

9.3 PATTERSON STREET BEVERIDGE - APPROVAL TO SECURE LOAN BORROWINGS

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Attachments: 1. Beveridge Central Precinct Structure Plan 2018 - Extract

SUMMARY

The construction of Patterson Street between Lithgow Street and Plume Street is identified in the 2019/2020 Capital Works Budget to be funded using a combination of Council cash, loan borrowings and a developer contribution.

This report proposes an alternative funding and delivery strategy seeks the approval of Council to utilise loan borrowings to fully fund the construction of Patterson Street (Lithgow Street to Plume Street) in Beveridge to support increased traffic growth in the vicinity of the new Beveridge Primary School (West Campus).

The alternative funding strategy is necessary due to the following changes in available funding sources since the adoption of the 2019/2020 Capital Works Program, namely;

- Developer contributions are no longer available for use on this project;
- The total project costs have been revised from \$1.9M to \$1.2M
- Council cash holdings are being allocated elsewhere within the Capital Works Program and the full contribution is being sought through borrowings.

RECOMMENDATION

THAT Council:

1. Notes the proposed delivery strategy for the construction of Patterson Street between Lithgow Street and Plume Street utilising the provisions contained within the Beveridge Central Infrastructure Contribution Plan.
2. Endorse an increase of \$413,000 to the planned borrowings, allowing for a maximum draw down of \$1,213,000.
3. Notes the overall Council contribution will be increased by \$3,000 compared to the original budget.

BACKGROUND

Beveridge Primary School (West Campus)

The new Beveridge Primary School (West Campus) opened at the start of 2020 with a capacity for 550 students. There are currently 220 students enrolled between years 3 to 6.

The site can also accommodate additional portable buildings for up to 500 additional students in the future.

PATTERSON STREET BEVERIDGE - APPROVAL TO SECURE LOAN BORROWINGS (CONT.)

The primary school is located on an active growth front within the Mandalay Estate where the local road network is still somewhat incomplete and presents some concerns for the safe and efficient movement of school aged children and vehicle traffic. The Patterson Street road reserve lies immediately East of the Primary School outside the Mandalay Estate and within neighbouring Beveridge Central Growth Precinct.

To promote safer and more efficient movement of school-based traffic, the construction of Patterson Street between Lithgow Street and Plume Street is required. This length of new road to be constructed is 315m.

A location plan is shown below.



The construction of Patterson Street between Lithgow Street and Plume Street was identified in the 2019/2020 Capital Works Budget to be funded using a combination of Council cash, Council loan borrowings and a cash contribution from the developer of the Mandalay Estate. The following table details these funding sources originally proposed.

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| | Developer Contributions | Loan Borrowings | Council Cash | Total |
|--|-------------------------|-----------------|--------------|--------------------|
| Patterson Street, Beveridge - Roadway construction | \$690,000 | \$800,000 | \$410,000 | \$1,900,000 |

Mandalay Contribution

At the time of the 2019/2020 Capital Works Program adoption, a long-standing Section 173 Agreement entered into between Council and the developer of the Mandalay Estate in 2009, was being re-negotiated.

This historical agreement outlined the liabilities of this developer to perform Works-in-Kind (WIK) that were determined to be required due to the increase in traffic volumes created as part of the development of the Mandalay Estate.

The infrastructure works originally intended to be performed as part of this agreement included;

- An upgrade to the intersection of Lithgow Street and Old Hume Highway
- Works to widen and lengthen the southbound entrance lane to the Hume Freeway.

During the re-negotiation of this agreement, the developer proposed that the WIK liability outlined above should be re-allocated to an alternative local road project on the basis that the original upgrade works stipulated in the original Section 173 Agreement would become redundant with the future construction of the Cameron's Lane - Hume Freeway interchange further north, (The future Cameron's Lane interchange will one day replace the existing sub-standard Lithgow Street / Hume Freeway interchange).

This alternative WIK local road project was proposed to be the construction of Patterson Street whereby a contribution of \$690,000 was to be made by the developer towards this project.

At the time of the development of the 2019/2020 Capital Works Program, officers had anticipated the re-allocation of this existing WIK liability to this alternative project at Patterson Street, as such the developer contribution was recognised in the Capital Works Program budget.

The deferral of this liability coupled with an additional funding allocation from Council would allow for the construction of Patterson Street to address the emerging road network issues associated with the opening of the Beveridge West Primary School as mentioned above.

