

REVIEW OF PROPOSED PUBLIC OPEN SPACE CONTRIBUTIONS RATES

LATROBE CITY COUNCIL

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EXECUTIVE SUMMARY

Urban Enterprise was engaged by Latrobe City Council (Council) to review the proposed public open space contributions policy and rates which form part of the Latrobe City Public Open Space Strategy 2013 (the Strategy).

The broad aim of the project is to review the proposed approach to public open space contributions and supporting policy in the context of relevant legislation, policy and decisions by VCAT and Planning Panels and make recommendations regarding the most appropriate approach to contributions to implement the Strategy.

STATUTORY FRAMEWORK

Open space contributions can be collected through the Subdivision Act, the Planning Scheme (Clause 52.01), a Development Contributions Plan (DCP) or by voluntary agreement.

All land in the City of Latrobe except the Lake Narracan PSP area is not currently subject to a public open space contribution under Clause 52.01 of the Latrobe Planning Scheme, and therefore contributions can only be collected through the Subdivision Act, a DCP or by agreement.

There is a clear absence of guidance or practice notes specifically regarding the introduction of a schedule to Clause 52.01 in the Victorian Planning Scheme. This has led to lengthy panel hearings and debates regarding the appropriateness of proposed rates. In general:

- The 5% rate set as the upper limit of contributions collected under the Subdivision Act is often used as a reference point for introducing a new rate in Clause 52.01, with rates exceeding 5% often opposed by submitters;
- Panels in recent examples in established metropolitan areas have supported the inclusion of higher rates (between 5% and 9%) for areas that are expected to experience significant population growth; and
- Most methods for calculating proposed open space calculations rates include an analysis of expected revenue against the expected costs of acquiring and improving open space to meet future open space needs.

LATROBE CITY PUBLIC OPEN SPACE STRATEGY

The Strategy was prepared by Insight Leisure Planning and adopted by Council in March 2013. The Strategy found that there is a significant quantity of open space available and recommended that Council's focus should be on improving the quality and appeal of existing open space reserves as opposed to new open space acquisition to service existing population.

The Strategy notes that "failure by Councils to include specified amounts of open space contributions in Clause 52.01 results in considerable uncertainty in requests for review that can end up at the Victorian Civil and Administrative Tribunal" and proposed the following approach to contributions:

- In residential areas, new subdivision should be levied at 10% of NDA as total public open space, of which a minimum of 5% must be unencumbered; and
- In major commercial and industrial employment areas, approximately 2% of NDA area must be provided as a public open space contribution (cash or land).

Although the Strategy references previous VCAT cases and metropolitan open space provision standards, there is relatively limited analysis underpinning the recommendation to seek a 10% public open space contribution through the Planning Scheme.

Based on recent subdivision activity and current land values, it is estimated that the proposed open space contributions rates would generate POS cash revenue from urban residential, commercial and industrial subdivisions of between \$237,800 and \$381,800 per annum.

The additional population projected by Victoria in Future between 2016 and 2031 (8,560 new residents) is expected to account for 10% of the total 2031 Latrobe City population.

OPEN SPACE BENCHMARKS AND OPTIONS FOR CONTRIBUTIONS

A comparison against other municipalities found that the open space provision in Latrobe City townships of 17.6 ha per 1,000 residents is somewhat higher than typical metropolitan provision ratios, but falls within the range of regional centre case studies analysed, significantly lower than Greater Geelong but somewhat higher than Ballarat and Greater Bendigo. Open space contributions rates and mechanisms vary greatly across Victoria. Rates typically range from 5% to 10% in regional areas, and are generally higher in residential growth areas (usually 8% to 10%).

Given that the Strategy found that there is no shortage of open space *quantity* in established areas, it is considered appropriate in principle for a lower rate to be applied to these areas to reflect the likelihood of lower costs. In new growth areas, both land acquisition for new open spaces *and* improvements to those open spaces are required, meaning that it is appropriate for the growth area rate to be somewhat higher.

It is considered appropriate that a lower rate is applied to employment areas, such as subdivisions within Latrobe's industrial and commercial zones, to reflect the lower demand for open space generated by these land uses.

In order to ensure an equitable and consistent approach, open space contributions rates should relate to unencumbered land only, with supporting policy drafted relating to circumstances where Council will accept encumbered land for open space in addition to unencumbered land.

OPEN SPACE EXPENDITURE AND DELIVERY

Council proposes to expend an average of \$844,800 per annum over the next 5 years on passive open space improvements to implement the Strategy, in addition to \$1.9m expenditure per annum on active open space improvements, resulting in a total ongoing open space expenditure of \$2.75m per annum (note: this relates to the average Council expenditure from 2010 to 2016 and excludes external funding such as grants).

Council's approach to public open space in growth areas typically requires developers to provide land and fund all public open space within the development area. The percentage of land dedicated to open space varies on a case by case basis, with recent examples ranging from 8% (Traralgon North) and 10% (Lake Narracan).

Council does not appear to have a policy that guides the allocation of capital expenditure on public open space, resulting in the vast majority of open space expenditure being sourced from general rates and limited use of cash contributions collected. Improvements to administration processes and records are required to ensure transparency.

DISCUSSION

The use of Clause 52.01 of the planning scheme provides Council with the opportunity to introduce a consistent and equitable mechanism through which proponents of new development contribute to open space. However, it is uncommon and difficult for encumbered land to be included in an open space requirement. Not all land proposed to be subdivided will contain encumbered areas, especially smaller subdivisions in established areas. This could lead to significant inequities if a schedule to Clause 52.01 is introduced as drafted in the Strategy with encumbered land included as part of the open space requirement.

Residential subdivisions place different demands on the open space network depending on their setting:

- Subdivisions in established areas will generally be able to benefit from the significant existing supply of local open space across the City, but will generate additional demand for capital improvements and capacity increases to the network; and

- In new growth areas, there is a clear need and policy support for new land to be provided for open space to ensure that residents have access to passive and active open space reserves within walking distance to dwellings.

Therefore, a different approach is required to setting the rate and open space policy for each development setting.

In order to reflect lower residential densities in Latrobe City relative to metropolitan Melbourne and to allow for a suitable quantum of both passive and active open space land to be provided in proximity to new houses, it is considered that an appropriate open space contributions rate for greenfield areas in Latrobe is 8% unencumbered, including both passive and active open space.

The open space contributions rate for infill development should have regard to the balance of demand for open space between existing residents in established areas and new residents that will be accommodated by subdivision in these areas. Projected population growth over the next 15 years will account for 10% of the total population in 2031 – therefore, in the absence of further detail in the open space strategy, it would be appropriate for new development to fund in the order of 10% of Council’s open space costs (through public open space contributions). Based on estimates of likely revenue, a 5% infill residential open space contributions rate (unencumbered) would more equitably reflect the balance of expenditure to meet demand from existing and new residents than the 10% rate proposed in the Strategy.

RECOMMENDATIONS

1. Clause 52.01 is an appropriate mechanism for collecting funds to contribute to the implementation of the Open Space Strategy, and will increase transparency, certainty, equity and ease of administration for all parties;
2. Council should apply differential rates for established and growth area subdivisions to reflect the different levels of demand generated by development in each setting, primarily the need for new open space land in greenfield areas to maintain local accessibility;
3. It is not necessary or equitable in the case of Latrobe City to set a different rate for each town. Each town has a reasonable level of public open space provision per capita based on current population levels, and it is more equitable for a flat rate to be applied across all towns. However, Council should establish an open space expenditure policy that directs open space contributions towards those areas that are experiencing the most subdivision activity;
4. The following public open space contributions rates are recommended:
 - Residential (infill): 5% unencumbered;
 - Residential (greenfield): 8% unencumbered;
 - Commercial and industrial: 2% unencumbered; and
 - Mixed Use: 5% unencumbered.
5. Encumbered land should be removed from the proposed contributions rate, but retained as a potential means by which further usable public open space can be provided, particularly in greenfield areas.
6. For subdivisions in greenfield areas, Council should continue to seek full developer provision of open space whereby developers are required to provide a suitable quantum of open space land within the development area including passive and active open spaces, and fund the improvements through an equalisation scheme or Development / Infrastructure Contributions Plan.
7. For Infill residential, commercial and industrial subdivisions, Council should collect monetary payments in lieu of land contributions, except in locations where key future open space areas / linkages are identified. These areas should be broadly indicated on a plan included in the open space contributions policy.
8. Improvements to administration processes and records are required to ensure transparency. Policy should be introduced to guide open space expenditure, and centralised records are needed to account for open space contributions received (cash and land), expenditure on passive and active open spaces (including any land acquisition) and sources of funds.

1. PROJECT BACKGROUND

1.1. ENGAGEMENT

Urban Enterprise was engaged by Latrobe City Council (Council) to review the proposed public open space contributions policy and rates which form part of the Latrobe City Public Open Space Strategy 2013 (the Strategy).

1.2. PROJECT AIMS AND OBJECTIVES

The broad aim of the project is to review the proposed approach to public open space contributions and supporting policy in the context of relevant legislation, policy and decisions by VCAT and Planning Panels.

The project identifies and addresses information gaps and areas of inconsistency prior to the implementation of the Strategy through the Planning Scheme Amendment, and proposes appropriate contributions rates.

1.3. DEFINITIONS

The following definitions are used throughout this report.

Public Open Space: Land that is set aside for public recreation or public resort; or as parklands; or for similar purposes. Incorporates active and passive open space.

Active Open Space: Land set aside for the specific purpose of formal outdoor sports by the community.

Passive Open Space: Open space that is set aside for parks, gardens, linear corridors, conservation bushlands, nature reserves, public squares and community gardens that are made available for passive recreation, play and unstructured physical activity including walking, cycling, hiking, revitalisation, contemplation and enjoying nature.

Encumbered land: Land that is constrained for development purposes. Includes easements for power/transmission lines, sewers, gas, waterways/drainage; retarding basins/wetlands; landfill; conservation and heritage areas. This land may be used for a range of activities (e.g. walking trails, sports fields). This is not provided as a credit against public open space requirements. However, regard is taken to the availability of encumbered land when determining the open space requirement.

Greenfield development: Subdivision / development which creates 15 or more lots at or near the urban fringe of a town.

Infill development: Subdivision / development which creates less than 15 lots/dwellings, and is usually located in an established urban area.

2. STATUTORY FRAMEWORK

2.1. INTRODUCTION

This section provides an overview of the current statutory framework and policy provisions that are relevant to determining open space contributions in Victoria, including relevant clauses of the State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF), the provisions of the Subdivision Act 1988 and the principles that guide the levying of development contributions.

2.2. PLANNING SCHEME

2.2.1. STATE PLANNING POLICY FRAMEWORK

The SPPF refers to open space planning in Clause 11.03 Open Space. The Clause has the following objective:

“To assist in the creation of a diverse and integrated network of public open space commensurate with the needs of the community”.

