



Department of **Planning,  
Lands and Heritage**



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Western Australia.*

# Draft State Planning Policy 3.6 Infrastructure Contributions Guidelines

July 2019

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# 1 INTRODUCTION

## 1.1 Purpose of document

These Guidelines provide guidance on the practical application of the infrastructure contributions system in Western Australia and additional information on aspects of the infrastructure contributions system for Local Infrastructure as established in State Planning Policy 3.6 Infrastructure Contributions (SPP 3.6).

SPP 3.6 provides a consistent, accountable and transparent system for infrastructure contributions either as a standard item of infrastructure via the subdivision and development process or where infrastructure costs are to be shared, via Development Contribution Plans (DCPs). While these Guidelines provide an overview of how infrastructure contributions may be imposed, for the most part they address the preparation and operational aspects of DCPs.

Careful consideration should be given in determining the suitability and use of DCPs to deliver infrastructure, as this is just one of a number of mechanisms that can be used to meet the physical and social infrastructure needs of growing communities.

Although in some circumstances infrastructure contributions may recover the full costs of individual items where there is a clear nexus between the infrastructure and the development, they are not intended to cover the costs of delivering the full suite of infrastructure required to respond to pressures from urban growth. Infrastructure contributions must be seen as one element within the

strategic planning process, in which the infrastructure needs of a community are identified and strategies are devised and then implemented to meet those needs.

Other streams of funding need to be considered prior to seeking infrastructure contributions beyond that which is a standard contribution, including State Government taxes, local government property rates and special area rates; State and Federal grants, and user and access fees and charges.

## 1.2 Infrastructure Contributions system in Western Australia

Throughout Australia, governments face increasing pressure on the services they provide. These pressures arise from population and economic growth, and increasing expectations of the community for new and upgraded facilities.

Often, different development settings require specific infrastructure needs to accommodate and facilitate growth, including:

- greenfield development setting (new communities) - infrastructure necessary to meet the needs of a sustainable community in the first 10 years of development
- infill development settings (redevelopment within existing communities) – where there is significant change in the type or intensity of land use to achieve urban consolidation objectives of the State Government, that may require new infrastructure and facilities, or upgrades or capacity increases of existing infrastructure and facilities

- regional growth areas – infrastructure required to meet specific needs and expectations of regional communities, including new infrastructure and facilities, or replacement and upgrades to existing infrastructure and facilities.

SPP 3.6 provides a system that allows infrastructure contributions to be applied to all land in different development contexts, including greenfield, infill, regional and industrial land, if they are consistent with its principles, objectives and requirements.

In Western Australia, contributions for infrastructure have long been accepted as an essential part of the planning system. Previous policy and advisory documents that have informed the infrastructure contribution system include:

- WAPC Planning Bulletin No.18 (1997) Developer Contributions for Infrastructure
- Planning Bulletin No.41 (2000) Draft Model Text Provisions for Development Contributions
- SPP 3.6 Development Contributions for Infrastructure (2009)
- Planning Bulletin 100 (PB 100) - background to the development contributions system in Western Australia, and the intent of the policy established in SPP 3.6 (2009).

The development of SPP 3.6 (2009) took into account the recommendations of the Public Accounts Committee – Inquiry into Developer Contributions for Costs Associated with Land Development (2004). The inquiry 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.



The underlying principles for infrastructure contributions, the process and operation of DCPs, and the model provisions for schemes remain largely the same, with the current system including additional checks and balances for reporting and monitoring to ensure the system remains transparent and accountable.

The process for levying infrastructure contributions has evolved over the past 15 years, and while it is generally well understood and soundly based, the infrastructure contribution framework has needed to evolve to align with the strategic planning objectives for consolidated

urban growth patterns, and be applicable to a broader range of development settings in addition to greenfield areas, including existing urban areas that are expected to accommodate significant growth and infill targets.

INFRASTRUCTURE CONTRIBUTION FRAMEWORK			
Act and Regulations	Local Planning Schemes	State Planning Policy 3.6 Infrastructure Contributions	Infrastructure Contribution Guidelines
<p>The power to require infrastructure contributions derives from the <i>Planning and Development Act 2005</i> (as amended), and the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> (LPS Regulations).</p> <p>The LPS Regulations (including proposed amendments) include provisions relating to contributions for infrastructure as follows:</p> <ul style="list-style-type: none"> <li>Part 1 – Definitions</li> <li>Part 7 – Development Contribution Plans – provisions relating to the requirement, content and effect of Development Contribution Areas and Plans; and the requirements for Reporting and Monitoring</li> <li>Model Provisions – Part 5A Development Contribution Plans – Model Scheme provisions for the administration and operation of DCPs</li> </ul>	<p>Local Schemes are to incorporate provisions from Schedule 1 - Model Provisions – Part 5A Development Contribution Plans . (note: subject to amendments to the Regulations being finalised).</p> <p>Model provisions set out the statutory provisions to operate Development Contribution Areas and Plans including:</p> <ul style="list-style-type: none"> <li>principles</li> <li>purpose</li> <li>operation</li> <li>monitoring and review</li> <li>arbitration</li> </ul>	<p>Establishes the scope and process for contributions towards infrastructure required for urban development and community facilities.</p> <p>SPP 3.6 sets out:</p> <ul style="list-style-type: none"> <li>the principles underlying contributions for infrastructure</li> <li>requirements for Local Infrastructure</li> <li>imposition of infrastructure contributions</li> <li>the Form, Content and Process for the preparation of a DCP</li> <li>administration and operational requirements of DCPs</li> </ul> <p><b>Includes:</b></p> <ul style="list-style-type: none"> <li>Schedule 1 – List of Development Infrastructure</li> <li>Schedule 2 – List of Community Infrastructure</li> <li>Schedule 3 – Development Contribution Plan Template</li> <li>Schedule 4 – Required Information for Development Contribution Plan</li> <li>Schedule 5 – Annual Reporting Template</li> </ul>	<p>The Guidelines are a companion document to SPP 3.6 to provide further guidance for users on how the infrastructure contributions system in Western Australia is to be applied, focussing on the preparation and operation of DCPs.</p> <p>The Guidelines are not statutorily enforceable, however, provide clarification and supporting information on fundamental aspects of SPP 3.6.</p> <p>The Guidelines set out:</p> <ul style="list-style-type: none"> <li>how the Infrastructure contribution system works</li> <li>the processes and considerations in the preparation of a DCP</li> <li>an explanation of operational aspects of DCPs, including interim arrangements (Deed of Agreements) and guidance on the closing of a DCS</li> </ul> <p><b>Includes:</b></p> <ul style="list-style-type: none"> <li>Appendix A – Development Contribution Plan Report Template</li> <li>Appendix B – Cost Apportionment Schedule Template</li> <li>Appendix C – Guide to Catchments and Standards</li> <li>Appendix D – Deed of Agreement template</li> </ul>



