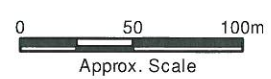


Title:
**Melbourne Hill Road
 Mitigation Scheme 1**

Figure:
3-1

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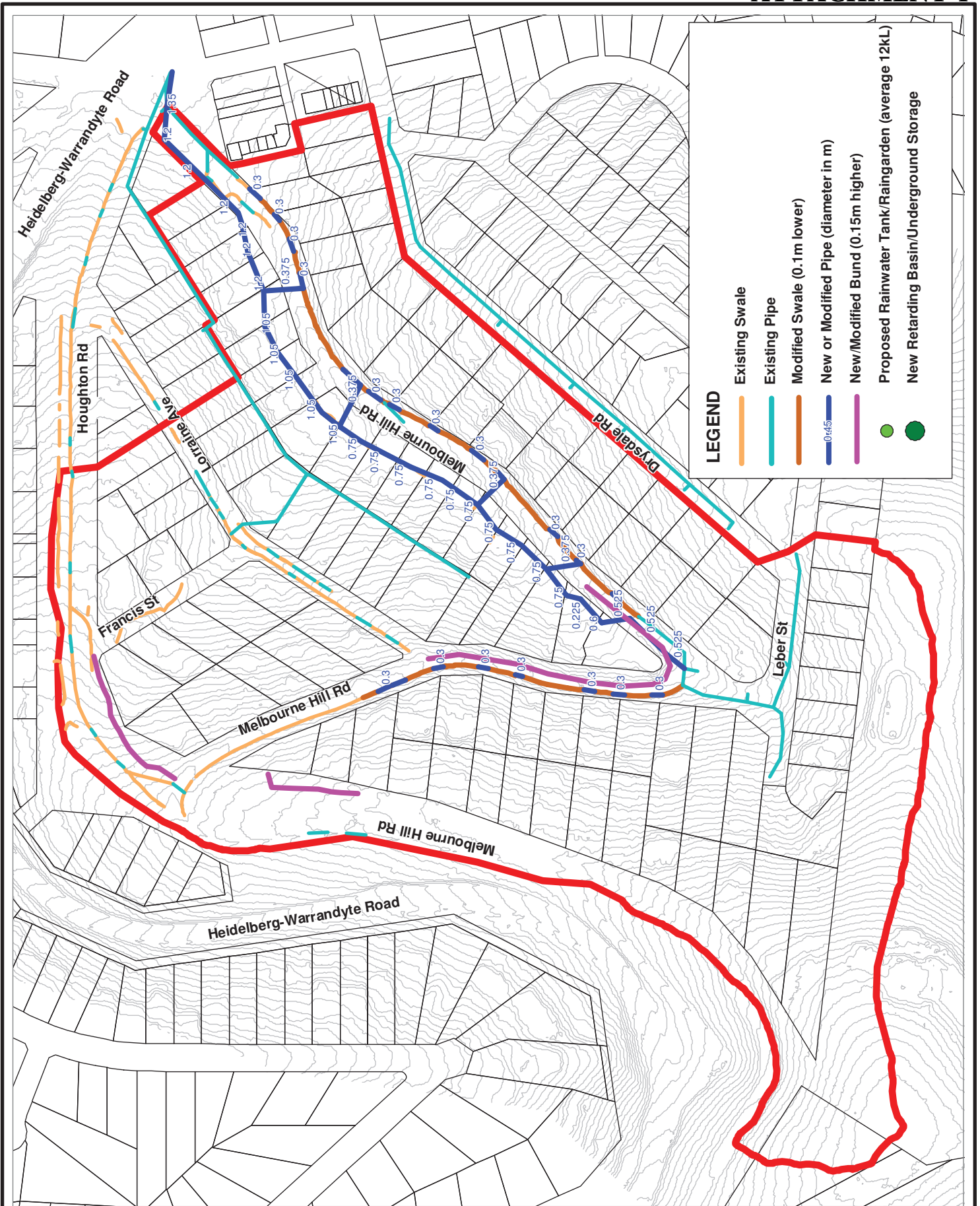
Melbourne Hill Road Catchment - Community Values for Flooding Solution

Community Reference Panel meeting on 5th February, 2015

Value	Description	Indicator
Cost effectiveness	The solution should deliver benefits for the minimum possible cost. Options that are more costly should deliver additional benefits.	<ul style="list-style-type: none"> Overall project cost <\$2.1M Average capital cost to residents <\$10,000 per property
Amenity and community character	Solution maintains the visual and aesthetic of the area and preserves its character	<ul style="list-style-type: none"> Impact on significant trees and shrubs minimized in accordance with Net Gain legislation Roadsides are preserved with mounding and open drains Roads retain their current width Where works are visible, solutions that incorporate natural elements (such as vegetation) are preferred to those that use only manufactured materials Reinstatement to respect existing public and private character
Environment	Works at the very least do not degrade and at best improve the environmental health of the area	<ul style="list-style-type: none"> Levels of vegetation cover Habitat for native flora and fauna Health of Anderson's Creek
Works on private land	Necessary works should have minimal impact on private land.	<ul style="list-style-type: none"> Area of private land disturbed Presence of heavy machinery Works duration on private land
Staged implementation	Works should consider "low hanging fruit" as a priority over more invasive works.	<ul style="list-style-type: none"> Works implementation prioritised based on impact with least impactful works undertaken first
Innovation	Works should be carried out in a way consistent with best practice and applying new approaches where practical	<ul style="list-style-type: none"> Extent of use of innovative approaches and technologies (ranked 0-5)
Flood mitigation	Works are to mitigate flooding of habitable floor areas in a major storm event.	<ul style="list-style-type: none"> Level of flood protection provided.

