

C214 PLANNING SCHEME

AMENDMENT C214brim

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by Brimbank City Council, which is the planning authority for this amendment.

The Amendment has been made at the request of Brimbank City Council.

Land affected by the amendment

The Amendment applies to all land in the municipality with the exclusion of land within the Sunshine Metropolitan Activity Centre (Sunshine MAC), where the Sunshine Town Centre Development Contributions Plan (Sunshine DCP) applies.

The Amendment affects the same land as currently subject to the Brimbank Development Contributions Plan 2016 (Brimbank DCP 2016).

A map of the land affected by this Amendment is provided at Attachment 1 to this Explanatory Report.

What the amendment does

The Amendment ensures new development in the municipality contributes an equitable share of the cost of new, upgraded or replacement community and sporting infrastructure to meet future community need in the municipality. This is done through implementation of the Brimbank Development Contributions Plan 2022 (Brimbank DCP 2022).

Specifically, the Amendment alters Schedule 2 to the Development Contributions Plan Overlay (DCPO2) at Clause 45.06 to include the relevant contributions tables and requirements for the Brimbank DCP 2022.

The Amendment updates Clause 21.11 Community and Leisure Facilities by including two new objectives and strategies and one new implementation action that relate to the need to use development contributions plans to ensure new development contributes to the cost of sports and community infrastructure. It also updates the list of reference documents associated with this clause to include background documents relevant to Brimbank DCP 2022.

Finally, it includes the Brimbank DCP 2022 into the Brimbank Planning Scheme as an Incorporated Document at Clause 72.04.

Strategic assessment of the amendment

Why is the amendment required?

The Amendment is required to ensure that Council is able to meet the future needs and expectations of the community. New development places strain on existing community and sporting infrastructure as demand intensifies.

Section 3B of the *Planning and Environment Act 1987* (P&E Act) allows for the preparation, adoption and implementation of Development Contributions Plans (DCPs) to ensure that new development contributes a proportionate amount towards the costs of new infrastructure, upgrades to existing infrastructure and the replacement of infrastructure that has reached the end of its useful life.

The Brimbank DCP 2022 has been prepared in accordance with Section 3B of the P&E Act, the *Development Contributions Plan Guidelines March 2007* (DCP Guidelines), and the *Ministerial Direction on the Preparation and Content of Development Contributions Plans* and *Ministerial*

Reporting Requirements for Development Contributions Plans October 2016 (Ministerial Direction on DCPs).

Implementation of the Brimbank DCP 2022 will commit Council to the delivery of 48 new community infrastructure projects to the approximate value of \$76m over the next 20 years. Seven (7) of the projects included were derived from the Brimbank Community Services and Infrastructure Plan 2018-2038 (CSIP) and 41 were derived from the Brimbank Sports Facilities Development Plan Updated 2018 (SFDP).

These two Council adopted documents contain the strategic justification for the projects. Prior to Council adoption, community consultation was undertaken on both draft plans for a period of four weeks. Consultation included advertisement through social media, the Brimbank website, community forums and targeted stakeholder workshops.

All projects proposed for inclusion are part of Council's capital works program.

How does the amendment implement the objectives of planning in Victoria?

The Amendment implements the following objectives for planning in Victoria as outlined in section 4 of the P&E Act:

- *To provide for the fair, orderly, economic and sustainable use, and development of land*
- *To secure a pleasant, efficient and safe working, living and recreational environment for all*
- *Victorians and visitors to Victoria; and*
- *To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.*

How does the amendment address any environmental, social and economic effects?

The Amendment is expected to have positive environmental effects as a number of the projects included in the Brimbank DCP 2022 will upgrade existing infrastructure to be more water and energy efficient and allow more intensive use of existing assets in order to accommodate anticipated population growth (in line with ID profile forecasts) within the existing urban growth boundary.

The Amendment is expected to have a positive social effect in that it will contribute to the delivery of essential community facilities required to meet the needs of the existing and current projections for future population in line with community expectations.

The Brimbank Planning Scheme currently includes two (2) Schedules to the Development Contributions Plan Overlay (DCPO) as well as Schedule 1 to Clause 53.01, which requires a developer contribution for the provision Public Open Space (POS).

The DCP Guidelines require that there is no "double dipping" between a DCP and POS contributions levied under the *Subdivision Act 1988* or through Clause 53.01 of the Brimbank Planning Scheme. Projects proposed for inclusion in the Brimbank DCP 2022 are not projects for which contributions are collected through Clause 53.01.