## 2 INFRASTRUCTURE CONTRIBUTIONS SYSTEM

### 2.1 Principles

Six overarching principles guide the process for determining infrastructure contributions and the preparation of DCPs:

1. Need and the nexus
2. Transparency
3. Equity
4. Certainty
5. Consistency
6. Accountable

These principles are the cornerstone of the infrastructure contributions system. They should apply to the way the need for any proposed infrastructure item is determined and to the method of calculating the level of contributions to be levied. It is essential that the overall principles form the basis for seeking infrastructure contributions, including the preparation of every DCP as required.

### 2.2 Local Infrastructure

Local Infrastructure is primarily delivered by local governments, utility providers or a developer, and is fundamental to the economic and social well-being of all communities.

SPP 3.6 distinguishes between the different types of Local Infrastructure, namely:

- *Development Infrastructure* – infrastructure required to facilitate development and required to support the orderly development or redevelopment of an area
- *Community Infrastructure* – infrastructure required for communities and neighbourhoods to function effectively.

This is consistent with the existing references to types of Local Infrastructure, sometimes referred to as ‘hard’ and ‘soft’ infrastructure respectively.

This distinction is required given the different requirements that apply when preparing a DCP that includes Community Infrastructure.

### 2.3 Imposition of infrastructure contributions

Infrastructure contributions are legally enforceable contributions that a developer or property owner may be required to make to provide essential infrastructure works and facilities for new and existing communities. Contributions are generally calculated and applied via the following mechanisms:

#### (i) Standard Infrastructure Contributions

Infrastructure required as standard is contained in Schedule 1 of SPP 3.6 and includes land contributions, infrastructure works or monetary contributions. The requirements for such infrastructure is imposed via standard conditions of subdivision or development, under the *Planning and Development Act (2015)*, and can be defined as those items that are essential to the development of land.

The standard infrastructure contribution requirements include on-site physical infrastructure, such as water supply, sewerage and drainage, road and power; and some community infrastructure including public open space and primary school sites, which are recognised as an essential prerequisite to development. In addition, headworks contributions also apply and are charged by utility service providers such as the Water Corporation for water supply, sewerage and, where applicable, main drainage.

The items of infrastructure contained in Schedule 1 of SPP 3.6 have been consistently applied for over 20 years. A review of SPP 3.6 highlighted the need to also provide opportunities for sustainable transport options in areas experiencing transformational change. The application of contributions for sustainable transport is limited to infill development settings, and is intended to ensure appropriate infrastructure can be delivered to align with areas of increased density identified through strategic planning instruments.

Contributions for proposed works for sustainable transport considered necessary to support transformational change are required to be identified in a structure plan, or similar planning instrument, and must align with local and State planning frameworks that have been identified to accommodate growth.

#### (ii) Development Contribution Plans (DCPs)

Development Contribution Plans (DCPs) are used to levy contributions for planned infrastructure. A council collects development contribution levies through an approved DCP.



Infrastructure that would normally be required as standard (Schedule 1 of SPP 3.6) may be able to be included as an item in a DCP, so that costs can be shared across owners, and infrastructure can be delivered in a timely manner.

The capacity of local governments to provide the additional physical infrastructure and community facilities necessary to accommodate future growth and change is limited. As a result, local governments are increasingly seeking to use DCPs to fund the construction of infrastructure items and facilities beyond the standard requirements, particularly for Community Infrastructure such as community centres, recreation centres, sporting facilities, libraries, child care centres, and other such facilities.

Notwithstanding, the extent to which existing and future communities should be expected to contribute to the funding of community facilities should be limited, as it is considered that funding of such infrastructure should largely be sourced from other funding mechanisms.

Schedule 2 provides a list of Community Infrastructure that may be considered for inclusion in a DCP. To ensure consistency in the levying of contributions for Community Infrastructure across the metropolitan area, it is proposed that the levy be capped at \$2,500 per dwelling for Local Infrastructure. Where district and/or regional infrastructure is also proposed, consideration may be given to increasing the cap by an additional \$1000 per dwelling, to a total of \$3,500 for a combination of local, district and regional community infrastructure, subject to adequate justification and the support of the Western Australian Planning Commission (WAPC).

Flexibility has been provided to local governments to determine the type of infrastructure considered necessary to meet the needs and expectations of their local community. It is expected that the requirements for Community Infrastructure will differ depending on the needs of the existing and future communities, and this should be determined following consultation with the community.

Consideration will also need to be given to the extent to which a DCP can contribute to the funding of the required infrastructure, taking into consideration the maximum capped cost that can be imposed.

Levies for Development Infrastructure will continue to be variable, depending on the infrastructure requirements and location of the development area.

### **(iii) Developer Agreements**

Developer Agreements may be considered in limited circumstances – usually large-scale projects under single ownership – and pursuant to a request from the landowner or developer. Developer Agreements are voluntary and fall outside the formal infrastructure contributions system, and do not require State Government assessment or approval. Any agreement for infrastructure contributions via a Developer Agreement should be consistent with the principles outlined in SPP 3.6 and any decision to deviate from these principles, including the provision of facilities of a higher-quality or specification than standard, should be a voluntary decision by all parties to the agreement.



## 3 DEVELOPMENT CONTRIBUTION PLANS

### 3.1 Purpose

The purpose of preparing DCPs relating to specific Development Contribution Areas (DCA) is provided for in Part 7 of the LPS Regulations 2017, and is summarised as follows:

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

### 3.2 Statutory implementation

Under SPP 3.6, DCPs provide an equitable system for planning and charging infrastructure contributions across defined areas, and provide certainty to developers, infrastructure providers and the community about the charges which apply and how the funds will be spent.

A DCP does not have effect until it is incorporated into a local planning scheme. Each DCP must be associated with a specific DCA, identified as a Special Control Area under the scheme.

