



Brighton Council

POLICY NAME: Public Open Space

POLICY NO: AP13

PURPOSE OF POLICY:

The purpose of this policy is to:

- a. Ensure that adequate provision is made for public open space in the municipality;
- b. Provide quality public open space resources with reference to Council's Strategic Plan 2011-2021, Recreation Plan 2010 and Brighton Municipal Area Open Space Strategy 2012 ;
- c. Establish clear guidelines to assist Council in determining the provision of public open space or the payment of cash in lieu of public open space required at the time of subdivision;
- d. Provide guidance for determining whether a contribution should be taken in the form of land or a cash in lieu contribution;
- e. Establish a consistent method of determining the value of cash in lieu contributions when they are required; and
- f. Provide a framework to determine how monies derived from cash in lieu contributions should be held and disposed of within the Municipality.

SCOPE:

This policy applies to all applications to subdivide land that will result in increased residential development potential in the Brighton Council Area.

BACKGROUND:

This policy gives recognition to the Council's powers and responsibilities in relation to public open space under the provisions of the *Local Government (Building and Miscellaneous Provisions) Act 1993* and associated regulations. These provisions enable the Council to:-

- a) Require a subdivider of land to provide to Council up to 5% of the land being subdivided;
- b) Require public open space in excess of the 5% contribution as a part of any subdivision proposal subject to appropriate compensation; or
- c) Require a subdivider to make a contribution of cash in lieu of the provision of land, either in part or whole.

The legislation further provides that Council must keep cash in lieu contributions in trust to be used for the acquisition or improvement of land for public open space for the benefit of inhabitants of the municipal area.

POLICY:

1.0 General Principles

- 1.1 Either a land contribution or cash in lieu contribution must be taken for the purposes of providing public open space where lots are created that may result in increased residential development potential, thereby increasing the demand for public open space.
- 1.2 A proposal for subdivision for the purposes of a boundary adjustment or consolidation of land in any Zone where no additional lots are being created shall not be subject to the Policy.

2.0 Assessment for the provision of a land contribution

- 2.1 Public open space contributions shall be required for all land subdivided within the following Zones;
 - (a) Inner Residential, General Residential, Low Density Residential, Village, Urban Mixed Use and Rural Living;
 - (b) Any Zone in cases defined in 2.3.
- 2.2 5% of the titled area of land to be subdivided is to be allocated for Public Open Space Contribution dedicated to the Council. The land contribution must be suitable for future recreational use as assessed by Council.
- 2.3 A land contribution in any Zone may be requested on a merits based assessment by the Council to obtain land for the purposes of a riparian, foreshore or littoral reserve to assist in preservation of the environmental values attributed to these areas through improved land management.
- 2.4 In cases where a contribution has previously been taken by Council on a site, a contribution will still be required if the number of lots is increasing.
- 2.5 In cases where a land contribution falls deficient of the required 5% land contribution, the difference shall be requested as a cash-in-lieu contribution.

3.0 Assessment for the provision of cash-in-lieu of Public Open Space

- 3.1 As provided by Section 117(2) of the Act, a 5% cash-in-lieu contribution is to be accepted for subdivisions occurring within the Zones listed in 2.1 where no land can be provided that provides a strategic benefit to Council's open space network.

4.0 Procedure

- 4.1 The applicable public open space cash in lieu contribution equates to 5% of the value of the land being subdivided where no provision is made for a land contribution.
- 4.2 Where no provision has been made for a land contribution, the subdivider must submit a valuation report undertaken by an independent registered valuer for the purposes of determining the cash in lieu of public open space contribution.
- 4.3 The cash-in-lieu of public open space must be in the form of a direct payment made before the sealing of the final plan of survey or, alternatively, in the form of a Bond or Bank guarantee to cover payment within ninety (90) days after demand, made after the final plan of survey has taken effect.
- 4.4 Where land is to be dedicated, this public open space must be transferred to the Brighton Council by Memorandum of Transfer submitted with the Final Plan of Survey and at no cost to Council.

5.0 Utilisation of Public Open Space funds

- 5.1 Council must allocate the cash-in-lieu funds to a Public Open Space reserve fund to be used to further the strategic purchase or improvement of land(s) dedicated as public open space in the Municipality in accordance with Section 117(5) of the Act.

ROLES & RESPONSIBILITIES:

Planning: Ensure that the requirements of this Policy are applied to all relevant subdivisions.

Finance: Ensure compliance with 5.1.

REFERENCES:

Local Government (Building and Miscellaneous Provisions) Act 1993

Brighton Council Strategic Plan 2011-2021

Brighton Municipal Area Recreation Plan 2010

Brighton Structure Plan 2012

Brighton Town Centre Local Area Plan 2012

ADMINISTRATIVE DETAILS:

Policy compiled: October 2012.

Policy Adopted: November 2012, April 2017

Reviewed: October 2016, April 2017

Review date: April 2019

Responsibility: Manager Development Services



R. V. Sanderson

GENERAL MANAGER