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PLANNING AND DEVELOPMENT ACT 2005

STATE PLANNING POLICY 3.6

**DEVELOPMENT CONTRIBUTIONS
FOR INFRASTRUCTURE**

PREPARED UNDER SECTION 26 OF THE *PLANNING AND
DEVELOPMENT ACT 2005* BY THE WESTERN AUSTRALIAN
PLANNING COMMISSION.

PLANNING AND DEVELOPMENT ACT 2005

State Planning Policy 3.6**DEVELOPMENT CONTRIBUTIONS FOR INFRASTRUCTURE**

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PLANNING AND DEVELOPMENT ACT 2005

State Planning Policy 3.6

DEVELOPMENT CONTRIBUTIONS FOR INFRASTRUCTURE**1. CITATION**

This state planning policy is made under section 26 of the *Planning and Development Act 2005*. This policy can be cited as *State Planning Policy 3.6 Development Contributions for Infrastructure*.

2. INTRODUCTION AND BACKGROUND

This policy sets out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas.

The careful planning and coordination of infrastructure is fundamental to the economic and social well-being of any community. New urban development and redevelopment needs to ensure the cost-efficient provision of infrastructure and facilities, such as roads, public transport, water supply, sewerage, electricity, gas, telecommunications, drainage, open space, schools, health, community and recreation facilities. All of these utilities and services greatly influence the standard of living, mobility and lifestyle choices of a community.

Public infrastructure is funded through various sources including state government taxes, local government property rates, federal assistance grants, user and access charges, fees and charges, and development contributions. In Western Australia, development contributions for infrastructure have long been accepted as an essential part of the planning system. Land developers are responsible for the provision of standard infrastructure, including water supply, sewerage and drainage, roads and power, and for some community infrastructure, including public open space and primary school sites which are necessary for the development. The scope of such contributions is defined in a WAPC policy adopted in 1997 which is set out in *Planning Bulletin 18 Developer Contributions for Infrastructure*. Development contributions are usually by way of land, works, or payments towards the provision of infrastructure. Requirements for development contributions are imposed by way of conditions on subdivision, strata subdivision or development or, in areas of fragmented ownership where cost sharing arrangements are necessary, by development schemes or development contribution arrangements made under local government schemes. The WAPC adopted draft model provisions for local government schemes in 2000 which are set out in *Planning Bulletin 41 Draft Model Text Provisions for Development Contributions*, which are now superseded by appendix 2 to this policy.

In WA, as in other Australia states, local governments face increasing pressures on the services they provide. These pressures arise from population and economic growth, and increasing expectations of the community for new and upgraded infrastructure.

Examples of these pressures are—

- Greenfield development of land for urban purposes, where there are standard requirements for infrastructure and facilities which are imposed by the WAPC as conditions on the subdivision or strata subdivision of the land, but where local governments may require infrastructure or facilities over and above the common standards.
- Infill development and redevelopment, where common standard conditions of subdivision, strata subdivision or development still apply, but where significant changes in the type or intensity of land use may require new infrastructure and facilities or the augmentation of existing infrastructure and facilities beyond the normal scope of standard subdivision conditions.

The capacity of local governments to provide the additional infrastructure and facilities necessary to accommodate future growth and change is limited by the available financial resources. As a result, local governments are increasingly seeking to apply development contributions for the construction of infrastructure and facilities beyond the standard requirements, such as car parking, community centres, recreation centres, sporting facilities, libraries, child care centres, and other such facilities.

Local governments have indicated that they need more guidance on the scope and framework for development contributions of this nature. The development industry has also pointed to the need for greater consistency and transparency in charging developers because of the potential impacts on housing affordability and to avoid inequities arising from new residents subsidising existing residents.

This policy follows a joint study into development contributions undertaken by the Urban Development Institute of Australia (UDIA), Western Australia Local Government Association (WALGA) and the Department for Planning and Infrastructure (DPI). It replaces *Planning Bulletins 18* and *41* and sets out the standard development contributions for infrastructure applied by the WAPC on the subdivision, strata subdivision, or development of land. It also provides a consistent, accountable and transparent system for local governments to plan and charge for development contributions over and above the standard provisions through development contribution plans.

The policy has taken into account the recommendations of the Public Accounts Committee—*Inquiry into Developer Contributions for Costs Associated with Land Development* (2004). The inquiry, among other things, recommended that local governments should have the capacity to recoup infrastructure costs and that this should be by way of provisions in local planning schemes. Under this policy, local government planning schemes will set out the system of charging through development contribution plans. This provides an equitable system for planning and charging development contributions across defined areas, and provides certainty to developers, infrastructure providers and the community about the charges which apply and how the funds will be spent.

The key principle is that the ‘beneficiary’ pays. Sometimes benefits will be largely confined to the residents of a new development. Sometimes, the benefits will accrue to both existing and new residents. Consistent with this principle, developers will only fund the infrastructure and facilities which are reasonable and necessary for the development and to the extent that the infrastructure and facilities are necessary to service the development. Development contribution plans will, therefore, need to identify growth trends based on service catchment areas, translate these trends into the infrastructure and facilities necessary to meet these increasing needs within the catchment, and allocate the costs of meeting these needs to existing residents and new residents proportional to their contribution to the need for the infrastructure and facilities. This will ensure fairness and equity. It will mean that existing residents through councils and new residents (through developers) will share the burden of the cost of the additional infrastructure and facilities proportional to their need.

