

AMENDMENT C235MBEK - REVISED PUBLIC OPEN SPACE CONTRIBUTION RATE FOR THE PLANNING SCHEME - GATEWAY 2

Director Place and Environment, Pene Winslade

City Design and Economy

Officer Recommendation

That Council:

1. Notes the significant impact of the open space reserve in facilitating the delivery of critical open spaces to meet the needs of a rapidly growing Merri-bek population.
2. Considers all submissions made on or before the last date of exhibition of Amendment C235mbek to the Merri-bek Planning Scheme (Amendment), relating to a revised public open space contribution rate, in accordance with section 22(1) of the *Planning and Environment Act 1987* (Vic) (Act).
3. Considers any late submissions received after the last date of exhibition but on or before the Council meeting date (12 November 2025), in accordance with section 22(2) of the Act.
4. In relation to all submissions which were considered by Council,
 - a) Using its powers as a Planning Authority under section 23 of Act, refers those submissions to an independent Planning Panel appointed by the Minister under Part 8 of the Act.
 - b) Requests that the Minister for Planning appoint an independent Planning Panel under Part 8 of the Act to consider all submissions received in relation to Amendment C235mbek.
5. Endorses the responses to submissions in Attachment 2 to this report to form the basis of Council's submission to the independent Planning Panel.
6. Authorises the Director, Place and Environment to:
 - a) Present submissions to the Planning Panel, adopting a position of advocacy for the Amendment, generally in accordance with this report and Attachment 2.
 - b) Make minor changes to Amendment C235mbek and to give direction on issues that arise during the future panel hearing in response to expert evidence, submissions, and the planning panel.

REPORT

Executive summary

Merri-bek is growing, with its population forecast to increase by approximately 49,000 residents (a 28.5 per cent growth rate) between 2021 and 2036. Recent Victorian Government planning reforms are expected to facilitate further development and further increase population growth across the municipality. This growth will place greater demand on Council's existing public open space network.

Council's *Merri-bek Open Space Strategy* (MOSS) identifies the need for more high-quality, safe, and inclusive public open spaces to meet the needs of the growing community. A key implementation action of MOSS is to update the public open space contribution rate to ensure new development helps fund the creation and upgrades of open spaces across Merri-bek.

Amendment C235mbek (the Amendment), authorised by the Minister for Planning under delegation on 1 August 2025, proposes to introduce an updated city-wide public open space contribution rate of 8.68 per cent.

The updated rate is supported by detailed technical analysis demonstrating its strategic and economic justification. Incorporating the new rate into the Merri-bek Planning Scheme will ensure developers apply the updated rate at subdivision (for developments of more than two dwellings), providing essential funding to expand and improve Merri-bek's open space network.

The Amendment was publicly exhibited from 4 September to 13 October 2025, with seven submissions received. Two of these submissions raised concerns, and five supported the proposal or expressed no concerns.

Key themes in submissions were about housing impacts, changing the levy rate, analysis for the levy rate, planning permits, enabling open space, enabling community benefits, consistency with other councils, strategic alignment, specific sites, and transitional provisions. The themes for each submission are shown in **Attachment 1**.

This report recommends that Council consider all submissions received on Amendment C235mbek, refer them to an Independent Planning Panel appointed by the Minister for Planning, and endorse the proposed responses in Attachment 2 to form the basis of Council's submission.

A successful outcome for Amendment C235mbek will enable Council's ability to meet community expectations for the City's evolving open space network and its infrastructure.

Previous Council Decisions

Build-To-Rent Exemptions from Open Space Contributions – 9 July 2025

That the City of Merri-bek Mayor writes to Premier Jacinta Allan and Minister for Planning Sonya Kilkeny, outlining Council's strong opposition to the current exemption from public open space contributions enjoyed by Built to Rent developments and to request immediate review of the State Planning controls to ensure all developments contribute to open space.

