

Policy

Title: Public Open Space Contributions Policy

Category: Recreation, Parks, Bushland and Reserves

Date Last Adopted: 15 February 2022

1. Purpose

- (i) To facilitate a strategic approach to the development of a contemporary and well-planned open space network.
- (ii) To clarify the process of determining when a public open space land contribution will be sought by the City of Hobart and when a cash in lieu contribution will be sought, from subdivision developments.
- (iii) To specify how funds gathered from public open space cash in lieu contributions are to be used.

2. Objectives

- (i) If a subdivision results in increased demand for public open space or an increase in demand upon existing open spaces, a subdivision developer will contribute to the provision of public open space commensurate with the increase in public open space demand likely to be created by their subdivision.
- (ii) Clear guidelines are established that assist the City of Hobart, private landowners and subdividers to understand the public open space contribution rationale and process.
- (iii) There is organisational consistency and equity in the assessment and application of conditions for public open space contributions.
- (iv) There is clarity around the circumstances under which City of Hobart will require a land contribution for public open space from a subdivision and when to a cash in lieu contribution will be sought instead.

3. Background

The *Local Government (Building and Miscellaneous Provisions) Act 1993* (LGBMP) Part 3 – Subdivisions, defines public open space as:

‘space for public recreation or public gardens or for similar purposes’.

Under the *Local Government Act 1993*, public open space is not defined however public land is defined as:

‘a public pier or public jetty, any land that provides health, recreation, amusement or sporting facilities for public use, any public park or garden, any land acquired under this Act for the purpose of establishing or extending public land, any land shown on a subdivision plan as public open space that is acquired by a council under the *Local Government (Building and Miscellaneous Provisions) Act 1993* and any other land that the council determines is public land.’

The Tasmanian Open Space Policy and Planning Framework defines open space as:

‘land and water settings maintained and managed for a range of environmental and social purposes and that are valued and may be used by the community.’

The City of Hobart has a head of power to acquire public open space land or cash in lieu from subdivisions, under LGBMP and also under the Hobart Interim Planning Scheme 2015.

City of Hobart has an obligation to provide adequate public open spaces as:

‘open spaces contribute to the quality of life enjoyed by the Tasmanian community.’

‘Well planned, designed and implemented open space planning policies aid in the delivery of a range of broader personal, social, economic and environmental objectives for the community’

(Tasmanian Open Space Policy and Planning Framework).

4. Policy

That:

1. City of Hobart will require a public open space contribution of either cash in lieu or land, equal to five percent of the unimproved value of the land not including the balance lot, **or** five percent of the subdivision land area, for all subdivisions that could result in an increase in demand for public open space.
 - a. This requirement applies regardless of zoning.
 - b. This requirement does not apply to strata developments, boundary adjustments where no new lots are created or subdivision for the development of public utilities.
2. Cash in lieu is the preferred public open space contribution.
 - a. However, the City of Hobart will use discretion in determining the open space contribution, and each subdivision will be assessed having regard to its individual facts and circumstances.
3. The amount of a cash contribution will be determined by a valuation undertaken by a City of Hobart-nominated valuer.
 - a. The value of the land shall be calculated on a date which is not more than one year prior to the date of the sealing of the final plan for the subdivision-
 - b. The cost of the valuation must be borne by the subdivider.
4. Cash in lieu of a public open space land contribution may be required in any of the following cases;
 - c. The subdivision proposal does not include a public open space land contribution,
 - a. The public open space land area proposed is less than five percent of the subdivision area.
5. The cash in lieu of land must be paid prior to the sealing of the Final Plan of Subdivision.
 - a. If a land transfer is to occur, it must occur at the time of the sealing of the Final Plan, or in a staged subdivision, as part of the first stage.

- b. If this is not possible, the transfer is to occur as early as possible during the subdivision.
6. All monies received will be reserved by City of Hobart in the Public Open Space Contributions Account.
 - a. Interest earned on the account will be rolled over into that account.
7. Expenditure from the Public Open Space Contributions Account will be subject to a report to Council for consideration and determined by a resolution of Council.
8. The expenditure of cash in lieu funds will be in accordance with any adopted City of Hobart open space strategy or plan, or in order to meet any local public open space or recreational needs.
 - a. The funds will be used for strategic land acquisition of public open space or capital improvement of major public open space facilities or to augment or upgrade active recreation facilities, rather than for maintenance of existing infrastructure.
9. A public open space land contribution will only be considered where one or more of the following apply:
 - a. The land is identified in a public open space strategic document as a priority for acquisition
 - b. Acquisition of the land would further the objectives of any adopted City of Hobart public open space policy
 - c. The land adjoins or is nearby a public open space managed by, or planned for, the City of Hobart or another authority
 - d. The land provides or improves connectivity (e.g. for pedestrians and cyclists) to other existing or prospective open space areas or public destinations
 - e. The land provides or improves permeability through the site or surrounding area
 - f. The land provides for a riparian reserve or habitat corridor
 - g. The land enhances the general amenity and urban character of the area
 - h. The land has special values (for example native flora, fauna, habitat, geomorphology, water catchment or cultural heritage values)

- i. The land is strategically located to provide for a specific public facility (for example a playground or sport or recreational facility)
 - j. The land is suitable for the intended public open space purpose
 - k. The land is not subject to unmanageable hazards, and/or
 - l. The land can be sustainably managed.
10. Land used for the following purposes is not to be transferred to City of Hobart 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 dedicated under section 95 of LGBMP.
11. The following will be considered in the decision to acquire land or cash in lieu for public open space;
- a. The existing provision of public open space in the area
 - b. Whether the land is conveniently located to service existing or future users
 - c. The extent and condition of existing vegetation/ habitat on the land
 - d. Whether the land is fit for purpose in terms of size, shape, slope topography, infrastructure, covenants or other encumbrances
 - e. The extent to which the land contributes to City of Hobart's ability to support a diversity of recreational activities
 - f. The best location for public open space in the area and the likelihood of alternative sites
 - g. The land's vulnerability to natural hazards, and
 - h. The anticipated service life/ longevity of the land due to climate change impacts.
12. City of Hobart will work with the subdivider to identify the most appropriate location for the public open space land contribution with the City 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. City of Hobart 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.
13. The developer may be subject to weed management, rubbish clearing, erosion control, landscaping, rehabilitation, fence construction, access control or other land management requirements on the subject land, prior to transfer of the land to City of Hobart.
 14. An area in excess of five percent of the subdivision land value could be acquired by City of Hobart, with the area over and above five percent to be purchased from the subdivider, in accordance with sections 116 and 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

5. Legislation and Related Documents

Local Government (Buildings and Miscellaneous Provisions) Act 1993

Local Government Act 1993

Hobart Interim Planning Scheme 2015

Tasmanian Open Space Policy and Planning Framework

Southern Tasmanian Regional Land Use Strategy 2010-2035

Hobart City Council Land Review 2008

HCC Public Open Space Policy 2001

City of Hobart Open Space and Landscape Strategy 1994

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