



Ararat Rural City

Public Open Space Contribution Policy

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CEO



INTENT

The purpose of this policy is to:

- a) Provide a framework for managing the collection and spending of Public Open Space Contributions in a transparent, equitable and accountable way;
- b) Provide guidance for the determination of how Public Open Space contributions are received, that is, in the form of a monetary contribution or by providing land;
- c) Ensure the provision of Public Open Spaces contribute to enhancing the lives of community and visitors within Ararat Rural City; and
- d) Ensure the collection of Public Open Space Contributions does not limit development opportunities.

BACKGROUND

Council's Planning Department perform a statutory function under the *Planning & Environment Act 1987* to consider planning permit applications to subdivide land. Clause 53.01, Public open space contributions and subdivision, of the Ararat Planning Scheme, is a state-wide planning provision.

The *Subdivision Act 1988* specifies when Public Open Space Contributions (POS) are applied, and how these funds are managed in accordance with the Act.

Council has a statutory obligation under the *Subdivision Act 1988* and the P&EA 1987, to ensure that POS contributions are used for the improvement of existing or creation of new POS.

POS Contributions provide an important source of revenue to fund new land acquired for the purpose of POS and capital improvement of existing POS required for supporting the needs of existing population, population growth and changing demographics over time.

Ararat Rural City currently receive POS contributions, however, require a formal policy to provide guidance for the location of any monetary funds collected or if the provision of land is appropriate in place of monies.

Pursuant to Clause 53.01, the provision of a POS contribution must be made to the Council in an amount specified in the schedule to the clause in the form of a percentage of land or land value, or otherwise under Section 18 of the *Subdivision Act 1988*. Council does not currently use the Schedule to Clause 53.01, so Section 18 of the *Subdivision Act 1988* applies. This sets out that:

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—

- a) 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*
- b) 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*
- c) 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.*

Noting the following exemptions apply under Clause 53.01-1

A subdivision is exempt from a public open space requirement specified in this scheme if:

- *It is one of the following classes of subdivision:*
 - *Class 1: The subdivision of a building used for residential purposes provided each lot contains part of the building. The building must have been constructed or used for residential purposes*

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immediately before 30 October 1989 or a planning permit must have been issued for the building to be constructed or used for residential purposes immediately before that date.

- *Class 2: The subdivision of a commercial or industrial building provided each lot contains part of the building.*
- *It is for the purpose of excising land to be transferred to a public authority, council or a Minister for a utility installation.*
- *It subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided.*

SCOPE

This policy applies to:

- All land zoned Low Density Residential Zone (LDRZ), Mixed Use Zone, (MUZ), Township Zone (TZ), General Residential Zone (GRZ), Neighbourhood Residential Zone (NRZ), Industrial Zones (INZ), Commercial Zone (CZ) and Rural Living Zone (RLZ) for subdivision of land within the Ararat municipality, and
- The sale of existing Public Open Space owned by the Council.

The following rates apply for all land subdivided outlined within the Scope:

Zone	Number of lots	Contribution	Condition
Low Density Residential & Rural Living	3 or more	2%	None
Mixed Use & Township	3 lots	2%	Residential use
Mixed Use & Township	4 lots	3%	Residential use
Mixed Use & Township	5 lots	4%	Residential use
Mixed Use & Township	More than 5 lots	5%	Residential use
General Residential & Neighbourhood Residential	3 lots	2%	None
General Residential & Neighbourhood Residential	4 lots	3%	None
General Residential & Neighbourhood Residential	5 lots	4%	None
General Residential & Neighbourhood Residential	More than 5 lots	5%	None
Industrial & Commercial	Any	0%	
All	Any	0%	Affordable housing projects at the discretion of the CEO

Council can seek to include these rates (or other variations) in the planning scheme via a planning scheme amendment at Clause 53.01 via the inclusion of a Schedule.

Money received from the sale of existing public open space land by Council must be allocated for the use of improving existing Public Open Space or the creation of new Public Open Space.

