

Ref: 36974

16 May 2024

Melton City Council  
Planning Department  
Lodged: email

Dear Matthew,

## Planning Submission Toolern Precinct Structure Plan (Amendment C232)

Marshal Melbourne Pty Ltd acts on behalf of Exford Waters Pty Ltd, the property owner, in regard to the above matter.

This submission has been prepared in response to our review of the proposed amendments to the Toolern Precinct Structure Plan & Development Contributions Plan and resultant Planning Scheme Amendment C232.

The purpose of this submission is to respond to issues that impact our clients land, which is commonly referred to as Exford Waters Estate and is depicted in the below image.

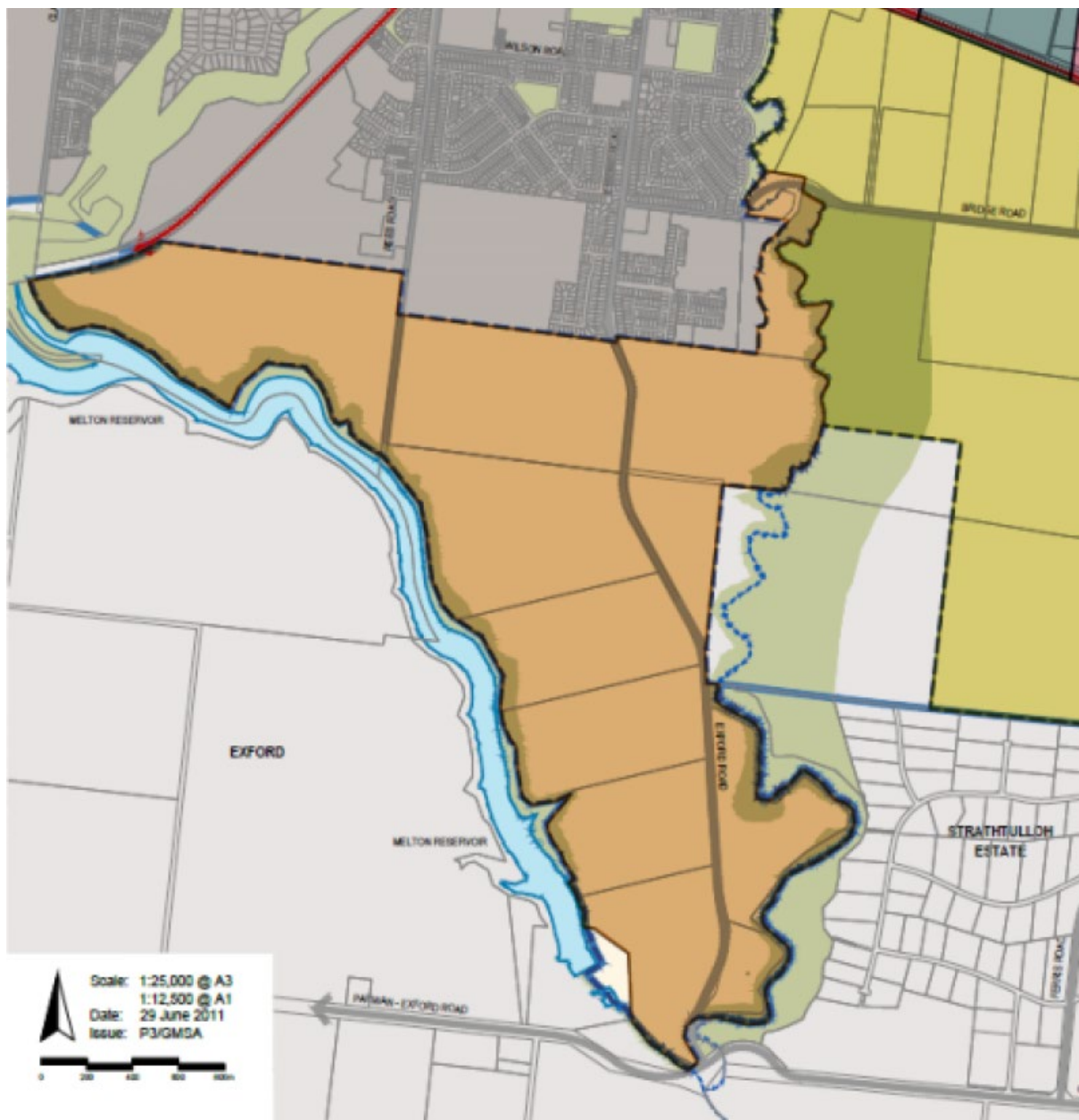


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## Amendment Observations and Impacts

Our review of the proposed Development Contribution Plan found that there is a shortfall of both the Development Infrastructure Levy (DIL) and Community Infrastructure Levy (CIL) of approximately \$223.2 million within the Toolern PSP area, with this amendment seeking to recove approximately 79% of the funding shortfall.

