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# **AMENDMENT GC102 DONNYBROOK WOODSTOCK ICP**

## **EXPERT EVIDENCE STATEMENT**

**PAUL SHIPP, DIRECTOR, URBAN ENTERPRISE**

**VICTORIAN PLANNING AUTHORITY**

**11 OCTOBER 2019**



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# 1. QUALIFICATIONS

1. My name is Paul Shipp and I am a Director of Urban Enterprise Pty Ltd, of Level 1, 302-304 Barkly Street, Brunswick.
2. Urban Enterprise is a firm of urban planners, urban economists and tourism planners. The firm has 30 years experience providing consultancy services to all levels of Government and a wide range of private sector organisations in Victoria and in other States of Australia.
3. I am a qualified urban planner and economist with 14 years experience and specialise in the field of development contributions.
4. I have been involved in the preparation and review of many Development Contributions Plans, Infrastructure Contributions Plans and public open space contributions for Councils and developers across Melbourne and regional Victoria.
5. I have appeared as an expert witness on numerous occasions in respect of development contributions at Planning Panel and Advisory Committee hearings.
6. My educational qualifications and memberships of professional associations include:
  - Bachelor of Urban Planning and Development, University of Melbourne;
  - Master of Commerce, RMIT University;
  - Member and Registered Planner (RPIA), Planning Institute of Australia; and
  - Member, Victorian Planning and Environmental Law Association.

## 2. ENGAGEMENT

### 2.1. INSTRUCTIONS

7. I have been instructed by Hall & Wilcox Lawyers on behalf of the Victorian Planning Authority (VPA) to prepare an expert evidence statement to present at the Planning Panel hearing in relation to this matter.
8. My instructions are to:
  - a. Review the letter of instruction, the exhibited Amendment GC102 documents, the relevant background documents, the submissions and the recommended changes documents;
  - b. Have regard to the report prepared by Mesh addressing the background and evolution of the new ICP process, including the benchmarking system;
  - c. Review other expert witness statements filed and served on behalf of submitters;
  - d. Prepare an expert witness addressing your opinions on the Amendment from an infrastructure contributions planning perspective; and
  - e. Attend the Panel hearing to give evidence.

### 2.2. INFORMATION REVIEWED

9. I have reviewed the amendment documentation and other relevant documents, including:
  - a. The exhibited Amendment GC102 documentation (the **Amendment**);
  - b. Draft Donnybrook-Woodstock Infrastructure Contributions Plan, August 2018 (**Exhibited ICP**);
  - c. Part A Part 1 Submission of the VPA and annexures;
  - d. Revised ICP documentation, including:
    - i. Recommended Changes to the Exhibited ICP (VPA, April 2019), referred to in this statement as the **Revised ICP**;
    - ii. Summary of Changes (VPA, April 2019);
    - iii. Draft Benchmark Infrastructure Report (April 2019) (**draft Benchmark Costing Report**), prepared by Cardno; and
    - iv. Draft Benchmark Infrastructure Costing – Result Application (Cardno, April 2019)(**Cost Application Report**).
  - e. Eight submissions made to the Amendment;
  - f. The Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans, 1 July, 2018 (**Ministerial Direction**);
  - g. Infrastructure Contributions Plan Guidelines, Department of Environment, Land, Water and Planning, September 2019 (**ICP Guidelines**);
  - h. Planning and Environment Act 1987 (as relevant to infrastructure contributions) (the **Act**);
  - i. Planning and Environment Amendment (Public Land Contributions) Act 2018;

- j. Melton Planning Scheme Amendment C201 Panel Report;
  - k. Donnybrook-Woodstock Precinct Structure Plan (VPA, October 2017, gazetted) (the **PSP**); and
  - l. Donnybrook Woodstock ICP (Amendment GC102) Background and Evolution of the ICP, Mesh, October 2019 (the **Mesh report**).
10. I am familiar with Donnybrook and the surrounding area.
11. A copy of the relevant information that is required to accord with the Planning Panels Victoria – Expert Evidence is attached at Appendix A to this report.

### **2.3. SCOPE**

12. I was not involved in the preparation of the Revised ICP or any of the preceding analysis.
13. I have undertaken a review of the Revised ICP against the relevant statutory framework, including the ICP Guidelines, the Act and the Ministerial Direction.
14. I have also had regard to the evolution of the ICP and the process by which infrastructure costs have been estimated, including the approach to cost ‘benchmarking’ applied by the VPA.
15. The scope of my review relates specifically to infrastructure contributions planning – my expertise does not extend to engineering or quantity surveying.
16. I note that my instructions include reference to expert witness statements filed by others in relation to the Amendment. The Statements available are all prepared by experts in traffic planning, engineering and/or quantity surveying. No statements have been filed by experts in infrastructure contributions. I have reviewed the statements and made reference to relevant points as they impact on my review relating to infrastructure contributions, but I have not undertaken a detailed review of the technical aspects of the statements given that the majority of content falls outside my expertise.

### **2.4. STRUCTURE OF STATEMENT**

17. My statement includes the following sections:
- a. In Section 3, I outline the statutory framework as it currently applies to Infrastructure Contributions Plans.
  - b. In Section 4, I provide a brief overview of the proposed Amendment;
  - c. In Section 5, I provide details of my review of the revised ICP and any issues that I consider should be addressed;
  - d. In Section 6, I provide my view on the issues raised in submissions to the Amendment and related expert evidence statements; and
  - e. In Section 7, I set out my conclusions in respect of the Amendment.

## 3. ICP FRAMEWORK

### OVERVIEW

18. In this section, I provide an overview of the framework for ICPs in Victoria.
19. The main documents forming the 'ICP Framework' are:
  - a. The Act;
  - b. The Ministerial Direction; and
  - c. The ICP Guidelines.

### 3.1. PLANNING AND ENVIRONMENT ACT

20. Part 3AB of the Act provides for the introduction of Infrastructure Contributions Plans (ICP) and specifies the required content of an ICP.
21. The Act provides that an ICP can specify a Standard Levy rate to fund nominated infrastructure projects and can also specify a Supplementary Levy rate for certain projects.
22. In July 2018, the Planning and Environment Amendment (Public Land Contributions) Act 2018 came into effect. This resulted in changes to the legislation for ICPs, primarily by separating land contributions from monetary contributions and setting out a process by which land contributions must be provided, valued, acquired and equalised across landowners.
23. The legislative changes triggered the need to revise and update any Infrastructure Contributions Plans which had been prepared and gazetted on the basis of the previous provisions of the Act. The legislation changes also resulted in updates to the Ministerial Direction (July 2018) and ICP Guidelines (revised version published September 2019).

