



TITLE: Recreation Sport and Community Infrastructure: In Kind Contributions Policy

REFERENCE NUMBER:	DOC/18/76021
RESPONSIBLE DEPARTMENT:	Infrastructure & Projects
APPLICABLE LEGISLATION:	Local Government Act 1999
MOUNT BARKER 2035 – DISTRICT STRATEGIC PLAN	Community Wellbeing
RELATED POLICIES:	Infrastructure Contributions –Separate Rate Relief Policy
SUPPORTING PROCEDURES:	In draft
PREVIOUS REVIEW DATES:	15 September 2014
ENDORSED BY COUNCIL:	6 August 2018
MINUTE RESOLUTION NUMBER:	OM20180806.12
NEXT REVIEW DATE:	6 August 2021

1. PURPOSE

This policy establishes the framework for the provision of In Kind Contributions in satisfaction of a developer's obligations to pay Recreation, Sport and Community Infrastructure (RSCI) Separate Rates. This policy applies to infrastructure that Council seeks, and/or that a developer agrees to provide, in exchange for a 'credit' or offset against all or portion of its RSCI Separate Rates liability.

The objectives of this Policy are to ensure:

- provision of good quality, fit-for-purpose facilities that are responsive to demonstrated community needs
- value for money and sustainability in facility design, development and maintenance

- transparency, fairness, equity and certainty for developers regarding in-kind contributions to community infrastructure
- a balance of provision of facilities that provide social and cultural opportunities, and those that provide physical recreation and sporting opportunities in new neighbourhoods
- consistency in approach to community infrastructure negotiations and provision over an extended development period (potentially more than 30 years)

2. SCOPE

This Policy is applicable to the assessment of all applications for in-kind contributions for infrastructure within the lands covered by the Ministerial Development Plan Amendment, 2010.

3. DEFINITIONS

Community Infrastructure means all of the sporting facilities, recreation facilities and social or community facilities to be partially funded by the *Separate Rates for Recreation, Sport and Community Facilities Infrastructure* declared under the *Local Government Act 1999* by The Mount Barker District Council.

Recreation, Sport and Community Infrastructure Separate Rates (RSCI Separate Rates) refers to both the Mount Barker and Nairne *Separate Rates for Recreation, Sport and Community Facilities Infrastructure*, unless otherwise indicated.

In Kind Agreements refers to agreements or deeds regarding the provision of land (also see Exclusions below) or structures, or improvements to land or structures, by developers in exchange for a 'credit' or offset against RSCI Separate Rates liabilities.

4. ROLES & RESPONSIBILITIES

Council:

- Endorse policy and monitor its application
- Make decisions on items outside of the delegated authority of Officers

Chief Executive Officer:

- Finalise and execute In Kind Agreements with developers that are consistent with this policy up to the maximum value of financial delegations authorised by Council

Deputy Chief Executive Officer/General Manager Infrastructure & Projects:

- Monitor application of policy and related procedures
- Ensure rigorous assessment of proposals
- Finalise and execute In Kind Agreements with developers that are consistent with this policy to maximum value of financial delegations authorised by Council

Manager, Planning Policy and Strategy:

- Apply policy and related procedures
- Provide appropriate information to developers
- Conduct rigorous assessment of proposals
- Prepare In Kind Agreements for execution by Council and developers

5. POLICY STATEMENT

Community infrastructure is the land, structures and facilities which help communities and neighbourhoods function effectively. This includes public facilities such as sporting and recreational facilities, community centres, meeting halls, libraries and cultural facilities. These are highly valued by their communities and add greatly to the overall quality of life by providing the settings for active citizenship, cultural expression, social interaction, physical activity and access to services.

The Mount Barker District Council is committed to ensuring community infrastructure meets the needs of its growing community, and that new urban development contributes to liveability, social cohesion, health and wellbeing in the District's neighbourhoods.

Council will proactively seek to facilitate required community infrastructure through negotiations and agreement with developers of land where Separate Rates for Recreation, Sport and Community Infrastructure apply.

6. SEPARATE RATES

6.1 Separate Rates

Council has adopted two separate rates under the Local Government Act 1999 (Section 154) that will support the provision of new community infrastructure for the growth areas declared by the 2010 Mount Barker Urban Growth DPA:

- a) the Mount Barker Separate Rate for Recreation, Sport and Community Facilities Infrastructure, provides for a once only rate per new allotment created in the Mount Barker urban growth area.