Melbourne Hill Road Catchment Drainage Improvements
Community Workshop 30 April 2015 – Long List Options –
Community Preferences

No.	Option	Community Preference Votes
1	Rainwater Tanks (> 5kL)	5
2	Leaky Tanks (> 5kL)	0
3	Iota Tanks (> 5kL)	1
4	Underground Storage Tanks	0
5	Infiltration	0
6	Raingardens	8
7	Kerb and channel	0
8	Increased pipes/culverts	0
9	Improve the Valley Drain	4
10	Storage at Francis Street	
	a. Wetland	1
	b. Retarding basin	5
	c. Storage	0
11	Storage near 30 Melbourne Hill Road	1
12	Improved driveway crossing	14
13	Bunds or Mounds	4
14	Discharge to Warrandyte Road	0
15	Increase capacity of open drains	14
16	Street scale WSUD	0
17	Stormwater storage for Warrandyte Reserve	0
18	Permeable paving	0
19	Stormwater chambers	0
20	Discharge to aquifer	0
21	Culverts in nature strip parallel to open channel	0
22	Cascading raingardens	0
23	Recreating watercourse through valley	0

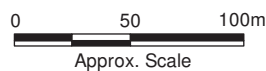


Title:
**Melbourne Hill Road
Mitigation Scheme 2**

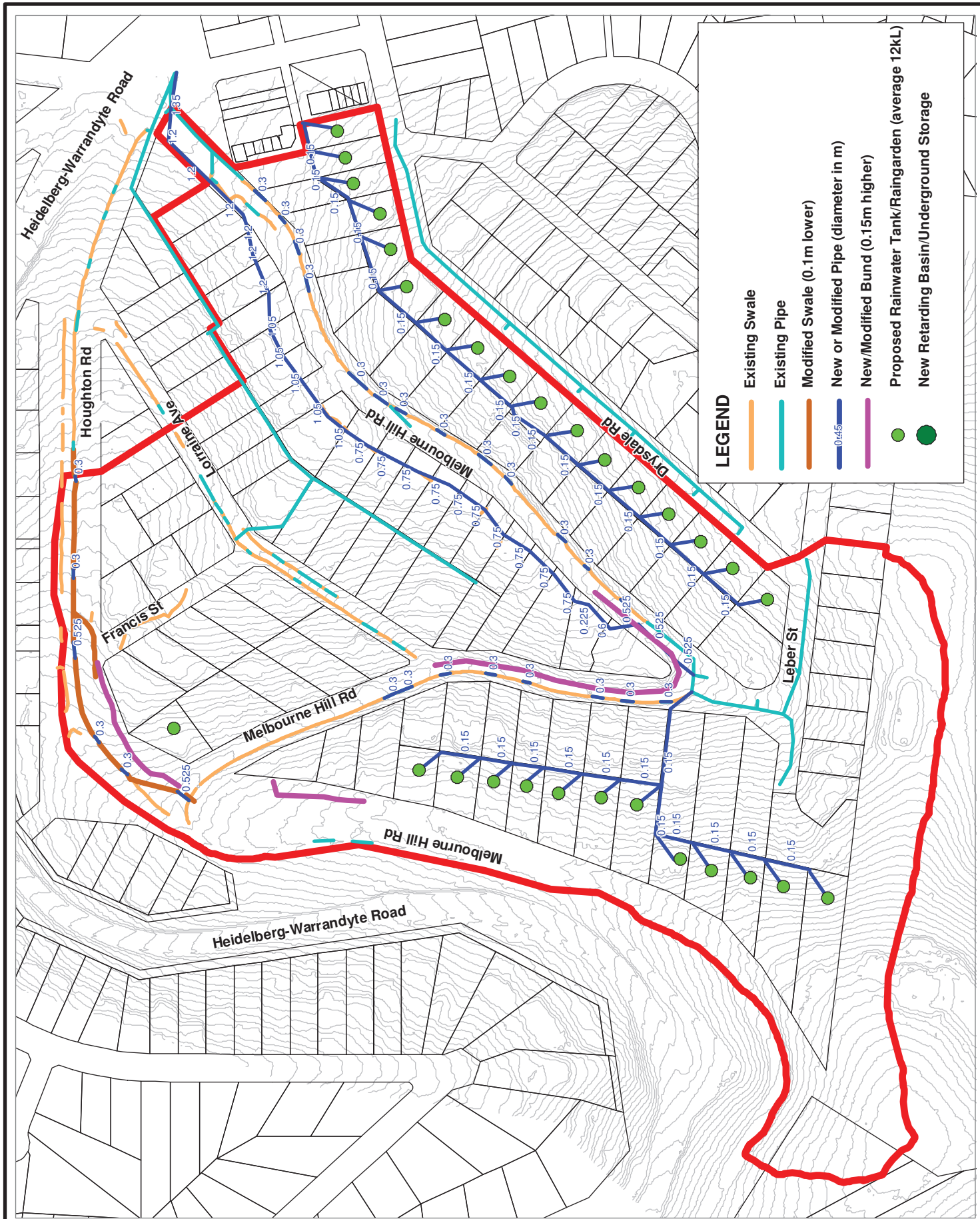
Figure:
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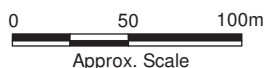