The scope of the new projects included within DCPO2 has also been reviewed against that of DCPO1 and those within the existing DCPO2. Revisions have been made where necessary to ensure a charge is not applied twice for the same scope of works.

In accordance with the Ministerial Direction on DCPs all infrastructure included within a DCP is classed as either Development Infrastructure (DI) or Community Infrastructure (CI). A cap of \$1,253 (current for the 2022-23 financial year but subject to annual indexation) is applied by the State government to the total amount of CI levied per dwelling.

As such, the combined total of CI levied under the existing and proposed updates to DCPO2 was assessed. Where the introduction of new projects would have exceeded the cap, the new levy for the draft Brimbank DCP 2022 has been revised down to ensure the cap is maintained. These figures will be revised annually in accordance with relevant provisions of the P&E Act to provide for indexation and any other changes to the cap as directed by the State government.

The final combined DCP 2016 and draft DCP 2022 levy ranges from \$1,501 to \$2,400 per dwelling (for the 2022-23 financial year). This represents a project cost recovery to Council of approximately 10 percent which is considered reasonable in the context of an existing urban area. There will also be a

net community benefit to the introduction of draft DCP 2022 through the contribution it will make to the timely provision of needed community infrastructure.

Does the amendment address relevant bushfire risk?

The Amendment will not result in any increased risk to life as a priority, property, community infrastructure and the natural environment from bushfire.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

Ministerial Direction on the Form and Content of Planning Schemes:

The Ministerial Direction on the Form and Content of Planning Schemes provides a series of templates and instructions for planning authorities on how to draft a planning scheme ordinance in accordance with section 7 of the P&E Act. However, this direction does not provide a suitable template for a DCP that has more than one charge area and is inconsistent with the DCP Guidelines 2007 and Ministerial Directions for DCPs.

For example, the template table at section 2 regarding summary of costs includes sub-headings that do not match project types in the draft DCP 2022 or project categories in the Ministerial Directions for DCPs or in the DCP Guidelines.

The template table at section 3 should state the levy payable but it does not enable the user to insert DCP levy values for more than one DCP charge area. The reader of the table will therefore be unclear as to what levy is legally payable and may need to search for and locate the Incorporated Document to work that out. This is considered to be a poor outcome in terms of transparency and usability.

Conversely, the same table asks for the detailed breakdown of the levy for one area. It is considered that this is unnecessary detail for the overlay schedule, which can be included in the Incorporated Document. In addition, the notes and conditions in the prescribed format should enable a Council to clearly state all operational matters, payment terms and exemptions for the DCP, however, it is not clear whether the prescribed format allows that information to be included.

As such, to include the draft DCP 2022, the draft updated DCPO2 has been prepared to be consistent with the existing and approved DCPO2, whereby the table at section 3 states the DIL and CIL payable for each land use by charge area and the notes section provides a comprehensive list of operational matters.

The proposed variations in the draft Amendment documents have been discussed with the Department of Transport and Planning (DTP) and form part of conditional authorisation.

Ministerial Direction on the Preparation and Content of Development Contributions Plan (Part A) and Reporting Requirements for Development Contributions Plan (Part B) 2016:

Part A provides clarity for the preparation of DCPs by defining particular land use terms, limiting land to which a DCP can apply, identifying particular land use exemptions and nominating the types of infrastructure which can be funded through a DCP. The Amendment is consistent with the Ministerial Direction.

Part B sets out the reporting requirements for collection agencies to the Minister for Planning. Including a pro-forma table for collecting agencies to use in order to meet these requirements. Council is already required to comply with this direction with regards to its two existing DCPs. These requirements have been noted within the Draft Brimbank DCP 2022.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The State Planning Policy Framework (SPPF) has been considered as follows:

Clause 11.01-1R – Settlement – Metropolitan Melbourne

Clause 11.01 seeks to “Maintain a permanent urban growth boundary around Melbourne to create a more consolidated sustainable city and protect the values of non-urban land. Create mixed use neighbourhoods at varying densities, including through the development of urban renewal precincts that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.”

The Amendment will help achieve this by supporting the sustainable intensification of existing urban land, delivering housing choice and better access to community services and facilities. Noting that whilst discouraged, if there was to be any intensification of rural residential uses outside the urban growth boundary, a contribution is still being sought as those communities have equal access to Council’s community and sporting facilities.