- b) the Nairne Separate Rate for Recreation, Sport and Community Infrastructure provides for a once only rate per new allotment created in the Nairne urban growth area.

(together the RSCI Separate Rates).

Each developer of land in the 2010 urban growth areas will pay these separate rates to Council after they are triggered by the issuing of a Valuer General's valuation assessment following land division.

The RSCI Separate Rates are subject to annual indexation. Council has endorsed a policy regarding the payment, rebate, remission and postponement of the RSCI Separate Rates.

6.2 Separate rate credits

Council's Infrastructure Contributions –Separate Rate Relief *Policy* provides the opportunity for Council and developers to reach agreement on the provision by the developer of an 'in kind' proposal in lieu of the financial contribution (or portion thereof) required by the RSCI Separate Rates. An adjustment of the rates liability payable to Council will apply when a developer has entered into an agreement with Council to make an in kind contribution to the provision of Community Infrastructure, and can demonstrate that the developer's obligations under the agreement have been met to Council's satisfaction.

In many cases, developers will see a benefit to their development from providing Community Infrastructure items within or in proximity to the development site, to offset their RSCI Separate Rates liability. This allows for opportunities that may arise within, or near to, a development site for:

- provision of Community Infrastructure within an existing structure or structures, that can be adapted for community use
- provision of land (also see Exclusions below) in an appropriate location for the future construction of Community Infrastructure
- provision for innovative Community Infrastructure that responds to an emerging community need.

Council recognises that over time the community's characteristics and needs may change. There will also be changes and trends in recreation, sports and community facility provision that cannot be fully anticipated. Negotiated In Kind Agreements will enable a suitably flexible response from both Council and developers.

Council will proactively seek In Kind Agreements, but is not obligated to accept in kind contribution proposals that are offered by developers. Assessment criteria have been established to enable Council to make a determination regarding

proposed in kind contributions. The assessment criteria are set out in this policy and will ensure public benefits are achieved through in kind contributions.

6.3 Minimum requirements

To be eligible for credit or offset against RSCI Separate Rates the in kind contribution must generally be:

- Listed in the schedule of Community Infrastructure items prepared by Council (RSCI Schedule), or agreed by Council as consistent with its strategic plans and suitable as a variation;
- Procured through a process that will deliver value for money;
- In compliance with Council specifications and any relevant Australian Standards;
- Of benefit to the occupants of the areas that the RSCI Separate Rates apply to;
- Provided with an agreed timeframe; and
- Vested in Council to be operated and maintained as public facilities.

In limited circumstances investment in non-public facilities may be considered. In general this will be limited to situations such as joint use of facilities located on land owned by not-for-profit entities such as schools, and where it can be demonstrated that Council has entered into a management arrangement that protects public access to, and long term community benefits from, the proposed Community Infrastructure.

Variations to the RSCI Schedule will be considered at Council's discretion. The acceptance of an offer for in kind contributions will be at the sole discretion of Council.

The RSCI Schedule has been adopted by Council and describes the facilities Council seeks to establish for the benefit of the occupants of the urban growth areas where the RSCI Separate Rates apply. The RSCI Schedule is available via Council's website.

In the case of Mount Barker, these items are also expressed in the attached schedule, "Recreation, Community and Sporting Infrastructure for Mount Barker". These are based on extensive research by Council, and application of principles and good practice in social infrastructure and recreation planning. The proposed projects were also the subject of community consultation when the RSCI Separate Rates were proposed in 2013 and 2014.

6.4 Exclusions

The following infrastructure is excluded from this policy and the RSCI Separate Rates, as it is considered to be part of the normal development contribution requirements as set out in the *Development Act 1993* and *Development Regulations*

2008, and an investment typically made by developers to assist in marketing and sales of residential land:

- Roads, public transport infrastructure, street-scaping, stormwater drainage and management areas, water quality infrastructure (including Water Sensitive Urban Design);
- Open space provision or payments to the State Government's open space funds or to Council in lieu of open space provision (i.e. the 12.5% open space contribution as required by the *Development Act 1993*);
- Common open space embellishments (within a development) such as trails, playgrounds, park furniture (e.g. seating, shelters, BBQs), exercise stations, entrance statements and general landscaping.

There may be circumstances in which an open space proposal may merit consideration as an in kind contribution. The developer will need to demonstrate how the proposal meets the Assessment Criteria outlined below, and show that the proposal is above and beyond common open space embellishments and will provide tangible, broader community benefits i.e. not predominantly to only the development within which it is located.

