



MONASH C148: EVIDENCE OF DR MARCUS SPILLER



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1. INTRODUCTION

1.1 Credentials

1. My full name is Marcus Luigi Spiller and I am a Principal and Partner of SGS Economics & Planning Pty Ltd (SGS), based in the firm's Melbourne office at Level 14, 222 Exhibition Street in the city.
2. I hold the following academic qualifications:
 - PhD (Global Studies, Social Science and Planning), RMIT University, Melbourne, 2009
 - Master of Commerce (Economics), University of Melbourne, 1986
 - Bachelor of Town and Regional Planning, University of Melbourne, 1978.
3. I have extensive experience in public policy analysis as an urban economist and planner. I specialise in metropolitan strategic planning, housing policy, urban infrastructure funding and the links between urban structure and national economic performance. I have provided advice to all tiers of government and the private sector related to the dynamics of housing, transport, employment, infrastructure and the general economy in cities.
4. I have previously presented expert evidence at Planning Panels Victoria hearings.
5. Additional information regarding my qualifications and experience is included in Attachment A.

1.2 Expertise relevant to Amendment C148

6. I can provide evidence to Panel regarding SGS's advice to Council on the establishment of a new open space contribution regime in Monash. More specifically, I can provide evidence on technical matters surrounding proposed changes to the Schedule to Clause 53.01 Public Open Space Contributions and Subdivision of the Monash Planning Scheme, which would see an increase in required open space contributions from a sliding scale of 2% to 5% to a flat 10% applicable to all non-exempt development.

1.3 Instructions

7. I have been instructed by Maddocks on behalf of the City of Monash to provide expert evidence regarding the proposed open space contribution rate to be introduced into the Monash Planning Scheme by Amendment C148 (see Appendix B).

1.4 Evidence preparation

8. My evidence draws on the 2018 '*Open Space Contribution Rate Planning*' report prepared by SGS. I was Project Director for this work and was integrally involved in the development of this report. The Report is appended to this evidence statement (see Appendix C)
9. I was assisted in the preparation of the report by various SGS staff members acting under my guidance. In particular Lucinda Pike (CV included in Attachment A) carried out all analysis and calculations according to a method we jointly designed.
10. The opinions in this expert evidence statement are my own.

1.5 Declaration

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

2. KEY POINTS

12. In planning for, and funding the provision of, open space it is appropriate to apply a macro-provisioning standard expressed in square metres per capita.
13. A macro-provisioning standard of 30 m² per capita has been applied in Monash. This rate is supported by a range of authorities.
14. This rate is towards the higher end of the range of possibilities. Its adoption in Monash is justified in the context of climate change and community expectations of greater infrastructure investment to support urban consolidation.
15. In funding the quantum of open space indicated by the macro-provisioning standard, Councils may apply a user pays development contribution framework following cost apportionment and delivery principles as per the DCP provisions of the Planning and Environment Act.
16. Alternatively, Councils may apply an inclusionary development standards framework to cost apportionment. This requires successive developments to include certain features on site (in this case adequate open space to meet the needs of the development) or pay cash in lieu for the satisfaction of this requirement off-site. This framework aligns with the original mandate for open space contributions in the Subdivision Act.
17. The inclusionary development standards framework has been applied in Monash. It is preferred over a DCP type model of planning and cost apportionment because:
 - Funds collected can be applied as and when required anywhere in the municipality to meet open space needs
 - Council may support the deployment of these funds with an open space strategy, but is not obliged to pre-commit to investment projects
 - The pre-commitment to investment projects required under a DCP approach is likely to promote a conservative open space delivery program, rather than the more expansionist program required in the context of climate change and community expectations.
18. As the inclusionary development standards framework is tied to a macro-provisioning standard, it is not an open-ended 'tax' to fund open space provision. All funds collected must be deployed in land acquisition or open space embellishment within the envelope dictated by achievement of a 30 m² per capita provision standard.
19. To arrive at the uniform 10% contribution rate for Monash under the inclusionary development standards framework, the macro-provisioning standard has been applied to *all* developable land in the City; that is, including land that is already developed as well as land that is likely to be developed or redeveloped over the planning period. This approach aligns with the setting of an overall open space reservation ratio in PSPs.
20. Were the provisioning standard of 30 m² per capita to be applied only to land likely to be developed or redeveloped over the planning period, the percentage contribution rate for open space would likely be much higher, because the density of new development will typically be higher than the average density for Monash.
21. Common themes in the submissions from parties who oppose Amendment C148 include that;
 - The flat 10% is unprecedented and excessive
 - This rate will erode housing affordability and deter development, and

- The method used to arrive at the 10% contribution rate does not comply with 'nexus' principles such as those applied in the DCP framework.
22. The fact that a 10% contribution rate is unprecedented is not, in itself, a substantive argument not to apply it. In my opinion, historic practices in open space contributions in metropolitan Melbourne are no longer appropriate in the context of climate change and community expectations for additional investment in infrastructure to support urban consolidation as called for in policies like Plan Melbourne.
 23. The cost of the increased open space contribution will most likely be passed back in the form of lower bid prices for development sites rather than compression of developer profit margins or increases in dwelling prices. In many circumstances, the reduction in bid prices for development sites will still leave a substantial premium for land sellers so that they will remain motivated to sell to bona fide developers. There is a large pool of potential development sites in Monash. Only a small proportion of these sites needs to be released for development to achieve projected housing demand.
 24. Bona fide Developers who have already acquired land for development but have not yet subdivided will be impacted by the introduction of a higher open space contribution rate as it will not have been incorporated in initial development costs assessment. The scale of any adverse impact will depend on a variety of factors, including the escalation in dwelling prices in the interim. Council may wish to consider the suitability of providing rebates or waivers to specific developments for a limited transition period.
 25. I set aside objections based on non-compliance with the nexus principle. Council, on SGS's advice, has opted to apply an inclusionary development standards framework. This embodies different cost apportionment parameters and disciplines.

3. EVIDENCE

3.1 Planning for open space should be ‘standards driven’

26. Open space is a critical element of sustainable communities. It is an aspect of livability that is compromised at our collective peril. It is essential to plan for sufficient open space to meet the needs of present and future communities. All existing and future residents of the City of Monash are entitled to have access to a reasonable standard of open space
27. Sufficiency standards are commonly used to determine the required provision of a range of community facilities such as childcare centres, hospitals, schools and libraries. Standards typically use a per capita rate of provision or can be a percentage of land area.
28. Open space is no different to other community facilities and provision should be determined based on a sufficiency standard.
29. I do not subscribe to a model of open space planning which gears the rate of provision to current demography and socio economic profile, so that parkland networks vary from precinct to precinct or suburb to suburb in line with observed differences in ‘need’. Open space is a very long term infrastructure investment which frames urban development. This infrastructure will witness multiple generations of community over an indefinite period into the future. In this context, current demography is important in the programming of open space infrastructure but, in my view, ought not be a driver in determining the sufficiency of provision.
30. Open space standards have been incorporated into open space strategies to ensure equitable access to open space across municipalities.
31. Consideration of open space standards at the municipal level is in keeping with basic town planning principles that require all development to incorporate certain features so that, over time, all development in the municipality is functional and sustainable.
32. In keeping with this sound town planning approach, the Precinct Structure Planning Guidelines prepared by the (then) Growth Areas Authority nominate a specific proportion of net developable area to be reserved as public open space as new suburbs develop in growth areas. This standard of open space is intended to ensure the entire future community covered by the Precinct Structure Plan has access to a reasonable standard of open space.
33. Planning for the open space needs of future communities in established areas has challenges which differ from those applying in growth areas, including the cost of acquiring suitable land. Notwithstanding this, it is my view that people in all communities are entitled to the same or similar standard of open space service. This said, this same or similar standard of service provision may be achieved in different ways in different areas pending the opportunities available. For example, in established suburbs, the standard of service provision may be met by improving the quality of existing open space. I discuss this further later in this evidence.
34. Contributions under Clause 53.01 may be deployed anywhere in the relevant municipality regardless of where they were collected in the municipality. This implies that the municipality may be treated as one planning unit for open space purposes. It is legitimate, therefore, to apply an open space sufficiency standard at the municipal level. I call this a macro-provisioning standard.

35. Setting an appropriate standard for open space provision at the LGA level in Monash is clearly a keystone consideration.
36. The contemplation of this question must take into account contemporary planning and sustainability challenges facing Melbourne. Ongoing development of the urban fabric, including that of middle suburban areas like Monash, will be occurring in the context of climate change and increasing demands on existing infrastructure from a growing population.
37. More will be expected from our parks than in the past to, for example, mitigate the urban heat island effect and to provide recreational opportunities from a growing proportion of the population living in high and medium density housing with limited access to private open space. Business as usual in terms of supplying (and by implication, funding) public open space will not do in this context.
38. Inadequate open space – both in quantity and quality – acts as a handbrake on the urban consolidation required to build a more climate resilient, efficient and inclusive city. In my experience, growing demands on open space evident in, for example, the inability of local sporting clubs to accommodate more participants at convenient times, is an important factor in popular perceptions that Melbourne is ‘full’ and ‘bursting at the seams’.
39. Am C148 is critical to ensuring there is adequate open space in the future. The proposed amendment to Schedule Clause 53.01 to require all subdivisions of 3 lots or more to provide a public open space contribution of 10 per cent will enable an adequate funding stream to ensure there is a sufficient standard of open space provision. The new Local Planning Policy – Clause 22.15 Public Open Space Contributions Policy will provide suitable guidance on where and how open space contributions will be required, acknowledging that land contributions will be more relevant in areas where there is limited access to open space. The proposed replacement of Clause 21.10 Open Space in the Municipal Strategic Statement will then provide clearer guidance as to the types of investment in open space embellishment that should occur, in order to ensure a sufficient quality and diversity in open space services.
40. As at 2016 open space provision across the whole of Monash stood at less than 27 m² per capita, which as I will discuss further in this report, is already 10% below a reasonable standard of sufficiency. With no further addition to open space stocks, the provision rate will fall to less than 25 m² per capita over the next decade some 17% below the required sufficiency standard.
41. Only 85 per cent of Monash households are within 400m of local parks, below the recommended 95 per cent outlined in Standard C13 in Clause 56.05-02 of the Victorian Planning Provisions.
42. Substantial investment in the quantity and quality of open space provision in Monash is required to arrest this trend decline in a key infrastructure to support sustainable urban development in the city and, indeed, to build towards a reasonable standard of sufficiency.

3.2 Selection of an appropriate standard for Monash

43. Metrics for ‘best practice’ in open space provision rates vary and are expressed as a percentage of net developable area, or an amount per capita. Some methods differentiate between standards for different types of open space, such as local versus district and active versus passive open spaces. Table 1 summarises a sample of quantity based open space provision rates and covers a range of jurisdictions.

TABLE 1: MACRO-PROVISION STANDARDS FOR OPEN SPACE¹

Source	Total open space provision rate (m ² per capita)	Total open space provision rate (Ha/1000 people)
British National Playing Fields Association (1938)	28.3	2.83
National Capital Commission (Canberra 1981)	40	4
US National Recreation and Parks Association	40	4
NSW Department of Planning (1992)	28.3	2.8
Vic Gov - Planning for Community Infrastructure for Growth Areas (2008)	26.4**	2.6
City of Kingston Open Space Strategy 2012	24	2.4
City of Wyndham Open Space Strategy 2045	30	3
Frankston City Council Open Space Strategy 2016-2036	30.3	3.03
South Australian legislation	12.5% net developable area	4.0 in low density areas 1.0 in higher density areas
South Australian higher density guidelines	Up to 30	3.0
Precinct Structure Plan Guidelines Vic	10% net developable area	n/a

** Comprising 10m² for neighbourhood passive open space, 8.88m² for neighbourhood active open space and 7.5m² for higher order active open space

*** Comprising a mix of local and district open spaces and state/district sports fields.

44. South Australian legislation recommends up to 12.5 per cent of net developable area be reserved in cash or in kind for open space. This is equivalent to approximately 40 square metres per person in low density areas, where housing density is 15 dwellings per hectare, but only 10 square metres per person in higher density urban developments (more than 70 dwellings per hectare).
45. A set of guidelines for open space in higher density developments was developed in response to this discrepancy by the City of Charles Sturt, in partnership with the South Australian State Government and a number of established area LGAs in South Australia. These guidelines recommend 10 square metres per capita of primary open space located on site, an additional 10 square metres nearby and a further 10 square metres for state and local sports provision- a total of 30 square metres per capita in open space provision.
46. Precinct Structure Planning Guidelines prepared by the Growth Areas Authority² recommend that major employment areas should have 2% net developable land as public open space, with a passive recreation function. Other areas (which are predominantly residential but include a mix of land uses) should have 10% of the net developable area as public open space, of which 6% is active open space.³

¹ Note that this table is a modified and corrected version of the equivalent table which appears in the 2018 SGS report. The British National Playing Fields Association standard was incorrectly cited at 24.3 m² per capita in the 2018 report. The above table also excludes references to the per capita provision ratio imputed for greenfield development at 15 dwellings per hectare as this ratio was not deemed germane to this evidence.

