Council's report of 24 June 2003, Doncaster Hill Urban Masterplan: PART A: Urban Plazas and Parks (report to Council) provides the following information:

Hepburn Road Reserve is a proposed new urban park located at the south end of Short Street, on an axis from the Civic & Education / arts precinct. The site terminates the view from Doncaster Road boulevard, and provides a buffer between medium and low density residential areas.

Residential properties will need to be acquired to form the park. It would have a short direct connection to the Church space on Doncaster Road via a shared pathway along Short Street, and would also be linked to Clay Drive and the remainder of Precinct 2 by way of a new road and shared pathway connection.

The site has wonderful views to the south, and is proposed to be an area for children's play opportunities, passive recreation and quiet reflection. (Refer attached plan: Precinct 2 Master Plan).

Recommended Development

It is recommended that the park be developed as a predominantly green open space, with quality play opportunities, ample seating, perhaps with a paved seating area, barbeque, some shelter, paved pathways, lighting throughout, and significant areas of

tree and shrub planting. A feature is to be incorporated with terminates the vista from Doncaster Road and highlights the park.

Indicative Costs

Land Acquisition *Funded from Open Space Contribution*

Development *\$300,000 plus Public Art funding*

The Panel agrees with the Council that there are sound strategic reasons for establishing a local park in Hepburn Road. These reasons are primarily the location of the land within the Doncaster Hill Activity Centre, the area which it is intended to serve, and its closer proximity to where the future population will live when compared to the Walker Street reserve. The Panel notes that it has not been asked to review other alternative locations within the Doncaster Hill precinct. One submitter suggested the vacant land at 20 Hepburn Road; the Panel, however, agrees with the Council that a single lot is not sufficiently large to create a usable park.

The Panel believes that creating a park in Hepburn Road maintains a buffer between the high to medium rise area north of Hepburn Road and the low rise area to the south. Contrary to some submitter claims that the status quo (i.e. single story dwellings) suits this purpose, the reality is that this area is now free to be developed to a height of 11 metres.

The Panel does not agree that the topography of the land is necessarily a limiting factor in designing the park. The proposal for an expanded Walker Street reserve also required dealing with a sloping site. The land in Hepburn Road will require some terracing. Also important to its design will be consideration of future overshadowing from the north and buffering of amenity impacts for houses down slope to the south. However, the Panel does not view these as difficulties that cannot be overcome and believes that they can be resolved in the design process.

11.2.3 CONSULTATION WITH HEPBURN ROAD PROPERTY OWNERS

The Council outlined the Amendments C30 and C37 consultation process it has undertaken with owners of the properties in Hepburn Road. The Council held community meetings in 2003 to discuss the implications of the Amendments for this part of Doncaster Hill. In addition, a survey was sent to the four property owners affected by the proposed Public Acquisition Overlay. The survey ascertained, amongst other things, whether owners objected to the proposed Public Acquisition Overlay and whether they wished to be retained in Precinct 2G as part of the Doncaster Hill Activity Centre. All owners objected to the proposed overlay and three out of four asked to be retained in the current Precinct 2G designation. The survey results were supplemented by Amendment submissions received from the owners of nos. 9, 13 And 15 Hepburn Road.

Mrs Coral Newstead appeared before the Panel on behalf of her father, Mr Ronald Ivan Smith, one of the owners of the Hepburn Road properties. Mrs Newstead raised objections to the use of the land as a public open space reserve because of the steepness of the land, the steepness of Short Street which provides pedestrian and bicycle access from Doncaster Road and the difficulty for Mr Smith in living with the potential compulsory acquisition. Based on submissions from Mrs Newstead and others who live in this part of Doncaster, it is the uncertainty of not knowing whether and when they may be forced out of their properties that is causing the greatest concern. It is noted that one property owner has already sold to the Council. Mrs Newstead and other submitters also questioned the suitability of a park in this

location due to increased traffic, the location of other parks within walking distance and the fact that Council has recently sold pocket parks in the vicinity of this site.

Clearly if the Hepburn Road land had been identified from the outset in the Doncaster Hill Strategy as the preferred location of a local park, as opposed to an expanded Walker Street reserve, then much of the current concerns would have been resolved within the broader strategic review of Amendment C33. The Panel understands that public acquisition of the Hepburn Road land only became a Council proposal last year. Therefore, this matter was not able to be raised during earlier community discussions about the Doncaster Hill Strategy directions for Precinct 2G. The Council's change of direction and its intention to use the Public Acquisition Overlay to achieve its goal has apparently caused a great deal of distress and uncertainty for land owners.

In reply to land owner concerns, the Council has indicated that it has a long history of not compulsorily acquiring land even where the Public Acquisition Overlay has been used. At the Panel hearing, the Council stated that it sees its acquisition program as a longer term goal and gave verbal assurances to Mrs Newstead that her father would not be forced to sell to the Council.

The question is whether Council should apply the Public Acquisition Overlay to the Hepburn Road properties. The Panel concluded in Section 11.1 that it is appropriate to apply the overlay to residential properties. The Panel acknowledges the distress which the Council's process has caused some residents. The Panel is also concerned that Council's purchase of one of the four properties has effectively removed the possibility of ever consolidating the four properties for a denser development and effectively 'pre-empts' the outcome of the Panel Hearing on this matter. What now remains to be determined is what action will provide for the best long term interests of both owners and Council.

It seems to the Panel that so long as Council owns the one residential property (and there is little likelihood of Council selling this block on the market, given their recent decision to establish a park at the site), there will continue to be uncertainty in the market if, as is anticipated, Council's interest and ownership becomes widely known. Therefore, with some reluctance, the Panel feels bound to accept that it is in the best interest to accept, and recommend the adoption of the overlay.

Providing any future Planning Scheme Amendment to rezone the land as Public Open Space is not introduced before Council has acquired the remaining three properties, the present owners' financial interests will be preserved. This proviso is also relevant to other properties such as 1 Council Street where the public acquisition overlay for open space applies.

11.2.4 APPLICATION OF THE OVERLAY TO 1 COUNCIL STREET

Amendment C37 proposes application of the Public Acquisition Overlay over 1 Council Street to create public open space, specifically an urban plaza. Mr Colin Harris of SKM objected to the application of the overlay on behalf of the current owners, Horizon Holdings Pty Ltd. Mr Harris argued that the overlay would prevent the land being used for its "highest and best use" under the current Business 2 zoning.

The site has been identified for an urban plaza on the Doncaster Hill Strategic Framework Plan at Clause 21.21 of the Manningham Planning Scheme (Amendment C33). The site is

currently occupied by a dwelling. In line with the Panel's previous conclusions, the Public Acquisition Overlay should be applied to the land.

11.2.5 LACK OF OVERLAY TO 8 ROSE STREET

Amendment C30 proposes application of the Public Acquisition Overlay over 2 Briar Court to create a road connection between Briar Court (off Elgar Road) and Carawatha Road. The land needed in Rose Street to complete this road connection is not covered by the overlay. The location of the proposed road is at 8 Rose Street, and is occupied by an industrial building that occupies several blocks including No 8 and No 10 Rose Street.

Mr Bill Kuszniarczyk of Clement Stone Town Planners questioned the absence of the overlay for 8 Rose Street, the parcel most likely to be affected by the road connection. His contention was that Council should be transparent and apply the overlay at this point, so that prospective land purchasers are properly informed of the Council's plans. He also sought clarification on behalf of his client that land south of 8 Rose Street (eg. part of 10 Rose Street) would not be required for the road connection.

The Council confirmed at the Panel hearing and subsequently in writing that it is only interested in part of 8 Rose Street to complete the road connection, and that no other properties in Rose Street will be affected. Mr Kuszniarczyk asked the Panel to acknowledge this intention in the Panel report. The Council also indicated both to Mr Kuszniarczyk and the Panel that it believes that Council's plans are sufficiently transparent. It pointed to the Public Acquisition Overlay for 2 Briar Court and the inclusion of the road connection in the Development Contributions Plan, particularly the plan showing transport infrastructure. Although it is intended to incorporate the Plan in the Manningham Planning Scheme, the first port of call for determining the Council's planning and urban design intentions will continue be Clause 21.21 where the Doncaster Hill Strategic Framework Plan sets out many of the infrastructure plans for the Doncaster Hill area. In Section 12.2 the Panel identifies the need to amend the Framework Plan to be more inclusive of the features of the Doncaster Hill Strategy and its statutory implementation.

11.3 CONCLUSIONS AND RECOMMENDATION

11.3.1 CONCLUSIONS

The Panel concludes

- The Panel accepts Council's intention to use both the Public Acquisition Overlay and negotiated purchase to acquire the land it needs to complete identified infrastructure projects for Doncaster Hill.
- There will be strategic benefits in creating a local park at 9, 11, 13 and 15 Hepburn Road, Doncaster to serve the anticipated population of this part of Doncaster Hill.
- As the Council has already acquired one of the middle sites in Hepburn Road, Doncaster, the Public Acquisition Overlay on the remaining properties should proceed.
- The Council will only require part of 8 Rose Street to complete the road connection between Briar Court and Carawatha Road, and this acquisition can best be done at the time when redevelopment of the site is proposed.

11.3.2 RECOMMENDATION

The Panel recommends that the Public Acquisition Overlays (road and public open space) exhibited in Amendment C30, and as amended by Amendment C37, be adopted.

12. STATUTORY DRAFTING

Amendments C30 and C37 rely on:

- Modifications to the Municipal Strategic Statement at Clause 21.05 Urban Design
- Use of the Development Contributions Plan Overlay
- Use of the Public Acquisitions Overlay
- Amendment to the schedule to Clause 52.01 Public open space contribution and subdivision
- Amendment to the schedule to Clause 81 Incorporated documents

The Panel process did not identify any issues with the Council's choice of VPP clauses.

The key remaining issue is whether the proposed drafting would benefit from amendment in order to clarify issues raised in submissions and through the hearing.

12.1 DRAFTING CHANGES

12.1.1 DRAFTING CHANGES RAISED BY COUNCIL

Drafting changes identified by the Council in its submission and in discussions with the Panel include the following. The Panel supports these changes, which are generally technical in nature.

- Amend Part 1.0 of Schedule 1 to Clause 45.06 Development Contributions Overlay Plan to replace the words "This development contributions plan" with the words "The Doncaster Hill Development Contributions Plan — April 2004" (or later date if further amended).
- Amend the tables in Parts 2.0 and 3.0 of this schedule to show the relevant Community Infrastructure dollar and percentage figures, i.e. either with or without the cap (depending on whether the contributions cap has been removed or amended). It was noted in the Panel hearing that the table in Part 2.0 of the re-exhibited schedule does not include a dollar and percentage figure for "Total with community infrastructure cap removed".
- Amend the schedule to Clause 81 Incorporated documents with the date of the final version of the Development Contributions Plan.
- Amend Schedule 1 to Clause 45.06 and the Doncaster Hill Development Contributions Plan to indicate the annual inflation index that will be used to adjust contribution rates.

12.1.2 DRAFTING CHANGES RAISED BY SUBMISSIONS

No drafting issues were directly raised by submitters at the Panel hearing with the exception of Westfield Ltd. Its submission requested additional text in Part 4.0 of Schedule 1 to Clause 45.06 Development Contributions Plan Overlay. The intention of the additional text is to clarify the existing contribution commitments already in place through the Incorporated Plan that governs development at Westfield Doncaster Shoppingtown (to 135,000 m² total and 90,000 m² of retail space).

The text suggested by Mr Townshend on behalf of his client follows:

Construction of buildings or carrying out of works on the land known as Westfield Shoppingtown Doncaster being the land identified in the Planning Scheme Map for IPO 1 up to a leasable floor area of 135,000 sq.m (comprising a maximum of 90,000 sq.m leasable floor area for shop) and up to which a contribution is deemed to be met by the provision of the infrastructure works specified in conditions (to be completed when permit issues) of Planning Permit No. (to be completed when permit issues) or other such works in lieu of the specified works to the satisfaction of the responsible authority.

Mr Townshend clarified that the last part of this clause, "or other such works in lieu of the specified works", is intended to provide flexibility in the event the planning permit conditions referred to are modified after a permit issues. The Council has indicated that it accepts the proposed text in principle but would like to review the wording. This can be undertaken and the final wording agreed between the parties before adoption of a planning scheme amendment by Council.

12.1.3 DRAFTING CHANGES RECOMMENDED BY THE PANEL

Further drafting changes have been recommended by the Panel, and the locations in the report where these matters are discussion are detailed in Table 10, below.

Table 10 Summary of further drafting changes recommended by the Panel in other sections of the report

Report Section	Matter
6.4	Deletion of "For Other Development" from Section 6.3 of the DCP (April 2004)
6.5	Transitional arrangements to avoid double dipping
6.5.1	Impact mitigation
7.1.1	Pre-lodgement advice
7.3.2	Clearer presentation of expected levy from development, and consequential shortfall to be provided by Council.
7.3.4	Base year for costing
7.3.5	Treatment of GST
7.3.6	Indexation of levies
9.3.1	Reporting uncollected funds

The Panel notes that the third paragraph of Section 1 of the Doncaster Hill Development Contributions Plan (April 2004) states:

The overall investment task for the 20 year period is estimated to be in excess of \$42 million. Using a multi-faceted approach to funding, it has been identified that public open space works amounting to approximately \$12.5 million will be funded by way of open space contributions. The remaining work of approximately \$32.5 million will be funded through the use of a Development Contributions Plan prepared under Part 3(b) of the Planning and Environment Act 1987.

