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LOCAL GOVERNMENT ASSOCIATION

**PUBLIC OPEN SPACE
REVIEW OF CURENT POLICY AND PRACTICE**

DRAFT REPORT

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1. BACKGROUND

The current review has been prompted by concern about the allocation of public open space for different recreational, environmental and drainage purposes as well as the development and on-going management of open space and recreational facilities. In particular, there is concern by some Councils about the adequacy of current policy and practice in:

- Identifying the needs of the community for a range of recreational facilities, both structured and unstructured;
- Balancing the allocation of public open space for different uses and purposes such as to adequately provide for the range of community needs;
- Providing appropriate public open space and recreational facilities at district and regional levels as well as local and neighbourhood facilities; and
- Funding for the development and on-going management of recreational facilities and environmental resource areas.

The review is intended to clearly identify the issues relevant to the allocation of public open space and the development, use and on-going management of recreational facilities and environmental resource areas. Based on an investigation of these issues, the review is to recommend appropriate action by which to address any shortcomings in current policy and practice.

2. CONSULTATION

In order to obtain a better appreciation of the issues of concern to local government and other agencies involved in the delivery of recreational services, a workshop was conducted by WALGA in June 2005, with follow-up discussion with a number of participants. The workshop was attended by more than 100 people, representing 26 local Councils, 6 state agencies and a number of other interest groups. A list of the organisations represented is included as an attachment to this report.

The following issues have been identified from the response to the Workshop and from subsequent consultation undertaken with Workshop participants:

2.1 Needs Assessment

- need for more comprehensive and balanced assessment of community needs, including the needs for both structured and unstructured recreational activities as well as environmental requirements.
- while consultation with organized sporting bodies is an important part of needs assessment, particular care is required to ensure the interests of other groups in the community are recognised, e.g. walkers/joggers/cyclists, teenagers (hanging out), young children (mucking about), older people (sitting around).
- needs will differ depending on the demographics of the community, the environmental resources and the form of development, e.g. age/ethnicity/household, proximity to beach/bushland/river, detached/apartment.



- needs assessment should be given more explicit recognition in POS policy, with some guidance as to the identification of the various user groups in the community and how their different needs can be addressed.

2.2 Open Space Allocation

- need for separate allocation to different classes of open space based on recreational needs assessment, environmental resources and engineering requirements, e.g. structured recreation, un-structured recreation, foreshore protection, bushland preservation, biodiversity, wetlands, drainage and water quality control.
- need to review the standards for allocation of land for different types of open space use and for different classes of parkland, taking into consideration both recreational needs of the community and the cost and practicalities of management.
- need to clarify responsibilities for provision and/or funding of each class of open space, based on use, benefits and impacts associated with development.
- need to recognise opportunities for, and limitations upon multiple (different) uses for which open space of different primary classifications may be suitable, e.g. compensating basins and open space for un-structured recreation, school sites and community recreation.
- need to clarify the basis upon which open space which is allocated predominantly for one class of use, may be credited towards another class of use to which it is also suited, e.g. foreshore reserves and open space for un-structured recreation.
- need to review funding arrangements for those classes of open space, the need for which is not related to development/subdivision of the particular area of land, e.g. regional recreation, regional environmental areas, remnant bush.
- need for classification and allocation of open space to be given more explicit recognition in POS policy

2.3 Open Space Development, Use and Management

- need to ensure development (or protection) of open space so as to optimize its use and usability for the purpose(s) for which it has been provided, (which may include multiple-use).
- need to review funding arrangements for development (or protection) and management of open space according to class and usage, with regional open space being funded by relevant state agencies.
- need to review basis for sharing of management and/or maintenance costs between relevant agencies, e.g. 'school' ovals, regional beaches, river foreshores, district sports fields, wetlands and remnant bushland.
- need for development and management of open space to be given more explicit recognition in POS policy, as well as in the standard and funding of on-going management.
- need to protect existing school playing fields for on-going recreational use in circumstances where redevelopment of inner area school sites takes place, bearing in mind that school playing fields are an integral part of community recreational resources.



2.4 Organisational Arrangements

- need to more closely involve those responsible for development and management of recreational facilities and areas of environmental significance, in the planning and allocation of open space, e.g. structure planning.
- need to more closely involve the Department of Sport and Recreation in the planning process leading to the allocation of land for recreation.
- need to more effectively involve the Department of Education and Training in the co-location of schools with POS, and in the sharing of recreational and associated facilities for the benefit of the community as a whole.
- need to assist those local authorities with limited resources available for recreational facilities management, to ensure there is adequate provision for such facilities as will be required by the community.

3. STATUTORY FRAMEWORK

Public open space is usually provided in conjunction with the subdivision of land, by way of a condition or conditions of subdivision approval by the WA Planning Commission. While the *Town Planning and Development Act* does not itself require the provision of POS, it does include a head of power for the imposition of conditions of subdivision approval which are to be carried out before the approval becomes effective.¹ Such conditions are discretionary, but are guided by policy and practice of the Commission, which include Policy DC 2.3 *Public Open Space in Residential Areas*.

Under the Act, where the Commission has approved a plan of subdivision of land upon condition that a portion of the land be set aside and vested in the Crown for parks, recreation grounds or open spaces generally, there is an option for the owner to pay cash-in-lieu of the open space. However, while this option is subject to the agreement of the relevant local government and the Commission, the Act does not generally provide for cash-in-lieu without the agreement of the owner concerned.

