

1.9 MONASH OPEN SPACE STRATEGY OPEN SPACE CONTRIBUTION & IMPLEMENTATION PLAN

(SMC: File No.)

Responsible Director: Peter Panagakos

RECOMMENDATION

That Council:

1. *Notes the significant resident and worker population growth forecast for Monash between now and 2036, particularly in areas around the Suburban Rail Loop Stations.*
2. *Notes and adopts the updates to the Monash Open Space Strategy 2018 as set out in this report.*
3. *Notes and endorses officer responses to the issues raised by the Panel in Amendment C148 as set out in this report.*
4. *Notes and adopts the Monash Open Space Strategy Implementation Plan and Public Open Space Contribution Rate report for community consultation as part of an amendment to the Monash Planning Scheme.*
5. *Notes that based on forecast population growth and services standards of the Monash Open Space Strategy and the Monash Open Space Strategy Implementation Plan, a public open space contribution rate of 10% is proposed to be included in the Monash Planning Scheme.*
6. *Authorises the Director City Development to request the Minister for Planning for authorisation to prepare and exhibit an amendment to the Monash Planning Scheme as outlined in this report, including:*
 - a. *Changes Clause 53.01 to require that all subdivision is required to provide a public open space contribution at a rate of 10%.*
 - b. *A new Local Planning Policy for open space contributions.*
7. *Upon receiving authorisation from the Minister for Planning, exhibit the amendment in accordance with Section 19 of the Planning and Environment Act 1987.*
8. *Notes that a further report will be presented to Council upon completion of the public consultation of the future amendment referred to in Items 7 & 8 above.*
9. *Recognises that the provision and enhancement of open space is a significant contributor to the livability of the Municipality and that a long-term view with regard to planning for the provision and improvement to open space must be taken to ensure that the needs of the growing population that are creating the demand for additional and improved open space are met.*

INTRODUCTION

This report recommends that Council review and adopt the draft Monash Open Space Implementation Plan & Public Open Space Contribution Rate report as the basis for requesting authorisation from the Minister for Planning to prepare a new amendment proposal to change the public open space contribution in the Monash Planning Scheme.

This report also provides responses to the recommendations or comments of the Panel report for C148 and represents an updated report that responds to the questions and comments of the Panel.

BACKGROUND

In October 2018 Council adopted the Monash Open Space Strategy and requested authorisation from the Minister for Planning to prepare an amendment to the Monash Planning Scheme that would increase the open space contribution to 10%. The 10% contribution was based on a standard of 30m² of open space per person as the metric for assessing the need for open space and improvements.

At the meeting of 24 September 2019 Council considered submissions to the amendment, resolved to proceed with the amendment and referred submissions to a Panel for consideration.

In April 2020 Council received an “interim” panel report on Amendment C148.

The interim report made a number of findings on issues raised in submissions and resolved some of the points raised in the submissions, including that:

- *Council's expenditure on open space is not a relevant consideration for the Panel.*
- *Changes proposed by the owners of the PMP site to the Schedule to Clause 53.01 to exempt open space required by Amendment 156 are not appropriate.*
- *Council can amend the contribution rate in the Schedule to Clause 53.01.*
- *The treatment of the whole municipality as a single planning unit is appropriate.*
- *An inclusionary requirements approach is reasonable.*

The Panel did not support the calculation of open space contribution based on 30m² per person standard and recommended that additional work be undertaken to support the amendment proposal for 10% open space contribution should Council wish to proceed with that amount.

The Panel recommended that Council should review the Amendment documents and undertake the following additional work:

1. *Develop an implementation plan either as part of the Monash Open Space Strategy or as a separate document, which nominates precincts in which land acquisition will be sought and projects and works in open spaces with cost estimates.*
2. *Use the implementation plan as the basis for the calculation of an open space levy rate in place of the 30 square metre macro-provisioning standard.*
3. *Develop a detailed justification for the application of the same open space levy rate to residential and non-residential subdivisions.*
4. *Clarify the use and meaning of community open space in the Monash Open Space Strategy and Clause 22.15.*
5. *Review the areas designated as public open space gaps in Map 1 in Clause 22.15.*

Once this work is complete the Amendment should be re-exhibited.

The Panel will then reconvene to consider any submissions.