Clause 19.03-1S – Development and infrastructure contributions plans

Clause 19.03-1S seeks to “To facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans and infrastructure contributions plans. Collect development contributions on the basis of approved development and infrastructure contributions plans. Require annual reporting by collecting agencies to monitor the collection and expenditure of levies and the delivery of infrastructure.”

Being an existing urban area, DCPs are the most appropriate tool for Council to seek developer contributions for community assets in accordance with this policy direction.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The Municipal Strategic Statement (MSS) is a concise statement of the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving the objectives.

Clause 21.02 – Key Land Use Issues (Housing)

This clause anticipates that housing within Brimbank is expected to increase from approximately 61,411 dwellings in 2006 to 72,570 dwellings in 2026 (approximately 560 dwelling per year on average). However, these figures differ from residential dwelling projections contained at clause 21.07 Housing (see further discussion below).

Clause 21.02 identifies that “...it is expected that population growth will be contained within infill medium and higher density developments, in activity centres, the General Residential Zone and Residential Growth Zone.”

Given current forecast growth within the municipality it is appropriate and consistent with State and local government policy for Council to seek developer contributions for new, upgraded or replacement community assets to meet community need and expectations.

Clause 21.07 Housing

This clause states that residential growth expectations are based on the Metropolitan Strategy and the Western Regional Housing Statement. This clause references residential growth expectations to 2030 based on now outdated data sources (which estimate approximate growth of 410 dwellings per year on average).

Given the inconsistencies and outdated nature of this data the draft DCP 2022 uses the latest available projections to 2041, which predict an increase of approximately 500 dwellings per year, on average. This is consistent with the approach used for the Brimbank DCP 2016.

How does the amendment support or implement the Municipal Planning Strategy?

The Brimbank MPS is currently under preparation. This does not affect the content of this Amendment, however, if it were to be approved prior to this Amendment the draft updated Clause 21.11 would be translated into the approved MPS format prior to approval.

Does the amendment make proper use of the Victoria Planning Provisions?

The Brimbank DCP 2022 and associated Amendment C214brim have been prepared in accordance with the DCP Guidelines. The DCP Guidelines provide advice about the Victoria Planning Provision tools that should be used to give effect to a DCP. The DCPO at Clause 45.06 and Incorporated Documents list at 72.04 are identified as the most appropriate tools.

How does the amendment address the views of any relevant agency?

The amendment will consider and address the view of any relevant agency as part of the exhibition process.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The Amendment is not anticipated to have an impact on the transport network.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

Council must provide for regular monitoring, reporting and review of the monies received and expended in accordance with this DCP through a set of audited financial statements as defined in the Ministerial Direction on DCPs. It must also meet financial requirements, monitoring and reporting in line with the *Local Government Act 1989*.

Should Council resolve not to proceed with any of the infrastructure projects listed in the DCP, the funds collected for these items must be used for the provision of additional works, services and facilities as approved by the Minister responsible for the P&E Act, or refunded to owners of land subject to these infrastructure levies.

In accordance with the DCP Guidelines, Council should review the Brimbank DCP 2022 every four years in line with a broader review of the Brimbank Planning Scheme. The DCP review will be undertaken to ensure the general nature of the document is reasonably consistent with estimates of future development and project needs and costs. Should the DCP significantly depart from the future estimates used to calculate the DCP, Council must consider options to revise the DCP in full or part as deemed necessary.

All of the above resource and administration requirements can be met within Councils standard annual operating budgets, subject to approval.

Where you may inspect this amendment

The amendment is available for public inspection, free of charge, during office hours at the following places (subject to Covid-19 restrictions):

- Brimbank City Council, 301 Hampshire Road, Sunshine 3020
- Council's website <https://www.brimbank.vic.gov.au/building-and-planning/strategic-planning-and-development/planning-scheme-amendments>

The amendment can also be inspected free of charge at the Department Transport and Planning website at <http://www.planning.vic.gov.au/public-inspection> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by midnight Friday 3rd November 2023.

A submission must be sent to:

- By mail to Strategic Planning Unit (Brimbank City Council), PO Box 70 Sunshine 3020
- By email at StrategicPlanning@brimbank.vic.gov.au
- By completing the online submission form at yoursay.brimbank.vic.gov.au

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: To commence in the week of Monday, 25th March 2024
- panel hearing: To commence in the week of Monday, 29th April 2024

ATTACHMENT 1 – Development Contributions Area DCPO2