In recent months, officers have learnt that Regional Roads Victoria (RRV), (formally VicRoads), disputes this proposed re-allocation of the developers WIK liability towards a project on Patterson Street, instead preferring that the original upgrade works (listed above) should continue to proceed as per the original Section 173 Agreement.

RRV have established this position on the basis that the construction of the new Camerons Lane interchange may not occur for many years and that the operation of the existing Lithgow Street interchange will not support the anticipated growth in traffic in the short-medium term and that upgrade works are required now.

PATTERSON STREET BEVERIDGE - APPROVAL TO SECURE LOAN BORROWINGS (CONT.)

While RRV is not a mentioned party to the original Section 173 Agreement, RRV does have the statutory right to dispute the final form of a re-negotiated agreement between Council and the developer via a VCAT appeal, which is likely.

In consideration of the above and in the interests of progressing with the construction of Patterson Street to support the growth of the new Beveridge West Primary School, the Mandalay development contribution towards this project is now being disregarded and alternative funding strategy for the construction of Patterson Street (Lithgow to Plume) is now proposed.

The alternative funding strategy is outlined further in this report.

ISSUES AND DISCUSSION

Beveridge Central Precinct Structure Plan (PSP) and Infrastructure Contributions Plan (ICP)

Patterson Street (between Lithgow Street and Plume Street) is located within the Beveridge Central Growth Precinct and as such, it is eligible to be funded using development contributions collected under the Beveridge Central ICP. However, as development in this precinct has not yet commenced, no development contributions have been collected.

An infrastructure contributions plan (ICP) is a statutory document incorporated in a planning scheme for the purposes of imposing / collecting infrastructure contributions from land developers to fund the key transport and community infrastructure needs of a precinct. Eligible infrastructure items are known as allowable items.

Infrastructure contributions may be monetary contributions, in kind works or land. The total value of contributions to be made by individual landowners/developers are set using the rates prescribed in the ICP. Similarly, the value of allowable infrastructure items is also costed using prescribed rates within the ICP.

Council is nominated as the collection agency for all infrastructure contributions and is ultimately responsible for ensuring all infrastructure items listed within the ICP are delivered.

The ICP framework replaces the State Governments previous Development Contribution Plan (DCP) framework for Growth Areas.

The ICP framework by its nature does not facilitate full cost recovery of the cost of infrastructure items in the Plan. Rather, the framework facilitates a 'contribution' to be made by developers towards infrastructure.

Council must provide the balance of funds not collected by an ICP.

Attachment 1 contains an extract from the Beveridge Central PSP which identifies Patterson Street (between Rankin Street and Camerons Lane) as allowable infrastructure item, RD-02.

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RD-02 - Patterson Street ICP item

Patterson Street between Rankin Street and Camerons Lane is approximately 1500m in length and is to be delivered under the Beveridge Central Growth Precinct ICP. The value assigned to this infrastructure item under the ICP framework is \$3,285,625.

While there is currently no active or proposed development front within the Beveridge Central Growth Precinct that would necessitate the construction of Patterson Street (Lithgow to Plume) in the short term, the ICP framework does allow Council to consider proposals from any applicant/developer within the precinct and enter into agreements for the delivery of any allowable infrastructure items, and in exchange seek either;

- a) credits for this work against their own contribution liabilities,
- b) monetary reimbursement for the delivery of these works,
- c) any combination of the above.

Such agreements are known as Works-in-Kind (WIK) agreements.

As the nominated collection and development agency for infrastructure under the ICP framework, Council has the legislated powers to evaluate and either accept or reject any WIK proposal.

If accepted, the WIK agreement is formalised in an agreement made under section 173 of the *Planning and Environment Act 1987*.

The provisions of the ICP framework outlined above are particularly useful in facilitating the early delivery of infrastructure that may otherwise not be delivered until an active development front necessitates the delivery of such infrastructure.

Further, the provisions of the ICP framework allow Councils direct access to competitive contractor pricing allowing for more efficient and cost-effective delivery of infrastructure.

Works-in-Kind and local government procurement

The acceptance of a WIK proposal by a Council does not amount to a contract. Therefore, the procurement requirements in section 186 of the *Local Government Act 1989 (LG Act)* and section 109 of the *LG Act 2020* do not apply regardless of whether the threshold amounts prescribed by the Act are reached.

