

Public Open Space Contribution Policy

POLICY STATEMENT:	<p>1.1 Kingborough Council is committed to providing suitable areas of public open space for community use. Such open space should aim to increase public access, encourage healthy lifestyle practices, create linkages between different activity nodes and conserve important cultural and natural environments.</p>
DEFINITIONS:	<p>2.1 public open space is defined by the Act as ‘space for public recreation or public gardens or for similar purposes’.</p> <p>2.2 improvement is defined by the Act as ‘...landscaping, fencing and provision of playground equipment, walking paths, car parking, access and toilet facilities’.</p>
OBJECTIVE:	<p>3.1 To ensure that adequate provision is made for public open space that enables high quality outcomes and which benefits all residents and users.</p> <p>3.2 To ensure the provision of public open space provides for a range of multiple uses and a diverse range of activities, including connecting different public spaces, encouraging active neighbourhoods, and protecting natural values.</p> <p>3.3 To ensure that land developers contribute to the provision of public open space commensurate with the scale of development.</p> <p>3.4 To ensure that the provisions of the Local Government (Building and Miscellaneous Provisions) Act 1993 (“the Act”) are appropriately implemented with respect to the public open space being provided as part of the land subdivision process.</p>
SCOPE:	<p>4.1 This policy applies to all properties in the Kingborough municipal area.</p>
PROCEDURE (POLICY DETAIL):	<p>5.1 In considering any land subdivision proposal, the question of public open space will be assessed on the merits of each application. Generally, where the proposal generates an additional need for public open space, a contribution will be required by way of either:</p> <ul style="list-style-type: none"> (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 Act. <p>5.2 A decision as to whether land or cash-in-lieu is provided will be dependent upon whether the proposed subdivision provides an opportunity to obtain land that meets the aims and objectives of this Policy. If the subdivided land is not able to provide a public open space component of substantial community benefit, then cash-in-lieu will be required.</p> <p>5.3 If land within a subdivision contains land that is of strategic importance in providing for the open space needs of the community and those needs can only be satisfied by requiring public open space to be provided in excess of 5% of the area of the land in the plan of subdivision, the Council may require an additional area (more than 5%) to be provided as public open space, subject to the payment of compensation in accordance with s116 of the Act.</p> <p>5.4 Funds for the payment of compensation referred to in 5.3 may be from reserved funds referred to in 5.11 or from other revenue sources available to the Council.</p> <p>5.5 A boundary adjustment proposal, where no additional lots are created, shall not be subject to the 5% contribution.</p> <p>5.6 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</p>

	<p>proportionately in each stage, subject to a new valuation in accordance with 5.7(b) below.</p> <p>5.7 Where a cash-in-lieu contribution is required, the subdivider will be required to provide a current valuation of the land calculated in accordance with s116(2) of the Act and including the following:</p> <ul style="list-style-type: none"> (a) The valuation is to be based on the whole area comprised in the plan of subdivision, regardless of zoning and/or previous subdivisions; (b) The valuation is to relate to the unimproved value of the land at the date of lodgement of the proposal plan, or, if the date of payment of the contribution is more than 2 years after the date of the permit being issued, the unimproved value not more than 6 months prior to the payment; (c) The valuation is to take into account the potential of the land for subdivision; (d) The valuation is to take into account the risk of not obtaining a permit for subdivision. <p>5.8 Where the valuation provided by the subdivider is considered to not properly reflect the true value of the land, the Council reserves the right to seek its own valuation advice and, if necessary, refer the matter for determination as a disputed claim for compensation under the <i>Land Acquisition Act 1993</i>.</p> <p>5.9 The officer's report supporting the decision making of a subdivision application must include a section as to how the relevant parts of the Act and this Policy are applied.</p> <p>5.10 All money received by way of contribution shall be reserved by Council in a separate account and recorded against the local area from which the funds were collected. These funds will be expended within areas that will benefit from this expenditure in accordance with the Kingborough Open Space Strategy 2019 (or subsequent version).</p> <p>5.11 The expenditure of reserved public open space funds must be for the acquisition or improvement of land for public open space in accordance with s117(5) of the Act and have regard to the Kingborough Open Space Strategy 2019 (or subsequent version). Expenditure will be subject to a report to Council for consideration.</p>
GUIDELINES:	<p>6.1 Provision of land</p> <p>Where land is provided, it shall be able to meet future community needs as identified within Council's open space strategies. The provision of public open space allows for a reasonable distribution of land able to be used for active and passive recreation. This includes smaller recreational areas within easy walking distance of residences, larger parks and playing fields, bushland areas, coastal or riparian reserves, recreational trails and walking links to local schools or shops.</p> <p>6.2 Allocation of cash contribution</p> <p>Funds derived from cash-in-lieu contributions are to be allocated in accordance with any adopted Council open space strategy or plan or in order to meet local public open space or recreational needs. The contributions may also be used for the improvement of land.</p>
COMMUNICATION:	7.1 The policy will be placed on the Council website.
LEGISLATION:	<p>8.1 The following legislative requirements should be considered in conjunction with this policy:</p> <ul style="list-style-type: none"> • Land Use Planning and Approvals Act 1993 • Local Government (Building and Miscellaneous Provisions) Act 1993 • Kingborough Interim Planning Scheme 2015 or subsequent scheme
RELATED DOCUMENTS:	<p><i>Kingborough Open Space Strategy 2019</i>, or subsequent version.</p> <p><i>Kingborough Interim Planning Scheme 2015</i> or subsequent scheme.</p> <p><i>Kingborough Council Strategic Plan 2015-2025</i>.</p>
AUDIENCE:	Councillors, employees, developers and public.