² <https://www.vpa.vic.gov.au/wp-content/Assets/Files/PSP%20Guidelines%20-%20PART%20TWO.pdf>

³ <https://www.parksleisure.com.au/documents/item/2091>

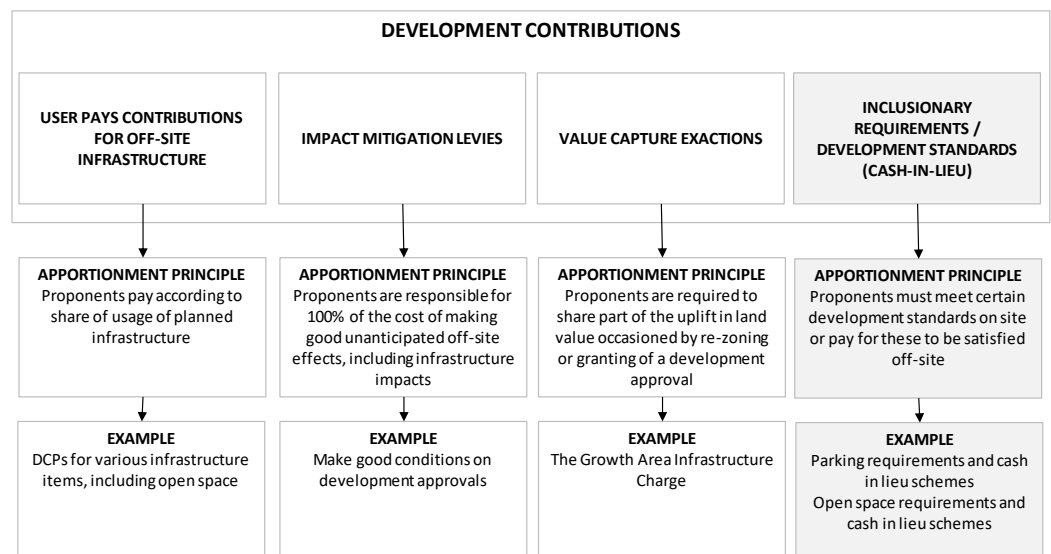
47. Through applying an average density of 15 dwellings per net developable hectare and an average household size of 2.5 people (which are both typical of growth areas where PSPs are applied), this translates to 27 square metres per capita.
48. Melbourne based local governments included in Table 1 illustrate a range of macro provisioning standards between 24 and 30.3 square metres per capita, while average provision rates under PSPs are slightly higher than 30 square metres per capita.
49. 30 square metres per capita is therefore considered a reasonable benchmark to apply as an open space standard based on the upper range of national and international norms. Adoption of a standard at the higher end of this spectrum is warranted in the context of the additional demands on public open space in a climate change environment.

3.3 Calculation of a contribution rate for Monash

Conceptual framework

50. Councils can pursue their open space contributions policies through a range of statutory avenues. The four frames for levying development contributions are outlined in Figure 1.
51. *Impact mitigation levies* are assessed on a case by case basis and, in my opinion, are an inadequate mechanism for funding city wide open space provision as they do not provide funding for long term open space programs that benefit the broader City of Monash community.
52. *Value capture exactions* are warranted ‘licence fees’ for development rights. While they can be used to help fund open space, they are not exclusively mandated for this purpose.
53. In my opinion, the DCP pathway is not appropriate for open space contributions for Monash, even though I note that some submitters promote this framework. The DCP approach provides Council with little flexibility in how to deploy funds collected. Funds must be expended on pre-listed projects and these projects must be delivered within the life of the Plan (or else funds must be returned). Council cannot use DCP funds to opportunistically acquire land or pursue projects at odds with those in the DCP list.
54. Because of delivery risks and uncertainties regarding future funds flow under the DCP, Council would likely be inclined to develop a conservative project list when a more positive, expansionist mind set is required to the development of Monash’s open space network in the context of climate change and population growth.

FIGURE 1. FOUR MUTUALLY EXCLUSIVE FRAMES FOR LEVYING DEVELOPMENT CONTRIBUTIONS



55. As alluded to by some submitters, the underpinning ‘user pays’ logic of DCPs requires that the cost of infrastructure is shared equally amongst existing and future development in accordance with projected share of usage. In my opinion, this is an inadequate collection framework for open space provision in established municipalities like Monash, as it allows for only a small percentage of open space investment costs to be recovered through development contributions.
56. Meanwhile, the ‘inclusionary requirements’ principle calls on all successive projects to incorporate certain design provisions or meet certain planning standards to ensure that, cumulatively, urban development proceeds in an orderly fashion, sustainably and within community expectations. Embedded in the inclusionary requirements frame is the idea that each unit of development should meet a particular standard or rate of open space provision.
57. In my opinion the ‘inclusionary requirements’ frame for setting development contributions is the most appropriate for determining open space contributions under Clause 53.01 in the City of Monash. It is consistent with the historical mandate for open space contributions under the subdivision legislation. This provides for the creation of a dedicated fund for open space acquisition and embellishment, with Councils having the flexibility to expend funds as and when required in response to evolving open space opportunities and needs. There is no requirement to pre-commit to an open space project plan. The scope of the Council’s open space provision plan can reflect the flow of funds from the general inclusionary requirement which, as noted, is likely to be significantly greater than under a DCP approach. Additional open space provision on this basis is warranted in the light of climate change and expanded demands from a densifying city.

Open space services vs the quantum of open space

58. SGS’s advice to Council regarding the application of the inclusionary standards approach to open space contributions incorporated the concept of ‘open space services’. The utility or amenity generated by parkland, that is the flow of open space services, will be a function of both park size and quality. Higher quality open spaces reflected in factors such as landscape treatment, visitor facilities and access arrangements, deliver a greater level of open space services to the local community than low quality open spaces of the same size.
59. In built up municipalities like Monash, delivering open space services (that are determined by a quantity based standard), through land acquisition and improvements/upgrades to existing open space will often be a more practical approach to ensuring that all residents have access to a reasonable standard of open space compared to simple land acquisition.
60. A quantity based standard (such as square metres per capita) is required to determine the overall value of open space services that is required within a contributions regime. The funds so generated can then be deployed to achieve the required level of open space services by acquiring more land and/or by improving the facilities and landscape qualities of existing parkland.

Calculation method

61. To repeat, the inclusionary requirements frame reflects a site development standards approach. Development is required to incorporate particular features in order to meet standard. If this cannot be achieved on site, the proponent pays a commensurate cash amount for satisfaction of the standard off-site. This development standards and cash in lieu approach is not uncommon in planning regulation and has been variously applied to car parking, stormwater retention and, in other jurisdictions, affordable housing.

62. In applying this development standards and cash in lieu approach to open space provision, three methods can be used to determine what each successive unit of development should include or pay:

Method 1 A universal per-capita provision standard (30 m² in this case) is adopted and applied to average development densities across a municipality or suburb to arrive at a uniform percentage of land to be provided, or paid for, as open space. An example of this approach is the 10% of net developable area open space requirement in PSPs.

Method 2 A universal per-capita provision standard is adopted and applied to projected future development. In established areas, the percentage open space requirement given by this method will typically be significantly greater than that given by Method 1 as the density of marginal additional development is usually higher than the average density of development in the municipality. I provide further detail on this below.

Method 3 Rather than using a universal per-capita provision standard, the quantum of open space to be provided over the forward period in question could be given by the Council’s adopted plans for acquisition and development of open space. This dollar amount is then divided by the quantum of projected future development to provide a percentage contribution per site.

- 63. Method 1 has been applied in Monash. This is consistent with sound strategic planning practice at the whole of community level (as per PSPs) and provides a fair sharing of the open space provision burden across all development.
- 64. Method 2 would, in my opinion, unduly burden new development with open space contributions.
- 65. Method 3 is not preferred because it is likely to lead a less ambitious open space investment outcome in Monash.
- 66. The application of Method 1 in Monash was guided by four key principles described in Figure 2.

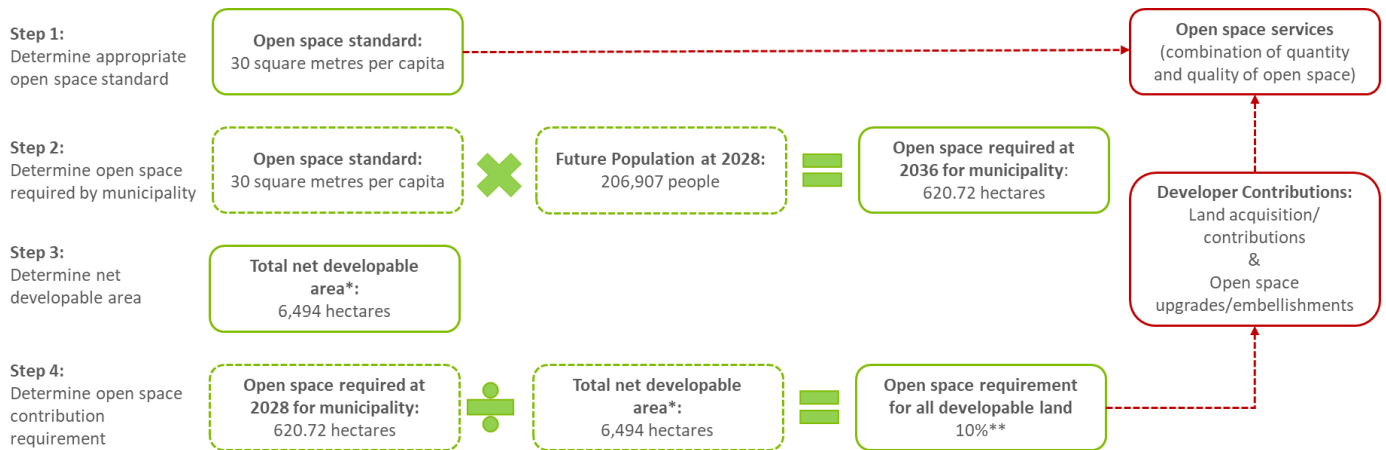
FIGURE 2 INCLUSIONARY PLANNING PRINCIPLES FOR OPEN SPACE



Source: SGS Economics & Planning Pty Ltd

67. Figure 3 illustrates the steps involved in calculating the appropriate open space contribution rate, and the relationship to open space services. These are described further below.

FIGURE 3 OPEN SPACE CONTRIBUTION RATE ASSESSMENT



Source: SGS Economics & Planning Pty Ltd

68. The first step is to determine an appropriate open space standard. As explained, the appropriate provision standard for the City of Monash is 30 square metres per capita, consistent with other local planning standards.
69. The second step is to determine the open space needs for the future community. The projected population at 2028 is multiplied by the open space standard to determine how much open space will be required by the entire future community in 2028. Id forecasts were applied, resulting in a need for 620.72 hectares for the entire Monash community at 2028.
70. The third step is to determine the net developable area. This is determined using property parcel information. Meshblock information on land use is applied to each property parcel. Property parcels that are developable are those with commercial, industrial or residential land uses. Any parcel where there are education facilities, parklands, community facilities, roads or any other transport land use are not included in the assessment of net developable land.
71. The fourth step is to determine the open space requirement from all developable land. That is, what proportion of land that has been or will be developed needs to be allocated to open space to ensure each development is contributing to an agreed upon standard of open space? This is done by dividing the estimated open space needs for the future community by the net developable area. This identifies the proportion of future developable land that needs to be allocated to open space in order to meet the open space requirements of the future community.
72. The application of this method results in a 10 per cent open space contribution rate (rounded up from 9.56%). This means that all future development must contribute 10 per cent of land area or, more commonly, the equivalent in cash, to ensure that cumulatively, development is meeting the adopted open space standard.
73. Note that this method does not require consideration of the existing quantum of open space in Monash, particularly as it falls below the nominated 30m²/capita provisioning standard. The estimated requirement of open space for 2028 (620.72 ha) includes existing open space.
74. Conceptually, this calculation method contemplates Monash as a blank slate and poses the question ‘how much open space would be required in the City by 2028 to fulfill an aggregate provision standard of 30 m² per capita?’ This quantum is divided by all developable land to give a ratio analogous to the recommended reservation rate for open space in the PSP guidelines.