In such cases Council will be obliged to give consideration to the proposal from the developer but decision making on any such proposal shall be solely at the discretion of Council.

6.5 In Kind Agreements

Council will seek early engagement with developers to encourage and agree on in kind contributions. A voluntary and legally binding agreement (in the form of a deed or agreement) between Council and another party (in this case a developer) will be used to give effect to any alternatives to payment of the RSCI Separate Rates.

In Kind Agreements regarding in kind contributions will be binding upon the owner and all subsequent owners of the land that the agreement affects. Where the infrastructure is of significant scale and/or it is agreed that the timing is such that construction is not required to be completed in the immediate/short term, this may be achieved through a land management agreement binding the In Kind Agreement to the land or some other suitable security mechanism as may be agreed between Council and the developer.

In Kind Agreements regarding in kind contributions to community infrastructure may provide for:

- a description of the infrastructure
- the financial value and standard of the infrastructure provision
- the location and timing of the provision of the infrastructure
- security for the provision of the infrastructure
- the parties' obligation to provide the infrastructure

- timing of any payments towards the RSCI Rates (eg where a combination of payment and in kind contribution is proposed)
- the upfront provision of community infrastructure by one developer and the reimbursement of the cost by other developers as they develop (in the case of multi-developer proposals).

6.6 Assessment Criteria for in kind contribution proposals

Council will seek and consider proposals for in kind contributions having regard to the following criteria (where applicable to the proposal):

1. The proposal is consistent with the RSCI Schedule and other relevant strategic planning documents.
2. The proposal is consistent with good practice principles and models of recreation and community facility planning and design.
3. The proposal represents value for money for the community.
4. The proposal will not impose on Council an unreasonable burden in terms of maintenance and renewal costs.
5. The proposal will enable earlier provision of community infrastructure than would be expected using the payment of RSCI Rates.
6. The proposal is innovative and offers a valuable diversity of community infrastructure that is not expected to be available otherwise to the occupiers of the urban growth area,

The Assessment Criteria may be given different weights depending on the circumstances and are not listed in any particular order of importance.

More detail regarding the Assessment Criteria is provided in Attachment 1 to this policy.

6.7 Determination of proposals

The administration of this policy and the determination of proposals for RSCI Separate Rates credit or offset will be made at the officer level save and except that any proposal above the amount delegated to the Chief Executive Officer will automatically be subject of consideration and determination at a Council meeting.

Council will prepare a procedure for internal use for the determining of in kind contribution proposals made under this policy, and information for developers seeking In Kind Agreements.

Acceptance of a proposal (in full or in part) is ultimately at Council's discretion.

7. REVIEW

This policy will be reviewed after one year of operation and then every three (3) years or earlier in the event of changes to legislation or related policies and procedures or if deemed necessary by the Manager, Planning Policy and Strategy.

8. ACCESS TO THE POLICY

The policy is available for public inspection at the Customer Service Centre, at the Local Government Centre, 6 Dutton Road, Mount Barker, South Australia and on the Council's website www.mountbarker.sa.gov.au.

9. FURTHER INFORMATION

For further information on this Policy, please contact:

Title: Manager Planning Policy and Strategy

Address: PO Box 54, Mount Barker
South Australia, SA, 5251

Telephone: 08 83917200

Email: lgray@mountbarker.sa.gov.au

Attachments:

1. Assessment Criteria for Community Infrastructure 'In Kind Contribution' proposals
2. "Recreation, Community and Sporting Infrastructure for Mount Barker

Attachment 1

Assessment Criteria for Community Infrastructure ‘In Kind Contribution’ proposals

Council will have regard to the following criteria to assess the merit of in kind contributions. Not all criteria will be relevant to each proposal and may be weighted differently depending on the proposal.

