

PUBLIC OPEN SPACE CONTRIBUTIONS POLICY

Approval Level:	Council
Policy Type:	Council
Approval Date:	17 January 2024
Review cycle:	Every four years
Review Date:	17 January 2028
Responsible Officer:	Manager Parks and Open Space
Owner:	Manager Parks and Open Space
Responsible Director:	Director Presentation and Assets
Relevant Legislation/Authority:	<i>Subdivision Act 1988, Planning and Environment Act 1987</i>
DOCSETID:	5030404

1. PURPOSE

The purpose of this policy is to:

- 1.1 Create a framework for managing the collection and spending of Public Open Space Contributions in an equitable, transparent and accountable way; and
- 1.2 Ensure an adequate provision of high standard Passive Open Spaces that contribute to Greater Bendigo being a more liveable community.

2. BACKGROUND

- 2.1 Under the *Subdivision Act 1988*, and in accordance with Clause 53.01 of the Greater Bendigo Planning Scheme, the City collects Public Open Space Contributions and manages these funds in accordance with the Act. These Contributions provide an important source of revenue to fund the acquisition and capital improvement of Passive Open Spaces to meet the needs of the new population to be accommodated by the subdivision.
- 2.2 The City currently manages a Reserve but requires guidance for the allocation of funds.
- 2.3 The *Subdivision Act 1988* enables councils to collect a rate not exceeding 5% of the site value of land in a subdivision. Local Governments can vary this where justified.
- 2.4 Amendment C266gben was gazetted and came into effect on March 9, 2023, and introduced a 2 per cent contribution rate for residential subdivisions in Bendigo and 5 per cent for all other residential subdivisions.

- 2.5 Where suitable, and often associated with larger subdivisions, the City may accept the provision of land for Public Open Space from developers in lieu of a cash contribution.
- 2.6 The City also has an Assets and Surplus Land Disposal Policy. Should Public Open Space, whether it be Active or Passive, be identified as surplus to the City's needs, this Policy will guide the disposal process. It will ensure a systematic, transparent and accountable method for the disposal of Council owned assets and surplus land in accordance with Council's Code of Conduct, Council Policies and all appropriate legislation and accounting standards.

3. SCOPE

This policy applies to:

- 3.1 Contributions that are made in accordance with Clause 53.01 of the Greater Bendigo Planning Scheme.
- 3.2 The sale of existing Passive Open Space owned by the City.
- 3.3 Councillors and employees involved in collecting Public Open Space Contributions and funding projects from the Reserve.
- 3.4 Any Contributions collected prior to the adoption of this policy.

This policy does not apply to:

- 3.5 The acquisition or embellishment of Active Open Space areas, noting they are a subset of Public Open Space.
- 3.6 Land that is gifted to the City (outside the requirements of Clause 53.01).

4. DEFINITIONS

Act means the *Subdivision Act 1988*.

Accessible open space is public open space that does not include elements that restricts general access, e.g. charging an entry fee or exclusive use by a user group.

Active Open Space means any Public Open Space that has been designed for use associated with organised sports or activities.

City means the Greater Bendigo City Council, being a body corporate constituted as a municipal Council under the Local Government Act 2020 (Vic).

Committee means the Public Spaces Committee, being an internal committee formed of representation from the Active and Healthy Communities, Climate Change and Environment, Community Partnerships, Engineering, Parks and Open Space, Property Services, and Strategic Planning Units.

Contribution means a Public Open Space contribution, being a contribution paid by a developer as part of a subdivision or development through negotiation or in accordance with the Planning Scheme or the Act. A contribution can include either cash or land.

Contribution Rate means an amount to be contributed as defined in the *Greater Bendigo Planning Scheme*.

Council means the Greater Bendigo City Council being all the Councillors collectively.

DCP means an incorporated Development Contributions Plan in the Planning Scheme as defined in the *Planning and Environment Act 1987*.

Municipal catchment is a significant Public Open Space that attracts visitation and patronage from across the local government area. These Public Open Spaces are identified in the *Greater Bendigo Public Space Plan 2019*.

Passive Open Space means any Public Open Space that has been designed for use in an unstructured and informal way, including play spaces, parks and gardens, passive reserves, shared paths and natural reserves (including waterways) which are accessible to the public.

Planning Scheme means the *Greater Bendigo Planning Scheme*.

Precinct means a Precinct defined by the *Greater Bendigo Public Space Plan 2019* as well as another precinct for the localities of Mandurang, Mandurang South and Sedgwick.

Public Open Space is any open, non-built space managed or owned by the City or another public land manager, including Active Open Space and Passive Open Space, as well open space which is not accessible to the general community, that is used for:

- General community use and activity;
- Recreation and organised sport;
- Aesthetic or place making value;
- The protection of areas of heritage, cultural or ecological value; and
- Utility use such as drainage reserves or flood retention, providing that the space incorporates at least one of the above criteria.