While the \$42 and \$12.5 million figures are GST exclusive, the \$32.5 million figure includes GST. This paragraph would be clearer if all dollars were expressed in the same form, preferably Nominal 2003 dollars, GST excluded, and signified as such.

"Document 3" attached to the letter from Council dated 10 May 2004 to Owner/Occupiers advising of the re-notification of the amended DCP, contained a list of changes to the exhibited DCP. The Panel notes that it refers to the "revised Doncaster Hill Development Contributions Plan, Manningham City Council, May 2004." The copy provided to the Panel, and on which the Panel has based its conclusions, was entitled "Doncaster Hill Development Contributions Plan, Manningham City Council, April 2004."

Notwithstanding that difference, the Panel notes the list of changes to the exhibited DCP, which are included in the revised DCP.

12.1.4 MAPPING CHANGES

Amendments C30 and C37 contained mapping errors that the Council indicates have now been corrected through discussion with Land Victoria. The latest cadastral maps will be used when preparing the Amendments for inclusion in the Manningham Planning Scheme.

The Council has already purchased some parcels of land originally included in the Public Acquisition Overlay. These properties and any additional purchases should be reflected in the final Amendments through removal of these properties from the overlay.

12.2 FUTURE AMENDMENTS

Future amendments to the Manningham Planning Scheme would provide a more cohesive and transparent framework for the planned changes at Doncaster Hill. Some of these changes have been suggested by the Council for inclusion in the current amendment without re-exhibition. However, the Panel is not prepared to support changes that have not been publicly exhibited.

The Panel has considered whether any of the Council's suggested changes are required before Amendments C30 and C37 can be approved. It has concluded that they are not. The current description of Precinct 2G in Schedule 6 to Clause 43.02 Design and Development Overlay conflicts with the intended change to public open space. The Panel is somewhat surprised that a change to the description of Precinct 2G was not a part of Amendment C30. However, the Panel can also see merit in retaining this element of Schedule 6 until such time as Council acquires all of the Hepburn Road properties, so that the underlying provisions remain intact. Likewise, some of the other changes described below could have been

included in Amendment C30. Overall, the Panel accepts that the land use change affecting Hepburn Road can be supported on strategic planning grounds.

Future amendments that have been identified through the Panel hearing and the Panel's own review of Amendment C30 include the following:

- Nos. 9, 11, 13 and 15 Hepburn Road, Doncaster are now identified as public open space. This change should be reflected in the Doncaster Hill Strategic Framework Plan in MSS Clause 21.21-1. At some point, Schedule 6 of the Design and Development Overlay should also be changed by identifying the new outcome and building envelopes for this land. This could be done in conjunction with a rezoning to public open space.
- The role of the public open space system in Doncaster Hill could be clarified in MSS Clause 21.21. As currently written, the Panel does not believe that public open space is clearly differentiated from the development outcomes sought. It is recognised as an urban design element but not as an essential component of community infrastructure in its own right.
- Most but not all planned infrastructure improvements are indicated on the Doncaster Hill Strategic Framework Plan. The following could also be included for the sake of transparency and completeness:
 - Future road / path connections, whether or not affected properties are covered by a Public Acquisition Overlay.
 - Any other infrastructure projects listed in the Development Contributions Plan not already shown on the Framework Plan.
- With completion of the Development Contributions Plan, reference to the Plan under MSS Clause 21.21 Key Issue 3 could be listed under "implementation" through application of the overlay (instead of under further strategic work). This section of the MSS would also benefit through inclusion of:
 - A reference to the acquisition of land to complete open space and other infrastructure projects.
 - The application of the Public Acquisition Overlay.
 - Reference to the use of Clause 52.01.
- MSS Clause 21.05 Key Issue 6 would be added by Amendment C30. This section of the MSS would also benefit through acknowledgement of:
 - Infrastructure planning not covered by the Development Contributions Plan.
 - The Council's intention to acquire land.
 - Possibly a reference to the use of Clause 52.01.
- As land is acquired for inclusion in the public open space system, it should be rezoned to the Public Park and Recreation Zone. This rezoning should also apply to land where open space contributions are to be spent.
- The open space changes, especially the designation of land in Hepburn Road for public open space, should be included in the addendum to the Doncaster Hill Strategy.

12.3 CHANGES TO STANDARD VPP CLAUSE 45.06

The Panel's review of Schedule 1 to the Development Contributions Plan was sometimes made more difficult by a number of problems it encountered with the standard schedule.

The Doncaster Hill Development Contributions Plan identified that the allocation of costs to development in the Plan area includes substantial existing development. Two cost recovery figures under the Plan then emerged. First, the percentage of costs to be apportioned to development, in this case a theoretical figure given that existing development will not actually pay the levy. Second, the percentage of costs that is likely to be recovered from future development during the life of the Plan. The dollar figures resulting from these two percentages varied greatly. The Council evidently also found this confusing and misunderstood the quantum of funding it would be responsible for under the Doncaster Hill Development Contributions Plan.

It appears to the Panel that the standard schedule has been developed for greenfield areas where this type of planning occurs ahead of development and where ultimately all properties will contribute financially through the levies specified in the schedule. As more Councils with existing urban areas prepare Development Contributions Plans, the problem identified by this Panel is likely to be exacerbated. As detailed by the Panel in Section 7.3, a change should be made to the schedule so that Councils can show cost apportionment as well as the percentage of actual costs likely to be collected.

The Council was required to exhibit its schedules with two figures for the Community Infrastructure contribution rate. This provided little certainty about which figure would ultimately be used in an adopted / gazetted amendment. The selection of a final figure would be dependent on whether legislation to double the current cap on the Community Infrastructure rate passes through the Parliament before Amendment C30 is finalised. If the cap is not lifted, then the lower figure would be used. Council would then need to revisit the entire process to amend the planning scheme so that a higher figure can be substituted. The Panel does not find this an acceptable outcome, especially with the Government's current emphasis on streamlining planning processes. There should be some provision for indicating the current rate (which is likely to be the lowest rate possible) as well as an uncapped rate, and the relevant rate should take effect upon approval of any changes.

All of the rates exhibited by the Council in the original Amendment C30 were GST exclusive. The rates in the re-exhibited material were GST inclusive. This naturally affected the dollar contribution rate for development. As discussed by the Panel in Section 7.3.5, there should be more explicit direction in the schedule about whether the rates shown are to be GST exclusive or GST inclusive.

12.4 CONCLUSIONS AND RECOMMENDATIONS

12.4.1 CONCLUSIONS

The Panel concludes

The choice and use of VPP clauses is appropriate.

- A number of technical and other drafting amendments should occur before Amendment C30 is adopted by Council.
- Clarification of the contribution requirements of Westfield Limited in relation to Westfield Doncaster Shoppingtown should be included in Part 4.0 of Schedule 1 to the Development Contributions Plan Overlay before Amendment C30 is adopted by Council. The form of wording should be agreed by Council and Westfield Limited.
- The Council should confirm with Land Victoria that cadastral mapping has been updated for areas shown on relevant planning scheme maps.
- A number of amendments to the Manningham Planning Scheme have been identified that would create greater consistency, transparency and cohesion in the planning for Doncaster Hill. These should occur as part of a future amendment process.
- The Department of Sustainability and Environment should review standard VPP Clause 45.06 Development Contributions Plan Overlay and its schedule to improve the clarity of the information contained in the schedule tables.

12.4.2 RECOMMENDATIONS

The Panel recommends that

Before adoption of Amendments C30 and C37, the Council should:

In Schedule 1 to Clause 45.06:

- Amend Part 1.0 to include reference to the Doncaster Hill Development Contributions Plan and the relevant date of the Plan.
- Amend the tables in Parts 2.0 and 3.0 to include the relevant Community Infrastructure dollar and percentage figures (depending on whether the contributions cap for Community Infrastructure contributions has been removed or amended). Note: The table in Part 2.0 of the re-exhibited schedule does not include a dollar and percentage figure for "Total with community infrastructure cap removed".
- Clarify that the figures used are GST inclusive or GST exclusive.
- Indicate the annual inflation index that will be used to adjust contribution rates.
- Amend Part 4.0 by adding exclusions applicable to Westfield Doncaster Shoppingtown. This change should recognise existing commitments of Westfield Limited imposed by the Incorporated Plan for this land and proposed planning permit no. PL03/015005.

Amend the schedule to Clause 81 with the date of the final version of the Development Contributions Plan.

In the Doncaster Hill Development Contributions Plan, in addition to recommendations made in Chapters 6, 7, 8 and 9:

- Indicate the annual inflation index that will be used to adjust contribution rates.

Amend Planning Scheme map 7PAO by deleting properties already purchased by Council.

The Department of Sustainability and Environment should amend the standard VPP Clause 45.06 and schedule to:

- Provide the ability to distinguish between the dollar value and percentage of contributions that are allocated to development in the Development Contributions Plan Area and the actual dollar value and percentage of contributions that are likely to be recovered during the life of the Plan from development in the Plan Area.
- Allow a Community Infrastructure contribution rate to be set both with the current legislative cap and without this a cap so that further amendments to planning schemes are not required when the Government makes legislative changes.
- Clarify whether GST inclusive or GST exclusive dollars are to be used.

13. STRATEGIC ASSESSMENT GUIDELINES

13.1 THE REQUIREMENTS OF THE STRATEGIC ASSESSMENT GUIDELINES

As part of its assessment of Amendments C30 and C37 the Panel is required to assess the amendment against the Strategic Assessment Guidelines contained in the General Practice Note on Strategic Assessment Guidelines for Planning Scheme Amendments (revised August 2004). A copy of the General Practice Note is included in Appendix D.

The matters to be considered and the Panel's response are as follows:

13.1.1 WHY IS AN AMENDMENT REQUIRED?

Is an amendment necessary? Are there other ways to achieve the desired outcome? If so, why is an amendment to the scheme the preferred approach?

The Amendments provide for the infrastructure development at Doncaster Hill and are required to:

- Provide strategic support for infrastructure planning and funding in the Municipal Strategic Statement.
- Introduce a Development Contributions Plan.
- Collect mandatory 5% open space contributions at the time of subdivision.
- Identify parcels of land for public acquisition to complete infrastructure projects.

The intention of the Amendments is to implement infrastructure planning and funding components of the Doncaster Hill Strategy through the Manningham Planning Scheme. The Council has undertaken extensive investigations and consultation in developing the Strategy. Key reports are identified in Section 6.3. Strategic justification for the amendment is discussed in Sections 6 to 14.

The alternative to the proposed approach is to continue to negotiate contributions from developers on an individual basis. The Amendments provide a more strategic, transparent and equitable system for developers, Council and its community.

Does the amendment repeat provisions already in the scheme? If so, what additional value will the amendment to the scheme provide?

The Amendments do not repeat existing provisions in the Manningham Planning Scheme. They provide for implementation of certain aspects of the adopted Doncaster Hill Strategy which have not yet been addressed in detail in the planning scheme.

13.1.2 DOES THE AMENDMENT COMPLY WITH THE REQUIREMENTS OF THE PLANNING AND ENVIRONMENT ACT?

Does the amendment implement the objectives of planning in Victoria?

Yes. The Amendments specifically implement the following objectives:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

Does the amendment adequately address any environmental effects?

Yes, as far as they are applicable to the amendment. The proposed road links will facilitate pedestrian and bicycle movements in the Doncaster Hill Activity Centre.

Does the amendment adequately address the relevant social and economic effects?

Yes. Physical and community infrastructure will enhance social and economic attributes in the Doncaster Hill Activity Centre. The infrastructure will provide a net community benefit to the businesses and residents at Doncaster Hill.

Does the amendment comply with the requirements of the Ministerial Direction on the Form and Content of Planning Schemes?

Yes.

Do any other Minister's Directions apply to the amendment? If so, have they been complied with?

The following Directions apply:

- Minister's Direction No. 9 relating to the Metropolitan Strategy, which is addressed below.
- Minister's Direction relating to Development Contributions Plans. The Direction has been complied with.

Is the amendment accompanied by all of the information required by a Direction?

Yes.

13.1.3 DOES THE AMENDMENT SUPPORT OR IMPLEMENT THE STATE PLANNING POLICY FRAMEWORK?

What aspects, if any, of the SPPF are relevant?

See Section 5.3 for a description of the relevant elements of the SPPF.

Does the amendment or proposal support or give effect to the SPPF?

Yes. The Amendments give effect to these strategic policies at the local level.

Does the amendment support or give effect to any relevant adopted State policy?

The Amendments support the implementation of the Metropolitan Strategy.

13.1.4 HOW DOES THE AMENDMENT SUPPORT OR IMPLEMENT THE LOCAL PLANNING POLICY FRAMEWORK, AND SPECIFICALLY THE MSS?

MUNICIPAL STRATEGIC STATEMENT

How does the amendment or proposal seek to implement, support or change the MSS?

The Amendments implement infrastructure components of the Doncaster Hill Strategy, which is broadly included in the MSS at Clause 21.21. The Amendments also implement key objectives of MSS Clause 21.05 in relation to urban design. See Section 5.4 for a description of the relevant elements of the MSS that are supported by the Amendments.

