



10.4 PRELIMINARY SUBMISSION - FISHERMANS BEND
DEVELOPMENT CONTRIBUTIONS PLAN AND OPEN SPACE
UPLIFT MECHANISM (PLANNING SCHEME AMENDMENT
GC224)

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BEND

1. PURPOSE

- 1.1 This report seeks endorsement of a preliminary Council submission in response to the State Government's proposed Draft Planning Scheme Amendment GC224 which introduces the Fishermans Bend Development Contributions Plan (DCP), Open Space Uplift Mechanism (OSU) and associated planning scheme controls.

2. EXECUTIVE SUMMARY

- 2.1 The State Government's Draft Planning Scheme Amendment GC224 proposes a Fishermans Bend Development Contributions Plan, Open Space Uplift Mechanism and associated planning scheme controls.
- 2.2 Given the short time frames for public comment, Council's submission is being developed in two stages:
- 2.2.1 A Preliminary Submission (the subject of this report) that provides an overview of key concerns for Council and sets a framework for the development of a future detailed submission.
- 2.2.2 A Detailed Submission to be lodged after detailed analysis of Amendment GC224. The Detailed Submission will be presented to Council for endorsement and will form the basis of Council's representations at the future Precincts Standing Advisory Committee.

3. RECOMMENDATION

That Council:

- 3.1 Endorses the Preliminary Submission to Draft Planning Scheme Amendment GC224 – Fishermans Bend Development Contributions Plan and Open Space Uplift Mechanism (Attachment 1).
- 3.2 Authorises the CEO, or their delegate, to make minor amendments to the submission that do not materially alter the intent.
- 3.3 Notes that officers will prepare a Detailed Submission in response to the State Government's Planning Scheme Amendment GC224 process.

4. KEY POINTS/ISSUES

Fishermans Bend Framework Vision

- 4.1 Fishermans Bend is Australia's largest urban renewal project, covering 480 hectares of strategically located land in the heart of Melbourne. By 2050, it will



be home to approximately 80,000 residents and provide employment for up to 80,000 people. The precinct will play a critical role in Melbourne's sustainable growth, providing inner-city housing, and becoming an economic anchor as the central city expands.

- 4.2 The transformation of Fishermans Bend is guided by the Fishermans Bend Framework (Framework); which is the State Government's plan for a network of parks, schools, roads, transport and community facilities and services to transform Fishermans Bend into a precinct for residents and employment over the next 30 years. As Australia's largest urban renewal precinct, the scale and extent of expected transformation is unprecedented.
- 4.3 The Framework was released by the State Government in 2018. It outlines the key infrastructure required to support the urban renewal of the precinct, and the need for a detailed infrastructure plan and funding strategy for its implementation.

Overview of the Draft Development Contributions Plan and Open Space uplift Mechanism

- 4.4 The State Government's Draft Planning Scheme Amendment GC224 proposes to introduce the Fishermans Bend Development Contributions Plan (**DCP**), and Open Space Uplift Mechanism, (**OSU**) and associated planning scheme controls.
- 4.5 The DCP will be administrated by the State Government, noting:
 - 4.5.1 Pursuant to the Planning and Environment Act 1987, the Minister for Precincts is the Collecting Agency and is responsible for the administration and enforcement of the DCP.
 - 4.5.2 The Secretary Project Development as Body Corporate (under the Project Development and Construction Management Act 1994) is the Development Agency and is responsible for the provision of all infrastructure projects funded by the DCP and the timing of all works. This is currently the Secretary Department of Transport and Planning.
- 4.6 The DCP and associated OSU mechanism are part of the funding solution for three categories of infrastructure required to facilitate the development of the precinct:
 - 4.6.1 'Catalytic infrastructure' – includes public transport, schools, and health services that will have a transformational effect on the urban renewal of the area. This infrastructure is intended to be funded and delivered by State Government.
 - 4.6.2 'Essential infrastructure' – includes infrastructure required to establish the future urban structure of the area, such as precinct and neighbourhood open spaces, streets that make up the key movement network, key community hubs, and major drainage and flood mitigation infrastructure. This infrastructure is intended to be largely funded by development contributions, with some contribution from other government sources such as local government.
 - 4.6.3 'Local infrastructure' – includes some open spaces, the network of minor streets and laneways and other community facilities. This infrastructure is



intended to be funded and delivered through a combination of works normal to the development of sites and incrementally by local government capital expenditure.

