



Department of **Planning,  
Lands and Heritage**



**DRAFT**  
PUBLIC CONSULTATION

# Operational Policy 2.3

## Draft Planning for Public Open Space

June 2023

The Department of Planning, Lands and Heritage acknowledges the traditional owners and custodians of land and waterways across Western Australia. The Department is committed to reconciliation to improve outcomes for Aboriginal and Torres Strait Islander peoples and to work together to provide a culturally-safe and inclusive environment.

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# Operational Policy 2.3

## Draft Planning for Public Open Space

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## 1. Policy intent

This policy sets out the general principles and requirements that will be used by the Western Australian Planning Commission (WAPC) to:

- ensure public open space (POS) is an essential consideration across the planning framework
- establish a minimum standard for the contribution towards POS from the creation of new lots
- provide guidance on the collection, expenditure and management of cash in lieu contributions towards POS to benefit the community.

The WAPC's intent is to ensure all communities have well-planned POS that is adequate in extent, quality, function and accessibility as well as being responsive to evolving community needs. The costs of providing, upgrading and maintaining POS should be reasonably, predictably and equitably shared among those that generate a need for it.

## 2. Application of this policy

This policy applies to the preparation and assessment of planning instruments including local planning strategies, local planning schemes, structure plans and subdivision applications, including all strata subdivision within Western Australia.

The policy is complemented by the full range of policies under *State Planning Policy 1 State Planning Framework* that address POS to provide the comprehensive delivery of well-planned POS for the community. This specifically includes the POS provisions within:

- State Planning Policy 2.6 State Coastal Planning
- State Planning Policy 2.8 Bushland of the Perth Region
- State Planning Policy 2.9 Planning for Water
- State Planning Policy 3.0 Urban Growth and Settlement
- State Planning Policy 3.6 Infrastructure Contributions
- State Planning Policy 4.2 Activity Centres
- Liveable Neighbourhoods in interim (to be replaced with new State Planning Policy 7.1 Neighbourhood Design)

- State Planning Policy 7.2 Precinct Design
- Operational Policy 1.1 Subdivision of Land – general principles
- Operational 1.11 Community Schemes
- Development Control Policy 1.3 Strata Titles
- Development Control Policy 2.2 Residential Subdivision
- Development Control Policy 2.4 School Sites
- Development Control Policy 4.1 Industrial Subdivision.



## 3. Public Open Space in WA

In planning for POS, it is necessary to ensure the POS is responsive, well-located and functional, which achieves the desired recreational, amenity, health, cultural and environmental outcomes for the whole community.

The long-standing provision originating from recommendations made within the 1955 *Plan for the Metropolitan Region Perth and Fremantle* (the Stephenson-Hepburn Plan) for POS to be set aside at a minimum rate of 10 per cent of residential areas shall continue to form a sound basis for POS provision across all communities. Furthermore, all applications generating increased demand for POS shall be considered for a contribution towards POS. This contribution may be in the form of suitable land or cash in lieu to help facilitate new POS or upgrades to existing POS. Non-residential or rural living areas may also generate a need for POS in some circumstances, though the requirements for, rate of provision and contribution may differ from that in residential areas.

## 4. Policy objectives

The objectives of this policy are to:

- a) Provide an adequate quantity and contemporary quality of accessible POS in all urban areas.
- b) Encourage decision-making that improves the community's amenity, health and liveability while responding to our environmental, infrastructure, economic, sporting, recreational and leisure needs.
- c) Apply a consistent strategic approach to the planning, provision and documentation of POS.
- d) Support the provision of POS in non-residential or rural living areas where supported by site specific and relevant justification.
- e) Ensure other incidental land uses within POS, such as utilities, infrastructure or biodiversity conservation, complement, not compromise POS function provided for the community.
- f) Not support the unplanned loss of existing POS areas through the rezoning or disposal processes.

## 5. Policy measures

### 5.1 General Measures

Proposals to create additional lots are to be assessed against this policy to determine the appropriate provision of, and contribution towards POS.