Overall the panel also stated:

“The Panel accepts that, with a growing population there may be a need to increase the amount of the open space levy and the MOSS goes some way to justifying that need. However, the amount of the increase in the open space levy and the increase in its scope was not justified by the information presented to the Panel. The Panel does not take the view that the Amendment is fatally flawed. With additional work, analysis and justification, it could be approved”

As previously advised, Amendment C148 lapsed in June 2021 and that process has ended. Following discussions with both DELWP and Planning Panels, the work that has been undertaken and the process to date need not be lost. There is the opportunity to amend the strategy as recommended by the Panel and seek a new amendment process inclusive of public notification. The advice from DELWP and Panels is that there is the opportunity to continue having regard to the process already undertaken and the recommendations of the panel that have been made, understanding that this will be a new amendment process.

To this end, officers have undertaken work to amend and clarify the amendment, for consideration by Council. DELWP advises that in the circumstances they could facilitate an expedient authorisation to enable the public consultation to occur. Similarly, panels are open to considering the best process to progress the amendment, including giving serious consideration to reconstituting the same panel so that there is continuity and consistency in the process. For continuity and consistency in process there are definite advantages to this occurring, but we will await the decision that will come should Council determine to proceed.

ISSUES AND DISCUSSION

Since the interim panel report, officers have prepared the material directed by the Panel and some supplementary material to provide further clarification with regard to what is proposed by the Strategy and the contribution rate recommended, and its potential impacts.

The Monash Open Space Strategy 2018 has also be updated to take into account the Panels comments on Amendment C148, in particular the removal of the 30m² per person rate and include the new population forecasts from the State government.

Officers have also reviewed open space material prepared for planning scheme amendments to increase open space in the Cities of Darebin and Yarra. Both Councils are proposing an open space contribution of around 10 % for new development.

The principles that underpin the strategy remain and are:

- Equitable access - ensure an appropriate level of open space is available for all residents regardless of where they live, their age, gender, income, ethnicity, education or ability.

- Diversity of opportunities and experiences to ensure all residents can use and benefit from open space.
- Quantity – the provision of open space across Monash will continue to be increased to ensure an appropriate level is available for all residents.
- Quality (fit for purpose) – ensuring that the function of an open space meets the requirements for that function.
- Sustainability – in design, development and management of open space.
- Dependency – some people, activities and assets are dependent on the inherent natural qualities of open space reserves. And as a priority, open space should support activities and users who are more dependent upon it;
- Environmental protection, enhancement and appreciation including the protection of canopy trees, habitat, flora and fauna and waterways.

A list of recommendations from the Panel and the response to those recommendations is provided at **Attachment 1**.

Why increase the contribution?

The current open space contribution in the Monash Planning Scheme ranges from 2% to a maximum of 5%. The majority of development falling into the 2% category. This rate is effectively unchanged from the standard rates within the upper limit of the Subdivision Act 1988, which were derived from the principles of Victorian Local Government Act 1958. The pattern, type and intensity of development have changed significantly since this time, and there is a strong basis to create an open space contribution scheme that more closely matches and responds to this considerable change. In essence, they are an antiquated and arbitrary range of percentage contributions that were certainly more appropriate when traditional suburban subdivision densities were occurring such as when Monash was first converted from orchards and paddocks and the early incremental infill development scattered throughout Monash.

The current rates for the open space contribution are shown in the table below.

Financial Year	Open Space Contributions collected
2020-2021	\$11.103 million
2019-2020	\$958 million
2018-2019	\$7.3 million
2017-2018	\$4.97 million
2016-2017	\$4.22 million
2015-2016	\$5.31 million

2014-2015	\$3.03 million
2013-2014	\$2.05 million

**Note: 2018 to 2021 contributions included M City, Sky Garden and The Glen.*

For comparison, the draft Asset Plan 2021-2030 estimates the Council will (spend):

“Approximately \$277 million will be allocated to our open space assets. A significant proportion of this (\$171.2 million) is planned to be spent on the day-to-day activities that we undertake to maintain and care for our parks, playgrounds, sportsgrounds, gardens, and streetscapes.”

It should also be noted that there is an existing asset and utility value in the existing open space services across Monash that have been built up over time and financed by existing residents. The Asset Plan has a current replacement value of the existing open space assets at \$86,082,000,000.