Exford Waters Estate sits within Charge Area 1 which is outlined in the table and plan below. Charge Area 1 seeks to recover the greatest shortfall in DCP funding. In reviewing the Charge Area rates the cost has increased by 62.5%.

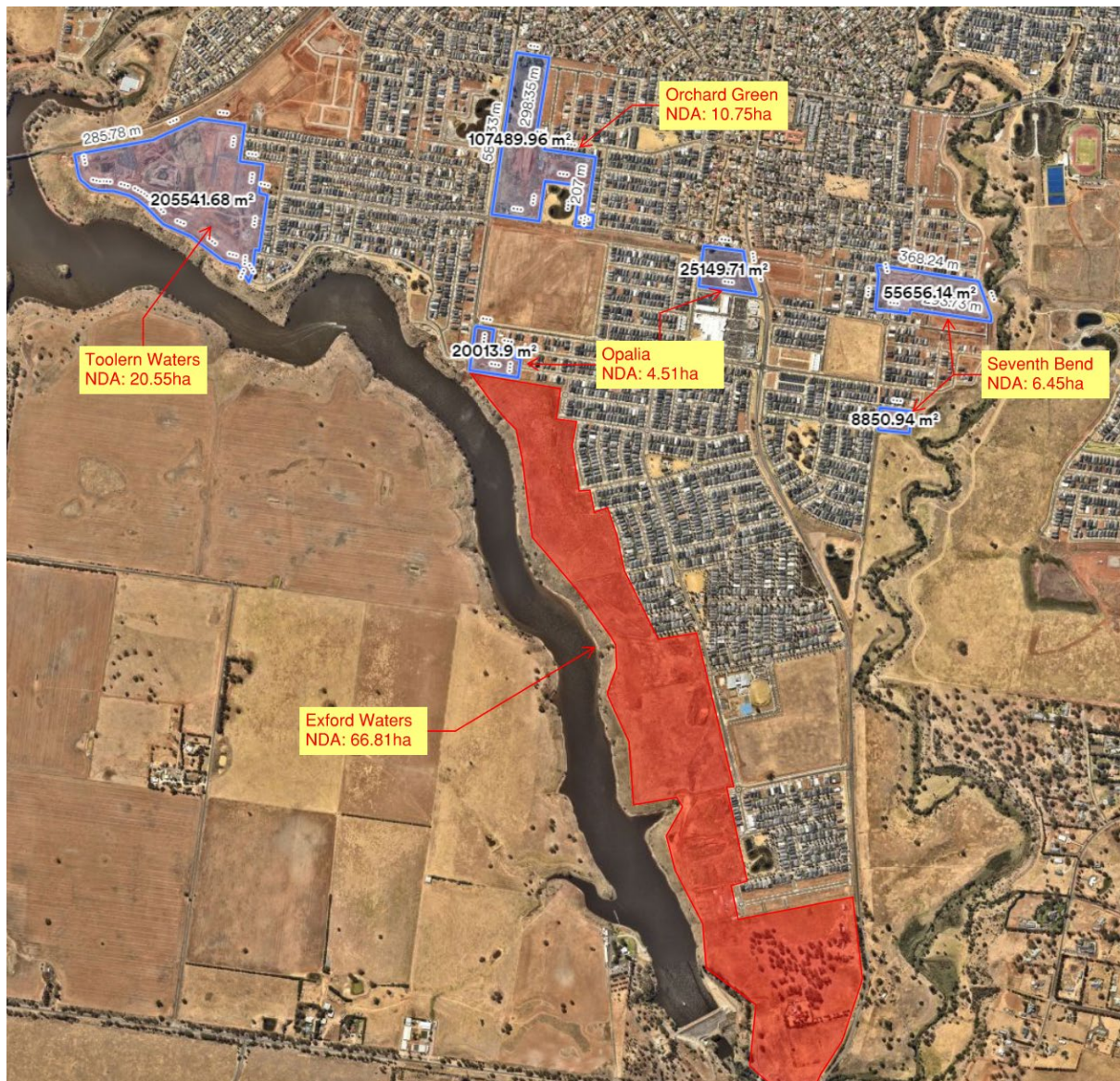


Charge Area	Existing DIL (Indexed to \$21/22)	Proposed DIL (\$21/22)	Change to DIL (\$21/22)
Charge Area 1	\$270,536	\$439,563	\$169,029
Charge Area 2	\$279,474	\$441,988	\$162,514
Charge Area 3	\$259,691	\$369,583	\$109,838
Charge Area 4	\$124,616	\$228,563	\$103,946

Noting that Exford Waters is sited within Charge Area 1, with 102.77 ha gross stage area left to develop (66.81ha NDA), the additional cost to Exford Waters due to this DIL levy amendment will be \$11,292,827 in additional DCP charges.

As is demonstrated in the NearMap imagery on the following page, Exford Waters Estate easily has the largest volume of remaining land within Charge Area 1.





As can be seen in the NearMap image there are only a handful of other estates left in Charge Area 1 that still have developable area left. A review was completed of each major estate's masterplan with comparisons made to recent NearMap image. This exercise highlighted that Exford Waters will be bearing 68% of the overall remaining area left within Charge Area 1. A breakdown of the percentages is as follows:

1. Exford Waters – estimated 66.81ha NDA left (68.0%)
2. Toolern Waters – estimated 20.55ha NDA left (20.9%)
3. Opalia Estate – estimated 4.51ha NDA left (4.6%)
4. Seventh Bend – 6.45ha NDA left (6.6%)
- Sub-total = 98.32 ha NDA left in Charge Area 1
5. Orchard Green – 10.75ha NDA left – *However, not in the Toolern PSP/DCP area*



We note that Charge Area 1 has a total NDA of 311.89ha. There has therefore been over 68% of the Charge Area 1 area that has already been developed and paid at the historical low DCP rates. This is compared to what Council contend is an overall Toolern PSP development rate of ~21%, which is not consistent with the Charge Area 1 development.

The following images and details of extent of development are provided below to rationalise the degree of development that has already occurred within the Charge Area.



