

7.13 AMENDMENT C235 MBEK - REVISED PUBLIC OPEN SPACE CONTRIBUTION RATE FOR THE PLANNING SCHEME - DECISION GATEWAY 1

Director Place and Environment, Pene Winslade
City Strategy and Economy

Officer Recommendation

That Council:

1. Endorses the report *Merri-bek Public Open Space Contributions Refresh: Open Space Contributions Schedule (HillPDA, 4 February 2025)*, as shown in Attachment 1 as part of Amendment C235mbek.
2. Seeks authorisation from the Minister for Planning to prepare Merri-bek Planning Scheme Amendment C235mbek in accordance with Section 8A of the *Planning and Environment Act 1987*.
3. Subject to the Minister's authorisation, prepares Amendment C235mbek, generally in accordance with the documentation provided at Attachment 1.
4. Exhibits Amendment C235mbek in accordance with Section 19 of the *Planning and Environment Act 1987* and as outlined in the Consultation section of this report.
5. Authorises the Director Place and Environment to make changes to the Amendment prior to exhibition based on any conditions imposed in the authorisation granted by the Minister for Planning and to make administrative changes to correct errors and grammatical changes.

REPORT

Executive summary

Amendment C235mbek seeks to introduce an updated public open space contribution rate into the Merri-bek Planning Scheme. This amendment is one of the ways in which the Merri-bek Open Space Strategy is being implemented. The new rate is informed by technical analysis that demonstrates the merits of the proposed rate. Inclusion of the new rate in the Merri-bek Planning Scheme will mean that payment of the contribution is payable as part of the subdivision process.

The revised contribution rate improves Council's ability to meet community expectations for the city's evolving open space network and infrastructure. A 10 per cent minimum rate is proposed for strategic redevelopment sites and urban renewal precincts. For all other locations the proposed rate is 8.68 per cent.

This report is for Decision Gateway 1 and recommends that Council resolves to request the Minister for Planning authorise Amendment C235mbek. Public exhibition of the amendment would follow the Minister's authorisation.

Previous Council decisions

Amendment C231mbek – Introduction of the Moving Around Merri-bek Transport Strategy and Merri-bek Open Space Strategy – Decision Gateway 3 – Consideration of Panel Report and Decision on the Amendment – 12 February 2025

That Council:

1. *Notes the findings and recommendations of the C231mbek Panel included at Attachment 1 to this report.*
2. *Adopts Amendment C231mbek to the Merri-bek Planning Scheme pursuant to Section 29(1) of the Planning and Environment Act 1987, as exhibited and with the changes recommended by the Planning Panel and discussed at Section 3 of this report and shown at Attachment 2.*
3. *Submits Amendment C231mbek to the Merri-bek Planning Scheme to the Minister for Planning for approval, pursuant to section 31 of the Planning and Environment Act 1987.*
4. *Endorses the updated Open Space Technical Report and 20-Year Open Space Projects List as shown at Attachments 2 and 3 to support the open space contribution rate review.*
5. *Notes that the Open Space Strategy will be updated with the corrected Open Space Framework Plan as shown at Attachment 2.*

Adoption of New Merri-bek Open Space Strategy – 10 April 2024

That Council:

1. *Endorses as final the Merri-bek Open Space Strategy (Attachment 1) and associated Action Plan (Attachment 2), with the following changes to the Action Plan:*
 - a) *Insert a new action for 2024/25 in the Action Plan under Direction 1: Providing parks close to home and enhancing existing open spaces after action 1.9 to “Prepare a municipal-wide view of priority of gap areas in addition to the suburb by suburb view, in preparation for the refresh of the Park Close to Home Framework”*
 - b) *Amend action 1.10 listed for 2025 to 2029 under Direction 1: Providing parks close to home and enhancing existing open spaces so that it reads “Refresh the Park Close to Home Framework to guide land acquisition and prioritisation of projects across Merri-bek, taking into account the Open Space Background Technical Report, the Merri-bek Strategic Property Framework, consideration of the Merri-bek Planning Scheme and ensuring the framework is practical to apply.”*
 - c) *Amend action 4.13 listed for 2024/25 in the Action Plan under Direction 4: Providing open space for everyone to add “d) consideration of whether additional land is required under the Park Close to Home Framework for new sporting facilities.”*
 - d) *Insert a new action for 2024/25 in the Action Plan under Enabling Actions after action 6.8 to “Develop and present to Council principles and a procedure to govern the management of the Public Resort and Recreation Land Fund so that it holds adequate funding to support significant strategic property purchases.”*
2. *Authorises the Director City Infrastructure to make minor editorial changes in finalising the documents for publication, including graphical design and numbering of actions, that do not change the meaning of the Strategy or Action Plan.*