Title:
**Melbourne Hill Road
 Mitigation Scheme 4**

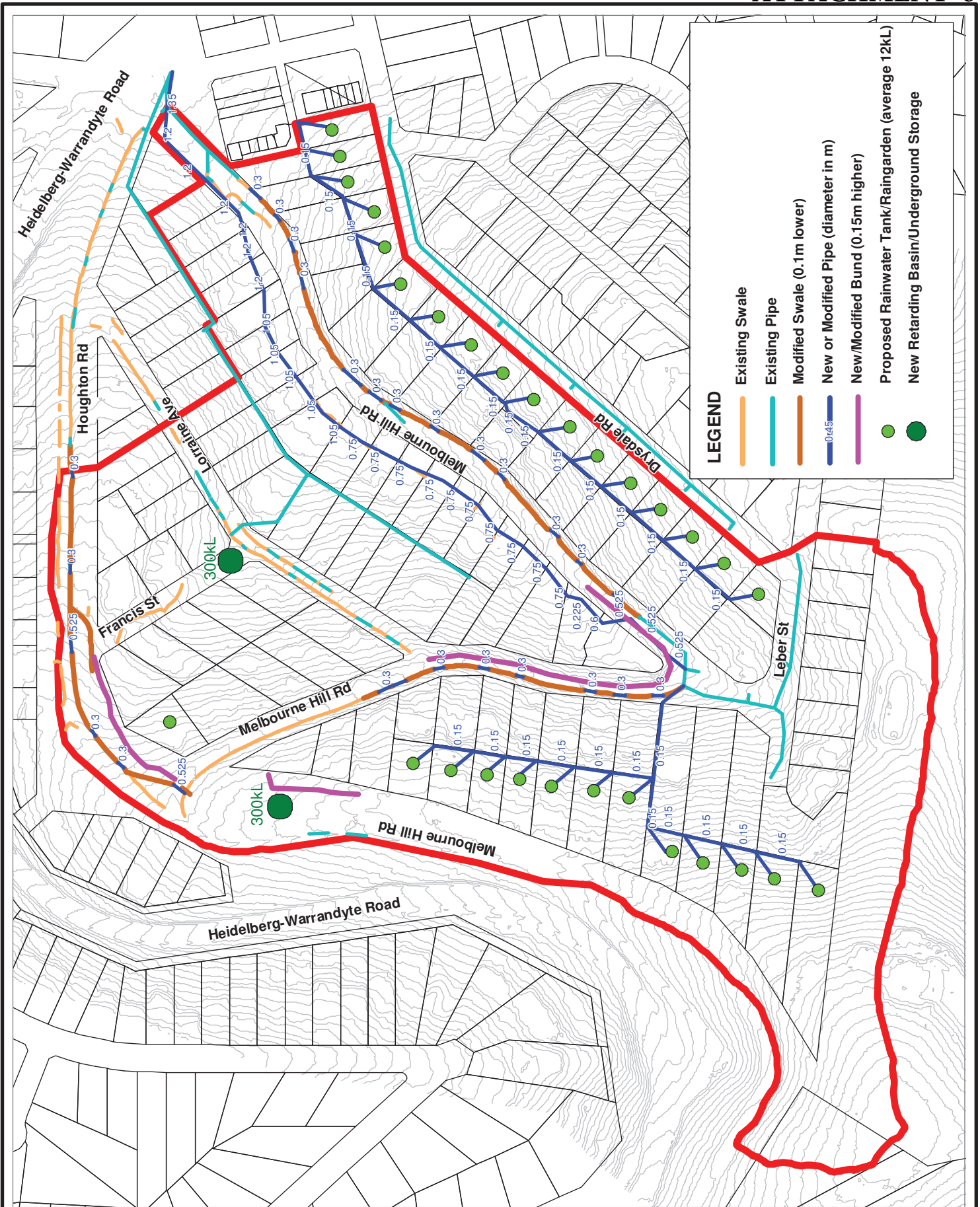
Figure:
3-3

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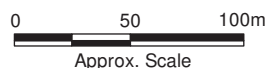


Title:
**Melbourne Hill Road
 Mitigation Scheme 5**

Figure:
3-4

Rev:
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Flood of concerns

By MICHELLE PINI

DESPITE three years of negotiations with ratepayers, Manningham council officers appear determined to enforce their original and controversial "special charge scheme" for flood mitigation in Melbourne Hill Road.

After residents objected in force to the scheme, which was devised to address flooding in four properties in 2011, a dedicated rep panel was set up by council to investigate alternative options.

Among other issues, the panel criticised the scheme's exorbitant cost to householders, as well as its lack of environmental consideration for the ecological sensitivity of the catchment.

At the request of the rep panel, Manningham council eventually appointed an independent consulting firm to produce a report for flood mitigation in the catchment.

However, spokesperson for the rep panel Daniel Drew told the *Diary* he believed engineers "manipulated the options in the report to reflect preconceived outcomes" and that the process was "engineered by engineers" from the beginning.

Mr Drew, who is also a professional environment consultant, said: "Council's justification for the drainage scheme is to provide flood protection to a handful of houses in the lower section of Melbourne Hill Road – houses that were somehow given planning and building approval by this same council, which is now seeking to erase their responsibility in allowing such houses to be built."

"Additionally, a substantial contributor to the floodwater is the uncontrolled flow of council water through the catchment and the underlying responsibility of council to install infrastructure required to manage such flows ... without impacting on the threatened houses – which were permitted to be built in the flood zone."

Mr Drew also told the *Diary* it is "on record in a number of meetings" that ratepayers are only legally required to contribute to flood mitigation costs for what is termed "One-In-Five-Year" rainfall events. The solution proposed by council, to which residents would be required to contribute, however, is designed for a "One-In-100-Year" event.

According to residents, one of the difficulties of the brief given to the

The *Diary* wishes to formally note that the views, beliefs and opinions in this article are not the *Diary's* or those of any employee or writer associated with the *Diary*. This newspaper remains independent and is offering residents the platform in which to voice their concerns; a platform Manningham City Council and its representatives have and will be offered.



consulting firm is they were asked to compare and gauge the alternatives with the "benchmark" provided in the original council model. This did not allow for an original and independent assessment of the task at hand, but rather an appraisal of the effectiveness of the existing scheme.

The issue currently plaguing Melbourne Hill Road is likely to become a widespread one within Warrandyte, and Manningham as a whole, as councils are forced to deal with escalating extreme weather events caused by climate change. The Melbourne Hill Rd residents are of the opinion it seems Manningham council engineers are happy to come up with "special charge schemes" rather than address long-term effective environmental solutions.

The official statement from the rep panel, word for word, supplied to the *Diary*:

The Melbourne Hill Catchment Community Representative Panel unanimously rejects the report from BMT WBM entitled:

"Melbourne Hill Road Drainage Scheme Assessment – Community Report"

The report is rejected because:

- The Rep Panel has strong reservations about the independence and therefore the integrity of the report*

- The consultant agreed on 5 February 2015 to provide a written declaration of independence to the Rep Panel. No such statement has been received*

- The consultant agreed to provide draft reports to the Rep Panel (together with all supporting raw data) at the same time as such information was provided to council. Both the consultants and Council are in breach of this agreement as all information relating to the consultant's work has been*

provided only after prior approval by Council officers.

- The report contains statements that the Rep Panel believe to be factually incorrect*

- "The entire catchment contributes to the flooding issues experienced in the catchment" is a patently untrue statement and we believe its inclusion is solely to support justifying a special charges scheme for the entire catchment*

- The Rep Panel has reason to question some of the flood modelling and has been given no opportunity to discuss these issues or obtain clarification before the report was released.*

- The report fails to quantify the significant contribution to flooding in the catchment from water which originates from Council-controlled areas or Council assets*

- The report fails to include a baseline estimate of minimum cost required to upgrade existing drainage infrastructure to manage a 1 in 5 year ARI.*

- The report implies that the Rep Panel endorsed the 4 options modelled, whereas*

- Scheme 1 has never been accepted or endorsed by the Rep Panel*

- Scheme 5 as modelled was not agreed to by the Rep Panel*

- The report fails to record how each of the houses that are subject to flooding were permitted to be built without adequate flood protection*

- The report fails to offer any proposals for site-specific flood-protection measures for any of the flood-threatened houses, in the absence of a Scheme 1 project*

- The Rep Panel believes the tone of the report to be biased towards Council's intention to enforce a Special Charges Scheme onto MHRC ratepayers and section 5.10 is a thinly veiled attempt to intimidate the community into acceptance of such a Scheme that would maximize their contribution.*

- The MHRC community unanimously objects to the imposition of a Special Charges Scheme and nowhere in the report is this noted.*

- During the period of the study, numerous delays have occurred as the consultants and/or Council failed to meet their own deadlines. Provision*

of information to the Rep Panel was always late and invariably insufficient time was allowed by Council for Rep Panel assessment with no consideration given for submissions after Council-imposed deadlines.

