

S-02 Public Open Space Policy

Purpose	To guide how public open space is provided, the location of public open space and the basis on which Council accepts land for public open space or a cash contribution in lieu of it, in subdivision developments.	
Department	Development Services	
File No.	COU/0600	
Council Meeting Date	22 November 2022	
Minute Number	223.11.22	
Next Review Date	Four (4) years from Council Resolution Date	
Review History	172.04.0817	April 2008
	283.09.1023	September 2010
	223.11.22	22 November 2022

POLICY

1 Purpose

The purpose of this policy is to:

- Provide a strategic approach regarding the acceptance of land for public open space allocated from new subdivisions;
- Clarify the process regarding the provision of 'cash in lieu' contributions, instead of land, from new subdivisions; and
- Provide guidance on how funds obtained through 'cash in lieu' contributions may be allocated.

2 Scope

This policy applies to all applications for subdivision of land within the Flinders Municipality and has been prepared with reference to the *Local Government (Building and Miscellaneous Provisions) Act 1993 (the Act)* and the Tasmanian Planning Scheme incorporating the Flinders LPS as adopted 2022.

3 Definitions

Council is Flinders Council

Public Open Space as defined by the Planning Scheme as 'space for public recreation or public gardens or for similar purposes'.

Subdivide means to divide the surface of a block of land by creating estates or interests giving separate rights of occupation otherwise than by:

- a) a lease of a building or of the land belonging to and contiguous to a building between the occupiers of that building; or
- b) a lease of air space around or above a building; or
- c) a lease of a term not exceeding 10 years or for a term not capable of exceeding 10 years; or
- d) the creation of a lot on a strata scheme or a staged development scheme under the *Strata Titles Act 1998*; or
- e) an order adhering existing parcels of land.

4 Objectives

The objectives of this policy are to:

- 4.1 provide a consistent approach, to the consideration of public open space, or alternatively to the payment of cash in lieu of it;
- 4.2 provide clarity to applicants so they may understand how Council manages land for Public Open Space (POS) and cash in lieu contributions;
- 4.3 guide the management of accumulated public open space cash contributions; and
- 4.4 accommodate exceptional situations that justify alternative methods where they do not affect the integrity of the policy.

5 Related Policies and Legislation

- *Land Use Planning and Approvals Act 1993*
- *Local Government (Building and Miscellaneous Provisions) Act 1993*
- Tasmanian Open Space Policy and Planning Framework

6 Policy

6.1 Consideration of Public Open Space through Subdivision Process

In considering any land subdivision proposal, the question of public open space will be assessed on the merits of each application. Generally, where the proposal generates an additional need for public open space, a contribution will be required by way of either:

- a) 5% of the area of the land being subdivided into new lots being allocated as public open space and transferred to Council's ownership; or
- b) a cash-in-lieu contribution that is calculated in accordance with s117(2) of the *Local Government (Buildings and Miscellaneous Provisions) Act 1993* (The 'Act'). Council will consider if land to be contributed complies with the current strategic values of Council at the time the application is made, considering Council's capacity to financially and effectively manage the land for the intended purpose.

6.1.1 Land to be used for stormwater management, including natural watercourses or land required for infrastructure shall not be accepted as a land for POS Contribution.

6.1.2 A proposal for a boundary adjustment that does not create any additional allotments or increase residential density will not be required to transfer land for POS under this policy.

6.2 Cash Contribution Required

In accordance with the provisions of Section 117 of The Act, Council may require a 5% cash contribution, in lieu of a land contribution, of the value of the parent title for all subdivisions. This will be based on the most recent valuation determined by the Office of the Valuer General using the Valuer General's indexation factor to reflect current value.

Where a subdivision is submitted in the form of a staged development and a cash-in-lieu contribution is required, the public open space contribution may be paid proportionately in each stage.

6.2.1 Applicants submitting a plan of subdivision will be notified of the required contribution within 21 working days of their application being accepted.

6.2.2 The Council, or its delegate, will determine which of the following is most appropriate:

- a) a 5% contribution of land from the parent title that meets the principles of this policy; or
- b) a cash contribution in lieu; or
- c) a combination of land and cash in lieu; or
- d) if any additional land is required.

6.3 Cash Contributions Received

All monies received will be reserved by Council in the Public Open Space Contributions Account and interest earned on the account will be rolled over into that account.

6.4 Cash Contributions Expended

Use of funds from the public open space account will be made via a resolution of Council and distributed towards:

- Recreation Facilities and Sportsgrounds;
- Parks;
- Landscape and Amenity;
- Conservation and Heritage;
- Beaches, Foreshore and Waterway;
- Cemeteries; and/or
- Linear and Linkage.

6.5 Unique Circumstances

Any deviation from this policy must be put to Council for its consideration at an Ordinary Meeting.

7 Legislation

Local Government (Building and Miscellaneous Provisions) Act 1993

7.1 The Act enables Council to:

- a) Require a subdivider to provide to Council, as public open space, up to 5% of the land being subdivided; or
- b) Require public open space in excess of the 5% contribution as a part of any subdivision proposal subject to appropriate compensation; or
- c) Condition the subdivider to provide up to 5% cash in lieu contribution of the value of the land being subdivided (less any area provided as public open space); or
- d) Refuse a subdivision if it is of the opinion that the proposal should be altered to include (or omit) public open space.

8 Responsibility

The responsibility for the operation of this policy rests with the General Manager. Advice on the appropriateness of land for strategic open space purposes will be obtained from the Development Services Department by referral of subdivision applications.