Under the current legislation, a specific town planning scheme provision is required before an owner can be obliged to pay a cash contribution in lieu of land for public open space. Such provisions are common in area-specific Development Schemes, but may also be included in Developer Contribution Plans under a District Planning Scheme. Cash contribution requirements are normally applied to areas which have been partially subdivided, where land ownership is fragmented and where there is a need to provide for the equitably sharing of contributions towards infrastructure, including public open space.

The new *Planning and Development Act* includes provision for payment of cash-in-lieu of public open space, without the need for the land owner's agreement.² This will overcome a major difficulty in the allocation and funding of public open space in those areas without specific town planning scheme provisions of the type referred to above. Importantly, it will provide:

- (i) for owners on whose land there is no public open space required, to contribute towards the provision of public open space elsewhere in the locality, and

¹ Town Planning & Development Act 1928, S. 20(1).

² Planning & Development Act 2005, Section 153.



- (ii) for those owners on whose land there is more than the requisite open space allocation, to be reimbursed using cash-in-lieu funds received from other subdividers.

The new legislation precludes application of any cash-in-lieu requirement for subdivision involving less than three lots. This means that not only will two-lot subdivision be exempt from such contributions, but that through a process of sequential two-lot subdivision, other smaller scale subdivision may also avoid any requirement for POS contribution.

4. CURRENT POLICY

Public Open Space Policy DC 2.3

Allocation of public open space through the planning process is currently guided by the Commission's policy DC 2.3, *Public Open Space in Residential Areas*. The policy was part of a consolidation undertaken in 1988 and has since been subject to minor changes in 1992, 1998 and 2002. In 1997, the Commission released a planning bulletin PB 18 *Developer Contributions*, in which POS was included in the list of contributions required by way of conditions of subdivision approval in accordance with Commission Policy.

According to the latest revision of policy DC 2.3, *the Commission is aware of the continuing debate about the validity of certain aspects of the policy*, including the balance between passive and active recreational areas, and is subject to comprehensive review. The Commission's statement goes on to say that both the policy and the related *Guidelines for the Preparation of Local Structure Plans* will be modified where appropriate, following the review and refinement of Liveable Neighbourhoods.

From its original release for testing and review in 1997, *Liveable Neighbourhoods* is now in its third edition, which was released as a *draft operational policy for comment prior to final adoption* in October 2004. It is not clear at this time what, if any, changes will be made to the latest draft of *Liveable Neighbourhoods* in response to the comment received, or when Policy DC 2.3 and the related structure planning guidelines will be amended. Accordingly, it is relevant to consider both the current policy and guidelines as well as the draft operational policy which is *Liveable Neighbourhoods*.

According to the notes which accompany Policy DC 2.3, the basic component of the policy is the requirement that 10% of the gross subdivisible area of a subdivision shall be given up free of cost as public open space. However, the policy also provides for the setting aside of land for foreshore reserves and regional open space. Such areas are generally in addition to the standard 10% POS allocation, although the policy does provide for the crediting of regional parks and recreation reserves as part of the 10% POS allocation *where the land can be used for appropriate local as well as regional purposes*.

The policy also provides for the allocation of part of the 10% contribution for community facilities and the crediting of certain public utility areas towards the POS requirement where such areas are located, designed and landscaped so as to be useable for passive or active recreation.

A further reduction of up to a fifth of the POS allocation is provided for as cash-in-lieu to be spent on the development of POS within the subdivision. Under these circumstances the POS contribution could be reduced to 8% of the gross subdivisible area, although the policy makes it clear that the Commission would need to be satisfied as to the support for such use of the POS allocation from the Council and the community.



The break-up and distribution of POS is not specifically addressed under policy DC 2.3 except for a general statement to the effect that residential development is to be complemented by adequate, well-located areas of open space that will enhance the amenity of the development and provide for the recreational needs of the community.

Guidelines for Local Structure Plans

The Commission's *Guidelines for the Preparation of Local Structure Plans for Urban Release Areas* include the following general advice concerning the distribution of POS and land for related purposes:

- areas for both active and passive POS should be evenly distributed;
- the main active open space area should be grouped with the primary school, neighbourhood shopping centre and community centre;
- smaller, free-standing parks should be provided to ensure informal open space is available generally within 400 metres of all residents;
- smaller free-standing parks should ideally not be less than 5000m² to enable sufficient flexibility for a range of informal activities, although where justified these parks may be as small as 600m² ('tot lots');
- informal open space areas may also be combined with larger, multi-function POS areas, incorporating conservation and/or active recreation facilities;
- combining POS with a suitably designed drainage component may be supported provided the drainage area fulfills an appropriate recreational function;
- utilizing high tension transmission line easements for linear open space systems may be acceptable, providing an acceptable disposition of passive open space is provided.

School Sites Policy DC 2.4

While not specifically referred to under either policy DC 2.3 or the Local Structure Planning Guidelines, co-location of POS is mentioned briefly in policy DC 2.4 *School Sites*, October 1998. According to this policy, the site area requirements for schools may vary depending on a number of factors, including the co-location of schools with POS.