Criteria	Description	Rationale
1. The proposal is consistent with the Councils’ RSCI Schedule and/or relevant strategic planning documents.	Where a proposal deviates from the items Council requires to provide for the growth areas, the proponent will be required to demonstrate the need for the proposal, and if of significant value, provide a social impact report, prepared by a person with relevant qualifications. Consideration will be given by Council to the effect on other infrastructure items that Council seeks to deliver i.e. opportunity cost.	<p>To ensure that in kind contribution proposals meet real community needs as identified by Council, or as justified by an appropriate level of research.</p> <p>To ensure the investment in community infrastructure is relevant, an effective use of resources and does not have a detrimental impact on other planned infrastructure.</p>
2. The proposal is consistent with good practice principles and models of recreation, sport and community facility planning and design.	<p>These principles include:</p> <ul style="list-style-type: none">• Centrally located for catchment• Accessible by public transport, pedestrian and cycling connections• Designed to contribute positively to public domain and sense of place• Well located in regard to activity centres, open space, or clustered with like facilities into ‘Community Hubs’• Multi-use and able to be adapted and expanded as community needs change over time• Providing safety and security for facility users• Maximising financial sustainability <p>In the case of facilities for active sport and recreation, the following will also be considered</p>	To ensure facilities meet community expectations and needs and maximise the benefits to users.

	<ul style="list-style-type: none"> • Capable of accommodating competitive sport • Located in proximity to appropriate amenities and shade/seating areas • Maximise hours of use (day and night) through provision of lighting and appropriate surfacing. 	
3. The in kind contribution proposal represents value for money.	<p>The proponent will need to demonstrate that the in kind contribution proposal represents at least an equivalent investment to the RSCI Separate Rates that are being proposed for offset / credit and that are payable for subject land. The value of the proposal will need to be independently estimated, at the cost of the proponent. This enables developers to benefit from providing an equivalent facility using their capacity to construct at a lower cost than Council.</p> <p>Council will accept the estimate of final value rather than the construct costs. Land value (if appropriate) assessment will be undertaken by a valuer as agreed by both parties.</p>	To ensure that in kind contributions do not reduce the benefit to the community through reducing the value of the infrastructure delivered.
4. The proposal will not impose on Council an unreasonable burden in terms of operation and maintenance costs.	The extent to which the in kind contribution proposal demonstrates sustainable and efficient design.	To ensure Council resources are used effectively, and that existing ratepayers are not unfairly bearing the cost of operating and maintaining facilities in new urban growth areas.
5. The proposal demonstrates that it will enable earlier provision of community infrastructure than would be expected by Council using the cash payment mechanism of RSCI Separate Rates	<p>This criterion recognises the value to both developers and community to bringing forward community infrastructure investments, thus enabling improved community use and access to facilities than would be otherwise be expected based on typical provision rates, population thresholds and staging plans.</p> <p>Favourable consideration will be given by Council to proposals that bring forward expenditure and this can be factored into</p>	Early provision of community infrastructure such as meeting spaces and active recreation facilities can assist in the development of social capital and contribute to healthy lifestyle choices.

	the assessed value of the in kind contribution.	
6. The proposal is innovative and offers a valuable diversity of community infrastructure that is not expected to be available otherwise to the occupiers of the urban growth area.	<p>This criterion recognises that developers may seek to provide something special in their site, and may be prepared to invest in that provision. This criterion does not negate the requirement to meet a real need. It does provide an opportunity for interesting and innovative proposals to be considered, such as</p> <ul style="list-style-type: none"> • combinations of sport, recreational and community infrastructure that have been successful in other locations for similar communities; • meeting the needs of a particular section of the community in an innovative way. <p>Council will give consideration to the proposal with regard to its identified priorities.</p>	To foster innovation and diversity in community infrastructure provision over time.

Attachment 2:

“Recreation, Community and Sporting Infrastructure for Mount Barker

Western Sector

- Western Community Hub (R)*:
 - Playing Fields (equiv. to 1 senior and 1 junior oval)
 - Integrated local clubroom/community hub
- Other:
 - 4 Sports Courts (O)

Central Sector

- Southern Community Hub (R)*:
 - Integrated neighbourhood clubroom/community hub
 - Playing Fields (equivalent to 2 senior ovals)
 - 6 Sports courts
- Other:
 - 2 Sports Courts (O)
 - Local Skate/Scooter Facility (R)

Eastern Sector

- Regional Sports Hub (R)*:
 - 2 clubroom/community hubs
 - 4 Senior Soccer Pitches
 - 2 Senior Ovals
 - 14 tennis/netball courts
- Regional Aquatic, Indoor Leisure and Wellness Facility (R)
- Neighbourhood Community Centre (R)
- **Other:**
 - 2 Sports Courts (netball/tennis/futsal) (O)
 - Regional Adventure Playground (R)

(R) Required (O) Optional

*refer approved detailed concept as guide