Prior to (or concurrent with) identification of the first DCA within a local government area, and associated formulation of a DCP for that DCA, scheme text provisions must be included in the relevant local planning scheme to provide the framework for formulating and administering a DCP.

Local Planning Policies (LPPs) prepared by local governments to address any aspect of infrastructure contributions, including the preparation, administration or operation of DCPs should be consistent with the intent and requirements of both SPP 3.6 and these supporting Guidelines.

### 3.3 Preparation of a Development Contribution Plan

#### 3.3.1 General considerations

To meet DCP requirements, a local government should consider the following prior to and during formulation of a DCP.

#### *Need and nexus*

- The need for the infrastructure included in the DCP must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
- There must also be a clear and sound basis for the proposed infrastructure with linkages to the local government's strategic and financial planning processes, with all assumptions documented and justified;

#### *Beneficiary pays*

- Contributions collected through a DCP will only fund the infrastructure and facilities which are reasonable and necessary for the new development and to the extent that the infrastructure and facilities are necessary to service the new development.
- To fund the proportion of infrastructure costs that cannot be recovered through the DCP (existing and future demand), additional funding and revenue sources need to be considered in addition to funding from the DCP.

#### *Ensuring reasonable cost*

- The infrastructure items to be funded through a DCP, and total cost of infrastructure contributions imposed, should be reasonable and align with the needs of the community and consider the impact on housing affordability.

#### *Timing of infrastructure provision*

- Items of infrastructure identified as being needed by the community should align with the DCP timeframe. Consideration should be given to the type of infrastructure needed and the development context in which it will be delivered.
- The authority responsible for providing the infrastructure must be identified in the DCP Report.
- Alternative funding contingencies should be considered to ensure timely provision of infrastructure if sufficient infrastructure contributions are not collected.
- Progress of delivery of infrastructure against DCP priority and timing estimates, and a high-level summary of the financial position of the DCP is to be reported on annually.

#### *Consultation and transparency*

- The timing for the preparation and public advertising of a DCP should align with the comprehensive planning undertaken for an area, to ensure that all stakeholders are aware of their obligations for cost contributions to infrastructure prior to subdivision and development.
- All information and inputs that have informed the preparation of the DCPs, and apportionment of costs, shall be made available for review by contributing owners within the DCA.



*Formulation requires resources and expertise*

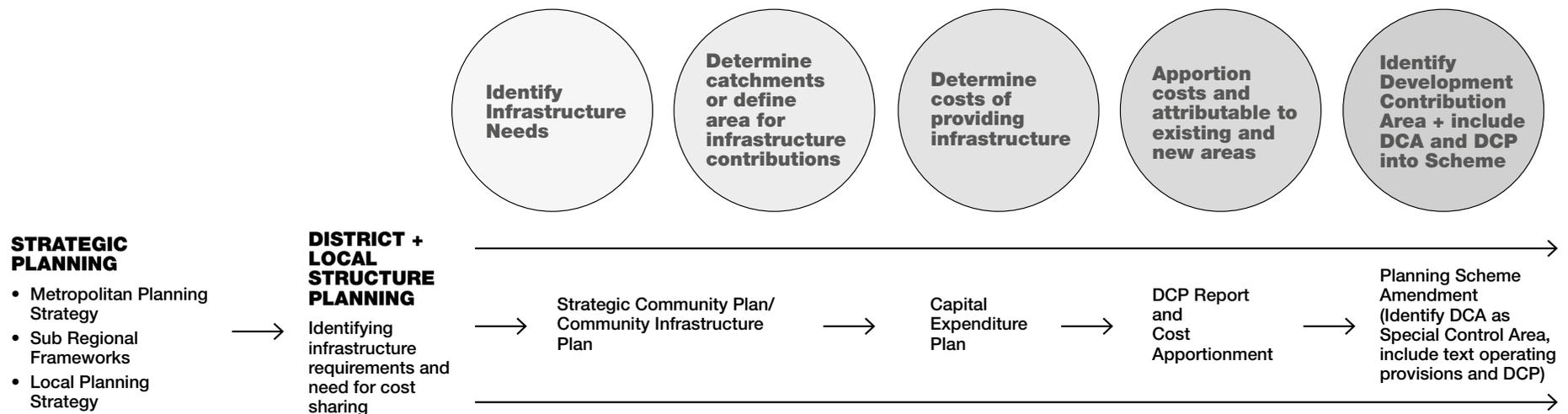
- Consideration should be given to ensuring the local government is equipped in time and expertise to prepare necessary DCPs prior to contributions being needed, or, outsourcing of resourcing should be considered.

**Process for preparing development contribution plans**

**Public advertising of Strategy/Structure Plan**

**Public consultation re: infrastructure needs**

**Public advertising of DCP and cost contributions**





### 3.3.2 Content overview

Each DCP for either Development or Community Infrastructure, or both, is to be included in the relevant local planning scheme in the format provided at Schedule 3 of SPP 3.6.

Each DCP must also be accompanied by a DCP Report, that includes a Cost Apportionment Schedule (CAS), which together identify matters including:

- the strategic basis for inclusion of each infrastructure item in the DCP
- the details of each infrastructure item, including the construction standards identified in the DCP, the authority responsible for delivering the infrastructure, and the priority and timing for the provision of infrastructure
- the methodology by which the demand for proposed infrastructure is apportioned between existing development, future development beyond the lifespan of the DCP, and new development within the DCA
- the infrastructure contribution rate for each infrastructure network and the applicable unit of infrastructure demand
- set out in detail the calculation of the cost contribution for each owner in the DCA.

These documents do not form part of the Scheme, however, provide important justification for the content of each DCP, and should be advertised at the same time as the Scheme Amendment for the DCP.

To ensure consistency in application of the infrastructure contribution system across Western Australia, and to provide certainty for system users, it is preferred that the template DCP Report and CAS templates provided at Appendix C and D of these Guidelines are used.

Any departure from this format will need to be justified based on individual circumstances.

### 3.3.3 Defining the Development Contribution Area

Apportionment of infrastructure costs based on an area assumes that the land concerned has fairly common characteristics. Therefore, DCAs 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 a DCA, consideration should be given to dividing the area into contribution precincts or cells. Land that has been identified as not generating demand for infrastructure should be excluded from the DCP area, and may include:

- a) roads designated under a region scheme as primary regional roads and other regional roads
- b) existing public open space
- c) areas identified as having environmental values (unless providing community recreation benefit included in functional POS)
- d) existing and planned Government primary and secondary schools
- e) any other land specified in the DCP, including land and/or development that has been identified as not generating demand for infrastructure.