Under the policy, where a school site is co-located with public open space, and arrangements are in place to provide long-term contributions from the education provider for the management of the open space, the land requirement for the school may be reduced. The policy states that in such circumstances, a primary school may be reduced (from 4.0ha) to 3.5ha, although there is no guidance provided for other classes of school and no *requirement* for co-location of facilities.

In the absence of significant imperatives for co-location of open space and school sites, the implementation of co-location initiatives has been somewhat restrained. Anecdotal information suggests some reticence on the part of individual school administrations to facilitate the shared use of existing school ovals by sporting clubs, while in the case of new schools the absence of clear policy provisions and incentives has resulted in a limited take-up of the opportunities for shared use in conjunction with structure planning.

However, the Department of Sport and Recreation recognises the benefits of co-location, particularly in relation to the provision of facilities for organized sports, and is active in



promoting such arrangements. It is understood also, that the Department of Education and Training has recently taken steps to centralize arrangements so as to facilitate the shared use of open space, and is understood to be generally supportive of co-location policy.

5. DRAFT OPERATIONAL POLICY (*Liveable Neighbourhoods* LN-3)

The latest edition of *Liveable Neighbourhoods*, although not yet formally adopted as policy, represents a significant refinement and expansion of the current structure planning guidelines with respect to open space provision. The following is a brief summary of the main components of the draft policy with respect to the classification, allocation and distribution of POS and associated facilities, as detailed under Element 4 (Public Parkland):

- Public parkland has been classified into three types, namely regional open space (ROS), foreshore reserves and POS;
- A minimum of 10% of the gross subdivisible area must be given up free of cost for POS;
- Up to one-fifth of the required POS may comprise *restricted* POS, which may include swales/detention areas, artificial lakes and/or natural wetlands and natural and cultural features;
- EPP and conservation category wetlands are to be ceded free of cost to the crown *in addition to* the 10% POS contribution. (It would appear that such wetlands may not be accepted as *restricted* POS.);
- Up to one-fifth of the required POS may comprise wetland buffers provided the area will be made usable for public open space purposes and there is agreement with the management authority on a management plan for the area;
- Regional open space should be identified under a regional or sub-regional structure plan and/or included in a region scheme and set aside to accommodate active and passive recreation such as major playing fields as well as conservation and environmental features.
- ROS may be credited towards the 10% POS requirement where it can be used for appropriate local POS purposes and where there is agreement with the management authority regarding on-going management;
- Foreshore reserves are to be ceded free of cost to the crown in addition to the 10% POS contribution. (It is not clear how foreshore reserves designated as ROS might be classified in terms of POS contribution.);
- Community facility sites may be provided (credited) as part of the overall POS contribution, be at least 2000m² in area and may be located adjoining POS or preferably in centres;
- Public parkland should provide a balance between conservation and active and passive recreational uses in district, neighbourhood and local open space.
 - District parks of at least 3 ha should generally include a combination of passive and active uses, and be within 2 km of most dwellings (R2), or District Parks of around 2.5-4 ha within 600 m and 1 km walk from most dwellings (R16);
 - Neighbourhood parks of between 3000m² and 1 ha should generally include a combination of passive and active uses, and be within 400 metres of most dwellings (R2);



- Local parks up to 3000m² should be provided within 150 to 300 metres safe walking distance of all dwellings (R2).

Liveable Neighbourhoods also makes reference to the requirement for basic development of POS, such as earthworks, grassing and reticulation, and to combined use of parkland such as for school ovals or as part of water (drainage) management.

Regional variations are also provided for under Element 4 (R31) with a reduction in the standard 10% POS contribution to as low as 5% for *localities outside the major urban areas*. There appears to be no explicit requirement for local government agreement to such variation.

While there is no reference under Element 4 (*Public Parkland*) to co-location of open space and school sites, the provisions of the existing Policy DC 2.4 *School Sites*, have been carried over to *Liveable Neighbourhoods* and are to be found in Element 8 (*Schools*). As with the current DC policy, co-location is to be *encouraged* rather than *required*, and the incentives for co-location appear to be limited to a marginal reduction in the area required for primary schools.

6. APPROACHES USED ELSEWHERE IN AUSTRALIA

In other states of Australia, the opportunities for allocation and funding of public open space are generally similar to those in WA, although there are some differences in the mechanisms used. While developer contributions in the form of monetary payments for the acquisition of public open space are the exception in WA, such contributions are the norm in most other states. Apart from providing more flexibility in terms of allocation of public open space, these arrangements provide for contributions towards development of recreational facilities as well as acquisition of open space for such purposes.

Unlike WA, the contributions towards development of recreational facilities in other states are generally not taken out of the base land allocation for POS, although there are differences in terms of the amount of open space required and the levels of contribution towards acquisition and development. Both Victoria and New South Wales have recently reviewed infrastructure funding, and it is instructive to see how each of these states now addresses this issue.

Victoria

In Victoria the acquisition and development of POS is provided for through a process of developer contribution which may be sought and collected through:

- (i) Development Contributions Plans,
- (ii) Conditions on planning permits, or
- (iii) Voluntary agreements.

