



PUBLIC OPEN SPACE POLICY

TITLE:	PUBLIC OPEN SPACE POLICY
RESPONSIBLE OFFICER:	SENIOR PLANNER
APPROVED BY COUNCIL:	5 JULY 2005
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POLICY

1. POLICY AIM

To develop and maintain a diverse, integrated and sustainable open space network. That networks will provide for a range of active and passive sport and recreational opportunities and enhanced natural and cultural values through accessible, safe, and well-design open spaces supported by high quality facilities and amenities

2. POLICY BASIS

This policy gives recognition of the Council's powers and obligations in respect POS applicable to the subdivision of land under the provisions of the Act. These provisions enable the Council to:

- require a subdivider to provide to Council up to 5% of the land (for example as a park or reserve) being subdivided as POS; or
- require POS in excess of the 5% contribution as a part of any subdivision proposal subject to appropriate compensation to the owner; or

- condition a subdivider to provide up to 5% cash in lieu contribution of the value of the land being subdivided (less any area provided as POS where applicable); or
- refuse a subdivision if it is of the opinion that the proposal should be altered to include (or omit) POS.

This Policy does not apply to land transferred to Council for roads, utilities or stormwater management.

3. OBJECTIVES

The objectives of this Policy are to:

- Provide a consistent approach to the consideration of POS, or alternatively the payment of cash in lieu t, as part of the subdivision process in accordance with Section 117 of the Act.
- Inform the acquisition of POS having regard to supply, demand, location and suitability of existing open space and to ensure new areas are safe, accessible and fit for purpose
- Guide when to take a cash contribution in lieu of POS, and the use of accumulated contributions.
- Guide the nature and standard of improvements to POS required to be completed prior to transfer of the land to Council.
- Articulate the basis upon which the Council draws its requirement to take POS either as land or a cash contribution.

4. SUBDIVISION CONSIDERATIONS

The creation of new lots will increase demand for, and utilisation of, POS. It is therefore essential to assess every subdivision on its merits according to this policy, with particular emphasis on the following principles:

- That sufficient POS land is to be secured through the subdivision process to provide social and passive recreational opportunities and facilitate multiuser connectively through residential, rural, industrial and business/commercial land.
- In expanding residential areas, new areas of open space should be secured to serve the future population.
- In established areas, priority should be towards improving the connectivity to and between existing POS and improving the quality of related facilities and amenities.

- Where there is no clear benefit in acquiring new POS, or POS less than 5% of the area of new lots, a cash contribution will be required. Accumulated monies will be used for related new or renewed facilities and amenities across the municipal area in accordance with priorities established by Council's asset management planning. Monies will not be used for asset maintenance purposes.
- In areas where POS has been previously acquired or has been identified as being required in the future, land benefiting from that POS ought to contribute towards its acquisition and subsequent development.
- POS to be transferred to Council must 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, playground equipment, shelters and seating, weed management, fencing, vehicular accesses and/or installation of vehicle barriers, installation of services and lighting and construction of paths.
- Land to be provided to Council for the purposes of POS is to be transferred at the time of the sealing. If a permit provides for staged development, POS must be transferred as part of the first stage, unless otherwise determined by Council. Where land is to be dedicated, the final plan of subdivision must be accompanied by a Memorandum of Transfer to Sorell Council. This transfer is to be executed by the vendor, identifying the land to be transferred and accompanied by the required Lands Titles Office and stamp duty fees and charges.
- Land used for the following purposes shall not be transferred to Council as POS:
 - stormwater detention basins or drainage swales and natural water courses that would otherwise form part of the overall drainage within the subdivided area;
 - above ground infrastructure such as utility stations;
 - below ground infrastructure that would limit the use of the land above it and/or would limit landscaping treatments; and
 - pedestrian access ways.

Where land is required for any of the above purposes, it should be provided to the relevant authority for the intended purpose and, subject to Council's discretion.

- Consultation with the Crown is necessary in circumstances when POS in the form of littoral and riparian reserves is proposed to be transferred to it. The Act provides that such land can be transferred to the Crown.

5. ASSESSMENT OF PUBLIC OPEN SPACE LAND

The provision of POS needs to be considered in the context of the local and municipal recreational needs and that land may be taken for the purposes of POS provided that:

- it is specifically identified as being required in any adopted Council policy; or
- securing the land would be consistent with one or more of the following general principles:
 - (i) it would further the objectives of any adopted Council policy;
 - (ii) the land is best location for POS in the wider area where the subdivision is located and the likelihood of alternative sites
 - (iii) the land is convenient, accessible and fit for purpose (i.e. useable and not overly constrained by topography, shape or infrastructure) and does not duplicate nearby POS;
 - (iv) the land would provide or improve accessibility through the site or surrounding area;
 - (v) the land would provide or improve connectivity to and between existing POS;
 - (vi) the land would provide or improve connectivity to and between existing and prospective POS environments/requirements/plans;
 - (vii) the land would enhance the general amenity and urban character of the area;
 - (viii) securing the land would protect areas of locally significant natural/environmental or cultural value; and
- The land can be developed and maintained within Council's resources having regard to Council's asset management planning.
- The size, shape and location of land is consistent with established Crime Prevention through Environmental Design (CPTED) Principles
- The land is not unreasonably constrained by land hazards

6. ASSESSMENT FOR CASH IN LIEU OF PUBLIC OPEN SPACE LAND

Subdivisions proposing suitable and required POS land representing 5% (or greater) of the area of the land being subdivided will not be required to pay a POS cash contribution.

In recognising the objectives and principles of this policy, a cash contribution in lieu of POS (or part thereof) not exceeding 5% of the value of the area being subdivided shall be required as part of any subdivision in the following circumstances:

- (i) the subdivision proposal does not provide any POS; or

- (ii) less than 5% of the total area being subdivided is proposed as POS;
or
- (iii) the proposed POS land (or part thereof) is not acceptable to Council;
or
- (iv) it is not desirable to secure POS land from the subject land property.

7. POS VALUATIONS AND PAYMENT OF POS CONTRIBUTIONS

Although it is not explicitly stated in the Act, the Resource Management and Appeals Tribunal has confirmed that a valuation used to determine the cash in lieu contribution amount are taken as at the date of lodgement of the Final Plan of subdivision.

It is policy that:

- (i) Valuations are to be provided through a valuation report undertaken by an independent registered valuer at the subdivider's cost and provided to Council;
 - (ii) Upon the lodgement of the final plan for sealing the subdivider is to provide the abovementioned valuation report; and
 - (iii) Payment of the POS contribution, based upon the requirements of the LGBMP Act by the subdivider will be deemed agreement to the valuer's assessment and the calculation of the POS contribution (unless the contrary is indicated) and the final plan of survey can proceed to be sealed.
- Cash contributions in lieu of POS are to be paid prior to the sealing of the Final Plan of Subdivision.
 - In the case of staged subdivisions, POS contributions are to be paid and be received prior to the sealing of the first stage. Alternatively, a separate valuation must be obtained from an independent valuer of each respective stage at the subdividers cost.