**Toolern Waters Masterplan** – Toolern Waters is the other estate which has a significant portion of their remaining developable area yet to be developed.



**Opalia Weir Views Estate** – Only isolated section of Stage 9.2 and two pockets of future residential have remaining development planned, for a total of 4.50ha NDA.



**Seventh Bend** – this masterplan is outdated, however most of the remaining stages have been completed.





**Orchard Green Masterplan** – This estate is not within the Toolern PSP, however it benefits from the adjacent local park & government school, amenities and road upgrades being provided by the Toolern DCP. If this amendment is being made we contend that their remaining stages should be contemplated in the DCP due to the implied benefit.

Council's reasoning for increasing the DIL is anticipated \$223.2 million funding shortfall across both the DIL and CIL. The amendment seeks to recover \$176.32 million in funding with a shortfall of \$46.9 million to be accommodated by Melton City Council.

The report prepared by Charter Keck Cramer in May 2022 confirms that land values have been updated and Cardno have reviewed and updated transport project costings as per their March 2022 report.

These reports advise that there are significant changes contributing to the excessive increase in the DCP levy rate. These changes are distilled into the following main reasons:

1. New projects being allocated to the Toolern DCP
2. New scope added to the existing DCP projects (due to FLP/costing sheets not being originally prepared for intersections and roads)
3. New land take (due to FLP not being originally prepared for intersections and roads)
4. Construction rates increasing
5. Land value rates increasing



Whilst we understand the construction cost and land value escalations are outside the control of Council and the VPA, the significant increase in project scopes is concerning due to the drastic scale of increases of up to 900% and the apportionment of costs is not shared equitably throughout the Charge Areas as they relate to the infrastructure benefit that is provided.

## New Projects Incorporated Into The Toolern DCP

It is understood that both the Paynes Road DCP and Rockbank DCP include new construction projects which share a boundary with the Toolern PSP area. As such 50% of the costs of these projects is to be apportioned to the Toolern DCP.

The new infrastructure projects added to the Toolern DCP are from missed projects in the Rockbank DCP, Cobblebank Metropolitan Activity Centre Urban Design Framework and Paynes Road DCP.

