

1.1 MONASH OPEN SPACE STRATEGY

(AS: File W19-81)

Responsible Acting Director: Natasha Swan

RECOMMENDATION

That Council:

1. *Reviews and considers the issues raised in submissions to Amendment C148.*
2. *Requests the Minister for Planning appoint an independent Planning Panel under Part 8 of the Planning and Environment Act 1987 to consider the submissions to Amendment C148 to the Monash Planning Scheme.*
3. *Refers all submissions on Amendment C148 to the Panel appointed by the Minister for Planning.*
4. *Notifies all submitters of Council's resolution.*

INTRODUCTION

The purpose of this report is to consider submissions to Monash Amendment C148.

Amendment C148 applies to the whole municipality and proposes to update the public open space contribution rates for all subdivisions of 3 lots or more. The Amendment:

- Amends the Schedule to Clause 53.01 to require all subdivisions of 3 lots or more provide a public open space contribution of 10%;
- Introduces a new Local Planning Policy – Clause 22.15: *Public Open Space Contributions Policy* that sets out the guidance for the process on when, where and how a public open space contribution will be required, including whether in the form of cash in lieu, land or a combination of both; and
- Replaces Clause 21.10 Open Space in the Municipal Strategic Statement with a new Clause 21.10.

As there are submissions which are unable to be resolved it is recommended that Council request the Minister for Planning appoint an independent Panel to review the Amendment and consider all submissions received.

BACKGROUND

At the Council Meeting on 30 October 2018 Council adopted the *Monash Open Space Strategy 2018* (MOSS). The MOSS sets out a framework of how to plan for the future needs of the existing and growing community for a Monash open space network of sports and leisure reserves, local parks and trails over the next 10 years. A key outcome of the MOSS was to make changes to the Monash Planning Scheme to update the public open space contribution rates for all subdivisions.

On 30 October 2018 Council resolved to request the Minister for Planning to authorise Council to prepare Amendment C148 to introduce a new public open space contribution into the Monash Planning Scheme.

On 15 May 2019, the Minister for Planning authorised the preparation of the Amendment.

Review of funding options - Public Open Space Contribution rate

Currently the Monash Planning Scheme requires a public open space contribution of between 2% and 5% depending on the number of lots created. It should be noted that unless either of the lots can be further subdivided, State planning provisions do not allow Council to collect public open space contributions for two lot subdivisions. Consequently planning scheme amendments are not able to require this.

Amendment C148 proposes to increase the public open space requirement for subdivisions of 3 lots or more to 10% cash, or 10% land, or a mix of both

Council engaged SGS Planning & Economics to undertake a review of Open Space Contributions. The review concluded that the current open space contribution rates in the Monash Planning Scheme at Clause 53.10 were inequitable and out of date. The most appropriate mechanism for funding open space arising from increased population and development was to increase the open space contribution of the planning scheme to 10%.

The calculation of open space contribution requirements is founded on three key principles:

1. The City of Monash is considered **a single planning unit for open space planning purposes**. Clause 53.01 allows for open space contributions collected to be spent anywhere within the municipality.
2. All residents (existing and future) of the City of Monash are entitled to enjoy access to a reasonable standard of open space at a given horizon year, and planning for future open space acquisitions and upgrades should seek the most equitable distribution of open space services across the City.
3. An inclusionary provisions approach means that all development should equip itself with sufficient open space to meet its needs as indicated by planning standards, and this can be through land or cash in kind contributions.

The methodology for determining the open space contribution rate is outlined below in Table 1. SGS has also recently used a similar methodology for other Councils across Melbourne, including City of Darebin and Wyndham City.

Table 1. Open space contribution rate calculation

| Step | Metric | Value |
|------|---|-----------------|
| 1 | Planned population* (effective build out) | 206,907 people |
| 2 | Total net developable urban area (total area of all developable lots in study area). | 6,494 hectares |
| 3 | Open space required (@30m ² /capita) | 620.72 hectares |
| 4 | Open space requirement from all developable land (value at step 3 divided by value at step 2) | 10 per cent** |

Source: SGS Economics and Planning, 2018, *id. Forecasts for 2028.

