

## 7.4 AMENDMENT C235MBEK - REVISED PUBLIC OPEN SPACE CONTRIBUTION RATE FOR THE PLANNING SCHEME - CONSIDERING THE INTERIM PANEL REPORT

Director Place and Environment, Pene Winslade

City Design and Economy

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### Officer Recommendation

That Council:

1. Notes the:
  - a) Planning Scheme Amendment C235mbek (amendment) Interim Panel Report for a revised Public Open Space Contribution rate dated 2 April 2026 at Attachment 1.
  - b) updated HillPDA report, the peer review report by Westlink and the projects list document by Veris at Attachments 2, 3 and 4 respectively, prepared in response to the C235mbek Interim Panel Report.
2. c) updated amendment Explanatory Report at Attachment 5, which references the HillPDA, Westlink and Veris documents at Attachments 2, 3 and 4 respectively, to support the amendment's supplementary exhibition.
3. Endorses supplementary exhibition of Amendment C235mbek, including the documents at Attachments 2, 3, 4 and 5, to address the matters identified in the Interim Panel Report.
4. Notes that a further report will be provided to Council following completion of the Amendment C235mbek's supplementary exhibition process addressing:
  - a) The outcomes of the exhibition.
  - b) Any submissions received.
  - c) The proposed position to advance the amendment.
5. Authorises the Director Place and Environment to do all procedural and administrative steps necessary to give effect to this resolution.

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| <b>REPORT</b> |
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### Executive Summary

Merri-bek is experiencing ongoing growth, with further development and population growth expected across the municipality. This will increase demand on Merri-bek's open space network.

Amendment C235mbek (amendment) proposes, supported by detailed technical work, to replace Merri-bek's existing suburb-based public open space contribution rates of 2.5%–6.8% with a city-wide rate of 8.68%. If approved by the State Government, the amendment will enable Council to collect higher contributions from development to fund new and improved open space across the municipality. The proposed rate is estimated to increase the existing annual contribution revenue by approximately \$6 million, from \$9 million to \$15 million per year, subject to future subdivision activity.

Amendment C235mbek was publicly exhibited from 4 September to 13 October 2025. Council received seven submissions. Two raised concerns, and five supported the proposal or raised no concerns. These submissions were referred to an independent Planning Panel.

A Panel Hearing was held on 23 February 2026. The C235mbek Interim Panel Report was issued on 2 April 2026 and is included as **Attachment 1**. The report has been shared with submitters and is available on Council's [website](#) and the State's [C235mbek webpage](#).

The Interim Report recommended further technical work to better support the proposed 8.68% contribution rate, followed by supplementary exhibition before the Panel finalises its recommendations. In response, additional expert work was commissioned and is now complete. This work is included at **Attachments 2, 3, and 4** and confirms the merits of the proposed 8.68% rate.

It is recommended that Council note the work undertaken in response to the Interim Panel Report and the updated amendment documents in **Attachment 5** and endorse their supplementary exhibition. Following the exhibition, Council will receive a further report on the submissions received and the recommended next step, including whether the C235mbek Panel should be reconvened.

## **Previous Council Decisions**

### **Amendment C235mbek – Revised Public Open Space Contribution Rate for the Planning Scheme – Decision Gateway 2 – 12 November 2025**

*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.*

### **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.*

## **1. Policy Context**

### **Council Plan**

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

The need for an updated open space levy continues under the *Council Plan 2025-2029*. This Plan includes a major initiative to support financial sustainability, effective use of resources and sound decision-making. The *Council Action Plan 2025-2026* supports this through Action 76, which is to update Merri-bek’s open space developer contribution model.

### **The Merri-bek Open Space Strategy (MOSS)**

In 2024, Council endorsed the MOSS to guide future improvements to Merri-bek’s open space network. The MOSS was supported by a technical report. The report identifies open space gaps and lists projects needed over the next 20 years to support population and employment growth.

### **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 (Scheme). Amendment C231mbek came into effect on 2 October 2025, following publication of the notice of approval in the Government Gazette. Amendment C231mbek also introduced the MOSS technical report into the Scheme as a background document.

### **The Merri-bek Planning Scheme (Scheme)**

Clause 02.04 of the Municipal Planning Strategy includes an Open Space Framework Plan. This plan shows the open space hierarchy and identifies gaps in open space across Merri-bek.

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 Scheme to set the applicable contribution rate through a local schedule.