As can be seen below, these new projects create a \$66,552,584 escalation in the Toolern DCP cost, or otherwise a 37.8% proportion to the \$176.32 million shortfall in DIL that Council are seeking.

Project ID	New Project Name	Cost	Responsible External Project
RD22	Paynes Road: Alfred Road (IT30) to East-West Connector Road 1 (IT31)	\$ 1,398,690.00	Rockbank DCP missing 50% contribution
RD23	Paynes Road: East-West Connector Road 1 (IT31) to Exford Road (IT07)	\$ 1,791,461.00	Rockbank DCP missing 50% contribution
RD24	Paynes Road: Exford Road (IT07) to East-West Connector Road 2 (IT32)	\$ 948,155.00	Rockbank DCP missing 50% contribution
IT29	Intersection: Ferris Road and Enterprise Street	\$ 4,773,543.00	Cobblebank recommends full 100% inclusion
IT30	Intersection: Paynes Road and Alfred Road	\$ 3,872,265.00	Rockbank DCP missing 50% contribution
IT31	Intersection: Paynes Road and East-West Connector Road 1	\$ 3,350,228.00	Rockbank DCP missing 50% contribution
IT32	Intersection: Paynes Road and East-West Connector Road 2	\$ 3,495,443.00	Rockbank DCP missing 50% contribution
BD15	Ferris Road Rail Overpass	\$ 15,075,483.00	Cobblebank recommends full 100% inclusion
BD16	East Road Rail Overpass	\$ 13,833,445.00	Cobblebank recommends full 100% inclusion
BD17	Paynes Road Rail Overpass	\$ 14,876,605.00	Rockbank DCP missing 50% contribution
BD18	Paynes Road Level Crossing Upgrade	\$ 628,070.00	Rockbank DCP missing 50% contribution

BD19	Mount Cottrell Road Freeway Interchange	\$ 750,000.00	Paynes Road DCP missing 50% contribution
BD20	Mount Cottrell Road Rail Overpass	\$ 225,000.00	Paynes Road DCP missing 50% contribution
BD21	Mount Cottrell Road Level Crossing Upgrade	\$ 1,534,196.00	Paynes Road DCP missing 50% contribution
<b>TOTAL</b>		<b>\$ 66,552,584.00</b>	

We note that within the Rockbank and Paynes Road DCP, there are a concerning number of DCP projects that were only funded at 50%. The Rockbank DCP was gazetted in August 2016, nearly 8 years ago.

If the assumption was that the Toolern DCP would make payment for the balance 50% contributions to these projects, it is a serious dereliction in duty of Council and the VPA to let development continue unabated in Charge Area 1, without considering the cost escalation to the remaining development that would be left to compensate for these shortcomings.

Further, considering that Charge Area 2, 3 & 4 are all closer to Paynes Road and Cobblebank projects, and are demonstrably benefiting from these new projects to a much greater degree than Charge Area 1, we believe that the apportionment of DCP rates should be reviewed and based on an assessment of benefit. It is both surprising and disappointing that Charge Area 1 is increasing by a greater value than any other precinct, and at the 2<sup>nd</sup> greatest percentage rate excepting Charge Area 4.

Exford Waters sits at the western edge of the Toolern PSP boundary area and as such will take minimal/if any benefit from the servicing and infrastructure projects at the juncture of the PSP boundary to the east, unlike other properties on the western side of the PSP boundary. We contend that Exford Waters is somewhat remotely located and will therefore not benefit from the construction of infrastructure projects that are situated on the other side of the PSP boundary. Charge Area 1 and more specifically Exford Waters Estate is separated by Toolern Creek, has large level differences and considerable distances to the other charge areas. It is therefore patently unfair to burden Charge Area 1 with these new external projects, let alone by a greater degree than other Charge Areas.

Table 21. Current Toolern DCP DIL rates indexed to \$2021/2022

Infrastructure Category	Charge Area 1 DIL \$21/22	Charge Area 2 DIL \$21/22	Charge Area 3 DIL \$21/22	Charge Area 4 DIL \$21/22
Transport	\$122,830	\$122,830	\$122,830	\$122,830
Community and Recreation	\$146,730	\$155,668	\$135,885	\$1,570
Plan Preparation	\$976	\$976	\$976	\$976
<b>TOTAL</b>	<b>\$270,536</b>	<b>\$279,474</b>	<b>\$259,691</b>	<b>\$124,616</b>

Table 22 shows the proposed changes to DIL rates for each of the four charge areas. The DIL has been influenced by changes to the net developable area, new land values (based on indexation provided by Council's finance department), the removal of some projects, the addition of new infrastructure projects, and revised construction costs for infrastructure.