A fundamental prerequisite of these plans is that local governments will need to plan ahead. The development contribution plan must have a strategic basis and be linked to the local planning strategy and strategic infrastructure plan and program which identify the infrastructure and facilities required over the next 5-10 years and the cost and revenue sources for the provision of the infrastructure. In this way, those contributing towards the development contribution plan will be assured that the funds will contribute to the local government’s longer term planning and programming of infrastructure in an integrated and coordinated way.

This policy set out the principles underlying development contributions and the form, content and process for the preparation of a development contribution plan under a local planning scheme. Also attached are standard WAPC requirements for development contributions (appendix 1), draft Model Scheme Text development contribution plan provisions (appendix 2) and a template for a local government strategic infrastructure plan and program (appendix 3).

3. APPLICATION OF THE POLICY

The policy applies throughout Western Australia.

4. OBJECTIVES OF THE POLICY

The objectives of this policy are—

- to promote the efficient and effective provision of public infrastructure and facilities to meet the demands arising from new growth and development;
- to ensure that development contributions are necessary and relevant to the development to be permitted and are charged equitably among those benefiting from the infrastructure and facilities to be provided;
- to ensure consistency and transparency in the system for apportioning, collecting and spending development contributions;
- to ensure the social well-being of communities arising from, or affected by, development.

5. POLICY MEASURES

5.1 Scope

Development contributions can be sought for items of infrastructure that are required to support the orderly development of an area. This includes the standard requirements for infrastructure contributions as outlined in appendix 1. In addition, local governments can seek contributions for the capital costs of *community infrastructure* which is defined as: *‘the structures and facilities which help communities and neighbourhoods to function effectively, including—*

- *sporting and recreational facilities*
- *community centres*
- *child care and after school centres*
- *libraries and cultural facilities; and*
- *such other services and facilities for which development contributions may reasonably be requested, having regard to the objectives, scope and provisions of this policy.’*

Development contributions can be sought for—

- a new item of infrastructure;
- land for infrastructure;
- an upgrade in the standard of provision of an existing item of infrastructure;

- an extension to existing infrastructure;
- the total replacement of infrastructure once it has reached the end of its economic life;
- other costs reasonably associated with the preparation, implementation and administration of a development contribution plan.

The contributions are for the initial capital requirements only and not for ongoing maintenance and/or operating costs of the infrastructure.

5.2 Principles underlying development contributions

Development contributions must be levied in accordance with the following principles—

1. Need and the nexus

The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

2. Transparency

Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

3. Equity

Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.

4. Certainty

All development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development.

5. Efficiency

Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.

6. Consistency

Development contributions should be applied uniformly across a Development Contribution Area and the methodology for applying contributions should be consistent.

7. Right of consultation and arbitration

Land owners and developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe that the calculation of the contributions is not reasonable in accordance with the procedures set out in the draft Model Scheme Text in appendix 2.

8. Accountable

There must be accountability in the manner in which development contributions are determined and expended.

5.3 Imposition of development contributions

Development contributions may relate to the requirements of public utility providers (such as water, sewerage, and electricity), state government requirements and the requirements of local government.

Where local governments are seeking development contributions beyond the standard provisions outlined in appendix 1, they must be supported by a development contribution plan which identifies the need for such infrastructure for the relevant development contribution area or by a voluntary agreement between a developer and the relevant local government. This need may not arise where there is one development and the need for the development contribution is created by that development. Any condition for contributions in this case must be consistent with the principles outlined in section 5.2.

There are three stages to the imposition of development contributions.

5.3.1 Development contributions are *formulated and agreed*.

The development contribution plan is used to prescribe the cost contributions for owners in a development contribution area. Areas requiring a development contribution plan, and the infrastructure needs and costs for such area, will generally be identified as part of the process of developing or amending planning schemes.

5.3.2. Development contributions are *calculated and applied*.

Development contributions are generally calculated and applied by way of conditions of subdivision, strata subdivision or development, particularly in greenfield areas. Development contributions may also be sought in infill and redevelopment areas at the time of subdivision, strata subdivision or development.

They may be calculated and applied as—

- standard conditions of subdivision or strata subdivision;
- conditions of development.

Alternatively, contributions can be implemented through voluntary legal agreements.

This applies to subdivisional works such as roads, drainage and the provision of power, water and telecommunications and other items outlined in appendix 1. They may also be applied as conditions of development. The calculation will be to apply the detail of the developer contribution plan to the development, including any offsets for the ceding of land or construction of infrastructure.

5.3.3. Development contributions become **due and payable**.

Development contributions become due and payable as part of the subdivision clearance process or prior to the commencement of development. Clearance of deposited plans, or strata plans as the case may be, to enable the issuance of titles, should not occur until full payment, as calculated and applied, has been finalised. Development contributions are only payable on the proportion of land within a plan being requested for clearance in a development.

5.4 *Characteristics of a development contribution plan*

Development contribution plans require that—

- there is a clear and sound basis with linkages to the local government's strategic and financial planning processes;
- there is justification for the infrastructure identified in the plan;
- the costs of infrastructure are appropriate;
- there is a commitment to providing the infrastructure in a reasonable period;
- the development contribution area to which the plan applies is appropriate;
- cost-sharing arrangements between owners in the development contribution area are fair and reasonable; and
- there is consultation with the owners affected by the plan.