Amendment C235mbek (amendment) only changes the contribution rate in the Schedule to Clause 53.01. It does not change when contributions are required or how they are collected. Those rules are set by the State through the Victoria Planning Provisions.

### **Subdivision Act**

The *Subdivision Act 1988* allows councils to require a public open space contribution when there is a need for more open space. This need is based on existing open space supply and the demand expected from 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.

In Victoria, a public open space contribution is required when land is subdivided to create three or more dwellings. The contribution is assessed during the subdivision approval process and 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 developments that stay in single ownership do not pay public open space contributions because they do not involve subdivision. These developments can still increase population density and demand for open space. This is a State Government (State) policy issue and is separate from Amendment C235mbek.

## **2. Background**

Council currently collects open space contributions from new development under Clause 53.01 of the Scheme. Current rates vary by suburb, from 2.5% in Brunswick West to 6.8% in Coburg.

Contributions are collected when land is subdivided and are used to fund new and improved public open spaces.

Open space contributions are paid into a city-wide fund. The fund supports new parks, upgrades to existing open spaces and other works that improve local amenity. These contributions help Council deliver a better open space network for a growing community.

Three examples of public open spaces delivered through this funding are shown below.

**Image 1. Garrong Park.** Tinning Street, Brunswick



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

**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. Bulleke-bek Park. West Street. Brunswick**



Size: 2,500 sqm. Properties acquired: 7. Components: Playground, water play, community garden, public toilet, picnic facilities, open grass area, landscaping.

The current contribution rates were set more than ten years ago. Since then, Merri-bek has grown quickly. Recent State planning reforms are also expected to support more development and faster population growth. This will increase demand on Merri-bek's open space network.

Council responded by preparing the MOSS, which was endorsed in April 2024 after extensive community engagement. The MOSS provides the basis for reviewing the current open space contribution rates. One of its key actions is to update the rate so new development helps fund new and improved open space across Merri-bek.

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

There is no current State guidance on how to set or review public open space contribution rates. Councils therefore rely on the *Subdivision Act 1988*, the Victoria Planning Provisions and planning panel recommendations when preparing 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 a new city-wide contribution rate of 8.68%. This implements a key action of the MOSS. The MOSS, along with its technical report, gives strategic direction for updating the contribution rate in Clause 53.01 of the Scheme.

The proposed rate is estimated to increase annual contribution revenue by approximately \$6 million, from \$9 million to \$15 million per year, subject to future subdivision activity.

The new rate will help fund the open space needed to support housing and population growth. Recent State housing reforms have made this need more important. 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.
- 12 November 2025: Council resolved to request an independent planning panel to consider the submissions. The C235mbek Panel Hearing was held on 23 February 2026. No submitters attended the hearing.
- 2 April 2026: Council received the C235mbek Interim Panel Report. The report was published on the Council and State websites and shared with submitters. The interim report gave recommendations for progressing the amendment.

### 3. Issues

#### Interim Panel Report

The report is at **Attachment 1**. In summary, the report:

- Acknowledged there is no prescribed method to determine the contribution rate.
- Acknowledged Council has developed a method that draws on work done by other councils, the views of other panels, and the opinions of experts.
- Acknowledged Council's method is suitably replicable, underpinned by strategic work and population forecasts, and has demonstrated the principles for need, nexus, and accountability in the method.
- Has two main recommendations to progress the exhibited contribution rate. These are to do:
  - a) Further technical work to justify a Land Cost Contingency (LCC) percentage, used within the method to help calculate the contribution rate.
  - b) Supplementary exhibition for a costed open space projects list, showing how the LCC percentage relates to projects.

Since receiving the interim report, work has been done to consider the Interim Panel Report's recommendations, including:

- **Land Cost Contingency:** Work has been done to respond to the panel's concern. HillPDA has reviewed its report, which recommended a 27% LCC. This contingency relates to Council's ability to purchase land. This report is in **Attachment 2**. In addition, a further expert (Westlink) was engaged to review this recommendation. The expert's review found the 27% LCC is reasonable and should be used for determining the contribution rate. The review report is in **Attachment 3**.
- **Open Space Projects List:** The method used to determine the 8.68% contribution rate was informed by a list of open space projects to implement Council's Strategy. These projects are listed in a MOSS [technical report](#) that is already a background document in the Scheme. During the C235mbek panel hearing, reference was made to a version of the project list which included project costs. During initial exhibition, this document was available upon request from Council's C235mbek webpage. The project list document (Veris), with

information included to explain the list and show the LCC for projects, is in **Attachment 4**.