75. This ratio indicates what each successive unit of development should bring (or should have brought) by way of open space contribution in order to achieve an aggregate 30 m² provision outcome in 2028. Existing development will not be exposed to this requirement until redevelopment involving subdivision occurs. New development will be providing for a share of the aggregate provision task by supplying 10% of land or the equivalent in cash. It will not be paying to fill any existing provision backlogs.
76. It should be noted that applying a global calculation of the open space ratio as per that in shown in Figure 3 provides a more conservative (lower) contribution ratio than what would be produced by partitioning the open space requirements of new development from that of existing development in Monash. New development in Monash will likely occur at higher densities than the average for the City as a whole. Applying a 30 m² per capita provision requirement to this higher density development will result in a higher percentage of site value contribution.
77. For example, one can assume a higher density development on 2,000 square metres has a site density 100 dwellings per hectare and will accommodate 20 dwellings. Each dwelling will accommodate 2.2 people (lower than the 2.5 typical of greenfield areas), so the entire development will be home to 44 people. A contribution rate of 10% would require the development to provide 200 square metres of open space in either a cash or land contribution. Should an open space requirement of 30 square metres per capita be applied to the number of people that this development would accommodate, the open space requirement is 1,320 square metres, equivalent to 66 per cent of the site area. This is substantially higher than the 200 square metre required under a 10 per cent contribution rate and is an unrealistic prospect, despite delivering an accepted standard of open space of 30 square metres per capita.
78. When a medium density development is considered, for example a townhouse development, the open space requirements determined by a per capita open space provision rate would still significantly exceed 10%. For example, a 1,000 square metre lot, with an assumed site density of 50 dwellings per hectare and 2.2 people per household would translate to an open space requirement of 330 square metres, 33 per cent of the land area.
79. As previously noted, PSPs in Victoria apply a 10 per cent of net developable area as a recommended open space requirement, and this is in areas with considerably lower density. This further confirms that the application of a 10 per cent open space contribution rate, as proposed in Am C148 is justifiable, appropriate and conservative.

Incidence of cost burden in expanding open space in Monash

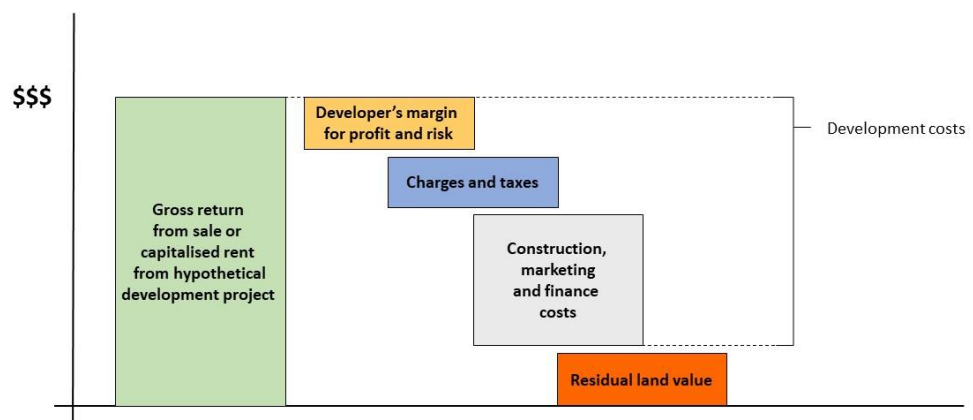
80. The upshot of the analysis depicted in Figure 3 is that each successive unit of development in Monash will, at a 10% Clause 53.01 rate, make a reasonable contribution towards the cost of acquiring and improving open space to mitigate the background erosion of provision standards in the City. Ratepayers would remain responsible for funding the catch up investment required to lift provision rates for existing development to the desired standard of 30m² per capita. Were a DCP type cost apportionment model to be applied, as suggested by some submitters, the vast bulk of the cost of expanding and improving open space stocks to meet the needs of new development would have to be borne by ratepayers rather than development proponents. This does not pass the test of fairness in my view.
81. Of the projected population in Monash as at 2028 (206,900) around 14,000 or 7% will have been added between 2016 and 2028. In a DCP cost apportionment methodology, costs are shared according to share of usage. Across the City as a whole, new development will account for 7% of usage of new investment in open space and will therefore carry 7% of the cost. The 'gap' of 93% will have to be filled by ratepayers over this period.

82. I note commentary in some submissions that a 10% open space contribution rate is excessively high and 'unprecedented'. Contribution rates under the open space Particular Provisions in Planning Schemes have been increasing in recent years, with a number now featuring flat rates of around 8% covering large areas of municipalities. I regard this as a reflection of growing awareness that business as usual in open space contributions will no longer do and that substantially increased investment in the quantity and quality of open space is a pre-requisite for urban consolidation and a climate resilient city.
83. From time to time a degree of pragmatism may be exercised in the framing of planning rules, with some compromise of preferred provision standards and outcomes, recognising established practices and expectations within the development sector and the wider planning system. However, the degree of pragmatism and compromise which is acceptable must be context specific. In my opinion, community pressures for adequate investment in open space and the urgency to adapt Melbourne's urban fabric towards more climate resilient forms mean that the scope for warranted compromise is significantly less today than what might have been the case just a few short years ago.

3.4 Impact on development in Monash

84. A number of submissions have raised concerns about the impact of Am C148 on the feasibility of development in Monash.
85. The impact of the amendment will depend on a range of factors including, but not limited to, the growth rate in the prices for new apartments and other new floorspace in the City and the level of competition amongst land sellers for contracts with bona fide developers. In the following discussion, I will seek to demonstrate the effect of such factors using schematic examples.
86. Development of land in Monash will proceed if developers can secure sites at prices equal to or less than the Residual Land Value (RLV). The RLV is determined by the developer's requirement for profit and risk, plus all construction and project delivery costs, including development contributions, deducted from the anticipated sales or Gross Realisation Value (GRV) of their finished product. The RLV is the maximum price that developers are willing to pay for a site. This equation is illustrated in Figure 4.
87. This figure illustrates the conventional approach used by developers to estimate the price they can afford to pay for a development site while still achieving an appropriate profit given the scale of the development and the level of risk involved.

FIGURE 4: DEVELOPMENT COSTS AND RESIDUAL LAND VALUE

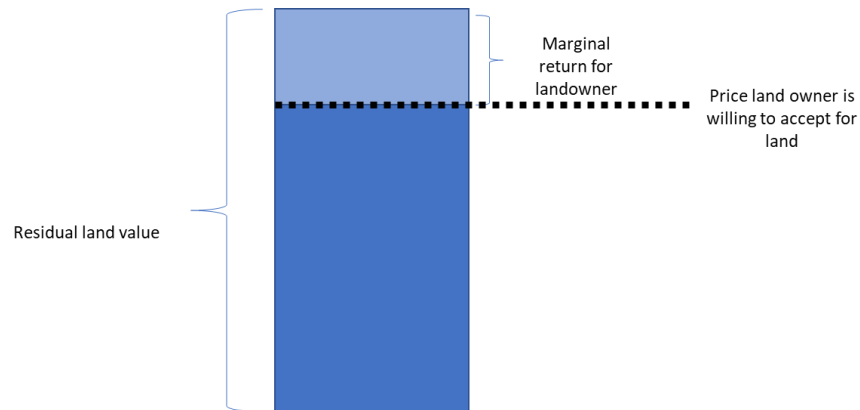


88. Current owners of potential development sites can be expected to sell their land to a bona fide developer (or any other buyer for that matter) if the price offered is sufficiently greater than the returns from continued occupancy under the current usage of the site.

That is, it would make sense for a land owner to sell if the net proceeds of the sale are greater than the capitalised value of current net (actual or imputed) rent returns from the land in question.

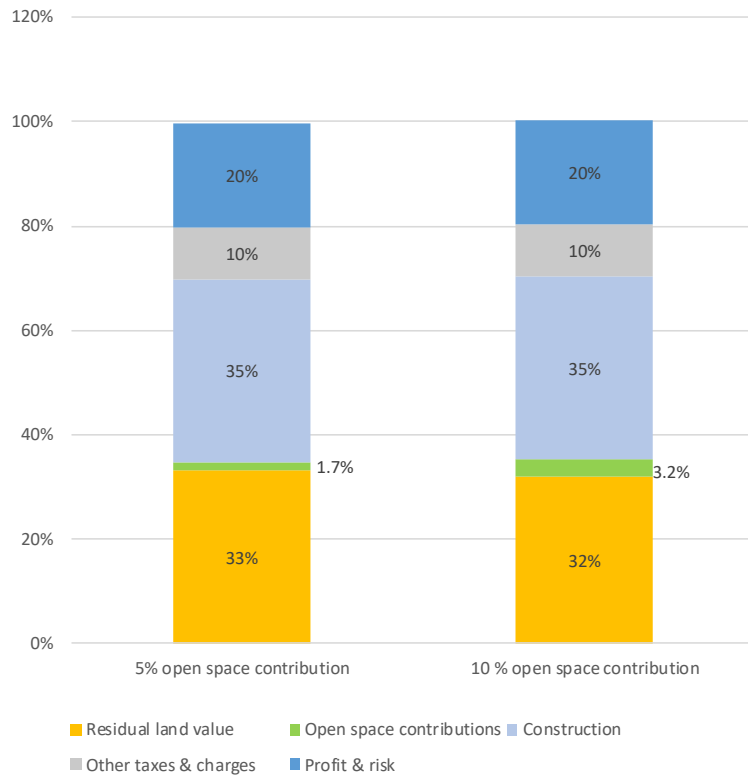
89. Figure 5 illustrates a situation where the residual land value is higher than the price a landowner is willing to accept for land, therefore creating a marginal return or ‘super premium’ for the landowner.

FIGURE 5: RESIDUAL LAND VALUE AND MARGINAL RETURNS FOR LANDOWNERS



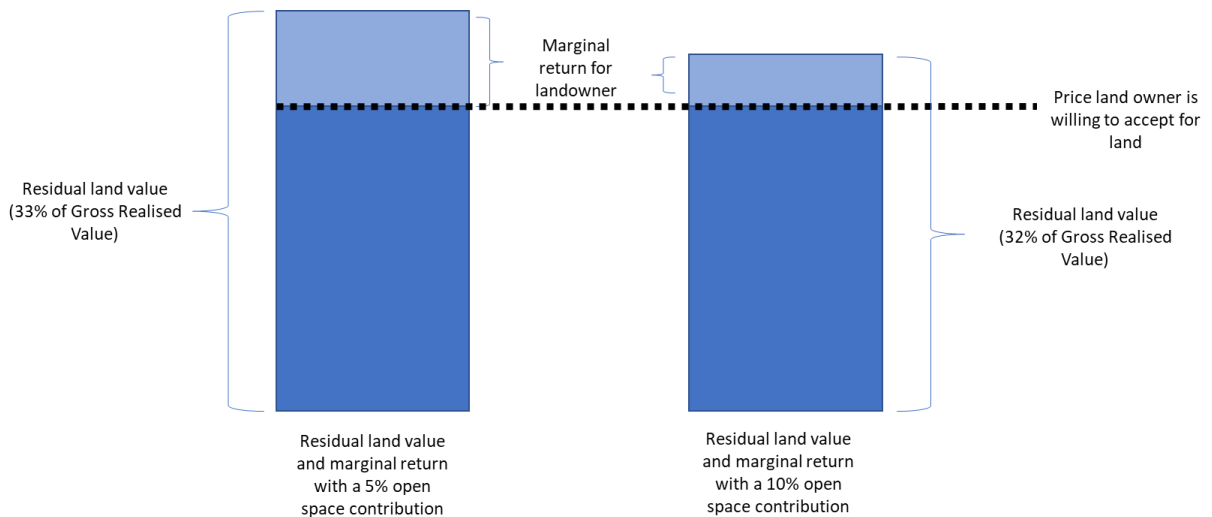
90. Am C148 will affect development feasibility to the extent that it influences the profile of costs that need to be built into the RLV calculation, in particular the public open space requirement.
91. It is my opinion that the Gross Realised Value (GRV) of developments in Monash will not be affected by the introduction of Am C148. Developers operate in competitive markets and are unable to apply a cost plus formula to dictate unit sale prices. They are price takers rather than price makers.
92. Therefore, I disagree with those who claim that increase in the open space contribution rate will lead to dwelling prices increases. These prices will be determined in the wider market independently from the open space provision requirements in the Planning Scheme.
93. The impact of Am C148 on the profile of development costs that comprise GRV is shown in broad brush terms in Figure 6. I provide this for illustrative purposes only – the cost profile for individual projects will vary significantly depending on site and developer specific circumstances.
94. With Am C148, the costs associated with open space contributions would increase and, as a consequence, the RLV would decrease. Other costs could be expected to remain unchanged.

