

<b>Title</b>	<b>Subdivisions – Public Open Space Acquisitions and Contributions Policy</b>
<b>Council Resolution</b>	Item 13 (13 June 2017) as per Council Minutes
<b>Responsible Directorate</b>	City Services and Infrastructure
<b>Due for Review</b>	Four (4) years from Council Resolution Date
<b>Strategic Plan Reference</b>	<u>Leading our Community</u> 3.1 Create a liveable and desirable City.
<b>ECM</b>	Council Policy

## PURPOSE

This policy provides guidance on Council’s decisions regarding the provision of public open space in new subdivisions, as well as setting out a consistent approach to Council requiring cash in lieu of open space.

## SCOPE

This policy applies to all applications for subdivision of land in accordance with the *Land Use Planning and Approvals Act 1993*.

## STATUTORY REQUIREMENTS

<b>Acts</b>	<i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> <i>Land Use Planning and Approvals Act 1993</i>
<b>Regulations</b>	N/A
<b>Australian/International Standards</b>	N/A

## DEFINITIONS

<b>Public open space</b>	Space for public recreation or public gardens or for similar purposes.
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## POLICY STATEMENT

### Guiding Principles

This policy is based on the following principles:

1. All subdivisions creating new lots will contribute to an increased demand for open space, however some subdivisions because of their location and/or purpose will not increase demand significantly.
2. Subdivisions involving the creation or extension of new suburban neighbourhoods should include provision for open space which:
  - is within convenient walking distance for the residents;
  - is useable for recreational purposes;
  - provides permeability in the form of pedestrian linkages;
  - is safe and easily maintained;
  - caters for diversity of recreational experiences across the neighbourhood area; and

- protects areas of natural and cultural value.
3. Where public open space which is accessible to the residents of a proposed subdivision already exists, a cash in lieu contribution should generally be required to provide for the upgrading or enhancement of that open space.
  4. Public open space that is accessible to the community for both active and passive recreation should generally be provided within 500 metres of any dwelling within an urban residential subdivision.
  5. Every subdivision should be assessed on its merits and according to this policy as to the requirement for an area of public open space and/or a cash in lieu contribution. Departure from the policy may be appropriate in certain circumstances.

### **Public Open Space Requirements**

6. Council will not require provision of public open space or a contribution of cash in lieu where:
  - (a) one (1) lot is being subdivided from an existing residential lot for a purpose other than multiple dwelling development, or
  - (b) fully developed public open space exists within 500 metres walking distance of any lot, unless the acquisition of land will provide more convenient access to that open space.
7. Public open space will be required where a subdivision involves the creation of more than one residential lot, or the creation of a lot designated for multiple dwellings, and public open space does not exist within 500 metres walking distance of any lot, unless it is impracticable to provide public open space.
8. Public open space will be required if it is considered necessary to protect and/or provide public access to a significant natural or historic feature, or to preserve important habitat.
9. A contribution of cash in lieu of open space will be required where:
  - (a) public open space exists within 500 metres walking distance of any lot and there is an opportunity to improve that open space, or
  - (b) it is impracticable to provide public open space as part of the subdivision.
10. Areas proposed to be set aside for public open space will be assessed in terms of:
  - (a) whether they are conveniently located for use by surrounding residents
  - (b) whether they are of a size, shape and gradient suited to their proposed use
  - (c) whether they allow for a reasonable level of safety and security for users and adjoining residents
  - (d) whether they can be developed and maintained within Council's resources
  - (e) whether they complement existing open space facilities
  - (f) their ability to support a diversity of recreational activities
  - (g) protection of environmental and/or visual values, and
  - (h) potential connection to other open spaces and contribution to the recreational trails system throughout the City.
11. Recommendations for public open space and/or cash in lieu contributions will be made jointly by the Environment Coordinator, the Planning section and Property & Legal Department, and will be supported by:

- (a) an assessment of open space facilities in the locality
- (b) an indication as to how the open space or cash contribution will enhance open space facilities
- (c) appropriate consultation with the subdivider and any other interested parties, and
- (d) consultation with the Crown is compulsory in the case of proposed littoral or riparian reserves.

## **BACKGROUND**

The *Local Government (Building and Miscellaneous Provisions) Act 1993* empowers Council to acquire public open space as a part of any subdivision proposal, to require cash in lieu of open space, or to refuse a subdivision application because it should include or omit public open space.

Historically, Planning Appeal Tribunal decisions have placed more emphasis on the need for specific assessments of open space requirements before requiring its provision or the payment of cash in lieu. The Tribunal has also confirmed a rather bureaucratic approach to decision-making, based on the literal interpretation of the Act, which requires Council to determine the issue of open space contributions *before* determining a subdivision application, rather than at the time of determining it.