KING ISLAND COUNCIL

Policy

Public Open Space Contribution

Responsible Officer: GENERAL MANAGER

Date: 18 February 2025

Review Date: 16 March 2027

1. Purpose

1.1 The purpose of this policy is to:

- Facilitate a strategic approach to the development of a contemporary and well planned open space network.
- Clarify the process of determining whether a land or cash in lieu contribution is required as part of a subdivision development.
- Provide criteria for determining suitability of land contributions for public open space.
- Provide guidance on how public open space contributions are to be paid.
- Provide guidance on how funds obtained through cash in lieu contributions will be utilised.

2. Background

Unless the planning scheme includes a subdivision standard specifying requirements for the provision of public open spaces the *Local Government (Building and Miscellaneous Provisions) Act 1993* (The Act*)* Section 83(1)(a) provides provision for Council to require the owner of the land to be subdivided to provide an area reserved for public open space (POS) or make a cash contribution in lieu.

Previous and current planning scheme and Council policies have not included any requirements for the provision of public open space or payment in lieu when considering a residential subdivision proposal.

3. Scope

3.1 This policy applies to all applications for subdivision in the General Residential, Low Density Residential, Village and Rural Living Zones that could result in the increase in demand for public open space.

3.2 This policy does not apply to boundary adjustments where no new lots are created, subdivision for public utilities, or for land divided under the *Strata Titles Act 1998.*

4. Policy

4.1 RELATED DOCUMENTS

This policy is to be read in conjunction with the following documents:

- Tasmanian Planning Scheme – King Island
- *Local Government (Building and Miscellaneous Provisions) Act 1993, Division 8 – Public open space.*

4.2 Policy Statement

4.2.1 Consideration of Public Open Space through Subdivision Process

When considering a land subdivision proposal for the creation of five (5) or more new residential lots a public open space contribution will be required by way of either:

a) 5% of the area of the land being subdivided into new lots being allocated as public open space and transferred to Council's ownership; or

b) a cash-in-lieu contribution that is calculated in accordance with s117(2) of the *Local Government (Buildings and Miscellaneous Provisions) Act 1993* (The 'Act'). Council will consider if land to be contributed complies with the current strategic values of Council at the time the application is made, considering Council's capacity to financially and effectively manage the land for the intended purpose.

4.2.2 Land to be used for stormwater management, including natural watercourses or land required for infrastructure shall not be accepted as a land for POS contribution.

4.2.3 A proposal for a boundary adjustment that does not create any additional allotments or increase residential density will not be required to transfer land for POS under this policy.

4.3 Process for Determining Land or Cash in Lieu Contribution

In order to ensure an appropriate distribution of public open space, land contributions will be sought where one or more of the following apply:

- Acquisition of the land would further the objectives of any of Council's adopted recreation policy or plan.
- The land or part thereof will facilitate linkages between public lands as part of an open space network.

4.3.1 If a land transfer is to occur, it must occur at the time of the sealing of the Final Plan, or in a stage subdivision, as part of the first stage.

In other cases, cash in lieu is the preferred public open space contribution.

4.4 Cash Contribution Required

In accordance with the provisions of Section 117 of The Act, Council may require a 5% cash contribution, in lieu of a land contribution, of the value of the parent title for all subdivisions. This will be based on the most recent valuation determined by the Office of the Valuer General using the Valuer General's indexation factor to reflect current value.

Where a subdivision is submitted in the form of a staged development and a cash-in- lieu contribution is required, the public open space contribution may be paid proportionately in each stage.

4.4.1 Applicants submitting a plan of subdivision will be notified of the required contribution within 21 working days of their application being accepted.

4.4.2 The General Manager, following consultation with the Mayor, will determine which of the following is most appropriate:

a) 5% contribution of land from the parent title that meets the principles of this policy; or
b) a cash contribution in lieu; or
c) a combination of land and cash in lieu; or
d) if any additional land is required.

4.5 Cash Contributions Received

All monies received will be reserved by Council in the Public Open Space Contributions Account and interest earned on the account will be rolled over into that account.

4.6 Cash Contributions Expended

Use of funds from the public open space account will be made via a resolution of Council and distributed towards:

- Recreation Facilities and Sportsgrounds;
- Parks;
- Landscape and Amenity;
- Cemeteries; and/or
- Footpaths and Tracks.

4.7 Unique Circumstances

Any deviation from this policy must be put to Council for its consideration at an Ordinary Meeting.

AMENDMENT

Council retains the sole discretion to vary, terminate or replace this Policy from time to time. Council will consult before amendments are made and will notify and train those the amendments apply to.

5. Legislation, Terminology and References

Applicable legislation:

All laws in connection with subdivision including but not limited to:

- *Land Use Planning and Approvals Acy 1993*
- *Local Government Act(Building and Miscellaneous Provisions) Act 1993* (TAS)
- Tasmanian Planning Scheme – King Island

Definitions	
Term	**Meaning**
Contribution	Means a public open space contribution, being a contribution paid by a developer as part of a subdivision. A contribution can include land or cash in lieu.
Council	King Island Council
Councillor	An elected member of Council known as a Councillor or Alderman or otherwise meeting the definition of a 'councillor' as defined under section 3 of the *Local Government Act 1993* (TAS)
Delegate	An employee of Council who has bene given delegation by the general manager in accordance with s.64 of the local *a Government Act 1993*
Employee	A person who carries out work for Council as an employee of Council.
General Manager	The general manager of Council as appointed under section 61 of the *Local Government Act 1993* (TAS).
Policy	Public Open Space
Public Open Space	As defined by the Planning Scheme as 'space for public recreation or public gardens or for similar purposes.
Subdivide	To divide the surface of a clock of land by creating estates or interests giving separate rights of occupation otherwise than by: a) a lease of a building or of the land belonging to and contiguous to a building between the occupiers of that building; or b) a lease of air space around or above a building; or c) a lease of a term not exceeding 10 year or for a term not capable of exceeding 10 years; or

	d) the creation of a lot on a strata scheme or a staged development scheme under the *Strat Titles Act 1998;* or e) an order adhering existing parcels of land.
Workplace	A place where work is carried out for Council.

History:

Previous policies used by Council:

- C213 Subdivision Control Policy Adopted 28/09/1993– Res No: 13/93
  Policy reviewed 18/04/2000 Res No: 176/00
  Policy reviewed 16/10/2001 Res No: 449/01
  Policy Rescinded 30/07/2024 Res No. 186/24

POLICY VERSION AND REVISION INFORMATION

Title: Public Open Space

Policy Maintained by: Development Services Coordinator

Policy Commencement: 18 February 2025

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Version No	Date	Resolution No	Responsible Officer
1.0	18.02.2025	40/25	Development Services Coordinator