FIGURE 6 IMPACT ON DEVELOPMENT COST APPORTIONMENT



95. It could be that Am C148 will reduce the value of development sites in Monash (calculated on a RLV) basis. Figure 7 illustrates the impact on residual land value of Am C148, and the associated reduced super premium for land sellers.

FIGURE 7: IMPACT OF AM C148 ON RESIDUAL LAND VALUE AND MARGINAL RETURNS FOR LANDWONERS

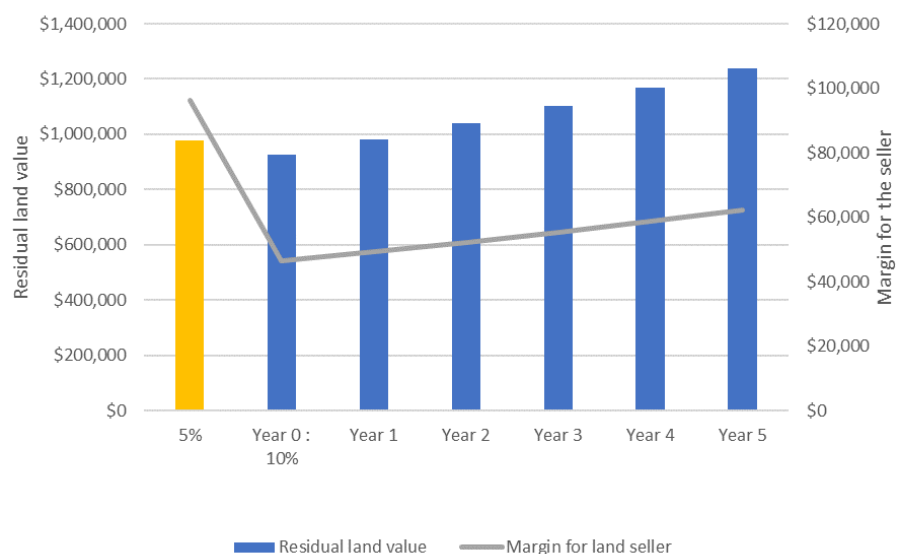


96. Importantly, this fall in RLV will not necessarily forestall development. The landowners in question may regret the loss of apparent value compared to the pre-Am C148 situation, but economically rational behaviour would see them sell their land to a bona fide developer so long as there remains a sufficient premium on investment returns from retaining ownership under current uses. This latter tendency will hold regardless of

whether the property owner is a long standing holder of the title or a more recent purchaser that has acquired the property with a view to on-selling to a developer.

97. If bona fide developers have already acquired properties at pre-Am C148 prices, any additional cost via the higher open space contribution, could render the project unviable for them. A developer caught in this situation will either have to proceed with a reduced margin, which is unlikely, or cut their losses and off-load the site to another developer. In both cases, development would proceed.
98. Also for illustrative purposes, I have sketched out a scenario to demonstrate the forces which will impact development feasibility as a result of Am C148 over time. This scenario applies the following data sourced from Property Sales Statistics published by the Valuer General Victoria:
 - The median annual growth rate in unit prices (apartments, townhouses and villas) in Monash suburbs between 2008 and 2018 was 6 per cent.
 - The median price of units in Monash suburbs in 2019 was \$733,000.
 - The median price for houses in Monash suburbs in 2019 was \$880,000.
99. The scenario poses a relatively small 4-unit development, where units are sold for \$733,000 and the minimum value a landowner is willing to sell at is \$880,000. It assumes both of these increase by 6 per cent per year.
100. In this illustrative scenario, the RLV would return to the same value it had under the 5 per cent open space contribution rate within two years, due to background growth in new dwelling prices and GRV.
101. The introduction of the increased open space contribution rate would reduce the super-premium gained by the seller, that is, the extra amount over and above the price they would be willing to sell at. Nevertheless, under this scenario, the land seller would continue to enjoy a super-premium albeit a reduced one and therefore could still be expected to release their land into development. In this situation, there would be no adverse impact on development.
102. Also noteworthy in this scenario is that after the initial fall in the super-premium, it steadily climbs due to the background growth in GRV. This is illustrated in Figure 8.

FIGURE 8: SCENARIO 1: IMPACT ON RESIDUAL LAND VALUE AND MARGINAL RETURNS OVER 5 YEARS



103. Reflecting the dynamics illustrated in the above conceptual model, it can be expected that for larger developments, the cost impact of the increased open space contribution

will be absorbed more rapidly because the GRV pool would grow considerably in absolute terms. This would provide more scope to 'pull up' RLV which, in turn, would allow more scope to expand the super-premium available to the land seller.

104. I note that a number of submitters are concerned that the higher open space contribution rate will inevitably render projects unviable. My impression is that these submissions make the assumption implicitly or explicitly that the additional cost of the open space contribution will be absorbed via a reduction in the developer's profit margin, rather than in a reduced super-premium for the seller of the development site.
105. If developers factor the additional cost of open space contributions into their feasibilities and can secure sites at these reduced RLVs, housing development will continue as it would have in the 5% contribution situation.
106. In this context it is noteworthy that Monash has a large pool of potential development sites, which, in a sense, are competing for development contracts.
107. In 2016 SGS was commissioned by the City of Monash to undertake a review of housing capacity under the proposed residential zones: '*Analysis of Proposed Residential Zones: Final Report*'. This study identified sites that could be redeveloped and how many additional dwellings they could accommodate under the Planning Scheme, including the proposed residential zones. The study found that there was capacity for between 55,000 and 60,000 additional dwellings in the municipality under these controls. *This comparison found that in 10 of 14 suburbs in Monash the dwelling demand to 2031 was less than 30% of the estimated capacity. This suggests housing capacity exceeds projected demand for the next 15 years by a significant margin*'.
108. I do not contend that all projects that would have occurred under a 5% contribution regime will be unaffected by the move to a 10% contribution regime either immediately or over time. The effect of the contribution will depend on the complex interplay of range of factors as I have sought to illustrate, including the size of the development, the land seller's super-premium requirement, the background growth in unit prices and the availability of development sites. However, I would caution against broad brush claims that the increased open space requirement will regularly, necessarily and indefinitely deter development.
109. To the extent that some projects which are currently marginally viable are rendered unviable by the Amendment, market share shifts may occur. That is, supply may shift to, say, larger projects which are more able to absorb the costs. In any case, my view is that planning standards should not be comprised to prop up marginal development projects.

4. ISSUES RAISED IN THE LETTER OF AUTHORISATION

110. In this section of my evidence, I comment on selected issues raised in the letter of authorisation from the Department of Environment, Land, Water and Planning, dated 15th May, 2019.

Although no conditions have been applied to this authorisation, an assessment of the amendment has revealed that although the strategic work that underpins the amendment goes some way towards justifying the proposed contribution rate, more information would assist in ascertaining whether the rate is appropriate. Council should consider providing more information about the following matters throughout the amendment process:

- How the 30 square metre per capita and proximity-based 400 metre distance from open space benchmarks are applicable in the local setting (beyond the comparison to international and national norms).
- Projected costs for the improvement works, demonstrating the nexus between funds being sought and funds required to facilitate future works.

111. As described in the body of my evidence, 30 m² / capita is an appropriate benchmark for open space provision in Monash and is aligned with requirements for Precinct Structure Plans and other areas of Melbourne.

112. The application of standards that are used in growth areas and greenfield areas (amongst others) is appropriate, as all people are entitled to a reasonable standard of open space. People living in higher density areas have higher needs for open space due to a lack of private open space provision, so it could be argued that using an upper limit open space per capita requirement as the basis for determining open space contribution rates is appropriate in established areas where development is occurring at higher densities.

113. The application of a benchmark open space standard is required to determine a suitable open space contribution rate. The translation of a per capita standard into a contribution rate will not equate to all new developments being required to provide 30 square metres per capita, and funds collected will be used for not only acquiring land for new open spaces but also embellishing new open spaces and upgrading existing parks. As described in Section 2.3 of my evidence, a 10 per cent contribution rate is relatively conservative and in realistic development scenarios would result in far less open space than would be required if the 30 square metres per capita requirement was directly applied.

114. The proximity standard of 400 metres to open space is identified in Clause 56.05-02 of the Victorian Planning Provisions, which notes that the provision of public open space should provide 'Local parks within 400metres safe walking distance of at least 95 per cent for all dwellings' and 'Active open space of at least 8 hectares in areas within 1 kilometre of 95 per cent of all dwellings'.

115. As discussed in the body of my evidence, an inclusionary development standards model is to be preferred to a DCP type approach in the formulation of open space contribution rates. Nexus as discussed in the context of DCPs is not relevant in a framework where planning standards require successive developments to include a certain amount of open space or pay cash in lieu. The funds collected under C153.01 may be used on any project in the municipality without the usage nexus requirement which applies in DCPs.

116. It is my opinion that a consistent open space contribution rate across Monash, regardless of existing levels of open space provision, and regardless of the type of development that is occurring is most equitable. It ensures that areas under supplied with open space are not excessively burdened with open space costs to meet an acceptable municipal standard. It also acknowledges Council's historic investment in open spaces in well served areas, and long term open space planning to invest equitably across the municipality.
117. Council's determination of how to expend funds collected under Clause 53.01 will be influenced by the quantum of funds collected. Funds collected under Clause 53.01 may be spent anywhere in the municipality. Through not tying contributions to a costed implementation plan, Council can be flexible and proactive when unexpected land purchase opportunities arise (for example a residential property is listed for sale adjacent to an existing reserve in an area of poor open space provision), and adapt open space planning to meet the evolving needs of the community, while also implementing projects that are as yet uncoded but identified in the Monash open space strategy.

5. REVIEW OF SUBMISSIONS

118. In this section of my evidence, I comment on selected issues raised in submissions to the exhibited Am C148. These are matters which I judge to be within the scope of my expertise. My commentary addresses some shared themes before turning to particular submissions which provided a more detailed critique of the Amendment.

5.1 Responses to key themes in submissions

Issue: The proposed rate of 10 per cent will lead to a reduction in housing affordability and quality, and will increase housing costs

119. A shift from 5 per cent to 10 per cent contribution rate will not result in inequitable outcomes for future subdivision parties. In my opinion, developers are price takers not price makers, and therefore the increased open space contribution will impact on the price they are willing to pay for a development site, not on the price that development units are sold for, nor on the construction costs.

120. Am C148 will not impact on housing prices in new developments. It may have a short-term impact on landowners' willingness to sell due to a change in the profile of development costs which sees residual land value becoming a smaller proportion of the gross realised value. But it cannot be assumed that this will forestall development.

Issue: The proposed rate of 10 per cent will discourage development in Monash

121. An increase to a 10 per cent contribution rate will potentially result in an adjustment to underlying land economics which may lead to some development sites being less feasible for development. However, the substantial supply of available sites in Monash compared with projected demand for new housing suggests that there is considerable latent capacity to absorb the reduction in RLVs across Monash.

Issue: Calculation of contribution rate is not based on a nexus argument

122. An inclusionary development standards approach to calculating contributions for open space is the most appropriate. It is consistent with the historical mandate for open space contributions under the subdivision legislation. Unlike funds collected under a DCP, funds collected under Clause 53.01 do not rely on usage nexus.