- The Rep Panel believes that the report has been unduly influenced by the views of Council officers and does not adequately reflect the input from either the Rep Panel or the wider MHRC community*

The MHRC Community Representative Panel is resolute in its rejection of the report and the apparent collusive relationship with Council officers. We are prepared to refer this matter to a higher Investigative Authority.

The Way Forward

Council officers have stated that the MHRC community would be required to contribute to the cost of upgrading the drainage infrastructure to manage a 1 in 5 year ARI. Further upgrades required to manage a 1 in 100 year ARI would be fully funded by Council.

The significant inputs of water from Council-controlled assets (Wildflower reserve, Upper MHR reserve and the Leber Street drain), are solely the responsibility of Council and all infrastructure required to conduct such water through the catchment must be paid for by council alone.

The Melbourne Hill Catchment Community Representative Panel therefore demands:

- An independent baseline costing of the minimum upgrades to existing MHRC drainage infrastructure to manage a 1 in 5 year ARI in the absence of water originating from Council assets.*

Suggested Drainage Scheme Implementation:

- A drainage scheme to manage the water from Council-controlled assets be implemented to manage a 1 in 100 year ARI. Construction to be staged and in consultation with affected property owners such that costs to Council be spread over a number of years.*

- The staged approach to include the diversion of water down Houghton Road.*

Melbourne Hill Road Community Reference Panel (10 August 2015)

NOTE: Due to deadline restrictions for this edition of the *Diary*, residents and Manningham City Council will be given every opportunity to respond in a comprehensive follow-up article in the next edition of the *Diary* and online.



Manningham City Council Media Statement

28 August, 2015

Attribute to Director Assets and Engineering – Leigh Harrison

Enquiry from Warrandyte Diary, Michelle Pini re. Melbourne Hill Road

Please note:

- Text in regular font is quoting the Warrandyte Diary article on Melbourne Hill Road, August 2015
- Text in bold is responding to points/issues raised in the above article

Despite three years of negotiations with ratepayers, Manningham council officers appear determined to enforce their original and controversial “special charge scheme” for flood mitigation in Melbourne Hill Road.

After residents objected in force to the scheme, which was devised to address flooding in four properties in 2011, a dedicated rep panel was set up by council to investigate alternative options.

There are 8 properties in this catchment which flood in a 1 in 100 year (major) flood event.

Among other issues, the panel criticised the scheme’s exorbitant cost to householders, as well as its lack of environmental consideration for the ecological sensitivity of the catchment.

The focus of the initial scheme was flood mitigation, in keeping with the core objectives of this project, as set out in the Project Brief developed in consultation with a subcommittee of the Reference Panel.

The Melbourne Hill Road catchment contributes flows to Andersons Creek. The Community Report assessed the relative environmental impacts of each scheme in terms of their ability to reduce the quantity of nitrogen discharging from the catchment and their relative impacts on the naturalness of peak flows in a minor storm event in Andersons Creek. As this sub catchment represents only a small proportion of the Andersons Creek catchment, the relative impacts of the four schemes on the naturalness of Andersons Creek flows from this catchment vary by only 4%. Differences in impacts in this sense are not significant.

Only two of the schemes developed in consultation with the community provided any benefit in terms of reducing the discharge of nitrogen from the catchment. It is clear that the original scheme does not provide the level of nitrogen discharge reduction benefit of schemes 4 and 5.

Works incorporated into any flood mitigation scheme for this catchment will be scoped to achieve the project objectives only. Competitive tenders will be called for any scheme and the Council will seek the most cost effective proposal.

Media Statement

At the request of the rep panel, Manningham Council eventually appointed an independent consulting firm to produce a report for flood mitigation in the catchment.

However, spokesperson for the rep panel Daniel Drew told the *Diary* he believed engineers “manipulated the options in the report to reflect preconceived outcomes” and that the process was engineered by engineers from the beginning.

Claims that the process has been manipulated to achieve a preconceived outcome are baseless. A consultative process has been followed throughout the development of the three additional schemes, and the consultant has acted independently and in accordance with the industry Code of Ethics.

The process adopted for the development of the three additional sustainable flood mitigation schemes was identified in the Project Brief, which was developed in consultation with a subcommittee of the Reference Panel. Reference Panel input was sought in developing the Community Values which have informed the assessment and comparison of the performances of the four schemes.

The appointed consultant has assessed the four flood mitigation options for the Melbourne Hill Road catchment and the results of their investigations are set out in the Community Report which is available on the Your Say Manningham website.

In developing the three options, the consultant developed a long list of 25 sustainable flood mitigation options as components available to be incorporated into the three community short listed flood mitigation schemes to be tested through the flood model. At the short listing workshop, the long list options were presented and the community prioritised these options. The community then worked with the consultant and officers to develop the three additional shortlisted schemes for testing through the flood model. Council has no record of Mr Drew attending the shortlisting workshop. Furthermore, no decision has been taken at this time regarding a preferred flood mitigation scheme for this catchment.

Mr Drew, who is also a professional environment consultant, said: “Council’s justification for the drainage scheme is to provide flood protection to a handful of houses in the lower section of Melbourne Hill Road – houses that were somehow give planning and building approval by this same council, which is now seeking to erase their responsibility in allowing such houses to be built.

The properties which flood in a major storm event are not restricted to the lower section of Melbourne Hill Road. Irrespective, these houses were built in accordance with state-wide building controls that applied at the time, and without the knowledge that has been gained since, in relation to stormwater flows. Council has no liability for past actions by private land owners.

While Council will contribute to the project cost, the Local Government Act 1989, supported by decades of tribunal case law, provides that residents gaining a direct benefit from the provision of drainage infrastructure should pay separately for that benefit; while general rates are to be used for broad community benefit. The overriding principle being that the broad resident base shouldn’t subsidise individual benefit. The fact that drainage was not provided at the time of development does not mean that resident liability is foregone. It simply means that residents have been able to defer the cost of drainage for those years that have since passed.

“Additionally, a substantial contributor to the floodwater is the uncontrolled flow of council water through the catchment and the underlying responsibility of council to install infrastructure required to manage such flows ... without impacting on the threatened houses – which were permitted to be built in the flood zone”.

The Wildflower Reserve and associated road reservation constitute approximately 12 per cent of the catchment, therefore the remaining 88 per cent of the catchment is made up of private properties and streets, and the contributions to downstream storm flows in the valley are of a similar proportion. All areas, including public and private land contribute to overland flows within this catchment and there is a need to manage these flows to achieve the flood mitigation project objective. It is not feasible to construct drainage infrastructure solely within road reservations and achieve the project habitable floor flood mitigation objective.