Amendment C235mbek – Revised Public Open Space Contribution Rate for the Planning Scheme – Decision Gateway 1 – 12 March 2025

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 C235mek 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.*

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.*

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1. Policy context

Council Plan

The previous *Council Plan 2021-2025* had a major initiative to implement a new *Merri-bek Open Space Strategy* (MOSS). This included preparing a revised open space levy. This initiative was supported by the *Council Action Plan 2024-2025*, which had Action 223 to start a planning scheme amendment for a new open space levy.

The continuing need for a revised open space levy was taken into the *Council Plan 2025-2029*, which has a major initiative to prioritise sustainable, climate resilient, equitable, finance management to ensure financial sustainability and effective use of resources and robust decision making. This initiative is supported by the *Council Action Plan 2025-2026*, which has Action 76 to update Merri-bek's open space developer contribution model.

The Merri-bek Open Space Strategy (MOSS)

In 2024, the Council endorsed the new MOSS to give direction for developing the local open space network. The MOSS 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.

Amendment C231mbek

Amendment C231mbek, endorsed by Council on 12 February 2025 and approved by the Minister for Planning on 7 August 2025, implements the strategic directions of the MOSS into the Merri-bek Planning Scheme. The Amendment came into effect on 2 October 2025, following publication of the notice of approval in the Victorian Government Gazette.

The Merri-bek Planning Scheme (Scheme)

At Clause 02.04 (Strategic Framework Plans) of the Municipal Planning Strategy (MPS) within the Scheme, an Open Space Framework Plan identifies the hierarchy of open spaces and highlights gaps in network coverage across the municipality.

At the State Planning Policy Framework level, Clause 19.02-6R (Open space – Metropolitan Melbourne) seeks 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.”

Clause 53.01 (Public Open Space Contribution and Subdivision) specifies when a public open space contribution is required and allows the Planning Scheme to set the applicable contribution rate through a local schedule.

Amendment C235mbek proposes only to update the contribution rate specified in the Schedule to Clause 53.01. All other provisions determining when and how contributions are collected remain unchanged and are established by the Victorian Government through the Victoria Planning Provisions (VPPs).

The Subdivision Act 1988

The *Subdivision Act 1988* provides that a council may require a public open space contribution where the need for additional open space can be demonstrated, having regard to the existing supply of open space and the anticipated demand generated by new development.

Public open space contributions can only be collected at the subdivision stage. In most residential redevelopment scenarios, subdivision occurs after the development has been approved for construction.

Application

In Victoria, when a single dwelling is redeveloped into three or more dwellings, a public open space contribution is required. This contribution is determined during the subdivision approval process and is paid before a Statement of Compliance is issued. The amount payable is based on the contribution rate and the land's site value.

Built-to-Rent (BTR) developments, which remain under single ownership, are not subject to public open space contributions. Although BTR developments increase population density and demand for public open space, they do not trigger a subdivision and therefore do not generate an open space contribution. This represents a State Government policy gap and is a separate matter from progress for C235mbek.

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. Existing contribution rates in the Scheme vary by suburb, ranging from 2.5 per cent in Brunswick West to 6.8 per cent in Coburg. These contributions are collected at the time land is subdivided. and are used to fund new and improved public open spaces across the City.

Open space contributions go into a city-wide fund, which supports projects that create new parks, upgrade existing open spaces, and enhance local amenity. These collected contributions enable Council to deliver an expanded and improved open space network for a rapidly growing community.

Examples of projects delivered through this funding are shown in Images 1 to 3.

Image 1. Bulleke-bek Park. West Street, Brunswick



Image 2. Citadel Park. Glenroy



Size: 1,390 sqm. Properties acquired: 1. Components: Playground, picnic facilities and BBQs, open grass area, landscaping, water play, exercise station.

Image 3. Garrong Park. Tinning Street, Brunswick



Size: 2,000 sqm. Properties acquired: 1. Components: Playground, public toilet, picnic facilities and BBQs, open grass area, landscaping.

The existing public open space contribution rates were established more than 10 years ago. During this time, Merri-bek has grown rapidly, with its population forecast to increase by approximately 49,000 residents (a 28.5% growth rate) between 2021 and 2036. Recent State Government planning reforms are expected to facilitate further development and accelerate population growth across the municipality. This growth will place a greater demand on Council's existing public open space network.