Without an increase in the open space contribution rate, new development effectively obtains “free” access to that asset base, creating additional burden for Council and the existing ratepayer to meet the cost of providing for additional and improved open space to meet the needs of the new and growing population, from whom the additional demand is being generated. Further, not making an appropriate contribution to mitigate some of the impact that new development has on the value, carrying capacity and utility of the open space assets.

Like all the services that Council provides, it is responsible to respond to and plan for the provision of additional open space. To not do so now, means that the gap between provision and demand will continue to widen, and the expectation of the community will continue to be one where the demand for additional and improved open space exists. With the implementation of strategies such as this Council must take a long term view. Whilst there may be some that begrudge the imposition of additional open space contributions, it correlates directly to the amenity and attractiveness of the municipality for people to live. It creates and maintains the longstanding Garden City Character that Monash is recognised and renowned for. Where front and rear yards were contributors to this, with increasing development they play a lesser and different role, and this is a role that the quality and quantum of the open spaces that are provided will play.

The population forecast between now and 2036 is shown in the table below.

Population change forecast 2021 to 2036				
Precinct	2021	2036	change	% increase
Ashwood Burwood	10,431	11,721	1,290	12.37%
Chadstone	10,208	11,159	951	9.32%
Clayton	22,689	33,521	9,723	47.74%

Glen Waverley	44,530	55,885	11,355	25.50%
Hughesdale	8,509	9,453	944	11.09%
Mount Waverley	36,298	40,249	3,951	10.88%
Mulgrave	20,425	21,905	1,480	7.24%
Notting Hill	3,339	4,755	1,416	42.40%
Oakleigh South	5,870	8,187	2,317	39.47%
Oakleigh	9,921	15,845	7,033	59.71%
Huntingdale Oakleigh East	8,930	11,306	2,376	26.61%
Wheelers Hill	22,351	24,945	2,594	11.60%
Overall	203,501	248,930	45,429	22%

Should the contribution rate not be increased, the options available to Council are to:

- accept a gradual decline in open space service standards; or
- effectively subsidise developers by using existing rates to fund cost of the increased need created by new development.

For example, if a 5 per cent contribution rate were to be applied, Council would need to consider funding the 50 per cent shortfall in open space costs in order to deliver open space. The 10% is not merely reflective of a contribution amount to be levied on new development. It is the amount that would enable Council to keep pace with what is needed to be provided/improved to keep pace with the amount of development and population growth that is occurring. A failure to provide/improve open space at this rate would mean that Council would fall further and further behind in the provision of its open space to meet the demand that is being created.

Who pays for the open space contribution?

There are questions about who pays for the open space contribution and its impact or otherwise on house prices. In addition to previous information provided as part of Amendment C148, officers commissioned SGS Planning and Economics to prepare a brief explainer on development economics and where contributions to urban infrastructure such as open space are costed into development and in effect who pays that contribution.

The report finds that the cost of the open space contribution (In fact any known upfront contribution) is passed back to the seller of the land in the form of a reduced selling price. That is, the developer will base their purchase price of the land after taking into account all costs required to develop the site. This provides what is referred to as a “residual land value” and translates to the “market” value of the site for a developer.

This position is further supported by a research paper prepared by Dr Cameron K. Murray Henry Halloran Trust, The University of Sydney that found taxes and contributions for infrastructure are not added to development costs but deducted from the price that a developer will pay for the land.

The view that development contribution costs simply added to the final selling price of the dwelling is not borne out in any of the research or practice in the development industry.

A key consideration for Council in this regard should be the significant increase in land value and housing prices across the Municipality, whereby, long term landowners have seen substantial increases in value and increases significantly above normal cost of living increases year on year. This has occurred as the Municipality continues to be a popular place to live, but also as relevant State and Council interventions have allowed for increased development potential to what was available and considered appropriate even 5 years ago.

A full copy of the SGS advice and the University of Sydney paper is provided at **Attachments 2 & 3**.

Draft Implementation Plan and Public Open Space Contribution

This section addresses Directions 1 and 2 of the panel report on Amendment C148

In accordance with the Panels finding in Amendment C148, an Implementation Plan has been prepared to identify and cost improvements and additions to the open space network in response to projected population growth. The implementation plan also includes indicative costings of these improvements on a precinct by precinct basis.