### 3.2. LEVIES AND ALLOWABLE ITEMS

24. The ICP Framework describes the application of Standard and Supplementary Levies and definitions of allowable items. Standard Levies are set amounts that can be used to fund allowable items, while a Supplementary Levy can only be applied in particular circumstances and can only be introduced where specific criteria are satisfied.
25. The Ministerial Direction specifies the development settings where an ICP can apply and specifies the Standard Levy amount and how it must be indexed. At present, the only development setting specified is the Metropolitan Greenfield Growth Area setting.
26. The ICP Framework provides for a combination of a monetary levy and a public land contribution. The Standard Monetary Levy comprises two separate levy types:
  - a. A Community and Recreation Levy, to be used to fund infrastructure such as community centres, sports fields and pavilions; and
  - b. A Transport Levy, to be used to fund infrastructure such as roads, intersections and paths.
27. The Ministerial Direction includes a list of allowable items for a Standard Levy and a separate list for a Supplementary Levy. I have reproduced the list of allowable items in **Appendix B** of this statement.

28. The standard levy rates for Metropolitan Greenfield Growth Areas for the 2018/19 and 2019/20 financial years are shown in Table 1. Levy amounts are expressed as monetary contributions per hectare of Net Developable Area (NDA).

## T1. STANDARD LEVY RATES (RESIDENTIAL DEVELOPMENT)

Year	COMMUNITY AND RECREATION CONSTRUCTION	TRANSPORT CONSTRUCTION	TOTAL STANDARD LEVY RATE
2018/19	\$86,627	\$114,062	\$200,689
2019/20	\$89,518	\$124,344	\$213,862

Source: Ministerial Direction.

## SUPPLEMENTARY LEVIES

29. Clauses 16 to 18 of the Ministerial Direction provide direction for the introduction of a Supplementary Levy as follows.
30. Clause 16 notes that a Supplementary Levy may only fund Supplementary Levy Allowable Items.
31. Clause 17 requires that “before deciding whether to impose a Supplementary Levy, the planning authority must consider:
- Whether the plan preparation costs, works, services or facilities can be wholly or partially funded from a standard levy;
  - Whether the works, services or facilities are essential to the proper and orderly development of the area;
  - Whether the works, services or facilities are identified in a precinct structure plan or equivalent strategic plan applying to the land;
  - Whether the land has particular topographical, geographical, environmental or other physical constraints or conditions that significantly affect the estimated cost of allowable items to be funded through the infrastructure contributions plan; and
  - Any other criteria specified in the applicable Annexure to this Direction.”
32. I refer to these as the ‘**criteria**’ for the introduction of a Supplementary Levy. I note that Annexure 1 to the Ministerial Direction provides further information on the circumstances that would qualify specific infrastructure types for inclusion in a Supplementary Levy (for example, the spacing of intersections as defined in Table 4 of the Annexure).
33. Clause 18 identifies that “if an infrastructure contributions plan imposes a supplementary levy the plan must specify:
- The estimated cost of each of those works, services or facilities that are to be funded from the standard levy;
  - The estimated cost of each of those works, services or facilities that are to be funded from the supplementary levy as required by section 46GI(1)(r)(ii) of the Act;
  - The proportion of the total of the costs referred to in paragraph (b) to be funded from the supplementary levy as required by section 46GI(1)(r)(iv) of the Act.”
34. Section 46GI of the Act specifies the following requirements of the content of an ICP in respect of Supplementary Levies:

"An Infrastructure Contributions Plan must: ...

- (r) specify the following in relation to any supplementary levy imposed under the plan—
  - (i) the works, services or facilities to be funded from the supplementary levy;
  - (ii) the amount of the plan preparation costs and the estimated cost of each of the works, services or facilities to be funded from the supplementary levy;
  - (iii) the method and timing of annual indexation to be applied to the estimated cost of each of the works, services or facilities to be funded from the supplementary levy;
  - (iv) the proportion of the total of the costs referred to in subparagraph (ii) to be funded from the supplementary levy"

**35.** I have regard to the requirements of the Act and the Ministerial Direction in my review, in particular those requirements and conditions quoted in this section.



## 4. THE AMENDMENT

### 4.1. AMENDMENT GC102

36. Amendment GC102 applies to land within the boundaries of the Donnybrook-Woodstock PSP area, which includes land within both the City of Whittlesea and Mitchell Shire.
37. The Amendment seeks to introduce a 'permanent' or 'final' ICP to replace the existing interim Donnybrook-Woodstock ICP.
38. The proposed changes to the Planning Schemes are summarised in Table 2.

### T2. PROPOSED CHANGES TO PLANNING SCHEMES THROUGH AMENDMENT GC102

Change	Description
Land affected	Applies to land within the boundaries of the Donnybrook-Woodstock PSP area, including land in both the City of Whittlesea and Mitchell Shire.
Infrastructure Contributions Overlay (ICO)	Amends Schedule 1 to the ICO to update the monetary component and levy rate payable within the amendment area.
Clause 72.04	Amends the Schedule to Clause 72.04 by deleting the incorporated document titled Donnybrook-Woodstock Infrastructure Contributions Plan, July 2019 and including a new incorporated document (Revised ICP) to provide a fair and equitable infrastructure funding mechanism that complies with the current legislation.

Source: Amendment GC102 Explanatory Report, modified by Urban Enterprise 2019.

### 4.2. ICP HISTORY

39. Due to the changes in legislation and subsequent changes to the ICP Framework described in the previous section, multiple versions of the Donnybrook Woodstock ICP have been prepared. The Mesh Report sets out the history and evolution of the ICP in some detail.
40. To summarise, I understand that the following versions of the ICP have been prepared:
  - The original Donnybrook Woodstock Standard Levy ICP was gazetted in November 2017, including a Standard Levy and not including a Supplementary Levy.
  - An Interim ICP was prepared and implemented through Amendment GC101 in response to the changes to legislation. This version did not include any land values for public land acquisition and equalisation.
  - A 'final' ICP was placed on public exhibition in as part of Amendment GC102 (the Exhibited ICP) which introduced a Supplementary Levy for transport items.
  - A second Interim ICP was prepared and implemented through Amendment GC108 to update public land contributions and specify land values.
  - The final (exhibited) ICP was revised by the VPA in April 2019 to reflect changes to infrastructure costs and subsequent changes to the Supplementary Levy amount due to the release of a Draft Final Benchmark Costing Report. This is referred to in my statement as the Revised ICP.