- 4.7 The DCP and OSU partially fund the Fishermans Bend vision, with a focus on 'essential infrastructure', noting:
- 4.7.1 The DCP will fund \$2.445 billion worth of infrastructure projects. The projected DCP revenue is estimated to be \$1.747 billion resulting in a shortfall of approximately \$700 million to be shared by other funding sources, including State and Local Governments.
 - 4.7.2 The actual shortfall is likely to be greater because the estimated cost of infrastructure of \$2.445 billion underestimates the actual cost of the required infrastructure.
 - 4.7.3 Some of the land for open space projects that are a necessary part of the open space network is anticipated to be delivered through the OSU mechanism. The value of that land has not been identified to date, although it is in addition to the \$2.445 billion cost estimate set out in the DCP. That land is intended to be paid for by providing increased development rights to certain landowners but is dependent on the level of incentive given to those developers to take up the OSU.
 - 4.7.4 The DCP proposes a State Government imposed capped residential Development Infrastructure Levy (DIL) charge of approximately \$34,635 per dwelling and \$286 per square metre of non-residential gross floor area. The per dwelling rate has been restricted to this amount (rather than reflecting the total cost of projects apportioned to the DCP).

Funding shortfall for essential and local infrastructure

- 4.8 A relatively small component of Local infrastructure category is funded in the DCP consequently leaving a significant funding gap for Council. The extent of this gap has not yet been finally quantified but Council officers initial estimate is that it runs into the range of \$500 - \$700 million. Taking into account the statutory Financial Management Principles embedded in the Local Government Act 2020 Council is unable to commit to fund the likely shortfall in funding for Local infrastructure.
- 4.9 The State Government has advised that the cost recovery for essential infrastructure in the DCP is forecast at approximately 94% however further information is required to understand the methodology and impacts.
- 4.10 Accordingly, Council seeks to work with the government on identifying and prioritising those projects that are and are not included in the DCP to try and close this funding gap. This will require further consideration and potentially a rebalancing of what is included in the two categories of Essential and Local infrastructure in the DCP.
- 4.11 This is a core concern for Council, noting that:
- 4.11.1 Many Local projects normally delivered by local government, remain unfunded by the DCP and many hundreds of millions of dollars would be required for those non-DCP funded projects. Council cannot afford to



deliver these projects within the applicable Financial Management Principles.

- 4.11.2 A key assumption of the DCP is that local infrastructure will be funded through alternate sources including Council rates and charges, planning permit conditions (by developers) and/or voluntary s.173 agreements requiring developers to provide necessary infrastructure in addition to development contributions under the DCP. Council is concerned that the potential for funding and infrastructure delivery from these sources and mechanisms has been over estimated.
- 4.11.3 Council envisages a major risk in the model's reliance on planning permit conditions & voluntary s.173 agreements to fund local infrastructure such as improvements to local roads and the creation of new local roads and lanes. Council is concerned that without stronger planning provisions there is a high likelihood of failure to deliver this infrastructure as part and parcel of development. This is due to difficulty in later arguing that the infrastructure is necessary as a result of the grant of the permit (section 62(5)(c) of the Planning and Environment Act 1987) and other constraints imposed by that provision.
- 4.11.4 Council has limited ability to fund infrastructure. Council currently allocates around 5% of rates revenue to new and expanded capital projects. The allocation from the projected rates in Fishermans Bend between 2025-55 will generate between \$60 million and \$90 million. Even if the Council allocation was doubled to 10%, the available funding of between \$120 million and \$180 million over time, would still be insufficient to meet the likely funding gap. The component of local infrastructure to be provided by local government, is preliminarily estimated to be in the order of \$500 million to \$700 million.
- 4.11.5 The funding shortfall represents a material risk to the success of Fishermans Bend vision, and a strategic and reputational risk to both the State and to Council.