The reference to creating open space “commensurate with the needs of the community” is considered to be a guiding principle when assessing public open space contributions proposals.

Clause 11.03 includes the following strategies (not exhaustive), selected due to their relevance to public open space contributions:

- “Ensure that land is set aside and developed in residential areas for local recreational use and to create pedestrian and bicycle links to commercial and community facilities;
- Improve the quality and distribution of open space and ensure long-term protection;
- Ensure land identified as critical to the completion of open space links is transferred for open space purposes;
- Protect the overall network of open space by ensuring that where there is a change in land use or in the nature of occupation resulting in a reduction of open space, the overall network of open space is protected by the addition of replacement parkland of equal or greater size and quality; and
- Provide new parkland in growth areas and in areas that have an undersupply of parkland.”

2.2.2. LOCAL PLANNING POLICY FRAMEWORK

The Local Planning Policy Framework of the Latrobe Planning Scheme provides the following references to open space:

- Clause 21.04-5 (Urban Design Overview) states that the community is increasingly demanding high quality architectural and urban design outcomes for built form and open spaces;
- Clause 21.05-2 (Main Towns Overview) aims to encourage well designed, infill residential development throughout the existing urban area, especially in locations close to activity centres, areas of open space and areas with good public transport accessibility; and aims to ensure various parcels of land are transferred to complete certain links;
- Clause 21.06-2 aims to maintain and enhance existing public open space reserves and implement the recommendations of the Latrobe City Public Open Space Plan;
- Clause 21.06-6 (Implementation) proposes to apply the Public Park and Recreation Zone or Public Conservation and Recreation Zone to public open space areas and conservation areas, as appropriate;

- Clause 21.08-3 (Healthy Urban Design Overview and Good Practice Guideline) identifies that meeting the Healthy by Design Objectives is an initiative of Council which aims to accommodate the community, pedestrians and cyclists as a first priority in street, building and open space design:
 - a. To provide for walkable neighbourhoods, ensuring public transport, shops, public open space and mixed-use community centres are close to all dwellings; and
 - b. To co-locate neighbourhood centres with complementary uses, such as public open space or schools.

2.2.3. PARTICULAR PROVISIONS

CLAUSE 52.01

Clause 52.01 allows a Council to impose a public open space contribution as follows:

“A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988.”

The trigger for a public open space contribution under Clause 52.01 is subdivision, not development, and two-lot subdivisions are exempt from public open space contributions under Clause 52.01 if Council considers that it is unlikely that the lots will be further subdivided.

In the Latrobe Planning Scheme, a schedule to Clause 52.01 currently imposes a public open space contribution of 5.29% for land within the Lake Narracan PSP area. **All other land in the City of Latrobe is not currently subject to a public open space contribution under the planning scheme, and therefore contributions can only be collected through the Subdivision Act or by agreement.**

CLAUSE 56 – RESIDENTIAL SUBDIVISION

Clause 56.05 of the Planning Scheme outlines the public open space provision objectives for residential subdivisions which apply across the State. The objectives are:

- “To provide a network of quality, well-distributed, multi-functional and cost-effective public open space that includes local parks, active open space, linear parks and trails, and links to regional open space;
- To provide a network of public open space that caters for a broad range of users;
- To encourage healthy and active communities;
- To provide adequate unencumbered land for public open space and integrate any encumbered land with the open space network; and
- To ensure land provided for public open space can be managed in an environmentally sustainable way and contributes to the development of sustainable neighbourhoods.” (Clause 56.05).

These objectives are supported by Standard C13, which states that “the provision of public open space **should** [among other standards] provide a network of well-distributed neighbourhood public open space that includes:

- Local parks (generally 1 hectare in area) within 400m safe walking distance of at least 95% of all dwellings;
- Additional small local parks or public squares in activity centres and higher density residential areas;
- Active open space of at least 8 hectares within 1 kilometre of 95% of all dwellings; and
- Linear parks and trails along waterways, vegetation corridors and road reserves within 1 kilometre of 95% of all dwellings.

The objectives and standards of Clause 56.05 reflect the Standards included in the **Precinct Structure Planning Guidelines**, which were prepared by the (former) Growth Areas Authority in 2009 and are often referenced in terms of open space quantity and quality for new residential areas.

The Precinct Structure Planning Guidelines also include Standards (S2 and S3) that are not translated into the planning scheme but require Precinct Structure Plans to allow for “approximately 10% of the net developable area as total public open space, of which 6% is active open space”, and “approximately 2% of net developable area as public open space, usually with a passive recreation function” in major employment areas.

2.3. SUBDIVISION ACT

Section 18 of the Subdivision Act 1988 (**Subdivision Act**) also provides for the collection of public open space contributions by Councils.

The provisions of Clause 52.01 under the Planning and Environment Act 1987 and Section 18 of the Subdivision Act 1988 are linked, in that the Subdivision Act generally acts as a ‘default’ mechanism to collect public open space contributions if no contributions amount is specified in the relevant Schedule to Clause 52.01. Recent amendments to the Planning and Environment Act 1987, known as the Planning and Environment Amendment (General) Act, clarify that Section 18 of the Subdivision Act does not apply where there is a contribution amount specified in the Planning Scheme (Clause 52.01).

The Subdivision Act states that *“if a requirement for public open space is not specified in the planning scheme, a Council, acting as a responsible authority or a referral authority under the Planning and Environment Act 1987 may require the applicant who proposes to create any additional separately disposable parcel of land by a plan of subdivision to:*

- *Set aside on the plan, for public open space, in a location satisfactory to the Council, a percentage of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent; or*
- *Pay or agree to pay to the Council a percentage of the site value of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent; or*
- *Do a combination of (a) and (b) so that the total of the percentages required under (a) and (b) does not exceed 5 per cent of the site value of all the land in the subdivision.” (Section 18)*

Part 1A of Section 18 of the Act states that *“the Council may only make a public open space requirement if it considers that, as a result of the subdivision, there will be a need for more open space, having regard to:*

- *The existing and proposed use or development of the land;*
- *Any likelihood that existing open space will be more intensively used after than before the subdivision;*
- *Any existing or likely population density in the area of the subdivision and the effect of the subdivision on this;*
- *Whether there are existing places of public resort or recreation in the neighbourhood of the subdivision, and the adequacy of these;*
- *How much of the land in the subdivision is likely to be used for places of resort and recreation for lot owners;*
- *Any policies of the Council concerning the provision of places of public resort and recreation.”*

As quoted above, the maximum allowable public open space contributions under the Subdivision Act is set at 5% of land to be subdivided, or 5% of the value of the land to be subdivided (or a combination of both).

The Subdivision Act requires Councils to demonstrate the **need** for more open space on a case by case basis, and acknowledges that the level of need may vary depending on various factors, including the proposed land use and the location and adequacy of existing places of public resort or recreation.

2.4. DEVELOPMENT CONTRIBUTIONS

In addition to Clause 52.01 and the Subdivision Act, public open space can also be acquired as part of a Development Contributions Plan under the Planning and Environment Act 1987.

A Ministerial Direction titled "Development Contributions Plans" defines Development Infrastructure which can be the subject of a Development Infrastructure Levy under a Development Contributions Plan (DCP). With respect to public open space, the definition includes:

- *"Acquisition of land for public open space; and*
- *Basic improvements to public open space, including earthworks, landscaping, fencing, seating and playground equipment."*

In areas subject to a DCP, public open space is often collected through a combination of the relevant Planning Scheme (Clause 52.01 is typically used to acquire land for *passive* open space) and the DCP (typically used to acquire land for *active* open space).

An Administrative Appeals Tribunal decision known as the Eddie Barron decision¹ is considered to be the landmark decision relating to the principles which underpin development contributions in Victoria. The Tribunal identified the following four principles that were to be met in order for a levy to be applied as a permit condition:

- Need - The need created by the development and the measures to satisfy the need must be adequately identified;
- Equity - The payment or levy must be a fair and reasonable apportionment of the cost of implementing the need satisfaction measures;
- Accountability - The responsible authority should implement procedures to ensure that the money collected cannot be used for any purpose other than that for which it was levied and which clearly show how, when and where the money collected is spent;
- Nexus - There must be a reasonable nexus between the development and the need satisfaction measures.

The Standard Development Contributions Advisory Committee (SDCAC), which was appointed by the Minister for Planning to prepare a review of the current development contributions framework in Victoria, notes that the Eddie Barron decision "*was a landmark case for the understanding of the legal principles which underpin development contributions within the framework of the Victorian Planning System*" and "*as a 'first principles' authority on the implementation of development contributions in Victoria, this decision is an important guide for the Committee*".²

2.5. GUIDANCE ON INTRODUCING A NEW SCHEDULE TO CLAUSE 52.01

There is a clear absence of guidance or practice notes specifically regarding the introduction of a schedule to Clause 52.01 in the Victorian Planning Scheme. The only Practice Note of relevance is Planning Practice Note 70 (PPN70): Open Space Strategies. Although PPN 70 does not include any specific guidance on the introduction of a schedule to Clause 52.01, it does include the following general comments relevant to open space contributions:

- *"As part of the [open space] strategy development process, gaps in the open space network will be identified, along with an understanding of the type of open space required. There is an opportunity to rectify gaps through public open space contributions but it is important to:*
 - *Specify the locations where a land contribution is sought (this could be shown as a map in the strategy); and*
 - *Provide criteria that define the types of land sought as land contributions.*
- *An OSS must have an implementation plan. This may form part of the main strategy or be a separate document that provides more detail on each of the implementation tasks, responsibilities, cost estimates and priorities;*
- *An OSS should consider which open space contribution tool is best for its municipality" [including the Subdivision Act, Clause 52.01, Development Contributions and negotiated agreements].*

¹Eddie Barron Constructions Pty Ltd v Shire of Pakenham & Anor (1990)

² Report 1: Setting the Framework, Standard Development Contributions Advisory Committee (2012) Page 15,

Given the lack of clear direction for the introduction of a new schedule to Clause 52.01, it is important to have regard to the test of need which is required by the Subdivision Act, as well as the findings of recent Planning Panel hearings.

It is considered that there is a close relationship between open space contributions and development contributions, and that the principles underpinning development contributions in Victoria (those of need, nexus, equity and accountability) provide a basis for determining public open space contributions. This approach is supported by previous Planning Panel reports, including those for Amendment C20 to the Glen Eira Planning Scheme, and Amendments C30 and C37 to the Manningham Planning Scheme.