Reserve means the Public Open Space Contributions Reserve, a cash reserve held by the City that accrues funds from cash-in-lieu Contributions under the Planning Scheme or the Act and from the sale of Public Open Space.

Residential Subdivision means any subdivision of land that will create additional dwellings. It can include subdivisions in non-residential planning zones.

Rural Townships means the precincts of Axedale, Elmore, Goornong, Kamarooka, Lockwood South, Mia Mia, Neilborough, Raywood, Redesdale, Sebastian, and Woodvale. It excludes the precincts of Heathcote and Marong.

5. PRINCIPLES

The following five principles underpin this policy:

- 5.1 **Transparency** – The City must demonstrate where Contributions have been collected from, how much has been collected, and what projects the Reserve funds.
- 5.2 **Accountability** – The City must spend the Reserve in accordance with the Act.
- 5.3 **Accessibility** – Passive Open Space funded by the Reserve must be accessible.
- 5.4 **Nexus** – There must be a clear Nexus between new development and projects funded by the Reserve.
- 5.5 **Equity** – The City must aim for an equitable distribution of quality Passive Open Spaces to serve the Greater Bendigo population.

6. POLICY

- 6.1 The City will ensure that the collection of Contributions and use of the Reserve adheres to the principles of this policy.
- 6.2 The City will use the Reserve:
- 6.2.1 As a priority, to fund strategic land purchases for Passive Open Space and/ or Passive Open Space projects, in areas where greater housing density is encouraged (e.g. within a walkable catchment of activity or town centre);
 - 6.2.2 To fund projects which have a clear nexus with the Contributions and associated development by allocating funding for either:
 - Projects situated in the same Precinct as the Contributions were made; or
 - Projects that serve a Municipal catchment, as identified in the Public Space Plan 2019, provided that a link can be clearly demonstrated between the allocation of funds and the source of Contributions;
 - 6.2.3 To fund projects that respond to the demand created by new development, rather than addressing an existing shortfall in the level of service in the Passive Open Space network; and
 - 6.2.4 For new or enhanced Passive Open Spaces, excluding maintenance and other operational expenditure;
- 6.3 Any proposal to withdraw funds from the Reserve must be accompanied by an application and project plan to the Committee demonstrating how it will implement this policy and any relevant adopted plan or strategy.
- 6.4 The funds associated with the sale of any Passive Open Space must be deposited into the Reserve, and then allocated to projects identified in the Public Space Plan 2019, and preferably within the same Precinct where the sale occurred.
- 6.5 Funds to recover associated project costs can be withdrawn from the Reserve providing that the project complies with this policy. This can include project costs that are due diligence requirements, such as an environmental risk assessment, or anything that seeks to improve the site, such as the demolition of existing assets.

7. ROLES AND RESPONSIBILITIES

- 7.1 Statutory Planning responsibilities:
- 7.1.1 Apply and collect the Contribution Rates as stated in Clause 53.01 of the Scheme.
 - 7.1.2 Provide an annual report to the Committee outlining Contributions collected by Precinct.
- 7.2 Financial Strategy responsibilities:
- 7.2.1 Provide an annual report to the Committee outlining the balance and any use of the Reserve.

7.3 Committee responsibilities:

- 7.3.1 Ensure that any withdrawal from the Reserve complies with this policy.
- 7.3.2 Provide details of income and expenditure of the Reserve to the Executive Management Team for consideration and inclusion in any reporting requirements.

8. RELATED DOCUMENTS

Readers are encouraged to access relevant documents and/or resources which are available as per the below.

These include:

- [Local Government Act 2020](#)
- [Subdivision Act 1988](#)
- [Planning and Environment Act 1987](#)
- [Council Plan \(Mir Wimbul\) 2021-2025](#)
- [Public Open Space Contributions Policy Background Report](#)
- [Public Open Space Contributions Background Report to Amendment C266gben](#)
- [Creating Livable Open Space Case Studies \(July 2013\)](#)
- [Greater Bendigo Planning Scheme](#)
- [City of Greater Bendigo Public Space Plan Parts 1 to 3 \(2019\)](#)
- [City of Greater Bendigo Open Space Plan Parts 4 to 5 \(2019\)](#)
- [City of Greater Bendigo Financial Reserves Management Policy \(2019\)](#)
- [Healthy Greater Bendigo 2021-2025](#)

Further information or advice on this policy should be directed to the Public Space Committee.

9. HUMAN RIGHTS COMPATIBILITY

The implications of this policy have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

10. 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, such a change may be made administratively. Examples include a change to the name of a City unit, a change to the name of a Federal or State Government 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 made through consultation with the approval of EMT or where required, resolution of Council.

11. DOCUMENT HISTORY

Date Approved	Responsible Officer	Unit	Change Type	Version	Next Review Date
17 January 2024	Manager Strategic Planning	Strategic Planning	Revision	2.0	17 January 2028