In infill or brownfield DCAs, it may be appropriate to also exclude the total land area of local roads, and the total land area of any non-residential development, from the total DCA. Such an approach will need to be considered and justified on a case by case basis.

A local government should give consideration to forms of development, of a minor or incidental nature, that should be excluded from triggering liability to pay a contribution (such as minor development, the clearing of land or erection of a boundary fence, or a change of use which does not generate additional infrastructure demand).

### 3.3.4 Establishing a lifespan

A DCP must specify the period during which it is to operate. The timeframe will depend on factors associated with the characteristics of each DCA.

The recommended lifespan is generally 10 years. A lifespan longer than 10 years may be considered appropriate in limited circumstances, if justification can be demonstrated.

When considering an appropriate lifespan for a DCP, local government should aim to ensure that the selected timeframe corresponds with any related strategic and infrastructure planning, and financing cycles; that it reflects anticipated development growth rates; and that there is some certainty that the identified infrastructure items can be delivered within the chosen timeframes.

Any extension of the period of operation of an already existing DCP requires a scheme amendment which will, in turn, require the approval of the Minister for Planning.

### 3.3.5 Determine current and future infrastructure and administrative needs

Determining infrastructure needs and specifications for new communities (greenfield contexts) should be based on development industry standards, and include an analysis of existing provision, considering any necessary upgrading or replacing of existing infrastructure, and



through a calculation of future requirements, including type and capacity. The relative demand for infrastructure from existing and future populations will need to be determined in later cost apportionment stages.

DCP infrastructure items should not include infrastructure that would otherwise be delivered by individual developers and required via conditions of subdivision approval i.e the construction of local roads or other infrastructure that is not a 'shared cost'. To ensure the overall DCP costs are not inflated, only the more significant items of infrastructure where costs are to be shared should be included in a DCP. The inclusion of local infrastructure delivered by a developer directly via the subdivision process as a DCP cost can negatively impact on housing affordability and project viability, and can result in issues arising in returning excess funds at the end of a DCP.

Confirming the need for Community Infrastructure items is part of the more detailed planning process necessary for community infrastructure DCPs, outlined at section 3.3.11.

Predicting the additional infrastructure needs of infill areas may be more complex as these areas already have a basic level of infrastructure for everyday needs. Two types of infrastructure are required to facilitate and support urban consolidation policy objectives, including increased densities:

- *Lead infrastructure* is required upfront to increase the amenity of an area, such as street upgrades, public realm upgrades, and public transport improvements. There are many examples where the State Government has invested in upfront infrastructure to enable a redevelopment of an urban infill area, and has in some cases recouped money from this initial investment. Examples include Subiaco redevelopment with a new

underground train station, Scarborough with foreshore works, Elizabeth Quay and East Perth with an inlet. Without this upfront infrastructure, the increase in density and population would be difficult to achieve.

- *Lag infrastructure* is provided after the population has increased, to meet an increased community need. Lag infrastructure in an urban infill context could include significant upgrades to local urban parks including skate parks, swimming pools and other community facilities. The provision of lag infrastructure, that is, once the population has increased, would generally be funded through local government property rates, or other mechanisms.

### 3.3.6 Establish infrastructure priority and timing

It is important to determine and specify in the planning scheme and DCP Report the priority and estimated timing of delivery for each infrastructure item.

Some flexibility is required when attempting to calculate timings for delivery of development. Notwithstanding, the general infrastructure priorities and estimated timing of delivery should be specified in the DCP that is inserted in the local planning scheme. Such timeframes and priorities may be identified in general terms i.e. 1-3 years (short term); 3-5 years (medium term) and 5-10 years (longer term).

Regular reviews of the CEP and the Cost Apportionment Schedule (CAS) will identify in more detail if infrastructure delivery timing changes significantly enough to affect infrastructure costings, which may require a modification to the DCP itself through the formal amendment process.

### 3.3.7 Identification of required infrastructure in Capital Expenditure Plan

A Capital Expenditure Plan (CEP) is required in support of a DCP to clearly demonstrate the projected capital costs of delivery of each identified item of infrastructure, the timing of infrastructure delivery, and the revenue sources and programs by which these costs will be met. Infrastructure contributions can be sought for:

- capital costs of providing or replacing infrastructure, including land and construction costs
- costs of financing infrastructure, if delivered before all relevant contributions have been provided
- costs associated with design of an infrastructure item.

Contributions may not be sought for ongoing maintenance or operating costs of an item of infrastructure, or any other recurrent costs.

The CEP should establish the intended sources of funding for each infrastructure item. All potential sources must be explored, remembering that infrastructure contributions are only one of the ways in which infrastructure can be funded, and that contributions should not be seen as a replacement for other sources of capital. Infrastructure contributions are intended to supplement traditional sources of infrastructure funding including local government rates, State and Federal funding, reserve funds and grants.

The CEP should, however, only include external funding that is known to be available at the time the DCP is prepared. If additional external funding is obtained following commencement of the DCP, the CEP can be reviewed to reflect this, with a likely consequent reduction in infrastructure contributions. This is a preferable



scenario than if the availability of external funding was overestimated at the time of DCP preparation, with infrastructure contributions needing to be increased at a later date as a result.

### 3.3.8 Estimating infrastructure costs

The determination of infrastructure and administrative costs should be based on estimated timing of delivery of each infrastructure item, and the timing and lead times for each project should be documented to ensure clarity of costing assumptions whenever the document is reviewed.

Cost estimation should be undertaken:

- a) in the case of land to be acquired, the value of such land is to be determined by a licensed valuer to determine the fair market value of the land
- b) in all other cases, in accordance with the best and latest information available to the local government.

There is a range of industry standards that provide estimated costs of construction for a range of infrastructure. Common industry standards include Rawlinsons Construction Cost Guide or Cordell Cost Guides.

Cost estimates for infrastructure should be undertaken by a quantity surveyor or construction cost consultant or other suitably qualified expert, and should determine costs for each component.