3. *Notes the Community Engagement Report (Attachment 3) detailing the methodology and findings of community engagement, including from the Hearing of Submissions, on the Merri-bek Open Space Strategy and Action Plan and thanks the community for their participation throughout the process of preparing the Open Space Strategy.*
4. *Endorses the approach to open space planning represented in the Open Space Technical Background Report (Attachment 4) and 20-year Project List (Attachment 5), noting that these documents align with the Open Space Strategy and Action Plan.*

1. Policy context

The Council Plan 2021-2025 has a major initiative to implement a new Merri-bek Open Space Strategy (Open Space Strategy). This initiative is supported by the Council Action Plan 2024-2025, which has Action 223 to start a planning scheme amendment for a new open space levy.

The Victorian Government's Practice Note 70 helps to inform the preparation of an open space strategy, however there is no state government guidance for determining or reviewing an open space contribution rate. Instead, councils are guided by legislation and recommendations by planning panels.

The *Subdivision Act 1988* requires public open space contributions to be justified by an assessment of need, having regard to the supply of public open space and the demand for subdivisions.

The Merri-bek Planning Scheme (Planning Scheme) has a strategy in Clause 19.02-6R to develop a network of local open spaces that are accessible and of high quality and include opportunities for new local open spaces through planning for urban redevelopment projects.

2. Background

Council currently collects open space contributions from new development as set out in the Schedule to Clause 53.01 'Public Open Space Contribution and Subdivision' of the Planning Scheme. These contributions are collected at the time land is subdivided.

The Open Space Strategy was accompanied by a technical report with data and analysis for open space gap areas. The report also has a suite of projects to service the City's residential and worker population growth for the next 20 years.

The Open Space Action Plan includes Actions 6.4 and 6.13 to review the existing open space contribution rate and progress a planning scheme amendment to implement the new rate into the Planning Scheme.

A separate amendment, known as C231mbek, adopted by Council on 12 February 2025, is implementing the Open Space Strategy's strategic intent into the Planning Scheme. This is being done by updating:

- Clauses 2.03-8 and 2.04 of the Municipal Planning Strategy with a revised Open Space Framework Map and Strategic Directions aligned with the Open Space Strategy.
- Clause 19.02-6L of the Planning Policy Framework with revised Strategies and Policy Guidelines aligned with the Open Space Strategy.
- Introducing the Open Space Strategy and its associated technical report as policy background documents.

When Council adopted amendment C231mbek at its February meeting, it also endorsed an updated Open Space Technical Report and 20-Year Open Space Projects List. These documents will support the open space contribution review amendment.

3. Issues

The need for new public open space contribution rates

The existing public open space contribution rates in the Planning Scheme were established over 10 years ago. With the endorsement of the Open Space Strategy and accompanying Action Plan, there is a need to review the public open space contribution rates to ensure they align with the community's changing needs and demands for open space across the municipality.

The amendment proposes introducing a new:

- 10 per cent minimum contribution rate, only for Strategic Redevelopment Sites or Urban Renewal Precincts.
- 8.68 per cent contribution rate for the balance of the city.

Methodology to prepare new contribution rates

The proposed new rates are informed by the Open Space Strategy, the Open Space Technical Report, a 20-year project list and additional technical analysis.

Technical experts informed the preparation of the proposed new rates. The technical analysis demonstrates the merits of the proposed rates:

- A 10 per cent minimum rate for strategic redevelopment sites and urban renewal precincts is reasonable because this minimum is aligned with the Victorian Government's *Precinct Structure Planning Guidelines: New Communities in Victoria* (Victorian Planning Authority, October 2021), which set a minimum benchmark rate of 10 per cent for residential areas and activity centres. The ultimate public open space provision for strategic development sites and urban renewal precincts will be informed by the future strategic planning process that identifies and defines these locations when rezoning is proposed.
- An 8.68 per cent rate for the balance of the city is reasonable because it is aligned with an analysis of Council's future open space investments, to manage changing needs and demands across the city.

Having a city-wide rate is reasonable because the method apportioned the cost of city-wide, planned open space investments, against the expected city-wide value of land expected to be developed. This approach has been supported by previous Victorian Government appointed Planning Panels for other councils.

Attachment 1 includes the background document that underpins the technical merits of the proposed contribution rates. The amendment was prepared in consultation with the Department of Transport and Planning (DTP).