41. The process by which the ICP has been updated has resulted in a history of changes that is complex and difficult to follow. I understand that this is primarily due to the concurrent timing of the ICP preparation, legislative changes and the VPA's ongoing process of seeking to establish cost benchmarks that can be used for future ICPs. I note the view expressed in the Mesh report (p.3) that "the VPA has acted responsibly and sought to address and incorporate the implications of an evolving system whilst at the same time...keeping the process moving" for Councils and landowners.
42. The intention of the ICP Framework is that a single ICP document is prepared and introduced into the Planning Scheme, including through a full Planning Scheme Amendment process if a Supplementary Levy is proposed. The history of legislative changes and subsequent issues identified and addressed by the VPA and the Department of Environment, Land, Water and Planning have resulted in the Donnybrook Woodstock ICP undergoing considerably more changes and versions than were anticipated at the commencement of the ICP system. Nonetheless, it is apparent that most of this complexity was unavoidable.
43. Notwithstanding the complex history, it is my view that the current focus should be on the extent to which the Revised ICP is consistent with the current ICP Framework and will result in equitable and practical delivery of public infrastructure to service the PSP area.
44. My review therefore focuses on the content of the Revised ICP.

### 4.3. REVISED ICP

45. The Revised ICP applies to all land in the PSP area and seeks to fund the delivery of the following infrastructure types:
  - Arterial roads and intersections;
  - Bridges and culverts;
  - Signalised pedestrian crossings;
  - Community centres; and
  - Open space reserves and associated pavilions.
46. The Revised ICP applies to an area with an estimated Net Developable Area of 1,032.70ha, with all land defined as 'Residential Development'.
47. The Revised ICP proposes to include both a Standard Levy and Supplementary Levy, with levy amounts shown in Table 3.

### T3. REVISED ICP LEVY AMOUNTS

	Community and Recreation Standard Levy	Transport Standard Levy	Total Standard Levy	Supplementary Levy
Levies (\$/ha)	\$86,627	\$114,062	\$200,689	\$34,777

Source: Revised ICP, p.31.

48. The Supplementary Levy in the Revised ICP (\$34,777 per hectare) is substantially higher than the Supplementary Levy in the Exhibited ICP (\$412 per hectare). I understand that this difference is due to a comprehensive review of the cost of all infrastructure items undertaken by the VPA by reference to the broader cost benchmarking exercise underway in parallel to the Amendment. I provide my view on the approach to cost benchmarking later in my statement.

49. The Revised ICP also sets out the location and quantum of Public Land required across the PSP area. A total of 155.58 hectares of Public Land is required, all of which is located within the PSP area (defined as "inner Public Purposes Land").
50. The average public land contribution equates to 13.09% of the Total Contribution Area (which comprises the Net Developable Area plus the area of land for public purposes).
51. The ICP sets out the approach to equalisation of this land contributions across all landowners, including the requirement for those providing less than the average to make a monetary payment to compensate those required to contribute more than the average.

## 5. REVIEW

### 5.1. INTRODUCTION

52. In this section, I outline the findings of my review of the Revised ICP. I have separated my findings into the following topics:
- General content, structure and accuracy of the ICP;
  - Whether infrastructure items accord with the Ministerial Direction definitions of Allowable items, and whether each item has been appropriately categorised as Standard or Supplementary items;
  - Whether the approach to cost estimation is appropriate;
  - Whether costs have been fairly apportioned; and
  - Whether the criteria for introducing a Supplementary Levy have been met and whether the Supplementary Levy has been correctly calculated.

### 5.2. GENERAL

53. Overall, the Revised ICP includes sufficient content to clearly identify and describe the infrastructure items that are proposed to be funded, the location and the proposed scope of work and concept design. The costs of each item are clearly shown.
54. In my view, the content of the Revised ICP addresses all requirements of the Act and is appropriately and clearly structured.
55. The infrastructure items included in the Revised ICP are each identified in the PSP which has been gazetted, which in my opinion results in sufficient justification for including each item in an ICP for the area.
56. I have reviewed and verified the calculation of levy amounts based on an appropriate conversion of construction costs and cost apportionment to levies.
57. The Public Land contribution amount has been appropriately calculated as a percentage of the Total Contribution Land which includes both the Net Developable Area and the public land itself.

### 5.3. CATEGORISATION OF ITEMS

58. The Revised ICP shows the levy category for each infrastructure item (i.e. Transport or Community and Recreation) and whether the item is to be funded by the Standard Levy or Supplementary Levy.
59. I have reviewed the categorisation of each item (as shown in Tables 5 and 6 of the Revised ICP) and compared item descriptions against the Ministerial Direction and the PSP to confirm whether items have been appropriately categorised.
60. In my view, all items are appropriately categorised into Transport, Community and Recreation and Public Land.
61. In my view, all items shown as 'Standard' transport items are consistent with the Ministerial Direction.

62. Nine (9) infrastructure items to be funded by the Revised ICP are identified as Supplementary transport items, including two intersections, two signalised pedestrian crossings and five bridge/culvert items. My review of these items is summarised in Table 4 and discussed following the table.

#### T4. REVIEW OF SUPPLEMENTARY TRANSPORT ITEM CATEGORISATION

Item Code	Rationale for Supplementary Categorisation	Review comment
IN-02	Cannot be wholly funded by standard levy due to physical conditions (significant service relocation costs)	In my view, it is appropriate to classify these items as Supplementary items if service relocation costs are significantly higher for these intersections than is common and if these costs comprise a significant proportion of the overall intersection cost.
IN-03	As above	
Ped-02	Not stated	Each of these items provides a safe crossing point for pedestrians using a linear off-road pathway to cross an arterial road.
Ped-03	Not stated	In my view, these items should be categorised as Standard Levy transport items based on the Ministerial Direction.
BR-01	Not stated	In my view, road bridges are appropriate to include in a Supplementary Levy.
BR-02	Not stated	Culverts can be included in a Supplementary levy if the design meets the minimum dimensions to be classified as a 'major' culvert.
BR-03	Not stated	
BR-04	Not stated	
BR-05	Not stated	In my view, road bridges are appropriate to include in a Supplementary Levy.