The following officers are currently delegated to enter into a Section 173 agreement under the *Planning and Environment Act 1987*;

- Director Development and Infrastructure
- Manager Development Approvals
- Manager Strategic Planning

Following a review of the WIK proposal, a recommendation is made to the Executive Leadership Team before an agreement under Section 173 of the *Planning and Environment Act 1987* is executed.

PATTERSON STREET BEVERIDGE - APPROVAL TO SECURE LOAN BORROWINGS (CONT.)

ICP Works-in-Kind proposal under evaluation

Officers have commenced a number of discussions with precinct developers concerning WIK proposals for the Beveridge Central Growth Precinct. This current proposal has been recently evaluated and is nearing final approval.

This WIK proposal involves the construction of the following infrastructure items within the Beveridge Growth Precinct;

- RD-02 – Patterson Street between Whiteside and Lithgow
- RD-06 – Whiteside Street (part) between Patterson and Lewis
- RD-07 – Lewis Street (part) between Rankin and Lithgow to be delivered in partnership with other precinct developers

In reviewing this proposal, officers initially enquired as to whether this developer had an appetite to undertake the delivery of additional ICP infrastructure items beyond the confines of their immediate land development interests; namely RD-02 Patterson Street between Lithgow Street and Plume Street.

This developer has confirmed interest in delivering this infrastructure, on the condition that they are reimbursed for these works. i.e. they are not willing to bank credits that could be used to offset future ICP contribution payments.

This position is understandable given RD-02 between Lithgow Street and Plume Street is not an essential piece of infrastructure needed to facilitate the developers specific land development interests.

As part of the more comprehensive WIK proposal involving the ICP items listed above, this developer has submitted a lump sum price proposal of \$1,103,000 for the delivery of RD-02 between Lithgow Street and Plume Street. An additional allowance of \$103,000 (10%) for landscaping and tree planting works will also form part of the final WIK agreement bringing the total WIK value for RD-02 (part) to \$1,213,000.

This price is consistent with the overarching costings stipulated in the Beveridge Central ICP for the construction of this section of Patterson Street and is also considerably cheaper than the budgeted allocation in the 2019/2020 Capital Works Program to deliver the construction of this road.

As such this proposal for the delivery of RD-02 between Lithgow Street and Plume Street is considered to represent excellent value for money in the broader context of the Beveridge Central ICP. The table below confirms this assessment.

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| | RD-02 | |
|--|--|--|
| | Full length (Rankin Street to Camerons Lane) | Part length (Lithgow Street to Plume Street) |
| Length | 1500m | 315m |
| ICP prescribed costing | \$3,285,625 | \$689,981 |
| Cost per lineal meter | \$2,190 | \$2,190 |
| Developer WIK tendered costing | N/A | \$1,103,000 |
| Cost per lineal meter | N/A | \$3,501 |
| Landscaping and tree planting ¹ | | \$110,000 |
| Independent cost estimate ² | | \$1,900,000 |
| Cost per lineal meter | | \$6,031 |

¹Estimate only. Final WIK agreement will contain precise value.

²Independent cost estimate performed prior to budget adoption

As can be seen from the information in the table above, the ICP will fund just over 62% of the WIK tendered market value price for this work. This reinforces the ICP framework as a developer 'contribution' towards infrastructure costs. It is not a full-cost recovery model.

Officers have reviewed this WIK proposal and will be making a recommendation to the Executive Leadership Team for the acceptance of this WIK proposal and the execution of a Section 173 Agreement with this developer to finalise this arrangement.

The funding strategy to reimburse this developer for the construction of Patterson Street between Lithgow Street and Plume Street is discussed below.

FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

The 2019/2020 Capital Works Budget identified \$410,000 in Council Cash to be allocated towards the construction of Patterson Street. During the development of the 2020/2021 Draft Budget the Patterson Street project was identified as a carried forward project for completion in 2020/2021. As this project meets the principles within the Borrowings Policy for providing intergenerational benefit it was proposed to increase the borrowings for the project to cover the full Council contribution and reallocate the Council cash allocation to other projects within the 2020/2021 draft program.

As the 2020/2021 Budget is in draft form and will not be endorsed until the June 2020 Ordinary Council meeting, it is necessary to gain formal Council endorsement to increase the project borrowings to \$1,213,000 so officers can commence the execution of the WIK agreement over the coming weeks.

PATTERSON STREET BEVERIDGE - APPROVAL TO SECURE LOAN BORROWINGS (CONT.)