Arising from the above, and to support transparency during Amendment C235mbek's supplementary exhibition, the amendment's explanatory report has been updated to reference the above and is in **Attachment 5**.

### **Recommended approach**

This report recommends Council note the further technical work done in response to the Amendment C235mbek Interim Panel Report and endorse supplementary exhibition of the amendment. If endorsed by Council, officers will then bring a further report to Council outlining any submissions received through the exhibition process, and recommending a proposed position to advance the amendment to return to the independent Panel.

### **Climate emergency and environmental sustainability implications**

The proposed contribution rate is not expected to have negative climate or environmental impacts. It will help Council fund open space land purchases and improvements. These works can support stormwater management, urban greening and local parks for a growing and changing community.

### **Legal and risk considerations**

The proposed contribution rate will replace existing rates in the Scheme. The existing rates will stay in the Scheme and continue to be used until they are replaced.

The Scheme is a legal document that applies when land is developed or subdivided. Adding the new rate to the Scheme will keep a clear legal requirement for subdividers to make a fair contribution to Merri-bek's public open space network.

### **Human rights consideration**

This report has been assessed against the Charter of Human Rights and Responsibilities. Notice of Amendment C235mbek has been given. The proposed change to the public open space contribution rate will not limit human rights, including the right to privacy and reputation, the right to take part in public life, or property rights, because Amendment C235mbek:

- Updates the public open space contribution rate to help Council meet the needs of landowners, workers and visitors in Merri-bek.
- Is not depriving any legal or proprietary interest in land, or the ability to use and develop land.
- Does not introduce a new Scheme control. It updates an existing requirement for developer contributions when land is subdivided.
- Has been publicly exhibited. Submitters were able to raise concerns through the amendment process.

The proposed contribution rate also helps implement the MOSS. The draft Open Space Strategy and draft Action Plan were informed by a detailed engagement process. This community engagement enabled feedback before Council endorsed the MOSS in 2024.

### **Gender impact consideration**

The amendment updates an existing public open space contribution rate and implements Council's endorsed MOSS. It will improve Council's ability to fund future open space land purchases and works for the whole community.

## 4. Community consultation and engagement

Council publicly exhibited Amendment C235mbek after the Minister for Planning's delegate gave conditional authorisation. This authorisation delegated authority to Council to exhibit the proposed 8.68% public open space contribution rate. The amendment was publicly exhibited from 4 September to 13 October 2025.

In line with section 19 of the *Planning and Environment Act 1987*, notice of the amendment was given to:

- Ministers, State departments, public authorities, and abutting councils.

The following steps were also taken to meet notice requirements and reach the wider community and key stakeholders:

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

Under section 19(1A) of the Act, it was not practical to individually notify all owners and occupiers across the City about the Scheme change being proposed by Amendment C235mbek.

After considering the C235mbek Interim Panel Report, officers propose that the supplementary exhibition will repeat the previous approach for giving notice. The updated C235mbek Explanatory Report, which includes additional content to explain the re-exhibition, is at **Attachment 5**.

## 5. Officer Declaration of Conflict of Interest

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

## 6. Financial and Resources Implications

### Costs

Administrative costs associated with the processing of the amendment are being met within the base budget of the Strategic Planning Unit. Should the amendment be implemented, it would cost no more to administer than the current system.

### Revenue

The Amendment would potentially increase the funds available to invest in Merri-bek open space by up to \$6 million per year.

## 7. Implementation

### C235mbek Amendment process

Subject to adoption by Council, the process moving forward includes:

- Initiating notice for the supplementary exhibition, as described in this report, as soon as possible after the Council meeting.
- Completing the supplementary exhibition to receive submissions.

- Providing a further report to Council on submissions received. The report may recommend reconvening the C235mbek Panel so it can consider Council's extra work and any unresolved submissions.

### **Attachment/s**

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|----------|-----------------------------------------------------------------|------------|
| <b>1</b> | C235mbek Interim Panel Report (2 April 2026)                    | D26/167611 |
| <b>2</b> | Public Open Space Land Acquisition Cost Review (HillPDA 2024)   | D26/363500 |
| <b>3</b> | Public Open Space Land Acquisition Costs Review (Westlink 2026) | D26/372326 |
| <b>4</b> | Open Space Strategy Projects List (Veris 2026)                  | D26/371504 |
| <b>5</b> | C235mbek Explanatory Report (supplementary exhibition)          | D26/338601 |