Source: Revised ICP; Urban Enterprise.

#### SERVICE RELOCATION COSTS

63. I have reviewed the service relocation costs for intersections IN-02 and IN-03 and compared these against other intersection costs based on the content of the Revised ICP.
64. My review found that:
- Intersections 1 to 5 include some type of service relocation costs in the detailed cost estimate sheets shown in the Revised ICP. Each of these intersections is located on Donnybrook Road.
  - Service relocation costs range from \$393,580 for IN-01 to \$674,878 for IN-04, and from 6.4% of total IN-01 cost to 10.3% of total cost of IN-05 in percentage terms.
  - All other intersection costings do not include an allowance for any service relocation costs, however two (IN-08 and IN-12) include costs for removal of existing pavement and one (IN-17) includes costs associated with a gas protection slab.
65. Cardno's Cost Application Report (p.8) describes the process which led to the identification and estimation of service relocation costs, which included direction for the design of these intersections to be retained within the existing Donnybrook Road reserve.

66. In my view, each of the five intersection items could qualify as Supplementary Allowable Items if the cost of the item(s) cannot be wholly or partially funded from the standard levy. I am instructed that this approach was applied in the preparation of the Revised ICP, with only those intersections which could not be funded within the standard levy (IN-02 and IN-03) contributing to the Supplementary Levy amount.
67. The Ministerial Direction (Clause 20) identifies that “service relocations, installations and adjustments”...“that are reasonably required to provide an item” also form part of an allowable standard or supplementary item. The issue then is whether the service relocation requirements “significantly affect the estimated cost” of the relevant intersections and therefore satisfy the criteria for inclusion in a Supplementary Levy. The Ministerial Direction does not provide guidance on what constitutes a “significant” effect on costs.
68. Based on my estimates of scale and proportion shown in paragraph 64b, it is my view that the service relocation costs significantly affect the overall cost of the items and therefore qualify for inclusion in a Supplementary Levy if the costs cannot be accommodated within the Standard Levy amount.
69. I note that the Panel report for Melton Amendment C201 (Mt Atkinson and Tarneit Plains ICP) concluded that “if the demolition of existing pavement and construction of the slab to protect the high pressure gas pipeline significantly add to the cost of intersections...then amend the [ICP] to allocate the whole of those projects to the supplementary levy (to the extent that there are insufficient funds in the standard levy).”
70. I agree that any significant additional works that are not ‘standard’ or commonly required for intersection projects should be considered for inclusion in a Supplementary Levy. I do not agree that this should necessarily apply to an entire infrastructure item, however, as explained later in this statement.

## **PEDESTRIAN SIGNALS**

71. Two pedestrian signal items (Ped-02 and Ped-03) are identified as Supplementary Levy items.
72. The Ministerial Direction identifies that:
- “Signalised pedestrian crossings” on arterial roads are transport standard levy allowable items;
  - “Pedestrian bridges and accessways”...“required to provide access across a railway, arterial road, waterway corridor, major easement or other major obstacle” qualify as transport supplementary levy allowable items.
73. In my view, there is some ambiguity as to how these items should be categorised to accord with the Ministerial Direction. Notwithstanding this, in my opinion the best fit for the items is within the Standard Levy given the items are described as “signalised crossings” as opposed to “bridges or accessways”. This would require a change to the ICP, however the impact on the levy amounts would be negligible given the relatively low cost of these items.

## **BRIDGES AND CULVERTS**

74. The Revised ICP identifies five bridges and culverts as supplementary items. The Ministerial Direction includes the following project types under the list of allowable supplementary transport items:

- a. Road bridges (including rail overpasses), on the condition that the costs cannot be wholly or partially funded from the standard levy and the bridge forms part of the council arterial road network.
  - b. Major culverts, on the condition that the costs cannot be wholly or partially funded from the standard levy and the internal cross-sectional area of the culvert is at least 1.75 square metres.
75. The Ministerial Direction includes 'minor culverts' in the list of transport standard levy allowable items if specified in the relevant PSP and with an internal cross-sectional area which is less than that of a major culvert. The Ministerial Direction does not identify any road bridges as transport standard levy allowable items.
76. In my opinion, the two road bridges (BR-01 and BR-05) are correctly identified as Supplementary items.
77. I am instructed by the VPA that BR-02, BR-03, BR-04 have culvert cross sections of 32.4sqm, 46 sqm and 46 sqm respectively which exceeds the Supplementary item criteria of at least 1.75sqm. Two of these culverts are designed to accommodate Growling Grass Frog movements. On this basis, I am satisfied that the three culvert items have been appropriately categorised as Supplementary Allowable Items.

#### 5.4. APPROACH TO ESTIMATING INFRASTRUCTURE COSTS

78. An iterative process has occurred to inform the estimate of cost for each infrastructure item in the ICP. The process and costing results have been the subject of considerable interest, including through submissions, expert evidence and the broader benchmarking exercise led by the VPA and involving stakeholder feedback.
79. In the case of this ICP, it is particularly important that accurate cost estimates are prepared for all items, given that:
- A Supplementary Levy is proposed, and the quantum of this levy depends on the availability of any surplus within the Standard levy for transport items which in turn depends on the total estimated cost of all transport standard levy items.
  - Developers commonly deliver road and intersection items as Works In Kind (WIK) in exchange for credits to offset levy payments. The ICP does not specify how the value of these credits will be defined, other than to say that credit values will be "negotiated between the Collecting Authority and the applicant". This presents the risk of funding shortfalls if costs are not accurately estimated as part of the ICP.
80. Given that my expertise does not extend to engineering or quantity surveying, the main issues to consider in this statement are whether the approach to estimating the cost of infrastructure items in the ICP is:
- a. Consistent with the ICP framework; and
  - b. Likely to result in a practical and equitable outcome.
81. As noted earlier in my statement, the Ministerial Direction requires the following in respect of cost estimates:
- "If an infrastructure contributions plan imposes a supplementary levy the plan must specify the estimated cost of each of those works, services or facilities that are to be funded from the standard levy" and supplementary levy.