The forecast period of the Implementation Plan has been increased to 2036 to align with State population projections used in of the Eastern Metro-Land Use Framework Plan and the Suburban Rail Loop Business case documents.

The Implementation Plan identifies a range of land acquisitions and open space improvements proposed over the next 15 years to the open space service standards of the Monash Open Space Strategy and the open space needs of the additional 41,400 residents, primarily in high density development, forecast between now and 2036.

The Implementation Plan identifies approximately \$850 million in open space works over that time period with \$606 million of that apportioned to new development. Several scenarios on land value and development mix were prepared to assist in determining the open space contribution rate. This analysis showed an open space contribution rate of between 13.23% to 14.27% depending on the pace of development and actual land values. The Implementation Plan proposes keeping the proposed open space contribution rate at 10% in accordance with the previous Amendment C148.

For context it is important to note that the value of land forecast to be development to accommodate new growth is in order of 5 billion dollars. As this is the land value only, it is primarily created by the value the market places on existing urban infrastructure that services the land including roads, schools, trains and open space.

Calculating the Open Space Contribution

The open space contribution rate is calculated based on the “basket” of improvements identified and apportioned to the future community and the value of land that is expected to be required to accommodate the growth forecasts.

This leads to an open space contribution rate of 10* per cent for all commercial, residential and industrial land uses within Monash. This is shown in the table below.

Item	Metric	Value
A	Cost of open space improvements and additions apportioned to forecast population growth to 2036	\$606,802,563
B	Value of net developable land to accommodate forecast growth	\$4,585,285,670
C	Open space contribution requirement from new development as a % of total site value (A divided by B = C)	10 per cent*

*The figure is actually 13.23% but has been rounded down.

The Implementation Plan and Public Open Space Contribution rate do not rely on the previous standard of 30m² per person. (*The Monash Open Space Strategy will also be updated to remove reference to the 30m² person in the determination of open space services standards for Monash. Refer to **Attachment 5***)

A copy of the draft Monash Open Space Strategy Implementation Plan and Public Open Space Contribution report is provided at **Attachment 4**.

Open space in employment areas.

This section responds to Direction 3 of the panel report on Amendment C148.

The Monash Open Space Strategy and the Open Space Contributions Strategy adopt an inclusionary principle – in that all development has a need for and should contribute to public open space to meet their needs. On that basis, contributions towards open space should be collected equally from all eligible development.

Whilst traditionally open space provision in employment areas has been limited and the expectation for the provision of open space facilities low, this is shifting. As employment areas of Monash transition to higher employment density, knowledge and specialist *industries* there is an increasing demand and expectation for the provision of open space resources in employment areas. This increased demand is particularly apparent and relevant in the Monash National Employment and Innovation Cluster where businesses consistently rate improving urban amenity and open space facilities as a high priority for improving the Cluster. This new approach to employment areas can be seen in the Caribbean Park industrial estate in the City of Knox

The *draft Monash National Employment Cluster Framework Plan 2017* (draft Plan) anticipates the growth of more than 80,000 jobs in the Cluster as a whole.

To assist in facilitating this growth the draft Plan lists 5 Strategic Outcomes – Strategic Outcome 4 - Develop public open space and community infrastructure includes *Action 4.3 - Establish public open space contribution rates that will ensure open space*

improvements, support anticipated change in employment, resident and visitor population needs and mitigate the urban heat island effect.

Whilst land values are traditionally lower in employment areas the open space typologies provided in employment areas and particularly the infrastructure required in these areas, is a higher proportion of the development costs relative to land value.

Additionally, the amenity expectations and intensity of the use of the space mean that open space in employment areas are generally more urbanised, infrastructure intensive and expensive to develop on an m2 basis than similar scale open space facilities in residential areas.

On this basis is it considered appropriate to maintain the inclusionary principle of the same rate for residential and employment land.

Clarify terminology used in the Monash Open Space Strategy and amendment documentation

This responds to Direction 4 of the panel report on Amendment C148.

Clause 22.15 does not reference “community open space”. It is understood that this recommendation is related to the consistency of the Map 1 in Clause 22.15 and Map 2 in the Monash Opens Space Strategy. This differences in the maps will be addressed by the replacement of the existing map in Clause 22.15 with the more nuanced and detailed Map 2 from the Monash Opens Space Strategy.