A contribution rate of 10 per cent of land value is recommended to deliver a reasonable standard of open space provision across the whole of Monash. This contribution rate reflects the need to ensure that future residents are provided with an appropriate level of open space services. Currently, 10 per cent of net developable land area is used in Precinct Structure Plans as a guideline for open space provision across Melbourne's growth areas.

EXHIBITION OF AMENDMENT C148

Amendment C148 was exhibited between Monday 17 June and Friday 2 August 2019. The consultation included:

- Letter/ email and formal Notice of Amendment sent to interested stakeholders, land owners, property developers and surveyors, community and 'friends of' groups, sports clubs and primary and secondary schools and State government agencies. Approximately 220 letters and emails were sent.
- Public Notice in the Monash Leader and the Victorian Government Gazette.
- Information available on Council's website and updates provided on the Council social media platforms.

In response to the consultation on the Amendment, 44 submissions were received from:

- 6 local residents/community members
- 19 residents near former Talbot Quarry – proforma letter, some with additional comments
- 12 Property developers, surveyors and their representatives
- 2 adjoining Councils
- Urban Development Institute Australia (UDIA)
- Housing Industry Association (HIA)
- Association of Consulting Surveyors
- South East Water
- Environment Protection Authority (EPA)

There were 4 submissions in support, 4 submissions with no objection and 36 submissions that object to Amendment C148.

Few submissions raised any issue or objection to the content in that part of the amendment related to the proposed new Clause 21.10 MSS Open Space and new Clause 22.15 Public Open Space Policy that form part of Amendment C148.

A detailed summary of the issues raised in the submissions and considered response is contained in **Attachment 1**.

ISSUES AND DISCUSSION

Issue 1: Support for the 10% contribution rate

Four submissions supported the amendment and the increased public open space contribution rate, stating:

- Support for the overarching aims of equitable provision of a variety of open space particularly with increased housing densities, and
- The importance of increased provision of open space and associated vegetation for habitat, climate change mitigation.

Issue 2: Objection to the 10% contribution rate

A number of submissions, in particular those from developers, consultants and industry groups, questioned the proposed 10% public open space contribution rate, arguing that this rate was not justified, for a range of reasons. No alternative methodology has been provided by the objectors. Objections to the 10% rate included:

- It should not be applied as a blanket rate;
- It is not justified to apply it to all areas in Monash, including commercial areas;
- The rate is too high and will impact on the success of the Monash National Employment and Innovation Cluster;
- This rate is greater than other municipalities' rates;
- Question the use of 30 square metres of open space per person as a basis for calculating the appropriate rate, and
- The methodology used by SGS does not align with State Government policy and does not take into account existing open space.

Comment

The Monash Open Space Strategy and associated work undertaken by SGS Economics and Planning has concluded that insufficient open space contributions have historically been collected by Monash, resulting in inequitable provision and distribution of open space to meet the needs for future population growth.

Response

The methodology proposed by SGS that supports the change in contribution rate to 10% is considered justified from a planning and equity perspective. In addition, the amendment was authorised by the Minister for Planning to be prepared and exhibited and has been drafted in accordance with State Policy and requirements.

Issue 3: The increased rate will impact future development

A number of submitters raised concerns that the increase in contribution rates will impact on the development potential of their land and may impact on housing affordability in the long run. Key issues were that the increase rate will:

- Reduce housing affordability as costs are passed on to purchasers;
- Increase the cost of development and therefore reduce the quality of buildings;

- Restrict the number of smaller scale subdivisions;
- Have an adverse impact on the local building industry and small businesses;

Comment

The contribution rates in Monash are currently very low, particularly when compared to other municipalities in Metropolitan Melbourne. In fact if no rate had been specified in the Monash Planning Scheme, the public open space contribution would 'default' to the 5% rate in the *Subdivision Act 1988*.

Response

The proposed rate is based on the open space requirements of future residents and is considered appropriate.

Issue 4: No proposals to acquire land – lack of implementation plan

Some submitters state that the proposed rate is unjustified as there are no details of future budgeting or predicted spending on open space included in the calculation of the rate.