In general, a minimum of 10 per cent of the gross subdivisible area shall be for POS for community use across all urban areas. This is best guided by strategic planning and implemented in statutory decision-making through POS contributions from new subdivision.

The rate of contribution to POS may vary to accommodate localised situations and the new demand being generated in accordance with this policy.

### 5.2 Calculating and Designing Public Open Space

POS is to be calculated and designed in accordance with Liveable Neighbourhoods (to be replaced with a new SPP 7.1 Neighbourhood Design).

For POS impacted by an infrastructure or utility easement, credit for this easement land towards the 10 per cent requirement can only be granted at a maximum rate of 50 per cent credit where



the infrastructure is underground, or a maximum rate of 20 per cent credit where it is above ground infrastructure, providing it satisfies all of the following:

- there is no impediment to the use and development of the easement for POS purposes
- all land impacted by the infrastructure easement is considered restricted and as such is also subject to the overall restricted POS limits contained in Liveable Neighbourhoods; and
- is supported by the local government and infrastructure or utility operator/authority.

The alternative for land impacted by an infrastructure easement is to deduct the easement land from the gross subdivisible area altogether and no credit towards POS be given for this land.

For POS impacted by public utilities or infrastructure (such as dedicated drainage sumps or transformer pads), these are to be located so as not to compromise the function of the POS and generally do not form part of the 10 per cent POS area.

## 5.3 Strategic Planning

### 5.3.1 Local Planning Strategies

Local planning strategies are a key planning instrument for identifying the POS needs of a community and providing a strategic basis for localised decision-making about POS, including the rationale for any variations to POS contribution rates.

All local planning strategies are to be prepared in accordance with the WAPC's Local Planning Strategy Guidelines and the *Planning and Development (Local Planning Schemes) Regulations 2015*. To assist with POS planning, local planning strategies should also include the details, actions and indicative timeframes for the following, as relevant:

- an inventory of POS reserves, plus other sites and reserves that offer a publicly accessible open space function. This may include foreshore reserves, regional open space, public school ovals and conservation reserves that are developed with a POS function
- a broad POS demand and supply analysis, identifying existing and projected POS functionality alongside existing and estimated future population and land use utilising demographic forecasts on a suburb basis
- identification of any under provision of POS land and facilities, based in the first instance upon a minimum requirement of 10 per cent

of the gross subdivisible area for each suburb and the strategies for addressing, including obtaining more land or providing upgrades to existing POS

- identification of opportunities for improving linkages that enhance access to POS (e.g. landscaping of road reserves and pedestrian accessways)
- identification of land surrounding existing or proposed POS suitable for an increase in residential density to further encourage accessibility and use of POS and assist in achieving infill density targets
- identification of any existing POS or other open space reserves suitable for upgrades on which cash in lieu funds can be spent
- using the above analysis, include a rationale for any local variations or possible further exemptions to the standard POS contributions, as provided for in this policy. This anticipated per centage of POS contribution is to be articulated
- the anticipated per centage and rationale for any proposal to seek POS contributions from non-residential or rural living land uses.

To assist in collating this information, some local governments may opt to utilise more detailed POS demand analyses, or similar. It is important that if such additional studies have been prepared by the local government, the planning components are incorporated into the local planning strategy



to inform statutory planning decisions. This may be via an amendment to an existing local planning strategy.

POS location, area, distribution and function in a suburb is to be guided by the local planning strategy, the provisions of Liveable Neighbourhoods and any other WAPC policy as may be applicable. In the absence of a local planning strategy that adequately guides the provision of POS, it should be provided and contributed to in accordance with Liveable Neighbourhoods and this policy, ensuring an appropriate mix of local, neighbourhood and district open space providing sport (including dedicated sports fields), recreation and nature spaces.

### 5.3.2 Structure Plans

Structure planning (standard and precinct structure plans) is to address any existing POS and assess the need for new POS to cater for all current and anticipated community needs.