Development contribution plans prescribe the cost contributions for land owners in a development contribution area. Development contributions can only be for the provision of capital items. The costs associated with design and construction of infrastructure (including land costs) and the cost of administration are considered capital items and can be included in the development contribution plan.

A development contribution plan does not have effect until it is incorporated into a local planning scheme. As it forms part of the scheme, the *Town Planning Regulations 1967*, including advertising procedures and the requirement for Ministerial approval, will apply to the making or amendment of a development contribution plan.

A development contribution plan is to be prepared for a development contribution area. This area must be identified on the scheme map and within the text. Draft Model Scheme Text provisions for development contributions can be found at appendix 2. Development contribution plans are to be incorporated into schemes via special control areas and set out in Schedule ZZ.

In interim situations, where a local government has received consent to advertise a development contribution plan, land within that development contribution area will be considered to be subject to a development contribution plan. Development contributions can be calculated but cannot be collected prior to the gazettal of the plan. The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a development contribution plan is not in effect, there is no approval to advertise a development contribution plan, or that there is no other arrangement with respect to an owner's contributions towards the provision of community infrastructure.

The infrastructure costs and estimates are not to be incorporated in Schedule ZZ as part of the scheme but shall be formulated and advertised with the scheme report or scheme amendment report which introduces the development contribution plan and shall be reviewed annually.

Local governments may also enter into voluntary arrangements with developers for contributions for the provision of community infrastructure. Such agreements should reflect the principles outlined in section 5.2.

5.5 *Process for determining development contributions for community infrastructure*

Local government requirements for development contributions for community infrastructure should be calculated on the basis of—

1. the need for that infrastructure based on an analysis of the demand;
2. the nexus where the relationship between the need for infrastructure and the new development is clearly established;
3. catchment areas that the infrastructure would service, identifying both existing demand and new demand that is associated with the development; and
4. the cost of providing the infrastructure, which should be based on the latest or best estimates available to the local government and should include provision for regular adjustments to account for cost escalation over time.

Where a local government is seeking contributions for community infrastructure, these need to be supported by—

- a community infrastructure plan for the area, identifying the services and facilities required over the next 5 to 10 years (supported by demand analysis and identification of service catchments);
- a capital expenditure plan (with at least 5 out years), which identifies the capital costs of facilities and the revenue sources (including capital grants) and programs for provision;
- projected growth figures, including the number of new dwellings to be created at catchment level (suburb or district); and
- a methodology for determining the proportion of costs of community infrastructure to be attributed to growth and the proportion to be attributed to existing areas.

The process for determining development contributions for community infrastructure is outlined at appendix 3.

5.6 Form of contributions

Conditions relating to development contribution requirements can be satisfied by—

- the ceding of land for roads, public open space, primary school sites, drainage and other reserves;
- construction of infrastructure works which are transferred to public authorities on completion;
- monetary contributions to acquire land or undertake works by or on behalf of public authorities; or
- a combination of the above.

5.7 Development contributions not to be imposed as a condition of rezoning

Local governments are not to impose development contributions beyond the scope of Western Australian Planning Commission policy as conditions or prerequisites for rezoning. The rezoning process is not to be used to impose unreasonable demands on land development outside the scope of Western Australian Planning Commission policy.

Development contributions must be formulated through an open and transparent process, with the opportunity to comment in accordance with the process specified in 5.3, or through development contribution plans or voluntary agreements that are transparent and follow the due planning process.

5.8 The application of a credit in a development contribution plan

A development contribution plan may identify infrastructure that—

- needs to be actioned with the first development in a development contribution area, such as a major road extension/connection;
- is predominantly located on the developer's land, such as construction of a recreation facility to service the larger development contribution area.

The local government may mandate that this work is undertaken, creating an in-kind contribution above that identified in the development contribution plan for that area (for example, the provision of physical infrastructure). In this instance the developer and the local government must negotiate a fair and reasonable outcome in relation to this credit. Appropriate negotiated outcomes may include—

- Where a developer has other land holdings in the area, the credit is held by the local government until it is required to be used by the developer to offset future contributions.
- Where a developer has no further holdings in the area, the amount is held by the local government as a credit to the developer until payments into the development contribution plan are received from subsequent developers. The credit is then reimbursed to the developer.
- Where the development contribution plan is in credit from developer contributions already received, the credit should be reimbursed on completion of the works/ceding of land.

Any indexing of the developer contribution scheme should be equally applied to such credits.

6. IMPLEMENTATION

Implementation of this policy will primarily be through local planning strategies, structure plans and local planning schemes and the day-to-day consideration of zoning, subdivision, strata subdivision and development proposals and applications, together with the actions and advice of agencies in carrying out their responsibilities.

7. REVIEW

This policy shall be reviewed within 3 years of the date that it is published in the *Government Gazette*.

