

NORTHERN MIDLANDS COUNCIL

COUNCIL POLICIES



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| Policy Name: | Public Open Space Contribution |
| Originated Date: | Adopted 13 December 2004 – Min. No. 406/04 (as Policy 40) |
| Amended Date/s: | Amended 20 February 2012-Min. No. 41/12 Amended 15 June 2009 – Min. No. 169/09 Amended 21 June 2010 – Min. No. 150/10 Amended 16 February 2015 – Min. No. 53/15 |
| Applicable Legislation: | Section 117 of the <i>Local Government (Building & Miscellaneous Provisions) Act 1993</i> Section 205 of the <i>Local Government Act 1993</i> |
| Dataworks Reference: | 44/001/001 |
| Objective | To establish a consistent approach on the application of public open space for new subdivisions. |

That the Council in accordance with Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* adopt the following policy on the application of public open space for new subdivisions.

Application of Policy

- 1 Public Open Space shall be taken in accordance with this policy on land zoned general residential, general industrial, light industrial, commercial, local business, general business, low density residential, rural living and village.
- 2 Public Open Space contributions in excess of this policy may be offered by the developer or in all other circumstances as resolved at a General Council meeting.
- 3 With regard to subdivision of land, the rate specified in the *Local Government (Building and Miscellaneous Provisions) Act 1993* is 5% of the land area contained in the Plan of Subdivision.
- 4 The location of the land contribution, within the subject land, shall be as determined by Council at a General Council meeting or otherwise agreed between Council and the developer.
- 5 At Council's discretion, a cash contribution may be accepted in lieu of all or part of the land requirement.

The Public Open Space Rate

- 1 The Public Open Space Rate shall be \$1,200 per additional lot created (i.e. A subdivision that

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turns one lot into four has created three additional lots and will attract a public open space contribution/fee of \$3,600.)

OR

- 2 The applicant may, at his or her discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less one of the proposed lots (or strata units). The Public Open Space Rate shall total 5% of that value.

Effect of Previous Public Open Space Contribution

- 1 Where it can be shown that previous Public Open Space contributions have been paid in regard to the creation of the subject land title(s), Council may, at the developer's request, have regard to this and apply a reduced contribution.
- 2 In its consideration of any request under section 10, the following decision of the Resource Management and Planning Appeal Tribunal is relevant.
- 3 In *G Cooley v Glenorchy City Council [2008] (TASRMPAT 256)* The Tribunal held that the previous contributions did not preclude the Appellant from having to make a contribution in relation to this subdivision. The Tribunal was satisfied that the additional subdivision further increased the demand for public open space and it was therefore appropriate to require a contribution as a condition of the approval.

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| Originated Date: | Adopted 13 December 2004 – Min. No. 406/04 (as Policy 40) |
| Amended Date/s: | Amended 15 June 2009 – Min. No. 169/09 Amended 21 June 2010 – Min. No. 150/10 Amended 20 February 2012–Min. No. 41/12 Amended 16 February 2015 – Min. No. 53/15 Amended 20 May 2019 – Min. No./19 |
| Applicable Legislation: | Section 117 of the <i>Local Government (Building & Miscellaneous Provisions) Act 1993</i> Section 205 of the <i>Local Government Act 1993</i> |
| ECM Reference: | 44/001/001 |
| Objective | To establish a consistent approach on the application of public open space for new subdivisions. |

That the Council in accordance with Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* adopt the following policy on the application of public open space for new subdivisions.

Application of Policy

- 1 Public Open Space shall be taken in accordance with this policy on land zoned general residential, general industrial, light industrial, commercial, local business, general business, low density residential, rural living and village.
- 2 Public Open Space contributions in excess of this policy may be offered by the developer or in all other circumstances as resolved at a General Council meeting.
- 3 With regard to subdivision of land, the area specified in Section 116 (1) of the *Local Government (Building and Miscellaneous Provisions) Act 1993* is one-twentieth (5%) of the whole area contained in the Plan of Subdivision.
- ~~3 With regard to subdivision of land, the rate specified in the *Local Government (Building and Miscellaneous Provisions) Act 1993* is 5% of the land area contained in the Plan of Subdivision.~~
- ~~4 The location of the land contribution, within the subject land, shall be as determined by Council at a General Council meeting or otherwise agreed between Council and the developer.~~
- 4 At Council's discretion, a cash contribution may be accepted in lieu of all or part of the land requirement.

The Public Open Space Rate

Additional Lots Created

- 1 The Public Open Space Rate shall be \$1,400 \$1,200 per additional lot created (i.e. a

subdivision that turns one lot into four has created three additional lots and will attract a public open space contribution/fee of \$4,200 (\$3,600.)

OR

- 2 The applicant may, at his or her discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less one of the proposed lots (or strata units). The Public Open Space Rate shall total 5% of that value.

No Additional Lots Created

- 1 Where no additional lots are created, the Public Open Space Rate shall be \$1,400 per lot that did not meet the requirements for a minimum lot under Section 109 of the Local Government (Building & Miscellaneous Provisions) Act 1993.

OR

- 2 The applicant may, at his or her discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less the lots that met the requirements for a minimum lot under Section 109 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*. The Public Open Space Rate shall total 5% of that value.

Effect of Previous Public Open Space Contribution

- 1 Where it can be shown that previous Public Open Space contributions have been paid in regard to the creation of the subject land title(s), Council may, at the developer's request, have regard to this and apply a reduced contribution.
- 2 In its consideration of any request under the preceding clause, the following decision of the Resource Management and Planning Appeal Tribunal is relevant.
- 3 In *G Cooley v Glenorchy City Council [2008] (TASRMPAT 256)* The Tribunal held that the previous contributions did not preclude the Appellant from having to make a contribution in relation to this subdivision. The Tribunal was satisfied that the additional subdivision further increased the demand for public open space and it was therefore appropriate to require a contribution as a condition of the approval.