

POLICY NO AM02 PUBLIC OPEN SPACE POLICY

DEPARTMENT:	Development Services
RESPONSIBLE OFFICER:	Manager Development Services
LINK TO STRATEGIC PLAN:	Ensure the efficient and effective provision of appropriate community assets
STATUTORY AUTHORITY:	Local Government (Building and Miscellaneous Provisions) Act 1993 Break O'Day Planning Scheme
OBJECTIVE:	This policy is to ensure a consistent approach to the calculation of contributions and the expenditure of funds secured in lieu of the provision of "Public Open Space" (POS) associated with the subdivision of land within the Break O'Day Municipality
POLICY INFORMATION:	Adopted 19 March 2012 – Minute No 03/12.15.4.069 Amended 15 December 2014 – Minute No 12/14.14.5.357 Amended 15 April 2019 – Minute No 19/15.4.90

POLICY

1. INTRODUCTION

This policy provides guidance and direction in respect to:

1. Determining if land offered for POS within new subdivision developments is suitable
2. Guidance on the calculation of POS contribution
3. Payment of POS contributions
4. The setting aside in specific reserve accounts funds secured in lieu of the provision of POS
5. Types of projects that are deemed suitable from funds secured as POS contributions

Notwithstanding the intent of this policy the provisions of the Act and Planning Scheme are the guiding factors in respect to item 1.

2. DETERMINING SUITABILITY OF LAND OFFERED

The onus is on the applicant to demonstrate that the land offered for POS is suitable, not Council. This may require improvements to that land to ensure it can be maintained by Council.

Many factors will determine if a parcel of land offered as POS within a subdivision is suitable. In the case of large subdivisions, it may be necessary and appropriate for some space to be set aside within the boundaries of that land. Small areas, for example subdivisions that divide land into less than ten (10) allotments it is unlikely to be viable to set aside space within the boundaries of this land.

A developer may seek to offer land that is unviable to develop. In most instances, the characteristics that make land unviable to develop will also make that land unsuitable for public use and unsustainable to manage. It is essential that land is not accepted as open space that Council cannot manage in the future and/or does not provide any benefit to the community.

On this basis, unless special circumstances prevail, cash in lieu should be sought for all developments where less than 10 new allotments are created. Where a parcel of land is beneficial that does not represent 5% of the development area, a combination of land and cash in lieu could be accepted.

3. APPLICATION OF THE POLICY

Public Open Space shall be taken in accordance with this policy:

- With regard to subdivision of land, the rate specified in the *Local Government (Building and Miscellaneous Provisions) Act 1993* is 5% of the land area contained in the Plan of Subdivision.
- At Council's discretion, a cash contribution may be accepted in lieu of all or part of the land requirement.
- The Public Open Space Rate shall be \$1,200 per additional lot created (i.e. a subdivision that turns one lot into four has created three additional lots and will attract a public open space contribution/fee of \$3,600.) OR
- The applicant may, at their discretion, obtain a current (not less than one month old) valuation, by a registered land valuer, of the subject land, less one of the proposed lots (or strata units). The Public Open Space Rate shall total 5% of that value.

Permit Condition

The amount sought is to be included as a condition of the permit, thereby allowing any disagreement to be resolved at the initial stage of the process.

4. PAYMENT OF POS CONTRIBUTION

The payment of a POS contribution is to be made prior to the sealing of the Final Plan of Survey.

Any land to be transferred to Council must include land transfer documentation with the Final Plan of Survey (Council will not seal the plan without these documents). This requirement is also to be a condition of the Planning Permit.

5. POS FUNDS HELD BY COUNCIL

As the cash in lieu is received instead of the provision of POS, contributions received by Council will be set aside for use in that specific community. This will be in the form of a reserve account and any expenditure from that reserve will be by a specific resolution of Council.

6. ALLOCATION OF FUNDS

Funds received can be used for the purchase of or improvement to any land under the ownership or management of Council on which the public have access for recreational or social use. Preference will be for projects that satisfy some or all of:

1. Land owned by Council or for which Council has long term management responsibility

2. Land that the general public has unrestricted access to
3. Projects that have community support/partnership
4. Projects that have the capacity to attract matching grants
5. Projects in areas funds derived from, and
6. Projects or community needs that have been identified in the "Recreation and Open Space Strategy".

7. MONITORING AND REVIEW

This Policy will be reviewed every three (3) years in line with the Council's Policy Framework or earlier in the event of major changes to legislation or related policies, procedures or if deemed necessary by the General Manager.