Table 22. Proposed new Toolern DCP DIL rates

Infrastructure Category	Charge Area 1 DIL \$21/22	Charge Area 2 DIL \$21/22	Charge Area 3 DIL \$21/22	Charge Area 4 DIL \$21/22
Transport	\$226,486	\$226,486	\$226,486	\$225,715
Community and Recreation	\$211,985	\$214,410	\$141,951	\$1,756
Plan Preparation	\$1,092	\$1,092	\$1,092	\$1,092
<b>TOTAL</b>	<b>\$439,563</b>	<b>\$441,988</b>	<b>\$369,529</b>	<b>\$228,563</b>

On review of the specific *Schedule 3 to Clause 45.06 Development Contributions Plan* document, we refer to the following page which provide a summary of costs.

Concerningly, Intersection costs have increased by 733%, Open Space by 427% and Active Recreation by 284% from 2011 to 2022. We believe that due to the excessive nature of these cost increases that further investigation is required to see what has triggered these huge increases. We are not comfortable or satisfied that these explanations have been provided in the amendment material.

We would also like to query how construction and completion of existing projects has been accommodated in the DCP project scope.

For example, Road Project RD-04 which we note has already been partially constructed demonstrates an increase in cost from \$8,900,100 to \$15,487,554, an increase of 74%. We would like to understand how Council/Cardno have considered partial completion and reimbursement of these project in their new price estimates. We do not believe that this information has been made clear within the amendment material.



## Summary of costs ~~in 2009 dollars~~

Facility	Total cost \$ <del>(\$21/22)</del>	Time of provision	Actual cost contribution attributable to Development Infrastructure Levy (DIL) \$ <del>(\$21/22)</del>	Proportion of DIL cost attributable to total development %
Roads	<del>\$95,104,129</del> 121,328,898	As required.	<del>\$95,104,129</del> 115,300,625	<del>100</del> 95%
Intersections	<del>\$24,252,530</del> 176,986,625	As required.	<del>\$24,252,530</del> 163,853,313	<del>100</del> 93%
Bridges	<del>\$20,811,000</del> 76,611,480	As required.	<del>\$20,811,000</del> 64,599,425	<del>100</del> 84%
Public Transport	<del>\$1,500,000</del> 3,300,000	As required.	<del>\$1,500,000</del> 3,300,000	100%
Unencumbered Land for Active Open Space	<del>\$28,290,000</del> 120,800,000	As required.	<del>\$27,033,000</del> 114,905,000	<del>96</del> 95%
Community Facilities	<del>\$36,658,128</del> 71,187,221	As required.	<del>\$26,496,659</del> 61,102,539	<del>72</del> 86%
Outdoor Active Recreation	<del>\$32,821,440</del> 91,713,154	As required.	<del>\$21,766,296</del> 72,696,366	<del>66</del> 79%