Issue: 30 square metres per capita as an open space standard is excessively high

123. The application of standards that are used in growth areas and greenfield areas (amongst others) is appropriate, as all people are entitled to a reasonable standard of open space.

124. The translation of a per capita standard into a contribution rate using the method I have explained will not equate to all new developments being required to provide 30 square metres per capita.

Issue: A 10 per cent contribution rate is unprecedented and unnecessarily onerous

125. Future communities require adequate open space, and historic under funding of open space, and, increased infill developments mean that Council must ensure that open space provision does not fall below acceptable standards. A 10 per cent open space contribution rate is required to ensure open space provision does not fall below acceptable standards as the community continues to grow.

126. 10 per cent open space contributions are an accepted standard in Precinct Structure Plans and there is no reason why established areas should not also provide a similar standard of open space.

Employment land

127. It is my opinion that a 10 per cent open space contribution rate across all land types is required to ensure residents and workers have access to an acceptable standard of open space. The Monash Education and Employment Precinct is a State Significant Cluster, of which Monash University is a large anchor education institution. Universities and Education Precincts typically have large residential populations located close by, and high numbers of students, staff and visitors. The intention for Monash NEIC is to be a mixed use industrial precinct that includes education. Due to the characteristics of the cluster, and the residential and worker population in close proximity, any subdivision within the NEIC should therefore have the same open space contribution requirements as other areas of Monash.

128. I am also of the view that in a very long run sense, all land in urban settings, save for some forms of hazardous industry, will be eligible for alternative uses. It is therefore prudent to make adequate provision for open space at the earliest opportunity.

Strategic sites

129. Strategic sites accommodate large future communities, and will generate substantial demand for open space. They also provide unique opportunities for new open spaces to be developed within infill areas. It is my opinion that a 10 per cent requirement in strategic sites is required. The inclusionary development standards approach is based on the notion that all development must provide open space to meet the needs it generates, and strategic sites are no different.

130. It is my opinion that considering encumbered land as part of a 10 per cent contribution is not acceptable, and it is at odds with the definition of public open space outlined in Section 18A of the Subdivision Act.

Issue: Lack of clarity regarding future expenditure of increased funds collected under Clause 53.01, and lack of correlation with the Monash Open Space Strategy

131. The scope of work prepared by SGS was to identify suitable open space contribution rates. The scope of work did not include determining how the contribution revenue might be applied. Clause 53.01 gives Council discretion as to whether apply the contribution rate as a percentage of site value or developable area, or a combination of both. It also gives Council the discretion to determine where investments in open space need to be made.

132. The Monash Open Space Strategy provides strategic direction for future Council investments in open space, including identifying priority areas where there is a gap or an under supply in open space provision. Key actions at the municipal level, and at the precinct level are identified. While these are not documented in a costed implementation, they provide clear evidence of Council's intent for expending funds.

133. Consideration of the most suitable locations to expend funds collected is outside of the scope of this expert evidence. This includes, but is not limited to, consideration of the suitability of expending funds on acquisition and embellishment of the former Quarry Site on Centre Road, Oakleigh South.

Issue: Increased open space contributions should only be applied in areas where Council does not seek to encourage increased development.

134. An inclusionary approach to open space contributions is premised on the notion that all development must contribute to open space provision. Through only applying a 10 per cent open space contribution rate in areas where Council does not seek to increase

development undermines the logic of the inclusionary approach- where all development must contribute to providing open space to meet the need it generates. Reducing the open space contribution rate in areas where Council wishes to encourage development would lead to a future shortage in open space provision. A reduced open space contribution rate would only be acceptable if there was a Council commitment to subsidise the open space contributions in areas where they are encouraging growth.

Issue: Lack of transition arrangements disadvantages developers who have commenced construction but have not yet subdivided

135. Developers who have already acquired land for development but have not yet subdivided will be impacted by the introduction of a higher open space contribution rate as it will not have been incorporated in initial development costs assessment. The scale of any adverse impact will depend on a variety of factors, including the escalation in dwelling prices in the interim. Council may wish to consider the suitability of providing rebates or waivers to specific developments for a limited transition period.

5.2 Review of particular submissions

Submission 6

Firstly, we challenge the legality of this proposed amendment, as we consider this as a tax, rather than a levy, as laid down in the *Eddie Barron* Decision, in which the Tribunal identified four criteria that must be met before a levy could be validly imposed as a planning permit condition, namely Need, Equity, Accountability and Nexus. The last criteria being nexus clearly identifies that each contribution amount should be considered in light of the proposed development in the context of the broader planning unit, and not a blanket approach to all subdivisions. As such, it is unsuitable to impose fixed standard contributions across all subdivisions, regardless of its intended development outcome, its locality or context.

136. It is my opinion that an inclusionary approach to calculating development contributions for open space is the most appropriate. It is consistent with the historical mandate for open space contributions under the subdivision legislation. Unlike funds collected under a DCP, funds collected under Clause 53.01 are not required to be expended in keeping with the nexus rules of DCPs and the like.

Further to item 1 above, in particular, there is a current shortage of quality purpose-built student accommodation (PBSA) around the main Monash University Clayton Campus, and the Monash planning scheme Clause 22.10 already allocates separate public open space requirements for PBSAs. It would be unfair if both requirements of POS contributions AND on site public open space be implemented. As such, we request that an exemption from any public open space contributions be applied for PBSA developments

Moreover, PBSAs are inhabited by university students only – their main area of activity is on Clayton Campus, where there is already ample amount of communal facilities and open space for students to enjoy. These open spaces are exclusively for the use by students residing on the PBSAs. This provides further justification against the imposition of POS contributions to PBSAs.

137. Planning for a future community means that all development must provide open space (either in cash or in land contributions) to meet the demand it generates. It is my opinion that a 10 per cent open space contribution rate across all land types is required to ensure residents and workers have access to an acceptable standard of open space.

138. In keeping with the inclusionary development standards framework, it would be acceptable for all or part of the 10% contribution to be paid in land dedications rather than cash, provided the land in question is available for free use by the general public and its use aligns with Council's open space strategy.

139. It is my opinion that residents of Purpose Built Student Housing require equitable access to open space, including local and district open spaces and passive and active open spaces, that are beyond the University Campus.

Most PBSAs as subdivided investments sold to investors represent a very good investment with high and steady returns and perfect for SMSFs investment with a low entry price point of around \$200,000. Most other real estate investment opportunities for SMSFs and investors would be more than double this investment amount. As such, subdivided PBSAs with a heavy POS contribution would only increase to the price of the PBSA apartments and reducing the buying capacity of investors, in an already tight lending market.

Financial feasibility is a key consideration in increasing housing supply and hence affordability in a privately-own land system we have in Australia, especially in the Monash municipality where the majority of developments are of a small scale nature on NRZ or GRZ zoned land. From a development feasibility perspective, many smaller scale subdivision projects will become economically unviable, without increasing the sales price of the subdivided units. We illustrate this with a simple example, using a benchmark of a 15% return on cost (which is normally accepted by banks as a minimum level of return for any type of financing and also a typical minimum hurdle rate of return for developers). One should cease from believing that all private developers on small scale projects have huge profit margins and critically reviewing at the real facts below.

140. The increased public open space contribution rate can be expected to result in a reduction in RLVs rather an increase in student housing prices or a compression of development profit margins. The prospect of 'passing back' the increased open space contributions is not allowed for in the submitter's analysis.

Submission 14

the maintenance and continual use of industrial land is recognised as being a significant benefit to the local economy and to the

economy of surrounding municipalities. The requirement of a 10% contribution, further burdens the land owner. The land within this precinct is already heavily burdened due to significant landscaping requirements along street frontages.

there is a high likelihood that people employed in this precinct do not reside within the City of Monash¹ and therefore would not benefit from the provision of public open space in the same way as residents in other parts of the municipality. Currently, there are limited areas of public open space within this precinct and there is unlikely to be opportunities for Council to acquire land for these purposes.

141. The Monash Employment and Education Precinct referred to in this submission has a large University as an anchor institution. Universities and Education Precincts typically have large residential populations located close by, and high numbers of students, staff and visitors. The intention for Monash NEIC is to be a mixed use industrial precinct that includes education. Due to the characteristics of the cluster, and the residential and worker population in close proximity, any subdivision within the NEIC should therefore have the same open space contribution requirements as other areas of Monash.

Other municipalities which are also identified as having employment/industrial areas of state significance, including the City of Greater Dandenong, requires only 2% public open space contribution for industrial and commercially zoned land. Greater Dandenong also provides a differential for public open space contributions dependent on zone and location. It follows that an area that represents a major employment node in the City of Monash should be exempt from the contributions or have reduced contributions such as that set out above, rather than the proposed 10%.

142. As noted above, the characteristics of the Monash NEIC justify application of the same open space contribution rate as other parts of Monash that reflects the mixed use

character. The mixed use character of Monash NEIC distinguishes it from the state significant industrial precincts located in Dandenong and Wyndham.

The use of 30 square metres of public open space as a benchmark appears to be an arbitrary figure that Council have chosen to suit their proposed contribution rates. The background document states that *'Melbourne based local governments illustrate a range between 24 and 30.3 square metres per capita'* as it relates to the provision of public open space. Yet Council have chosen the upper limit of that range as their benchmark, rather than the lower range or even the average which would sit at 28.1 square metres (only marginally higher than the current provision of 27 square metres).

In addition, the three Council's that they use to determine their benchmark provision of public open space have significantly lower public open space contribution rates as set out below:

143. As outlined in my evidence, contribution rates under the open space Particular Provisions in Planning Schemes have been increasing in recent years, with a number now featuring flat rates of around 8% covering large areas of municipalities. I regard this as a reflection of growing awareness that business as usual won't do and that substantially increased investment in the quantity and quality of open space is a pre-requisite for urban consolidation and climate resilient city.

144. The selection of a macro-provisioning standard of 30 m² per capita is not arbitrary. It is linked to several credible authorities. A higher rather than lower standard is warranted in the light of a densifying city and the need to build climate change resilience.

There appears to be inconsistency in the information provided to the public. Council's own website indicates that the amendment applies to all subdivisions of 3 lots or more, however, the proposed schedule at Clause 53.01 applies to all subdivision.

145. Clause 53.01 applies only to eligible subdivision (as specified in the Subdivision Act), which is all subdivisions of 3 lots or more.

Submission 15

Our client principal objection is to the quantum sought for public open space provision from between 2% and 5% to 10% across the whole municipality. This is an 100% increase (or more) which is considered excessive and would result in inequitable outcomes for all future subdivision parties. The costs will likely be passed onto future home buyers, therefore increasing housing affordability concerns within the municipality.

There is no other municipality which has a blanket 10% requirement across all land. Locations where 10% is required tend to be site-specific locations and generally in growth areas or peri-urban municipalities. To apply a 10% figure to an established built-up municipality seems unjustified.

146. As discussed, contribution rates under the open space Particular Provisions in Planning Schemes have been increasing in recent years reflecting the fact that Melbourne is now in a different growth and climate paradigm compared to historic open space practices.

The 30sqm of public open space per capita figure is not consistently applied across Councils and whilst aspirational, Monash is a 'middle ring' suburban municipality where land for new public open space is limited. The City of Monash is relatively constrained and is therefore more reliant on upgrading existing infrastructure rather than acquisition of new parcels of land. Accordingly,

despite relying on the 30sqm per capita figure to justify the increase, the reality is that this figure may not be able to be reached and the 10% is unjustifiable.

147. The application of standards that are used in growth areas and greenfield areas (amongst others) is appropriate, as all people are entitled to a reasonable standard of open space.

148. As illustrated in Figure 3 and the subsequent discussion, 30 square metres per capita is used as a starting point to determine the required open space contribution. The translation of a per capita standard into a contribution rate will not equate to all new developments being required to provide 30 square metres per capita, and funds collected will be used for not only acquiring land for new open spaces but also embellishing new open spaces and upgrading existing parks.

When Stonnington sought to increase the Public Open Space Contribution figure (approved in 2015), it had one of the lowest rates in Metropolitan Melbourne of public open space provision per capita at 20 sqm. Despite this, the maximum % required was changed to 8% (depending on which suburb the subdivision was located). Having regard to Monash's existing rate of 27sqm per capita, the increase to 10% seems excessive and unreasonable.

