



1.0 Purpose

- 1.1 This policy provides a guideline to the exercise of the Council's statutory discretion on the provision of public open space. As such it does not bind the exercise of those discretions in any particular case. Council or its delegate must determine each application which is lodged on its merits and in accordance with the provisions of the *Land Use Planning & Approvals Act 1993* and the *Local Government (Building & Miscellaneous Provisions) Act 1993*. Council or its delegate may in individual cases apply this guideline to the exercise of its statutory discretions.
- 1.2 The purpose of this Policy is to:
- Establish guidelines that will assist Council in determining the appropriateness of levying a public open space contribution on residential subdivisions;
 - Establish parameters for determining whether a contribution should be taken in the form of land or cash in lieu payment; and
 - Specify requirements for the holding and disposal of monies derived from cash in lieu contributions.

2.0 Objectives

- 2.1 The objectives of the policy relate to the provision of public open space in the municipal area. The primary objectives are to:
- Provide a range and hierarchy of public open space resource and recreational facilities to meet all community needs and encourage tourism;
 - Provide equitable accessibility to recreation opportunities across the community;
 - Develop a series of premium open space resources that can provide an integrated trail network throughout the municipal area and along the coastal & river foreshores. The trail should seek to link activity centres with safe and visually attractive pedestrian and bicycle trails/ pathways and passive open space;
 - Economically and efficiently maintain and improve a series of premium public open space resources; and
 - Conserve and enhance the conservation values of premium natural resource sites within the municipal area.

3.0 Scope

- 3.1 The policy applies to all applications to subdivide residential land in the municipal area.



4.0 Policy

4.1 Guidelines in Determining a Requirement for Public Open Space Contribution

As a guideline in determining the public open space requirements for a subdivision the following matters are to be taken into consideration:

- (a) Section 85 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* determines that Council may refuse to approve a subdivision plan if it is of the opinion that the layout of the plan should be altered to either include or omit an area of public open space.
- (b) If Council determines that public open space is not required on plan, nor required in the municipal area then a requirement for such (including cash in lieu requirement) cannot be made of the developer. If Council determines that an area of public open space is required in the municipal area, then the contribution is dealt with under Sections 116 and 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* and consent conditions of planning permit applied under the *Land Use Planning & Approvals Act 1993*.
- (c) Sections 116 and 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* enable Council to require, as a consent condition to residential subdivision in the municipal area, that the developer provides land or a cash in lieu contribution towards the 'increased' provision of public open space.

Section 117 enables Council to require, as a consent condition to a planning permit, a payment in lieu of an increase in the area shown for public open space, instead of requiring an increase in the public open space land area. Such monies must be held in trust and used to further strategic purchase or improvement of land(s) dedicated for public open space in the municipality. Section 117(5) of the *Act* stipulates that the 'amount payable is to be for the acquisition or improvement of land for public open space for the benefit of inhabitants of the municipal area'. The words 'municipal area' are defined in Section 3 of the *Local Government Act 1993* as "an area referred to in Section 16" which provides for the division of the State of Tasmania into municipal areas, such as Waratah-Wynyard.

- (d) When assessing the merit of the subdivision proposal Council is to determine the requirement for open space in the 'municipal area' of the subdivision.
- (e) Open space may be broadly categorised as active or passive.



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- (f) Active open space generally implies but is not necessarily limited to land used for the playing of sport, including facilities such as ovals, tennis courts, swimming pools and bowling greens.
- (g) Passive open space refers to remnant bushland conservation areas, botanical gardens, picnic grounds, beach areas, river reserves and wetland or inter tidal zones.
- (h) Clearly some open space areas provide both functions. The buildings and structures erected upon open space to enhance the recreational opportunities are defined as 'recreational facilities' and include stadia, playground equipment, barbecues, boardwalks, tables and chairs and interpretation signs.
- (i) Open space can also be broadly categorized by hierarchy:

Hierarchy of Open Spaces

STATE OPEN SPACE	National Parks Major Spectator Sport Facilities Mass Entertainment Facilities
REGIONAL OPEN SPACE	Major Parks Natural Parks Developed Parks Historical and Cultural Areas Theme and Amusement Parks
DISTRICT OPEN SPACE	Large Scale Recreational Areas Outdoor Sporting facilities Extensive River and Beach Areas
LOCAL OPEN SPACE	Local Parks Neighbourhood Open Spaces Neighbourhood Playing Fields Other Outdoor Sports Areas
PLAY SPACE	Playgrounds

- (j) Play Spaces should be designed and located for use by younger children with safety, convenience and childhood development the key selection criteria. They should ideally be located:
 - next to shops,
 - community centres,
 - other public open space and schools;
 - where there is high visibility from public areas; or
 - on clearly defined pedestrian or cycle routes.
- (k) Local Open Spaces represent open space provided to meet the day-to-day needs of the local area population (approximately 4,000 people) and, depending on the type of recreational use, generally vary in size from 2500 square metres to 3 hectares. Ideally, neighbourhood open space should also be located within 400 metres of a residential area.