- “The estimated cost of a transport construction allowable item...may include a contingency amount for construction” that “must not exceed 15%” for roads and intersections and “must not exceed 20%” for bridges. (Annexure 1 Clause 21)
82. No further specific guidance is available in the ICP framework as to how cost estimates should be prepared or the level of detail required.
83. Based on my review of the range of supporting information for the ICP, I have identified the following key elements of the approach to cost estimation for the Revised ICP:
- The infrastructure costs shown in the Revised ICP are a combination of ‘benchmark’ and ‘bespoke’ designs and cost estimates.
  - The benchmarking approach relies on an analysis of costs and unit rates included in a range of gazetted Development Contributions Plans and adopts a Monte-Carlo analysis to establish benchmark costs at a level that represents a probability of accommodating 90% of all possible cost outcomes for that infrastructure type.
  - In many cases, it is apparent that estimates in the Revised ICP are a ‘hybrid’ of benchmark unit rates and bespoke allowances to respond to specific conditions for the item (such as the service relocation costs for certain intersections and allowances for rock excavation for all intersections).
  - It is apparent that where a not typical infrastructure item design has been prepared for the Revised ICP, the cost of that item has been adjusted to reflect the specific quantities required for that design.
  - Road construction items in the ICP are primarily costed based on benchmark designs and benchmark unit costs.
  - Seven projects (four bridges and three pedestrian crossings) have both bespoke designs and bespoke cost estimates.
  - Estimates for sports reserves and community facilities are primarily based on benchmark designs and benchmark costs.
84. In my experience, approaches to estimating costs for long term shared infrastructure funding plans (such as DCPs and ICPs) often vary. Cost estimates are usually prepared based on high-level concept designs well before detailed designs are required, warranting relatively high contingency allowances and often excluding consideration of site conditions.
85. In my opinion, cost benchmarks can be useful and efficient where there is relative uniformity of infrastructure types and costs. In this respect, it is my view that the draft Benchmark Costing Report and the broader process undertaken by the VPA in partnership with Cardno to establish a consistent basis for estimating costs for particular designs that are commonly funded through ICPs provides useful information which will assist in creating a more transparent and efficient approach to the preparation of ICPs. It is noted, however, that benchmark costs and designs will not always perfectly match the infrastructure requirements or conditions of all PSP areas, warranting consideration of bespoke designs or costs for particular items if necessary.
86. In my view, benchmark designs can be applied where:
- The ‘benchmark’ design and associated quantities are consistent with the requirements of the PSP; and



- There is a high degree of consistency of design, layout, quantities and costs of delivering the type of item for which a benchmark cost is being applied.
87. These circumstances usually lead to benchmark designs being more suitable and appropriate for items such as sports fields, community centres and roads, and less suitable for other items such as major intersections and bridges. I note that benchmark 'unit rates' are commonly used to estimate costs for DCP and ICP items, which I consider appropriate so long as the units are adjusted to reflect the quantities required as part of the proposed design (if a benchmark design is not appropriate).
88. In the case of the Donnybrook Woodstock ICP, my opinion is that:
- If there are specific site conditions that are known and are likely to materially influence the cost of a particular infrastructure item or group of items, it is important for those conditions to be taken into account when estimated costs for inclusion in the ICP. This approach appears to have been taken by Cardno when adjusting cost estimated between the Exhibited and Revised ICP versions.
  - For the transport items in the Revised ICP that are based on benchmarks, the benchmark approach can be applied where there is consistency between the design and cross section of the road shown in the PSP and the benchmark design and there are no known local conditions that could materially impact the total item costs. If either the design or conditions deviate from what has been designed and costed as the benchmark, then a bespoke design, a bespoke cost or both may be required.
89. I note that the contingency amounts applied in the costings included in the Revised ICP are consistent with the maximum contingency amounts permissible under the Ministerial Direction.

## 5.5. COST APPORTIONMENT

90. The ICP (Tables 5, 6 and 7) identifies the apportionment of costs internally (to the PSP area) and externally (to other PSP areas). I have reviewed the apportionments for equity.
91. In my view, the apportionment of costs shown in the ICP appears equitable, with the exception of the following items:
- a. Intersections IN-01, IN-02, IN-03 and IN-04 are located at the southern boundary of the PSP area and include four legs in the design plans shown in the Revised ICP. In each case, the fourth leg provides access to and extends into the neighbouring PSP area to the south (Shenstone Park), however the cost of each intersection is apportioned entirely to the Donnybrook-Woodstock area. I understand that Functional Layout Conclaves<sup>1</sup> established an agreed position to change these items from 4-leg to 3-leg intersections which would be 100% funded by the ICP. This should be reflected in the ICP by updating the item description and design plan (and cost estimate and land allowances if required). If the items were to remain as 4-leg intersections, external apportionment to the neighbouring PSP would be required (as was the case in the Exhibited ICP).
  - b. The English Street DCP applies to the neighbouring PSP to the south-west. The DCP includes a monetary contribution towards sports facilities in the Donnybrook Woodstock PSP area

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<sup>1</sup> Second Functional Layout Conclave Statement, 20 September 2019.

described as a “6% contribution” which has a value of \$1.6m in 2015 values (English Street DCP p.22 Table 9). This contribution is acknowledged in the Donnybrook Woodstock PSP (p.7). In my view, deduction of this amount (through external apportionment for one of the sports reserve items) should be considered prior to finalisation of the ICP.

## 5.6. SUPPLEMENTARY LEVY AMOUNT

92. The Revised ICP proposes a Supplementary Levy of \$34,777 per hectare of Net Developable Area. I have reviewed the steps to arrive at this amount as shown in Table 5.
93. I understand the approach adopted by the VPA to calculate the Supplementary Levy was to:
- Estimate the ‘surplus’ within the Standard Levy for transport items;
  - Distribute the total cost of Supplementary Levy items partially to the Standard Levy (equivalent to the surplus amount) before calculating the additional costs that will need to be funded by a Supplementary Levy.