What effect will any change to the MSS have on the rest of the MSS:

- **Is the amendment consistent / inconsistent with strategic directions elsewhere in the MSS?**

The change to Clause 21.05 is supported by Council's planning studies in relation to the Doncaster Hill Activity Centre. It is consistent with other strategic directions of the MSS that are described in Section 5.4.

- **What is the cumulative effect of this amendment and other amendments / proposals on the strategic directions in the MSS?**

The implementation of relevant planning components of the Doncaster Hill Strategy.

Does the change to the MSS address the format, content and language guidance in the VPP Practice Note *Format of Municipal Strategic Statements*?

Yes.

LOCAL PLANNING POLICIES

What local planning policies affect the amendment or proposal?

Not applicable.

If the amendment introduces or changes a local planning policy, is this necessary? Or is the issue adequately covered by another planning tool or decision guideline?

Not applicable.

If the amendment introduces or changes a local planning policy, has the VPP Practice Note *Writing a Local Planning Policy* been followed?

Not applicable.

13.1.5 DOES THE AMENDMENT MAKE PROPER USE OF THE VICTORIA PLANNING PROVISIONS?

Does the amendment use the most appropriate VPP tool to achieve the strategic objective of the scheme?

Yes.

To what extent do local provisions adopt a performance-based approach?

Not applicable.

What Planning Practice Notes are relevant and is the amendment in accordance with any relevant Planning Practice Notes?

Writing Schedules. The Amendments comply with the Practice Note.

Incorporated and Reference Documents. The Amendments comply with the Practice Note.

13.1.6 HOW DOES THE AMENDMENT ADDRESS THE VIEWS OF RELEVANT AGENCIES

How have the views of any relevant agency been addressed?

No substantive submissions or objections were received from external agencies.

Does the amendment contain new formal or informal referral requirements?

No.

If so, does the referral authority support these requirements?

Not applicable.

What is the purpose of the referral?

Not applicable.

Are the referral arrangements performance based?

Not applicable.

Can this purpose be served by other means, for example, mandatory notice under Section 52(1)(c) of the *Planning and Environment Act 1987* or a mandatory condition on every permit under Section 62(1)(a)?

Not applicable.

13.1.7 WHAT IMPACT WILL THE NEW AMENDMENT HAVE ON THE RESOURCE AND ADMINISTRATIVE COSTS OF THE RESPONSIBLE AUTHORITY?

What are the cost implications for a responsible authority in implementing and administering the new planning provisions including

- **Estimate increase in number of planning permit applications**

No additional planning permit applications will result from the Amendments.

- **Planning staff resources**

Planning staff resources now required to negotiate developer / open space contributions will be freed if the Amendments proceed.

- **Other miscellaneous costs including legal or other professional advice**

None identified.

13.1.8 METROPOLITAN STRATEGY

Minister's Direction 9 requires the explanatory report for an amendment to address the following matters:

- What aspects, if any, of the Metropolitan Strategy are relevant?
- How does the Metropolitan Strategy affect the amendment?
- Is the amendment consistent with any directions and policies in the Metropolitan Strategy?
- Does the amendment support, give effect to or assist the implementation of the Metropolitan Strategy or can it be reasonably modified to do so?
- Will the amendment compromise the implementation of the Metropolitan Strategy?

The explanatory report and accompanying reports meet the requirements of Minister's Direction no. 9.

The relevant aspects of the Metropolitan Strategy are identified in Section 5.2. The Amendments are consistent with directions and policy relating to activity centres, and the provision of infrastructure. It will not compromise implementation of the Metropolitan Strategy.

14. CONCLUSIONS & RECOMMENDATIONS

14.1 CONCLUSIONS

The Panel has considered all the submissions referred to it and all the material presented at the hearings. The Panel's conclusions are grouped under the topics listed below:

With respect to the procedures adopted by the City of Manningham, the Panel concludes that:

- The Council has provided reasonable avenues for informed public consultation on the Doncaster Hill Development Contributions Plan and its content.
- The absence of reference to the future Doncaster Hill Development Contributions Plan in the pre-lodgement advice to some applicants was a failure in communication.

With respect to the appropriateness of the Doncaster Hill Development Contributions Plan, the Panel concludes that:

- The Council's Doncaster Hill studies support the need for the infrastructure items listed in the Development Contributions Plan.
- Use of a Development Contributions Plan is an appropriate mechanism to fund the identified infrastructure requirements.
- The proposed infrastructure charges are not so onerous as to undermine the Council's longer term strategy for Doncaster Hill.

With respect to the detail of the Doncaster Hill Development Contributions Plan April 2004, the Panel concludes that:

- The calculation of the potential contributions of Council and developers to the capital works program to be supported by the Development Contributions Plan has been difficult to determine and is neither transparent nor clear. The Panel is concerned that ratepayers and residents in the City of Manningham will not be able to establish the financial commitments of the Council towards the completion of the specified works.
- The headings to the columns in Table 1 of the Doncaster Hill Development Contributions Plan (April 2004) "Estimated Minimum Contribution Received via Doncaster Hill DCP (\$) (Nominal including GST), and "Estimated Minimum Proportion of Total Project Cost Funded via DCP are misleading. The word "Minimum" should be removed from each heading.
- Table 2, "Equivalence Ratios for Retail and Commercial Development" (see Section 6.3 of the Development Contributions Plan, April 2004), should be amended by removal of the column headed "For Other Development" to avoid confusion. Any mixed use development which has components of residential dwellings, retail or

commercial development will be assessed on the proscribed equivalence ratios for those uses.

- Section 6.5 of the Development Contributions Plan (April 2004) should be amended to clarify that impact mitigation measures are outside the ambit of the DCP, would be in addition to the statutory levy and would generally be appealable by developers if it was thought they were unfair.
- Double-dipping should as a matter of principle be avoided, with different mechanisms available to deal with this issue. The Council should ensure that suitable transitional arrangements are in place with respect to the Development Contributions Plan.
- The Panel concludes that the Doncaster Hill Development Contributions Plan satisfies considerations of adequacy, fairness and good administration, subject to amending Section 8.3, Funds Administration, in the DCP (April 2004) by the inclusion of a paragraph that requires Manningham City Council to report the quantum of infrastructure funds levied, but not paid, whether due to deferral, Section 173 Agreement, or other cause, and allows for the scrutiny of such arrangements by the auditor.

With respect to the detail of Schedule 1 to the Development Contributions Plan Overlay, the Panel concludes that:

- Schedule 1 Doncaster Hill to the Development Contributions Plan Overlay should be amended to provide headings where applicable to indicate that the values below the heading are "nominal 2003 dollars". The headings "Actual cost contribution attributable to development \$" and "Proportion of cost attributable to development %" in Part 2.0, Summary of costs, should be clarified that they represent the levies to be charged to development (i.e. new development), and the figures should be brought into line with those in the columns in Table 1 of the Doncaster Hill Development Contributions Plan (April 2004) headed "Estimated Minimum Contribution Received via Doncaster Hill DCP (\$) (Nominal including GST), and "Estimated Minimum Proportion of Total Project Cost Funded via DCP. In addition, the footnote relating to "other development" should be removed. Values should be included to show the case where the Community Infrastructure cap continues to apply.
- The Panel is not averse to Council specifying an index to be applied to levies under the Development Contributions Plan different to that specified in the Guidelines (i.e. CPI), provided that it is also included in Schedule 1 to the Development Contributions Plan Overlay, and based on independent external advice.
- Clarification of the contribution requirements of Westfield Limited in relation to Westfield Doncaster Shoppingtown should be included in Part 4.0 of Schedule 1 to the Development Contributions Plan Overlay before Amendment C30 is adopted by Council. The form of wording should be agreed by Council and Westfield Limited.

With respect to Council's open space proposals, the panel concludes that:

- The Victorian planning system is sufficiently flexible to allow Clause 52.01 to be used (to levy open space contributions) even when a Development Contributions Plan is available.
- A range of projects have been identified for which expenditure of open space contributions is appropriate.

- Implementation of a mandatory development contribution to open space infrastructure in the planning scheme is justified on planning grounds by:
 - the Council's strategic planning for Doncaster Hill;
 - inclusion of key elements of open space provision in the planning scheme; and
 - identification of projects to which collected contributions will be applied.
- The proposed 5% contribution rate is appropriate.
- The Panel accepts Council's intention to use both the Public Acquisition Overlay and negotiated purchase to acquire the land it needs to complete identified infrastructure projects for Doncaster Hill.
- There will be strategic benefits in creating a local park at 9, 11, 13 and 15 Hepburn Road, Doncaster to serve the anticipated population of this part of Doncaster Hill.
- As the Council has already acquired one of the middle sites in Hepburn Road, Doncaster, the Public Acquisition Overlay on the remaining properties should proceed.
- The Council will only require part of 8 Rose Street to complete the road connection between Briar Court and Carawatha Road, and this acquisition can best be done at the time when redevelopment of the site is proposed.
- Double-dipping should as a matter of principle be avoided, with different mechanisms available to deal with this issue. The Council should ensure that suitable transitional arrangements are in place with respect to Clause 52.01.

With respect to the adoption of Amendments C30 and C37, the Panel concludes that, subject to the conclusions listed above,

- The choice and use of VPP clauses is appropriate.
- A number of technical and other drafting amendments should occur before Amendment C30 is adopted by Council.
- The Council should confirm with Land Victoria that cadastral mapping has been updated for areas shown on relevant planning scheme maps.

With respect to the need for consequential future amendment of the Manningham Planning Scheme, the Panel concludes that a number of further amendments to the Manningham Planning Scheme have been identified that would create greater consistency, transparency and cohesion in the planning for Doncaster Hill. These should occur as part of future amendment processes.

With respect to the adequacy of the present Development Contribution Guidelines, the Panel believes that significant confusion has arisen in part from the Development Contributions Guidelines having been conceived in the context of a green-field development. The Panel concludes that it would be helpful if the Department of Sustainability and Environment were to amend and amplify the Development Contributions Guidelines in several ways, as follows:

- Provide some treatment of the situation where a Development Contributions Plan lies within a built-up area;
- Provide some guidance on the meaning of "usage";
- Amplify the concept of external use ("drawn from outside the MCA") by providing examples that deal with the situations encountered at Doncaster Hill—for example, pedestrian crossings, public art, traffic signals, and boulevard treatments, and the clarification of the concept with respect to workers, visitors and shoppers.

- More generally, to avoid the confusion that has arisen at Manningham, set out the requirement to clearly identify the respective contributions to be made by proponents of new development those to be provided by Council for the infrastructure nominated in a Development Contributions Plan. The Development Contributions Guidelines should be amended to clarify the reporting framework in a Development Contributions Plan, and in particular the treatment and reporting of GST, present value discounting, contributions anticipated from new development, and funding to be provided by Council.

With respect to the standard VPP Clause 45.06 Development Contributions Plan Overlay and its schedule, the Panel concludes that a review is warranted to improve the clarity of the information contained in the schedule tables, and in particular the treatment and reporting of GST, contributions anticipated from new development, and funding to be provided by Council.

14.2 RECOMMENDATIONS

The Panel recommends that Council initiate further training of officers to ensure that relevant policies contained or foreshadowed in the Municipal Strategic Statement or proposed planning scheme amendments are drawn to the attention of those seeking pre-notification advice with respect to potential development within the municipality.

The Panel recommends that the Department of Sustainability and Environment review the Development Contributions Guidelines, addressing the following matters:

- The requirements for setting out the provisions in a Development Contributions Plan and in the standard Schedule to a Development Contributions Plan Overlay, to ensure that unambiguous and clear information is provided to all parties. The review should clarify and detail the use and reporting of GST, present value discounting (including a fully worked example), prescribe clear headings indicating where dollar values are nominal dollars, and the year associated with them, and require the provision of individual project and summary information including total project cost, contributions attributable to the DCP (internal usage), contributions anticipated from new development (actual levies to be collected) and funding to be provided by Council (both external usage and existing and other exempt development), and direct that these are all clearly specified in dollar values (subject to the above) and as a percentage of total project cost.
- the treatment of the situation where a Development Contributions Plan lies within a built-up area;
- guidance on the meaning of "usage";
- amplifying the concept of external use ("*drawn from outside the MCA*") by providing examples that deal with the situations encountered at Doncaster Hill—for example, pedestrian crossings, public art, traffic signals, and boulevard treatments, and the clarification of the concept with respect to workers, visitors and shoppers—where the DCP lies within a built-up area with a significant proportion of through traffic and where public infrastructure is intended to attract and benefit visitors as well as benefit occupants of the area.

The Panel recommends that the Department of Sustainability and Environment review the standard VPP Clause 45.06 Development Contributions Plan Overlay and its schedule, to improve the clarity of the information contained in the schedule tables, and in particular to:

- Provide the ability to distinguish between the dollar value and percentage of contributions that are allocated to development in the Development Contributions Plan Area and the actual dollar value and percentage of contributions that are likely to be recovered during the life of the Plan from development in the Plan Area.
- Allow a Community Infrastructure contribution rate to be set both with the current legislative cap and without this a cap so that further amendments to planning schemes are not required when the Government makes legislative changes.
- Clarify whether GST inclusive or GST exclusive dollars are to be used.