Appendix 1—Standard development contribution requirements

Land contributions	Infrastructure works	Monetary contributions
<p>Public open space Public open space equivalent to 10 per cent of the gross subdivisible area, or alternatively, a cash-in-lieu contribution, in accordance with WAPC policies and the <i>Planning and Development Act 2005</i>.</p> <p>Foreshore reserves Certain land for foreshore reserves on the coast, rivers and lakes in accordance with WAPC policies.</p> <p>Primary schools Land for government primary schools.</p> <p>Roads Land for widening existing roads, where the proposal induces additional traffic movements and/or benefits from it; land for new local streets where required; land for district distributor roads in new development areas that expand the urban front or where linkages to these areas is justified; and/or land for primary distributor roads, including primary regional roads and railway reserves where justified by the subdivision. Other contributions as provided for in WAPC policies.</p>	<p>Public utilities Infrastructure for—</p> <ul style="list-style-type: none"> • water; • sewerage; • drainage works; • electricity supply infrastructure; and • other public utilities. <p>This covers on-site works as well as off-site capital works, such as major pump stations, trunk sewers or transmission lines that are necessary to, or contribute to, the subdivision and/or development, and the planning and implementation of urban water requirements. Note that these works are in addition to monetary charges by the Water Corporation and Western Power for off-site major infrastructure.</p> <p>Roads All roads and traffic works required within the subdivision and linked to a constructed public road. These roads provide access to individual lots and allow utility services to be reticulated in the road reserves; Footpaths, pedestrian access ways and shared paths, where required. Upgrading, construction and widening of existing roads and laneways to accommodate additional traffic generated by a subdivision and/or development; and/or new district distributor roads including earthworks for the whole road reserve, the construction of one carriageway comprised of two lanes and associated drainage works. In addition, where set out in a structure plan for the area, grade-separated pedestrian crossings and shared paths may be required as a contribution. Other contributions as provided for in WAPC policies.</p>	<p>Standard water, sewerage and drainage headworks charges for off-site major infrastructure works; and if an area is in fragmented ownership, monetary or in-kind contributions can be required in lieu of land or infrastructure works with reimbursement for other owners where costs are shared. Other contributions as provided for in WAPC policies.</p>

Appendix 2—Draft model text provisions for incorporation of development contribution plans into local planning schemes

6.1 Operation of special control areas

6.1.1 The following special control areas are shown on the scheme map—

- (a) development areas shown on the scheme map as DA with a number and included in schedule XX.
- (b) development contribution areas shown on the scheme map as DCA with a number and included in schedule YY.

6.1.2 In respect of a special control area shown on a scheme map, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the scheme.

6.2 Development areas and structure plans

Insert here revised provisions on structure plans as set out in appendix 1 to the revised version of Planning Bulletin 37 (February 2000) (available at the offices of the Western Australian Planning Commission).

6.3 Development contribution areas

6.3.1 Interpretation

In clause 6.3, unless the context otherwise requires—

‘Administrative costs’ means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the development contribution plan.

‘Administrative items’ means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the development contribution plan, including legal, accounting, planning engineering, and other professional advice.

‘Cost apportionment schedule’ means a schedule prepared and distributed in accordance with clause 6.3.10.

‘Cost contribution’ means the contribution to the cost of infrastructure and administrative costs.

‘Development contribution area’ means shown on the scheme map as DCA with a number and included in schedule ZZ.

‘Development contribution plan’ means a development contribution plan prepared in accordance with the provisions of *State Planning Policy 3.6 Development Contributions for Infrastructure* and the provisions of this clause 6 of the scheme (as incorporated in schedule ZZ to this scheme).

‘Development contribution plan report’ means a report prepared and distributed in accordance with clause 6.3.10.

‘Infrastructure’ means the standard infrastructure items (services and facilities set out in appendix 1) and community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other services and facilities for which development contributions may reasonably be requested having regard to the objectives, scope and provisions of this policy.

‘Infrastructure costs’ means such costs as are reasonably incurred for the acquisition and construction of infrastructure.

‘Local government’ means the local government or local governments in which the development contribution area is located or through which the services and facilities are provided.

‘Owner’ means an owner of land that is located within a development contribution area.

6.3.2 Purpose

The purpose of having development contribution areas is to—

- (a) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;
- (b) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and
- (c) coordinate the timely provision of Infrastructure.

6.3.3 Development contribution plan required

A development contribution plan is required to be prepared for each development contribution area.

6.3.4 Development contribution plan part of scheme

The development contribution plan is incorporated in schedule ZZ as part of this scheme.

6.3.5 Subdivision, strata subdivision and development

The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a development contribution plan is not in effect, there is no approval to advertise a development contribution plan, or that there is no other arrangement with respect to an owner’s contribution towards the provision of community infrastructure.

Comments

A development contribution plan is only enforceable once it is incorporated into the scheme. This has two major implications—

- *all advertising and other provisions under the Town Planning Regulations 1967 applicable to the making of schemes and amendments will apply; and*
- *any amendment to a development contribution plan will require a scheme amendment in order to become enforceable.*

6.3.6 Guiding principles for development contribution plans

The development contribution plan for any development contribution area is to be prepared in accordance with the following principles—

- (a) **Need and the nexus**
The need for the infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
- (b) **Transparency**
Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.
- (c) **Equity**
Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.
- (d) **Certainty**
All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.
- (e) **Efficiency**
Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.
- (f) **Consistency**
Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.
- (g) **Right of consultation and review**
Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs of the contributions is not reasonable.
- (h) **Accountable**
There must be accountability in the manner in which development contributions are determined and expended.

Comments

Apportionment of infrastructure costs based on area assumes that the land concerned has fairly common characteristics. Therefore, development contribution areas should be identified, as far as possible, with common characteristics so that cost contributions reflect future development potential. Where it is not possible to identify land with fairly common characteristics throughout the whole of the development contribution area, consideration may be given to dividing the area into contribution precincts or cells, or to apportioning infrastructure costs based upon land valuation (though the latter may have increased administrative and other costs).

