

**1.6 MONASH PLANNING SCHEME AMENDMENT C148
OPEN SPACE CONTRIBUTIONS – UPDATE
(SMcN: W19-91)**

Responsible Director: Peter Panagakos

RECOMMENDATION

That Council:

- 1. Notes the interim panel report, the initial findings and interim recommendations.*
- 2. Notes that the Interim panel report is generally supportive of increasing the open space contribution in stating: "The Panel accepts that, with a growing population there may be a need to increase the amount of the open space levy and the MOSS goes some way to justifying that need. However, the amount of the increase in the open space levy and the increase in its scope was not justified by the information presented to the Panel. The Panel does not take the view that the Amendment is fatally flawed. With additional work, analysis and justification, it could be approved."*
- 3. Notes that due to population increases since the preparation of the Monash Open Space Strategy 2018 the per person provision of public open space in Monash has fallen from 27m² per person to 25m² per person and on current population forecasts will fall to 22m² per person by 2031.*
- 4. Notes the draft Monash Open Space Strategy Implementation Plan which provides a Precinct based indicative nomination of land acquisition and infrastructure projects and/or works in open spaces with indicative cost estimates for these items.*
- 5. Notes that the draft Monash Open Space Strategy Implementation Plan has been prepared on the basis of the issues and standards contained in the adopted Monash Open Space Strategy and does not commit Council to the land acquisition or infrastructure spending set out in the Plan. The draft Monash Open Space Strategy Implementation Plan serves to assist in the calculation of the public open space contribution and demonstrate the quantum of need and expenditure required to meet that need.*
- 6. Notes that following completion of amendment and any decision or change to the Public Open Space contribution Council would be in the position to prepare a detailed implementation plan based on the finalised public open contribution rates, long term financial plan and population growth.*
- 7. Notes the rationale for the application of the same open space contribution rate to residential and non-residential subdivisions as set out in this report.*
- 8. Notes the officers will clarify the use and meaning of community open space in the Monash Open Space Strategy and Clause 22.15 as set out in this report.*
- 9. Notes that officers have reviewed the areas designated as public open space gaps in Map 1 in Clause 22.15 and these areas are consistent with the terminology adopted in the Monash Open Space Strategy as set out in this report and that for clarity the map to 22.15 will be replaced with the relevant map from the Monash Open Space Strategy.*
- 10. Notes that officers will advise Panels Victoria that the information requested in the interim Panel Report has been prepared and that officers will request that Panel Victoria re-convene the existing panel to finalise its consideration of the amendment.*

11. *Notes that officers will request that Panels Victoria circulate the additional open space information to the existing submitters.*
12. *Notes that officers will submit that the provision of the requested information does not require re-notification of the amendment and that any re-notification of the amendment be limited to existing submitters to the amendment.*
13. *Notes that in requesting that the existing panel be reconvened officers will request that the panel issues a direction to all parties that any further submissions from parties to the panel hearing be limited to issues related to the additional open space information provided in response to the interim panel report.*
14. *Notes that officers will request that the panel reconvene to hear submissions (if any) on the additional work undertaken for the amendment in any form that the panel determines to be appropriate under the circumstances at the time.*
15. *Acknowledges that officers will advise the panel of further policy work that supports the application of the same open space levy rate to residential and non-residential subdivisions. And that this includes the state policy position toward the provision of public open space and urban amenity improvement in employment areas, in particular in the Monash National Employment Cluster (as identified and supported by the VPA framework plan). Accordingly, Council requests the panels consideration and recommendation on this issue is based on this information and the exhibited amendment.*
16. *Agrees with the response and process that are outlined in this recommendation and report, and that these will form the basis of what officers will request that the panel consider on all other matters in its deliberations in forming its view on the proposed amendment and handing down its final panel report.*
17. *Notes that Council resolved in September 2019 to refer the amendment to a panel for review and consideration of submissions and the panel in issuing an interim report has in effect paused the hearing to allow Council to respond to matters raised during the panel hearing and that consequently the panel is yet complete its review and final recommendation on the amendment.*
18. *Notes that upon the completion of the panel hearing and submission to Council the panel report Council will appropriately have the opportunity to consider its final position on the amendment with the assistance of the final panel report and recommendations.*

INTRODUCTION

The purpose of this report is to update Council on the progress of the yet to be concluded panel process and recent discussions with the Chief Panel Member, Panels Victoria on the interim Panel report for Monash Planning Scheme Amendment C148 – Open Space Contributions.

The report provides a summary of the interim panel report, its initial findings and recommendations for further work to be undertaken on matters requested by the panel, and to advise on the proposed response which is generally consistent with Council's resolution on the strategy but updated and modified to respond to the panel and their request for additional information in the interim Panel Report.