It is expected that costs estimates will incorporate a level of contingency allowance. While such contingencies are a realistic aspect of project budgeting, it is important to recognise the impact on cost estimates of an over-conservative contingency allowance. Excessive contingencies will result in development contribution amounts being set higher than is needed, and a likely

excess of funds being available at the end of the life of the DCP. This impacts both project viability, and housing affordability.

While local governments are obliged to minimise risk in terms of the financial management of a DCP, and ensure the DCF adequately covers the DCP administration and operation, the local government should not profit from a DCP, and any excess funds should either be returned to the contributing owners within the DCA at the close of the DCF, or should be expended on the provision of additional facilities or improvements in that DCA (refer Model Scheme Provisions). Excess funds should not be incorporated or transferred into a local government general revenue account.

To maintain the principle of equity, it is important that any contingencies are set at realistic levels, consistent with development industry standards, and subject to monitoring as part of the overall CEP review process. A general guide to maximum contingencies is as follows. Contingencies set above the following should be justified in the DCP Report:

- Community and recreation construction items – 15 per cent of the estimated project cost
- Construction of roads or road intersections – 15 per cent of the estimated project cost
- Construction of bridges – 20 per cent of the estimated project cost.

Cost estimates also need to consider the preparation and ongoing administration required to operate the DCP. Administrative items that can be included are detailed in Schedule 4 of SPP 3.6 and must relate directly to the work local government must do to prepare and implement

the DCP, and can include legal, accounting, planning, engineering, and other professional advice and any associated fees. Certain financial institution fees, charges and interest rates may also be reflected in the relevant DCP.

Costs associated with any other technical consultant work undertaken as part of the land development process should not be included in a DCP, unless in limited cases of fragmented land-ownership where inclusion in a DCP is the only way to facilitate subdivision.

The inclusion of a management fee as an administration costs should not be applied on a percentage basis of overall cost of the DCP, and should directly relate to the real labour costs of administering the DCP and DCF.

### 3.3.9 Prepare Cost Apportionment Schedule (CAS)

The CAS accompanies each DCP Report and must be advertised along with the DCP, and published in final form within 90 days of gazettal of the DCP.

The CAS outlines the methodology by which costs are attributed proportionate to demand for infrastructure generated by existing/external development; future growth beyond the lifespan of the DCP, and that generated by the new development, which can be included in a DCP. It also establishes the total apportioned DCP infrastructure costs for each infrastructure network; the unit of charge to be used for calculating individual contributions; and the required contribution amount per unit of charge. All assumptions relating to the calculation of levies within the CAS must be documented and expressed in a way that can be clearly understood by all stakeholders (an example template CAS is provided at Appendix B).



### ***Demand proportions***

To ensure that the principles of need and nexus and equity (beneficiary pays) are upheld, the cost of an infrastructure item must be met by all those who generate its need. This may include the existing local community, future populations, and any users from outside the DCA itself.

The DCP may only include the proportion of infrastructure costs associated with demand generated by new development within the DCA. Costs that cannot be included in the DCP (existing demand and future development beyond the lifespan of the DCP) will need to be funded from alternative sources such as local government rates, State and Federal funding, reserve funds and grants.

It is worth noting that some infrastructure facilities will be designed with excess capacity to service future needs beyond the lifespan of a DCP. Just like any existing or external demand, the proportion of costs associated with this long-term demand should not be included when calculating required infrastructure contributions.

### ***Unit of charge***

Infrastructure costs are apportioned by dividing the total cost of an item by each unit of charge (having already excluded those portions of total demand generated by existing, external and future communities). Each landowner's total infrastructure contribution will depend on how many demand units their development generates.

Units of charge may include: per dwelling, per lot, per hectare, or per m<sup>2</sup> of floorspace. It is recommended, for the purposes of most DCPs, that cost apportionment is based on a per dwelling unit of charge, rather than a per

land area unit. While this will result in higher contributions being paid by developers of higher-density development, it is considered to be the most equitable approach which best reflects actual demand for infrastructure. A high-density development is likely to produce more infrastructure users than a medium or low-density development would.

A DCA may include land zoned for a variety of residential and non-residential land uses. DCPs may include infrastructure such as public open space or community facilities where the demand is only generated from the residential land uses. DCPs may need to incorporate multiple methodologies, to reflect differing infrastructure demand generated by residential and non-residential land uses.

### ***Development contribution calculation***

Cost contributions are determined by multiplying the respective infrastructure contribution rate by the number of infrastructure units of charge, and then indexing this figure to take account of inflation or other matters relevant to the future capital cost of infrastructure.

These Guidelines do not set a standard or maximum contribution rate for Development Infrastructure. In a State as extensive and diverse as Western Australia, different local governments will deal with DCAs with widely varying infrastructure needs and associated costs, and to set a standard or maximum contribution rate for development Infrastructure would fail to reflect these variations.

Notwithstanding that Development Infrastructure will be variable, a capped rate for Community Infrastructure has been introduced to provide consistency across all local governments, while also providing flexibility in the type of infrastructure that may be required for different

communities. Further to a review of existing infrastructure contributions for Community Infrastructure across a number of local governments, a capped levy per dwelling is proposed. This is intended to provide certainty to the broader community and stakeholders regarding potential liabilities, and also ensures that new or upgraded community facilities are being delivered by a combination of methods including local government rates or other funding sources which may be more appropriate and efficient.

### **3.3.10 Prepare a DCP Report**

A DCP Report should be prepared to accompany the DCP and include:

- a Cost Apportionment Schedule for the area (CAS), that outlines the methodology by which costs are attributed proportionate to existing and future growth
- a Capital Expenditure Plan (CEP) (with at least five years) which identifies the capital costs of facilities and the revenue sources (including capital grants) and programs for provision

which between them:

- identify the strategic basis for inclusion of each infrastructure item in the DCP
- specify the details of priority, staging and timing for the provision of infrastructure
- detail the methodology for land valuation, and or basis for a standard or specification used for items of infrastructure
- set out in detail the calculation of the cost contribution for each owner, or other unit to be charged such as per dwelling, in the DCA, based on the methodology provided in the DCP



- include all supporting documentation, such as technical reports, that support or justify any aspect of the DCP to be included as Appendices to the DCP report.