The Panel for Amendment C30 and C37 to the Manningham Planning Scheme noted that:

“The question of which contribution rate is appropriate is a vexed one. Unlike a Development Contributions Plan where a comprehensive planning framework and method has evolved over time, there is no clear guidance for calculating the rate for the schedule to Clause 52.01.”
(p.67)

The Panel for Glen Eira Amendment C20 found that the following principles should apply to determining open space contributions:

- *“Establish a framework for increasing and/or improving open space to satisfy the community’s expectations;*
- *Develop a formula for improving/increasing open space based on increased densities or changing demography.*
- *Understand the open space requirements of new dwellings in a more comprehensive and rigorous manner. For example, how much more demand for open space is likely to be generated by certain types of developments? Will a three-unit development on a 1000 square metre site place different demands on municipal open space than a ten-unit multi-storey apartment block? If so, what are these demands?*
- *Develop an open space contribution based on the need to bring existing open space to a reasonable level based on an anticipated population density on a precinct by precinct basis.”* (p.38)

Other recent metropolitan Planning Panel hearings have considered the merits of introducing new open space contributions rates to the Stonnington and Melbourne Planning Schemes.

In the City of Melbourne, Council proposed to introduce new contributions rates through Amendment C209, including 8% in Urban Renewal Areas and 5% in established areas. The Panel agreed with submitters to the hearing that the Eddie Baron principles of need, nexus and equity should apply, and that population growth was driving the need for more open space in the municipality. The Panel supported the introduction of a 5% flat rate to parts of the City that were expected to experience incremental residential growth, and endorsed the application of a higher rate for Urban Renewal Areas. The rate that is now included in the Planning Scheme is 7.06% for Urban Renewal Areas, 5% for established areas, and 8% for land in the Fishermans Bend Urban Renewal Area.

The Panel noted that despite the relatively generous provision of existing open space in the City of Melbourne on a per capita basis, this should not *“result in efforts to ‘wind back’ open space provision by providing less in future, but rather be seen as a valuable contributor to Melbourne’s liveability that should be maintained and enhanced.”* (p.33)

Although the development setting and residential densities are very different in Latrobe compared with the City of Melbourne, the principle of seeking to maintain a high existing level of open space per capita can readily be adapted to the Latrobe circumstances.

There is no differential rate for commercial development in the City of Melbourne, meaning that all development types contribute the same percentage of land value towards public open space.

In the City of Stonnington, Council proposed to introduce higher public open space contributions through Amendment C186, including 8% in some suburbs expected to experience high growth, and 5% in other suburbs. The panel supported the approach in general, but recommended narrowing the application of the higher rate of 8% to only include those areas that are expected to experience significant growth (Armadale, Prahran and Windsor).

2.6. KEY FINDINGS

- The SPPF and LPPF provide policy support for the provision of public open space to meet community needs;
- All land in the City of Latrobe except the Lake Narracan PSP area is not currently subject to a public open space contribution under Clause 52.01 of the Latrobe Planning Scheme, and therefore contributions can only be collected through the Subdivision Act or by agreement;
- The Precinct Structure Planning Guidelines allow for “approximately 10% of the net developable area as total public open space, of which 6% is active open space”, and “approximately 2% of net developable area as public open space, usually with a passive recreation function” in major employment areas;
- There is a clear absence of guidance or practice notes specifically regarding the introduction of a schedule to Clause 52.01 in the Victorian Planning Scheme. This has led to lengthy panel hearings and debates regarding the appropriateness of proposed rates. In general:
 - The 5% rate set as the upper limit of contributions collected under the Subdivision Act is often used as a reference point for introducing a new rate in Clause 52.01, with rates exceeding 5% often opposed by submitters;
 - Panels in recent examples in established metropolitan areas have supported the inclusion of higher rates (between 5% and 9%) for areas that are expected to experience significant population growth;
 - Most methods for calculating proposed open space calculations rates include an analysis of expected revenue against the expected costs of acquiring and improving open space to meet future open space needs.

3. LATROBE CITY PUBLIC OPEN SPACE STRATEGY

3.1. INTRODUCTION

This section provides a review of the Latrobe City Public Open Space Strategy 2013 (the **Strategy**) and the proposed approach to collecting open space contributions.

3.2. LATROBE PUBLIC OPEN SPACE STRATEGY

The Strategy was prepared by Insight Leisure Planning and adopted by Council in March 2013. The Strategy included findings on existing provision of open space and recommendations for improvements to the collection of open space contributions.

OPEN SPACE SUPPLY AND DEMAND

Table 1 shows the level of overall open space provision by town in Latrobe City. Public open space within townships (i.e. excluding rural areas) equates to 17.6 hectares of open space per 1,000 residents, or 176 sqm per person. Township open space provision is highest in per capita terms in Moe/Newborough and Churchill, and lower in Morwell and Traralgon.

TABLE 1 CURRENT PUBLIC OPEN SPACE PROVISION RATIOS, MAJOR TOWNS IN LATROBE CITY

	Open Space Provision Ratio	
	Ha/1000 people	Sqm/person
Morwell	10.72	107.2
Traralgon	8.99	89.9
Moe/Newborough	31.65	316.5
Churchill	36.03	360.3
Township average (excl. rural)	17.62	176.2
Rural areas	116.46	1164.6

Source: Public Open Space Strategy Volume 1: Strategy and Recommendations, Insight Leisure Planning, 2013.

The Strategy includes a projection of future demand for open space based on an annual population growth rate of 0.86%, which would result in 2,500 – 3,000 additional people living in the City over the 5 year period from 2013 to 2018. The Strategy notes that this level of population growth *“is unlikely to significantly increase demand for access to new/additional open space during the life of this plan (i.e. next five years). However, the provision of locally accessible open space for informal recreation will remain important in future residential developments.”* (p.6)

OPEN SPACE TYPE AND USAGE

The most common types of public open space described in the Strategy include:

- **Sport open space** – reserves set aside primarily to accommodate active sports use;

- **Parkland (general use)** – reserves set aside primarily to accommodate a range of recreational uses by the community. These are not formal sports venues, however, they are likely to include playgrounds, neighbourhood parks and areas offering urban relief, landscape amenity and opportunities for informal physical activity participation;
- **Waterway/drainage** – open space reserves set aside to cater for waterway conservation, access and/or drainage management;
- **Parkland (special use)** – reserves set aside to accommodate a range of special uses, depending on individual site requirements; and
- **Community facility open space** – reserves set aside to accommodate a range of community facilities.

The Strategy found that the majority of public open space in Latrobe is parkland, sport reserves and linear open space. There is a significant degree of variability of public open space across the major towns, summarised as follows:

- Morwell – only a small proportion of sport open space compared to other public open space provision in the town;
- Traralgon – sport open spaces account for one third of the total open space land in the town;
- Moe/Newborough – parkland (general use) and waterway/drainage reserves account for 70% of open space sites in the town;
- Churchill – Parkland (general use) accounts for the majority of open space provision in Churchill; and
- Rural other – There is a low level of land for parkland (general use) and sports open space. Community facility open space is well represented.

The Strategy found that approximately two-thirds of existing open space is considered 'low use', indicating that *"there is considerable scope within existing venues to accommodate greater levels of use. However, the existing low levels of use may reflect the poor quality and appeal of many sites."*

The Strategy also notes that "the majority of 'high use' sites are categorised as Sports reserves, indicating that that *"there may be demand for additional active open space"* and/or the need to improve the capacity of existing sites to accommodate high levels of use. (p.47)

STRATEGY RECOMMENDATIONS

Overall, the Strategy found that there is a significant quantity of open space available and recommended that Council's focus should be on improving the quality and appeal of existing open space reserves as opposed to new open space acquisition to service existing population.

The Strategy notes that: *"A major theme to emerge from the research has been a desire to improve open space linkages and connections"* and identifies opportunities to *"enhance existing networks and establish a broader system of paths, trails, walking loops and linear reserves."* (p.5)

In order to address current and future needs, the Strategy prioritises creation of parcels of new open space with an emphasis on completing missing open space links in key areas and ensuring locally accessible reserves in emerging urban growth areas.

The key municipal-wide recommendations relating to future open space provision and improvements (selected) are considered to include the following:

- *"Develop a municipal-wide Pathways, Tracks and Trail Strategy which identifies gaps opportunities and infrastructure requirements, including establishment of township specific walking trails and loops, as well as connections between townships"* (Recommendation 4);
- *"Undertake a Feasibility Study to investigate demand and options for the possible establishment of a Regional multi-use Sports reserve, inclusive of multi-use synthetic surfaces"*(7);
- *"Inclusion of public art in open space reserves"*(8);
- *"Continue to implement Council's Playground Strategy and Public Toilet Plan"* (14);
- *"Consider opportunities to improve the appeal of existing spaces for young people and families, including installation of multi-use half-court areas, park seating, drinking taps, shade/shelter, public toilets and informal gathering spaces where appropriate"* (15);
- *"Increase installation of outdoor fitness stations and exercise equipment at selected 'District' reserves across the City"* (21); and

- *“Improve provision of infrastructure that supports increased physical activity participation including paths, seating, drinking taps, fitness stations, wayfinding signage, interpretive information, half-court facilities etc.” (22)*

Further recommendations for each township are identified in the Strategy, which generally follow the direction of the municipal-wide recommendations above. The Strategy does not include an action plan or any costings associated with the recommendations.

OPEN SPACE CONTRIBUTIONS

The Strategy notes that “failure by Councils to include specified amounts of open space contributions in Clause 52.01 results in considerable uncertainty in requests for review that can end up at the Victorian Civil and Administrative Tribunal” (Section 7).

The Strategy (Section 10) proposes that:

- In residential areas, new subdivision should be levied at 10% of NDA as total public open space, of which a minimum of 5% must be unencumbered. In major commercial and industrial employment areas, approximately 2% of NDA area must be provided as a public open space contribution (cash or land). The percentage amounts identified in the policy have been informed by a recent Victorian and Civil Tribunal (VCAT) decision and an investigation into open space contributions in growth areas. The (former) Growth Areas Authority (GAA) has sought in the order of 10 – 12% of open space contributions in Melbourne’s growth areas which are similar lot sizes to those developing in some parts of Latrobe City;
- New residential areas, or undeveloped land residentially zoned in Development Plan areas, should look to achieve 10% provision for open space in land contributions;
- Active open space generally requires at least 8ha of land, and local parks shall generally comprise a minimum area of 0.75 – 1ha; and
- Developers shall be required to either fund or undertake basic development works in parks and open space areas (in order to render the site usable by the community and fit for its intended purpose) as part of their contribution, over and above the contribution of the land.

Although the Strategy references previous VCAT cases and metropolitan open space provision standards, there is relatively limited analysis underpinning the recommendation to seek a 10% public open space contribution through the Planning Scheme. The proposed Open Space Policy and Schedule to Clause 52.01 are included in **Appendix A** to this report.

3.3. OPEN SPACE CONTRIBUTIONS REVENUE

Over the period July 2006 to April 2016, Council collected a total of \$1.02m in public open space cash contributions. Only \$166,409 has been expended from the open space account, resulting in a current POS account balance in the order of \$858,000. The value of land provided to Council in satisfaction of public open space contributions requirements was not available to inform this project.

Annual revenue has increased considerably in recent years, from between \$40,000 and \$80,000 per annum from 2009 to 2013, up to a peak of \$194,000 in 2015, as shown in Table 2.