Changes to the Planning Scheme

The following Planning Scheme changes are proposed by the amendment, and are shown in full in **Attachment 1**:

Clause No.	Proposed Change
Particular Provisions	
Schedule to Clause 53.01 Public Open Space Contribution and Subdivision	<ul style="list-style-type: none">▪ Deletes the existing contribution rates from sub-clause 1.0 and replaces them with the following new contribution rates:<ul style="list-style-type: none">○ A minimum 10% contribution rate for strategic redevelopment sites or urban renewal precincts.○ An 8.68% contribution rate for all other areas.▪ Deletes Map 1 to the Schedule.

Clause No.	Proposed Change
Operational Provisions	
Schedule to Clause 72.08 Background documents	Inserts reference to the: <ul style="list-style-type: none"> ▪ <i>Merri-bek Public Open Space Contributions Refresh: Open Space Contributions Schedule</i> (HillPDA, 4 February 2025)

Climate emergency and environmental sustainability implications

The proposed contribution rate does not generate adverse climate and environmental sustainability implications. Instead, the proposed rate will enable Council to more effectively fund public open space acquisitions and infrastructure works which help to improve stormwater quality, enable urban greening and sustain local parklands for a changing community.

Legal and risk considerations

The proposed contribution rate will replace existing rates in the Planning Scheme. The existing rates will stay in the Planning Scheme until they are replaced.

The Planning Scheme is a legal instrument that prompts action by land developers when a planning permit is required or issued. Including the proposed contribution rate in the Planning Scheme will retain a statutory obligation for land subdividers to make a fair contribution to Merri-bek's public open space network.

Human Rights consideration

The implications of this report have been assessed by the requirements of the Charter of Human Rights and Responsibilities. Future notice for Amendment C235mbek will be done and the proposed change to the public open space contribution rate will not limit or interfere with any Human Rights, including 'Section 13: The right to privacy and reputation', 'Section 18: The right to take part in public life', and 'Section 20: Property rights', because Amendment C235mbek:

- Is changing the public open space contribution rate to Council's ability to service the needs of all landowners, workers and visitors to Merri-bek.
- Is not depriving any legal or proprietary interest in land, or the ability to use and develop land.
- It is not introducing any new provisions into the Planning Scheme. Instead, it is updating an existing provision for the payment of developer contributions when land is subdivided.
- Will enable public exhibition of the proposal. Submitters will be able to express their concerns at a future independent Planning Panel.

Gender impact consideration

A gender impact assessment is not required because Amendment C235mbek does not relate to a new policy, program or service that directly or significantly impacts the community.

The change proposed by the amendment is revising an existing public open space contribution rate in the Planning Scheme and is implementing Council's endorsed Open Space Strategy.

4. Community consultation and engagement

Exhibition of Amendment C235mbek will be done after the Minister for Planning has given authorisation and any conditions imposed by the Minister's authorisation have been fulfilled.

Following Section 19 of the *Planning and Environment Act 1987* (the Act), notice of the amendment via direct mail (or email) will be given to:

- Relevant Victorian Government departments
- Prescribed Ministers
- All abutting councils.

To comply with other notice requirements in section 19 of the Act and to reach the wider community, the following will also be done.

- Give notice in the *Government Gazette*, the *Herald Sun* and *The Age* newspapers.
- Inclusion of the amendment documents on Council's website.
- Communication on Council's social media platforms.
- Inform consultants who regularly work on behalf of subdivision applicants.

Under section 19(1A) of the Act, it is considered impractical to individually notify owners and occupiers throughout the municipality of changes proposed under Section 3 of this report.

5. Officer Declaration of Conflict of Interest

Council officers involved in preparing this report have no conflict of interest in this matter.

6. Financial and resources implications

Financial

Administrative costs associated with the processing of the amendment will be met within the base budget of the Strategic Planning Unit.

Resources

The amendment will have minimal impact on Council's resources because Council already has processes in place to administer the collection and use of developer contributions for public open space.

7. Implementation

The following timelines for the amendment are broken down into the key 'decision gateways' for Council. The timeline is approximate and subject to Ministerial approval timelines and Planning Panels reporting and assumes a July/August 2025 exhibition period.

- Decision Gateway 1: Authorisation and exhibition (current report).
- Decision Gateway 2: Consider submissions and request a Panel (late 2025).
- Decision Gateway 3: Review Panel report and request the Minister's approval (mid-2026).

Attachment/s

- 1 C235 Amendment Documents D25/82389