Review the area noted as “gap” areas in the Map to Policy 22.15

This responds to Direction 5 of the panel report on Amendment C148.

Officers have reviewed Map 1 to Clause 22.15 - this map is a consolidation of the several open space categories in the Monash Open Space strategy. As part of the consolidation the map removed the different open space gap categories contained in the Open Space Strategy. It is proposed to replace the Map 1 in Clause 22.15 with the map from the Monash Open Space Strategy for consistency and to show the differences in categories and gaps.

This is considered a minor issue that would simplify the documentation. In making this recommendation the Panel stated:

“The Panel does not consider this a significant issue to the Amendment but recommends that mapping in the MOSS be amended where properties are proximate to public open space in neighbouring municipalities and regional open space, against the 400 metre walkable catchment standard. This should provide more accurate guidance for the allocation of resources by Council to increase public open space in ‘shortfall’ areas.”

New Amendment process

Given the original amendment has lapsed Council will need to request a new amendment authorisation and undertake effectively a “re-exhibition” of the amendment. (This aligns with the re-exhibition direction of the Panel on Amendment C148.)

Although the change will be part of a new amendment process, there a number of issues that are considered resolved by the Panel report on C148, and will therefore be less contentious in the new amendment process.

Officers have been in discussion with senior officers at DELWP and the Chair of Planning Panels who are all supportive of ensuring the process occurs with as much continuity as possible with the Amendment C148.

Planning Panels has confirmed that there have been other instances with lapsed amendments where, if the new amendment was referred to panel, the original panel was reconvened to hear the new amendment. Advice from Panels is that this continuity precedent would apply should Council pursue a new open space amendment.

CONSULTATION

Consultation will be undertaken in accordance with the requirements of the Planning and Environment Act 1987.

In addition an article will be placed in the Monash Bulletin during the exhibition period and previous submitters to Amendment C148 will be notified directly.

A dedicated Shape Monash page will also be provided.

POLICY IMPLICATIONS

The development of the Monash Open Space Implementation Plan is consistent with State policy including:

- Plan Melbourne
- The metropolitan open space strategy
- The draft Monash Cluster Framework Plan

The material is also consistent with Council policy and strategy including:

- The Monash Open Space Strategy
- Monash Community Vision and Council Plan
- Monash Health and Wellbeing Plan 2021-2025

GENDER EQUITY

A gender impact assessment has not been undertaken for this amendment as it relates to a statutory process under the Planning and Environment Act 1987.

FINANCIAL IMPLICATIONS

The amendment process and any subsequent panel hearing can be accommodated within existing operating budget allocations.

The change to the open space contribution is forecast to provide Council with open space funding to meet the needs of the new population. The existing open space contribution scale is inadequate for the scale and density of development likely between now and 2036. In the absence of any increase in open space funds Council and the community will be faced with an overall decline in open space provision, a decline in service quality and a lack of suitable and adequate open space in areas such as Clayton and Glen Waverley that are forecast to see significant urban population increases in apartment style development.

CONCLUSION

The preparation of the additional information is consistent with the requests of the panel for C148.

The open space provision rates are no longer based on the 30m² per person metric, rather on the service standards set out in the Monash Open Space Strategy for accessibility, utility, function and to meet forecast population growth.

The Implementation Plan adopts a similar assessment process to the open space amendments for the Cities of Darebin and Yarra that have recently concluded their community consultation processes.

The introduction of a revised open space contribution is important to ensure that new development makes an appropriate contribution towards paying for the need it creates for open space services. This will allow Council to make provision for improvements to public open space assets across Monash without facing the choice of reducing service standards or subsidising the development industry.

Attachments:

Attachment 1: List of Panel issues and recommendations and officer response

Attachment 2. SGS Economics and Planning – Who *really* pays for open space contributions?

Attachment 3: Murray, C (2021) “Explainer: Do taxes on property cause higher house prices? No.” OSF Preprints, Web.

Attachment 4. Draft Monash Open Space Strategy Implementation Plan and Public Open Space Contribution Rate.

Attachment 5: Revised Monash Open Space Strategy – Nov 2021.