In the first four months of 2016, \$201,000 has already been collected, indicating that this trend is expected to continue to increase. It is noted, however, that some smaller greenfield subdivision stages completed in 2016 made open space contributions in cash rather than by providing land – land contributions are more common in a greenfield setting. This is likely to account for some of the increase in revenue in 2016 compared with previous years. The quantum of cash revenue will continue to vary depending on the size and location of subdivisions and changes in land values over time.

TABLE 2 CASH CONTRIBUTIONS COLLECTED FOR OPEN SPACE

Year	Cash Collected	Expenditure	Annual Balance
2006	\$148,700	\$117,409	\$31,291
2007	\$20,100	\$0	\$20,100
2008	\$22,970	\$0	\$22,970
2009	\$55,250	\$0	\$55,250
2010	\$40,500	\$49,000	-\$8,500
2011	\$78,750	\$0	\$78,750
2012	\$71,730	\$0	\$71,730
2013	\$69,950	\$0	\$69,950
2014	\$119,628	\$0	\$119,628
2015	\$194,960	\$0	\$194,960
2016 (Jan-April)	\$201,561	\$0	\$201,561
Total	\$1,024,099	\$166,409	\$857,690

Source: Latrobe City Council.

The Strategy proposes to introduce a new schedule to Clause 52.01 which requires a public open space contributions of 10% from residential subdivisions (of which at least 5% is unencumbered) and 2% from non-residential subdivisions.

An estimate of potential open space contributions revenue has been calculated, so as to compare this revenue against expected open space expenditure. In order to estimate future revenue, a number of assumptions are necessary and are outlined as follows:

- The average annual rate of residential, commercial and industrial subdivision activity between March 2011 and June 2016 has been used as a basis for a linear projection of future subdivision activity. Infill residential subdivisions have averaged 1.8ha per annum across the City over this period, commercial 0.2ha and industrial 4 ha;
- Two-lot subdivisions are not included in the calculation as they are typically exempt from public open space contributions in accordance with Clause 52.01 in the Planning Scheme (if Council considers that it is unlikely that the lots will be further subdivided);
- Although some subdivisions may have the opportunity to provide encumbered land that is fit for purpose as public open space to satisfy part of the required contribution, it is expected that the majority of subdivisions would either not include encumbered land, or include encumbered land that is not suitable as public open space. This is particularly the case in established areas, which are more likely to be required to contribute cash, rather than land. Therefore, the value of encumbered land has been excluded from calculations;
- Greenfield residential subdivisions (i.e. subdivisions of at least 15 lots in urban residential zones in outer suburban locations) are expected to provide land to satisfy their public open space contribution, and therefore are not expected to generate cash revenue for Council; and
- Average land values in 2016 have been applied to each land use based on valuation information provided by Council: established area residential land average of \$160 per sqm; commercial land average of \$300/sqm; and industrial land average of \$100/sqm. These values represent the average land value in Council's rates database for each major town, with the average residential value weighted towards Traralgon given that at least 50% of all new dwellings are expected to be constructed in Traralgon over the next 15 years.

Based on these assumptions, future open space contributions revenue is projected at various public open space contribution rate scenarios of 5%, 6%, 7%, 8%, 9% and 10% (for residential) and 2% for commercial and industrial.

Tables 3 and 4 show the forecast annual public open space contributions revenue from residential, commercial and industrial subdivisions in the City of Latrobe. Depending on the open space contributions rate, it is estimated that Council could collect POS cash contributions of:

- Between \$144,000 and \$288,000 per annum from 'infill' residential subdivisions; and
- \$12,000 per annum from commercial subdivisions; and
- \$81,800 per annum from industrial subdivisions.

The total annual POS cash revenue from urban residential, commercial and industrial subdivisions is projected to range from \$237,800 to \$381,800 per annum.

TABLE 3 PROJECTED PUBLIC OPEN SPACE CONTRIBUTIONS REVENUE FROM RESIDENTIAL SUBDIVISIONS (2016 VALUES)

POS Requirement %	Average Annual Subdivision Area (ha)	Average Land Value per ha	Annual POS Contributions Revenue
5%	1.8	\$1,600,000	\$144,000
6%			\$172,800
7%			\$201,600
8%			\$230,400
9%			\$259,200
10%			\$288,000

Source: Latrobe City, analysed by Urban Enterprise, 2016.

TABLE 4 PROJECTED PUBLIC OPEN SPACE CONTRIBUTIONS REVENUE FROM COMMERCIAL AND INDUSTRIAL SUBDIVISIONS (2016 VALUES)

POS Requirement %	Commercial			Industrial		
	Average Annual Subdivision Area (ha)	Ave. Land Value per ha	Annual POS Contributions Income	Average Annual Subdivision Area (ha)	Ave. Land Value per ha	Annual POS Contributions Income
2%	0.20	\$3,000,000	\$12,000	4.09	\$1,000,000	\$81,800

Source: Latrobe City, analysed by Urban Enterprise, 2016.

3.4. OPEN SPACE DEMAND INDICATORS SINCE STRATEGY ADOPTION

POPULATION GROWTH

The Estimated Resident Population (ERP) of the City has actually declined since the Strategy was adopted in 2013 (-0.2% per annum, ABS), although the towns of Traralgon and Churchill have experienced some population growth in the past 2 years.

Victoria in Future projections are for the overall municipal population to increase at a rate of 0.7% per annum over the period 2016 to 2031, which would result in an additional 2,747 persons over a 5 year period from 2016 to 2021 (Victoria in Future 2015).

This analysis shows that population growth over the short to medium term is not expected to be significant, and the assumptions on which the Strategy was based remain appropriate.

Table 5 shows the total population growth projected for Latrobe City from 2016 to 2031 (15 year period, Victoria in Future). The additional population between 2016 and 2031 is expected to account for 10% of the total 2031 population.

TABLE 5 POPULATION PROJECTIONS, LATROBE CITY 2016 - 2031

Area	2016 Population	2031 Population	Additional population 2016-31	Additional population % of 2031 population
Latrobe City	73,900	82,460	8,560	10.4%

Source: Victoria in Future 2015.

PROJECTED LOCATION AND TYPE OF RESIDENTIAL DEVELOPMENT

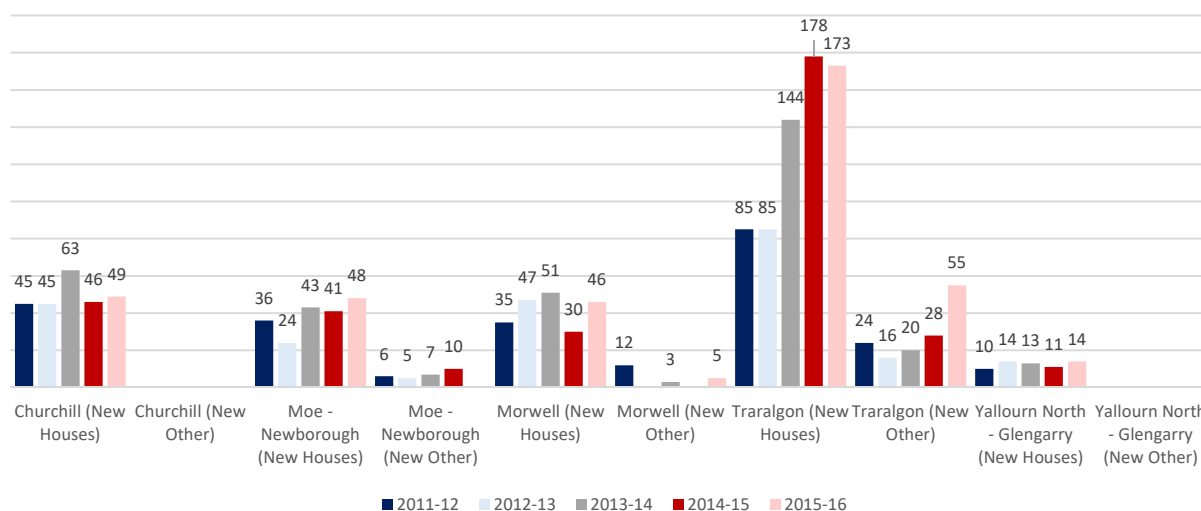
Economic research prepared by Essential Economics for the 'Live Work Latrobe' project in 2016 found that there will be demand for approximately 5,000 new dwellings over the 15 year period from 2016 to 2031, 55% of which are projected to be located in Traralgon.

Lone person households are projected to comprise the greatest number of additional households (44%), followed by couple families without children (33%). Lone person households in Traralgon alone are expected to increase by 999 households over the next 15 years, which is likely to result in significant demand for smaller dwellings and retirement living, driving demand for low rise infill development in proximity to shops and services in Traralgon.

Despite the relatively low population growth in recent years across the municipality, there has been relatively strong dwelling approval activity in Traralgon since 2011-12 as shown in Figure 1. This includes both new houses (average 133 per annum) and new other residential buildings (flats, units and townhouses, average 29 per annum).

This analysis indicates that the majority of recent infill development has occurred in Traralgon, and that this is expected to continue over the coming years.

FIGURE 1 DWELLING APPROVALS BY DWELLING TYPE AND SA2, 2011-12 TO 2015-16



Source: ABS Building Approvals.

RECENT COMMUNITY CONSULTATION

A review of the Latrobe Planning Scheme was undertaken in October 2014 and was informed by community consultation. During the consultation process, open space was the most common issue raised, including the following topics relevant to open space provision and contributions:

- Concern was expressed that small urban lots were being sold by Council for housing whereas they should be kept for open spaces/recreation/passive recreation as public land;
- There is a lack of open space;
- There is a need for greater connectivity by cycling and walking paths;
- Poor maintenance of existing facilities;
- Requirements to provide an open space contribution as part of a planning permit application;
- Need for adequate public open space in planning for new growth areas;
- Need to ensure that areas set aside for open space are not encumbered by other uses such as detention basins or drainage reserves;
- Planning scheme is deficient in not specifying an open space contribution in the Planning Scheme; and
- Council has recreation plans and an Open Space plan that it does very little with.

Further consultation undertaken to inform Council's 'Live Work Latrobe' Strategy in late 2015 elicited the following comments regarding open space:

- Participants frequently discussed the need for infrastructure closer to housing, including green open space;
- Access to quality open space was discussed, particularly in terms of the positive health benefits of being able to walk and exercise more in the local area;
- There is a lack of provision of walking paths, shaded parks and recreational space in local areas;
- There are poor walking and cycling links between the smaller and larger towns;
- Making better use of existing open space or creating more opportunities for shared open space would assist in creating stronger community ties and connections between residents as well as improving health outcomes; and
- There is a need for public realm improvements including streetscapes, parks and open spaces.

The commentary across these two consultation exercises indicates broad community support for open spaces to be improved and connected to better meet the needs of the existing and future communities (both in established and growth areas of major towns).