Mr Drew also told the Diary it is “on record in a number of meetings” that ratepayers are only legally required to contribute to flood mitigation costs for what is termed “One-in-Five-Year” rainfall events. The solution proposed by council, to which residents would be required to contribute, however, is designed for a “One-in-100-Year” event.

It is confirmed that Council will contribute to the cost of any flood mitigation scheme in accordance with the requirements of its Policy. Council will fund the cost of upgrading the minor 5 year drainage system to convey flows from the major or 100 year storm events. In addition, Council will contribute to the cost of the minor 5 year system works proportionate to the area of public land within the catchment. Logically, residents should also contribute to the project costs on the basis of the stormwater runoff their land contributes and/or the protection their properties derive from the works (in accordance with lawful tribunal rulings).

According to residents, one of the difficulties of the brief given to the consulting firm is they were asked to compare and gauge the alternatives with the ‘benchmark’ provided in the original council model. This did not allow for an original and independent assessment of the task at hand, but rather an appraisal of the effectiveness of the existing scheme.

This statement is a misinterpretation of fact. Contrary to this assertion, it was important for the consultancy to independently assess the original scheme, in order to verify, or otherwise, its legitimacy against other possible solutions. To not have done so would have been prejudicial to the process. In addition, the inclusion of this option did not in any way influence the consultant’s independent thinking in regard to other options. Each option was separately assessed against the objectives, and not against each other.

The Brief was developed in consultation with a subcommittee of the Reference Panel. The Brief is clear in its requirements for the consultant to consider traditional and non-traditional solutions to meet flood protection and achieve improved environmental outcomes. Further, the brief called for the development of cost effective solutions, in consultation with the affected community. Schemes 4 and 5 both offer sustainability benefits and these results are in contrast with the concerns expressed. The project objectives have been met, within the constraints of the local topography, limitations on

the availability of public land and the broader catchment appetite for a sustainable solution.

The issue currently plaguing Melbourne Hill road is likely to become a widespread one within Warrandyte and Manningham as a whole, as councils are forced to deal with escalating extreme weather events caused by climate change. The Melbourne Hill Road residents are of the opinion it seems Manningham Council engineers are happy to come up with “special charges schemes” rather than address long-term effective environmental solutions.

The residents of the area are liable for their drainage and for the contribution their drainage makes to downstream flows. There is no escaping this fact. By its very nature, this means that residents are responsible for these aspects. A scheme is merely a legal means of ensuring that this is affected in an equitable way. This is a common approach across the state, and the country, supported by decades of tribunal case law.

Significant effort and time has been invested in the development of three alternative, sustainable flood mitigation schemes, which have been tested through the flood model and assessed against the community and project values. Special charge schemes can incorporate environmental solutions where the associated assets provide a special benefit.

The Melbourne Hill Road Catchment Community Representative Panel unanimously rejects the report from BMT WBM entitled:

“Melbourne Hill Road Drainage Scheme Assessment – Community Report”

The report is rejected because:

1. The Rep Panel has strong reservations about the independence and therefore the integrity of the report:

The consultant agreed on 5 February 2015 to provide a written declaration of independence to the Rep Panel. No such statement has been received

The Reference Panel Terms of Reference signed by the Ward Councillor and the Chairperson for the Melbourne Hill Road Representative Panel on 5 February 2015 state that the consultant is independent. The Terms of Reference have been available through the Your Say Manningham website since February 2015.

The consultant agreed to provide draft reports to the Rep Panel (together with all supporting raw data) at the same time as such information was provided to council. Both the consultants and Council are in breach of this agreement as all information relating to the consultant’s work has been provided only after prior approval by Council officers.

While there was a request for draft reports to be provided by the Consultant directly to the Reference Panel, there was no agreement to this request. It would, in fact, be highly inappropriate for Council to allow the work of any consultant to be made public without first confirming its accuracy and its compliance with the contract, as awarded. Council has a responsibility to ensure due process is followed in the management of any contract that it has let. To not do so would be negligent of Council. However, it should be made patently clear that this does not mean that Council has unduly influenced the contractor/consultant.

The consultant's work is their own, and all Council is doing is acting responsibly in ensuring that the agreed terms of the contract are met. Council's independent auditors would insist on this.

2. The report contains statements that the Rep Panel believe to be factually incorrect: "The entire catchment contributes to the flooding issues experienced in the catchment" is a patently untrue statement and we believe its inclusion is solely to support justifying a special charges scheme for the entire catchment.

This is an entirely inaccurate statement. By basic physical fact, stormwater that falls in any part of a catchment contributes to downstream flows, whether that land is private property or otherwise.

3. The Rep Panel has reason to question some of the flood modelling and has been given no opportunity to discuss these issues or obtain clarification before the report was released.

At the community meeting held on 30 April 2015, the flood modelling undertaken in respect of the existing catchment was presented to the community. Comment was invited and received from community members, including the Reference Panel, specifically relating to the flood extents in the Lorraine Avenue area. In response, a further field survey was undertaken by Council officers and this information was incorporated into the flood model. Details of these changes and the updated flood model results have been explained in the Community Report. The flood model results were also compared against the reports of the actual property flooding that was experienced, and the video footage provided by community members of overland flows following the December 2011 flood event. It was found that there was good correlation between the model results and the community reports. This is a universally accepted means of testing the validity of models, and, as a result, Council is satisfied with the accuracy of the modelling.

Further, this statement was made at the commencement of the community meeting conducted on Monday, 10 August 2015. The purpose of the community meeting was to present the findings of the Community Report and respond to any questions raised by the community members. Responses to several questions regarding the flood mapping were provided at the community meeting, and a list of questions and responses from that meeting will be posted on Your Say Manningham shortly.

4. The report fails to quantify the significant contribution to flooding in the catchment from water which originates from Council-controlled areas or Council assets

The flood modelling quantifies the aggregated stormwater runoff from the catchment as stormwater runoff moves downstream, and progressively picks up more land. This is how all flood models work. It is not practical to increasingly isolate flows from road reservations from those flows from private property as it travels down the catchment. However, the apportionment of costs between Council and the property owners for the preferred scheme will take account of the relative areas of public and private land at that stage of the project development. This work is beyond the scope of the current study and will be undertaken by Council officers.

This is standard practice for any scheme (not just for Manningham), and is a verified process through VCAT, which is the ultimate test of a scheme's integrity.

