

13 August 2020

Brendan Aikman
Strategic Planner – Design
City of Greater Bendigo

By email: b.aikman@bendigo.vic.gov.au

Dear Brendan,

**Draft Public Open Space Contributions Policy
City of Greater Bendigo**

Thank you for the opportunity to comment on City of Greater Bendigo's draft Public Open Space Contributions Policy. We understand that this draft policy is one of the recommended actions out of the Public Space Plan which was adopted by Council in June 2019.

The UDIA Northern Chapter supports the Public Space Plan and understands the intent of the draft Public Open Space contributions policy. However, we do believe that a Council policy is not appropriate or reliable as a tool to achieve the intent of the Open Space Plan.

The draft policy seeks among other matters to establish rates for open space contributions across the municipality.

In the absence of a contribution rate in the Planning Scheme, which is the case for Greater Bendigo, a contribution can be sought under S18 Subdivision Act. The maximum contribution of cash and/or land is 5%.

The criteria for requesting contribution are:

- Existing and proposed use or development of the land
- Likelihood that existing open space will be more intensively used after the subdivision;
- The existing or likely population density in the area of the subdivision and the effect of the subdivision on this;
- Existing places of public resort and recreation in the neighbourhood of the subdivision and the adequacy of these;
- How much of 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.

It is noted that open space contribution is not required if:

- Subdivision is for two lots and it is considered unlikely that each lot will be further subdivided;
- The subdivision is exempt by the scheme;

- If there is an approved infrastructure contributions plan, and on the development of the land any land specified in the ICP to be provided for public open space must be provided as part of the land component or land equalisation amount is imposed and the land is a type of land specified in a Ministerial Direction as being land to which the subsection applies.

There is currently no contribution rate specified in the Schedule to Clause 53.01 of the Greater Bendigo Planning Scheme. Accordingly, any open space contribution sought by Council can only be made on the above criteria and the proposed rates need to be established under these criteria.

As the proposed policy is not to be included in the Greater Bendigo Planning Scheme, it will have limited weight. Industry preference is to implement policies with clarity and certainty, which in this case would be a planning scheme amendment to introduce a Schedule to Clause 53.01.

The analysis and justification required is clearly discussed and established in the Panel Report to Amendment C99 to the Whitehorse Planning Scheme. This Amendment proposed, based on the Whitehorse Open Space Strategy, the introduction of a Schedule to Clause 52.01 (now 53.01). The amendment was based on the adopted Whitehorse Open Space Plan, and also proposed a Local Planning Policy, which identified locations for land versus cash contributions and a flat contribution rate of 4%. The Panel concluded that the choice, format and content of the Schedule was appropriate and satisfactory.

In relation to the proposed CoGB policy, it is submitted that while the provision of open space is appropriate for the health and wellbeing of current and future residents, the appropriate mechanism for achieving the outcomes sought by the Open Space Plan is to prepare and implement a Schedule to Clause 53.01. The criteria for seeking a contribution from the Subdivision Act should be addressed in the proposed policy, as well as locations where the policy applies ie land within settlement boundaries.

City of Greater Bendigo has a number of policies that present complications to the development process, as they are not contained within the planning scheme or the IDP and therefore result in confusion and inaccuracies in determining feasibility for development. Furthermore, when policies are outside the planning scheme, there is no avenue for independent review or challenge. For example:

1. DPO policy, which allows for public consultation despite the fact that the Planning Act does not recognise such consultation. This leads to frustration on the part of submitters, delays in activity and additional costs.
2. Street Trees Policy, which is not included in the planning scheme or the IDM and therefore is an unknown and highly volatile factor in determining development costs/feasibility.
3. Land Use Activity Agreements, outside the Planning Scheme and again, volatile and unknown costs and implications.

The above policies continue to be challenged and challenging, with no avenue for independent determination or analysis.

The Whitehorse City Council approach to ensuring adequate and appropriate Public Open Space contributions is the recommended and preferred approach and we submit to Council that a Planning Scheme Amendment should be prepared to include an appropriate Schedule to Clause 53.01.

Should you seek to discuss this submission in greater detail please contact the UDIA Northern Chapter Committee Andrea Tomkinson at atomkinson@tomkinson.com.au.

Kind regards,



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