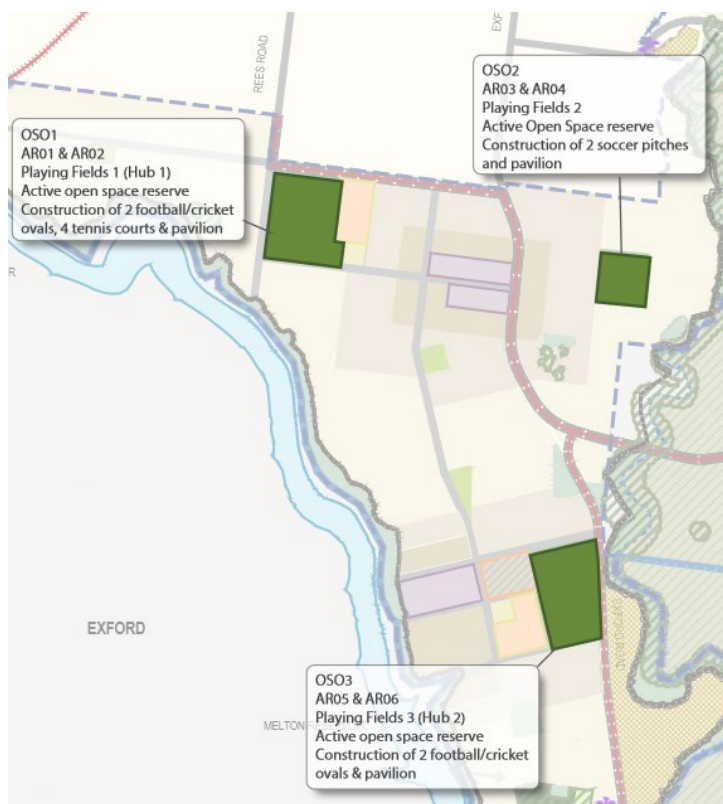
## MELTON PLANNING SCHEME

Facility	Total cost \$ <del>(\$21/22)</del>	Time of provision	Actual cost contribution attributable to Development Infrastructure Levy (DIL) \$ <del>(\$21/22)</del>	Proportion of DIL cost attributable to total development %
Off-road pedestrian and cycle trails	<del>\$682,500</del> 916,463	As required.	<del>\$682,500</del> 916,463	100%
Infrastructure Planning	<del>\$1,250,000</del> 1,678,504	As required.	<del>\$1,250,000</del> 1,678,504	100%
<b>TOTAL TOTAL</b>	<del>\$241,449,727</del> <del>\$664,522,344</del>	-	<del>\$218,976,114</del> <del>\$598,352,234</del>	

## Open Space Assessment

On review of the Open Space projects it is indicated in the Planning Report that Council have not purchased OS01 or OS02 from each relevant developer yet. We know that Council have not purchased OS03 from Exford Waters yet either but this is not reflected in the amendment material.

If Council have not yet purchased OS01 and OS02 yet, however each respective developer has already developed the vast majority of their estates and paid historical low DCP rates, we do not believe that Exford Waters should be left to bear the brunt of the recent land rate increases for land that should have been procured by Council long ago.



The land value for this Open Space item in the original 2011 DCP was approximately \$426,000/ha. The land value in 21/22 rates is now noted to be \$2,000,000/ha. This updated land value is not considered with recent 2023 advice received from Melton Council that stated the land value for the provision of Public Open Space contributions is \$1,8000,000/ha.

Since the original 2011 DCP levy rate was applied, Council have been receiving DIL contributions from developers that have been consistently increasing. We are keen to understand how the indexation DIL rate increases in the DCP rate from 2011 to 2023 have been considered by Council in this Open Space contribution increase, as this has not been made clear in the amendment material.

It is clear that a portion of the \$92,510,000 increase in the Open Space projects should have already been accounted for in historic indexations.

DCP PROJECT NO	INFRASTRUCTURE CATEGORY	DESCRIPTION	LAND	CONSTRUCTION	TOTAL	LAND	CONSTRUCTION	TOTAL	LAND DIFF \$	LAND DIFF %
						\$21/22	\$21/22	\$21/22		
<b>UNENCUMBERED LOCAL ACTIVE OPEN SPACE</b>										
OS01	Development	Purchase of 9.83 hectares of land for active open space for AR01 and AR02	\$ 4,190,000.00	-	\$ 4,190,000.00	\$ 19,650,000.00	-	\$ 19,650,000.00	\$ 15,460,000.00	369%
OS02	Development	Purchase of 4.00 hectares of land for active open space for AR03 and AR04	\$ 1,970,000.00	-	\$ 1,970,000.00	\$ 9,600,000.00	-	\$ 9,600,000.00	\$ 7,630,000.00	387%
OS03	Development	Purchase of 9.16 hectares of land for active open space for AR05 and AR06	\$ 4,640,000.00	-	\$ 4,640,000.00	\$ 17,925,000.00	-	\$ 17,925,000.00	\$ 13,285,000.00	298%
OS04	Development	Purchase of 8.62 hectares of land for active open space for AR07 and AR08	\$ 4,770,000.00	-	\$ 4,770,000.00	\$ 19,825,000.00	-	\$ 19,825,000.00	\$ 15,055,000.00	318%
OS05	Development	Purchase of 8.69 hectares of land for active open space for AR09 and AR10	\$ 4,340,000.00	-	\$ 4,340,000.00	\$ 19,975,000.00	-	\$ 19,975,000.00	\$ 15,635,000.00	360%
OS06	Development	Purchase of 4.56 hectares of land for active open space for AR11 and AR12	\$ 2,650,000.00	-	\$ 2,650,000.00	\$ 12,300,000.00	-	\$ 12,300,000.00	\$ 9,650,000.00	364%
OS07	Development	Purchase of 7.90 hectares of land for active open space for AR13 and AR14, Area 2 Contributions (60%)	\$ 2,538,000.00	-	\$ 2,538,000.00	\$ 11,295,000.00	-	\$ 11,295,000.00	\$ 8,757,000.00	345%
OS08	Development	Purchase of 7.90 hectares of land for active open space for AR13 and AR14, Area 3 Contributions (40%)	\$ 1,692,000.00	-	\$ 1,692,000.00	\$ 7,530,000.00	-	\$ 7,530,000.00	\$ 5,838,000.00	345%
OS09	Development	Purchase of 1.0 hectare for Major Activity Centre Public Open Space	\$ 1,500,000.00	-	\$ 1,500,000.00	\$ 2,700,000.00	-	\$ 2,700,000.00	\$ 1,200,000.00	80%
<b>SUBTOTAL</b>			<b>\$28,290,000.00</b>	<b>-</b>	<b>\$ 28,290,000.00</b>	<b>\$120,800,000.00</b>	<b>-</b>	<b>\$ 120,800,000.00</b>	<b>\$ 92,510,000.00</b>	<b>327%</b>