It should also be reiterated here that, in addition to its land, Council is bearing the cost of the runoff from all streets, irrespective of the fact that they can legally be charged to the private land owners.

5. The report fails to include a baseline estimate of minimum cost required to upgrade existing drainage infrastructure to manage a 1 in 5 year ARI.

Apart from the fact that this was not a requirement of the Project Brief, which was developed in consultation with a subcommittee of the Reference Panel, it would have no value in informing the process. This would mean that Council would be assigning apportioned costs to residents based on a minimal works model against a larger scheme and bearing the balance of the resident costs itself. This lesser cost should not then be used as the basis of resident contributions towards a full drainage scheme (e.g. Option 1), as, by default, Council would be paying for drains in upstream properties through general rates, rather than the properties paying for what they are liable for. The Project Brief requires the protection of habitable floor areas from flooding in a major (1 in 100 year) flood event. The value of the minor (five year) rainfall event infrastructure will be estimated based on the preferred scheme option.

6. The report implies that the Rep Panel endorsed the 4 options modelled, whereas Scheme 1 has never been accepted or endorsed by the Rep Panel

Accepted, however, scheme 1 was required to be included in the Study as part of the agreed Project Brief, in order to have it checked for probity purposes, and to enable the consultant to independently assess it against any other model they may have come up with.

Scheme 5 as modelled was not agreed to by the Rep Panel.

This is not correct. Scheme 5 was proposed by the Reference Panel following the community shortlisting workshop conducted on 30 April 2015, to replace scheme 3 as developed by the community. Scheme 5 was modelled based on the options originally provided by the Panel. After the closing date, the Panel submitted a modified Scheme 5, but the flood modelling had already progressed based on the original Scheme 5. Advice was provided to the Panel that the modified Scheme 5 could therefore not be included in the project.

7. The report fails to record how each of the houses that are subject to flooding were permitted to be built without adequate flood protection

This was not a requirement of the Project Brief developed in consultation with a subcommittee of the Reference Panel and falls beyond the scope of the consultant study. These houses were built in accordance with state-wide building controls that applied at the time, and without the knowledge that has been gained since, in relation to stormwater flows.

The fact that drainage was not provided at the time of development does not mean that resident liability is foregone. It simply means that residents have been able to defer the cost of drainage for those years that have since passed.

8. The report fails to offer any proposals for site-specific flood-protection measures for any of the flood-threatened houses, in the absence of a Scheme 1 project.

The study has been prepared in accordance with the methodology specified in the Project Brief, including the development of three schemes with the community. This option was not raised as the basis of a potential scheme. Site specific flood protection measures are unlikely to be feasible for all properties subject to flooding of habitable floor areas within this catchment, particularly for houses located in the valley. For Council to contribute to the cost of drainage improvement works, the assets developed need to be owned and maintained by Council. If site specific flood protection measures were feasible, it is likely that the affected property owner would be liable for the cost of construction. This approach would be inequitable, as it denies the responsibility of the owners of upstream properties to contribute to the cost of addressing downstream flooding and damage to neighbouring properties, which they are jointly accountable for.

9. The Rep Panel believes the tone of the report to be biased towards Council's intention to enforce a Special Charges Scheme onto MHRC ratepayers and section 5.10 is a thinly veiled attempt to intimidate the community into acceptance of such a Scheme that would maximize their contribution.

The Community Report simply states the results of the investigation into the relative merits of the four schemes considered as part of the study and compares their performance based on the community values suggested by the community and the core project values stated in the Project Brief. Community contributions to any adopted scheme will be in accordance with the requirements of Council policy. In fact, Council is doing the opposite of trying to maximise resident costs. Manningham's policy is generous compared with the equivalent policies of many other councils. For example, under the provisions of the Local Government Act 1989, residents should also pay for what their local streets contribute, but it should be noted that in the case of the Melbourne Hill Road catchment, Council is proposing paying for this. In addition, Council is proposing paying for the 100 year storm contribution, not the residents, as well as other concessional costs normally covered by residents, like boring.

10. The MHRC community unanimously objects to the imposition of a Special Charges Scheme and nowhere in the report is this noted.

The focus of the Community Report was a technical assessment of four flood mitigation schemes. This is only a part of the overall process. Community views will be sought and reported to Council by Council officers, prior to Council determining a course of action in relation to the project.

11. During the period of the study, numerous delays have occurred as the consultants and/or Council failed to meet their own deadlines. Provision of information to the Rep Panel was always late and invariably insufficient time was allowed by Council for Rep Panel assessment with no consideration given for submissions after Council-imposed deadlines.

The Reference Panel received documentation a minimum of five days prior to each community meeting. It should also be pointed out that Council has gone beyond the original consultancy remit in responding to resident concerns as they arise, and this has, by implication, resulted in more work and more time being expended through the process.

12. The Rep Panel believes that the report has been unduly influenced by the views of Council officers and does not adequately reflect the input from either the Rep Panel or the wider MHRC community

Claims that the process has been manipulated to achieve a preconceived outcome are baseless. As stated earlier, Council has a responsibility to ensure due process is followed in the management of any contract that it has let. To not do so would be negligent of Council. However, it should be made patently clear that this does not mean that Council has unduly influenced the contractor/consultant. The consultant's work is their own, and all Council is doing is acting responsibly in ensuring that the agreed terms of the contract are met. Council's independent auditors would insist on this.

Council has gone to great lengths to ensure a consultative and inclusive process through the development of the Community Report, and every effort has been made to involve the affected community in the identification of flood mitigation schemes and the basis for comparison.

The MHRC Community Representative Panel is resolute in its rejection of the report and the apparent collusive relationship with Council officers. We are prepared to refer this matter to a higher Investigative Authority.

The Way Forward

Council officers have stated that the MHRC community would be required to contribute to the cost of upgrading the drainage infrastructure to manage a 1 in 5 year ARI. Further upgrades required to manage a 1 in 100 year ARI would be fully funded by Council.

The significant inputs of water from Council-controlled assets (Wildflower reserve, Upper MHR reserve and the Leber Street drain), are solely the responsibility of Council and all infrastructure required to conduct such water through the catchment must be paid for by council alone.

The Melbourne Hill Road Catchment Community Representative Panel therefore demands:

- An independent baseline costing of the minimum upgrades to existing MHRC drainage infrastructure to manage a 1 in 5 year ARI in the absence of water originating from Council assets.