Based on the reasons set out in this report, the Panel recommends that Amendments C30 and C37 to the Manningham Planning Scheme be adopted subject to the following detailed recommendations:

In relation to the Doncaster Hill Development Contributions Plan (April 2004):

- transitional arrangements should be documented by the Council to avoid the potential for "double-dipping".
- Table 1 in the Doncaster Hill Development Contributions Plan should be modified to delete the misleading term "Minimum" in both relevant headings.
- Council should remove the column headed "For Other Development" from Table 2, "Equivalence Ratios for Retail and Commercial Development" in Section 6.3 to bring this into line with the exhibited Schedule 1 to the Development Contributions Plan Overlay and the cash flow analysis in Appendix 4 of the Plan.
- Section 6.5 should be amended to state that impact mitigation measures are outside the ambit of the DCP, would be additional to the statutory levy and would generally be appealable by developers if it was thought they were unfair.
- Section 8.3, Funds Administration, should be amended by the inclusion of a paragraph that requires Manningham City Council to report the quantum of infrastructure funds levied, but not paid, whether due to deferral, Section 173 Agreement, or other cause, and allows for the scrutiny of such arrangements by the auditor.
- Indicate the annual inflation index that will be used to adjust contribution rates.

In relation to Schedule 1 to Clause 45.06 (the Development Contributions Plan Overlay):

- Amend Part 1.0 to include reference to the Doncaster Hill Development Contributions Plan and the relevant date of the Plan.
- Clarify that the figures used throughout are GST inclusive or GST exclusive.
- Indicate the annual inflation index that will be used to adjust contribution rates.
- Amend Part 2.0, Summary of costs, to provide headings where applicable to indicate that the values below the heading are "nominal 2003 dollars". The headings "Actual cost contribution attributable to development \$" and

“Proportion of cost attributable to development %” should make clear that they represent the levies to be charged to development (i.e. new development), and revised figures (as shown in the Doncaster Hill Development Contributions Plan (April 2004), page 19—adjusted for consistent reporting of GST), should be adopted. In addition, the footnote relating to existing development should be removed. Values should be included to show the case where the Community Infrastructure cap continues to apply.

- Amend Part 4.0 by adding exclusions applicable to Westfield Doncaster Shoppingtown. This change should recognise existing commitments of Westfield Limited imposed by the Incorporated Plan for this land and proposed planning permit no. PL03/015005.

Amend the schedule to Clause 81 with the date of the final version of the Development Contributions Plan.

Amend Planning Scheme map 7PAO by deleting properties already purchased by Council.

A. LIST OF WRITTEN SUBMISSIONS

NAME OF SUBMITTER	ORGANISATION	SUBMISSION NUMBER
F.L. Daniels		1
Timothy Wescott	Banylue City Council	2
Charles Brincat	SPI Powernet	3
Krystyna Kochane	EPA	4
Paul Jarman	Department of Sustainability and Environment	5
Graham Whitt	Shire of Yarra Ranges	6
Stankon Nominees Pty Ltd & Southpoint Apartments	Represented by Contour Consultants	7
Ms Nicola Robertson	Melbourne Water	8
Peter Mondy	City of Greater Dandenong	9
Mr & Mrs O'Shea		10
Mr & Mrs R T & M G Newman		11
Burton Ridge Pty Ltd	Represented by Sinclair Knight Merz	12
Juilliard Group of Companies	Represented by Jewell Partnership Pty Ltd	13
Janine Ryan	Yarra Valley Water Ltd	14
Margaret Abbey	Shire of Nillumbik	15
Diana & Wallace Close		16
Ron Englehart	Englehart Homes	17
Ray Sheedy		18
A number of companies (not specified in submission)	Represented by Management 3 Group Pty Ltd	19

David Iser		20
Magdi Khalil		21
Jeff Breen	Westfield Developments	22
Nick Zoides		23
Horizon Holdings Pty Ltd	Represented by Sinclair Knight Merz	24
Leila Keeble	Melbourne Water	25
Phil Burn	Department of Primary Industries	26
Paul Jarman	Department of Sustainability and Environment	27
Phil Turner	Maroondah City Council	28
Ronald Ivan Smith		29

LATE SUBMISSIONS

Claude Centofanti and Locktan Pty Ltd	Represented by Clement – Stone	30
Janine Ryan	Yarra Valley Water	31

SUBMISSIONS TO RE-NOTIFICATION

Graham Whitt	Shire of Yarra Ranges	
Nicola Robertson	Melbourne Water	
Jim Driscoll	Knight Frank	
Justin Krzywokulski	Westfield	

B. COUNCIL'S RE-NOTIFICATION LETTER

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Enquiries to:
Telephone:
File No.: AM C30
QA Ref:

S. Vujcevic
9840 9406

10 May 2004

To: Owner/Occupier

Dear Sir/Madam,

**Amendment C30 - Manningham Planning Scheme
Introduction of a Development Contributions Plan for Doncaster Hill**

You have previously been notified of this Planning Scheme amendment concerning Doncaster Hill.

At the hearings of the independent panel held on 2nd, and 6th April 2004, it became apparent that the Doncaster Hill Development Contribution Plan (Doncaster Hill DCP) contained arithmetic errors and some drafting errors.

The arithmetic error was an incorrect inputting of an allowance for an amount of external funding towards each DCP project when in fact no actual funds from an external source was being received for each DCP project. This led to the project costs to be contributed towards the DCP being artificially reduced, this also meant that the contribution rate specified by the DCP was also artificially reduced.

The arithmetic error was a double counting of the discount for the proportion of external usage. The error was contained in Appendix 4 but the effects of the error flowed on throughout the document. The effect of this error was to understate the development contributions that would be imposed upon each demand unit and hence **increases the amount of levies payable by developments**. The error also has implications for the amount of funding the Manningham City Council is required to allocate for the Development Contribution Plan.

Council's consultants have corrected the error and have prepared an amended Doncaster Hill DCP incorporating the correct amount of each development contribution. The Panel has been adjourned to allow for notice of these errors to be given to all interested and affected parties, and to allow for the opportunity to make any submissions in light of these changes. Please note that when the Panel resumes, all previous submissions and requests to be heard will be included in the proceedings.

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- 2 -

Cont'd.

Understanding the changes

Council has prepared and enclosed three documents, which may assist you in understanding the changes.

- Document 1 sets out a break up of the levies payable in respect of each infrastructure category. This document also includes the exhibited amount in brackets.
- Document 2 sets out the amended Schedule 1 to the Development Contributions Plan Overlay.
- Document 3 summarises the changes made to the Development Contributions Plan.

Operation of the Doncaster Hill DCP and Council's contribution to infrastructure in nominal values and present day values.

The Doncaster Hill DCP operates so that when there is development inside the boundary of the Doncaster Hill area, that development makes a financial contribution to the new infrastructure that will be required to service the Doncaster Hill area. The plan operates over a 20-year time frame (2002 – 2021). The cost of the required infrastructure nominated under the DCP has been estimated at \$32,547,783, including GST. The infrastructure items for inclusion in the DCP have not changed. Council expects to raise approximately \$11,256,327 (nominal value/constant prices undiscounted - this amount will be \$14,890,213 if the cap on community infrastructure is lifted) from development contributions and the balance from other Council sources including allocations from Council's capital works programme.

Thus the Council contribution will be \$21,291,456 (nominal value - this amount will be \$17,657,570 if the cap on community infrastructure is lifted).

Because the plan operates over a 20 year time frame, for cashflow purposes, these amounts are discounted to reflect the true present value (2002 dollars) and hence the contribution that will need to be made. The table on the following page provides a comparison between the exhibited information and the amended DCP (for the amended DCP the figures provided are presented in both nominal value (constant prices undiscounted) and present value (2002 dollars) terms.

3/...

- 3 -

Cont'd.

		DCP AS EXHIBITED 24 JULY 2003 (Excluding GST)	MAJOR CORRECTION OF EXTERNAL FUNDING ERROR (Including GST)	
			Present Value	Nominal
Total Project Expenditure	Constant	\$29,588,894	\$19,066,581	\$32,547,783
Total Value of Developer Contributions received via DH DCP	With cap	\$17,545,424	\$6,236,316	\$11,256,327
	Without Cap	\$19,945,424	\$8,249,590	\$14,890,213
Amount to be funded by Council	With cap	\$12m	\$12,830,265	\$21,291,456
	Without Cap	\$9.6m	\$10,816,991	\$17,657,570

Further submissions

The panel has adjourned the further hearing of the panel to a date to be fixed. That date will be fixed at a directions hearing to be held on 23rd July 2004, 10.00 am at the Council Chambers of Manningham City Council, 699 Doncaster Road, Doncaster.

If you wish to make a submission **about the changes** to the Doncaster Hill DCP, you must do so in writing within 30 days of the date of this notice (10th June 2004). You must send a copy of your written submission to:

Manager
Economic and Environmental Planning Unit
Manningham City Council
PO Box 1
Doncaster VIC 3108

A copy of your submission will be provided to the panel at the Directions Hearing and your submission will be taken into account by the panel in its considerations when the panel resumes its hearing.

4/...

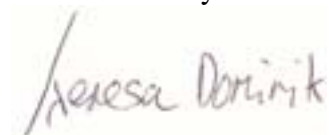
- 4 -

Cont'd.

If you wish to appear in person to make your submission when the panel hearing resumes, you will need to advise the panel at the directions hearing that you wish to appear and make a submission. You may do this by completing a Request to be Heard Form and forwarding it to the council officer described below. She will ensure that the panel is made aware of your Request to be Heard. The panel will then schedule a time for you to appear at the resumed panel hearing.

Please contact Sue Vujcevic on telephone 9840 9406 if you have any queries.

Yours faithfully

A handwritten signature in cursive script that reads "Teresa Dominik". The signature is written in dark ink on a light-colored background.

TERESA DOMINIK

Manager, Economic and Environmental Planning Unit

Enc.

3.0 Summary of contributions

LEVIES PAYABLE BY THE DEVELOPMENT						
FACILITY	Development Infrastructure		Community infrastructure		All infrastructure	
	Residential	Non-residential	Residential	Non-residential	Residential	Non-residential
<i>Transport</i>	\$398 per dwelling (Prev. \$322)	\$398 per 121m ² commercial floor space, 19m ² of retail floor space (Prev. \$322)	None specified	None specified	\$398 per dwelling (Prev. \$322)	\$398 per 121m ² commercial floor space, 19m ² of retail floor space (Prev. \$322)
<i>Streetscape</i>	\$368 per dwelling (Prev. \$257)	\$368 per 121m ² commercial floor space, 19m ² of retail floor space (Prev. \$257)	None specified	None specified	\$368 per dwelling (Prev. \$257)	\$368 per 121m ² commercial floor space, 19m ² of retail floor space (Prev. \$257)
<i>Public Art</i>	\$175 per dwelling (Prev. \$122)	\$175 per 121m ² commercial floor space, 19m ² of retail floor space (Prev. \$122)	None specified	None specified	\$175 per dwelling (Prev. \$122)	\$175 per 121m ² commercial floor space, 19m ² of retail floor space (Prev. \$122)
<i>Social</i>	\$423 per dwelling (Prev. \$296)	None specified	\$450 per dwelling (Prev. \$450)	None specified	\$873 per dwelling (Prev. \$746)	None specified
<i>Social with community infrastructure cap removed¹</i>	\$423 per dwelling (Prev. \$296)	None specified	\$1406 per dwelling (Prev. \$987)	None specified	\$1829 per dwelling (Prev. \$1283)	None specified
TOTAL	\$1364 (Prev. \$997)	\$941 (Prev. \$701)	\$450 (Prev. \$450)	None specified	\$1814 (Prev. \$1447)	\$941 (Prev. \$701)
TOTAL with community infrastructure cap removed	\$1364 (Prev. \$997)	\$941 (Prev. \$701)	\$1406 (Prev. \$987)	None specified	\$2770 (Prev. \$1984)	\$941 (Prev. \$701)

¹ As included in the Developer Contributions reforms soon to be implemented. Refer to "A New Development Contributions System for Victoria, May 2003"

SCHEDULE 1 TO THE DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY

Shown on the planning scheme map as **DCPO1**

DONCASTER HILL DEVELOPMENT CONTRIBUTIONS PLAN**1.0 Area covered by this development contributions plan**

This development contributions plan applies to all land shown on Planning Scheme Map No. 7DCPO.

2.0 Summary of costs

Facility	Total cost	Time of provision	Actual cost contribution attributable to development¹	Proportion of cost attributable to development
<i>Transport</i>	\$6,995,428	Refer to Development Contributions Plan	\$5,450,317	78%
<i>Streetscape</i>	\$7,303,355	Refer to Development Contributions Plan	\$5,112,349	70%
<i>Public Art</i>	\$4,257,000	Refer to Development Contributions Plan	\$2,979,900	70%
<i>Development Infrastructure: social</i>	\$2,882,000	Refer to Development Contributions Plan	\$2,017,400	70%
<i>Community infrastructure: social</i>	\$11,110,000	Refer to Development Contributions Plan	\$6,380,000	57%
TOTAL	\$32,547,783		\$21,939,966	67%

¹ This column presents the total cost of all infrastructure items in each infrastructure category that is attributable to the demand generated by both existing and new development within the area covered by DCP01. It should be noted that existing development within the area covered by DCP01 is not levied with an infrastructure charge under the Doncaster Hill DCP. The values in this column may not therefore reflect the actual total infrastructure contribution received via the Doncaster Hill DCP. For an assessment of the estimated minimum costs recoverable under the Doncaster Hill DCP, page 15 of the Doncaster Hill Development Contributions Plan should be referred to.