These documents do not form part of the planning scheme, but provide important justification for the content of each DCP. Templates detailing the recommended form and content of the DCP Report and CAS are provided in Appendices A and B. The DCP Report, supporting documentation and CAS must be prepared and adopted for advertising to all owners at the same time that the related scheme amendment is advertised for comment. This is to ensure that all information considered essential for a DCP, including costs, has been prepared and advertised together so that both local government and owners within DCAs are aware of potential liabilities, prior to the scheme amendment being gazetted.

Once a DCP has been approved via the gazettal of the scheme amendment, the local government is to adopt and make available a DCP report and CAS to all owners in the DCA, including any updates, within 90 days of a DCP coming into effect.

The specified 90 days is to allow time for the documents to be finalised, adopted by local government, and published. It is not to be interpreted as an opportunity to complete or make significant modifications to the document. The DCP report and CAS detail should be substantially complete and align with the contents of the scheme amendment documents at the time of advertising and final endorsement by the Minister, to ensure transparency and accountability.

### 3.3.11 DCPs for Community Infrastructure

The preparation of a DCP for Community Infrastructure is the same as that for Development Infrastructure, however, additional information is required to support Community DCPs. To require infrastructure contributions for Community Infrastructure items, a local government must establish a clear strategic framework as justification.

Schedule 2 of SPP 3.6 provides a list of Community Infrastructure that may be considered for inclusion in a DCP. Each local government will need to determine its infrastructure requirements based on the needs of existing and future communities, following consultation with the community. Consideration will also need to be given to the extent to which a DCP can contribute to the funding of the required infrastructure, taking into consideration the capped levy per dwelling that can be imposed.

In addition to the DCP Report being prepared that includes a CAS and CEP, and other supporting information detailed in Schedule 4 of SPP 3.6, DCPs for Community Infrastructure must also be supported by:

- a Strategic Community Plan/ Community Infrastructure Plan, identifying the services and facilities required over the life of the DCP (supported by demand analysis and identification of service catchments)
- 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 (cost apportionment methodology).

Community Infrastructure items may only be included in a DCP if those items are first identified as being necessary in a local government's Strategic Community Plan and corresponding CIP.

In summary, preparation of a CIP requires completion of key tasks:

1. Documenting the demographic profile of the existing community
2. Analysing current infrastructure provision and standards
3. Establishing any gaps or excess in current infrastructure provision
4. Confirming current infrastructure needs in relation to existing community profile
5. Estimating future development and population growth
6. Projecting any shift in community demographic profile resulting from growth
7. Calculating future infrastructure needs according to future community profile
8. Establishing a list of necessary new or replacement infrastructure

Each DCP for Community Infrastructure must be supported by projected growth figures including the number of new dwellings to be created per catchment. The cost apportionment between each existing and future owner will rely on these figures so it is important that this analysis work is undertaken as accurately as possible.

#### ***Setting facility standards***

Community Infrastructure planning requires not only the identification of which facilities are required, but the setting of standards for the construction and fit-out of those facilities.



A number of local governments have prepared Local Planning Policies setting out the applicable hierarchy, construction standards, and function of facilities, including ratios to determine the number, size and type of facilities in various locations, based on population or catchment distance. These policies may be useful in DCP preparation. A general guide to catchments and hierarchy and function of facilities is included in Appendix C of these Guidelines.

It is the position of the WAPC that infrastructure contributions for Community Infrastructure may be sought based on the cost of infrastructure constructed and fitted-out to a standard that would meet basic and reasonable community needs and expectations for such a facility.

It is at the discretion of the relevant Government agency to deliver infrastructure facilities to a higher standard than that necessary to meet basic needs, however the gap between the basic and higher delivery costs would need to be met by the relevant agency, and may not be included as a infrastructure contribution requirement.

Notwithstanding that levies for cost contributions for Community Infrastructure are capped, the local government will still be required to provide adequate justification for inclusion of the infrastructure items contained in the DCP that are required to meet the needs to the growing population.

### **3.4 Endorsement and publication of a DCP**

A DCP does not have effect until it is incorporated into a local planning scheme, either as part of a new scheme, or through an amendment to a scheme. Each DCA should be identified as a Special Control Area on the scheme map and in the scheme text, and a DCP for each DCA included as a schedule to the scheme text.

Any change to the proposed standards of infrastructure and facilities after a DCP is finalised and included in a local planning scheme can only be incorporated in a DCP through an amendment to that scheme (with associated formal scheme amendment processes, including public advertising).

While a DCP Report and accompanying CAS are not included in the planning scheme, and can therefore be reviewed without going through a formal amendment process, any changes to either of these documents that result in changes to the DCP itself will require the DCP to be formally amended.

### **3.5 Administration and operation of a DCP**

The provisions for administration and operation of a DCP are provided in both SPP 3.6 and the Schedule 1 Model Provisions of LPS Regulations, and should be incorporated into local planning schemes. In summary, the following should be noted regarding the levying of infrastructure contributions by local governments:

#### ***Imposition of contribution***

- Where there is an existing DCP included in a gazetted local planning scheme, a condition of subdivision will be applied to the effect that the relevant landowner should contribute towards the costs of providing infrastructure in accordance with the relevant DCP.
- Where a DCP has not yet been included in a local planning scheme via a gazetted amendment, but has been advertised as an amendment to the scheme, and the submissions have been considered by the local government and sent to the WAPC for final approval, the WAPC will support imposition of a condition of

subdivision or strata subdivision to the effect that the relevant landowner should contribute towards the costs of providing infrastructure in line with the DCP, once the relevant amendment has been gazetted.

This condition effectively anticipates some form of contribution being required, but acknowledges that the exact nature of that contribution cannot be known until the DCP has been endorsed by the Minister in its final form and included in a local planning scheme. Infrastructure contribution requirements are to be imposed on subdivision via one of the WAPC Model Subdivision Conditions. Further guidance regarding Deed of Agreements is provided in this document.

- In accordance with Part 7 of the LPS regulations, a local government shall not withhold its support for subdivision or strata subdivision, or refuse to approve a development application, solely for the reason that there is no gazetted DCP for the subject land or that there is no other arrangement with respect to an owner's contribution towards the provision of infrastructure. It is expected that local governments will prepare DCPs in a timely manner that aligns with the strategic planning of an area.

#### ***Trigger for liabilities***

- The trigger for payment of infrastructure contributions include conditions of subdivision or development, as part of the subject subdivision clearance process; before the WAPC endorses its approval on the relevant deposited plan or strata plan; prior to commencement of the subject development or change of use; or other triggers for liabilities identified in the local scheme. Contributions are generally only payable for the portion of land within the plan being requested for clearance.