3.5. KEY FINDINGS

- There is a good supply of public open space in the Latrobe City, however there is an uneven distribution across the municipality, and open space provision is lowest on a per capita basis in Morwell and Traralgon. These towns have experienced the highest rate of residential development activity over recent years;
- Many open space types are not well aligned to the needs of the community and experience low levels of usage, while active open space reserves are generally in high demand;
- Improving public open space was found to be a clear focus for the community through consultation for the Strategy and in other recent consultation processes;
- Despite low population growth projections, the Strategy clearly identifies the need to improve the quality of existing open spaces to increase utility and relevance of the space to meet resident needs. The Strategy recommends a range of improvements to the open

space network, primarily focused on improving existing open space and establishing a stronger network of open spaces, as opposed to additional land acquisition in established areas;

- The Strategy recommends an open space contributions rate of 10% for all residential development and 2% for non-residential development, primarily based on the Precinct Structure Planning Guidelines. Encumbered land can comprise up to half (5%) of the residential open space provision;
- Based on recent subdivision activity and current land values, it is estimated that the proposed open space contributions rates would generate POS cash revenue from urban residential, commercial and industrial subdivisions of between \$237,800 and \$381,800 per annum;
- Residential demand projections show that Traralgon will be expected to accommodate more than half of all dwellings constructed in the City over the next 15 years, with increasing demand for smaller dwellings that are likely to be required within the established township areas. Traralgon currently has the lowest provision of open space per capita.
- The additional population projected between 2016 and 2031 (8,560 new residents) is expected to account for 10% of the total 2031 population.

4. OPEN SPACE BENCHMARKS

4.1. CURRENT OPEN SPACE PROVISION RATIOS

Plan Melbourne notes that most municipalities in Metropolitan Melbourne have less than 11 hectares of open space available per 1,000 people (110 sqm per person).

Table 6 shows the current (or recent) open space provision per resident in selected Melbourne and regional Victorian municipalities. The open space provision in Latrobe City of 17.6 ha per 1,000 residents is somewhat higher than typical metropolitan provision ratios, but falls within the range of regional centre case studies analysed.

TABLE 6 PUBLIC OPEN SPACE PROVISION RATIOS, SELECTED METROPOLITAN AND REGIONAL CENTRES

LGA	Ha per 1,000 persons	sqm per resident
Regional Centre LGAs		
Latrobe (excluding rural)	17.6	176
Greater Geelong	46.0	460
Ballarat	9.7	97
Greater Bendigo ³	12.1	121
Metropolitan LGA s		
Melbourne	5.6	56
Moonee Valley	5.0	50
Port Phillip	4.9	49
Moreland	4.0	40
Maribyrnong	3.7	37
Yarra	3.1	31
Stonnington	2.0	20
Greater Dandenong	3.6	
Knox	10	100

Source: Amendment C209 Melbourne Planning Scheme, Expert Evidence Statement, Urban Enterprise, June 2014; Greater Geelong Open Space Strategy (Draft) 2014; Ballarat Open Space strategy (Volume 1), 2008; Greater Bendigo Public Space Plan: Strategic Context and Issues Paper, August 2016.

³ Includes City owned and/or managed public space.

4.2. CONTRIBUTIONS RATES

Given the wide range of mechanisms available to councils and the lack of a clear and consistent model for calculating an appropriate contributions rate, a range of rates are applied through Clause 52.01 across Victoria. Table 7 shows examples of Councils in regional Victoria and the outer eastern / south-eastern municipalities of Melbourne.

Table 7 shows that the contribution rates vary from 4.5% to 10%, with only the Mornington Peninsula (with 12% as the upper bound of the range) exceeding 10%. There is also significant variation in the way in which the rates are applied, including:

- Whether the schedule delineates between encumbered and unencumbered land;
- Whether a different rate (or any contribution at all) applies to non-residential land;
- Whether a sliding scale or a flat rate is applied; and
- Whether a different rate applies to growth areas as opposed to established areas.

TABLE 7 OPEN SPACE CONTRIBUTIONS RATES (CLAUSE 52.01)

	Residential	Non Residential
Latrobe		
Current	Lake Narracan: 5.29%; All other land: none specified. (Note: various Development Plans and S173 Agreements provide for POS contributions)	None Specified
Proposed	All land: 10% of NDA, at least 5% unencumbered.	2% of NDA (unencumbered)
Other Gippsland		
South Gippsland	Min. 5%	Min. 5%
Baw Baw	All land within Warragul and Drouin PSPs: 4.5% of NDA (passive)	None Specified
Wellington	5% (All land within GRZ1, LDRZ, TZ, RLZ or TZ)	None Specified
Bass Coast	None Specified	None specified
East Gippsland	None specified	None specified
Other Regional Centres		
Greater Geelong	Armstrong Creek: 10% unencumbered (includes passive and active).	3.1% (Armstrong Creek - North East Industrial Precinct)
Wodonga	5%	None specified
Ballarat	Ballarat West: 5.3% of GDA (passive) Other land in UGZ: 10% (residential); All other land: 5%	10% for land in Urban Growth Zone (commercial & industrial); 5% all other land
Bendigo	None specified	None specified
Eastern Metropolitan		
Dandenong	5% default	2% for all INZ1, INZ2, INZ3, B3Z, B4Z
Knox	5% to 8.5%	None specified
Mornington Peninsula	5% to 12%	5% commercial & industrial
Cardinia	8%	None or 5.5% within UGZ3 & UGZ4

Source: Amendment C209 Melbourne Planning Scheme, Expert Evidence Statement, Urban Enterprise, June 2014; Public Open Space Strategy Volume 1: Strategy and Recommendations, Insight Leisure Planning, 2013; Greater Geelong, Wodonga, Ballarat, South Gippsland, Baw Baw and Wellington Planning Schemes.

4.3. DIFFERENTIAL RATES

As evident in Table 7, some Councils have applied differential rates, for example between established and growth areas, and between residential and non-residential developments, due to the varying levels of demand for open space generated by each development setting.

GROWTH AND ESTABLISHED AREAS

Some methods used to strike an open space contributions rate have relied on a detailed assessment of potential income through subdivisions and a similarly detailed estimate of the cost of all proposed open space improvements and acquisitions in order to ensure that the relevant open space strategy can be delivered or at least subsidised through open space contributions.

Latrobe has different circumstances, however, whereby significant new open space acquisition is not proposed within established areas, but costs will be incurred to make existing open space fit for purpose for existing and new residents.

Given that the Strategy found that there is no shortage of open space *quantity* in established areas, it is considered appropriate in principle for a lower rate to be applied to these areas to reflect the likelihood of lower costs. In new growth areas, both land acquisition for new open spaces *and* improvements to those open spaces are required, meaning that it is appropriate for the growth area rate to be somewhat higher.

NON-RESIDENTIAL DEVELOPMENT

As shown in Table 7, differential open space contribution rates are often applied to commercial and industrial subdivision, and in some cases no contributions apply to these land uses. The differential rates are typically lower than the contribution rates for residential subdivision, reflecting the lower level of demand generated for public open space by workers compared with residents.

The differential treatment of non-residential development with respect to open space is also reflected in Development Contributions Plans. Of the 26 DCPs approved since 2008 which contain a levy for non-residential development, only three require contributions towards open space land or improvements from non-residential development. Each of these three DCPs applies to an area with very low levels of non-residential development and have applied a flat rate for administrative simplicity.

A differential rate for commercial and industrial subdivision is also recommended in the Precinct Structure Planning Guidelines (GAA, 2012). The public open space provision recommended for residential growth areas is 10% of Net Developable Area, whilst for Employment Areas the recommended rate is 2% (Part 2, p.34). This reflects the difference in demand for open space generated by residential development compared with commercial and industrial development.

It is therefore considered appropriate that a lower rate is applied to employment areas, such as subdivisions within Latrobe's industrial and commercial zones.

4.4. ENCUMBERED LAND

It is uncommon for encumbered land to be specified as part of an open space requirement under clause 52.01. It is common practice for Councils to only accept unencumbered land in satisfaction of public open space contributions. The City of Greater Geelong explicitly requires the public open space contribution to be 'unencumbered', while most other Councils simply require all contributions to be unencumbered.

The PSP Guidelines for metropolitan Melbourne growth areas state that "in meeting standards S2 and S3 [which require 10% of net developable area to be provided as open space], encumbered land should be used productively for open space." It is common for this standard to be applied by designing the open space network within a greenfield area in such a way that unencumbered open spaces are adjacent to encumbered land (especially linear corridors), as opposed to substantially reducing unencumbered open space as a percentage of net developable area to take account of the contribution made by encumbered areas. Examples include:

- The Armstrong Creek East Precinct in Greater Geelong, where a 10% unencumbered open space contribution was required, as well as acquisition of encumbered land for active open space funded through the Development Contributions Plan; and
- The Botanic Ridge Precinct in Casey, where a 10.93% unencumbered open space contribution was required, as well as encumbered land set aside for conservation, drainage, heritage and defensible space purposes which increased the overall open space provision to 24.35%.

Importantly, not all land proposed to be subdivided in Latrobe will contain encumbered areas, especially smaller subdivisions in established areas. This could lead to significant inequities if the proposed schedule to Clause 52.01 is introduced as currently drafted, whereby some parcels with no encumbered land would be required to make a 10% contribution, and others with encumbered land would only be contribute 5% unencumbered land along with 5% encumbered land for open space.

In order to ensure and equitable and consistent approach, open space contributions rates should relate to unencumbered land only, with supporting policy drafted relating to circumstance where council will accept encumbered land for open space in addition to unencumbered land.

4.5. KEY FINDINGS

The key findings of this section are as follows:

- The open space provision in Latrobe City of 17.6 ha per 1,000 residents is somewhat higher than typical metropolitan provision ratios, but falls within the range of regional centre case studies analysed, significantly lower than Greater Geelong but somewhat higher than Ballarat and Greater Bendigo;
- Open space contributions rates and mechanisms vary greatly across Victoria. Rates typically range from 5% to 10% in regional areas, and are generally higher in residential growth areas (usually 8% to 10%);
- Given that the Strategy found that there is no shortage of open space *quantity* in established areas, it is considered appropriate in principle for a lower rate to be applied to these areas to reflect the likelihood of lower costs. In new growth areas, both land acquisition for new open spaces *and* improvements to those open spaces are required, meaning that it is appropriate for the growth area rate to be somewhat higher; and
- It is considered appropriate that a lower rate is applied to employment areas, such as subdivisions within Latrobe's industrial and commercial zones, to reflect the lower demand for open space generated by these land uses;
- In order to ensure and equitable and consistent approach, open space contributions rates should relate to unencumbered land only, with supporting policy drafted relating to circumstance where council will accept encumbered land for open space in addition to unencumbered land.

5. OPEN SPACE EXPENDITURE AND DELIVERY

5.1. INTRODUCTION

This section provides an overview of Council's recent and proposed open space expenditure. The section also summarises the approach to open space delivery in Latrobe City's growth areas.