In response, Council prepared the Merri-bek Open Space Strategy (MOSS), which was endorsed in April 2024 following extensive community engagement. The MOSS provides the strategic basis and justification for reviewing the Planning Scheme's existing public open space contribution rates. A key implementation action of the MOSS is to update the contribution rate to ensure new development helps fund the creation and improvement of open spaces across Merri-bek.

To support this process, technical experts were engaged to undertake the review and recommend an updated city-wide contribution rate.

It is noted that there is currently no Victorian Government guidance for determining or reviewing public open space contribution rates. Councils are instead guided by the *Subdivision Act 1988*, the Victoria Planning Provisions, and recommendations of Planning Panels when developing or updating contribution rates.

Amendment C235mbek

In March 2025, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit an amendment to update the open space contribution rate.

The Amendment proposes to introduce a new city-wide contribution rate of 8.68%, implementing a key action of the Merri-bek Open Space Strategy. The Strategy and its accompanying technical report (including a project list) provided the evidence base to inform the updated rate at Clause 53.01 of the Merri-bek Planning Scheme.

The new rate supports housing and population growth by ensuring adequate funding for an expanded, high-quality open space network. The importance of strengthening this network has been further reinforced by recent Victorian Government housing reforms.

On 1 August 2025, the Minister for Planning (under delegation) authorised Council to prepare and exhibit Amendment C235mbek. The Amendment was publicly exhibited from 4 September to 13 October 2025, with seven submissions received. Further details of this process are discussed in Section 4 of this report.

3. Issues

Submission themes and recommended responses

Seven submissions were received. Two submissions raised concerns, and five supported the proposal or expressed no concerns. The redacted submissions are available from Council's website at the [C235mbek webpage](#).

Attachment 1 gives a matrix showing the themes for each submission. **Attachment 2** gives a summary of each submission, with recommended responses. The recommended response for each theme is shown in Table 1.

Table 1. Responses to themes in submissions

Theme no. & name	Description of the issue raised	Proposed response
1. Housing impacts	The relationship between the new rate and housing needs.	The proposal will lead to an enhanced public open space network, enabling positive effects on liveability. The Victorian government is delivering a suite of changes to the planning system. The government has said these changes aim to make it faster and easier to build more homes. Refer to a planning panel.
2. Change to the levy rate	The new rate is greater than the existing rates.	Technical exports did an analysis that informed the proposal. The city-wide rate is associated with a city-wide public open space network. The current levy rates will continue until a new rate is in the Planning Scheme. Refer to a planning panel.
3. Analysis for the levy rate	The relationship between the new rate and the proposed open space needs.	Technical exports did a robust analysis to inform the proposed levy rate. The HillPDA P/L report describes the analysis and shows how the levy rate was determined. The Mesh P/L report describes the apportionment method. The results of this method are in the HillPDA P/L report. Refer to a planning panel
4. Planning Permits	Permit application fees should be reduced, and some permits should be fast-tracked.	Permit application and MPL fees are established by Victorian legislation. Many factors, including the quality, quantity, and complexity, inform the timeliness of the Council's planning permit decision-making. In 2024-25, the Council's average time for permit decision-making was better than the metro average. More information about planning permit reporting is on a Victorian Government webpage. Council manages eligible applications through a VicSmart process and has its own fast-track mechanism for some other proposals that do not qualify for VicSmart. Refer to a planning panel.
5. Enabling open space	The new rate needs to enable more and better open space.	The proposal is enabling an appropriate contribution rate and has been prepared to enable the delivery of open space. Refer to a planning panel.
6. Enabling community benefits	The new rate needs to enable benefits for open space users.	The proposal is enabling an appropriate contribution rate and has been prepared to enable various community benefits. Refer to a planning panel.