BACKGROUND

Following on from the adoption of the Monash Open Space Strategy Council at its meeting on 30 October 2018 and the subsequent adoption of the draft amendment documentation at its meeting of 24 September 2019, commenced exhibition of Monash Planning Scheme Amendment C148. The amendment proposes to implement the Monash Open Space Strategy by introducing a new Local Planning Policy and increasing the public open space contribution to 10% for all subdivisions of 3 lots or more.

A panel hearing to consider the Amendment and submissions was held in February 2020.

In April 2020, Council received an “interim” panel report on Amendment C148.

The interim report made a number of initial findings on issues raised in submissions and resolved a panel position some of these issues, including:

- Council's expenditure on open space is not a relevant consideration for the Panel.
- Changes proposed by the owners of the PMP site to the Schedule to Clause 53.01 to exempt open space required by Amendment C156 are not appropriate.
- Council can amend the contribution rate in the Schedule to Clause 53.01.
- The treatment of the whole municipality as a single planning unit for the purpose of collecting and expending open space contributions is appropriate.
- An inclusionary requirements approach for open space contributions is reasonable.
- Applying the same public open space contribution rate to employment land (as residential land) is requires further justification.

Panels interim recommendation - Additional information

The Panel recommended Council should review the Amendment documents and undertake the following additional work:

- Develop an implementation plan either as part of the Monash Open Space Strategy or as a separate document, which nominates precincts in which land acquisition will be sought and projects and works in open spaces with indicative cost estimates for these items.

- Use the implementation plan as the basis for the calculation of an open space contribution rate in place of the 30 square metre macro-provisioning standard.
- Develop a detailed justification for the application of the same open space levy rate to residential and non-residential subdivisions.
- Clarify the use and meaning of community open space in the Monash Open Space Strategy and Clause 22.15.
- Review the areas designated as public open space gaps in Map 1 in Clause 22.15.
- Once this work is complete the Amendment should be re-exhibited.
- The Panel will then reconvene to consider any submissions.

DISCUSSION

Since the interim panel report, officers have been preparing the information requested by the Panel, particularly the information on the implementation plan costings. It should be noted that these are indicative costings only based on average land values and general open space infrastructure rates.

Given the unusual nature of an ‘interim’ panel report and some of the issues raised by the Panel, officers met with the Chair of Planning Panels to discuss the interim report and a way to progress the amendment.

The discussions were positive in identifying a consensus that if the work requested by the Panel was provided, then the panel process could recommence with the original panel members.

It should be noted that the additional work that the Panel has requested has been requested to support the amendment in its current, exhibited form and does not “transform” the amendment. On this basis, readvertising of the amendment is not considered to be required.

The further information requested by the Panel will be circulated to all existing submitters by Panels Victoria providing the opportunity for further submissions on the proposed open space implementation plan and other information requested by the Panel.

Overall the panel also stated *“The Panel accepts that, with a growing population there may be a need to increase the amount of the open space levy and the MOSS goes some way to justifying that need. However, the amount of the increase in the open space levy and the increase in its scope was not justified by the information presented to the Panel. The Panel does not take the view that the Amendment is fatally flawed. With additional work, analysis and justification, it could be approved”*

Additional information

Draft Monash Open Space Strategy Implementation Plan

Officers have prepared a draft Monash Open Space Strategy Implementation Plan (draft Plan) that identifies potential land acquisition and infrastructure improvements on a precinct by precinct basis along with indicative costings. This program has been developed in accordance with the Monash Open Space Strategy and identified issues in each precinct.

The draft plan also provides the basis for attributing costs to new development and the subsequent proposed open space contribution. The draft plan is provided at Attachment 1.

It should be noted that the draft Plan does not commit Council to the land acquisition or infrastructure spending set out in the draft Plan.

Open space standard – 30m² per person

Despite the 30m² per person open space provision rate being consistent with a range of national and international standards, the Panel did not support the use of the 30m² standard as a basis for the calculation of the open space contribution.

The Panel recommended that, should Council wish to proceed with the 10% contribution rate, additional information on open space improvements and land acquisitions be undertaken to support the proposed 10% open space contribution.

Same contribution rate for residential and non-residential land uses

The Monash Open Space Strategy and following on the open space contributions strategy adopted an inclusionary principle – in that public open space to all for us by all. On that basis contribution towards open space should be collected equally from all eligible development.

Whilst traditionally open space provision in employment areas has been limited and expectation for the provision of open space facilities low, this is shifting. As employment areas of Monash transition to higher employment density, knowledge and specialist industries there is an increasing demand and expectation for the provision of open space resources in employment areas. This increased demand is particularly apparent and relevant in the Monash National Employment Cluster where business consistently rate improving urban amenity and open space facilities as a high priority for improving the Cluster.