### **Method of payment**

- The method by which an infrastructure contribution may be provided is detailed in SPP 3.6, and may include ceding or transfer of land; in-kind contributions (construction of infrastructure by the developer); monetary contributions; or other methods identified as acceptable to the local government including a contribution being made at a different time to that identified in the DCP and/or proposed to be paid in instalments. Agreements to such alternative arrangements are at the discretion of both parties.

### **Interim arrangements for DCP contributions**

- In accordance with Part 7 of the LPS Regulations (2015), the WAPC or local government must not grant approval to either a subdivision or development application subject to a condition that requires a person to make a contribution to the provision of infrastructure or facilities for the area, if a DCP is “not in place” for the area (“not in place” being the granting of final approval and gazettal). Likewise, the WAPC or local government cannot refuse an application for subdivision or development unless the DCP has already been advertised.
- There may be circumstances where an interim arrangement for contribution of costs may be required. This typically occurs where a developer or land owner seeks approval to subdivide or develop land, after the DCP has been advertised, but prior to finalisation and gazettal. In these circumstances, a Deed of Agreement is often the mutually-agreed approach to ensuring that development and /or subdivision is not unduly held up, and the local government has confidence that the required contributions will be paid, and financial risk has been managed.

- In such circumstances, it is recommended that the condition of development/ subdivision approval includes reference to the requirement for the landowner to enter into a Deed of Agreement to contribute to the cost of providing community and/or development infrastructure; reference to the planning instrument the contributions are based on (i.e. draft DCP informed by structure plan or similar instrument); and reference to the requirement for the contributions to be consistent with State Planning Policy 3.6 Infrastructure Contributions.
- A Deed of Agreement should include, at a minimum:
  - a) A provisional cost contribution amount, mutually agreeable to both parties. The agreed amount should reflect a negotiated amount that both parties consider reasonable. If an amount is in dispute, the figure should reflect the average of the estimated contribution as determined by both parties. The WAPC is to become the clearing authority on the condition of subdivision or development requiring the landowner to enter into a Deed of Agreement.
  - b) The timing of reconciliation of final payment should occur after gazettal of the Scheme Amendment, and once final costs have been finalised (within 90 days of gazettal). Notice should be given of the final contribution amount, and reconciliation should occur within 60 days. Resolution of final costs and reconciliation of final liabilities will occur at gazettal of the scheme amendment, limiting risks to both parties.

- c) A sunset clause that defines a time period of the Deed, as agreed between the parties. A minimum 18-month period is recommended to allow time for the Scheme Amendment and DCP to be granted final approval and be gazetted.
- It is recommended that the template provided in Appendix D for a Deed of Agreement for interim arrangements is used by all local governments to ensure consistency and efficiency.

### **Estimated costs**

- Where cost contributions have been calculated on the basis of estimated costs, a local government may either accept a monetary cost contribution based on an estimated cost as a final cost contribution from an owner, or adjust the required cost contribution of any owner in accordance with revised estimated costs resulting from certified and published annual CAS reviews. Payment of a cost contribution based on estimated costs in a manner acceptable to the local government constitutes full and final discharge of the owner’s liability.

### **Monitoring and reporting**

- Infrastructure costs should be reviewed at least annually to ensure the cost contributions are keeping pace with actual costs of infrastructure. This includes an audited annual statement of accounts for each DCA reserve account, and a summary of the review of estimated costs in the CAS, including any changes to funding sources



- At the end of each financial year, the local government is to prepare an Annual Report of the DCP that contains a high-level snapshot or “health check” of the progress of the DCP, including the delivery of infrastructure against anticipated timing, and financial position of the DCF.
  - The Annual Reporting template provided in Schedule 5 of SPP 3.6 is to be used and the report is to be published on the local government website, with a copy held at the offices of the local government. To ensure the principles of transparency and accountability are upheld, the report and any supporting documentation that has informed the high-level summary shall be made available for inspection by the Minister for Planning, the Department of Local Government, or the Department of Planning, Lands and Heritage.
- The following steps are recommended to ensure all efforts have been made to refund excess monies, and to ensure the principles of accountability and equity have been upheld.
    1. The local government is to notify the contributing landowners within the DCA of the intent to return excess funds at the close of the DCF.
    2. If contributing landowners cannot be identified and/or notified, the local government is to publicly advertise the intent to close the DCF for a period of 30 days, and for any entitlements to excess funds is to be submitted to the local government for consideration.
    3. If it is not reasonably practicable to identify contributing owners or allocate entitlement, the excess funds are to be spent on the provision of additional facilities or improvements within the DCA.
    4. The local government should make information publicly available regarding the details of any spending of excess funds.
- With the exception of disputes relating to land valuation, any dispute between an owner and the local government regarding the cost contribution required to be made by an owner is to be dealt with initially by seeking a review of the amount by an independent expert, however if agreement cannot be reached, then by arbitration in accordance with the *Commercial Arbitration Act 1985*.
  - Disputes relating to land valuations are initially dealt with between the owner and the local government by obtaining a review of the valuation by a licensed valuer. If agreement cannot be reached on the valuation figure, then 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*.

### ***Closing a Development Contribution Fund Account***

- Once infrastructure in a DCP has been delivered, the DCF account will need to be closed. This should occur within 12 months following the delivery of all items of infrastructure.
- If there are excess funds available when all cost contributions have been accounted for, the local government is to refund the excess funds to contributing owners for that DCA. If there are items of infrastructure that are not required, or it has been determined will not be delivered, the funds allocated to this infrastructure are considered excess funds and shall be returned to contributing owners within the DCA.

For Community Infrastructure DCPs, it may be difficult and impractical to return excess funds to contributing land owners, given the significant number of landowners. In such cases, the local government should advertise the intended use of the excess funds, and all funds are to be spent within the DCA.

### ***Arbitration and appeals***

- Provisions relating to dispute resolution are included in the Model Provisions, and should be included in individual local planning schemes along with the other infrastructure contribution-enabling provisions. The provisions are summarised as follows:



## 4 SUMMARY

The key principle in the application of infrastructure contributions 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, contributions collected will only fund the infrastructure and facilities which are reasonable and necessary for the new development, and to the extent that the infrastructure and facilities are necessary to service the development.