Due to the various sensitivities and constraints that have restricted continued development of Exford Waters there are still in excess of 1000 lots to develop within the Estate boundary. This will result in a significant uplift in the amount and volume of DCP payments that are still required to be paid with very little benefit to the Estate. To this end we contest that the DCP rate applied to Charge Area 1 should be reviewed alongside other charge areas (Charge Areas 2 & 4) that take benefit from the projects that are shared between PSP boundaries to incur a greater and more equitable proportion of the DCP shortfall.

The amendment to the DCP/PSP that seeks to include these apportioned infrastructure costs comes 13 years after the Toolern PSP was first introduced and as such we do not believe that our client should be so significantly impacted by the delay in amending the deficiencies in the DCP/PSP that have clearly been known about for some time. There has been limited communication about the shortcomings of the Toolern PSP in this regard and as such these items and subsequent degree of uplift in DIL levy amounts have come as a great surprise to our client. We contend that our client should not be so significantly financially impacted by the delayed nature of this amendment which we believe should have occurred a lot earlier. If the amendment to the Toolern PSP had been implemented earlier, it would have been spread across more development within the PSP area as opposed to penalising those that have incurred delays in development as is the case with Exford Waters Estate.

Whilst we acknowledge that at the time the Toolern PSP was prepared that functional layout plans were not prepared to accurately inform costings, we believe that this deficiency in the PSP should have been rectified a lot earlier so as to capture a greater proportion of development. In addition, the DCP levy charges should be rationalised so as to be apportioned to the Charge Areas that take the greatest benefit from the infrastructure items that are sought to be captured through this amendment.





Our review of the amendment material has raised the following queries and observations:

1. The main increase in cost to Charge Area 1 is the reimbursement of Open Space projects OS01, OS02 and OS03. Why is a PSP amendment needed for land valuations for Open Space projects that haven't increased in scope.
2. How much of the Open Space value increase has been accounted for already in the indexations since 2011 vs. 2022 DCP amendment.
3. Why is it left to a few remaining landowners in Charge Area 1 to make up the shortfall.
4. Has a peer review been conducted of the proposed DIL rates, the Cardno report and Council's rate increase.
5. How is a 900% increase to some items justified.
6. No certainty of when OS03 will be taken by Council has been provided. As such our client will be subject to the increased DIL levy without assurance of when/if they will actually receive reimbursement from Council. We note that OS03 has established roads constructed around the entire perimeter of the site and has been ready since 2022 for Council to procure it from Exford Waters.

We appreciate the opportunity to provide this submission to the Toolern Precinct Structure Plan (Amendment C232) on behalf of our client (Exford Waters Estate) and would welcome the opportunity to have further detailed discussion with Council to gain further clarification and insight into some of the queries raised herein.

Should you have any queries please don't hesitate to contact me on

[REDACTED] or [REDACTED].

Yours faithfully  
**Marshal Melbourne Pty.Ltd.**

[REDACTED]  
Executive - Planning