Development Contributions Plans provide for both estimates of cost and the apportionment of those costs among land owners involved in development serviced by the particular component of infrastructure. An important element of the new system is the criteria to be applied to the identification of infrastructure, which is to be based on *community expectations of what is required to meet its health, safety or well being*. These may change over time, and are subject of formal community consultation and Ministerial approval as part of the statutory adoption of the Development Contributions Plan.



Under the Victorian legislation, infrastructure is classified as either *Development* Infrastructure (which includes land acquisition, earthworks, landscaping, fencing, seating and the provision of playground equipment on public open space and drainage reserves) or *Community* Infrastructure (which includes the construction or upgrading of buildings or facilities). The legislation limits the amount of contribution towards *Community* Infrastructure to \$900 per dwelling, or 0.25c in the dollar in the case of any other building, but there is no prescribed limit to the cost of *Development* Infrastructure.

Planning permit conditions imposed by the responsible authority can include requirements for:

- (i) infrastructure to be provided, or
- (ii) payments to be made towards the provision of infrastructure.

Planning permit conditions must be reasonable, relate to the planning permission being granted, fulfill a planning purpose, and accurately convey its intended effect. However, planning permit conditions may not be used to require a person to pay an amount for or provide services or facilities other than to implement an approved Development Contributions Plan or requiring services or facilities to be provided in accordance with a pre-existing agreement.

A voluntary agreement in relation to infrastructure provision can be initiated when:

- (i) the Council considers a planning scheme amendment request, and
- (ii) the Council considers a planning or subdivision application.

A voluntary agreement can be used to place an obligation on the parties to provide infrastructure, and/or pay for infrastructure, and may also address the timing of the provision of infrastructure, timing of payments towards infrastructure, reimbursement of the cost by other landowners as they develop, and/or works in lieu of monetary contribution.

New South Wales

In New South Wales the arrangements are similar to those in Victoria with public open space contributions obtained by way of:

- (i) Development Contribution Plans, based on costing of infrastructure, including public open space and development of recreational and community facilities;
- (ii) fixed development levies up to a maximum of 1% of the overall *construction cost* of development; or
- (iii) voluntary planning agreements between the developer and a planning authority, (which may include local government, the Minister and any other public authority).

The major difference between the Development Contribution Plan process in New South Wales compared with Victoria, is the absence of any State or Ministerial approval requirement under the New South Wales system. Conditions of planning approval in accordance with a Development Contributions Plan are however subject to appeal to the Land and Environment Court, where the owner considers them to be unreasonable in the particular circumstances of the case. However, the Court has no power to amend or disallow the Contributions Plan itself, which must otherwise be given judicial recognition.

Planning agreements can be entered into at either the rezoning, subdivision or development application stages. There does not need to be a nexus between the development to which a levy or planning agreement relates and the object of expenditure, although the consent authority needs to identify the public amenities or services to be provided, or for which moneys are to be recouped. While Planning Agreements have been employed in NSW for



some time, they have only recently been given formal recognition through the legislation, which provides among other things for the agreements to run with the land, i.e. continue through change of ownership.

Provision also exists for cross-boundary contributions by way of a Development Contribution Plan prepared by two adjoining local authorities. This is intended to address situations where infrastructure provided in one local government area has part of its service area in an adjoining jurisdiction.

7. FINDINGS AND CONCLUSIONS

7.1 General

Public open space is a significant element of urban infrastructure, both in terms of the amount of land involved and its use by the community. POS not only provides the basis for recreation, both structured and unstructured, but is also important in terms of amenity, liveability, sense-of-place, environmental resource management and even micro-climate.

In the past, the planning of POS was often undertaken in isolation of its ensuing development and use, with land sometimes being set aside without a clear understanding about how it related to the needs of the community or how it would be developed and managed. This situation has improved substantially in more recent times, with recreational and environmental managers increasingly becoming involved in the initial planning of facilities as a prelude to the allocation of land for POS, its development and on-going use and management.

However, while the larger, better-resourced local authorities have generally taken the lead in recreation and open space planning, such involvement is far from universal within local government. Support from state government agencies in relation to recreation and open space planning has also been somewhat limited in the past, with local government interests sometimes being compromised by trade-offs involving regional open space.

While the importance of POS and associated recreational facilities has generally been recognised in current policy, there remain some significant short-comings in both policy and practice in relation to:

- determination of community and environmental needs,
- allocation of land for recreational and environmental purposes,
- provision of community facilities
- development and on-going management of POS and recreation facilities, and
- planning policy and guidelines.

7.2 Community and Environmental Needs Assessment

Effective planning for open space involves far more than the setting aside of an arbitrary proportion (10%) of land in residential estates. Public open space requirements must relate to community needs, as well as regional environmental requirements. Determination of these needs and requirements should begin early in the planning process and should involve all agencies responsible for the provision and/or management of recreational services and environmental resources at local, regional and state levels.



There is a need for more comprehensive and balanced assessment of community needs, including the needs for both structured and unstructured recreational activities as well as environmental requirements and associated utility provisions. Needs assessment should be given more explicit recognition in POS policy, with some guidance as to the identification of the various open space user groups in the community and how their different needs can be addressed.

7.3 Allocation of Land for Open Space Purposes

Based on the assessment of community needs and environmental requirements referred to above, there is a need for specific allocation of land to different classes of open space, e.g. structured recreation (local, district, regional), un-structured recreation, foreshores, bushland, biodiversity, wetlands, drainage, water resources.