Where cost-sharing of infrastructure has been identified as being necessary to facilitate orderly planning of an area, and where there are no other mechanisms considered suitable, a local government may want to prepare a DCP to enable infrastructure costs to be shared. DCPs 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 to existing residents and new residents proportional to their demand generated for the infrastructure and facilities. This will help foster fairness and equity.

A fundamental prerequisite of these plans is that local government will need to plan ahead. The DCP 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 life of the DCP (generally up to 10 years for new greenfield development, or longer for the delivery of city-wide Community Infrastructure), and the cost and revenue

sources for the provision of the infrastructure. In this way, those contributing towards the DCP 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.



## APPENDICES

### APPENDIX A: DEVELOPMENT CONTRIBUTION PLAN REPORT TEMPLATE

**Note:** This report does not form part of the planning scheme but provides the rationale and justification for the Development Contribution Plan (DCP), the calculation of costs, and the cost apportionment schedule specifying the costs for each owner.

#### **(insert name) Development Contribution Plan Report**

<b>Development contribution area</b>	The Development Contribution Area is shown on the scheme map as: DCA X.
<b>Purpose</b>	<p>The purpose of this DCP Report is to -</p> <ul style="list-style-type: none"><li>a) enable the applying of infrastructure contributions for the development of new, and the upgrade of existing infrastructure which is required as a result of increased demand generated in the DCA</li><li>b) provide for the equitable sharing of the costs of infrastructure and administrative items between owners</li><li>c) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the DCA</li><li>d) coordinate the timely provision of infrastructure.</li></ul> <p>This section should also include reference to any higher-order strategic plans/structure plans which have identified infrastructure proposed to be provided through the DCP.</p>
<b>Period of the plan</b>	X years from June 30 20XX to June 30 20XX
<b>Operation of DCP</b>	<p>The plan has been prepared in accordance with State Planning Policy 3.6 Infrastructure Contributions. 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.</p> <p>The plan will operate in accordance with the provisions of section X of the local planning scheme.</p>
<b>Application requirements</b>	Where an application for subdivision, strata subdivision, development or an extension of land use is lodged which relates to land to which this plan applies, the local government shall take the provisions of the plan into account in making a recommendation on or determining that application.



<p><b>Items included in the plan</b></p>	<p>This section should list each of the administrative and infrastructure items, including land acquisition if required, and include a sufficient description of what each item is and the basis for its inclusion in the DCP.</p> <p>The need and nexus for each item is to be outlined clearly in this section. There may be a need for additional appendices to be included supporting information such as population projections, community infrastructure plans, traffic modelling or the like which has been used to demonstrate need and nexus for items.</p> <p>The section should also include reference to a Spatial Plan in an Appendix which shows the location of proposed infrastructure.</p> <p>Details of the cost apportionment can be seen in the cost apportionment schedule.</p>
<p><b>Estimated costs</b></p>	<p>Refer to Schedule of costs of each item of infrastructure and administrative items in Appendices. Schedule of costs should be detailed and give a clear description of what the total cost of each infrastructure item is comprised of, for example, all costs associated with the design and contribution of infrastructure, including cost of land acquisition of required and relevant contingencies.</p> <p>The schedule should include an asset ID for each infrastructure item which cross-references to the spatial plan showing the location of each item of infrastructure.</p>
<p><b>Method of calculating contribution</b></p>	<p>Detailed methodology of, and formula for, calculating an owner’s cost contribution. Refer to Cost Apportionment Schedule in Appendices.</p>
<p><b>Priority and timing of infrastructure delivery</b></p>	<p>Detail when infrastructure is expected to be provided and what triggers this is based on (eg. threshold of population or additional dwellings). Details of the priority and timing can be seen in the Capital Expenditure Plan contained in Appendices.</p>
<p><b>Payment of contributions</b></p>	<p>This section is to outline how payment of contributions is to occur and should reference relevant scheme provisions.</p> <p>The section may also outline a local government’s approach to dealing with payments of cost contributions as provided for by the local planning scheme provisions, including conditions and method of calculating offsets.</p>
<p><b>Review</b></p>	<p>The plan will be reviewed five years from the date of gazettal of the local planning scheme or amendment to the local planning scheme to incorporate the plan, or earlier should the local government consider it appropriate having regard to the rate of development in the area and the degree of development potential still existing.</p>
<p><b>Appendices</b></p>	<p>The estimated infrastructure costs as shown in the CAS 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.</p> <ol style="list-style-type: none"> <li>1. Spatial Plan depicting DCA and location of proposed infrastructure items</li> <li>2. Schedule of Costs of infrastructure and administrative items</li> <li>3. Cost Apportionment Schedule</li> <li>4. Capital Expenditure Plan</li> </ol>





## APPENDIX C: CATCHMENTS AND HIERARCHIES

### ***TO BE FINALISED FOLLOWING ADVERTISING WITH STAKEHOLDERS***

#### Catchments

- Local/neighbourhood: 5-15,000 residents
- District: 25-75,000 residents
- Regional: 75,000+ residents

#### Open space hierarchy

- Regional open space - means land defined under a region scheme, regional structure plan or sub-regional structure plan as a parks and recreation reserve or as regional open space reserve, to accommodate active and passive recreation such as major playing fields and/or regional conservation and environmental features.
- District open space - means an area of public open space notionally serving three neighbourhoods, generally between 2.5 to 7 hectares, which will accommodate a combination of informal play areas, formal playing fields and hard surfaces for organised sports. Accessibility catchment 2km.
- Neighbourhood Park - means an area of public open space, generally less than 5,000m<sup>2</sup>, designed and located for local children's play, rest places, pedestrian connectivity, informal active recreation and play, and passive recreation. Accessibility catchment 800m.
- Local park means an area of public open space, generally between 0.4-1 ha, designed and located for local children's play, rest places, pedestrian connectivity, informal active recreation and play, and passive recreation. Accessibility catchment 300m.

#### Cycle infrastructure

- Principal Share Paths (PSPs) – previously referred to as 'regional paths', located primarily along freeways and railways and are generally a State responsibility.



## APPENDIX D: DEED OF AGREEMENT FOR INTERIM ARRANGEMENTS TEMPLATE

***TO BE FINALISED FOLLOWING ADVERTISING WITH STAKEHOLDERS***