POLICY

Council will:

- Ensure that the collection of POS contributions and the spending of POS contributions adheres to the principles of this policy;
- Ensure that land set aside within a plan of subdivision provides for public open space that is not encumbered by the installation of utility services which will inhibit the use of the public open space or detract from the amenity of the public open space.
- Utilise the funds for strategic land purchases and Open Space projects that increase the participation of residents and visitors of a public open space as priorities;
- Utilise the funds for projects which have a clear relationship with the POS contributions and associated development by allocating funding for either:
 - Projects situated in the same township as the Contributions were made; or

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- Projects that provide for a Regional public open space, provided that a link can be clearly demonstrated between the allocation of funds and the source of contributions;
- Utilise the funds for new or enhanced Public Open Spaces, excluding maintenance and other operational expenditure.

Collection of monetary funds:

- Any funds collected as a result of payment for a subdivision to achieve Statement of Compliance (SoC) must be deposited within the POS account allocated by the Finance unit.
- The township where the subdivision occurred must be recorded against the contribution collected.
- All funds associated with the sale of any Public Open Space must be deposited into the POS account with the township name recorded from where the sale of land occurred.

Withdrawal of funds:

Allocation of funds (expenditure) from the Public Open Space Reserve is via the Capital Works program in the Council Budget or via a Council resolution; or

Any proposal which is not included within the Capital Works program which proposes to use the public open space funds must be presented to the CEO outlining the following items for consideration:

- A Project Plan (Including any feasibility study, concept plan, detailed designs etc)
- Details confirming that the project plan complies with the provisions of this policy and the *Subdivision Act 1988*.
- Funds to recover associated project costs can be withdrawn from the POS account providing that the project complies with this policy. This can include projects that are due diligence requirements, such as an environmental risk assessment, however, priority should be given for costs incurred in delivery.

Responsibilities:

Finance Unit responsibilities:

- Provide an annual report to Statutory Planning and outlining contributions made by township, the balance, and any use of the POS account.
- Ensure that any withdrawal from the POS account complies with this policy.
- Ensure that any monies collected are assigned to the correct township where subdivisions occurred.
- Provide details of income and expenditure of the POS Reserve to Council for inclusion in the Annual Report.

Statutory Planning responsibilities:

- Apply and collect the Contribution Rate as stated in this policy.

Asset Department responsibility:

- Consideration of utilising the Public Open Space Reserve for funding components of the Capital Works program which align with the requirements of the *Subdivision Act 1988* and this policy.

DEFINITIONS

Term	Definition
Public Open Space	Public Open Space – as per the <i>Subdivision Act 1988</i> , <i>land set aside in a plan or land in a plan zoned or reserved under the planning scheme-</i>

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	<p>(a) for public recreation or public resort; or</p> <p>(b) as parklands; or</p> <p>(c) for similar purposes.</p>
Affordable housing	<p>As per the meaning given by Section 3AA of the Planning & Environment Act 1987:</p> <p>Affordable housing is housing including social housing, that is appropriate for the housing needs of any of the following-</p> <p>(a) very low-income households.</p> <p>(b) low-income households.</p> <p>(c) moderate income households.</p>
	<p>•</p>
SoC	Statement of Compliance
Social housing	<p>As per the meaning given by Section 4(1) of the Housing Act 1983:</p> <p>Social housing means the following housing (other than under the Victorian Affordable Housing Programs)-</p> <p>(a) public housing.</p> <p>(b) housing owned controlled or managed by a participating registered agency.</p>
Public housing	<p>As per the meaning given by Section 4(1) of the Housing Act 1983:</p> <p>Public housing means non-profit housing in the public sector, other than under the Victorian Affordable Housing Programs.</p>
Registered agency	<p>As per the meaning given by Section 4(1) of the Housing Act 1983:</p> <p>Registered agency means a registered housing association or a registered housing provider.</p>

ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

REFERENCES/RELATED DOCUMENTS