5.2. OPEN SPACE IMPROVEMENTS

Council's Open Space Unit has separate budgets for capital improvements to passive and active open spaces. Information provided by the Open Space Unit is as follows. All expenditure amounts relate to capital expenditure only (all operating and maintenance costs are excluded), and capital costs include any land acquired.

PASSIVE OPEN SPACE

Council's recent passive open space improvements capital expenditure is shown in Table 8. From July 2011 to June 2016, Council expended a total of \$1.9m on passive open space, equating to an average of \$380,400 per annum.

There were no land acquisitions made by Council during this period (other than open space areas that were vested in Council as public open space land contributions at the time of residential subdivisions at no cost to Council). Given that this expenditure has not been accounted for in the public open space account, it is assumed that funds have been obtained through other sources such as general rates.

TABLE 8 PASSIVE OPEN SPACE IMPROVEMENTS 2011/12 – 2015/16

Project Name	Area	Capital Expenditure
Missing Links (paths)	Municipal Wide	\$250,000
Street Furniture	Municipal Wide	\$260,000
Playspace	Municipal Wide	\$675,000
Skate Parks	Morwell	\$117,000*
	Yinnar	\$110,000
	Traralgon South	\$80,000
Morwell Town Common Playspace	Morwell	\$310,000
Boolarra Railway Park	Boolarra	\$70,000*
Commercial Rd Lighting	Morwell	\$30,000
Total passive open space capital expenditure		\$1,902,000
Average per annum		\$380,400

Source: Latrobe City Council. * funding from other parties excluded from expenditure. Figures rounded to the nearest \$1,000.

Over the next 5 years (2016/17 – 2021/22), Council proposes to increase capital expenditure on passive open space to \$4.22m. This will equate to an average of \$844,800 per annum, which is more than double the expenditure over the past 5 years (Table 9). It is understood that the overarching justification for budget allocations and expenditure decisions is drawn from the Open Space Strategy.

Much of the increase is due to a new allocation to implement the Tracks, Trails and Paths Strategy (a key outcome of the Strategy), and increased annual expenditure budgeted for new and upgraded playgrounds, also a recommendation of the Strategy.

Council has advised that there are no plans at present to acquire additional open space land (other than land vested in Council through growth area subdivisions).

It is understood that the majority of recent and proposed expenditure is located within established areas. This is designed to improve the overall standard and relevance of existing open space assets to meet the needs of existing residents, changing demographics and incremental increases in population. Open space works in growth areas are primarily delivered by developers through public open space contributions and section 173 Agreements.

TABLE 9 PASSIVE OPEN SPACE IMPROVEMENTS 2016/17 – 2020/21

Project Name	Area	Capital Expenditure	Year
Paths	Municipal Wide	\$556,000	16/17
Streetscapes (playspaces)	Municipal Wide	\$415,000	16/17
Street Furniture	Municipal Wide	\$260,000	16 – 21
Drinking Fountains	Municipal Wide	\$52,000	17/18
Way Finding	Municipal Wide	\$50,000	17/18
Track Trails and Paths	Municipal Wide	\$1,000,000	17-21
Playgrounds	Municipal Wide	\$458,000	17/18
Playgrounds	Municipal Wide	\$445,000	18/19
Playgrounds	Municipal Wide	\$520,000	19/20
Playgrounds	Municipal Wide	\$468,000	20/21
Lighting	Municipal Wide	TBC	TBC
Total		\$4,224,000	
Average per annum		\$844,800	

Source: Latrobe City Council.

ACTIVE OPEN SPACE

Council provided information on active open space projects undertaken between 2011 and May 2016. Latrobe City's capital contribution to a total of 45 projects over this period was \$10.4m, an average of approximately \$1.9m per annum (across 5.5 years, excluding grants and other non-Council funding sources). A full list of active open space projects is included in **Appendix B**.

Projects include pavilion upgrades (28% of active costs), tennis courts (24%), sporting surface upgrades and drainage improvements (19%), lighting (10%), netball courts (3%) and other planning and small projects (17%). The majority of projects are upgrades and improvements to existing active open space reserves, as opposed to acquisition and construction of new facilities.

It is understood that active open space expenditure is funded through a rolling annual budget allocation and is not funded by open space contributions that are collected each year. No expenditure of open space contributions collected has occurred since 2010. There is a clear

relationship between the open space contributions collected and the ongoing active and passive open space projects undertaken by Council – this revenue should be used to contribute to active and passive open space projects.

5.3. GREENFIELD RESIDENTIAL AREAS

Subdivision proponents in Latrobe's residential growth areas are generally required to provide land contributions and improvements to satisfy public open space contributions (with some exceptions where a cash contribution is made in lieu of land). Examples of recent approaches to open space provision and contributions in larger growth areas include Traralgon North, Morwell North West and Lake Narracan.

The **Traralgon North** Growth Area is subject to a Development Plan which:

- Requires land owners to provide a passive open space contribution of 6% (unencumbered land);
- Funds improvements to passive open spaces through a development contributions levy; and
- Funds acquisition and improvement of a multi-purpose active open space reserve through a development contributions levy.

The total area of unencumbered open space (8.53ha) equates to 8.4% of the Net Developable Area.

Encumbered land is not included in the open space provision, however unencumbered open spaces are located adjacent to encumbered areas such as drainage corridors and conservation areas to enable use of encumbered land for recreation where possible.

The Traralgon North Development Plan includes a public open space equalisation scheme which is designed to balance the cost of providing land and undertaking improvements to open space equally across all landowners in the growth area, without the need for any capital expenditure by Council.

The **Morwell North West** Development Plan allows for a provision of 1.61ha of passive open space within the growth area, which has a Net Developable Area of 112.34ha. The unencumbered open space equates to 1.4% of the NDA. Encumbered open space is also provided along drainage reserves, which has been included in the overall open space provision at a discounted land value.

No active open space is provided in the DP area, due to the close proximity to an existing reserve.

Open space provision is wholly contained within the development plan area. That is, developers deliver the open space throughout the area and there is no remaining cash contribution to open space elsewhere in the municipality.

The **Lake Narracan** Growth Area is within the Urban Growth Zone and is subject to a Precinct Structure Plan, Development Contributions Plan (DCP) and Public Open Space contributions under Clause 52.01.

Land owners are required to provide a public open space contribution of 5.29% of NDA for local open space. Land owners are also required to pay an open space levy as part of the DCP, which goes towards active open space land acquisition and improvement costs. The overall unencumbered public open space contributions equates to 10% of the Net Developable Area.

5.4. KEY FINDINGS

The key findings of this section are as follows:

- Council proposes to expend an average of \$844,800 per annum over the next 5 years on passive open space improvements to implement the Strategy, in addition to the rolling \$1.9m expenditure per annum on active open space improvements, resulting in a total ongoing open space expenditure of \$2.75m per annum.
- Council's approach to public open space in growth areas typically requires developers to provide land and fund all public open space within the development area. The percentage of land dedicated to open space varies on a case by case basis, with recent examples ranging from 8% (Traralgon North) and 10% (Lake Narracan);

- Council does not appear to have a policy that guides the allocation of capital expenditure on public open space, resulting in the vast majority of open space expenditure being sourced from general rates and limited use of cash contributions collected. Improvements to administration processes and records are required to ensure transparency.

6. DISCUSSION AND RECOMMENDATIONS

6.1. IMPLEMENTING THE OPEN SPACE STRATEGY

It is clear that Council's budget for required open space expenditure over the next 5 years is significantly higher than the previous 5 year period, owing primarily to the need to implement initiatives identified in the Strategy. In essence, the Strategy is being progressively costed and implemented.

Although open space improvements are largely being funded through general rates at the moment, it is more appropriate for public open space cash contributions to be allocated to open space projects, and for the open space contributions rate(s) to be set such that revenue reflects the additional demand placed on the open space network by new development. Introducing a schedule to Clause 52.01 is particularly important in the context of rates capping, which is likely to restrict Council's financial capacity to increase open space expenditure to align with the needs outlined in the Strategy.

The use of Clause 52.01 of the planning scheme provides Council with the opportunity to introduce a consistent and equitable mechanism through which proponents of new development contribute to open space. There are significant benefits in introducing consistent rates in the planning scheme, including:

- Transparency: development proponents, Council and the community are aware of the required contributions rates payable for each type of land use;
- Certainty and equity: all subdivisions within the same land use and development setting are required to make the same contribution relative to the land value. At present, contributions can vary on a case by case basis, including in growth areas (through individual Development Plans and similar) and infill areas (through application of the provisions of the Subdivision Act). Under Clause 52.01, a consistent rate will be applied on an ongoing basis, providing certainty to both Council and the development industry;
- Ease of administration: eliminating the need for individual open space assessments reduces the time and resource requirements associated with subdivisions, and simplifies accounting and administration for Council and development planning for subdivision proponents.

6.2. ENCUMBERED LAND

It is uncommon and difficult for encumbered land to be included in an open space requirement. For example, the City of Greater Geelong explicitly requires the public open space contribution to be 'unencumbered', and most Councils only accept unencumbered land to satisfy public open space contributions.

Not all land proposed to be subdivided will contain encumbered areas, especially smaller subdivisions in established areas. This could lead to significant inequities if a schedule to Clause 52.01 is introduced as drafted in the Strategy with encumbered land included as part of the open space requirement.

It is recommended that any encumbered land that is usable for open space should simply be made fit for purpose and vested in Council as part of subdivision works, especially where encumbered land can be co-located with unencumbered open spaces, waterways and trail corridors to enhance the overall open space network. In a greenfield setting, the cost of improving any encumbered areas that are deemed by Council to be suitable for inclusion in the local open space network can be apportioned across all land owners in the development plan area through development contributions or open space equalisation methods (where a Development Contributions Plan or Development Plan with an open space equalisation table applies).

6.3. DIFFERENT LAND USES AND DEVELOPMENT SETTINGS

As discussed earlier in this report, different land uses place different demands on public open space. It is recommended that differential (lower) contribution rates are applied to commercial and industrial subdivisions to reflect the lower demand generated by these land uses relative to residential subdivision. The rate of 2% for industrial and commercial land uses proposed by the Open Space Strategy is considered to be appropriate and in-line with industry practice and PSP Guidelines.

Residential subdivisions place different demands on the open space network depending on their setting. Subdivisions in established areas will generally be able to benefit from the significant existing supply of local open space across the City, but will generate additional demand for capital improvements and capacity increases to the network.

In new growth areas, however, there is a clear need and policy support for new land to be provided for open space to ensure that residents have access to passive and active open space reserves within walking distance to dwellings. Therefore, a different approach is required to setting the rate and open space policy for each development setting.