## T5. SUPPLEMENTARY LEVY CALCULATIONS

Item	Cost apportioned to the ICP	Cost Per ha
Standard Levy Allowable items (transport)	\$113,169,624	\$109,586
Standard Levy Amount	\$117,791,827	\$114,062
Standard Levy ‘surplus’	\$4,622,203	\$4,476
Supplementary Levy Allowable items (transport)	\$40,530,638	\$39,247
Difference between Supplementary and Standard surplus (i.e. the Supplementary Levy amount)	\$35,908,435	\$34,771

Source: Urban Enterprise, based on Revised ICP.

94. Based on my calculations, I have verified the calculations of the Supplementary Levy as correct (noting that my resulting levy of \$34,771 is marginally lower than the levy shown in the Revised ICP of \$34,777).
95. In my view, the approach to calculating the Supplementary Levy amount is consistent with the ICP Framework, including the Act, the Ministerial Direction and the ICP Guidelines.
96. Clause 17 of the Ministerial Direction refers to the need to consider whether costs can be “wholly or partially funded from a Standard Levy.” (emphasis added). Similarly, the ICP Guidelines (p.46) state that “if an ICP applies a supplementary levy to fund infrastructure that can be funded from a standard levy and a supplementary levy, the Planning Authority must...demonstrate that the infrastructure to be funded from the supplementary levy cannot be wholly or partially funded by the standard levy.” In my opinion, this indicates that the system makes provision for part of the cost of a supplementary item to be funded through a standard levy if there is capacity to do so.
97. An example included in the ICP Guidelines (reproduced in Table 6 below) of a bridge being wholly or partially funded by a standard levy indicates an expectation that an individual item of infrastructure can be ‘split’ across the standard and supplementary levies based on the amount of any surplus available in the standard levy.

## T6. EXAMPLE OF ITEM COST DISTRIBUTION TO STANDARD AND SUPPLEMENTARY LEVIES

### **Example:**

In the Metropolitan Greenfield Growth Area development setting, before a planning authority decides to apply a supplementary levy to fund an arterial road bridge (which is an allowable item for both the standard levy and a supplementary levy), it must estimate the cost of all infrastructure projects to be funded from the standard levy to determine whether the bridge can be wholly or partially funded from the standard levy.

Source: ICP Guidelines, page 46.

98. In my view, the consistent use of the term “partially” and the example in Table 6 indicate that the ICP system is designed to enable individual infrastructure items which qualify for inclusion in a Supplementary Levy to be split so that the item is partially funded by the standard levy and partially by the supplementary levy.

## 6. SUBMISSIONS

99. I have reviewed the submissions to the Amendment as relevant to my expertise and provide a response to each issue in Table 7.
100. The majority of issues raised in submissions relate to the suitability of the cost estimates or infrastructure designs included in the Exhibited ICP or Revised ICP. To the extent that these issues relate to engineering design or quantity surveying, I have not responded to these issues given they fall outside my area of expertise.
101. In my opinion, the majority of issues in submissions could be resolved by ensuring that all transport items are designed to align with the PSP and are costed to take into account local conditions.

### T7. ISSUES RAISED IN SUBMISSIONS

ID	Issue	Response
1a	Benchmark intersection costs need to be adjusted for existing roads as distinct from open paddocks, or bespoke costs prepared.	I agree that in cases where a standard or benchmark cost is unlikely to cover all elements of a project, that a bespoke cost estimate should be prepared. I understand that this has been addressed through the revised costings prepared for the Revised ICP.
1b	Any benchmark costs used should be appropriately indexed to reflect current values.	I agree that any benchmark costs applied should be indexed to current values, including during any 'lag' period between preparation of cost estimates and the date at which the document, DCP or ICP was published or gazetted. This is a matter for Cardno to address in so far as it affects the benchmark costs themselves.  In terms of future indexing of benchmark cost amounts, I am instructed that the VPA proposes to index benchmark costs in the same way as the Standard Levy.
1c	The ICP should specify that cost estimates are 'high-level' and that specific designs and associated costings would need to be prepared to inform the actual costs of works to be funded under the ICP.	I disagree with this submission. It is important that the most accurate cost information available at the time of preparation is used to inform the ICP.
2a	The intersection design plans included in the ICP do not show the extent of works.	I agree that it is important for the ICP to clearly define the extent of the works for each item to ensure that there is certainty during implementation of the ICP and to ensure that there is no overlap (or gap) in infrastructure costings. This is a matter to be resolved as part of the broader resolution of intersection design issues.
2b	There are a number of inconsistencies between the benchmark designs and the requirements of the PSP, and in some cases there is no relevant benchmark design for the type of intersection proposed.	As noted earlier in my statement, benchmark designs should only be applied where there is consistency between the benchmark design and the requirements of the PSP. In some cases, I consider that the use of a hybrid of benchmark unit rates and bespoke designs will be appropriate where a suitable benchmark design is not available.

ID	Issue	Response
4a	Rock excavation should be included in the road and intersection cost estimates.	<p>In my view, it is reasonable to include such costs if conditions are well known. Otherwise, the contingency allowance provides capacity to accommodate any increase in costs due to unforeseen soil issues.</p> <p>It is apparent that these costs have now been included in the cost estimates for all intersection items in the Revised ICP but do not appear to have been included in road costs which are 'benchmarked'.</p> <p>In my opinion, if adverse soil conditions result in materially higher construction costs than otherwise, then this could warrant consideration of classifying affected items as Supplementary Items. However, in the case of intersections, the Revised ICP shows rock excavation as commonly comprising only 2-3% of overall construction costs which should comfortably be accommodated by contingency allowances.</p>
4b	The cost of borrowings for community and active recreation projects should be included in the ICP.	<p>The Ministerial Direction includes financing costs to enable "early delivery of works, services or facilities" as an allowable Supplementary Item if "early delivery...is essential to the orderly development of the area."</p> <p>In my view, financing costs are most applicable where particular items of infrastructure are required to 'unlock' development areas (for example, a major intersection or road) and the item needs to be delivered by a Development Agency in advance of funds being available from development levies.</p> <p>In the absence of information justifying why early delivery of these items is essential to the orderly development of the area, I do not agree that early works financing is appropriate for the community and recreation projects in the ICP.</p>
5a	Cost estimates need to take into account local conditions, including rock, growing grass frog, gas easements, etc.	I agree that any known local conditions should be taken into account when preparing cost estimates. It is apparent that these conditions were considered in the costs prepared for the Revised ICP.
5b	ICP projects in Mitchell should be identified as Long term projects.	I agree that the northern area is a long term development prospect and the timing of infrastructure items should reflect that timing.
7a	The submitter does not support the final ICP cost estimates being based on benchmark costings that are 'interim' in nature.	<p>In my view it is reasonable to apply benchmark costs in certain circumstances as outlined in Section 5 of my statement.</p> <p>In my opinion, it should not be of consequence whether the benchmark costs are in draft or final form, so long as the assumptions and sufficient detail are made available to enable a detailed review through the Planning Scheme Amendment process, which I consider to be the case.</p>