Council Preliminary Submission – Summary of Key Issues Raised

- 4.12 The Preliminary Council Submission is provided in attachment 1. The content has been reviewed and drafted following a legal review.

Officers have commenced preparations for the upcoming Planning Scheme Amendment process and including seeking legal and expert advice to underpin the Detailed Submission and advisory committee process.

- 4.13 The submission raises a comprehensive set of issues, summarised as follows but set out comprehensively in the submission:

Preliminary

- Reiterates the scale and extent of transformational change expected in Fishermans Bend, and the need for a robust and aligned infrastructure strategy.



- Notes that Council is making a preliminary submission but needs further time to form a comprehensive detailed submission which will come through the formal exhibition process.

Public transport

- Seeks further transparency and commitment about the Government's planning for investment in public transport – Light Rail and Heavy Rail infrastructure in Fishermans Bend.

Acknowledging State leadership

- Acknowledges the State Government's leadership in developing the DCP and taking responsibility for its administration, subject to further refinement of the approach.

Funding shortfall for local infrastructure

- Details the significant funding shortfall for local Infrastructure and seeks re-prioritisation of DCP funding to deliver core essential and local infrastructure that will not otherwise be afforded by Council.

Open space network

- Open Space and Community Hub funding is identified as key priorities for Council when allocating DCP funding. State government's approach generally aligns with this 'in-principle', although Council would like to see changes to the funding list.
- Continued advocacy for North Port Oval Expansion, including the urgent delivery of Australia Post Site as open space.
- The JL Murphy Reserve upgrade is significantly under-costed. The Framework identifies the importance of redesigning and upgrading JL Murphy Reserve to deliver on the future vision for the area, and the demand created by growth in Fishermans Bend will necessitate significant upgrades of the existing open space and its facilities. The proposed DCP provides \$27.4 million in funding reflecting a limited scope of works. Further work is required to resolve the significant scope and cost of this upgrade as a priority project.
- Further work is required to resolve sports infrastructure within the open space network (ensuring DCP has adequate costs, planning) across the five large open spaces – JL Murphy Reserve; North Port Oval Expansion sites; Prohasky Street Reserve; Wirraway's large Precinct Open Space; Montague's large Neighbourhood Open Space.
- Seeking early acquisition and delivery of key open spaces based on current and future demand, particularly North Port Oval expansion, JL Murphy Reserve upgrades, Prohasky Street Reserve.
- Delivery risks presented by the Open Space Uplift Mechanism.
- Community Infrastructure (particularly open space and community hubs) should be prioritised for early delivery.

Community Hubs:



- Underfunding of the combined centralised Sports and Recreation Hub in Sandridge Precinct next to North Port Oval which will cater to all of Fishermans Bend demand.
- Seeking DCP funding for Montague Arts and Cultural hub (only Sandridge/Wirraway is funded in the DCP in COPP precincts).
- Seeking partial DCP funding to supplement community facilities alongside new school builds.

Drainage

- Ensure that the funding of drainage does not 'crowd out' the early funding of other infrastructure.
- Further work is required on flooding and drainage inclusions before Council can support the DCP recommendations.
- There are issues with the background reporting (flood modelling inputs and assumptions) that could affect drainage recommendations substantially.
- Need to ensure that proposed network of Distributed Flood Storages are appropriately costed within streetscape and open space projects.

Transport

- Supports the State's commitment to fund public transport, separately from the DCP.
- Clarity requested about public transport assumptions that underpin the DCP recommendations (which affect funding for streets and open spaces around Plummer, Fennell and Ingles Street – some of which should be reviewed to determine whether they are appropriately allocated in the DCP).
- There is a major tension between allocation of DCP funding for State Infrastructure vs Local Infrastructure to ensure that local street upgrades are appropriately funded to meet the Fishermans Bend vision. Alternative options need to be explored to fund the gap on local streets.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 The State Government will exhibit the draft planning scheme amendment in accordance with the statutory requirements. Affected owners and occupiers will be notified.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The draft Planning Scheme Amendment would be processed in accordance with the Planning and Environment Act 1987. An advisory committee can be appointed under section 151 of the Act to advise on any matter that the minister refers to it. A new Precincts Standing Advisory Committee was appointed by the Minister for Planning on 24 October 2023 and is likely to consider an amendment of this scale in Fishermans Bend.
- 6.2 The Amendment content presents a material risk at a strategic, financial and reputational level for Council, relating to whether the State Government and Council can adequately deliver on the Fishermans Bend vision.



