

Title:	Public Open Space Contributions
Type of policy:	Development Services
Adopted:	14 December 2022
File No:	22/63461
Attachments:	Nil

Acknowledgement of Country

Council acknowledges the traditional custodians of the land comprising the Murrindindi Shire Council area, and those of our neighbouring municipalities.

We pay respect to Elders, past and present, and celebrate and respect their continuing culture and connection to the land.

1. Purpose

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; and
- c) Ensure the provision of Public Open Spaces contribute to enhancing the lives of community and visitors within Murrindindi Shire.

2. Public Open Space

As defined within the *Subdivision Act 1988*, public open space means, *land set aside in a plan or land in a plan zoned or reserved under the planning scheme –*

- (a) for public recreation or public resort; or*
- (b) as parklands; or*
- (c) for similar purposes.*

3. Rationale

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

The Subdivision Act 1988 (SA 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 SA 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.

Murrindindi Shire currently receive POS contributions, however, require a formal policy to provide guidance for the allocation 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 SA 1988. Council does not currently use the Schedule to Clause 53.01, so Section 18 of the SA 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.*

4. Scope

This policy applies to:

- All land zoned General Residential Zone (GRZ), Low Density Residential Zone (LDRZ), Township Zone (TZ), Industrial Zones and Rural Living Zone for subdivision of land within the Murrindindi 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:

- Rural Living Zone – 2% POS Contribution
- Low Density Residential Zone – 5% POS Contribution
- Township Zone – 5% POS Contribution
- General Residential Zone – 5% POS Contribution
- Industrial 1 and 2 Zones – 5% POS Contribution

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.

5. Definitions

Reference Term	Definition
P&EA 1987	<i>Planning & Environment Act 1987</i>
SA 1988	<i>Subdivision Act 1988</i>
POS	Public Open Space - as per the Subdivision Act 1987, <i>land set aside in a plan or land in a plan zoned or reserved under the planning scheme – a) for public recreation or public resort; or b) as parklands; or c) for similar purposes.</i>
ELT	Executive Leadership Team
SoC	Statement of Compliance
POS Reserve	The ledger account of Murrindindi Shire Council
Finance unit	The finance unit of Murrindindi Shire Council

6. 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
 - Projects that provide for a Regional public open space as defined within the Recreation and Open Space Strategy, 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.
- Utilise the funds to assist in the delivery of the actions of the Recreation and Open Space Strategy for actions which comply with this policy.

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 (As supported via the Financial Reserves Policy); 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 Executive Leadership Team (ELT) via a briefing note outlining the following items for consideration:

- A Project Plan (Including any feasibility study, concept plan, detailed designs etc)
- Written consent from Development Services department that the project plan complies with the provisions of this policy and the SA 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.

Formal approval via minutes of ELT meeting must be provided to the Finance unit for recording on file prior to funds being released.

Responsibilities:

Finance Unit responsibilities:

- Provide an annual report to Statutory Planning and ELT outlining contributions made by township, the balance and any use of the POS account.

Statutory Planning responsibilities:

- Apply and collect the Contribution Rate as stated in this policy.
- Circulate annual report to internal departments

ELT responsibilities:

- 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.

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.

Community Wellbeing responsibility:

- Consider the Public Open Space Reserve for leveraging grant funding opportunities, for projects which align with the requirements of the *Subdivision Act 1988*, Councils Financial Reserves Policy - Appendix B and the Public Open Space Contributions Policy (this policy).

7. Related Policies, Strategies and Legislation

- Murrindindi Shire Council Recreation and Open Space Strategy 2018-2028
- Murrindindi Shire Council Financial Reserves Policy
- Murrindindi Planning Scheme
- *Planning & Environment Act 1987*
- *Subdivision Act 1988*

8. Council Plan

The development of this policy is consistent with Goal 2, *Beautiful townships and rural settings* of the Council Plan 2021-2025;

Deliver efficient, sustainable land use planning outcomes to enhance liveability, protect our unique rural character and natural beauty, and to enable growth.

Action 2.2.2 of the 2021-2022 Council Action Plan - *Develop a Public Open Space Contributions Policy to support development of enhanced and new public open spaces that meets the needs of the community.*

9. Management and Review

The responsibility for the on-going review and monitoring of this policy will be undertaken by the Manager Development Services or delegate every four years or earlier if necessary.

10. Consultation

Internal consultation has occurred in the development of this Policy with relevant departments of council and the Executive Leadership Team.

11. Human Rights Charter

This policy has been developed with consideration of the requirements under the [Charter of Human Rights and Responsibilities](#). This policy has been developed with consideration for people to participate in public life in accordance with section 18 of the Charter.

12. Related documents of Council

- Financial Reserves Policy – Appendix B
- Recreation and Open Space Strategy 2018-2028.