Theme no. & name	Description of the issue raised	Proposed response
7. Consistency with other councils	The new rate needs to be consistent with other councils who have done similar.	The proposal is for a new contribution rate that is comparable to updated rates established by other councils, including Yarra (8.65 per cent), Glen Eira (8.3 per cent), and Monash (7.61 per cent). Refer to a planning panel.
8. Strategic alignment	The new rate needs to be informed by a current open space strategy.	The proposal is aligned with the Council's new Open Space Strategy, which highlights the need for a new levy rate to help improve the City's public open space network. Refer to a planning panel.
9. Specific Site	The new rate needs to be reasonable for specific sites.	The proposal is for a city-wide rate that applies to all sites being subdivided. This includes large infill/opportunity sites that are being subdivided.
10. Transitional provisions	The need for transition provisions in the planning scheme should be considered.	Any new rate only comes into effect after the proposal has been endorsed by Council and approved by the Victorian Government.

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 Merri-bek Planning Scheme. The existing rates will stay in the Scheme and continue to be used 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 against the requirements of the Charter of Human Rights and Responsibilities. Notice for Amendment C235mbek has been done. 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 C235:

- Is changing the public open space contribution rate Council's ability to service the needs of 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.

- Has enabled public exhibition of the proposal. Submitters can express their concerns at a future independent planning panel.

Notwithstanding the above, the proposed contribution rate is implementing the MOSS. A rigorous engagement process was done to inform the development of the draft Open Space Strategy and draft Action Plan. The community consultation on these draft documents provided further opportunity for people to give feedback before Council endorsed the MOSS in 2024.

Gender impact consideration

The change proposed by the amendment is revising an existing public open space contribution rate in the Planning Scheme and implementing Council's endorsed MOSS. In this way, Amendment C235mbek is improving the Council's ability to fund future open space land acquisitions and infrastructure works for all genders.

4. Community consultation and engagement

Public exhibition of Amendment C235mbek occurred following conditional authorisation from the Minister for Planning, which delegated authority to Council to exhibit the proposed 8.68 per cent public open space contribution rate. The Amendment was publicly exhibited from 4 September to 13 October 2025.

Following Section 19 of the *Planning and Environment Act 1987* (the Act), notice of the amendment was given to the relevant:

- Ministers
- Victorian Government departments
- Public authorities
- Abutting councils.

To comply with other notice requirements in Section 19 of the Act and to reach the wider community and relevant stakeholders, the following was also done.

- Public notice in the Government Gazette.
- Public notice in the Herald Sun and The Age newspapers.
- Public notice on the Council's website as a news item.
- Public notice on the Council's social media platform.
- Direct notice to peak land development industry bodies.
- Direct notice to land surveying firms.
- Direct notice to other land development consultants.
- Direct notice to consultants acting for recent planning permit applicants or involved in pre-application discussions.
- Giving all relevant information on Council's [C235mbek webpage](#). Information was also available from a [Victorian Government webpage](#).

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

6. Officer Declaration of Conflict of Interest

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

7. 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.

8. Implementation

C235mbek Amendment process

Now that C235mbek's public exhibition is complete, Council can now consider the received submissions and request the appointment of a planning panel by the Minister for unresolved submissions.

A Council decision to consider adopting Amendment C235mbek happens after the panel's report has been released and considered. This is known as Gateway 3. Then, only after adopting the final C235mbek proposal can Council pursue the Minister's approval to include a new levy rate in the Planning Scheme.

The Department of Transport and Planning (DTP) oversees the amendment process on behalf of the Minister. This means DTP must also be satisfied if the amendment is to be approved by the Minister in the future.

Given the technical complexity of reviewing and updating the levy rate, it will be important for Council's developer-contribution expert witnesses to participate in the independent planning panel process. Doing this ensures the panel can hear from these experts and their responses to submitter concerns.

The following timeline is anticipated for the ongoing C235mbek process. It is approximate only and subject to scheduling after the panel has been appointed by the Minister:

- Directions Hearing: week starting 26 January 2026
- Panel Hearing: week starting 23 February 2026
- Gateway 3 Council Report: mid 2026.

Attachment/s

- 1** Submission Themes Matrix D25/483511
- 2** Summary of Submissions D25/473843