7. FINANCIAL IMPACT

- 7.1 Costs of developing the submission to the Amendment and Advisory Committee process will be funded through the existing Fishermans Bend Program project budget for 2023/24FY and 2024/25FY.
- 7.2 The financial impact of the Draft DCP recommendations are substantial and ongoing. Financial issues are noted under 'Key Points' above. In summary:
- There is a significant funding shortfall for local Infrastructure, initially estimated to be in the vicinity of \$500 million to \$700 million based on broad assumptions.
 - Council currently allocates around 5% of rates revenue to new and expanded capital projects, the allocation from the projected rates in Fishermans Bend between 2025-2055 will generate between \$60 million - \$90 million. Even if the Council allocation was doubled to 10%, the available funding of between \$120 million to \$180 million would be insufficient to meet the funding gap.
 - Further work is required, to understand how the State and Council can address the infrastructure requirements and mitigate this shortfall.
- 7.3 The State Government is proposing the new DCP as the primary means of imposing levies for the delivery of key infrastructure projects including open space and other infrastructure. Part of the proposal involves deleting Council's Open Space Contribution in Fishermans Bend and effectively absorbing those projects and collection funds into the DCP levy.
- Council currently receives an 8% (of the Site Value) public open space contribution for development in Fishermans Bend.
 - Council will continue to receive open space contributions on all permits granted prior to the gazettal of the proposed DCP, which is anticipated to be in late 2024/25 at the earliest.
 - Clarity is required around the governance for the release of DCP funding to deliver projects.

8. ENVIRONMENTAL IMPACT

- 8.1 The proposed DCP provides funding for infrastructure that delivers environmental benefits like public realm greening and flood mitigation. Officers will review of the infrastructure items to understand if the risks are addressed.

9. COMMUNITY IMPACT

- 9.1 The DCP provides funding for infrastructure to meet the needs of the future population. Officers will review the infrastructure items to understand the benefits to the community over the next 30 years.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 This report is most aligned to the Liveable Port Phillip Strategic Direction within the Council Plan 2021-31. The coordination of infrastructure funding and financing, including through the proposed Development Contributions Plan, forms part of the initiatives to:



- Partner with the Victorian Government to deliver outcomes in the Fishermans Bend strategic framework.
- Facilitate and advocate for the Victorian Government to develop a sustainable funding and financing strategy to enable the timely delivery of local infrastructure at Fishermans Bend and to provide early delivery of high frequency public transport links to Fishermans Bend.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

11.1.1 Formal planning scheme amendment process and timeframes have not been confirmed by the State Government at the time of writing this Council Report.

11.1.2 The following process and timeframes are estimated assuming that the DCP will be released in December 2023 or January 2024.

- Public Consultation / Exhibition – December 2023 to February 2024
 - Council will make Preliminary and Detailed Submissions to the public consultation / exhibition process.
- Precincts Standing Advisory Committee (PSAC) Process:
 - PSAC Directions Hearing – Early 2024
 - PSAC Advisory Committee Hearing / Proceedings – Mid 2024
 - PSAC Advisory Committee Report with Recommendations provided to State Government – 2024/25 FY
 - Council will be represented as necessary through this process.
- Minister's Consideration and Decision – 2024/25 FY

11.2 COMMUNICATION

11.2.1 The preliminary submission will be submitted to Government. It provides a basis for Council advocacy, public discourse and guides the development of future detailed Council submissions.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

1. **COPP Preliminary Submission to Draft Planning Scheme Amendment GC224 – Fishermans Bend Development Contributions Plan and Open Space Uplift Mechanism**