In allocating open space for different classes of use, recognition should be given to the opportunities for, and limitations upon multiple (different) uses for which open space of different primary classifications may be suitable, e.g. compensating basins and open space for un-structured recreation, school sites and community recreation. However, there is a need to clarify the basis upon which open space which is allocated predominantly for one class of use, may be *credited* towards another for which it may also be suitable.

The classification and allocation of open space needs to be given more explicit recognition in POS policy, with standards taking into consideration both recreational needs of the community and the capacity of different classes of POS to satisfactorily meet changing needs. There needs to be a clear distinction between the different classes of POS in terms of responsibility for allocation and acquisition, e.g. regional open space for regional (structured or unstructured) recreation or environmental purposes and local open space for local (structured) recreational purposes.

7.4 Provision of Community Facilities

With regard to community purpose sites and associated facilities such as libraries, community centres and child care, it is arguable a specific developer contribution should be required, as is the case in other states. Additional contribution might also be appropriate to off-set the cost of developing recreational facilities such as swimming pools and indoor sports centres, which are now regarded as essential requirements in most communities.

There is a clear nexus between urban development and the need for these types of community and recreational facilities, which should generally be provided or funded in conjunction with urban development. Such an approach is now accepted in other states, where the progressive increase in standard of facilities expected by the community, is reflected in progressively greater development contributions. The assumption that such increases will necessarily be passed on to homeowners, appears now to have been generally rejected.³

The alternative of funding community infrastructure through local government rate revenue usually results in delay in the provision of services, while the costs in these circumstances are ultimately borne by existing property owners and occupiers. This inequity is exacerbated in circumstances where the local government has a relatively small rate base, and/or where the growth rate is high in comparison with the existing population base. This is typical of most of

³ Parliamentary Inquiry into developer contributions for costs associated with land development, finding 18, viz: *'The assertion by the land development industry that developer contributions are passed on to the end consumer in higher prices is not supported by extensive research.'*



the peripheral local government areas of Perth but is also evident in faster growing regional centres and country towns experiencing growth pressures.

7.5 Development and Management

The development and subsequent management of POS is critical to the effectiveness with which it can be utilized. Effective development of POS involves timely action, and is generally best undertaken in conjunction with subdivision. However, in some circumstances, development can be deferred for a limited period of time, and undertaken in response to the timing of community needs, or where the catchment of the particular facility extends over several subdivisions, e.g. school playing fields, indoor sports arena.

As with the allocation and acquisition of POS, resourcing the development and management of POS needs to take account the purposes for which land has been provided, and the division of responsibilities for such facilities as between state and local government. While in some circumstances it may be convenient and efficient for local government to undertake the development and on-going management of open space for non-local purposes, the funding for such activity should reflect the use and/or purpose for which the land has been provided, e.g. regional recreation, regional environmental protection, state educational requirements (school ovals).

The responsibilities for development and on-going management of each class of open space, needs to be made more explicit in POS policy, and there needs to be a review of funding arrangements for those classes of open space, not directly associated with development or subdivision of particular areas of land, e.g. regional sporting facilities. It is inequitable for local government to be expected to cover the cost of on-going management of facilities which serve a wider regional catchment, although in some circumstances it may be the most appropriate agency to deliver such services.

In circumstances where there is a nexus between urban development and the need for POS and community facilities, development of the POS and facilities should be undertaken in conjunction with subdivisional development, or appropriate cash contributions made to cover the cost of such development. Unless state government can assure adequate funds for the development of regional facilities, subdividers might also be expected to make a contribution towards these costs.

7.6 Planning Policy and Guidelines

In the absence of local government resources and expertise being universally available, it is imperative that a more comprehensive framework for open space planning be established. This should include guidance concerning the allocation of public open space for the full range of recreation, and environmental requirements as well as formal consultation with relevant state agencies, including particularly the Department of Sport and Recreation, CALM and DoE.

It should not be assumed that land developers will adequately provide for the needs of the future community with regard to recreation and the protection of appropriate environmental resources, without appropriate controls and guidance. However, recent policy initiatives by the WA Planning Commission (*Liveable Neighbourhoods*) and changes to the statutory provisions governing POS contributions (*Planning and Development Act 2005*), now provide the basis for more effective and integrated planning of community open space.

Liveable Neighbourhoods



The review of operational planning policy foreshadowed in the October 2004 draft *Liveable Neighbourhoods* LN-3, represents a significant step forward in planning for public parkland. However, there has yet to be a response by the WA Planning Commission to submissions on the draft policy, and it remains to be seen whether the concerns raised by local government and relevant state agencies will be adequately addressed. These include:

- The inadequacy of the proposed standards for allocation of POS for various types of recreational activity and parkland classification⁴;
- The absence of any explicit recognition of community needs assessment as the basis for POS provision and allocation;
- The limited usability and high maintenance costs associated with a proliferation of small local parks, particularly in low density residential subdivisions⁵;
- The difficulties in providing land for major district wide active recreational facilities, as well as the funding of development for such facilities;
- The absence of any guidelines for the provision of active (organized) recreational facilities at the regional level⁶;
- The absence of any presumption or requirement for co-location of open space and school sites, so as to facilitate the creation of more versatile areas for community recreation⁷;
- The exemption of small-scale subdivision from the requirement to contribute towards the basic development of POS, where land is in fragmented ownership or where it is restricted use POS⁸;
- The inclusion of ROS in the calculation of POS contributions, given that in most cases such areas would qualify as providing some form of local open space purpose.
- The fact that the WA Planning Commission as the subdivision control authority is also the authority responsible for acquisition of ROS with reference to the potential conflict of interest it has in minimizing the financial burden of such acquisition.⁹