149. Monash currently enjoys a reasonable standard of open space provision, but still falls below a warranted macro provisioning ratio of 30 m² per capita. To avoid erosion of current provisioning outcomes and move towards the preferred standard a 10 per cent contribution rate is justified, as explained in this evidence and in the 2018 SGS report.

Our client's landholding is a large renewal site that is already burdened with significant upfront costs associated with the remediation of the land having regard to its former use as a quarry and landfill. The blanket 10% figure does not enable other costs associated with development to be taken into account as to what a reasonable public open space contribution should be. It is our view that strategic sites should be approached differently and require that the % amount be negotiated with Council to achieve an appropriate outcome for all.

The proposed new local policy (Clause 22.15) states land contributions shall not be provided on encumbered land but also states that Council may accept encumbered land as additional land that can complement or improve the unencumbered public open space and public open space network. It is our view that the negotiated public open space contribution should also have regard to the availability of encumbered land or smaller areas of open space, as an open space component of the development.

150. All development generates need for open space, and the open space contribution rate ensures that all development helps meet this need. It is immaterial that other costs associated with development are higher on a strategic site where remediation of the site is required, as the need for open space remains the same.

151. Strategic sites accommodate large future communities, and will generate substantial demand for open space. They also provide unique opportunities for new open spaces to be developed within infill areas.

152. It is my opinion that considering encumbered land as part of a 10 per cent contribution is not acceptable, and it is at odds with the definition of public open space outlined in Section 18A of the Subdivision Act.

There needs to be additional flexibility in the wording of the proposed Clause 22.15 for land contributions to count towards the public open space contribution. It is considered unjust and unreasonable for large sites that cash contributions will be sought unless there is an identified gap in open space provision in the area and that new public open space meets the minimum space standards. In particular, our client's site is specifically mentioned in the Open Space Strategy 2018, including the statement that 'Any future redevelopment of the Talbot quarry will need to consider off road pedestrian access through the site to link Davis Reserve and Talbot Park.' Whilst our client does not object to the provision of an off-road link through the site, the provision of this land should contribute to the overall open space contribution for the site.

153. Clause 53.01 permits Council discretion in determining the suitability of cash or land contributions for open space. Clause 22.15 indicates a Council preference to open space contributions as cash or land, dependent upon whether there are gaps in access to the open space network.

Our client's site is located in an area where there is a good level of public open space as identified in the existing Clause 21.10. Davies Reserve and Talbot Park adjoin the site to the north and south respectively, provide high quality open space amenity for current and future residents. There are also private open spaces such as golf courses in close proximity.

154. It is my opinion that a consistent open space contribution rate across Monash, regardless of existing levels of open space provision, and regardless of the type of development that is occurring is most equitable. It ensures that areas under supplied with open space are not excessively burdened with open space costs to meet an acceptable municipal standard. It also acknowledges Council's historic investment in open spaces in well served areas, and long term open space planning to invest equitably across the municipality. The reference to private open space such as golf courses is immaterial, as they are not publicly accessible, and are not and should not be considered part of the open space network.

Submission 18

A proposed blanket 10% contribution rate is unjustifiable as it overlooks significant site-specific contextual factors, such as easements and other site constraints that may affect yield of development. Without a clear delineation between land and public open space cash contributions, this flat rate contribution may also lead to equity issues. As discussed in the Panel Report to Amendment C98 to the Mooney Valley Planning Scheme. The Panel stated:

"Where open space is provided in land a more intensive development will not provide more open space if a fixed percentage of site area is used and hence the land area per dwelling provided will be less. Certainly the value of the land that is given over will be more, but the ability of the land to meet the recreational needs for the new population may be diminished. This sets up a tension between what might be desirable as a design outcome (a greater proportion of the site area is given over to open space), and what is desirable from an equity perspective (everyone pays the same)." – page 23 of the Panel Report.

155. A consistent mandatory 10 per cent contribution rate is unprecedented in established areas. However, in my opinion it is necessary. Future communities require adequate open space, and historic under funding of open space, and, increased infill developments mean that Council must ensure that open space provision does not fall below acceptable standards. A 10 per cent open space contribution rate is required to ensure open space provision does not fall below acceptable standards as the community continues to grow.

156. The 10 per cent open space contribution may be either cash or land, at Council's discretion. Council will determine the ability of land contributions to meet the recreation needs of the community when determining the form of contribution, taking into account policy set out in the Planning Scheme and strategic studies undertaken from time to time.
157. The tension identified in the Moonee Valley AmC98 panel report is noted and supported. The position taken in Monash is to treat the City as a single planning unit so that the cost of providing open space to standard is shared evenly across the municipality, regardless of the density of individual developments.

Higher rates for site specific areas are also generally applied to rural or peri-urban councils. Monash City Council is a middle-ring municipality that relies on infill redevelopment to absorb its population demands. A comparison to other councils with similar characteristics reveal that a 10% contribution rate is exorbitant in the Monash context. For example, Boroondara City Council (5% contribution on all non-exempt subdivisions under the *Subdivision Act 1988*, which may be further reduced at Council's discretion), Moreland City Council (2.5-6.5% on site specific areas), City of Melbourne (5-8% for site specific areas), Moonee Valley City Council (5% for cash contributions and 5% or greater if land subject to negotiation on density and layout) and Maroondah City Council (5% general and 8% on site specific areas). We note that in the case of Moonee Valley's proposed increase in public open space contribution (Amendment C98), the Panel stated:

"The more 'greenfield' in character a development is the higher a contribution might be reasonable...The more 'greenfield' a development the more we might expect it to provide a municipality wide average amount of open space". – page 19 of the Panel Report

- Application of high contribution rates from peri-urban and rural Councils that are more 'greenfield' in character is inappropriate in this context.

158. 10 per cent open space contributions is an accepted standard in Precinct Structure Plans and there is no reason, in my view, why established areas should not also provide a similar standard of open space provision.
159. The contributions based on a rate of 10% in Monash will partly be deployed in improving existing parks. Thus, the quantity of open space delivered may differ from the experience in greenfield areas, but quality may, on average, be higher. Conceptually, the volume of open space services in both development contexts would be similar.

The 10% rate is unjustified given that an analysis of future budgeting and Council's predicted required expenditure on public open space was not included in the calculation of the rate. We believe that the absence of an analysis on current and predicted financial expenditure trends in funding public space with and without the proposed increase rate is critical in justifying the proposed 10% rate, especially given that the amendment emphasises a preference in cash contributions, rather than land contributions. We note that in the case of Moonee Valley's proposed increase in public open space contribution (Amendment C98), the Panel report relies heavily on the financial analysis of Council's predicted capital works expenditure and land purchases over the next 11 years to justify the need to introduce a 5% contribution rate. Similarly, the methodology used in the calculation of the public open space contribution rate for Amendment C122 to the Moreland Planning Scheme took into account public open space project costs and used this to express an aggregated contribution sum as a percentage of site value, to derive a percent rate of contribution. A similar approach was also used by City of Melbourne in Amendment C209.

160. Council's determination of how to expend funds collected under Clause 53.01 will be influenced by the quantum of funds collected. Funds collected under Clause 53.01 may be spent anywhere in the municipality.
161. It is not necessary, under the inclusionary development standards approach, to have a costed expenditure plan to justify a reasonable open space contribution rate. Funds collected under Cl 53.01 are exclusively hypothecated to the acquisition and

embellishment of public open space. The amount of the collections in Monash will be circumscribed by a whole of municipality standard of 30 m² per capita. There is no risk of gouging or over-collection in this context.

Further, it would appear that the predicted required area of public open space (620.72 hectares) does not accurately reflect the reality of Monash as it does not take into account its existing public open space. By using the predicted total population in 2028 in the calculation instead of the predicted population growth (14,057), the calculation suggests that the total required open space for both existing and future residents of the site are to be 100% catered for by future residential, commercial and industrial subdivisions. The calculation therefore appears to discount the role that existing public space (512 hectares) plays in the future population's open space requirements. It does not appear to account for the fact that currently 85% of Monash residents have access to open space within 400 metres.

162. The methodology looks at the total population and total net developable area at 2028 and applies an open space standard to determine an appropriate open space contribution rate. It is immaterial that existing open space has not been discounted, as the 10 per cent requirement will only be applied to future developments. The 10 per cent requirement indicates what is required for each successive unit of development should bring (or should have brought) by way of open space contribution in order to achieve a 30 m² provision outcome in 2028. This will ensure that the standard of open space provision does not deteriorate.

It is also unclear how the net developable land area was calculated. Net developable land is defined in the SGS & Planning report as "all land uses that are suited to redevelopment for commercial, industrial and residential land uses, and excludes schools, parklands, community facilities roads and other land used for transport". From this definition, it would appear that all land zoned for Residential, Commercial and Industrial land uses have been classified as land suited for redevelopment. However, this way of classification suggests that encumbered land in Residential, Commercial or Industrial zones may have also been included in the calculation of net developable land. The inclusion of encumbered land as being 'suited to redevelopment' is misleading. The method by which net developable land was calculated therefore needs to be clarified, as its accuracy will have direct impacts on the contribution rate.

163. The definition and quantification of net developable land was developed based on the data and information available. It is agreed that encumbered land on residential, commercial or industrial land is not suited for redevelopment, but is incorporated in the estimated total net developable area. However, the impact of considering encumbered land would lead to a reduced total net developable area. This would certainly impact on the contribution rate, and would result in an increased open space contribution requirement, as the total open space requirements for the community at 2028 would remain the same. This further reinforces that 10 per cent is a conservative open space contribution requirement.

Based on our submissions above, we believe that the proposed 10% contribution rate is unjustified and excessively high in the context of Monash. Therefore, there is no sound basis on requiring a further increase in contribution rate for strategic redevelopment sites without adequate justification. There is a possibility that contextual analysis may suggest that less than 10% of contribution is required. In such circumstances, this policy is too limiting and restrictive. We believe 52 Golf Road, Oakleigh South is an example of where this may be too restrictive. It is proposed to provide a publically accessible open space area as the central feature of the development plan. This will offset passive public open space needs for both onsite residents as well as residents from the surrounding neighbourhood. The proposed publically accessible open space will not be transferred to Council and will remain under private maintenance and ownership. In many cases, private ownership prevents a tragedy of commons situation from occurring, and guarantees maintenance that will upkeep the quality of the space. Clarity needs to be given on how such a situation will affect the calculation of the contribution rate, especially since the proposed open space at 52 Golf Rd provides improvements to both quality and quantity of publically accessible open space, which are both factors that Council wishes to improve through the contributions.

164. The provision of publicly accessible open space within developments does not substitute for publicly accessible publicly owned open space. Open space under private ownership may be modified and land use changed over time, and may not be aligned strategic directions and objectives identified in the Monash Open Space Strategy or Clause 22.15. Furthermore, publicly accessible open space under private ownership is often not used by the broader community, with soft gating design devices employed to act as a deterrent to truly public use. Residents within the development site will also enjoy access to public open space beyond the development.

Submission 27

The blanket application of a 10% public open contribution rate across the entire Municipality fails to recognise the areas that already benefit from excellent access to public open space and places an unreasonable burden on developers in these areas.

Given the availability of open space in the Oakleigh precinct and the fact that numerous public open space reserves are within 400 metres of the subject site, a higher public open space contribution rate does not appear to be justified or equitable. It is noted that other amendments to vary public open space contribution rates in municipalities have included different rates for regions of the municipality, in recognition of existing public open space provision. It is considered that a similar approach would be appropriate in Monash given the variance in public open space provision across the various precincts.

165. It is my opinion that a consistent open space contribution rate across Monash, regardless of existing levels of open space provision, and regardless of the type of development that is occurring is most equitable. It ensures that areas under supplied with open space are not excessively burdened with open space costs to meet an acceptable municipal standard. It also acknowledges Council's historic investment in open spaces in well served areas, and long term open space planning to invest equitably across the municipality.

166. Residents in areas that are currently well supplied with open space such as Wheelers Hill and Oakleigh enjoy access to open space across the municipality. Council's responsibility is to ensure the municipal network of open space is of a sufficient standard for all residents to enjoy, and each successive unit of development must make a contribution towards the broader municipal network, including those who have benefitted from investment in open space in the past and enjoy above standard open space provision today.