6.3.7 Recommended content of development contribution plans

6.3.7.1 The development contribution plan is to specify—

- (a) the development contribution area to which the development contribution plan applies;
- (b) the infrastructure and administrative items to be funded through the development contribution plan;
- (c) the method of determining the cost contribution of each owner; and
- (d) the priority and timing for the provision of infrastructure.

Comments

A suggested outline of a development contribution plan is contained in schedule ZZ.

6.3.8 Period of development contribution plan

A development contribution plan shall specify the period during which it is to operate.

Comments

A development contribution plan must specify the period during which it is to operate. However, any extension of the period of operation of a development contribution plan requires a scheme amendment which will, in turn, require the approval of the Minister. The recommended maximum period is 5 years (to coincide with the scheme review), but a longer or shorter period may be appropriate depending upon the particular circumstances of the development contribution area (e.g. size of the development contribution area, number of owners and nature of the infrastructure to be funded). If the period is 10 years or longer, then reviews should occur at 5 year intervals (with the cost apportionment schedule to be reviewed at least annually).

6.3.9 Land excluded

In calculating both the area of an owner's land and the total area of land in a development contribution area, the area of land provided in that development contribution area for—

- (a) roads designated under the _____ Region Scheme as primary regional roads and other regional roads;
- (b) existing public open space;
- (c) existing government primary and secondary schools; and
- (d) such other land as is set out in the development contribution plan,

is to be excluded.

6.3.10 Development contribution plan report and cost apportionment schedule

6.3.10.1 Within 90 days of the development contribution plan coming into effect, the local government is to adopt and make available a development contribution plan report and cost apportionment schedule to all owners in the development contribution area.

6.3.10.2 The development contribution plan report and the cost apportionment schedule shall set out in detail the calculation of the cost contribution for each owner in the development contribution area, based on the methodology provided in the development contribution plan, and shall take into account any proposed staging of the development.

6.3.10.3 The development contribution plan report and the cost apportionment schedule do not form part of the scheme, but once adopted by the local government they are subject to review as provided under clause 6.3.11.

Comment

A suggested outline of a cost apportionment schedule is attached at appendix 3. The cost apportionment schedule is adopted by the local government but does not form part of the scheme.

6.3.11 Cost contributions based on estimates

6.3.11.1 The determination of Infrastructure costs and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.

6.3.11.2 Where a cost apportionment schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government—

- (a) in the case of land to be acquired, in accordance with clause 6.3.12; and
- (b) in all other cases, in accordance with the best and latest information available to the local government,

until the expenditure on the relevant item of infrastructure or administrative costs has occurred.

6.3.11.3 The local government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an owner when requested to do so.

6.3.11.4 Where any cost contribution has been calculated on the basis of an estimated cost, the local government—

- (a) is to adjust the cost contribution of any owner in accordance with the revised estimated costs; and
- (b) may accept a cost contribution, based upon estimated costs, as a final cost contribution and enter into an agreement with the owner accordingly.

6.3.11.5 Where an owner's cost contribution is adjusted under clause 6.3.11.4, the local government, on receiving a request in writing from an owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.

6.3.11.6 If an owner objects to the amount of a cost contribution, the owner may give notice to the local government requesting a review of the amount of the cost contribution by an appropriate qualified person ('independent expert') agreed by the local government and the owner at the owner's expense, within 28 days after being informed of the cost contribution.

6.3.11.7 If the independent expert does not change the cost contribution to a figure acceptable to the owner, the cost contribution is to be determined—

- (a) by any method agreed between the local government and the owner; or
- (b) if the local government and the owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the *Commercial Arbitration Act 1985*, with the costs to be shared equally between the local government and owner.

6.3.12 Valuation

6.3.12.1 Clause 6.3.12 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.

6.3.12.2 In clause 6.3.12—

'Value' means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arms length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.

The net land value is to be determined by a static feasibility valuation model, using the working sheet model attached to this scheme as schedule [X]. As part of that feasibility an appropriate profit and risk factor is to be determined from which a 10 per cent profit factor is to be excluded from the calculation.

'Valuer' means a licensed valuer agreed by the local government and the owner, or, where the local government and the owner are unable to reach agreement, by a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

6.3.12.3 If an owner objects to a valuation made by the valuer, the owner may give notice to the local government requesting a review of the amount of the value, at the owner's expense, within 28 days after being informed of the value.

6.3.12.4 If, following a review, the valuer's determination of the value of the land is still not a figure acceptable to the owner, the value is to be determined—

- (a) by any method agreed between the local government and the owner; or
- (b) if the local government and the owner cannot agree, the owner may apply to the State Administrative Tribunal for a review of the matter under part 14 of the *Planning and Development Act 2005*.

6.3.13 Liability for cost contributions

6.3.13.1 An owner must make a cost contribution in accordance with the applicable development contribution plan and the provisions of clause 6.3.

6.3.13.2 An owner's liability to pay the owner's cost contribution to the local government arises on the earlier of—

- (a) the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area;
- (b) the commencement of any development on the owner's land within the development contribution area;
- (c) the approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or
- (d) the approval of a change or extension of use by the local government on the owner's land within the development contribution area.

The liability arises only once upon the earliest of the above listed events.

6.3.13.3 Notwithstanding clause 6.3.13.2, an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan.

6.3.13.4 Where a development contribution plan expires in accordance with clause 6.3.8, an owner's liability to pay the owner's cost contribution under that development contribution plan shall be deemed to continue in effect and be carried over into any subsequent development contribution plan which includes the owner's land, subject to such liability.