ID	Issue	Response
8a	The change in direction regarding which projects are funded by the Supplementary Levy is not explained in the supporting documentation describing changes between the Exhibited and Revised versions of the ICP.	I agree that this needs to be clarified, although I understand that the changes to Supplementary Items were the result of the re-costing exercise as opposed to changes in categorisation of items. I have provided my views on which items I believe should be identified as Supplementary Items in section 5 of this statement.
8b	The submitter supports changes to the intersections on Donnybrook Road from 4 leg to 3 leg intersections and subsequent removal of external apportionment if this design is satisfactory to VicRoads.	I believe this issue has been resolved through the recent Functional Layout Plan conclaves.

Source: Urban Enterprise.

## 7. CONCLUSIONS

102. Based on the analysis outlined in this statement, my conclusions on this matter are as follows:

- a. The content of the ICP addresses all requirements of the Act and is clearly and accurately compiled.
- b. Infrastructure items are correctly categorised in accordance with the list of Allowable Items in the Ministerial Direction, with the following exceptions:
  - i. Ped-02 and Ped-03 should be classified as Standard Items; and
  - ii. Intersections IN-01, IN-02, IN-03, IN-04 and IN-05 all qualify as Supplementary Items.
- c. The criteria for applying a Supplementary Levy have been met with respect to service relocation costs and the need for major bridges and culverts and demonstration that not all of the costs of Supplementary Items can be accommodated within the Transport Standard Levy amount.
- d. The method applied to calculating the Supplementary Levy amount is appropriate and aligns with the ICP Framework, including the approach to 'splitting' the cost of certain items between the Standard and Supplementary Levies.
- e. Minor changes are recommended to clarify the apportionment of costs in respect of intersections (Donnybrook Road) and sports reserve contribution from the English Street DCP.
- f. The approach to estimating costs for ICP items has followed a number of iterations which have resulted in primarily bespoke designs and costings for infrastructure items, particularly transport items. Some designs and costs appear to rely on benchmarks, which should only be adopted where there are no differences between PSP and benchmark designs and there is no clear information available regarding local conditions that could materially influence costs.
- g. The majority of issues raised in submissions relate to the cost and design of transport infrastructure which will be the subject of evidence by others. In my view, there are no material changes required to the structure and content of the ICP in response to submissions relevant to my expertise.
- h. The Ministerial Direction would benefit from unambiguous guidance on the categorisation of different types of pedestrian crossings and on how the cost of individual Supplementary Items can be distributed between the Standard and Supplementary Levies.

### DECLARATION

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



Paul Shipp

Director, Urban Enterprise Pty Ltd

BUPD, MCom, MPA, RPIA

# APPENDICES



## APPENDIX A REQUIREMENTS OF PLANNING PANELS VICTORIA – EXPERT EVIDENCE

### NAME

Paul Shipp, Director, Urban Enterprise Pty Ltd.

### ADDRESS

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

### QUALIFICATIONS

- Bachelor of Urban Planning and Development, University of Melbourne;
- Master of Commerce, RMIT University.

### PROFESSIONAL AFFILIATIONS

- Registered Planner, Planning Institute of Australia;
- Member, Victorian Planning and Environmental Law Association.

### EXPERIENCE

I have 14 years experience as a planner and urban economist and specialise in the fields of development contributions and urban economics.

Urban Enterprise has a track record of successfully preparing Development Contributions Plans for Councils as well as negotiating development contribution arrangements with Councils on behalf of developers.

I have been involved in the preparation and review of many Development Contributions Plans, Infrastructure Contributions Plans and public open space contributions for Councils and developers across Melbourne and regional Victoria.

I have appeared as an expert witness on numerous occasions in respect of development contributions at Planning Panel and Advisory Committee hearings.

### AREAS OF EXPERTISE

Areas of expertise include strategic urban planning, development contributions and urban economics.

### EXPERTISE TO PREPARE THIS REPORT

My experience in urban planning and urban economics over the past 14 years has provided the tools to develop a specialisation in development contributions. I have prepared numerous Development Contributions Plans and have provided advice to public and private sectors in regards to development contributions.

I am therefore qualified to prepare this report and expert witness statement.

## INSTRUCTIONS

My instructions are to

- Review the letter of instruction, the exhibited Amendment GC102 documents, the relevant background documents, the submissions and the recommended changes documents;
- Have regard to the report prepared by Mesh addressing the background and evolution of the new ICP process, including the benchmarking system;
- Review other expert witness statements filed and served on behalf of submitters;
- Prepare an expert witness addressing your opinions on the Amendment from an infrastructure contributions planning perspective; and
- Attend the Panel hearing to give evidence.

## FACTS, MATTERS AND ASSUMPTIONS RELIED UPON

I have relied on the following for my assessment:

- The exhibited Amendment GC102 documentation (the **Amendment**);
- Draft Donnybrook-Woodstock Infrastructure Contributions Plan, August 2018 (**Exhibited ICP**);
- Part A Part 1 Submission of the VPA and annexures;
- Recommended Changes to the Exhibited ICP (VPA, April 2019), referred to in this statement as the **Revised ICP**;
- Draft Benchmark Infrastructure Report (April 2019) (**draft Benchmark Costing Report**), prepared by Cardno; and
- Draft Benchmark Infrastructure Costing – Result Application (Cardno, April 2019)(**Cost Application Report**).
- The Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans, 1 July, 2018 (**Ministerial Direction**);
- Infrastructure Contributions Plan Guidelines, Department of Environment, Land, Water and Planning, September 2019 (**ICP Guidelines**);
- The Planning and Environment Act 1987 (as relevant to infrastructure contributions) (the **Act**);
- Planning and Environment Amendment (Public Land Contributions) Act 2018;
- Melton Planning Scheme Amendment C201 Panel Report;
- Donnybrook-Woodstock Precinct Structure Plan (VPA, October 2017, gazetted) (the **PSP**); and
- Donnybrook Woodstock ICP (Amendment GC102) Background and Evolution of the ICP, Mesh, October 2019 (the **Mesh report**).
- My familiarity with the site and the surrounding area; and
- Relevant experience.