6.4. SETTING A RATE FOR GREENFIELD RESIDENTIAL DEVELOPMENT

The Open Space Strategy proposed a contributions rate of 10% of NDA (of which at least 5% is to be unencumbered). A 10% contributions rate would align with the Precinct Structure Planning Guidelines. However:

- Greenfield dwelling densities in Latrobe are typically lower (eg. 11-12 lots per hectare) than those in metropolitan Melbourne (at least 15 lots per hectare), resulting in lower population densities and therefore lower concentrations of demand for open space; and
- The approach to encumbered land could lead to a broad range of open space outcomes and potentially inequitable outcomes as discussed earlier.

Although greenfield population densities are often lower than in metropolitan areas, there remains the need to deliver suitably sized and designed open spaces that are accessible to all residents.

Planning for Latrobe's growth areas has resulted in a variety of open space provision rates in recent years, from 8% in Traralgon North to 10% in Lake Narracan. In some cases, residents of new growth areas may be able to utilise capacity available in nearby existing open space areas, which is less common in Melbourne.

In order to reflect lower residential densities in Latrobe City relative to metropolitan Melbourne and to allow for a suitable quantum of both passive and active open space land to be provided in proximity to new houses, it is considered that an appropriate open space contributions rate for growth areas in Latrobe is 8% unencumbered, including both passive and active open space.

Although some growth areas in metropolitan Melbourne and other regional areas exclude active open space from Clause 52.01 (and fund through a DCP), the Greater Geelong approach of funding both passive and active open space through the planning scheme is preferred due to the certainty it provides Council. Land contributions should be sought as a default, with any equalisation required within growth areas possible through a DCP or similar.

6.5. SETTING A RATE FOR INFILL RESIDENTIAL DEVELOPMENT

The open space contributions rate for infill development should have regard to the balance of demand for open space between existing residents in established areas and new residents that will be accommodated by subdivision in these areas.

Council proposes to expend an average of \$2.75m per annum on passive and active open space improvements over the short to medium term. The scope of proposed projects and accuracy of costs have not been reviewed as part of this project. However, it is apparent that some of the proposed open space projects relate to 'backlog' works – that is, works that are required to improve the existing open space network

to meet demand from existing residents only. It would be inequitable to require proponents of new subdivisions to fund all open space works required to meet both existing ('backlog') and new demand.

Other works appear to relate to network and capacity improvements to meet incremental and future increases in open space demand caused by recent and projected population growth. The information provided to support the Open Space strategy does not allow an assessment of the proportion of works and costs that relate to backlogs as opposed to those required to support demand growth. This information gap makes the tasks of apportioning future costs to current and future populations difficult.

In the absence of this information, the relative proportions of 'existing' population (2016) and 'new' population (projected increase from 2016 to 2031) provides a guide to the breakdown of demand for open space generated by existing residents that should generally be funded by rates and Council grants, and demand generated by new population that should be funded through open space contributions.

Projected population growth over the next 15 years will account for 10% of the total population in 2031 – therefore, in the absence of further detail in the open space strategy, it would be appropriate for new development to fund in the order of 10% of Council's open space costs (through public open space contributions). A higher contribution would be appropriate if a greater proportion of future open space costs are designed to meet additional demand generated by new development.

It is assumed that the vast majority of infill developments will satisfy public open space contributions through monetary payments. This report estimates that the following revenue could be received by Council through open space cash contributions as proposed in the Open Space Strategy:

- \$237,800 per annum under a 5% residential rate (infill only) and 2% commercial / industrial rate, equating to 9% of the total proposed open space expenditure per annum; or
- \$381,800 per annum under a 10% residential rate (infill only) and 2% commercial / industrial rate, equating to 14% of the total proposed open space expenditure per annum.

Based on these estimates, a 5% infill residential open space contributions rate (unencumbered) would more equitably reflect the balance between expenditure to meet demand from existing and new residents than the 10% rate proposed in the Open Space Strategy. An infill rate of 5% would generate consistent revenue towards the implementation of the Open Space Strategy, while recognising that the balance of open space costs would need to be funded through alternative sources (primarily general rates revenue and grants) to meet the needs of existing residents.

Even if subdivision activity and land values increase significantly in the future, Council's open space expenditure requirements are likely to continue to significantly exceed open space contributions revenue.

As noted earlier, it is considered inequitable for encumbered land to be included as part of the open space contributions rate, especially in infill areas that are unlikely to (a) make land contributions; and (b) include any areas of encumbered land.

6.6. ADMINISTRATION

There is a disconnect between open space contributions revenue and expenditure by Council. There does not appear to be a policy to guide open space expenditure, including the expenditure of open space cash contributions received.

Administration of public open space contributions, including land vested in Council, cash contributions received, policy regarding how funds should be expended, records of expenditure on passive and active open spaces (including any land acquisition) and sources of funds all need to be clearly documented and accounted for.

Improvements to administration processes and records are required to ensure transparency, particularly if and when a new open space contributions rate is introduced.

6.7. RECOMMENDATIONS

GENERAL

1. Clause 52.01 is an appropriate mechanism for collecting funds to contribute to the implementation of the Open Space Strategy, and will increase transparency, certainty, equity and ease of administration for all parties;
2. Council should apply differential rates for established and growth area subdivisions to reflect the different levels of demand generated by development in each setting, primarily the need for new open space land in greenfield areas to maintain local accessibility;
3. It is not necessary or equitable in the case of Latrobe City to set a different rate for each town. Each town has a reasonable level of public open space provision per capita based on current population levels, and it is more equitable for a flat rate to be applied across all towns. However, Council should establish an open space expenditure policy that directs open space contributions towards those areas that are experiencing the most subdivision activity;

PUBLIC OPEN SPACE CONTRIBUTIONS RATES

4. The following public open space contributions rates are recommended:
 - Residential (infill): 5% unencumbered;
 - Residential (greenfield): 8% unencumbered;
 - Commercial and industrial: 2% unencumbered;
 - Mixed use: 5% unencumbered.
5. Encumbered land should be removed from the proposed contributions rate, but retained as a potential means by which further usable public open space can be provided, particularly in greenfield areas.

PUBLIC OPEN SPACE IMPLEMENTATION / COLLECTION METHODS

6. For subdivisions in greenfield areas, Council should continue to seek full developer provision of open space whereby developers are required to provide a suitable quantum of open space land within the development area including passive and active open spaces, and fund the improvements through an equalisation scheme or Development / Infrastructure Contributions Plan.
7. For Infill residential, commercial and industrial subdivisions, Council should collect monetary payments in lieu of land contributions, except in locations where key future open space areas / linkages are identified. These areas should be broadly indicated on a plan included in the open space contributions policy.

ADMINISTRATION

8. Improvements to administration processes and records are required to ensure transparency. Policy should be introduced to guide open space expenditure, and centralised records are needed to account for open space contributions received (cash and land), expenditure on passive and active open spaces (including any land acquisition) and sources of funds.

APPENDIX A PROPOSED OPEN SPACE POLICY AND SCHEDULE TO CLAUSE 52.01 (2013 STRATEGY)

10 Sample Draft Latrobe City Public Open Space Policy

This policy is divided into the following two sections:

1. Guidelines for considering planning permit applications for subdivision and the assessment of the percentage contribution to open space (whether by levy or land).
2. Recommended planning scheme changes to Clause 21.01 and the schedule to Clause 52.01 of the Latrobe Planning Scheme.

It should be noted that for the guidelines in this section to be successfully implemented, changes to the Latrobe Planning Scheme are required generally in the form of the recommended planning scheme amendment changes provided in section 10.2.

10.1 Guidelines for planning permit applications and Development Plans

Policy Basis

Latrobe City currently owns and manages a diverse range of public parks and reserves across the municipality. A well planned and connected network of open space contributes to the liveability of a municipality and provides opportunities for formal sport and passive recreation. Effective open space provision is therefore integral to the promotion of health and wellbeing outcomes for communities. There is a need to improve the existing open space system so that it is more effective in meeting the needs of the Latrobe community. There is demand for parcels of new open space with an emphasis on completing missing open space links in key areas and ensuring locally accessible reserves in emerging urban growth areas.

The open space levies on subdivision contributions in accordance with the *Subdivision Act 1988* and Clause 52.01 of the planning scheme, provide an important source of revenue for funding new acquisition and capital improvement of open space. Open space requirements may also be outlined in adopted structure plans, urban design frameworks, development and contribution plans, activity centre plans and other relevant strategic planning documents. This policy stems from the Municipal Strategic Statement which directs Council to actively seek funding towards new or improved open spaces and recreation facilities.

The *Latrobe Public Open Space Strategy (2013)* provides a comprehensive framework for the management, use and development of open space assets. The strategy establishes guidelines to ensure that open space areas are attractive, sustainable and contribute to the liveability of the community.

The percentage amounts identified in the policy have been informed by a recent Victorian and Civil Administrative Tribunal (VCAT) decision and an investigation into open space contributions in growth areas. The determination made by VCAT regarding open space contributions in *Stupak v Hobsons Bay CC (2011 VCAT 618)* has significant consequences for

Victorian Councils. Similarly, the Growth Areas Authority (GAA) has sought in the order of 10 – 12% of open space contributions in Melbourne’s growth areas which are similar lot sizes to those developing in some parts of Latrobe City.

Open Space Policy

It is policy that:

- In residential areas, new subdivision be levied at 10% of the net developable area as total open public space, of which a minimum of 5% must be unencumbered and where required, suitable for active open space development.
- In major commercial and industrial employment areas, approximately 2% of net developable area must be provided as a public open space contribution (cash or land) usually with a passive recreation function.
- In meeting this standard, encumbered land should be used productively for open space. Encumbered land usually includes land retained for drainage, electricity, biodiversity and cultural heritage purposes. The parkland created by such sharing and integration should be suitable for the intended open space function/s, including maintenance.
- A diversity of open space and recreational opportunity must be pursued.
- Active Open Space is defined as being of an appropriate size i.e. sufficient to incorporate two football / cricket ovals, but small enough to enable regular spacing of active open provision across residential areas. This would generally require at least 8ha of land that is:
 - a) Appropriate for its intended open space use in terms of quality and orientation;
 - b) Located on flat land (which can be cost effectively graded);
 - c) Located with access to, or making provision for a recycled or other sustainable water supply;
 - d) Designed to achieve sharing of space between sports (where appropriate);
 - e) Linked to pedestrian and cycle paths;
 - f) Environmental issues such as heritage and local culture can be taken into account in the location and development of open space;
 - g) Open space has potential for a high degree of accessibility and Universal Access; and
 - h) Open space provision in residential areas is based on the objectives of Clause 56.

Location Considerations

Guidelines to inform the location of open space in residential areas include:

- Requirements as outlined in Council adopted Structure Plan, Urban Design Frameworks or other relevant strategic planning documents.
- Open space areas and facilities should be provided in locations that maximise accessibility for all users, including people with poor mobility, such as older adults and people with a physical disability, and parents with prams and strollers.