3.0 Summary of contributions

LEVIES PAYABLE BY THE DEVELOPMENT						
FACILITY	Development Infrastructure		Community infrastructure		All infrastructure	
	Residential	Non-residential	Residential	Non-residential	Residential	Non-residential
<i>Transport</i>	\$398 per dwelling	\$398 per 121m ² commercial floor space, 19m ² of retail floor space	None specified	None specified	\$398 per dwelling	\$398 per 121m ² commercial floor space, 19m ² of retail floor space
<i>Streetscape</i>	\$368 per dwelling	\$368 per 121m ² commercial floor space, 19m ² of retail floor space	None specified	None specified	\$368 per dwelling	\$368 per 121m ² commercial floor space, 19m ² of retail floor space
<i>Public Art</i>	\$175 per dwelling	\$175 per 121m ² commercial floor space, 19m ² of retail floor space	None specified	None specified	\$175 per dwelling	\$175 per 121m ² commercial floor space, 19m ² of retail floor space
<i>Social</i>	\$423 per dwelling	None specified	\$450 per dwelling	None specified	\$873 per dwelling	None specified
<i>Social with community infrastructure cap removed²</i>	\$423 per dwelling	None specified	\$1406 per dwelling	None specified	\$1829 per dwelling	None specified
TOTAL	\$1364	\$941	\$450	None specified	\$1814	\$941
TOTAL with community infrastructure cap removed	\$1364	\$941	\$1406	None specified	\$2770	\$941

² As included in the Developer Contributions reforms soon to be implemented. Refer to "A New Development Contributions System for Victoria, May 2003"

4.0 Land or development excluded from development contributions plan

Exemptions from payment of development contributions apply in the following circumstances:

- The construction of building(s) or the construction or carrying out of works or subdivision that results in a demand that is below the demand unit specified in Schedule 1 to the Development Contributions Plan Overlay and where there is no increase in demand on infrastructure as a result of the proposal.
- Constructing a building or construct or carry out works specified in Clause 62.02.
- Subdivisions specified in Clause 62.03.
- Construction of one dwelling or construct or carry out works associated with one dwelling on a lot.
- Construction of a building or construct or carry out works to reinstate the pre-existing standard of buildings damaged or destroyed.
- Advertising signs.
- Construction of building(s) or the construction or carrying out of works or subdivision by or on behalf of Manningham City Council that implements infrastructure funded by this Development Contributions Plan.

Note:

This schedule sets out a summary of the costs and contributions prescribed in the development contributions plan. Refer to the incorporated development contributions plan for full details

A copy of the exhibited Doncaster Hill Development Contributions Plan, Manningham City Council, June 2003 and revised Doncaster Hill Development Contributions Plan, Manningham City Council, May 2004 is available for viewing at the Doncaster Hill website <http://www.doncasterhill.com>

The Doncaster Hill Development Contributions Plan (exhibited and revised version) can also be viewed at the Manningham City Council Offices, 699 Doncaster Road, Doncaster.

CHANGES TO THE (exhibited) DONCASTER HILL DEVELOPMENT CONTRIBUTIONS PLAN

Part 1 under the heading Introduction, the amount of funds to be spent on infrastructure and the amount to be collected from developers and contributed by Council has been clarified.

- Part 2.1 editorial changes in first paragraph.
- Part 2.4 editorial changes to last paragraph.
- Part 3.0 editorial changes to last paragraph.
- Part 3.2 editorial change to first paragraph.
- Part 5 paragraph 3 amendment to the area of floor space from 97,771 sqm to 85,025 sqm.
- Table 1 Summary of infrastructure projects – amendments to the headings of columns for adding clarity.
- Table 1 Addition of footnote for explanations for clarity.
- Table 1 Restatement of Social Infrastructure category projects.
- Part 6.4 second paragraph deleted as unnecessary and confusing.
- Part 7.1 editorial changes.
- Table 3 Correction of contribution rates arising from major arithmetic error in Appendix 4.
- Part 8.4 last paragraph editorial change to interest rate by reference to "real" interest rate.
- Appendix 1 table. Year 11. Correction of errors (inconsequential).
- Appendix 2 table. Year 11. Correction of errors (inconsequential).
- Appendix 4. Correction of major error identified at panel hearing. External Funding allowance deleted in most cases. Flow on arithmetic changes made.

END

C. DRAFT RESPONSE TO QUESTIONS ON NOTICE

Doncaster Hill Development Contributions Plan

Draft Response to Questions on Notice

Manningham City Council

September 2004

This Report has been prepared on behalf of:



This report has been prepared by:
SGS Economics and Planning Pty. Ltd.

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1 Question Responses

1.1 Item 1

“In relation to the exhibited document (i.e. the document which was exhibited as part of C30:

- a. Was the document prepared on the basis of present value or nominal value?***
- b. Was GST included or excluded?”***

The calculation of infrastructure charges in the Doncaster Hill DCP (the DCP) involves *nominal value inputs* and *present value outputs*. All infrastructure charges set out within the DCP are expressed in present value terms, that is, they are the product of a calculation which involves dividing the present value of the attributable project costs by the present value of the existing and projected demand units (equivalent dwellings) in the Main Catchment Area (MCA) of each respective project.

As shown in Appendix 4 to both the June 2003 and April 2004 DCP Reports, for the purposes of calculating infrastructure charges the GST has been added to the cost of projects included in both DCP's. Accordingly, **GST is reflected in the calculation of all infrastructure charges in both DCP's**. However, in terms of the *presentation* of cost estimates in the main body of each DCP Report (i.e. the figures on Page 1, as well as the estimated cost figures in Table 1, pp 15 – 19), the June 2003 report presented all cost estimates as exclusive of GST, whilst the April 2004 report presents all cost estimates as inclusive of GST. As both documents included GST in the infrastructure charge calculation, the amendment was made for the sake of consistency.

A summary discussion of the *application* of present and nominal values in the DCP is provided below. Tables 2 – 6 then clarify the *presentation* of these values, including the presentation of figures as either GST inclusive or exclusive, as found in various sections of the June 2003 and April 2004 DCP Reports and Schedules.

The application of present values and nominal values in the Doncaster Hill DCP

All nominal inputs in the both the revised and originally exhibited DCP's are based on 2003 dollars (being the time at which the DCP was prepared). These inputs include:

- The estimated total capital cost of each project;
- Any consultancy fees attached to each project;
- The amount of external funding being received for each project; and
- Appropriate discounts for project expenditure that cannot be attributed to the DCP area (all discounts are expressed as a percentage).

Using the abovementioned inputs, the total *attributable* cost of each infrastructure project is determined. This value is labelled “Cost Attributable to MCA”¹ and represents the proportion of the total cost of an infrastructure item that may be attributed to the usage emanating from *within* the projects the MCA. The remaining expenditure requirement must be met via some other funding means, such as general rate revenue for example.

Using the Doncaster Shoppingtown Library project as an example, Table 1 illustrates the nominal inputs required for each infrastructure project in the DCP, culminating in the determination of the Cost Attributable to the MCA. The process of calculating an infrastructure charge then requires a discounted cash flow analysis in order to determine the *present value* of the Cost Attributable to the MCA, as well as the *present value* of the stream of existing and projected demand units (equivalent dwellings). As described initially, calculating an infrastructure charge then involves dividing the former value by the latter.

In short, the discounted cash flow analysis accounts for the fact that some projects included in the DCP will proceed before all contributions for that project have been received. In these situations, Council will need to draw on alternative funding sources in order to provide the projects ‘up front.’ The notional finance costs associated with delivering the projects ahead of the receipt of contributions must be accounted for.

Conversely, for other projects, Council is collecting contributions *ahead* of the scheduled delivery period. In this scenario, Council will accrue interest on the contributions that it collects in advance and is able to ‘hold’ onto until delivering the project. The notional interest gain attached to this holding period must also be accounted for.

To ensure that Council collects enough funds to meet both the Cost Attributable to the MCA *and* its net interest costs, the basic calculation (i.e. Cost Attributable to the MCA divided by the total number of demand units in the MCA) has been modified so that both the Cost Attributable to the MCA and the anticipated stream of demand units are expressed in present value terms, using a discount rate of 6% (real). The aim of the analysis is to set infrastructure charges so that the Cost Attributable to the MCA, *including finance costs* is directly met. This premise means that, to the fullest extent possible, infrastructure charges levied in the DCP will not result in attributable funding shortfalls or surpluses. This method is sanctioned by the DCP Guidelines.

On this basis, for each project, Council’s total cash inflow (i.e. collected infrastructure charges) would exactly match the Cost Attributable to the MCA, were it not for the fact that existing development cannot be levied with an infrastructure charge. If all projected *and* existing development were levied with an infrastructure charge, the sum of all discounted cash inflow and attributable expenditure values set out under the DCP would be zero.

Appendix 4 in the DCP report sets out this cash flow analysis for each project in the DCP. Drawing on the Doncaster Shoppingtown Library example again, Figure 1 illustrates the application of the analysis and the determination of a present value infrastructure charge.

¹ For all projects in the DCP, the MCA was deemed to be the whole Doncaster Hill DCP Area.

It should also be noted that the discounted cash flow analysis accounts for the time value of money in relation to finance costs specifically. The analysis does not directly account for the fact that the cost of delivering an infrastructure item may change over time, due to inflation for example. Indeed, Council have provided nominal expenditure estimates – in 2003 dollars – for projects that will not be delivered until well into the future. When the time comes to deliver these projects, the required expenditure will almost certainly be different from that which was estimated in 2003.

To account for price inflation, as opposed to the time value or opportunity cost of money, the Victorian DCP guidelines state that infrastructure levies set out under a DCP should be adjusted according to a specified index on an annual basis. This is usually done at the beginning of each financial year within the time horizon of the DCP.

As stated on page 28 of the April 2004 DCP, Council proposes to adjust infrastructure charges at June 30 each year in accordance with the annual change in the Consumer Price Index.

Upon incorporating the DCP into the Planning Scheme, Council will immediately adjust infrastructure charges to account for the years elapsed since 2003.

Table1 Example of Nominal Project Inputs in the Doncaster Hill DCP

Project CI_CR001, Doncaster Shoppingtown Library		
<i>Nominal Input</i>	<i>Value</i>	<i>Description</i>
Estimated Total Capital Cost	\$800,000.00	This is the total capital cost of the project in nominal (i.e. 2003) dollars.
Consultancy Fee	\$0.00	This is the value of any consultancy fees that are applicable to the project in nominal (i.e. 2003) dollars. Consultancy fees, which might include items such as design and engineering fees, could alternatively be treated as part of the capital cost of a project and included as part of that input.
Substantive Cost	\$800,000.00	The Substantive Cost equals the Total Capital Cost <i>plus</i> the Consultancy Fee, as inputted above.
External Funding	\$0.00	This is the nominal quantum of funding being contributed to the project from an external source. Council may be receiving a grant for the project, or a charitable donation for example.
Net Substantive Cost	\$800,000.00	The Net Substantive Cost is the Substantive Cost <i>minus</i> the amount of External Funding.
Total Cost (inc GST @ 10%)	\$880,000.00	The Total Cost is the Net Substantive Cost, either with or without the application of GST. In both the June 2003 and April 2004 DCP's, the GST was applied to all projects.
Timing	2015 To 2016	This is the period over which the infrastructure item will be delivered.
Discount for Usage from Outside MCA	70.0%	This is the proportion of use that will be generated by development located outside of the project MCA.

Discount Beyond ICP Horizon	0.0%	This is the proportion of use generated by future development expected beyond the timeframe of the DCP, either from within or outside of the MCA.
Other Use Demand	2.0%	This is the proportion of use generated by future development types that is not able to be specified in advance. Such development may be located either within or outside of the MCA.
Cost Attributable to MCA	\$246,400.00	This is the Total Cost minus the three discount variables listed directly above. The Cost Attributable to the MCA forms the basis of the calculation of the infrastructure charge for each project.

Figure 1 Example of Cash Flow and Charging Analysis, Doncaster Hill DCP

Project	CI_CR001	Doncaster Shoppingtown Library												
Estimated Total Capital Cost	\$800,000.00													
Consultancy Fee	\$0.00													
Substantive Cost	\$800,000.00													
External Funding	\$0.00													
Net Substantive Cost	\$800,000.00													
Total Cost (inc GST @ 10%)	\$880,000.00													
Timing	2015 To 2016													
Main Catchment Area (MCA)	Doncaster Hill Activity Centre													
Discount for Usage from Outside MCA	70.0%													
Discount Beyond ICP Horizon	0.0%													
Other Use Demand	2.0%													
Cost Attributable to MCA	\$246,400.00													
Cash Flow	Present Value	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total		
Demand Units	2,374	200	200	200	200	200	200	200	200	200	200	200		
Expenditure Attributable to MCA	\$105,899	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
Total Expenditure	\$378,209	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
Cash Inflow	\$93,906	\$0.00	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88		
Net Cash Flow	\$2,012	\$2,013.00	\$2,014.00	\$2,015.00	\$2,016.00	\$2,017.00	\$2,018.00	\$2,019.00	\$2,020.00	\$2,021.00	\$0.00	\$0.00		
		2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	4,005		
		200	200	200	200	200	200	200	200	200	200	200		
		\$0.00	\$0.00	\$0.00	\$123,200.00	\$123,200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
		\$0.00	\$0.00	\$0.00	\$440,000.00	\$440,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
		\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88	\$8,920.88		
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
												\$710,503		
Discount Rate	6.0%													
Infrastructure Charge With Application of Present Value Discounting														
Total Demand Units	2,374													
Total Attributable Expenditure	\$105,899													
Infrastructure Charge Per Demand Unit	\$44.60													

Nominal project inputs, as described in Table 1.