As the project will be delivered prior to the collection of development contributions, funds collected into the future will be utilised to repay the loan in the first instance.

The proposed funding strategy for the construction of Patterson Street is detailed in the table below.

| | Loan Borrowings | Total |
|--|-----------------|--------------|
| Patterson Street, Beveridge - Roadway construction | \$1,213,000* | \$1,213,000* |

* Amount includes an additional allowance of 10% for tree planting and landscaping works associated with the construction of Patterson Street which have not yet been costed accurately by the developer.

POLICY AND LEGISLATIVE IMPLICATIONS

This report and its recommendations comply with Councils Loan Borrowing Policy.

RISK IMPLICATIONS

Risk Ranking is determined using [ROHS201-G1- Corporate Risk Matrix](#). Risk is identified as Low, Medium, High or Very High.

| Risk | Risk Ranking | Proposed Treatments | Within Existing Resources? |
|---|--------------|--|----------------------------|
| Final agreed Works in Kind value may exceed \$1,213,000 | Low | Either remove the landscape component from the WIK agreement, or Using the existing delegations of the Capital Works Board, allocate additional council funds to offset any increase to the value of the WIK agreement above \$1,213,000. | Yes |

SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

There are no sustainability implications associated with the contents or recommendations of this report.

CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

PATTERSON STREET BEVERIDGE - APPROVAL TO SECURE LOAN BORROWINGS (CONT.)

CONCLUSION

Since the adoption of the 2019-2020 Capital Works Program a number of factors beyond Council's control have necessitated a review and adjustment to the funding and delivery strategy for the construction of Patterson Street.

This project is now proposed to be funded solely using loan borrowings.

The project is also proposed to be delivered using the provisions of the Beveridge Central Infrastructure Contributions Plan. This strategy allows Council to consider a Works in Kind (WIK) delivery model, whereby developers within the Beveridge Central Growth Precinct submit proposals to deliver key infrastructure within this precinct in exchange for either credits against their own contribution liabilities or monetary reimbursement for the delivery of these works,

At the present time, no ICP contributions have been collected from developers in the Beveridge Central Growth Precinct leaving Council to fund any works it considers are necessary in advance of the impending future growth front.

The funds Council secures from loan borrowings will be used to reimburse the developer who delivers the construction of Patterson Street in the short term through an approved WIK agreement.

As development within the growth precinct progresses and contributions are collected, Council can then seek reimbursement from the Beveridge Central ICP (up to the prescribed value set out in the ICP) for its investment in the construction of Patterson Street.