- (l) District Open Spaces serve a larger population of 16,000 to 20,000 people and, depending on the use, generally vary between 2.5 and 20 hectares in area. Such open space is generally considered to be premium open space. The area benefited may be wider than the municipal area the District Open Space is located within. As a broad rule 1.5 hectares of open space in this category should be provided for every 1000 people, excluding golf courses and the like, and should be available within 2 kilometres of any residence.
- (m) Regional Open Spaces generally provide open space that serves more than one municipal area and for parks generally range between 30 and 200 hectares in area. Regional open spaces are generally located within 30 minutes driving time from a residence but the type of facilities is variable and a broad range of facilities may not be available within this distance. Forest areas, large remnant vegetation areas and green belts are one form of regional open space, providing linkages between other open spaces, forests and rural areas.
- (n) State Open Spaces includes open spaces of State, national or international significance. These open spaces may or may not be located within the municipal area.
- (o) Note: The appropriateness of a requirement for public open space will also be appraised having regard to the objectives of any adopted recreation policy. Where specified, the above standards for the provision of open space may be applied in establishing the basis for the setting of public open space contributions on subdivisions. In setting such requirements it must be noted that this policy is a guideline, until such time that a recreational policy may be adopted. In implementing the policy Council may choose to set a public open space requirement at variance with the standards given above. The standards are only one potential factor in making a decision as to what Council believes a public open space contribution should be on any particular subdivision.

4.2 Principles - General

The following principles apply when determining if a public open space contribution is to be taken:

- (a) A public open space contribution is to be supported by the subdivision planning report and will generally outline the impact the proposed subdivision will have on existing and proposed open space requirements and the opportunities and constraints available for improved or increased open space provision.



- (b) All subdivision creating new lots will contribute to an increased demand for open space, however the location/size/purpose of specific subdivisions will mean that such demand will vary.
- (c) Where public open space is accessible to the residents of a proposed subdivision, a cash in lieu contribution should generally be required to provide for the upgrading or enhancement of that open space.
- (d) Open space that seeks to protect or conserve land that is deemed to be of high environmental value is to be given priority as public open space.
- (e) A contribution for public open space is based on a contribution not exceeding one twentieth of the value of all new lots created by subdivision.
- (f) Land that has been set aside for riparian or littoral reserves on the plan is deducted from this calculation.
- (g) A greater contribution may be required, but any proportion over the five percent value of the subdivided land provided for public open space is subject to purchase by Council.
- (h) A contribution less than 5% may also be taken. The public open space contribution may be taken as cash in lieu or as land.
- (i) Options that invoke a contribution of less than 5%, or a contribution to be taken as land, need to be supported in the subdivision planning report and with reference to this policy or any Council recreation strategy.

4.3 Principles– Taking a Cash Contribution

The following principles apply when determining if a cash contribution in lieu of land is to be taken as a public open space requirement:

- (a) As an alternative to taking the public open space contribution in land, Council may require all or part of the contribution to be provided as cash in lieu.
- (b) A cash in lieu payment may to be applied to all new subdivisions in the Residential zone to provide for active and passive open space in the municipal area.
- (c) The taking of cash in lieu is to be the preferred option for public open space contribution.



- (d) A contribution for public open space is based on a contribution not exceeding one twentieth of the value of all new lots created by subdivision.
- (e) Such monies must be held in trust and used to further strategic purchase or improvement of land(s) dedicated to public open space in the municipal area.

4.4 Principles – Land Contribution

The contribution is to be taken in land where any of the following apply:

- (a) There is an identified deficiency of public open space in the vicinity of the land being subdivided and part of the land is suitable for public open space in terms of useable shape and area, topography, other physical characteristics and accessibility and safety for the public.
- (b) The taking of the land as public open space will facilitate the conservation of a significant natural or cultural heritage feature of the land for the benefit of the community.
- (c) Part of the land will facilitate linkages between public lands as part of an open space network.
- (d) The open space area is required as a stormwater retention basin on site. Apart from provision for littoral and riparian reserves as provided for in the Act, land set aside as a stormwater retention basin will not be deemed as satisfying a public open space requirement unless the land also exhibits adequate value to the public in accordance with the above specifications.

4.5 Principles - Requiring a lesser Public Open Space Contribution

- 4.5.1 Where deemed appropriate, Council may determine that a public open space contribution of less than one twentieth of the value of the land being subdivided is appropriate. This may occur where it is considered that land being subdivided is in a municipal area that is adequately provided with a hierarchy of passive and active open space areas that do not require improvement.
- 4.5.2 In such a case, there should still be a contribution made towards the provision of open spaces at a district or regional level but at a lesser rate than one twentieth of the value of the land being subdivided.



5.0 Legislation

Local Government (Building & Miscellaneous Provisions) Act 1993

Land Use Planning & Approvals Act 1993

Waratah-Wynyard interim Planning Scheme 2013

6.0 Responsibility

6.1 The consideration of this policy during the assessment of all subdivision applications is the responsibility of the Manager Development and Regulatory Services.

6.2 Council is the responsible body for ensuring decisions made at Council meetings are consistent with the objectives of the policy.

7.0 Minute Reference

Minute No. 12.2

8.0 Council Meeting Date

15 November 2010