The Total Cost of the project must be appropriately discounted in order to determine the cost that is attributable to the MCA, in nominal terms.

The discounted cash flow analysis determines the present value of:

- The stream of demand units (i.e. the stream of existing and anticipated development);
- The stream of expenditure required to deliver the project;
- The stream of expenditure that is attributable to the MCA; and
- the stream of collected infrastructure charges (i.e. cash inflow).

Councils net cash flow position is therefore determined in present value terms.

The present value infrastructure Charge is determined by dividing the present value of the Total Expenditure Attributable to the MCA, by the present value of the stream of demand units.

The Presentation of Figures in the Originally Exhibited DCP Report

The following table provides clarification regarding the presentation of nominal and present value figures, as shown in the Doncaster Hill Development Contributions Plan, Manningham City Council, June 2003 (the originally exhibited report). Clarification is also provided with regard to the application of GST, as per Part B of Question 1.

Table 2 Explanation of figures presented in the June 2003 DCP

Page	Reference	Extract	Description
1	Introduction, paragraph 3.	"The remaining works of approximately \$29.6 million will be funded through the use of a Development Contribution Plan prepared under Part 3(b) of the Planning and Environment Act 1987".	This figure is a nominal, i.e. 2003 dollar estimate. This figure is exclusive of GST.
15 - 19	Table 1, Summary of Infrastructure Projects	Column 1 – "Estimated Cost" Column 3 – "Estimated Cost attributable to Doncaster Hill DCP"	All figures presented in Table 1 are nominal, i.e. 2003 dollar estimates. All figures in Table 1 are exclusive of GST.
26	Table 3 – Infrastructure Charges by Analysis Area	All charge columns.	All infrastructure charges presented in Table 3 are the product of the present value calculations described previously. All infrastructure charges presented in Table 3 are <i>inclusive</i> of GST.
86	Appendix 4 – Cash Flow and Charging Details, All Projects.	All schedules included in appendix 4.	As per the description provided in Figure 1, all schedules in Appendix 4 provide an overview of nominal project inputs, the discounted cash flow analysis, and the calculated present value infrastructure charge for the respective project.

The Presentation of Figures in the Originally Exhibited DCP Schedule

The following table provides clarification regarding the presentation of nominal and present value figures, as shown in Schedule 1 to the Development Contributions Plan Overlay, Doncaster Hill Development Contributions Plan (the originally exhibited Schedule). Clarification is also provided with regard to the application of GST, as per Part B of Question 1.

Table 3 Explanation of figures presented in the Schedule 1 to the June 2003 DCP

Item	Reference	Extract	Description
2.0	Summary of Costs	Column 1 – "Total Cost" Column 3 – Actual cost contribution attributable to development	All figures presented in the Summary of Costs Table are nominal, i.e. 2003 dollar estimates. All figures presented in the Summary of Costs Table are exclusive of GST.
3.0	Summary of Contributions	All infrastructure columns.	All figures presented in the Summary of Contributions Table are present values. All figures presented in the Summary of Contributions Table are <i>inclusive</i> of GST.

1.2 Item 2

"In relation to the amended documents (i.e. the document which was formally exhibited after the original arithmetic error was discovered):

- a. Was the document prepared on the basis of present value or nominal value?***
- b. Was GST included or excluded?"***

The method of calculating infrastructure charges does not differ between the two documents, nor does the application or presentation of nominal (2003 dollar) inputs and present value outputs. The discussion of nominal and present values provided previously is directly relevant to the April 2004 Doncaster Hill DCP.

With regard to the GST specifically, the April 2004 DCP was amended to make the presentation of figures consistent across the whole document. In summary, the June 2003 report presented all *expenditure* figures as exclusive of GST, and all *contribution* figures as inclusive of GST. The April 2004 DCP presents *all* figures as inclusive of GST.

It should also be noted that Council are in the process of obtaining definitive advice regarding the application of GST to Development Contributions in Victoria. To date, the methodology of

calculating infrastructure charges has included the application of GST to all project expenditure inputs and, as such, all infrastructure charges set out by the DCP are inclusive of GST. This methodology was applied to both the June 2003 and April 2004 DCP's. It is also the methodology that has been applied to various DCP's in other Victorian municipalities.

However, Council has recently been advised that infrastructure charges levied in the State of Victoria were made exempt from GST by Determination No. 2 (2003) (Exempt Taxes Fees and Charges) under section 81-85 of the *New Tax System (Goods and Services Tax) Act 1999*.

Unfortunately, the specific application of this exemption has not been made clear by the determination. Council is seeking further advice from the Commonwealth in the form of a private binding determination. If it is determined that the GST should be removed from all project expenditure inputs, the DCP will be appropriately amended. **This amendment will result in the removal of GST from the calculation of infrastructure charges, as well as from all figures presented in the DCP report.**

The Presentation of Figures in the Amended DCP Report

The following table provides clarification regarding the presentation of nominal and present value figures, as shown in the Doncaster Hill Development Contributions Plan, Manningham City Council, April 2004 (the amended DCP report).

Table 4 Explanation of figures presented in the April 2004 DCP

Page	Reference	Extract	Description
1	Introduction, paragraph 3.	"The remaining works of approximately \$32.5 million will be funded through the use of a Development Contribution Plan prepared under Part 3(b) of the Planning and Environment Act 1987".	This figure is a nominal, i.e. 2003 dollar estimate. This figure is inclusive of GST. This figure has the same base as that presented in the originally exhibited document, however the GST has been included.
15 - 19	Table 1, Summary of Infrastructure Projects	Column 1 – "Total Cost"	All Total Cost figures are nominal, i.e. 2003 dollar estimates. All Total Cost figures are inclusive of GST. All Total Cost figures have the same base as those presented in the originally exhibited document (see table 2), however the GST has been included.

15-19	Table 1, Summary of Infrastructure Projects	Column 3 – “Estimated Minimum Contribution Received via Doncaster Hill DCP”	<p>This is a new column which had no equivalent in the June 2003 DCP. It was included in response to comments made by the Panel.</p> <p>The purpose of the column is to show the estimated <i>minimum</i> funding contribution that Council will receive towards the cost of each project, based on the infrastructure charges set out in the DCP.</p> <p>The minimum contribution figures reflect the sum of the respective infrastructure charge payable by all new development forecast to take place within the DCP area.</p> <p>The figures are <i>minimal estimates</i> because they reflect the contributions received from new development only. There is no allowance for contributions that may be received from existing demand units that are <i>redeveloped</i> over the life of the DCP.</p> <p>These are nominal figures, inclusive of GST.</p>
15-19	Table 1, Summary of Infrastructure Projects	Column 4 – “Balance of Total Project Cost”	<p>This is a new column which had no equivalent in the June 2003 DCP. The purpose of the column is to show the estimated minimum ‘funding gap’, which Council will need to make up in order to deliver the respective infrastructure item.</p> <p>The figures in this column are calculated by subtracting the figure in column three (minimum DCP contribution) from the figure in column 1 (total project cost).</p> <p>These are nominal figures, inclusive of GST.</p>

26	Table 3 – Infrastructure Charges by Analysis Area	All charge columns.	<p>All infrastructure charges presented in Table 3 are present values.</p> <p>All infrastructure charges presented in Table 3 are <i>inclusive</i> of GST.</p> <p>There is no difference between the June 2003 and April 2004 DCP's with regards to the presentation of figures in Table 3.</p> <p>Variances between the two documents arise only from the correction of the arithmetic error contained in the June 2003 DCP.</p>
86	Appendix 4 – Cash Flow and Charging Details, All Projects.	All schedules included in appendix 4.	<p>As per the description provided in Figure 1, all schedules in Appendix 4 provide an overview of nominal project inputs, the discounted cash flow analysis, and the calculated present value infrastructure charge for the respective project.</p> <p>There is no difference between the June 2003 and April 2004 DCP's with regards to the presentation of figures in Appendix 4.</p> <p>Variances between the two documents arise only from the correction of the arithmetic error contained in the June 2003 DCP.</p>

The Presentation of Figures in the Amended DCP Schedule

The following table provides clarification regarding the presentation of nominal and present value figures, as shown in Schedule 1 to the Development Contributions Plan Overlay, Doncaster Hill Development Contributions Plan, April 2004 (the amended Schedule).

Table 5 Explanation of figures presented in the Schedule 1 to the April 2004 DCP

Item	Reference	Extract	Description
2.0	Summary of Costs	<p>Column 1 – “Total Cost”</p> <p>Column 3 – Actual cost contribution attributable to development</p>	<p>All figures presented in the Summary of Costs Table are nominal, i.e. 2003 dollar estimates.</p> <p>All figures presented in the Summary of Costs Table are inclusive of GST.</p> <p>The figures in the April 2004 DCP only differ from those in the June 2003 DCP because GST has been included.</p>
3.0	Summary of Contributions	All infrastructure columns.	<p>All figures presented in the Summary of Contributions Table are present values.</p> <p>All figures presented in the Summary of Contributions Table are <i>inclusive</i> of GST.</p> <p>Variances between the two documents arise only from the correction of the arithmetic error contained in the June 2003 DCP.</p>

Based on the response provided to questions 1 and 2, a summary of the differences between the June 2003 and April 2004 DCP Reports and Schedules is provided in Tables 6 and 7 overleaf.

Table 6 Summary of variances in the presentation of figures, June 2003 and April 2004 DCP Reports

Variance No.	June 2003 DCP		April 2004 DCP		Description of Difference
	Reference	Extract	Reference	Extract	
1	Introduction, pg. 1, para. 3	"The remaining works of approximately \$29.6 million... "	Introduction, pg. 1, para. 3	"The remaining works of approximately \$32.5 million... "	In both reports, this figure represents the total cost of all infrastructure projects included in the DCP. In the April 2004 report, the figure has been expressed as inclusive of GST. In the June 2003 report, the figure was expressed as exclusive of GST. This amendment was adopted for the sake of consistency in the presentation of all figures as GST inclusive. There is no other difference between the two figures.
2	Table 1, Summary of Infrastructure Projects, pp. 15-19	Column 1 – "Estimated Cost"	Table 1, Summary of Infrastructure Projects, pp. 15-19	Column 1 - "Total Cost..."	<p>In both reports, the figures in this column reflect the total estimated capital cost of each infrastructure project in the DCP. In each report, the figures are nominal (2003) dollar estimates.</p> <p>The June 2003 report presented the total capital cost as exclusive of GST. The April 2004 report presents the total capital cost as inclusive of GST. This amendment was adopted for the sake of consistency in the presentation of figures as GST inclusive.</p> <p>There are no other differences between the two reports in terms of the presentation of the total capital cost of each infrastructure project.</p>
3	Table 1, Summary of Infrastructure Projects, pp. 15-19	Column 3 – "Estimated Cost attributable to Doncaster Hill DCP (\$)"	N/A (This column was not included in the April 2004 DCP)	N/A	<p>Figures in this column are nominal (2003) dollar estimates. The figures are exclusive of GST.</p> <p>This column was not shown in the April 2004 DCP because it was deemed to be open to misinterpretation. The column does not reflect the actual minimum funding contribution that Council may receive towards the cost of each project as a result of the infrastructure charges set out by the DCP. Rather, the figures reflect the total cost of each project that is attributable to both existing and new development in the MCA of the respective project. Council will only collect contributions from new development and re-development however.</p>

4	N/A (This column was not included in the June 2003 DCP)	N/A. (This column was not included in the June 2003 DCP)	Table 1, Summary of Infrastructure Projects, pp. 15-19	Column 3 – “Estimated Minimum Contribution Received via Doncaster Hill DCP...”	<p>Figures in this column are nominal (2003) dollar estimates. The figures are inclusive of GST.</p> <p>In light of the concerns expressed by Panel regarding the nature of figures presented in the June 2003 DCP within the column labelled “Estimated Cost attributable to Doncaster Hill DCP” (described above), the April 2004 DCP deleted that column and replaced it with this new column. The figures in this column reflect the estimated minimum funding contribution that Council will receive towards the cost of each project, based on the infrastructure charges set out in the DCP. As noted previously, the estimates are minimal in that they do not allow for contributions that may be received as a result of the <i>redevelopment</i> of existing demand units.</p>
5	N/A (This column was not included in the June 2003 DCP)	N/A. (This column was not included in the April 2004 DCP)	Table 1, Summary of Infrastructure Projects, pp. 15-19	Column 4 – “Balance of Total Project Cost”	<p>These are nominal figures, inclusive of GST.</p> <p>This column had no equivalent in the June 2003 report. The column was added to the April 2004 report to supplement the column titled “Estimated Minimum Contribution Received via Doncaster Hill DCP...” (as described above). Figures in the column represent the estimated <i>maximum</i> ‘funding gap’, which Council will need to make up in order to deliver the respective infrastructure item.</p>
6	Table 3 – Infrastructure Charges by Analysis Area, p. 26.	All charge columns.	Table 3 – Infrastructure Charges by Analysis Area, p.26.	All charge columns.	<p>In both reports, all charges presented in Table 3 are present values, inclusive of GST.</p> <p>Variances between the two documents arise only from the correction of the arithmetic error contained in the June 2003 DCP.</p>
7	Appendix 4 – Cash Flow and Charging Details, All Projects.	All individual schedules included in Appendix 4.	Appendix 4 – Cash Flow and Charging Details, All Projects.	All individual schedules included in Appendix 4.	<p>These schedules provide an overview of the nominal inputs for each project, as well as the application of a discounted cash flow analysis and determination of present value infrastructure charges. In both documents, all nominal inputs are 2003 estimates.</p> <p>Variances between the two documents arise only from the correction of the arithmetic error contained in the June 2003 DCP.</p>