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

18 MAY 2020

9.3

**PATTERSON STREET BEVERIDGE -
APPROVAL TO SECURE LOAN BORROWINGS**

Attachment No: 1

**Beveridge Central Precinct Structure Plan
2018 - Extract**

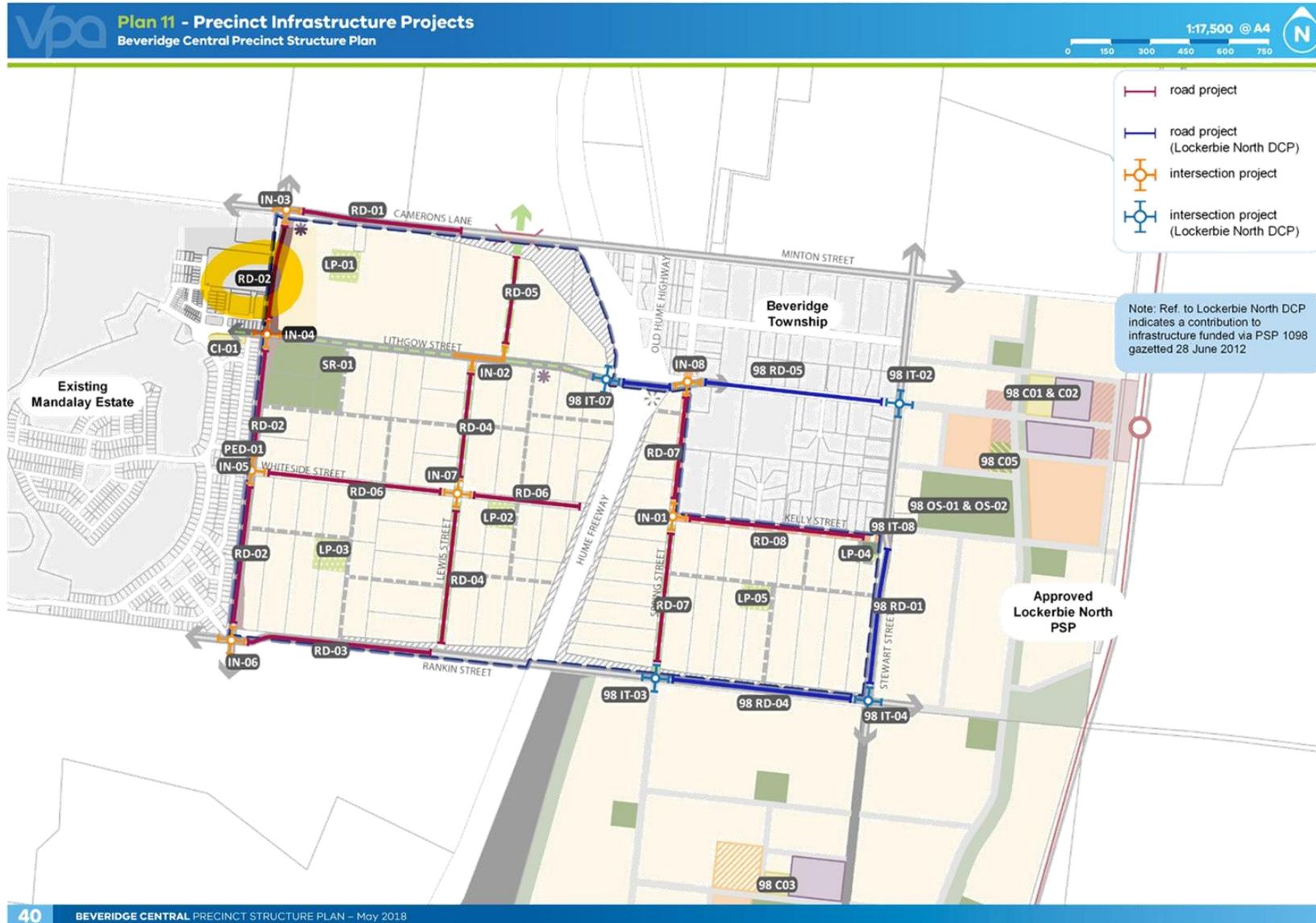


Table 9 Precinct infrastructure plan

| ITEM NUMBER | PROJECT CATEGORY | TITLE | DESCRIPTION | LEAD AGENCY | INCLUDED IN ICP | TIMING |
|---|------------------|---|---|--|-----------------|--------|
| TRANSPORT PROJECTS | | | | | | |
| INFRASTRUCTURE ITEMS WITHIN THE PSP AREA | | | | | | |
| ROADS | | | | | | |
| RD01 | Road | Camerons Lane: east-west arterial road between Patterson Street and existing Malcolm Street | Land for ultimate configuration and construction of interim configuration Construction of ultimate configuration | Mitchell Shire Council Mitchell Shire Council | Y Y | M L |
| RD02 | Road | Patterson Street: north-south arterial road between Camerons Lane and Rankin Street | Land for ultimate configuration and construction of interim configuration Construction of ultimate configuration | Mitchell Shire Council VicRoads | Y N | M L |
| RD03 | Road | Rankin Street: east-west arterial road between Patterson Street and Lewis Street | Land for ultimate configuration and construction of interim configuration Construction of ultimate configuration | Mitchell Shire Council VicRoads | Y N | M L |
| RD04 | Road | Lewis Street: key local access road between Lithgow Street and Rankin Street | Construction of ultimate configuration | Mitchell Shire Council | Y | S |
| RD05 | Road | Murray Street: key local access street between Lithgow Street and Camerons Lane PAO (excluding intersections) | Construction of ultimate configuration | Mitchell Shire Council | Y | S |
| RD06 | Road | Whiteside Street: key local access street between Patterson Street and edge of Hume Freeway reserve (excluding intersections) | Land and construction of ultimate configuration | Mitchell Shire Council | Y | S |
| RD07 | Road | Spring Street: connector road between Rankin Street to Lithgow Street (excluding intersections) | Construction of ultimate configuration | Mitchell Shire Council | Y | M |
| RD08 | Road | Kelly Street: key local access street between Stewart Street and Spring Street | Construction of ultimate configuration | Mitchell Shire Council | Y | M |