## DOCUMENTS TAKEN INTO ACCOUNT

See above.

## **IDENTITY OF PERSONS UNDERTAKING THE WORK**

Paul A. Shipp

## **SUMMARY OF OPINIONS**

Refer to Section 7: Conclusions.

## APPENDIX B ALLOWABLE ITEMS LISTS

**Table 2: Community and recreation construction standard levy allowable items**

Standard levy allowable item	
<b>Community facilities</b>	<p>The following single or multi-purpose community facilities that provide for a range of community activities and services:</p> <ul style="list-style-type: none"> <li>• multi-purpose community facility</li> <li>• kindergarten</li> <li>• childcare and occasional care facility</li> <li>• playgroup facility</li> <li>• maternal and child health centre</li> <li>• library and learning centre</li> <li>• community arts and cultural facility</li> <li>• neighbourhood house</li> <li>• adult day care and activity group facility</li> <li>• youth services facility</li> <li>• delivered meals facility</li> <li>• business accelerator facility.</li> </ul>
<b>Sports and recreation facilities</b>	<p>The following multi-purpose or specialist sports and recreation facilities that provide for a range of activities and services:</p> <ul style="list-style-type: none"> <li>• outdoor multi-purpose sports field, court and spaces</li> <li>• multi-purpose and/or specialist pavilion</li> <li>• football oval</li> <li>• soccer pitch</li> <li>• cricket oval</li> <li>• rugby field</li> <li>• tennis court</li> <li>• basketball court</li> <li>• netball court</li> <li>• bowling green</li> <li>• bocce court</li> <li>• baseball field</li> <li>• softball field</li> <li>• hockey field.</li> </ul>

**Table 3: Transport construction standard levy allowable items**

Standard levy allowable item	Standard of provision	
<p>Arterial roads</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• upgrades to existing local roads to arterial road standards; and</li> <li>• new arterial roads.</li> </ul>	Arterial road spacing	<p>Based on a typical 1.6 km arterial road grid network with alternating:</p> <ul style="list-style-type: none"> <li>• primary (six lane) arterial roads comprising a 41 metre wide reservation; and</li> <li>• secondary (four lane) arterial roads comprising a 34 metre wide reservation.</li> </ul>
	Arterial road design	Designed to generally accommodate the forecast ultimate traffic volumes generated by the new development.
	Arterial road lanes	Construction of one through lane in each direction.
	Walking and cycling infrastructure	On both sides of the arterial road as specified in the Precinct Structure Plan or equivalent structure plan.
	Signalised pedestrian crossings	As specified in the Precinct Structure Plan or equivalent structure plan.
<p>Intersections (traffic signals or roundabouts) with council or declared State arterial roads</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• arterial and arterial road intersections; and</li> <li>• arterial and connector road intersections.</li> </ul>	Intersection spacing	Based on a typical 800 metre spacing within the standard 1.6 km arterial road grid network.
	Through lanes at intersection approach	One through lane plus one short through lane in each direction.
	Left turn lane/slip lane	One left turn lane/slip lane where required in ultimate design.
	Right turn lane	As specified in the Precinct Structure Plan or equivalent structure plan.
	Traffic signals	Signals to be located at the ultimate intersection position.
	Walking and cycling infrastructure	As specified in the Precinct Structure Plan or equivalent structure plan.
Minor culverts		<p>Based on an internal cross-sectional area which is less than that of a major culvert described in Table 4.</p> <p>As specified in the Precinct Structure Plan or equivalent structure plan.</p>



**Table 4: Transport construction supplementary levy allowable items**

Supplementary levy allowable item	Criteria for applying a supplementary levy
<p>Arterial roads</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• upgrades to existing local roads to arterial road standards; and</li> <li>• new arterial roads.</li> </ul>	<p>At least one of the following apply:</p> <ul style="list-style-type: none"> <li>• The Precinct Structure Plan or equivalent strategic plan requires: <ul style="list-style-type: none"> <li>• arterial road spacing above the standard set out in Table 3; or</li> <li>• the interim construction of two through lanes in each direction.</li> </ul> </li> <li>• Construction costs of the council arterial road cannot be wholly or partially funded from the standard levy because: <ul style="list-style-type: none"> <li>• of the topographical, geographical, environmental or other physical conditions of the land; or</li> <li>• the road is designed to primarily service industrial development; or</li> <li>• the area of the precinct in net developable hectares is limited.</li> </ul> </li> </ul>
<p>Intersections with council and declared State arterial roads</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• arterial and arterial road intersections; and</li> <li>• arterial and connector road intersections.</li> </ul>	<p>At least one of the following apply:</p> <ul style="list-style-type: none"> <li>• The Precinct Structure Plan or equivalent strategic plan requires: <ul style="list-style-type: none"> <li>• additional number of intersections above the standard set out in Table 3; or</li> <li>• intersection design requirements above the standard set out in Table 3.</li> </ul> </li> <li>• Construction costs of the intersections cannot be wholly or partially funded from the standard levy because: <ul style="list-style-type: none"> <li>• of the topographical, geographical, environmental or other physical conditions of the land; or</li> <li>• the road is designed to primarily service industrial development; or</li> <li>• the area of the precinct in net developable hectares is limited.</li> </ul> </li> </ul>
<p>Road bridges (including rail overpasses)</p>	<p>The constructions costs of the bridge cannot be wholly or partially funded from the standard levy.</p> <p>The bridge forms part of the council arterial road network.</p>
<p>Pedestrian bridges and accessways</p>	<p>The constructions costs of the pedestrian bridge or accessway cannot be wholly or partially funded from the standard levy.</p> <p>The pedestrian bridge or accessway is required to provide access across a railway, arterial road, waterway corridor, major easement or other major obstacle.</p>
<p>Major culverts</p>	<p>The constructions costs of the major culvert cannot be wholly or partially funded from the standard levy.</p> <p>The internal cross-sectional area of the culvert is at least 1.75 square metres.</p>

Source: Ministerial Direction, 2018.