Cash-in-lieu of POS

The new provisions for cash-in-lieu of POS included in the *Planning and Development Act 2005* should help to overcome one of the most common problems of POS allocation in areas

⁴ According to the Department of Sport and Recreation, the *Liveable Neighbourhoods* open space guidelines are not consistent with accepted national and international standards. The department's facilities branch has developed a publication *Sport and Recreation Dimensions Handbook* incorporating these standards, and the handbook is used by the sports and recreation industry to ensure a standardised approach to the development of sporting and recreation facilities.

⁵ Under the Residential Design Codes 2002, Low Density classification has been applied to development up to and including R-25, with average site area down to 350m².

⁶ While *Liveable Neighbourhoods* recognises the need for Regional open space to accommodate major playing fields as well as conservation and environmental features, there are no guidelines for the provision of regional sports facilities.

⁷ While *Liveable Neighbourhoods* encourages the co-location of schools and open space, there is little incentive and no requirement to do so. This is not to suggest there should be any further reduction in school site recreational areas or the 10% POS standard, which the current policy makes clear is to be in addition to school playing fields. Refer 3.1.2 DC 2.3 *Public Open Space*.

⁸ *Liveable Neighbourhoods* LN-3, Element 4 (Public Parkland) R34: 'The WAPC may not require development of public open space where land is in fragmented ownership, where it is restricted use public open space . . .'

⁹ It is noted however that the crediting of ROS as part of the POS contribution is subject to local government agreement under both the current policy DC 2.3 and the draft operational policy *Liveable Neighbourhoods*, LN-3.



of fragmented ownership of land, i.e. the equitable contribution towards POS from subdividers. The new measures provides for the cash-in-lieu to be paid without the need for the owner's agreement '*where the Commission, after consultation with the local government . . . so requires*'. This will facilitate a more equitable sharing of costs for POS among land owners, and reduce the burden on local government to redress previous shortfalls brought about where owners are were not agreeable to pay cash-in-lieu of POS.

However, the legislative exemption of two-lot subdivisions from such contributions would appear to be a loophole by which small-scale subdivisions can avoid any requirement for POS contribution and by which somewhat larger subdivision might avoid POS contributions by sequential applications. Section 153 of the new *Planning and Development Act 2005* prevents the Commission from imposing a cash-in-lieu requirement for subdivisions which create less than 3 lots.¹⁰

8. RECOMMENDATIONS

1. That a more comprehensive framework for open space planning be established, including provision for the full range of recreational needs as well as environmental and engineering requirements involving open space allocation, based on community needs and environmental resource assessment.
2. That the WAPC be requested to prepare or coordinate the preparation of, guidelines for community needs assessment, in consultation with representatives from local government, Department of Sport and Recreation, Department of Education and Training, Department of Conservation and Land Management and the University of Western Australia.
3. That the WAPC be requested to review its funding arrangements for the acquisition and on-going management of regional open space, including Bush Forever sites, to ensure there is no prejudice to the provision and management of local POS and associated facilities.
4. That the WAPC be requested to ensure that the Department of Sport and Recreation (DSR) is consulted in the preparation of local and district structure plans and in relation to large scale subdivision involving the provision of POS, where not governed by an approved structure plan with input by DSR.
5. That the WAPC and DPI (Land Asset Management Services) be requested to take into account the recreational needs of the community when considering proposals for re-development of school sites, with particular attention to any deficiencies in the provision of POS in those areas where redevelopment is proposed.
6. That the Association express its general support for the public parkland proposals included in the draft operational policy *Liveable Neighbourhoods* LN-3 subject to:
 - (i) appropriate changes in response to local government submissions previously made to the Commission, including a review of standards for the various types of parkland identified, so as to bring them into line with current best practice;
 - (ii) inclusion of guidelines for the provision regional level sporting facilities, as recognised in the introduction to Element 4 – Public Parkland;

¹⁰ While there has been a long-standing policy and practice to exempt small-scale subdivision from POS contributions, the major justification for this was the inability to *require* cash-in-lieu, and the impracticability of setting aside small areas of POS in conjunction with each individual subdivision.



