



# Finance- Allocation of Moneys Received via the Public Open Space Requirement Policy

Approval Date: 28/06/2016

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*Policy and Procedure is compliant with the Charter of Human Rights legislation*

## Purpose

1. To record Council's policy and procedure concerning the allocation of contributions (i.e. cash contributions) received from application of the **public open space requirement**.

## Scope

2. Firstly, the heads of power to require payment of a public open space contribution is derived from the *Subdivision Act 1988*. Thus, a Council acting as a responsible authority or a referral authority under the *Planning and Environment Act 1987*:
  - (a) may require the applicant who proposes to create any additional separately disposable parcel of land by a plan of subdivision to pay or agree to pay a **public open space requirement** to the Council, being a percentage of the site value of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes and being a percentage set by the Council not exceeding 5 per cent.
  - (b) may only apply 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:
    - (i) the existing and proposed use or development of the land;
    - (ii) any likelihood that existing open space will be more intensively used after than before the subdivision;
    - (iii) any existing or likely population density in the area of the subdivision and the effect of the subdivision on this;
    - (iv) whether there are existing places of public resort or recreation in the neighbourhood of the subdivision, and the adequacy of these;
    - (v) how much of the land in the subdivision is likely to be used for places of resort and recreation for lot owners; and
    - (vi) any policies of the Council concerning the provision of places of public resort and recreation.
3. Secondly, pursuant to the provisions clause 52.01 of the Yarra Planning Scheme:
  - (a) 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 site value of such land to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both); and
  - (b) if no amount is specified in the Planning Scheme, a contribution for public open space may still be required under section 18 of the *Subdivision Act 1988*.

4. Thirdly, the provisions of clause 22.12 of the Yarra Planning Scheme:
- (a) identify the intent behind the percentage contained in clause 52.01 of the Yarra Planning Scheme which is in turn, drawn from the Yarra Open Space Strategy which identifies that the objectives of collecting open space contributions are:
    - (i) to implement the Yarra Open Space Strategy;
    - (ii) to identify when and where land contributions for public open space are preferred over cash contributions; and
    - (iii) to ensure that where appropriate, land suitable for public open space is set aside as part of the design of a development so that it can be transferred to or vested in Council, in satisfaction of the public open space contribution requirement; and
  - (b) direct that this policy applies to all residential proposals, mixed use proposals incorporating residential uses and proposals incorporating residential subdivision.

## Policy statement

- 5. **Public open space requirement** contributions (i.e. cash contributions) collected by the Council must be separately accounted for and allocated to land acquisition for new reserves, undertaking open space capital works or improving existing open space.
- 6. Council will allocate **public open space requirement** contribution funds in line with its adopted Open Space Strategy for the benefit of new population on whose behalf the contributions are collected. The **public open space requirement** contributions (i.e. cash contributions) funding component toward each adopted open space project, **must** be able to be capitalised in accordance with the Audit requirements and Accounting regulations.
- 7. Council will as necessary, re-write its Open Space Strategy to ensure projects align with new population movements and subdivisions within the municipality.
- 8. As projects are implemented over time, there should be an equitable and balanced distribution of **public open space requirement** contributions expenditure, so that locations with larger numbers of new dwellings (and therefore a larger new population) benefit in line with the level of contributions made toward strategy implementation.
- 9. Yarra City Council is currently authorised to apply *its* **public open space requirement** at a percentage rate of 4.5%.
- 10. Yarra City Council initially collects such **public open space requirement** contributions (i.e. cash contributions) into an income account titled Developer Contributions Received.