- Local open spaces should not be located on major roads, however, there should be good sightlines into an open space area from neighbouring streets, houses, schools or other buildings.
- Local parks and playgrounds should have active frontages on at least two dominant sides to provide surveillance, and where possible should avoid bordering rear yards.
- Local parks shall generally comprise a minimum area of 0.75 – 1.0 hectare. Exceptions may include small linear link reserves that may be required to provide vital connections between areas.
- Aside from open space whose primary function is to create linear links, long narrow areas should be avoided as open space contributions.
- Isolated pockets of land within a park (i.e. “dead” spaces) or those areas which cannot be overlooked, should be avoided.
- The provision of public open space should not be considered separate from the design of a subdivision. Rather, open space should be a primary consideration in the design of new subdivisions, rather than open space being simply provided after the housing and roadway layers have been prepared.
- Designed to protect native remnant vegetation and other significant natural features.

Guidelines to inform the location of open space in commercial and industrial areas include:

- Requirements as outlined in Council adopted Structure Plan, Urban Design Frameworks or other relevant strategic planning documents.
- Open space areas and facilities should be provided in locations that maximise accessibility for all users, including people with poor mobility, such as older adults and people with a physical disability, and parents with prams and strollers.
- Located so as to maximise opportunities for personal safety and security in siting and design, including consideration of sightlines.
- Located in areas of high pedestrian activity.
- Whilst there are no minimum or maximum sizes required, open spaces must be of an appropriate size (and design) to be attractive, appealing, usable and fit for purpose.
- Have regard to overshadowing, orientation and weather patterns (i.e. avoid siting open space in cold, dark, windy locations).
- Aside from open space whose primary function is to create linear links, long narrow areas should be avoided as open space contributions.
- Isolated pockets of land within a park (i.e. “dead” spaces) or those areas which cannot be overlooked, should be avoided.

Design Considerations

In considering applications for use and development the responsible authority will take into account:

- Any adopted structure plan, urban design framework, development and contribution plan, activity centre plan and other relevant strategic planning documents that may require public open space.
- The need for a variety of open space areas (categories, functions, character and standard) in the context of broader municipal open space and recreation provision.
- Healthy Urban Design Good Practice Guidelines and other relevant planning guides (e.g. Food-sensitive Planning and Urban Design, National Heart Foundation, March 2011).
- Changing community standards and expectations for recreation.
- Co-location of open space with other community facilities.
- The usability of the space for its intended purpose.
- The desire for passive surveillance of open space areas, including streets/housing to front open space reserves.
- *Universal Access* design principles, including accessibility by pedestrians to open space.
- Utilisation of natural features in the design of open space.

Additional considerations include:

- No linear open space area provided to carry a path should be less than 10m wide, and where practical locate paths along routes where clear sightlines are possible to assist navigation, to enhance security, and to provide visibility of potential hazards (i.e. people and cars).
- Avoid dense shrubbery along linear paths and set plantings well back from path edges.
- The minimum width of shared paths should be not less than 2.5m and for pedestrian paths the minimum width should be not less than 1.5m.
- Linear paths should primarily be provided to add to and/or link to a broader trail/path system, and should be located to connect residential areas with community facilities, shopping/commercial areas, other residential areas, or other key destinations/attractions.
- Where possible, circuits of varying lengths should be considered to maximise the opportunity for people to utilise linear paths for exercise.
- Developers shall be required to either fund or undertake basic development works in parks and open space areas (in order to render the site usable by the community and fit for its intended purpose) as part of their contribution, over and above the contribution of the land.
- Where Developers undertake the works to develop open space areas provided as part of their contribution, a concept plan showing the park plan should firstly be approved by Council as part of the subdivision approvals process.

- The landscape design and standard of development of new open space areas provided by Developers shall be at a level that is able to be sustained by Council after the responsibility for maintaining the site is passed onto Council.

Developer Contributions: Cash & Land

The following shall be considered by Council when assessing requirements for land or cash contributions.

- Any adopted structure plan, urban design framework, development and contribution plan, activity centre plan and other relevant strategic planning documents that may require land for public open space or a cash contribution.
- Land should be taken in preference to a cash contribution in instances where:
 - There is demand for open space in that location (having regard to the proximity, accessibility and capacity of surrounding open space) and the proposed site will enhance the overall network of open space available to the community.
 - An existing open space corridor could be enhanced.
 - There is a strategically important link required with adjoining open space or other land uses.
 - There are mature trees, or features of regional (or greater) environmental or cultural significance. Such sites may be considered encumbered and provide limited usability for the community. In such instances, only partial contribution credit may be considered by Council.
 - The nature and condition of the land is compatible with the preferred end use/purpose, and its development for that purpose can be cost effective.
 - New residential areas, or undeveloped land residentially zoned in Development Plan areas, should look to achieve 10% provision for open space in land contributions.
 - New commercial or industrial areas, or undeveloped commercial or industrial land zoned in Development Plan areas, should look to achieve 2% provision for open space in land contributions.
- Cash should be accepted from a Developer in lieu of land where:
 - The size of the subdivision does not allow sufficient land to be taken as open space to meet the demand for identified functions and setting types within the boundaries of the subdivision.
 - An adequate range of functions and setting types are already available within the locality.
 - Resources are needed to develop a regional recreational resource.
 - It is possible that the cash taken in lieu of open space land can be used to enhance an alternative site in the vicinity of where it was taken to service that communities needs.

The recommended changes to the schedule of Clause 52.01 Public Open Space Contribution and Subdivision are highlighted in yellow below.

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DRAFT SCHEDULE TO CLAUSE 52.01

Type or location of subdivision	Amount of contribution for public open space
Residential Subdivision	<p>Land Contribution</p> <p>10% of the net developable area of which a minimum of 5% must be unencumbered.</p> <p>Cash Contribution</p> <p>10 % of the site value of the net developable area.</p> <p>Combination: Cash and Land Contribution</p> <p>A combination of cash and land contribution can be negotiated up to the value of 10% of net developable area. In such instances, the first 5% of any land provided must be unencumbered.</p>
Industrial Subdivision	<p>2% of the net developable area in cash or land contribution. Land provided must be unencumbered.</p>
Commercial Subdivision	<p>2% of the net developable area in cash or land contribution. Land provided must be unencumbered.</p>

APPENDIX B LATROBE CITY ACTIVE OPEN SPACE PROJECTS 2011 – 2016

YEAR	RESERVE	PROJECT	TOTAL COST	LCC FUNDING ⁴
2011	Boolarra Memorial Park	Netball Courts & Lighting	\$100,000	\$100,000
2011	Burrage Reserve Newborough	Pavilion Upgrade	\$60,000	\$60,000
2011	Tyers Recreation Reserve	Lighting Project	\$80,000	\$80,000
2011	Harold Preston Reserve Traralgon	Pavilion Upgrade	\$100,000	\$40,000
2011	Toners Lane Reserve Morwell	Road access	\$40,000	\$40,000
2011	Burrage Reserve Newborough	Lighting project	\$100,000	\$100,000
2011	Morwell Recreation Reserve	Ground improvements	\$250,000	\$150,000
2011	Keegan Street Reserve Morwell	Lighting project	\$100,000	\$40,000
2011	Northern Reserve Morwell	Pavilion construction	\$320,000	\$320,000
2011	Crinigan Road South Reserve Morwell	Pavilion upgrade	\$244,000	\$184,000
2011	Ted Summerton Reserve Moe	Pavilion & ground upgrade	\$6,000,000	\$340,000
2011	Federation (formerly Monash) University Churchill	Construction of synthetic pitch	\$900,000	\$600,000
2011	Various reserves	Upgrade to soccer grounds	\$150,000	\$50,000
2012	Ronald Reserve Morwell	Lighting project	\$90,000	\$30,000
2012	Tyers Recreation Reserve	Upgrade to Football/Netball change facility	\$280,000	\$230,000
2012	Moe Olympic Reserve	Construction of pavilion	\$680,000	N/A
2012	Monash Reserve Newborough	Upgrade of pavilion	\$50,000	N/A
2012	Harold Preston Reserve Traralgon	Upgrade to Traralgon Tennis Centre	\$714,000	\$100,000
2013	Yallourn North Town Oval	Construction of new pavilion	\$680,000	\$340,000
2013	Glengarry Recreation Reserve	Construction of 4 multi-use Netball/Tennis Courts	\$500,000	\$430,000
2013	Tyers Recreation Reserve	Construction of Soccer pavilion	\$420,000	\$400,000
2013	Moe Outdoor Pool	Facility Upgrade	\$2,630,000	\$790,000
2013	Yallourn North Bowling Green	Construction of synthetic bowling green	\$200,000	N/A
2013	Harold Preston Reserve Traralgon	Installation of drainage on pitch 2	\$55,000	\$40,000
2013	Morwell Recreation Reserve	Morwell Recreation Reserve Precinct master plan	\$60,000	\$30,000
2014	Harold Preston Reserve	Female change pavilion	\$420,000	\$350,000
2014	Gaskin Park	Installation of Lighting	\$200,000	\$100,000
2014	Harold Preston Reserve	Installation of lighting	\$140,000	\$90,000
2014	Latrobe City Sports & Entertainment Stadium	Installation of irrigation and drainage	\$150,000	\$100,000
2014	Moe Netball Park	Installation of lighting	\$160,000	\$110,000
2014	Catterick Crescent Reserve	Master plan	\$70,000	\$25,000
2014	Maryvale Reserve	Master plan	\$30,000	\$10,000
2014	Traralgon Recreation Reserve & Showgrounds	Master plan	\$45,000	\$15,000
2014	N/A	Tracks, Trails and Paths Strategy	\$100,000	\$70,000
2015	Agnes Brereton Reserve	Pavilion upgrade	\$400,000	\$350,000
2015	Duncan Cameron Park	Reconstruction of oval – install drainage	\$450,000	\$400,000
2015	Gaskin Park	Construction of a synthetic bowling green	\$400,000	\$400,000
2015	Morwell Park	Installation of drainage on the oval	\$60,000	\$20,000
2015	Harold Preston Reserve	Construction of a show court at the Traralgon Tennis Centre	\$1,300,000	\$550,000
2015	Ted Summerton Reserve	Reconstruction of the oval	\$600,000	\$600,000
2015	Moe Botanic Gardens	Reconstruction of the Moe Tennis Courts	\$1,600,000	\$1,600,000
2015	Various Reserves	Design of a range of recreation pavilions, tennis courts and lighting projects	\$400,000	\$400,000
2016	Glengarry Recreation Reserve	Construction of a Netball/Tennis pavilion	\$335,000	\$235,000
2016	Stoddart Oval	Upgrade to existing pavilion	\$100,000	\$10,000
2016	Joe Tabuteau Reserve	Upgrade to existing pavilion	\$100,000	\$25,000
2016	Traralgon Recreation Reserve & Showgrounds	Construction of match standard lighting	\$550,000	\$450,000
Total			\$22,414,000	\$10,404,000

⁴ LCC funding includes only the proportion of expenditure sourced directly from Council. This excludes grant funding and other non-Council revenue sources.