- (ii) needs assessment to be highlighted as the basis for allocation and distribution of POS for the various types of recreational use, including both structured and unstructured recreation¹¹;
 - (iii) guidelines for the allocation and distribution of POS of various types to be qualified by reference to any needs assessment which may have been undertaken for the particular area and/or information about open space usage by the various user groups for whom facilities will be required;
 - (iv) inclusion of separate additional provision for contribution towards the cost of community facilities, including both land and development costs;
 - (v) inclusion of separate provision for developer contributions towards the cost of developing recreational facilities, in addition to basic earth works and grassing as currently proposed;
 - (vi) inclusion of a requirement to consider (rather than just encouraging) co-location of open space with schools, including both primary and secondary schools (public and private), at the structure planning stage, so as to facilitate the establishment of more versatile areas for community recreation and the sharing of services such as parking areas, change rooms, toilets, security, maintenance, etc;
 - (vii) inclusion of explicit recognition of the open space and recreational needs of the community in relation to the re-development of existing urban areas, in particular when considering proposals for re-development of school sites and associated playing fields;
 - (viii) removal of the exemption of small-scale subdivision from the requirement to contribute towards the basic development of POS, where land is in fragmented ownership or where it is restricted use POS¹²; and
 - (ix) changes to cash-in-lieu provisions and removal of exemptions for small-scale subdivisions (5 lots or less) to reflect the changes in legislation, when the new *Planning and Development Act 2005* comes into effect.
7. That the Association request the expeditious replacement of Policy DC 2.3 and the associated *Guidelines for the Preparation of Local Structure Plans*, once the necessary changes have been made to *Liveable Neighbourhoods* LN-3. Consequential changes will also be required in relation to Planning Bulletin PB 18 Developer Contributions, so as to bring it into accord with the amended operational policy LN-3.
8. That until such time as the new *Liveable Neighbourhoods* LN-3 operational policy comes into effect, the Association requests the Commission exercise its discretion to prevent any trade off of POS against contributions towards development of POS¹³ and that it limit the proportion of restricted use areas which can be credited as part of the POS contribution, to a maximum of one-fifth as provided for under LN-3¹⁴.

¹¹ In the absence of needs assessment, it is useful to provide some guidelines for the allocation and distribution of POS for various uses. Current research of POS usage by UWA should provide a more assured basis for recreational planning when it is completed.

¹² *Liveable Neighbourhoods* LN-3, Element 4 (Public Parkland) R34: 'The WAPC may not require development of public open space where land is in fragmented ownership, where it is restricted use public open space . . .'

¹³ Under the current Policy DC 2.3, the Commission may accept the spending of cash-in-lieu on the development of POS, up to a maximum of one-fifth of the standard 10% POS contribution. Such a provision is not included in LN-3.

¹⁴ While acceptance of restricted POS is subject to the discretion of the Commission under Policy DC 2.3, the policy does not limit the overall amount or proportion of such credits. Under LN-3 the maximum proportion of restricted use POS to be credited towards POS is limited to one-fifth of the standard 10% POS allocation.



9. That the Association expresses its general support for the new cash-in-lieu provisions under the *Planning and Development Act 2005*, under which cash-in-lieu may be required irrespective of the owner's agreement, where land within a subdivision is unsuitable or not required for POS. However, the Association requests reconsideration of the provisions of the new legislation which preclude the imposition of a cash-in-lieu requirement for two-lot subdivisions, in the interests of fairness and equity.



ATTACHMENT: PARTICIPATION IN POS WORKSHOP

<u>LOCAL GOVERNMENT</u>	<u>STATE GOVERNMENT</u>
Armadale City of	Department for Planning and Infrastructure
Augusta-Margaret River Shire of	Department of Sport and Recreation
Bassendean Town of	Disability Services Commission
Bayswater City of	Office of Crime and Prevention
Belmont City of	South Metro Public Health
Brookton Shire of	Western Australian Planning Commission
Bunbury City of	
Canning City of	<u>OTHER</u>
Chittering Shire of	Active Alliance WA
Cockburn City of	Australian Veterinary Association
Gosnells City of	Physical Activity Taskforce (Premier)
Joondalup City of	Roberts Day - Town Planning & Design
Mandurah City of	Swan Catchment Council
Kalamunda Shire of	University of Western Australia
Melville City of	
Kalgoorlie-Boulder City of	
Murray Shire of	
Northam Town of	
Perth City of	
Rockingham City of	
Stirling City of	
Swan City of	
Victoria Park Town of	
Vincent Town of	
Wanneroo City of	
York Shire of	
WA Local Government Association	

**SUBMISSION TO WESTERN AUSTRALIAN PLANNING COMMISSION –
WALGA PUBLIC OPEN SPACE REVIEW**

NO	DOCUMENT REFERENCE	TECHNICAL COMMENTS
1	Section 5 Draft Operational Policy (Liveable Neighbourhoods LN-3)	<p>The use of Liveable Neighbourhoods (LN-3) as guide for the provision, location and development of POS, and its proposed adoption as an operational policy, is supported. It is considered that the current minimum requirement of 10% open space with respect to gross subdivisible area should be adhered to in full. Other arrangement such as Restricted Public Open Space or cash-in-lieu payments being accepted for a portion of that area are not generally favoured.</p> <p>Nevertheless, the City is concerned that some aspects of LN-3, such as the need to provide POS within a radius of 400 metres of most dwellings, may be too prescriptive and, therefore, limit creative and viable opportunities for POS that may be more appropriate to the particular community/ies it would service.</p>
2	Section 5 Draft Operational Policy (Liveable Neighbourhoods LN-3)	<p>Whilst LN-3 recognises that regional open spaces should be identified under a regional structure plan and/ or included in a region scheme and set aside in order to accommodate significant areas for active and passive recreation in particular, the City is concerned that such areas appear to be insufficient in some localities. This may in part be due to their allocation being based on other factors than specific needs of the surrounding communities, such as demographics, community desires and proximity to other recreational spaces.</p> <p>Given the complexities of potentially dealing with multiple landowners in order to provide significant areas of open space, local governments are not in a position to ensure the best range of POS areas for the community in the absence of adequate direction and allocation at State level. This issue has been recognised in the WALGA submissions as a shortcoming in both policy and practice, and through a recognised need for more comprehensive and balanced assessment of community needs.</p>