Structure plans should refer to the contributions towards POS to be provided at subdivision and how these contributions will assist in ensuring adequate extent, quality, function and distribution of POS within the area of the plan.

Any staging of POS land provision is to be outlined at the structure plan stage.

## 5.4 Statutory Planning

### 5.4.1 Local Planning Schemes

Proposals to zone land that will increase POS demand, particularly increases to residential densities, are to be supported by a local planning strategy that identifies the community's POS needs and anticipated contributors to POS (as land or cash in lieu).

In zoning to provide for new residential land, the minimum of 10 per cent of the gross subdivisible area should be planned for POS as land, unless otherwise justified and prescribed in an approved local planning strategy.

In the absence of an approved local planning strategy adequately addressing POS provision, a scheme amendment proposal may be required to include its own strategic analysis of the community's POS need to inform POS provision and contributions.

Local planning schemes are to include POS as a Reserve for Public Open Space and show this on the scheme map accordingly.

### 5.4.2 Subdivision General

In accordance with the WAPC's State Planning Policy 3.6 - Infrastructure Contributions (SPP 3.6) and Operational Policy 1.1 - Subdivision of Land General Principles (OP 1.1), all subdivision generating an additional lot (including green title

lots, all strata title lots and community scheme lots) is to consider the provision of POS as a standard infrastructure requirement prior to approval. This consideration is not restricted to any one land use or subdivision type.

In accordance with the *Planning and Development Act 2005*, a condition of subdivision approval may be imposed that requires a contribution to POS as land or cash in lieu, or combination thereof. Two lot subdivision applications will typically not have POS requirements applied, as cash in lieu cannot be sought under the *Planning and Development Act 2005* and a land contribution is often not practical.

In some circumstances requiring land for POS may not be practical, or there is already 10 per cent or more POS land in the suburb which caters for community needs, or it is provided in another location via a structure plan, subdivision or scheme. In such circumstances, contribution to POS via cash in lieu of land may be applied as a condition of subdivision approval. Advice from the local government will be sought by the WAPC regarding the imposition of such a condition.

### 5.4.3 Residential Subdivision

For all residential subdivisions (including strata title subdivision), a minimum standard of 10 per cent of the gross subdivisible area is to be ceded free of cost for POS, or the equivalent cash in lieu, unless varied in one of the following situations.





- a) Existing POS in a suburb provides some of the POS function for the existing (established) community and therefore may justify a reduced POS contribution rate in all infill (excludes brownfield) subdivision. In addition, where only one additional lot is created in an established (infill) area (such as 3 lots into 4 lots) contributions towards POS may be reduced further. The applicable rate of contribution towards POS is as follows:
- i. Infill subdivision (excludes brownfield sites) where the suburb already contains some existing developed POS, the minimum 10 per cent contribution requirement may be reduced by up to half to a minimum contribution of between 5 per cent and 10 per cent, the percentage to be justified and determined in an approved local planning strategy, scheme, structure plan or development contribution plan
  - ii. Where there is no approved planning instrument as above to determine the percentage, a 5 per cent contribution based on the whole gross subdivisible area applies
  - iii. Where only one additional lot is proposed in the subdivision and there is no approved planning instrument to determine the percentage, a 2.5 per cent contribution based on the whole gross subdivisible area applies; or
- iv. Two lot subdivision applications are exempt from a POS cash in lieu contribution.
- b) In recognition of the role some limited forms of publicly accessible, privately owned open space has in reducing the demand generated by new lots for POS, some credit may be granted towards the minimum 10 per cent contribution as follows:
- i. For all strata subdivision (includes built strata) and community title schemes where common property/communal open space is provided in excess to any Residential Design Code (R Code) requirement, the 10 per cent POS contribution may be reduced commensurate with this aforementioned area of common property/communal open space to a maximum reduction of half (i.e. minimum 5 per cent POS contribution still applies). Provided that:
    - the common property/communal open space is demonstrated by way of an approved plan to be designed and function like POS; and
    - the common property/communal open space area has unrestricted public access secured via an easement.
- The remainder of the POS contribution is to be via land or cash in lieu.
- c) In limited unique circumstances in some larger infill or brownfield sites, the minimum 10 per cent POS contribution may be reduced commensurate with expenditure on upgrades to an existing nearby POS at the subdividers cost, provided that:
- the POS upgrades are to occur in the same suburb as the subdivision
  - there is a minimum of 10 per cent POS land existing in the suburb already
  - the local government has already agreed to the proposed upgrades and arrangements and a legal agreement with the local government is in place
  - the POS upgrades proposed respond to community need; and
  - a condition of approval is imposed on the subdivision application accordingly.
- d) Mixed use sites are those not wholly comprised of residential land uses. As such, some reduction to the POS contribution rate may be applied to a mixed-use site, generally commensurate with the likely residential composition of the site at the following rates:
- where the site is identified in a scheme or structure plan for residential development at a density of up to and including R80 or R-AC4, or in the absence of an applicable



