

Previous Council Resolutions and Milestones

Council resolution of 15 September 2020

On 15 September 2020 Council resolved the following:

1. *That Council note:*
 - (a) *the officer report outlining the proposed public open space contributions rate for the municipality;*
 - (b) *the proposed open space contribution rate is a municipal wide contribution rate applicable to all subdivisions in Yarra;*
 - (c) *the open space contribution rate proposed is derived from the methodology of the Open Space Strategy adopted by Council on 1 September 2020;*
2. *That Council resolves to propose an open space contribution rate of 10.1 % as part of the Yarra Planning Scheme.*
3. *That Council seek authorisation from the Minister for Planning to prepare and exhibit Amendment C286 to the Yarra Planning Scheme to implement the Yarra public open space contributions rate.*
4. *That upon receipt of authorisation from the Minister for Planning, Amendment C286 be placed on public exhibition for a period of 4 weeks.*
5. *That Council authorise the CEO to make minor changes to the Amendment C286 documents, should any be necessary, prior to exhibition.*
6. *That following the exhibition of Amendment C286 a report be provided to Council on any submissions received.*
7. *That the Yarra Open Space Strategy, and report detailing the methodology employed and the calculations upon which the 10.1% POSC rate is based, be placed on exhibition with the amendment documents.*

Authorisation of Amendment C286

In line with Council's resolution, 'authorisation' of Amendment C286 was sought from the Minister for Planning in December 2020.

By letter dated 18 June 2021, the Minister's delegate 'authorised' Amendment C286 being placed on public exhibition, subject to the following conditions:

- (a) *The explanatory report must be strengthened to provide further explanation of the basis for calculating the total POS improvement cost of \$569,388,045;*
- (b) *Clause 22.12 – Public Open Space Contribution must form part of this amendment which reflects the new OSS and which updates policy and form and content as appropriate;*
- (c) *The OSS must form a background document for the purpose of Clause 72.08. Council should consider whether to also include any of the other associated documents in Clause 72.08 which provide supporting information to the OSS;*
- (d) *The OSS, the Yarra Open Space Strategy 2020 Technical Report, July 2020 and the Yarra Open Space Strategy 2020 Public Open Contributions Report December 2020 must form part of the exhibition documents; and*

- (e) *All amendment documents must be updated, including the amendment description, to reflect the above conditions.*

Council resolution of 20 June 2021

Given Clause 22.12 (the revised policy) was not included in Council endorsement of Amendment C286 for 'authorisation', a further report was prepared and on 20 June 2021, Council; where Council resolved:

1. *That Council note:*
 - (a) *the officer report outlining the proposed public open space contributions rate for the municipality;*
 - (b) *the proposed open space contribution rate is a municipal wide contribution rate applicable to all subdivisions in Yarra;*
 - (c) *the open space contribution rate proposed is derived from the methodology of the Open Space Strategy adopted by Council on 1 September 2020;*
 - (d) *the changes proposed to Clause 22.12 and the Explanatory Report; and*
 - (e) *the proposed notification process.*
2. *That Council endorses the revised Clause 22.12 and Explanatory Report and includes these documents as part of the exhibited documents for Amendment C286.*
3. *That Council endorses the notification process as outlined in this report.*
4. *That Council reiterates its resolution of 15 September 2020 that Amendment C286 be placed on public exhibition for a period of 4 weeks as outlined in this report.*
5. *That Council authorise the CEO to make minor changes to the Amendment C286 documents, should any be necessary, prior to exhibition.*
6. *That following the exhibition of Amendment C286 a report be provided to Council on any submissions received.*

Exhibition period of Amendment C286

Amendment C286yara was placed on public exhibition on 7 September 2021 to 5 October 2021.

Section 19 of the *Planning and Environment Act* requires Council to give notice to (among others) owners and occupiers of land it believes may be materially affected by the amendment. The Act also requires Council to publish notice of the amendment in a newspaper circulating in the area (The Age) and in the Government Gazette.

Where the affected number of owners and occupiers makes it impractical to notify all of them individually, Sections 19 (1A) and (1B) of the Act allow a Planning Authority to:

take reasonable steps to ensure that public notice of the amendment is given in the area affected by the amendment.

For this amendment, it was impractical to notify all 52,000 ratepayers plus occupiers across the entire municipality. Instead of individual notification, officers have prepared a community engagement strategy that formed the basis of the statutory consultation.

Summary of submission received to Amendment C286

As a result of exhibition, seventy two (72) submissions were received. In summary:

- (a) twenty seven (27) submissions supported the Amendment;
- (b) forty three (43) submissions opposed the Amendment; and
- (c) two (2) submissions were unclear.

The key issues raised in submissions opposing the amendment were:

- (d) the size of the rate increase was excessive;
- (e) the amendment lacked strategic justification;
- (f) the rate increase would impact on housing affordability;
- (g) non-residential uses should not be included in the rate;
- (h) strategic development sites should be exempted from the new rate; and
- (i) the amendment does not include transitional provisions.

NB. A detailed response to the specific issues raised in the submissions was provided in the previous report to Council (19 October, 2022) that recommended to Council that a Planning Panel be requested.

Council resolution to refer Amendment C 286 to a Planning Panel

In considering an officer report on the exhibition of the Amendment, Council on 19 October 2021, resolved the following:

1. *That Council:*

- (a) *note and consider all submissions made on or before the last date of exhibition of Amendment C286yara to the Yarra Planning Scheme, in accordance with section 22(1) of the of the Planning and Environment Act 1987 (Vic);*
- (b) *note the officer report and Attachments 1-3 in relation to the Amendment;*
- (c) *in relation to all submissions which were considered by Council, refer those submissions to an independent Planning Panel appointed by the Minister under Part 8 of the Act in accordance with section 23 of the Act;*
- (d) *authorise officers to consider any further late or modified submissions received prior to a hearing by a Planning Panel appointed by the Minister under Part 8 of the Act and determine whether to refer any late submissions to the independent Planning Panel;*
- (e) *authorise officers to engage a legal team and appropriate experts to make submissions to the Planning Panel, adopting a position of advocacy for the Amendment, including requesting recommendations from the Planning Panel for any proposed changes or revisions to the exhibited Amendment, generally in accordance with the officer report, officer recommendations and Attachments 1-3;*
- (f) *authorises officers to write to all submitters to Amendment C286yara to advise of the Council resolution; and*
- (g) *receive a further report after the Panel Report is received from Planning Panels Victoria to enable further consideration of the Amendment by Council.*

The Panel Hearing

The Panel Hearing was conducted by video conference from 6 to 17 December, 2021 and 9, 10 and 23 February, 2022.