**SUBMISSION TO WESTERN AUSTRALIAN PLANNING COMMISSION –
WALGA PUBLIC OPEN SPACE REVIEW**

NO	DOCUMENT REFERENCE	TECHNICAL COMMENTS
1	Section 5 Draft Operational Policy (Liveable Neighbourhoods LN-3)	<p>The use of Liveable Neighbourhoods (LN-3) as guide for the provision, location and development of POS, and its proposed adoption as an operational policy, is supported. It is considered that the current minimum requirement of 10% open space with respect to gross subdivisible area should be adhered to in full. Other arrangement such as Restricted Public Open Space or cash-in-lieu payments being accepted for a portion of that area are not generally favoured.</p> <p>Nevertheless, the City is concerned that some aspects of LN-3, such as the need to provide POS within a radius of 400 metres of most dwellings, may be too prescriptive and, therefore, limit creative and viable opportunities for POS that may be more appropriate to the particular community/ies it would service.</p>
2	Section 5 Draft Operational Policy (Liveable Neighbourhoods LN-3)	<p>Whilst LN-3 recognises that regional open spaces should be identified under a regional structure plan and/ or included in a region scheme and set aside in order to accommodate significant areas for active and passive recreation in particular, the City is concerned that such areas appear to be insufficient in some localities. This may in part be due to their allocation being based on other factors than specific needs of the surrounding communities, such as demographics, community desires and proximity to other recreational spaces.</p> <p>Given the complexities of potentially dealing with multiple landowners in order to provide significant areas of open space, local governments are not in a position to ensure the best range of POS areas for the community in the absence of adequate direction and allocation at State level. This issue has been recognised in the WALGA submissions as a shortcoming in both policy and practice, and through a recognised need for more comprehensive and balanced assessment of community needs.</p>

**SUBMISSION TO WESTERN AUSTRALIAN PLANNING COMMISSION –
WALGA PUBLIC OPEN SPACE REVIEW**

NO	DOCUMENT REFERENCE	TECHNICAL COMMENTS
3	Section 7 Findings and Conclusions 7.3 – Allocation of Land for Open Space Purposes	In support of the above position, the suggested allocation of land for POS to different classes of open space, based on community needs and environmental requirements, would greatly assist local governments in the planning and development stages of these POS areas.
4	Section 7 Findings and Conclusions 7.5 – Development and Management	More thorough planning of regional allocation of POS would assist in achieving greater coordination of recreational and community spaces between neighbouring local governments and, therefore, provide better services to their ratepayers and residents.
5	Section 7 Findings and Conclusions 7.5 – Development and Management	A review of funding arrangements for the acquisition and ongoing management of regional open space is supported in an endeavour to provide greater assistance to local governments and to remove inequities in local government funding, such as in circumstances where a local government has disproportionately large areas of regional open space to maintain.
6	Section 8 Recommendations <i>“1. That a more comprehensive framework for open space planning be established, including provision for the full range of recreational needs as well as environmental and engineering requirements involving open space allocation, based on community needs and environmental resource assessment.”</i>	The text and Recommendation 1 of the submission refer to more comprehensive framework being established for planning of POS areas in relation to community needs, however public participation in this assessment process is not evident in the submission. The City would encourage public participation in the planning of significant areas of POS and suggest its inclusion in the submission.
7	Section 8 Recommendations <i>“6. That the Association express its general support for the public parkland proposals included in the draft operational policy Liveable Neighbourhoods LN-3 subject to: (iii) guidelines for the allocation and distribution of POS of various types to be qualified by reference to any needs assessment which may have been undertaken for the particular area and/or</i>	Recommendation 6 (iii) refers to allocation and distribution of POS being based on needs assessment and or open space usage. The City supports the methodology of identifying current patterns of usage to facilitate an informed community needs assessment.

**SUBMISSION TO WESTERN AUSTRALIAN PLANNING COMMISSION –
WALGA PUBLIC OPEN SPACE REVIEW**

NO	DOCUMENT REFERENCE	TECHNICAL COMMENTS
	<i>information about open space usage by the various user groups for whom facilities will be required;”</i>	
8	Section 5 Draft Operational Policy (Liveable Neighbourhoods LN-3)	Whilst supportive of co location of open spaces with educational facilities, it is noted that the use of such POS can be problematic in terms of their management when the school is operational. The City suggests that the early involvement of the Education Department in POS allocation, and ongoing communication with the local government should be encouraged
9	Section 7 Findings and Conclusions 7.6 – Planning Policy and Guidelines	In the interest of equity, the City supports Recommendation 9 which requests reconsideration of new legislation in the Planning and Development Act 2005 that precludes the imposition of cash in lieu payment for POS with two-lot subdivisions.
10	General Comment	It is noted that fractions are used on a number of occasions in the submission when reiterating aspects of LN-3 when percentages are used in that document and reference to fractions may only be added in bracket.