Further to the response to the prior item 5, firstly, to the question of the minimum infrastructure requirements to address habitable floor flooding within the Melbourne Hill Road catchment. Minor improvements to the existing drainage network will not resolve habitable floor flooding within this catchment. The modelling has clearly demonstrated that the entire length of the Valley Drain requires significant upgrade to deliver the required level of flood protection. The consultant has run the flood model in the order of 200 times with refinements of the requested infrastructure for each scheme and has optimised the proposed infrastructure through this process.

The lowest cost scheme analysed was scheme 2 but this scheme also had the poorest flood mitigation performance. All schemes included similar upgrades to the valley drain. In order to identify a lower cost scheme with comparable flood mitigation performance to scheme 1, it is proposed to work with the Reference Panel to develop a modified version of scheme 2. Scheme 2 (modified) will then be tested through the flood model for the 100 year or major storm event and optimised, and a cost estimate will be prepared. Scheme 2 (modified) will also be assessed against the community and core project values and the results will be shared with the community.

A community survey will be conducted following this process to invite community feedback regarding their preferred flood mitigation scheme. The results of this survey will be reported with other information to Council, prior to Council resolving on any further action to address the habitable floor flooding in this catchment.

Any contribution required of the community to fund the preferred scheme works will need to relate to the actual works to be constructed as the community will need to contribute to the cost of the works proportional to the special benefit derived, in accordance with the provisions of Council's Policy. Information regarding the cost apportionments between Council and the property owners have been prepared and are available through the Your Say Manningham website for Schemes 1 and 5. This information will also follow for the modified Scheme 2 when available.

In order to meet the requirements of the project brief, each scheme to be considered by Council must achieve the protection of habitable floor areas in a major (1 in 100 year) storm event. As such, the approach requested by the Reference Panel to focus on minor (1 in 5 year) event infrastructure required to convey flows from private property alone is not supported; it is contrary to Council's policy.

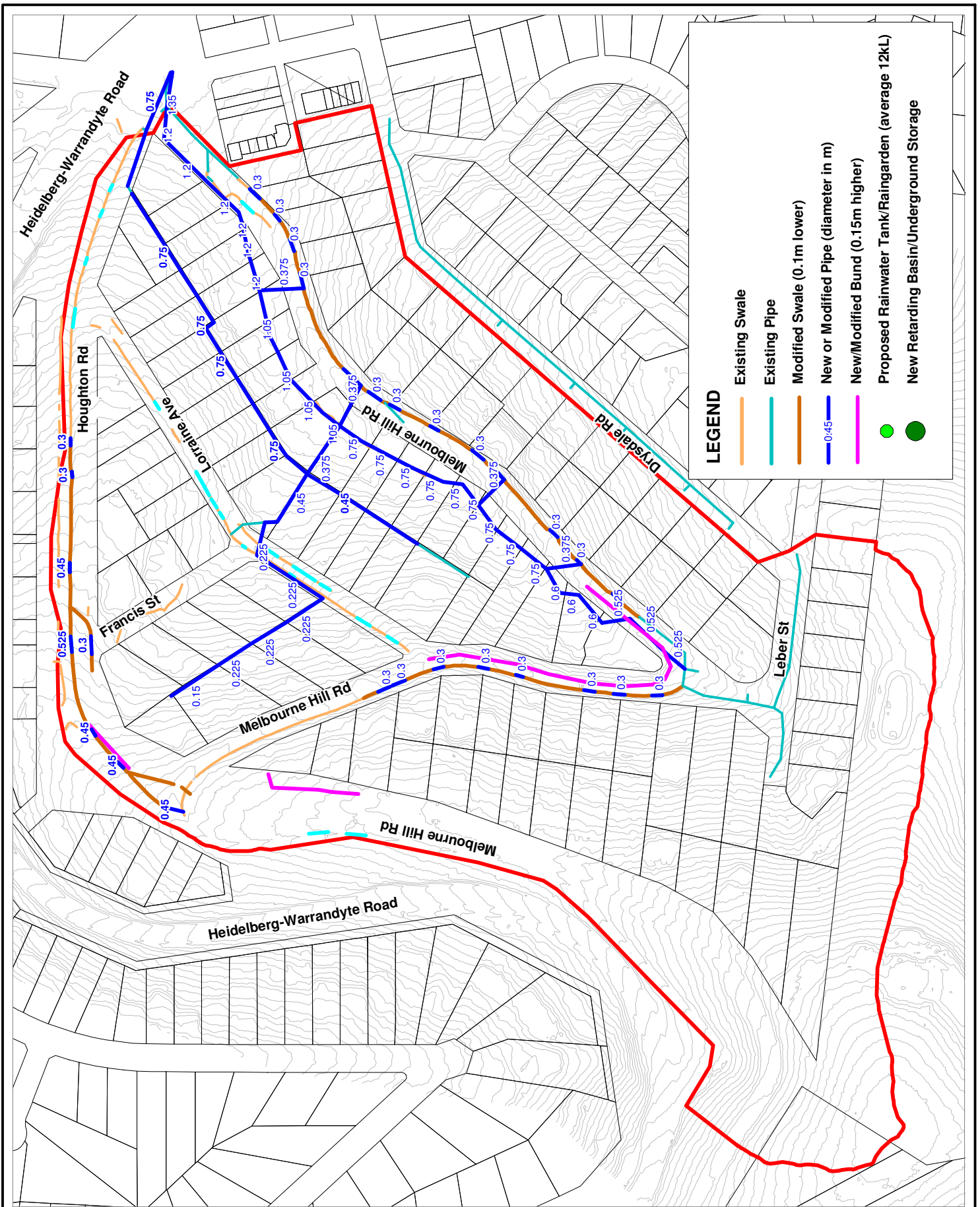
Suggested Drainage Scheme Implementation:

A drainage scheme to manage the water from Council-controlled assets be implemented to manage a 1 in 100 year ARI. Construction to be staged and in consultation with affected property owners such that costs to Council be spread over a number of years.

This approach is not supported as it will not resolve the flooding of habitable floors within the catchment.

The staged approach to include the diversion of water down Houghton Road

The diversion of water down Houghton Road is included in scheme 5.