11. Yarra City Council shall endeavour to acquit **public open space requirement** contributions (i.e. cash contributions) received within the financial year of their receipt, against legitimate capital renewal or upgrade works undertaken in that financial year.
12. At the end of each financial year, the balance of any unspent **public open space requirement** contributions collected (i.e. cash contributions), are to be transferred into a formal reserve account titled the “**Open Space Reserve**”.
13. The Council must only expend such **public open space requirement** contributions received for the purposes provided under the *Subdivision Act 1988* and the *Planning and Environment Act 1987* which would include:
  - (a) the **creation of new** open space and recreational facilities;
  - (b) the **upgrading** of open space and recreational facilities, only to the extent which such works would result in existing open space being more intensively used after than before the subdivision; and
  - (c) the **renewal or improving** of open space and recreational facilities, **only to the extent** which such works would result in the existing open space/recreation facility, being more intensively used after than before the subdivision.
14. Contributions received from the **public open space requirement** shall not be used for any maintenance works.
15. Contributions received from the **public open space requirement** must only be used for the conduct of feasibility studies and design costs relating to the development of open space or recreation facilities **if such expenditure is able to be capitalised in the Council’s annual accounts in accordance with audit and accounting guidelines.**
16. In determining to allocate monies from the **public open space requirement contributions**, the Council shall have regard to the following definitions.

## Definitions

<b>Term / Abbreviation</b>	<b>Definition</b>
Capital Expenditure	Expenditure used to create new assets or to increase the capacity of existing assets beyond their original design capacity or service potential. Capital expenditure increases the value of asset stock.
Capital Works - New	The acquisition or creation of a new asset to provide additional services. <i>(Shall include implementation of new works (e.g. purchase of land and/or the construction of new open space and recreational facilities).</i>

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<p>Capital Works - Upgrade</p>	<p>To increase the capacity of existing assets beyond their original design capacity or service potential.</p> <p><i>(Shall include the percentage of any development by way of upgrade works, i.e. works which will increase the capacity of the facility <b>to the extent</b> that the existing open space will be able to be more intensively used after the upgrade works than before the subdivision/s.</i></p> <p><i>Examples could include:</i></p> <ul style="list-style-type: none"> <li><i>(i) replacement of grass surface of an oval with a synthetic surface which enabled significantly increased year around usage;</i></li> <li><i>(ii) the replacement and expansion of new updated playground equipment;</i></li> <li><i>(iii) Improving open space which may include installation of such as:</i> <ul style="list-style-type: none"> <li><i>· Seating/spectator cover</i></li> <li><i>· Grass areas/ovals</i></li> <li><i>· Public toilets</i></li> <li><i>· Landscaping</i></li> <li><i>· Barbeque facilities</i></li> <li><i>· Play equipment</i></li> <li><i>· Pathways/walking trails</i></li> </ul> </li> </ul>
<p>Capital Works - Renewal</p>	<p>Works to replace existing assets or facilities with assets or facilities of equivalent capacity or performance capability.</p> <p><i>(Allocations from the Reserve Fund may be applied to the percentage of any works which renew existing open space and recreational facilities <b>but only</b> in such instances where the renewal works will enable the facility to be more intensively used than before the renewal works.)</i></p>
<p>Disposal</p>	<p>Actions necessary to decommission and dispose of assets that are no longer required.</p>
<p>Maintenance</p>	<p>All actions necessary for retaining an asset as near as practicable to its original condition, but excluding rehabilitation or renewal. Maintenance does not increase the service potential of the asset or keep it in its original condition, it slows down deterioration and delays when rehabilitation or replacement is necessary.</p>

## Procedure

17. All determinations in respect of the allocation of **public open space requirement** contributions to eligible works shall be made either:
- (a) on an annual basis by Council via the formal Budget adoption process; or
  - (b) in special circumstances (mid-term determinations) by a formal Council resolution after having considered a comprehensive report from the relevant Council Officer.

## Related documents and attachments

- (a) Yarra Planning Scheme;
- (b) Yarra Open Space Strategy;
- (c) Municipal Strategic Statement;
- (d) Council's Annual Plan and Budget;
- (e) Council's Long Term Financial Report; and
- (f) Council's Long Term Financial Strategy.

## This policy replaces:

All previously adopted policies with a Policy document compliant with Council's legislative obligations and any accounting and audit regulations.

**This policy and procedure applies to all Officers and Councillors.**