Table 7 Summary of variances in the presentation of figures, June 2003 and April 2004 DCP Schedule's

Variance No.	June 2003 Schedule		April 2004 Schedule		Description of Difference
	Reference	Extract	Reference	Extract	
8	Item 2.0, Summary of Costs.	Column 1 – "Total Cost" Column 3 – "Actual cost contribution attributable to development"	Item 2.0, Summary of Costs.	Column 1 – "Total Cost" Column 3 – "Actual cost contribution attributable to development"	<p>In both reports, all figures are nominal (2003) dollar estimates.</p> <p>The June 2003 Schedule presented the figures as exclusive of GST. The April 2004 Schedule presents the figures as inclusive of GST.</p> <p>There are no other differences between the two sets of figures.</p> <p>This amendment was adopted for the sake of consistency in the presentation of figures as GST inclusive.</p>
9	Item 3.0, Summary of Contributions	All infrastructure columns.	Item 3.0, Summary of Contributions	All infrastructure columns.	<p>In both reports, all figures are present value aggregates, inclusive of GST.</p> <p>Variances between the two documents arise only from the correction of the arithmetic error contained in the June 2003 DCP.</p>

1.3 Item 3

Panel would like a new Summary of Contributions Table that does not include GST. The Table should be prepared using the same values (i.e. present or nominal) that were previously used.

A new Summary of Contributions Table is provided as Attachment 1. The table is exactly the same in methodology and format as that provided as part of Schedule 1 to the April 2003 DCP, however the GST has been removed from all values.

Table 8 below summarises the impact of removing the GST from the calculation of infrastructure charges (and hence from the summary of Contributions Table).

Table 8 Infrastructure Charges by Category, Including and Excluding the GST

Infrastructure Category	Charge per demand unit inc. GST	Charge per demand unit exc. GST	Difference
Community Infrastructure: Social	\$1,406.29	\$1,278.44	-\$127.85
<i>Community Infrastructure: Social (w. \$450 cap)</i>	<i>\$450</i>	<i>\$450</i>	<i>\$0.00</i>
Development Infrastructure: Public Art	\$174.90	\$159.00	-\$15.90
Development Infrastructure: Social	\$422.53	\$384.12	-\$38.41
Development Infrastructure: Streetscapes	\$367.66	\$334.24	-\$33.42
Development Infrastructure: Transport Infrastructure	\$398.26	\$362.05	-\$36.21
Total (without cap on Community Infrastructure)	\$2,769.64	\$2,517.85	-\$251.79
Total (with cap on Community Infrastructure)	\$1,813.35	\$1,689.41	-\$123.94

1.4 Item 4

“In relation to the new document “Summary of Costs”, that was the subject of re-exhibition:

- a. Where does the figure in the ‘Total Costs’ column come from and how do you get to that figure?***
- b. Provide details of community infrastructure with cap and without cap”.***

The ‘Total Costs’ column in the Summary of Costs Table (Item 2.0 in Schedule 1 to the April 2004 DCP) shows the aggregated total capital cost of all infrastructure projects in each infrastructure category in the DCP. The aggregated total capital cost of all infrastructure projects in all infrastructure categories is also shown (\$32,547,783).

For example, the total capital cost of all infrastructure projects in the Development Infrastructure (*Transport*) category is \$6,995,428, as shown in the first row of the table. Similarly, the total capital cost of all infrastructure projects in the Development Infrastructure (*Streetscape*) category is \$7,303,355, as shown in the second row of the Table.

The total cost in each category is determined by summing the total cost of each individual project in that category (for example, the total cost for Transport Infrastructure equals the sum of the total capital cost of all Transport Infrastructure projects in the DCP). Figure 2 below provides an example of this calculation for Public Art infrastructure.

In the April 2004 Schedule, all figures presented in the Summary of Costs Table are GST inclusive. Conversely, in the June 2003 Schedule, the figures were shown without GST. The change was made for the sake of consistency in presenting all figures as inclusive of GST.

Figure 2 Example calculation of 'Total Cost' per Infrastructure Category

Public Art Infrastructure						
Project Name	Total Cost Including GST (\$) (Nominal)	Facility	Total cost	Time of provision	Actual cost contribution attributable to development	Proportion of cost attributable to development
Doncaster Road Underpass Wall Treatment and Lighting	\$330,000	Transport	\$6,995,428	Refer to Development Contributions Plan	\$5,450,317	78%
West Doncaster Boulevard	\$440,000					
Doncaster Williamsons Tram Roads Iconic Pedestrian Sculpture	\$3,300,000					
Public Art Feature Fencing Part of Doncaster Primary School Frontage Upgrade	\$187,000					
Total Public Art Infrastructure	\$4,257,000					
		Streetscape	\$7,303,355	Refer to Development Contributions Plan	\$5,112,349	70%
		Public Art	\$4,257,000	Refer to Development Contributions Plan	\$2,979,900	70%
		Development infrastructure social	\$2,882,000	Refer to Development Contributions Plan	\$2,017,400	70%
		Community infrastructure social	\$11,110,000	Refer to Development Contributions Plan	\$6,380,000	57%
		TOTAL	\$32,547,783		\$21,939,966	67%



In relation to part B of Question 4, it should be noted that the *Total Cost* attached to Community Infrastructure items in the DCP is *unaffected* by the current cap on community infrastructure *contributions*. By including the nominated Community Infrastructure items in the DCP, Council has committed to providing those items, regardless of whether or not the cap is in place. As described above, the 'Total Costs' column in the Summary of Costs Table shows the aggregated total capital cost of all community infrastructure projects in the DCP. This is the total expenditure required to deliver these items.

The principal effect of the cap on community infrastructure charges is to artificially limit the quantum of contributions which Council will receive towards the cost of delivering the nominated Community Infrastructure items. As shown in Table 1, Summary of Infrastructure Projects, page 19 of the April 2004 DCP, Council is expected to collect approximately \$1.8m towards the total cost of all Community Infrastructure items included in the DCP (\$11.1m). If the cap were removed, the estimated minimum contribution would rise to some \$5.3m, as shown in the table.

1.5 Item 5

"The panel would like an explanation in the amended DCP (the incorporated document) that explains Schedule 1, Summary of Costs Part 2. I.e., the DCP should explain why the Summary of costs document in Schedule 1 is different to the table in the DCP..."

As described above, a principal role of the Summary of Costs Table (Item 2.0 in Schedule 1 to the April 2004 DCP) is to show the aggregated total capital cost of all infrastructure projects in each infrastructure category included in the DCP. The values in the column labelled 'Total cost' represent the expenditure required to deliver the suite of infrastructure items in each infrastructure category.

Column 4 in the table is labelled 'Actual cost contribution attributable to development'. This column presents the total cost of all infrastructure items in each infrastructure category *that is attributable to the demand generated by both existing and new development within the area covered by DCP01 only*. In other words, the figures in this column represent the sum of the 'Cost Attributable to the MCA' for each infrastructure project in each respective category.

Despite the inferences of the heading – in particular the phrase "**contribution** attributable to development", the figures presented in Column 4 of the Summary of Costs Table are not necessarily reflective of the actual funding contribution that Council may recover as a result of the infrastructure charges set out under the DCP. If it were possible to levy *both existing and new* development with an infrastructure charge, the figures in column 4 would in fact represent the estimated minimum funding contribution expected (i.e. for each project the Cost attributable to the MCA would be fully recovered). However, it is not possible to levy existing development with an infrastructure charge, or to assume that *all* existing demand units in the DCP area will be redeveloped and thus rendered liable to development contributions. The total contributions received by Council will be cognisant of those collected from net new demand units only.

Consequently, it may be argued that there is potential for individuals to miss-interpret the figures presented in Column 4 as being representative of the funding contribution that may be gained via

the DCP. However, the column is a required component of the prescribed DCP Schedule - it cannot be altered at this time.

With this potential for confusion in mind, Table 1 (Summary of Infrastructure Projects) in the April 2004 DCP Report adopts a different approach to the presentation of aggregated cost and contribution information. This table includes the same 'Total Cost' column as that presented in the Schedule, however the 'Actual cost contribution attributable to development' column has been omitted. In its place, Table 1 includes a column titled 'Estimated Minimum Contribution Received via Doncaster Hill DCP'. This column presents the estimated *minimum* quantum of funds that Council will collect towards the cost of each project, based on the anticipated stream of new development in the DCP area paying the relevant infrastructure charge. The quantum of collected contributions may in fact be higher, given that a certain proportion of existing development in the DCP area will be redeveloped over time, thus becoming liable development contributions.

By presenting the 'real anticipatable' contribution and cost estimates, for each project the amended DCP Report *explicitly* defines the total expenditure requirement, the total estimated minimum quantum of contributions secured by the DCP, and the resulting maximum funding gap that will need to be made up via other funding options.

In summary then, the difference between the Tables is that the Schedule effectively presents the total contribution that would be received if all new and existing development were levied with an infrastructure charge (i.e. the maximum cost attributable to all development in the DCP area), whilst the Report table presents a *lower* bound estimate of the actual contribution that will be received from the anticipated stream of new development in the DCP area, as documented in the DCP. Whilst the schedule does not directly state that the 'Cost Attributable' column is reflective of contributions (given that the column sits within a 'Summary of Costs' table, not a 'Summary of Contributions' table), the wording of the Column 4 heading can invoke miss-interpretation. The DCP report sets out to mitigate this potential for confusion.

In response to the Panel's comments, Council proposes to revise the footnote on page 16 of the amended DCP Report. The footnote will now read:

"The figures presented in this column reflect the estimated *minimum* funding contribution that will be received towards the total cost of each infrastructure project in the DCP. The figures are based on all anticipated *new* development within the DCP area paying the nominated infrastructure charges, as set out in the DCP. The figures *do not* include contributions that may be received from the *redevelopment* of existing demand units in the DCP area. It is not possible to accurately forecast the rate of redevelopment in the DCP area, hence the figures are a minimal estimate only. For an estimation of the funding contribution that is attributable to *all existing and new development* in the DCP area, Table 2.0 in Schedule 1 to the DCP should be consulted".

1.6 Item 6

The Panel would like Council's definitions of "Present Value", "Nominal" and "Constant" used in the summary Table that was presented in the letter dated 10 May 2004 and addressed to the owner occupier (Table 9 overleaf). What should the reader infer is the

heading in the cell containing a question mark? Is it present value, nominal or constant, or something else?

In order to make a clear comparison of the financial consequences of the various errors and the corrections of these errors, the Panel would appreciate it if Council could provide an updated Table. You will recall the Panel's comments on the need for such figures to clarify the situation, which were made verbally at the Directions Hearing.

Table 9 Explanation of DCP amendments, as presented in Council's Re-exhibition Letter

		DCP AS EXHIBITED 24 JULY '03 (Excluding GST)	MAJOR CORRECTION OF EXTERNAL FUNDING ERROR (Including GST)	
			Present Value	Nominal
		?		
Total Project Expenditure	Constant	\$29,588,894	\$19,066,581	\$32,547,783
Total Value of Developer Contributions received via DH DCP	With cap	\$17,545,424	\$6,236,316	\$11,256,327
	Without Cap	\$19,945,424	\$8,249,590	\$14,890,213
Amount to be funded by Council	With cap	\$12,043,470	\$12,830,265	\$21,291,456
	Without Cap	\$9,643,470	\$10,816,991	\$17,657,570

Before addressing Panels questions in relation to Table 9, it is necessary no note that the figures highlighted in yellow may overestimate the "Total Value of Developer Contributions received via the Doncaster Hill DCP", and subsequently underestimate the "Amount to be funded by Council", as suggested by the row titles.

The June 2003 Report did not, in any place, present an estimate of the total value of contributions secured by the DCP. Nor did it present an estimate of the resulting funding gap that would need to be made up by Council. In other words, the figures highlighted in yellow had not previously been made public. They had, rather, been calculated internally by Council and used for accounting purposes - specifically as an estimate of the total cash inflow (i.e. collected contributions) generated by the DCP, as well as the resulting funding gap commitment.

Council had based the cash inflow estimate (i.e. the total value of contributions received) on the cost attributable to *all* development – both existing and new – in the DCP area. As Council can only actually collect contributions from net new demand units (i.e. new redevelopment and redevelopment of existing demand units), the estimate of total cash inflow may be artificially inflated. Correspondingly, the estimation of the funding gap commitment may be artificially reduced.

