



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 quality public open space in the municipality. Such open space should aim to increase public access, encourage healthy lifestyle practices, create linkages between different activity nodes and conserve important cultural and natural environments.
- b. Establish clear guidelines to assist Council in determining when provision of public open space will be sought and when the payment of a cash in lieu contribution required will be sought, from subdivision applications.
- c. Establish a consistent method of determining the value of cash in lieu contributions when they are required; and
- d. 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 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 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 5% of the titled area of land to be subdivided is to be allocated for Public Open Space Contribution dedicated to the Council where there is land suitable for quality public open space as assessed by Council.
- 2.2 A land contribution in any Zone may be requested on a merits based assessment by the Council to obtain land that is consistent with the purpose of this policy.
- 2.3 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.
- 2.4 Land used for the following purposes is not to be transferred to Council for public open space;
 - a. Stormwater drainage swales and natural water courses that would otherwise form part of the drainage within the subdivision
 - b. Above or below ground infrastructure that would limit the use of the land or landscaping treatments, and
 - c. Pedestrian footways or other kinds of ways
- 2.5 Council will work with the subdivider to identify the most appropriate location for the public open space land contribution with Council responsible for the final determination of the location and boundaries of the public open space in the subdivision.
 - a. The developer must bear the costs of defining the boundaries of the public open space on the plans.
 - b. Council retains the discretion to acquire less than five percent.
 - c. Consideration of acquiring less than five percent may be supported where the subdivider provides on the public open space capital improvements that increase the utility or quality of the land as public open space.
- 2.6 POS to be transferred to Council through the subdivision process is to be developed to an appropriate standard prior to transfer. In order to achieve this principle, applicable subdivision Permits may include conditions relating, but not limited to, landscaping, weed management, fencing, vehicular accesses and/or installation of vehicle barriers and construction of multiuser paths.
- 2.7 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 where no land can be provided that provides a strategic benefit to Council's open space network within the following zones:

- (a) Inner Residential, General Residential, Low Density Residential, Rural Living, Village, Urban Mixed Use and Rural Living, Local Business, General Business, Light Industrial and General Industrial.

4.0 Procedure

- 4.1 The applicable public open space cash in lieu contribution equates to 5% of the unimproved land value of the additional lots created, 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 at their cost and be undertaken by an independent registered valuer for the purposes of determining the cash in lieu of public open space contribution.
- 4.3 The valuation is to relate to the unimproved value of the land not more than 6 months prior to the date of lodgement of the proposal plan.
- 4.4 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.
- 4.5 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 2019-2029

Brighton Municipal Area Recreation Plan 2010

Brighton Structure Plan 2018

Brighton Town Centre Local Area Plan 2012

Bridgewater Parkland Master Plan 2016-2026

Brighton Industrial Estate Brand and Place Strategy 2020

Cris Fitzpatrick Park Master Plan 2021

Lennox Park and Cloak Oval Master Plan 2012

Old Beach Neighbourhood Park Landscape Concept Plan

ADMINISTRATIVE DETAILS:

Policy compiled: October 2012
Policy Adopted: November 2012
Reviewed: October 2016, April 2017, October 2021
Review date: October 2023
Responsibility: Manager Development Services

A handwritten signature in black ink, appearing to be 'James', written over a light grey horizontal line.

GENERAL MANAGER