Comment

As noted previously in this report the calculation of open space contribution requirements is founded on three key principles including:

- The City of Monash is considered a single planning unit for open space planning purposes. Clause 53.01 allows for open space contributions collected to be spent anywhere within the municipality.
- All residents are entitled to enjoy access to a reasonable standard and amount of open space
- An inclusionary approach requires all developments to contribute towards open space.

The methodology is not based on a list outlining future spending on open space, but rather supports the collection of funds to more broadly support the provision of future open space across the municipality.

Response

The proposed rate is based on the recommended open space requirement per person in an urban area and then applied on the forecast number of future residents and is considered appropriate. The rate proposed through this methodology based on need per person, not worked backwards from proposed project expenditure or future budgeting to justify its inclusion in the Monash Planning Scheme. Although these additional funds and future population growth are considered as part of Councils budgeting process.

Issue 5: Talbot Quarry residents object to Council not acquiring the former quarry for open space

A number of submissions were received from residents in the area around the former Talbot Quarry, many of whom were involved in the now abandoned Amendment C129 proposed rezoning of the site. Their concerns relate to the future development of the

site, the previous amendment process and their desire to see the former quarry as an open space area.

They also raise issues about:

- the future purchase of land for open space in the Clayton and Oakleigh South areas
- concerns that there has been a decrease in open space in these areas; and
- not being clear how and where the money would be spent.

Comment

The residents in the vicinity of the former Talbot Quarry have previously been advised of Council's position on the future of the quarry and planning scheme Amendment C129. When abandoning that amendment in September 2018, the Council resolution included "*That Council resolves not to purchase part or all of the site for Public Open Space.*"

Response

Funds raised from the Public Open Space Contributions will be used to provide additional open space and improve the diversity and functionality of existing open space areas across Monash depending on need and in accordance with the objectives of the Monash Open Space Strategy (MOSS).

Other issues

A number of submissions have misunderstood the methodology that supports Amendment C148 and its application, and are concerned that if they propose open space as part of a development proposal they will also have to make an additional contribution under Clause 53.01. This is not the case.

Some submitters were concerned that there is an expectation that strategic redevelopment sites and urban renewal precincts would be required to provide an open space contribution exceeding 10%. The proposed local policy Clause 22.15 in the Amendment states that for large redevelopment sites including strategic redevelopment sites and those requiring rezoning, the 10% contribution rate is the minimum contribution sought. For these larger, more complex sites the contribution will be determined having regard to a range of issues including the quality and diversity of open space proposed, the density of the proposed development and the anticipated demographics of the additional population.

One submitter requested that the amendment include transitional provisions to exempt subdivision proposals that are associated with an approved development if the planning permit is obtained before Amendment C148 is approved.

Comment

This is not considered appropriate or necessary. People are aware of the amendment, and the whole process from exhibition to final decision by the Minister for Planning will take in excess of a year – which is in effect a transitional period.

Response

No change to the Amendment.

OPTIONS FOR PROCEEDING WITH AMENDMENT C148

Having considered the submissions received regarding Amendment C148, Council has three options to progress the amendment. Council may:

1. Change the amendment in line with the submissions and adopt the amendment;
2. Abandon the amendment, or
3. Request the Minister for Planning to appoint an independent Panel to consider the amendment and submissions received.

As the submissions both support and object to the amendment, it is not possible to incorporate all changes into the amendment, even if this was considered to be appropriate. The amendment seeks to update the public open space contribution rate in the Monash Planning Scheme to a reasonable rate to enable Council to provide for the future open space needs of the community.

It is recommended that Council proceed with the Amendment by seeking that, in accordance with part 8 of the Planning and Environment Act 1987, the Minister for Planning appoint an Independent Planning Panel to review the submissions received to the proposed Amendment.

CONCLUSION

Amendment C148 is one of the key actions of the Monash Open Space Strategy that was adopted by Council in October 2019. The Amendment has been exhibited and 44 submissions were received.

This Amendment is considered appropriate, however Council cannot resolve the issues raised by submitters. It is recommended that in accordance with Part 8 of the Planning and Environment Act 1987, the Minister for Planning is requested to appoint an independent Planning Panel to review submissions received.