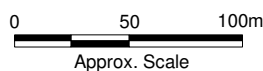


Title:
Melbourne Hill Road
Mitigation Scheme 2.3 (Modified) - Not Modelled

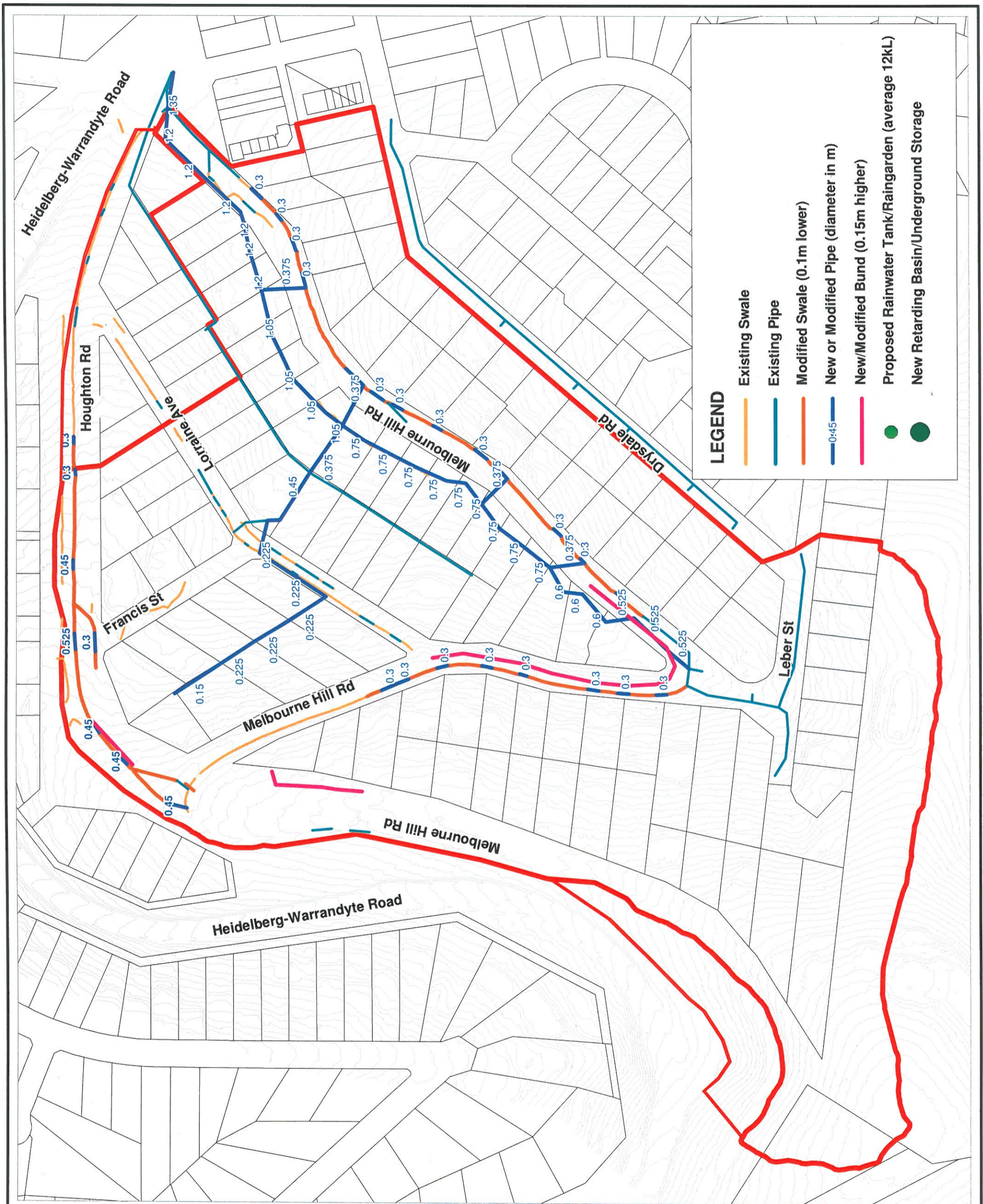
Figure:
A-1

Rev:
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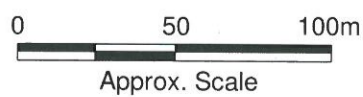


Title:
**Melbourne Hill Road
 Mitigation Scheme 2 (Modified)**

Figure:
1-1

Rev:
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ATTACHMENT 11

Municipality	Does Council have a Special Rates and Charges Policy (Yes / No)	Policy Basis for Council Contributions
Yarra Ranges Shire Council	Yes	Council contribution is generally 20% of the total cost plus community benefit. Ceiling for contribution by private residential properties was \$16,000 as at 2013/2013 and has since been inflated.
Knox City Council	Yes	10% of the total cost to be met by Council.
Nillumbik Shire Council	Yes	Council pays for Exempt Land (Council Reserves and Crown Land controlled by State Government). Generally limited to \$1,000/property.
Casey City Council	Yes	Benefiting owners fund total cost.



Melbourne Hill Road Catchment Drainage Scheme – Raw Facts

Dispelling the myths:

- The Local Government Act 1989, supported by decades of tribunal case law, provides that residents gaining a direct benefit from the provision of drainage infrastructure should pay separately for that benefit; while general rates are to be used for broad community benefit. The overriding principle being that the broad resident base shouldn't subsidise individual benefit.
- By basic physical fact, stormwater that falls in any part of a catchment contributes to downstream flows, whether that land is private property or otherwise.
- The Wildflower Reserve and associated road reservation constitute approximately 12 per cent of the catchment, therefore the remaining 88 per cent of the catchment is made up of private properties and streets, and the contributions to downstream storm flows in the valley are of a similar proportion.
- If Council is paying for what Wildflower Reserve contributes, then logically residents should also pay for what their land contributes.
- Under the Act, residents should also pay for what their local streets contribute, but it should be noted that in the case of the Melbourne Hill Road catchment Council is paying for this.
- In addition Council is paying for the 100 year storm contribution, not the residents.
- The fact that drainage was not provided at the time of development does not mean that resident liability is foregone. It simply means that residents have been able to defer the cost of drainage for those years that have since passed.

Options:

A fully constructed drainage system (such as Scheme 1) would provide convenient legal points of discharge for all properties, in a much more cost effective manner, thereby freeing up all properties for future improvements (such as building a new house or extension or adding a carport).

Any solution that does not provide easement drains for all low side properties within the catchment will mean that those properties without drains will not be able to undertake improvements unless they pay for expensive outfall drains, which may extend some distance through downhill properties to a legal point of discharge.

At the August community meeting, residents asked for the least work option (Scheme 2 – no upstream drainage) to be modified and priced to minimise their costs. This modified solution may achieve the flood management outcomes, but may not offer any of the environmental benefits they are seeking and leaves many low side properties without drainage outfalls to accommodate future improvements.

In addition, this lesser cost scheme should not then be used as the basis of resident contributions towards a full drainage scheme (Scheme 1), as, by default, Council would be paying for drains in upstream properties through general rates, rather than the properties paying for what they are liable for. It follows that should a modified Scheme 2 be adopted, further drainage works deemed necessary within this catchment at a later time would attract a special charge.