R Code, to a maximum height of 3 storeys, a minimum 5 per cent POS contribution applies to the whole mixed use site

- where the site is identified in a scheme or structure plan for residential development at a density exceeding the R80 or R-AC4 density, a minimum 7.5 per cent POS contribution applies to the whole mixed use site, unless previously varied in accordance with an approved scheme or structure plan; or
  - where the mixed-use site is an infill site, the default 5 per cent contribution rate may apply unless otherwise provided for in the applicable scheme, structure plan or development contribution plan.
- e) In all the above instances of variations to the 10 per cent minimum standard, consideration shall also be given to:
- the objectives and requirements of other State Planning Policies as may be applicable
  - advice of the local government as may be sought by the WAPC; and
  - the exclusion of any density or development bonus entitlement that has been approved or may otherwise have applied to the proposal.

#### 5.4.4 Regional Residential Subdivision

In recognition of the climatic, environmental, cultural and lifestyle differences experienced across the state, a variation to the minimum POS standard of 10 per cent of the gross subdivisible area of a suburb may be supported in regional areas. This is provided that a strategic analysis via an approved local planning strategy, scheme, or structure plan has identified satisfactory unrestricted and developed POS and other open space that offers a local POS function (such as foreshore reserves, regional open space or community purpose sites) to accommodate the recreational and sporting needs of the community, and identifies a POS variation accordingly.

As a minimum, the strategic analysis is to include:

- an inventory of POS reserves in the suburb and adjoining suburbs
- identification of other sites or reservations that currently offer an open space function in the suburb and adjoining suburbs if applicable. This may include foreshore reserves and other public purpose reserves developed with a POS function
- a broad POS demand and supply analysis, identifying existing and projected POS quantity, accessibility and functionality alongside the existing and estimated future population and land use, utilising demographic forecasts, and ideally on a suburb basis.

The use of a townsite boundary may be more applicable than suburb boundary in some regional locations.

#### 5.4.5 Non-Residential and Rural Living Subdivision

A POS contribution of any amount, as land or cash in lieu, may be sought from non-residential land uses (includes commercial, industrial or tourism) or for rural living land uses (includes rural residential) for the purposes of catering for residents, worker or visitor needs, general amenity or site specific requirements. The justification for, and amount of POS contribution, is to be informed by:

- a strategic analysis, as either contained in an approved local planning strategy, scheme, structure plan or other public planning document which identifies the nexus between the land use/development and the additional population/visitation/workforce demand for POS provision or contribution
- the suitability of the proposed POS as it relates to the non-residential or rural living land use needs, or suitability of existing POS on which cash in lieu is intended to be used for
- any objectives and requirements of other planning instruments as may be applicable; and
- the advice of the local government as may be sought by the WAPC.





## 5.5 Staging

Where a subdivision is staged, POS may be required to be met entirely from the first stage of subdivision, particularly if an agreement, such as by way of an approved structure plan, has not been reached with other landowners about the sharing of POS responsibilities.