Comments

The local government may wish to give consideration to other forms of development, of a minor or incidental nature, that should be excluded for the purpose of triggering liability under clause 6.3.13 (e.g. the erection of a boundary fence).

6.3.14 Payment of cost contribution

6.3.14.1 The owner, with the agreement of the local government, is to pay the owner's cost contribution by—

- (a) cheque or cash;
- (b) transferring to the local government or a public authority land in satisfaction of the cost contribution;
- (c) the provision of physical infrastructure;
- (d) some other method acceptable to the local government; or
- (e) any combination of these methods.

6.3.14.2 The owner, with the agreement of the local government, may pay the owner's cost contribution in a lump sum, by installments or in such other manner acceptable to the local government.

6.3.14.3 Payment by an owner of the cost contribution, including a cost contribution based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the owner's liability under the development contribution plan and the local government shall provide certification in writing to the owner of such discharge if requested by the owner.

6.3.15 Charge on land

6.3.15.1 The amount of any cost contribution for which an owner is liable under clause 6.3.13, but has not paid, is a charge on the owner's land to which the cost contribution relates, and the local government may lodge a caveat, at the owner's expense, against the owner's certificate of title to that land.

6.3.15.2 The local government, at the owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 6.3.15.1 to permit a dealing and may then re-lodge the caveat to prevent further dealings.

6.3.15.3 If the cost contribution is paid in full, the local government, if requested to do so by the owner and at the expense of the owner, is to withdraw any caveat lodged under clause 6.3.15.

6.3.16 Administration of funds

6.3.16.1 The local government is to establish and maintain a reserve account in accordance with the *Local Government Act 1995* for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the infrastructure costs and administrative costs within that development contribution area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.

6.3.16.2 Interest earned on cost contributions credited to a reserve account in accordance with clause 6.3.16.1 is to be applied in the development contribution area to which the reserve account relates.

6.3.16.3 The local government is to publish an audited annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.

6.3.17 Shortfall or excess in cost contributions

6.3.17.1 If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may—

- (a) make good the shortfall;
- (b) enter into agreements with owners to fund the shortfall; or
- (c) raise loans or borrow from a financial institution,

but nothing in paragraph 6.3.17.1(a) restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.

6.3.17.2 If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to refund the excess funds to contributing owners for that development contribution area. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that development contribution area.

6.3.18 Powers of the local government

The local government in implementing the development contribution plan has the power to—

- (a) acquire any land or buildings within the scheme area under the provisions of the *Planning and Development Act 2005*; and
- (b) deal with or dispose of any land which it has acquired under the provisions of the *Planning and Development Act 2005* in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

6.3.19 Arbitration

Subject to clauses 6.3.12.3 and 6.3.12.4, any dispute between an owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 1985*.

SCHEDULE X

STATUTORY STATIC FEASIBILITY ASSESSMENT MODEL

Gross realisation

Net lot yield @ average market value per lot
 "X" lots @ "\$Y" per lot \$ (1)

Less GST @ standard / normal rates

(1) Multiplied by GST rate/(100+GST rate) \$ (2)

(1-2) \$ (3)

Less selling, marketing, advertising & settlement fees

@ market % multiplied by (1) \$ (4)

Add back Input Tax Credit on selling fees

(4) Multiplied by GST rate/(100+GST rate) \$ (5)

(4-5) \$ (6)

Balance after selling costs etc & Input Tax Credit (3-6) \$ (7)

Less adjusted profit & risk allowance as per SPP 3.6

Market determined profit & risk allowance % (8)

Less fixed profit allowance per SPP3.6 $\frac{10\%}{100+10\%}$ (9)

Risk rate applied (8-9) = % (10)

EXPLANATION: (10) to be expressed as a whole number eg 15% = 15

ie Risk = (7) multiplied by (10)/100+(10) \$ (11)

Balance after profit & risk factor (7-11) \$ (12)

Less development costs @ "X" lots multiplied by "\$Z" per lot \$ (13)

Add back Input Tax Credit on (13)

(13) Multiplied by GST rate/(100+GST rate) \$ (14)

Development cost after Input Tax Credit (13-14) \$ (15)

Add interest on net development costs (15)

For 1/2 development & 1/2 selling term

@ Applicable market rates

(15) Multiplied by % rate \$ (16)

(15+16) \$ (17)

Balance after deduction of development costs & interest (12-17) \$ (18)

Less interest on land value, rates & taxes and stamp duty

Assessed over 1/2 development and 1/2 selling term

@ Applicable market rates

(18) Multiplied by (% rate/100+%rate) \$ (19)

Balance after interest on the land (18-19) \$ (20)

Less rates & taxes \$ (21)

Balance after rates & taxes (20-21) \$ (22)

Less Stamp Duty @ current statutory rates

(22) Multiplied by stamp duty rate/(100+stamp duty rate) \$ (23)

Residual Land Value prior to GST considerations (22-23) \$ (24)

Add GST (24) + GST at prevailing statutory rate \$ (25)