The draft Monash National Employment Cluster Framework Plan anticipates the growth of more than 80,000 jobs in the Cluster. To assist in facilitating this growth the draft Plan lists 5 Strategic Outcomes – Strategic Outcome 4 - Develop public open space and community infrastructure. Under this outcome is *Action 4.3 Establish public open space contribution rates that will ensure open space improvements, support anticipated change in employment, resident and visitor population needs and mitigate the urban heat island effect.*

Whilst land values are traditionally lower in employment areas the open space typologies provided in employment areas particularly the infrastructure required in these areas, is a higher proportion of the development costs relative to land value. Additionally the amenity expectations and intensity of the use of the space mean that open space in employment areas are generally more urbanised, infrastructure intensive and expensive to develop on an m2 basis that similar scale open space facilities in residential areas.

On this basis is it considered appropriate to maintain the inclusionary principle of the same rate for residential and employment land.

Consistency of the term “Community open space” in the Monash Open Space Strategy and Clause 22.15.

Clause 22.15 does not reference “community open space”. It is understood that this recommendation is related to the consistency of the Map 1 in Clause 22.15 and Map 2 in the Monash Open Space Strategy. This differences in the maps will be addressed by the replacement of the existing map in Clause 22.15 with the more nuanced and detailed Map 2 from the Monash Open Space Strategy.

Review the areas designated as public open space gaps in Map 1 in Clause 22.15.

Officers have reviewed the Map 1 to Clause 22.15 - this map is a consolidation of the separate categories shown gap area map in the Monash Open Space Strategy. As part of the consolidation the map removed the different open space gap categories contained in the Open Space Strategy. It is proposed to replace the Map 1 in Clause 22.15 with the map from the Monash Open Space Strategy for consistency and to show the differences in categories and gaps.

This is considered a minor issue that would simplify the documentation. In making this recommendation the Panel stated: *“The Panel does not consider*

this a significant issue to the Amendment but recommends that mapping in the MOSS be amended where properties are proximate to public open space in neighbouring municipalities and regional open space, against the 400 metre walkable catchment standard. This should provide more accurate guidance for the allocation of resources by Council to increase public open space in 'shortfall' areas."

Next steps

On the basis of the discussions with the Chief Panel Member, officers propose to:

- Request that Panel Victoria re-convene the existing panel – advising that we have undertaken the additional open space indicative costing work requested in the interim panel report (noted above in the background section of this report);
- Request that Panels Victoria circulate the additional open space indicative costings to the existing submitters
- Request that the panel directs that any further submissions from parties be limited to issues related to the additional open space costings information.
- Request that any re-notification of the amendment be limited to existing submitters to the amendment.
- Request that the panel reconvene to hear submissions (if any) on the additional work undertaken for costings in any form that the panel determines to be appropriate under the circumstances at the time.

In addition, officers will include some commentary in the revised policy about the State Governments recently released Metropolitan Open Space Strategy.

Following the completion of the panel process the panel prepare its final report for submission to Council. Upon receipt of the final report Council will be in position to consider the amendment and a way forward on the amendment at a future Council meeting.

POLICY IMPLICATIONS

Not applicable.

GENDER IMPACT ASSESSMENT

A gender impact assessment has not been undertaken for this amendment as it relates to a statutory process under the Planning and Environment Act 1987.

HUMAN RIGHTS CONSIDERATIONS

The Project does not impact any rights listed in the Charter of Human Rights and Responsibilities Act 2006.

CONSULTATION

All existing submitters will be provided with copies of the follow up work prepared in response to the interim panel report. They will all be afforded the opportunity to provide a response to the positions set out in this report as part of the reconvened panel hearing.

As the amendment has progressed to the panel stage and is not being changed significantly there is no requirement for consultation beyond the existing submitters to the amendment.

FINANCIAL IMPLICATIONS

The cost of progressing this planning scheme amendment is included in the Strategic Planning operating budget.

As noted when adopting the Monash Open Space Strategy and exhibiting the Amendment increasing the open space contributions proposed in the Amendment have been arrived at to ensure that new development makes an appropriate contribution to fulfilling the Monash Open Space Strategy.

CONCLUSION

The discussion with the Chair of Planning Panels set out a clear path for the resolution of Amendment C148 to the Monash Planning Scheme in the context of the interim panel report.

Officers have prepared drafts of the information requested by the Panel to support the proposed public open space contribution rate of 10%. On this basis it is appropriate to request that the Panel reconvene to consider this information, any subsequent submissions and prepare a final panel report on the Amendment.

Upon receipt of the final panel report on Amendment C148 a further report will be prepared to allow Council to consider the Panels recommendations and the Amendment C148.