There appear to be no transitional provisions proposed as part of this amendment that would exempt an approved development from the new controls. While a planning permit has been granted for the built form and construction has commenced, subdivision is yet to occur and may still be some time away when considering the size of the project and the lengthy construction period for a project of this size. An increase in the public open space contribution levy by 5% would have a substantial cost implication and impact on the feasibility of this project, which is already well into its construction phase.

It is therefore requested that transitional provisions be built into the amended schedule to Clause 53.01 in order to exempt subdivision proposals that are associated with an approved development that obtained a planning permit before the approval date of this Amendment. The current rates of between 2% and 5% would instead apply in these instances.

167. Developers who have already acquired land for development but have not yet subdivided will be impacted by the introduction of a higher open space contribution rate as it will not have been incorporated in initial development costs assessment. Council may wish to review the suitability of providing rebates or waivers to specific developments that are in this position.

Submission 28

In developing and implementing open space contribution framework the principles of Nexus, Equity, Need and Accountability need to be demonstrated. These are long established and well-founded principles. In summary, we submit that the amendment should not be supported as it does not meet those tests.

168. The usage nexus rules that apply to contributions for off-site infrastructure in a DCP situation do not apply to an inclusionary development standards approach where proponents must include certain features in their development or pay cash in lieu for off-site fulfillment. The nexus rule in DCPs limits contributions to projects which will be used by the development making the contribution. The nexus rule which applies in the inclusionary development standards approach is that a need must be met at the level of the municipality.
169. The calculation of a flat 10% requirement in Monash is, in my view, equitable and efficient. Each unit of development is making a contribution to the creation of an adequate open space network at the municipal level, with distortions relating to varying site densities corrected.

It is submitted that the amendment fails the basic test of nexus. The Open Space Strategy and SGS report bear no resemblance to each other. It is noted that Strategy analyses the open space provision based on precincts, whereas the SGS report treats the entire municipality as a single planning unit. This disregards how the existing variations in open space provision within the precincts are to be addressed. In this context there is no implementation plan as to how the funds generated are to be spent – there are no projects identified and no associated costings. In an established municipality context, the practicalities of acquiring large tracts of land to make up identified shortfalls is not sufficiently addressed. This makes it even more important to identify how and where the substantial amount of funds proposed to be collected are to be spent. In lieu of a plan or land strategy there is a concern that funds will be primarily expended on embellishment which does not resolve the fundamental issue of the level of access to open space.

The blanket 10% approach is flawed. It does not appear to distinguish between the various land use typologies (industrial, commercial, retail, residential) or development typologies (unit development versus apartments etc) within the municipality which highlights the lack of rigour underpinning the approach.

170. It is my opinion that an inclusionary development standards approach to calculating development contributions for open space is legitimate and appropriate. As I have shown, it can be activated without reliance on a costed open space delivery plan. There is, in my view, no requirement for Cl 53.01 to operate as a de-facto DCP. Under the approach applied in Monash, Cl 53.01 would provide a dedicated funding stream that can only be used for open space acquisition and embellishment. Because the input data is geared to an authoritative macro provisioning standard, there is no risk of an excessive levy.

Comparing the 10% figure to growth area PSP benchmarks is misleading and complicating the core issue of whether the issue of need has been established in this specific context versus growth area context. Further, it is unclear on what basis the 30m² per person figure has been arrived at as a benchmark or a reliable local measure of need. Notwithstanding the above, it is important to note that from a process perspective growth area PSPs are subject of a rigorous needs analysis process and include the specifics regarding the location, type and funding mechanisms for the open space within the PSP, something that is clearly lacking in this amendment.

171. The 10 per cent PSP benchmark is applied in greenfield areas, which are typically lower density than infill areas. Most development that will be subject to open space contributions under Clause 53.01 are likely to be significantly higher density than greenfield developments. Therefore a 10 per cent contribution rate in Monash would translate to lower per capita open space provision than in PSPs.

172. The inclusionary approach to development contributions does not require a needs analysis, instead it applies a standard for provision which each successive unit of development must supply.
173. The 30 square metre benchmark was derived by assessing a series of benchmarks and adopted an upper limit provision rate in recognition of the critical need for investment in open space and the growing community awareness and concern regarding the extent to which our cities are resilient and climate change adapted.

Submission 30

The proposed requirement that all subdivisions of 3 lots or more provide a public open space ('POS') contribution at a rate of 10% is **excessive, inappropriate in its application, and as a blanket control is contrary to all other municipalities in Victoria**. The proposed 10% rate represents an increase in the resultant POS contribution to the permit holder in the range of 100% - 500%.

174. A consistent mandatory 10 per cent contribution rate is unprecedented in established areas but, in my opinion it is necessary. Future communities require adequate open space, and historic under funding of open space, and, increased infill developments mean that Council must ensure that open space provision does not fall below acceptable standards. A 10 per cent open space contribution rate is required to ensure open space provision does not fall below acceptable standards as the community continues to grow.
175. 10 per cent open space contributions are an accepted standard in Precinct Structure Plans and there is no reason in principle why a lower provisioning standard should apply in established areas. Indeed, because of the generally higher densities in established areas, the overall percentage of developable land which should be targeted for open space could justifiably be significantly higher than PSP areas.

There are no municipalities within Victoria that apply a blanket POS contribution rate across all residential, commercial and industrial areas.

The proposed Amendment would impose an unreasonable and unjustified cost to our client, which will hinder the reasonable development opportunities of its various landholdings. Proposed Amendment C148 is short-sighted and should not be further considered. It should, rather, be abandoned.

176. Other municipalities within Victoria do apply a blanket POS contribution across all residential, commercial and industrial areas. This includes Banyule and Maribyrnong.
177. As outlined in Section 2.4 in my submission, Am C148 will not impact on housing prices in new developments. It may have a short term impact on landowner's willingness to sell due to a change in the profile of development costs which sees residual land value becoming a smaller proportion of the gross realised value.

Submission 33

We would only support Amendment C148 if this Amendment included firm commitments from Council by way of Public Use Overlays, or Public Acquisitions Overlays (or other means), over parcels of land that it could

acquire within the southern portion of the municipality especially the former Talbot Quarry site. Otherwise, anything less is only "aspirational" for the residents of the southern portion of the municipality.

178. Am C148 provides Council with increased revenue for open space expenditure, including on land acquisition. However, work undertaken by SGS has not advised on where funds collected under Clause 53.01 should be expended. The question of acquiring the former Talbot Quarry site is outside the scope of my instructions.

Submission 34

Our client's land is located within the Wheelers Hill Precinct. The Report notes that this precinct already provides 35 square metres of open space per person, achieved with the current POS contribution rate of 2-5% in place. The proposed POS contribution rate of 10% is therefore excessive for the Wheelers Hill Precinct in particular and will cause unreasonable prejudice to our client's land.

There are no municipalities within Victoria that apply a blanket POS contribution rate across all residential, commercial and industrial areas.

179. A consistent open space contribution rate across Monash, regardless of existing levels of open space provision, and regardless of the type of development that is occurring is most equitable. It ensures that areas under supplied with open space are not excessively burdened with open space costs to meet an acceptable municipal standard. It also acknowledges Council's historic investment in open spaces in well served areas, and long term open space planning to invest equitably across the municipality.

180. Residents in areas that are currently well supplied with open space such as Wheelers Hill and Oakleigh enjoy access to open space across the municipality. Council's responsibility is to ensure the municipal network of open space is of a sufficient standard for all residents to enjoy, and each successive unit of development must make a contribution towards the broader municipal network, including those who have benefitted from investment in open space in the past and enjoy above standard open space provision.

181. Other municipalities within Victoria do apply a blanket POS contribution across all residential, commercial and industrial areas. This includes Banyule and Maribyrnong.

Our client's land benefits from planning permission which envisages a major redevelopment of the site, with the ability to deliver a diversity of housing and accommodate Melbourne's growing population. The proposed Amendment would impose an unreasonable and unjustified cost to our client, which will hinder the development opportunities of the site.

182. As noted, there may be a case for transitional arrangements covering projects which have planning approval but have not yet progressed to subdivision stage.

Submission 36

HIA believes the setting of public open space rates through Clause 53.01 of the planning scheme should be cognisant of Section 18 of the Subdivision Act 1988. Specifically, HIA considers that the proposed amendment should be justified or tested against the 'need' and 'nexus' principles for public open space contributions. Further, HIA believes to differentiate the need generated by different types of development across the municipality.

183. An inclusionary development standards approach to calculating development contributions for open space is legitimate and appropriate. It is consistent with the historical mandate for open space contributions under the subdivision legislation. Unlike funds collected under a DCP, funds collected under Clause 53.01 do not rely on usage nexus.

The proposed amendment raises implications for achieving urban consolidation and reducing the housing affordability problem in inner Melbourne. HIA is concerned that excessive open space

contribution rates will increase land development costs and be a cost disadvantage for the more intensive redevelopment of existing urban areas. This is inconsistent with State and Local Planning Policy for urban consolidation and the provision of affordable housing. Furthermore, HIA object to the proposed amendment as it would set an undesirable precedent for other local councils to follow in setting such a high blanket public open space rate.

184. As outlined in Section 2.4 in my evidence, I do not expect that Am C148 will impact on housing prices in new developments. It may have a short term impact on landowner's willingness to sell due to a change in the profile of development costs which sees residual land value becoming a smaller proportion of the gross realised value. However, there is a large volume of development sites available in Monash and only a relatively small proportion of these owners would need to be willing sellers to maintain housing supply.

185. This submission does not consider that lack of investment in open space is an important contributing factor to community resistance to greater housing supply in established areas like Monash.

Submission 37

This Association believes that the basic tenet of Section 18 (1A) of the Subdivision Act 1988 that 'Council may only make a public open space requirement if it considers that, as result of the subdivision, there will be a need for more open space' should be the foundation for any assessment/establishment of an open space levy rate.

Our review of the 'City of Monash – Open Space Contribution Rate Planning' report noted above indicates that the basis of the final rate is achieving as much income as possible for the overall Monash Open Space Strategy's open space provision across the whole of Monash, rather than assessing an equitable contribution from new development on the basis of the need created by that development.

It appears to the Association that the proposed 10%* contribution rate will effectively impose a 'development tax' on new development above an equitable contribution required as a result of such new development, effectively to subsidise a current perceived shortfall within the municipality. For this reason, this Association does not support the proposed amendment.

(We believe that the proposed 10% contribution rate is excessive and note this would be a 500% increase for a 3-lot subdivision, a 333% increase for a 4 lot subdivision, a 250% increase for 5 lot subdivision and a 100% increase for 6 or more lots).

186. Collections under S18(1A) of the Subdivision Act may be deployed anywhere in the municipality in question, regardless of the location which gave rise to the contributions. This indicates that it is legitimate to treat Monash as one planning unit for the purpose of striking an appropriate contribution rate. At the municipal wide level, there is no question that there is a need for additional open space investment in Monash. I therefore regard the requirements of the Subdivision Act to be satisfied.

We also note the proposed schedule to Clause 53.01 removes any ability for Council to assess an application on its merits and take into consideration how a particular development may have addressed the objectives of the open space strategy. It includes no consideration of the current and proposed land use and existing title configuration or how that may impact on the need generated for open space. We are particularly concerned that there will be no provision for consideration of existing land parcels, where for instance a re-subdivision of four existing lots into an equal or lesser number of lots may occur, but would be subject to a mandatory open space contribution, when the re-subdivision may not create any need for additional open space.

187. Council will continue to have the discretion to determine the most appropriate form of open space contribution from each unit of development, which provides it with flexibility in assessing development applications. However, in my view, adopting a flexible approach to the application of a 10 per cent contribution (whether it is a cash or land contribution) on a case by case basis would lead to inequitable outcomes at the municipal level and declining open space provision.

188. Moreover, certainty, clarity and predictability of requirements are to be valued in the development process. If not properly managed, contingent 'merits based' assessment, can give rise to additional risk for developers and rent seeking behaviour.

Submission 42

The MOSCRP report does not provide sufficient supporting analysis of the public open space provision benchmarks and justification for the recommended benchmark.

It is acknowledged, based on the literary search undertaken to date, that there is a lack of clear guidance in this area. Fully aware of this policy vacuum, SGS has adopted the 30m² of open space per capita rate as the preferred benchmark based on sources provided in Table 7 of the MOSCRP report [refer extract below]. Three municipalities are used to justify this figure, Frankston is an outer ring municipality, Wyndham is a growth area municipality and Kingston is the only comparable middle ring municipality. Little further discussion or analysis is provided.