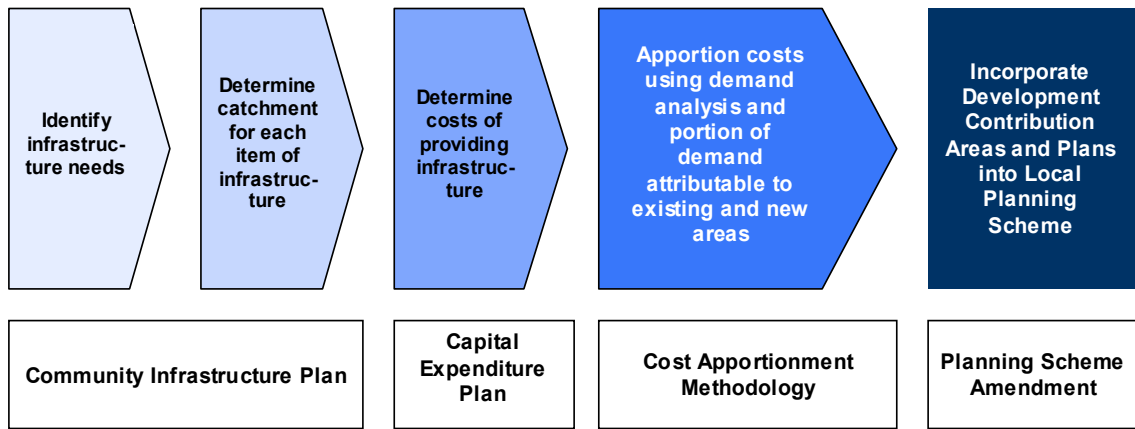
ASSESSED STATUTORY CONTRIBUTION PER SPP 3.6 (22+23) \$

The Static Feasibility Model is based upon—

- (i) The number of lots yielded from the land will have a gross sale price which, when multiplied by the number of lots created, establishes the Gross Realisation (i).
- (ii) GST will be calculated by the standard/normal method.
- (iii) Selling, marketing, advertising and settlement fees expressed as a percentage shall be added and then expressed as a total percentage against the gross realisation.
- (iv) The adjusted risk component applied in the model is the established market profit and risk at the date of valuation less the fixed 10 per cent profit applied in SPP 3.6.
- (v) Development costs will be established as an appropriate servicing cost per lot at the date of valuation, multiplied by the lots realised from the land.
- (vi) Interest against the development costs will be established by the application of bank lending rates for such projects at the date of valuation.
- (vii) Interest against the land in development will be established by the application of bank lending rates for such development acquisitions at the date of valuation.
- (viii) Rates and taxes will be applied for the full term of acquisition, development and sale.
- (ix) Stamp Duty will be applied at the statutory rate as applicable at the date of valuation.
- (x) GST will be applied at the appropriate rate adopted at the date of valuation.

Appendix 3—Methodology for developing *community infrastructure* development contribution plans

Local governments need to establish a clear strategic framework for applying for development contributions for community infrastructure, which is infrastructure over and above standard developer contributions set out in appendix 1.



The framework should be supported by—

1. a **community infrastructure plan** for the area, identifying the services and facilities required over the next 5 to 10 years (supported by demand analysis and identification of service catchments). This should be supported by projected growth figures including the number of new dwellings to be created at catchment level (suburb or district);
2. a **capital expenditure plan (with at least five out years)** which identifies the capital costs of facilities and the revenue sources (including capital grants) and programs for provision;
3. **projected growth figures**, including the number of new dwellings to be created at catchment level (suburb or district); and
4. a **methodology** for determining the proportion of costs of community infrastructure to be attributed to growth and the proportion to be attributed to existing areas.

Community infrastructure development contribution plans

Development contribution plans must specify—

- (a) the development contribution area that a plan applies to. This should be indicated on the scheme map as a development contribution area;
- (b) the infrastructure and administrative costs to be funded through the plan. Only community infrastructure that is identified in the local government's community infrastructure plan can be included in the development contribution plan;
- (c) the methodology for determining the cost contribution of each owner towards the infrastructure to be funded through the plan;
- (d) the priority and timing for the provision of infrastructure; and
- (e) the period during which it is to operate

A development contribution plan does not have effect until it has been incorporated into a local planning scheme as a schedule. An example of a plan can be found at attachment A3.1

Development contribution plans must comply with the principles specified in *State Planning Policy 3.6 Development Contributions for Infrastructure*.

Development contribution plans are to be supported by a cost apportionment schedule (see attachment A3.3) and a development contribution plan report (see attachment A3.2). These do not form part of the local planning scheme but need to be made available to landowners within 90 days of the gazettal of a development contribution plan.

Where a cost apportionment schedule contains estimated costs, these costs are to be reviewed by the local government at least annually. An owner may request that the local government have these estimated costs independently certified by an appropriately qualified person.

Where cost contributions have been calculated on the basis of estimated costs, a local government can either adjust the cost contribution of any owner in accordance with revised estimated costs (or final expenditure), or accept a cost contribution based on an estimated cost as a final cost contribution from an owner.

Owners become liable to pay their costs (once only) on the earlier of—

- subdivision or strata subdivision;
- development; or
- changing or extending a use.

Owners may pay their cost contributions by money, land or some other method acceptable to the local government. The amount of any unpaid cost contribution is a charge on the owner's land and the local government may register a caveat against the certificate of title of the owner's land.

Local governments are required to credit development contributions to a reserve account for the purpose of cost contributions only.

ATTACHMENT A3.1
SCHEDULE ZZ

Note: This must be incorporated into the scheme.

