



LOCAL PLANNING POLICY 7.7: PUBLIC OPEN SPACE CONTRIBUTIONS

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1 PURPOSE

1.1 The purpose of this Local Planning Policy is to guide:

- a) The Local Government's responses to the Western Australian Planning Commission (WAPC) in respect of subdivision applications resulting in the creation of three (3) or more residential lots (as defined by the Planning and Development Act (2005)); and
- b) The Local Government's determination of Built Strata (Form 15) applications resulting in the creation of three (3) or more residential built strata lots.

2 BACKGROUND

2.1 The WAPC's Development Control Policy 2.3: Public Open Space in Residential Areas (DC 2.3) embodies a long-established requirement for 10% of the gross subdivisible area of residential land to be given up and vested in the Crown as a reserve for recreation, generally where the subdivision results in the creation of more than five lots.

2.2 DC 2.3 recognises that it may be preferable to provide cash-in-lieu of land for Public Open Space (POS) in some circumstances, including where:

- i. The land area is such that a 10% contribution would be too small to be of practical use;
- ii. There may be sufficient POS already in the locality; or
- iii. POS is planned in another location.

2.3 Where ceding 10% of land for POS is not desirable, Sections 153 – 156 of the Planning and Development Act 2005 facilitate the payment of money to the Local Government in lieu of giving up land (free of charge) for POS.

2.4 The requirement to cede land for POS is imposed as a standard condition of approval on applications to subdivide land into residential lots. This condition may then be satisfied by the payment of cash-in-lieu of ceding the required land.

3 APPLICATION

3.1 This Local Planning Policy –

- a) Applies to the whole of the City of Nedlands.
- b) Establishes the Local Government's position on the ceding of land for POS and the payment of cash-in-lieu thereof, for subdivision and strata applications resulting in the creation of new residential lots.
- c) Applies to all subdivision applications resulting in the creation of three (3) or more residential lots, and all Built Strata (Form 15) applications resulting in the creation of three (3) or more residential built strata lots.
- d) Gives effect to the provisions of Sections 152 – 156 of the Planning and Development Act 2005 and the WAPC's DC 2.3, as informed by the WAPC's Position Statement: Expenditure of Cash-in-Lieu of Public Open Space (September 2021).



4 RELATIONSHIP TO OTHER POLICIES AND LEGISLATION

4.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- a) Sections 152 – 156 of the Planning and Development Act 2005
- b) WAPC Policy DC 2.3 – Public Open Space in Residential Areas
- c) WAPC Position Statement: Expenditure of Cash-in-Lieu of Public Open Space (September 2021)
- d) City of Nedlands Local Planning Scheme No. 3

5 OBJECTIVES

5.1 To ensure infill residential development makes a fair and proportionate contribution towards the cost to deliver and upgrade public open space, commensurate with the demand from population growth generated by such developments.

5.2 To clearly articulate the Local Government's position on the ceding of land for POS and the payment of cash-in-lieu thereof, for the benefit of landowners, applicants, and the community alike.

5.3 To ensure the amount of cash paid by an applicant in lieu of ceding land for POS does not compromise the quality of new residential development or the Local Government's capacity to meet its infill dwelling targets.

6 POLICY MEASURES

6.1 When responding to a subdivision application resulting in the creation of three (3) to five (5) residential lots, the Local Government will recommend that the WAPC imposes on any approval granted for that subdivision:

- a) A condition requiring 10% of the gross subdivisible area of the residential land to be given up free of cost and vested in the Crown as a reserve for recreation; and
- b) An advice note, in accordance with Section 153(4) of the Planning and Development Act (2005), stating that the abovementioned condition may be satisfied by the payment of cash to the Local Government equivalent to 5% of the value of the gross subdivisible area of residential land.

6.2 When responding to a subdivision application resulting in the creation of six (6) or more residential lots, the Local Government will recommend that the WAPC imposes on any approval granted for that subdivision:

- a) A condition requiring 10% of the gross subdivisible area of the residential land to be given up free of cost and vested in the Crown as a reserve for recreation; and
- b) An advice note, in accordance with Section 153(4) of the *Planning and Development Act (2005)*, stating that the abovementioned condition may be satisfied by the payment of cash to the Local Government equivalent to 7% of the value of the gross subdivisible area of the residential land.

6.3 When determining a Built Strata (Form 15) application resulting in the creation of three (3)



to five (5) residential built strata lots, the Local Government will place on any approval granted for that application:

- a) A condition requiring 10% of the gross subdivisible area of the residential land to be given up free of cost and vested in the Crown as a reserve for recreation; and
- b) An advice note stating that the abovementioned condition may be satisfied by the payment of cash to the Local Government equivalent to 5% of the value of the gross subdivisible area of the residential land.

6.4 When determining a Built Strata (Form 15) application resulting in the creation of six (6) or more residential built strata lots, the Local Government will place on any approval granted for that application:

- a) A condition requiring 10% of the gross subdivisible area of the residential land to be given up free of cost and vested in the Crown as a reserve for recreation; and
- b) An advice note stating that the abovementioned condition may be satisfied by the payment of cash to the Local Government equivalent to 7% of the value of the gross subdivisible area of the residential land.

6.5 In regard to applications where development has been approved and substantially commenced, the valuation and payment shall be based on the unimproved value of the land.

6.6 Receipt and expenditure of POS cash-in-lieu funds paid to the Local Government shall be in accordance with Section 154 of the *Planning and Development Act (2005)*.

7 EXEMPTIONS AND REDUCTIONS

7.1 The following exemptions and reductions apply where 6 or more lots are created:

- a) For all affected developments with a building permit issued on or before 30 June 2022, no contribution for public open space will be requested at the time of subdivision.
- b) For all affected developments that have a building permit issued between 1 July 2022 and 30 September 2022, 50% of the normal public open space contribution, as calculated in accordance with the Planning and Development Act 2005 will be requested at the time of subdivision.
- c) For all affected developments that have a building permit issued on or after 1 October 2022, 100% of the normal public open space contribution, as calculated in accordance with the Planning and Development Act 2005 and set out in this Policy, will be required at the time of subdivision.

7.2 The following exemptions and reductions apply where 3 to 5 lots are created:

- a) For all affected developments where a building permit is issued or a subdivision application is received by the local government from the Western Australian Planning Commission dated on or before 31 May 2024, no contribution for public open space will be requested at the time of subdivision.
- b) For all affected developments where a building permit is issued or a subdivision application is received by the local government from the Western Australian Planning Commission dated 1 June 2024 through 31 August 2024, 50% of the normal public open space contribution, as calculated in accordance with the



- Planning and Development Act 2005 will be requested at the time of subdivision.
- c) For all affected developments where a building permit is issued or a subdivision application is received by the local government from the Western Australian Planning Commission dated on or after 1 September 2024, 100% of the normal public open space contribution, as calculated in accordance with the Planning and Development Act 2005 and set out in this Policy, will be required at the time of subdivision.

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