Where the POS is not met entirely from the first stage of subdivision, the staged rate of provision of POS may be required to equal or exceed the overall rate of POS provision for that stage and be outlined in a staging plan, to ensure the quality, quantity and location of provided POS caters for residents at each stage of lot creation.

## 5.6 Development Applications

For development approvals that precede subdivision, an advice note should be provided to alert proponents to any likely future POS contribution condition at any subsequent subdivision.

## 5.7 Development of Public Open Space

The requirement for POS land as a condition of subdivision includes the development of that POS. Where POS is to be ceded free of cost by the subdivider, it is a requirement that the entire POS be developed to a minimum 'basic development' standard in accordance with SPP 3.6 Development Contributions and Liveable Neighbourhoods, unless otherwise agreed to by the WAPC and local government, and maintained for a minimum period of time. This requirement does not extend to cash in lieu conditions.

Development of the POS beyond the standards outlined in SPP 3.6 and Liveable Neighbourhoods is a matter for negotiation with the local government to ensure the POS development reflects the community needs and local government management capacities. An additional management agreement with the local government may be required to be entered into in these circumstances.

## 5.8 Cash in lieu collection and management

In accordance with Section 153 of the *Planning and Development Act 2005*, the WAPC can impose a condition of subdivision requiring POS to be provided as cash in lieu of setting aside a portion of land. Section 155 of the *Planning and*

*Development Act 2005* sets out provisions in relation to valuation of land. The value of cash in lieu is determined as a percentage of the market value of the parent lot from which the subdivision occurs. The percentage relates to the equivalent percentage of land that would otherwise be provided as POS.

The local government will, at the expense of the subdivider, seek a valuation of the land from the Valuer General's Office or a licensed valuer. If the valuation is disputed by the subdivider or local government, the valuation may be varied by agreement between the parties or arbitrated in accordance with Section 156 of the *Planning and Development Act 2005*.

Section 154(1) of the *Planning and Development Act 2005* provides that cash in lieu funds received by a local government must be paid into a reserve account, separate to other reserve accounts, established and maintained under section 6.11 of the *Local Government Act 1995*. The account is to set out the purpose for which the money is held, the landholding from which it was obtained and the date on which it was paid to the local government.

The total amount of cash in lieu funds collected, held and expended per suburb in the reserve account should be made publicly available to ensure transparency and accountability to the community.



## 5.9 Cash in lieu expenditure

### 5.9.1 Cash in lieu intent

To address the nexus between POS demand generation and POS provision and upgrade, expenditure of cash in lieu should:

- be informed by an approved local planning strategy (LPS), or in the absence of a LPS, an alternative strategy, community strategic plan, local planning policy, structure plan or equivalent document that has been through public consultation
- respond to community need by improving access, safety, environmentally sensitive design or contemporary functionality of existing or proposed POS or the public reserve that functions as POS
- be on a site that has unrestricted public access, not generally be associated with a use fee, and is reserved in the local planning scheme for POS or other reserve with a recreation function; and
- occur within the suburb or adjoining suburb, in which it was collected unless variations are identified in an approved local planning strategy.

### 5.9.2 Cash in lieu use

Cash in lieu funds can be used for:

- the purchase of land for POS by the local government. This can include the local government's administrative costs associated with the purchase process or repaying loans for the purchase
- reimbursing an owner of land that is part of an agreement for the setting aside or vesting of land for POS in accordance with the *Planning and Development Act 2005*.
- improvements to or development of POS
- improvements to, or development of, public reserves that have a recreation function provided the land is reserved for a form of recreation purposes including POS recreation or public purpose reserves in the local government local planning scheme, the public has unrestricted access and cash in lieu contributions were sourced from within the suburb or adjoining suburb
- improvements to, or development of, regional open space, foreshore reserves and/or conservation reserves where it is demonstrated that the reserve offers a POS function, has unrestricted public access and the cash in lieu contributions were sourced from within the suburb or adjoining suburb. Such improvements or development for POS functions should be consistent with the purpose of the reserve

- cash in lieu funds would not normally be acceptable for indoor or enclosed recreation facilities where usage fees are charged, nor for maintenance or infrastructure upgrades unrelated to community POS needs.