189. The application of standards that are used in growth areas and greenfield areas (amongst others) is appropriate, as all people are entitled to a reasonable standard of open space. People living in higher density areas have higher needs for open space due to a lack of private open space provision, so using an upper limit open space per capita requirement as the basis for determining open space contribution rates is appropriate in established areas.

190. Adoption of a higher macro provisioning standard is also warranted in the context of climate change and a rapidly growing metropolis.

The adoption of the 10% benchmark is not only not adequately justified, it is significantly at odds with the current and recently amended approaches of the inner and middle ring municipalities [refer Public Open Space Contribution Table below]. In summary for all land, except land within an activity centre or an urban renewal area, on average 4.89% of NDA is required as a public open space contribution for the inner and middle ring municipalities. This average percentage is reflective of these areas already being serviced by a network of open space and therefore, in a majority of cases the public open space contribution required is significantly less [and often half] the contribution [10% of NDA] that is being sought as a 'blanket' flat rate by this amendment.

191. I do not agree that future deployment of open space provisioning mechanisms such as CI 53.01 should reflect past approaches or the 'average' of what other Councils have done in the context of quite different circumstances, especially with respect to climate change and evident community demands for better infrastructure to support urban consolidation. The bar for open space provision should, in my view, be set higher than what might be suggested by past practice.

An examination of the need, nexus and equity principles is missing.

Based on the recent analysis prepared by SJB for Greater Dandenong Council [refer extracts below], it is proposed that the prerequisites for generating the most appropriate public open space contribution rate, are need, nexus and equity. Without the implementation plan it is not possible to clearly establish the need, nexus and equity of the proposed public open space contribution rate.

192. As discussed, Councils may choose to apply a DCP approach to establishing contributions for open space, in which case DCP style nexus rules would apply. However, they may also opt for an inclusionary development standards approach which applies a different set of disciplines and accountabilities. Monash has opted for the latter and arrived at a reasonable contribution figure which meets statutory tests.

POSC is not the only way to address the current and future open space provision needs.

The MOSS report provides a short examination of the funding opportunities [page 26] and the MOSCRP report investigates four development contribution frames [section 5.1]. Both assessments can only be initial as the costs and priorities are not available. A more in depth analysis of the alternatives such as those noted below is needed.

The alternatives could include development contributions plans or section 173 agreements for larger area developments, as well as 'capital works and or capital works redistribution, increased rates (rates are capped at 2.5% per annum across Victorian Councils), direct charges (Special Rates and Charges Scheme (SRCS)), sale of Council land and reinvestment, and other funding sources such as Government grants' [noted on page 26 MOSS report].

193. As described in my evidence, DCP are not well suited to open space contributions in established areas, in my opinion.

194. There are a number of different funding opportunities for open space, as described in the MOSS report. However, collections under Clause 53.01 provide Council with an necessary ongoing funding stream to proactively plan for and deliver a quality open space network across the municipality. Outside of DCPs, the alternative funding opportunities are typically one-off opportunities, and at times site specific opportunities that may not align with broader open space planning objectives.

APPENDIX A: PLANNING PANELS

VICTORIA EXPERT WITNESS

DECLARATION

a) The name and address of the expert

Dr Marcus Luigi Spiller
SGS Economics & Planning Pty Ltd
Level 14, 222 Exhibition Street
Melbourne

b) The expert's qualifications and experience

PhD (Global Studies, Social Science and Planning), RMIT University, Melbourne, 2009
Master of Commerce (Economics), University of Melbourne, 1986
Bachelor of Town and Regional Planning, University of Melbourne, 1978

Dr Marcus Spiller is a founding partner at SGS. He has extensive experience in public policy analysis as an urban economist and planner. Marcus specialises in providing high level advice on metropolitan strategic planning, housing policy, infrastructure funding and the links between urban structure and regional economic performance.

Marcus is a past National President of the Planning Institute of Australia and a former Board member at VicUrban (now called Development Victoria). He has served on the Commonwealth Government's Housing Supply Council and the equivalent body set up by the NSW Government. Marcus has been appointed an Adjunct Professor in the School of Global, Urban and Social Studies at RMIT University and an Adjunct Professor in the Faculty of Built Environment at UNSW. He is also an Associate Professor at the University of Melbourne.

Marcus was made a Life Fellow of the Planning Institute of Australia in 2019.

c) The expert's area of expertise to make the report

Marcus is a leading adviser in urban infrastructure policy, including funding mechanisms. He has been involved in the formation of development contributions legislation in most Australian jurisdictions, though he does not necessarily endorse all recent initiatives in this area. He argues for a clear separation of user charges, betterment levies, impact mitigation payments and inclusionary zoning provisions in planning legislation.

Marcus is the co-editor of an internationally published book on infrastructure funding and management. (Wellman, K., and Spiller, M. (2012) *Urban Infrastructure: Finance and Management*, Wiley).

d) Other significant contributors to the report and where necessary outlining their expertise

Lucinda Pike

B.Hort (Hons), University of Melbourne (2005)

M.L.Arch , University of Melbourne (2011)

Lucinda is an Associate with expertise in GIS with over 8 years' experience in urban design and planning.

With a background in landscape architecture, Lucinda has a strong focus on the importance of public open space in cities and has been extensively involved in the development and implementation of open space contribution plans and development contribution plans, and more recently, open space strategies and sports and recreation planning.

Relevant Project experience

- City of Darebin Open Space Strategy and Contributions Framework (2019)
- City of Monash Open Space Contribution Plan (2018)
- City of Frankston Open Space Contribution Plan (2018)
- A Review of open space requirements for the Gas and Fuel Site, Kingston (2018)
- Preparation of a research paper on the history of open space planning in Sydney for the Office of Strategic Lands within DPE (2018)
- Research and Publications on planning for open space including 2017 PIA Conference Paper 'Planning for high quality, well used public open spaces - new metrics for open space planning'.(2017)
- City of Kingston Review of open Space Strategy and Open Space Contributions Plan- (2016)
- City of Manningham Open Space Contributions Plan- City of Manningham (2016)
- City of Greater Dandenong Open Space Contribution Plan Scoping Paper (2017)
- Hobsons Bay City Council - Precinct 15 Open Space Advice - Stage 2 (2015)
- City of Moonee Valley Development Contributions Plan Framework (2016)

e) Instructions that define the scope of the report

My instructions in this matter were provided in writing by the Maddocks (see Appendix B)

f) The facts, matters and all assumptions upon which the report proceeds

All these matters are detailed in my evidence statement.

g) Reference to those documents and other materials the expert has been instructed to consider or take into account in preparing the report, and the literature or other material used in making the report

All these matters are detailed in my evidence statement.

h) Provisional opinions that have not been fully researched for any reason (identifying the reason why such opinions have not been or cannot be fully researched)

These matters are detailed in my evidence statement.

i) Questions falling outside the expert's expertise and also a statement indicating whether the report is incomplete or inaccurate in any respect

These matters are detailed in my evidence statement.

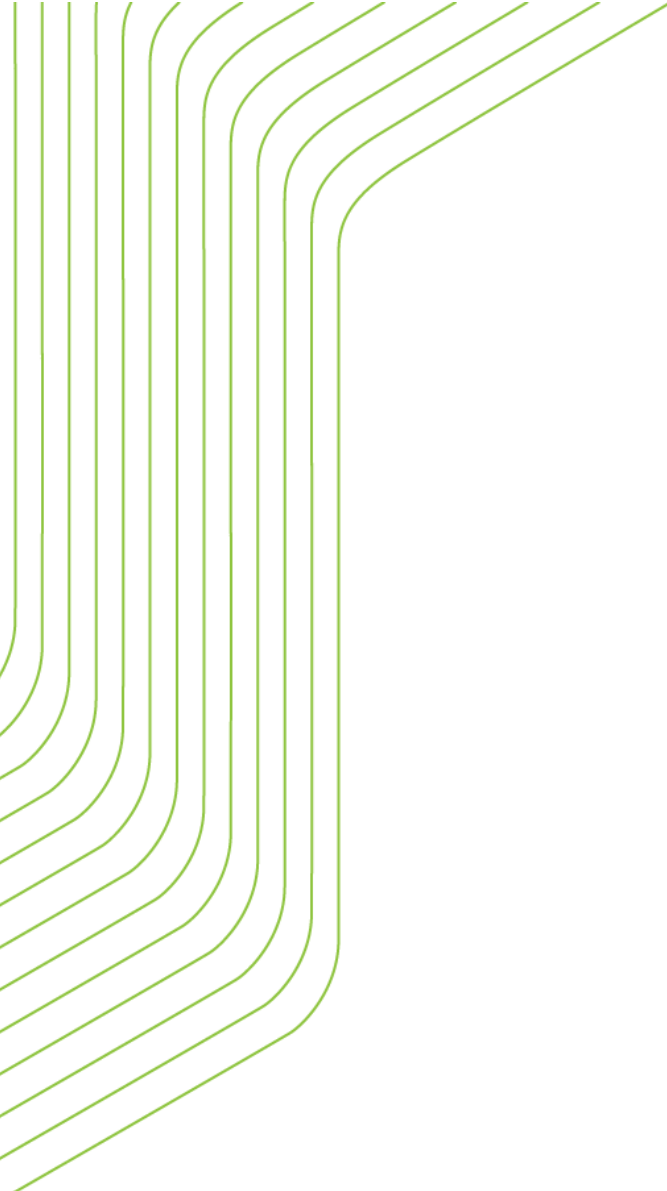
I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

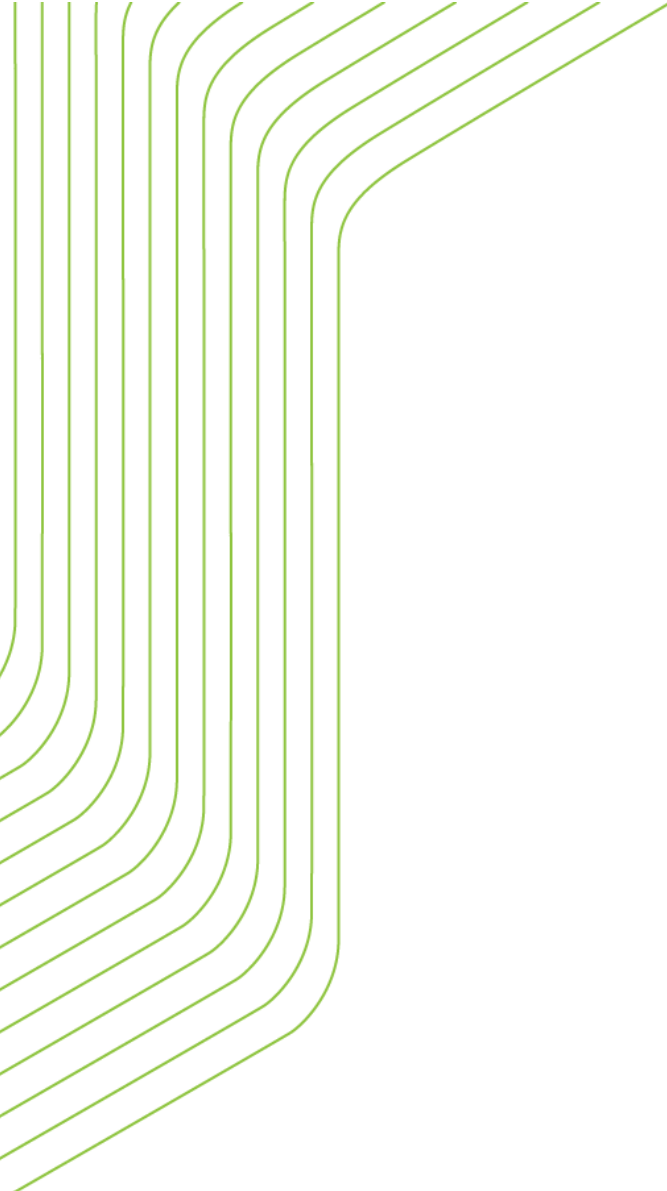
Name Dr Marcus Spiller

Date February 7, 2020

APPENDIX B - INSTRUCTIONS

APPENDIX C: SGS OPEN SPACE CONTRIBUTION PLANNING REPORT 2018





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