**COMMUNITY INFRASTRUCTURE DEVELOPMENT CONTRIBUTION PLAN FOR
DEVELOPMENT CONTRIBUTION AREA XX**

Reference No.	DCP1
Area name:	DCA XX
Relationship to other planning instruments	The development contribution plan generally conforms to, the <i>Plan for the Future</i> , the <i>10 year Financial Management Plan</i> and the <i>Community Infrastructure Plan</i> .
Infrastructure and administrative items to be funded:	<p>1. District community centre—</p> <ul style="list-style-type: none"> • Single storey, xm², plot ratio floor area building with x parking spaces situated on lot x, x st, x suburb <ul style="list-style-type: none"> i. planning and design ii. site acquisition iii. earthworks and site (including servicing); iv. construction of facility (including associated tender) v. associated parking vi. associated landscaping <p>2. Administrative costs including—</p> <ul style="list-style-type: none"> • costs to prepare and (for standard items only) administer the plan during the period of operation (including legal expenses, valuation fees, proportion of staff salaries, computer software or hardware for purpose of administering the plan) • costs to prepare and review estimates • costs to prepare the cost apportionment schedule • valuation costs
Method for calculating contributions	<p>The council's community infrastructure plan identified the needs that impact on the development contribution plan. The contributions outlined in this plan have been derived based on the need for facilities generated by additional development in the development contribution plan. This calculation excludes the—</p> <ul style="list-style-type: none"> • demand for a facility that is generated by the current population; • demand created by external usage—the proportion of use drawn from outside of the main catchment area; and • future usage—the proportion of usage that will be generated by future development outside of the development contribution plan timeframe.
Period of operation:	X years
Priority and timing:	District community centre year X
Review process	<p>The plan will be reviewed when considered appropriate, having regard to the rate of subsequent development in the area since the last review and the degree of development potential still existing.</p> <p>The estimated infrastructure costs shown as schedule ZZ will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost Index or other appropriate index as approved by the qualified person undertaking the certification of costs referred to in MST clause 6.3.11.3 (appendix 2).</p>

DEVELOPMENT CONTRIBUTION PLAN REPORT

Note: This report does not form part of the scheme but provides the rationale and justification for the development contribution plan, the calculation of costs, and the cost apportionment schedule specifying the costs for each owner.

Development contribution area	The development contribution area is shown on the scheme map as: DCA 1
Purpose	<p>The purpose of this development contribution plan report is to—</p> <ol style="list-style-type: none"> (a) enable the applying of development contributions for the development of new, and the upgrade of existing infrastructure, which is required as a result of increased demand generated in the development contribution area; (b) provide for the equitable sharing of the costs of infrastructure and administrative items between owners; (c) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and (d) coordinate the timely provision of infrastructure.
Period of the plan	X years from June 30 20XX to June 30 20XX
Operation of the development contribution plan	The plan has been prepared in accordance with <i>State Planning Policy 3.6 Development Contributions for Infrastructure</i> . It will come into effect on the date of gazettal of the local planning scheme or amendment to the local planning scheme to incorporate the plan.
Application requirements	Where a subdivision, strata subdivision or development application or an extension of land use is lodged which relates to land to which this plan applies, council shall take the provisions of the plan into account in making a recommendation on or determining that application.
Principles	<p>Development contributions will be applied in accordance with the following principles—</p> <ol style="list-style-type: none"> 1. Need and the nexus The need for the infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus). 2. Transparency Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer. 3. Equity Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need. 4. Certainty All development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development. 5. Efficiency Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs. 6. Consistency Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent. 7. Right of consultation and arbitration Land owners and developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of contributions is not reasonable in accordance with the provisions set out in the draft Model Scheme Text in appendix 2. 8. Accountable There must be accountability in the manner in which development contributions are determined and expended.
Items included in the plan	<p>Administration costs</p> <ul style="list-style-type: none"> • costs to prepare and administer the development contribution plan • costs to prepare and review estimates • costs to prepare the cost apportionment schedule • valuation costs

Infrastructure elements

- *list of infrastructure required and basis for its inclusion*

Details of the cost apportionment can be seen in the cost apportionment schedule.

Review

The development contribution plan will be reviewed when considered appropriate having regard to the rate of subsequent development in the area since the last review and the degree of development potential still existing.

The estimated infrastructure costs as shown in the cost apportionment schedule will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost Index or other appropriate index as approved by the qualified person undertaking the certification of costs referred to in MST clause 6.3.11.3 (appendix 2) .

COST APPORTIONMENT SCHEDULE

Note: This schedule does not form part of the scheme

LANDOWNER CONTRIBUTIONS FOR DC1—AAAAAA	\$ est.
Land acquisition costs	
<i>District community centre</i>	\$
Planning and design costs	
<i>District community centre</i>	\$
	\$
Construction costs	
<i>District community centre</i>	\$
	\$
Landscaping costs	
<i>District community centre</i>	\$
	\$
Parking provisions	
<i>District community centre</i>	\$
	\$
etc	\$
Administration costs	
<i>Costs to prepare the plan (and for standard infrastructure items) and administer</i>	\$
<i>Costs to prepare and review estimates</i>	\$
<i>Costs to prepare the cost apportionment schedule</i>	\$
<i>Total projected demand for the district community centre</i>	XX,XXX
<i>Less demand from existing residents</i>	X,XXX
<i>Less demand from external users</i>	XXX
<i>Less future demand outside of the development contribution plan timeframe</i>	X,XXX
Total demand associated with development contribution plan	X,XXX

Lot description	Demand generated	Infrastructure requirement	Percent of total demand %
1
2
3
4
5
6