Responses to Item 6

The definition of present and nominal values in the DCP has been described under Question 1 in this document. This definition applies to all values set out in the table included in the public letter (reproduced as Table 9 above).

The word "Constant" in the row titled "Total Project Expenditure" refers to the fact that there are no 'with cap' or 'without cap' variations of these figures. The total project expenditure requirement is unaffected by the \$450 cap on Community Infrastructure contributions.

Although the figures highlighted in yellow in column one of Table 9 may overestimate the level of development contributions received, they are all nominal (2003) dollar estimates.

Table 10 provides a clarified financial comparison of the two DCP iterations. It is recommended that this table be used for all future analyses of total expenditure and contribution estimates.

Table 10 Summary Financial Comparison, June 2003 and April 2004 DCP's.

		June 2003 DCP (GST Exclusive)		June 2003 DCP (GST Inclusive)		April 2004 DCP (GST Exclusive)		April 2004 DCP (GST Inclusive)	
		Present Value	Nominal	Present Value	Nominal	Present Value	Nominal	Present Value	Nominal
Total Project Expenditure	Constant	\$17,333,255	\$29,588,894	\$19,066,581	\$32,547,783	\$17,333,255	\$29,588,894	\$19,066,581	\$32,547,783
Total Value of Developer Contributions received via DCP	With cap	\$4,316,336	\$7,790,833	\$4,747,970	\$8,569,916	\$5,669,378	\$10,233,025	\$6,236,316	\$11,256,327
	Without Cap	\$5,343,171	\$9,644,232	\$5,877,488	\$10,608,655	\$7,499,627	\$13,536,557	\$8,249,590	\$14,890,213
Amount to be funded by Council	With cap	\$13,016,919	\$21,798,061	\$14,318,611	\$23,977,867	\$11,663,877	\$19,355,869	\$12,830,265	\$21,291,456
	Without Cap	\$11,990,085	\$19,944,662	\$13,189,093	\$21,939,128	\$9,833,628	\$16,052,336	\$10,816,991	\$17,657,570

Attachment 1 – Summary of Contributions Table (GST Exclusive).

LEVIES PAYABLE BY THE DEVELOPMENT						
FACILITY	Development Infrastructure		Community infrastructure		All infrastructure	
	Residential	Non-residential	Residential	Non-residential	Residential	Non-residential
<i>Transport</i>	\$362 per dwelling	\$362 per 121m ² commercial floor space, 19m ² of retail floor space	None specified	None specified	\$362 per dwelling	\$362 per 121m ² commercial floor space, 19m ² of retail floor space
<i>Streetscape</i>	\$334 per dwelling	\$334 per 121m ² commercial floor space, 19m ² of retail floor space	None specified	None specified	\$334 per dwelling	\$334 per 121m ² commercial floor space, 19m ² of retail floor space
<i>Public Art</i>	\$159 per dwelling	\$159 per 121m ² commercial floor space, 19m ² of retail floor space	None specified	None specified	\$159 per dwelling	\$159 per 121m ² commercial floor space, 19m ² of retail floor space
<i>Social</i>	\$384 per dwelling	None specified	\$450 per dwelling	None specified	\$834 per dwelling	None specified
<i>Social with community infrastructure cap removed</i>	\$384 per dwelling	None specified	\$1278 per dwelling	None specified	\$1662 per dwelling	None specified
TOTAL	\$1239	\$855	\$450	None specified	\$1689	\$855
TOTAL with community infrastructure cap removed	\$1239	\$855	\$1278	None specified	\$2517	\$855

D STRATEGIC ASSESSMENT GUIDELINES

General Practice Note

STRATEGIC ASSESSMENT GUIDELINES For Planning Scheme Amendments

Updated August 2004

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

This Practice Note outlines the key strategic considerations that must be evaluated by planning authorities to comply with the requirements of Minister's Direction No. 11.

The Strategic Assessment Guidelines should be used in all stages of the amendment process, from the time a planning authority is considering a possible amendment to the planning scheme through to the decision to approve the amendment.

The Strategic Assessment Guidelines should be used by:

- *proponents (including councils) when formulating a proposal*
- *the planning authority when preparing an amendment (in accordance with Minister's Direction No. 11) considering a request to prepare an amendment*
- *any planning panel and advisory committee when considering an amendment*
- *the planning authority when considering the final construction and adoption of an amendment*
- *the Department when considering an amendment submitted to the Minister for approval.*

The detail to which the Strategic Assessment Guidelines are addressed will depend upon the amendment's impact on the planning scheme and the level of strategic justification required to support the amendment.

PRINCIPLES APPLYING TO PLANNING SCHEME AMENDMENTS

Key objectives for Victoria's planning scheme are to:

- make planning more strategic and policy based
- make the reasons for planning policies and requirements and planning decisions more transparent
- ensure planning schemes are clear and useable.

These objectives equally apply to planning schemes amendments.

Make planning more strategic and policy based

The strategic foundation of each scheme is made up of two components – the State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF).

If the strategic focus of new schemes is to be maintained, it is essential that subsequent amendments do not undermine or ignore the planning policy framework in the scheme.

For this reason, an amendment should seek to implement the SPPF and the LPPF of the planning scheme. Any specific proposal should support the policy framework.

Make the reasons for planning policies and requirements and planning decisions more transparent

The strategic directions that have been developed for the State or a municipality should guide the application of appropriate planning tools from the *Victoria Planning Provisions (VPP)*. Section 12A of the *Planning and Environment Act 1987* requires controls on the use and development of land in a planning scheme to relate to the objectives and strategies set out in the Municipal Strategic Statement (MSS) for the municipality. It is therefore important when preparing an amendment to a planning scheme to ensure that there are clear linkages between the MSS and the application of zones, overlays, schedules and policies, and that links to the council's Corporate Plan are apparent.

Ensure planning schemes are clear and useable

The VPP provide clarity and consistency for users of planning schemes through the use of standard planning provisions, which ensure that consistent provisions for various matters are maintained across Victoria.

To ensure planning schemes are clear and useable, a series of Planning Practice Notes has been prepared on the use of the VPP. Planning Practice Notes provide best practice guidance about the use and application of many VPP tools, explanation and guidance about statutory processes and recommended structure and wording of statutory documents.

MATTERS TO BE CONSIDERED

The broad issues to be considered in preparing and assessing an amendment or proposal are:

- Why is an amendment required?
- How does the amendment implement the objectives of planning in Victoria?
- How does the amendment address any environmental effects?
- How does the amendment address any relevant social and economic effects?
- Does the amendment comply with the requirements of any other Minister's Direction applicable to the amendment?
- Does the amendment support or implement the SPPF?
- Does the amendment support or implement the LPPF? If not, how is the LPPF proposed to change?

- Does the amendment make proper use of the VPP?
- What impact will the new Planning provisions have on the resource and administrative costs of the responsible authority?

Planning Panels and Advisory Committees will report on these matters when considering an amendment or proposal. The Department will also address these matters when considering any amendment submitted to the Minister for approval.

In the context of evaluating these matters, the following issues should be addressed. The questions under each strategic consideration are prompts to assist proponents and councils in their response to each strategic consideration. A response to each question is not necessarily warranted, but some level of consideration of the matter is required. If any strategic consideration is not relevant, this should be stated giving the reason why.

1. Why is an amendment required?

Before starting to prepare an amendment, consider whether an amendment is necessary.

- Is an amendment necessary? Are there other ways of achieving the desired outcome? (For example, can the matter be dealt with by other available council mechanisms such as a local law or as a planning permit application?) If so, why is an amendment to the scheme the preferred approach?
- Does the amendment repeat provisions already in the scheme? If so, what additional value will the amendment to the scheme provide?

If the amendment is necessary, explain:

- Why is the amendment required?
- What does the amendment intend to do and what is the desired outcome?
- How does it intend to do it?
- Is it supported by or a result of any strategic study or report?

2. Does the amendment comply with the requirements of the Planning and Environment Act?

Every amendment must meet the requirements of the Act including any Ministerial Directions under Section 7 and Section 12 of the *Planning and Environment Act 1987*.

- Does the amendment implement the objectives of planning in Victoria?
- Does the amendment adequately address environmental effects?
- Does the amendment adequately address the relevant social and economic effects? The normal way of assessing the social and economic effects is to consider whether or not the amendment results in a net community.
- Does the amendment comply with the requirements of the Ministerial Direction on the Form and Content of Planning Schemes?
- Do any other Minister's Directions apply to the amendment? If so, have they been complied with?

- Is the amendment accompanied by all of the information required by a Direction?

3. Does the amendment support or implement the State Planning Policy Framework?

To ensure planning schemes further the objectives of planning in Victoria, planning authorities must take into account and give effect to the general principles and specific policies contained in the SPPF.

- What aspects, if any, of the SPPF are relevant?
- Does the amendment or proposal support or give effect to the SPPF?
- Does the amendment or proposal support or give effect to the relevant adopted State policy?

4. How does the amendment support or implement the Local Planning Policy Framework, and specifically the MSS?

The LPPF sets a local and regional strategic policy context for a municipality. It comprises the MSS and specific local planning policies.

If an amendment or proposal is at odds with the existing policy framework of the planning scheme, then the policy framework itself may require re-assessment. If this leads to the conclusion that the LPPF itself needs amendment, then the implications of the change for the rest of the planning scheme will need to be considered.

It is not necessary to include references to specific proposals in the LPPF. The LPPF does not need to identify every project, but rather sets the policies and strategic objectives against which individual projects will be addressed.

Municipal Strategic Statement

The MSS contains the strategic planning objectives of the council and the strategies employed to achieve them. As such, there should be a clear link between the objectives and outcomes sought by the MSS and the requirements applied in the scheme. When preparing an amendment to the planning scheme, the planning authority must take the MSS into account.

- How does the amendment or proposal seek to implement, support or change the MSS?
- What effect will any change to the MSS have on the rest of the MSS:
- * Is the amendment consistent/inconsistent with strategic directions elsewhere in the MSS?
- * What is the cumulative effect of this amendment and other amendments/proposals on the strategic directions in the MSS?
- Does the change to the MSS address the format, content and language guidance in the VPP Practice Note *Format of Municipal Strategic Statements*?

Local Planning Policy

A Local Planning Policy is one of the tools available for implementing objectives and strategies in the MSS. A local planning policy is a tool for day-to-day decision making in

relation to a specific discretion in the planning scheme. It helps the responsible authority and other users of the scheme to understand how a particular discretion is likely to be exercised. When preparing amendments to the scheme, a planning authority must take the content of relevant local planning policies into account.

- What local planning policies affect the amendment or proposal?
- If the amendment introduces or changes a local planning policy, is this necessary? Or is the issue adequately covered by another planning tool or decision guideline?
- If the amendment introduces or changes a local planning policy, has the VPP Practice Note *Writing a Local Planning Policy* been followed? In particular does the local planning policy:
 - * respond to a demonstrated need?
 - * implement an objective or strategy in the MSS?
 - * relate to a specific discretion or group of discretions in the scheme?
 - * assist the responsible authority to make a decision?
 - * assist any other person to understand whether a proposal is likely to be supported or not?
 - * add to the other planning tools in the scheme, especially the relevant zone or overlay?
 - * address the format, content and language guidance this Practice Note?

5. Does the amendment make proper use of the Victoria Planning Provisions?

Zones and overlays are used to implement the State and local strategic directions identified in the SPPF and LPPF and the application of requirements such as zones, overlays and local provisions must have a readily discernible basis in the SPPF or LPPF.

In deciding the most appropriate VPP tool to best implement the strategic outcomes of an amendment, consideration should be given to the series of Planning Practice Notes that have been prepared on the use of the VPP. Practice Notes should be used where relevant to ensure consistency and best practice methodology in every amendment.

- Does the amendment use the most appropriate VPP tool to achieve the strategic objective of the scheme? (For example, is the right zone or overlay used?)
- To what extent do local provisions adopt a performance-based approach?
- What Planning Practice Notes are relevant and is the amendment in accordance with any relevant Planning Practice Notes?

6. How does the amendment address the views of relevant agencies?

The creation of a new referral authority must be justified and consideration should be given to the need for new formal or informal referrals of planning applications.

- How have the views of any relevant agency been addressed?
- Does the amendment contain new formal or informal referral requirements?
- If so, does the referral authority support these requirements?
- What is the purpose of the referral?

- Are the referral arrangements performance based?
- Can this purpose be served by other means, for example mandatory notice under Section 52(1)(c) of the *Planning and Environment Act 1987* or a mandatory condition on every permit under Section 62(1)(a)?

7. What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The introduction of new or amended planning scheme requirements can often have significant resource implications for a council. The quantification of the resource implications of an amendment upon councils is a relevant operational consideration.

Councils are required to inform themselves of the likely resource cost of implementing and administering a proposed change to their planning schemes.

- What are the cost implications for a responsible authority in implementing and administering the new planning provisions including:
 - Estimate increase in number of planning permit applications.
 - Planning staff resources
 - Other miscellaneous costs including legal or other professional advice eg heritage advisers.

Councils should also take the opportunity to minimise permit requirements within their planning schemes where the requirements do not deliver an overall planning benefit or where the matter is relatively straight forward and does not involve discretion in decision making.

Planning Practice Notes provide practical advice on planning and urban design matters.

For copies of other Planning Practice Notes in the series contact:

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