In all instances, expenditure of cash in lieu should be publicly transparent and aim to be utilised within 5 years of the contribution collection date.

### 5.9.3 Expenditure requests

Requests to expend cash in lieu, other than for the purchase of land for POS, are to be submitted to the WAPC prior to Ministerial consideration, with the accompanying information:

- a cover letter briefly justifying the request from the local government, addressing the above requirements, this may be in the form of referencing the local planning strategy as applicable
- a plan or list outlining the source(s) and amount(s) of the funds (includes suburb, subdivision reference number from which funds were obtained, date obtained and the dollar value of the contribution)
- project or program timing schedule for expenditure; and
- project or program expenditure based on a maximum budget allocation.



Expenditure requests can be grouped into one consolidated map and schedule that includes the above information. Grouped requests will require notification to the WAPC within three months of completion of the works, including a signed statement demonstrating details of expenditure from a Certified Public Accountant employed by the local government or an audited statement prior to the publication of the local government annual report.

## 5.10 Disposal of Public Open Space

The disposal or rezoning of POS reserves created for the purpose of providing POS is not generally supported by the WAPC, particularly given future community needs can be difficult to fully anticipate.

Where a local government considers that an existing area of POS is not in a suitable location, of an appropriate size or function, and does not meet the needs of the existing or anticipated future community, POS disposal may be considered, but it is to be assessed in the same strategic manner as determining POS provision. Preferably, the local planning strategy should be used to inform the suitability of disposal proposals. In the absence of a strategy, a strategic assessment of the existing and anticipated future community needs is to occur, which shall include the following:

- the current accessibility, interface, physical attributes, function and estimated visitation of the reserve

- any planning in the suburb which will result in an increase in residential population and possible need for additional POS quantity or quality
- the distribution and amount of POS already in the suburb as reflected as a percentage of the gross subdivisible area; and
- evidence of local community engagement.

The disposal of land set aside as a reserve for public recreation is governed by the *Land Administration Act 1997*. Proceeds from the sale of public recreation reserves may be used by the local government to acquire other land for POS or be spent on upgrades to existing areas of POS. Proposals for the disposal of any POS land will be referred to the WAPC for consideration.

## 5.11 Reservation, Management and Vesting of Public Open Space

Where land for POS has been created under the *Planning and Development Act 2005* and reserved for that purpose, that land is only to be used for public recreational purposes and is to remain open to the public at all times. It is to be reserved in the local planning scheme for POS.

Where POS sites are impacted upon by utilities, easements, buffers, environmental constraints, or are shared use sites such as those

co-located with school sites, the management responsibilities of the POS are to be resolved at the structure planning stage, or prior to subdivision approval, as may be applicable and practical. If management responsibilities of the POS are unable to be resolved, the WAPC may not support the subdivision until the proponent supplies evidence of resolution of a suitable management arrangement.

## 5.12 Other Open Space

Regional open space, foreshore reserves, community purpose sites, Bush Forever sites or conservation reserves are not by definition in this policy considered POS. However, they may contribute a POS function for the local community and may receive consideration in strategic planning as providing that POS functionality. These forms of other open space may influence the determination of the gross subdivisible area and in some instances may be included as justification for a reduction (or credit towards) the minimum 10 per cent POS requirement in the manner outlined in Liveable Neighbourhoods and/or this policy.

Foreshore reserve provision is in addition to any POS requirement. The width, function and design of foreshore reserves are determined in accordance with State Planning Policy 2.6 State Coastal Planning Policy and/or (draft) State Planning Policy 2.9 Planning for Water and associated guidelines.



## 6. Definitions

**Brownfield:** developed land that has been identified for future urban re-use. These are often larger sites in established or infill areas that may also have been converted from one former land use to another.

**Demand analysis:** understanding the demand created by anticipated future population helps to justify POS contributions. Demand for POS in yet to be developed areas or existing areas can be assessed based on the likely numbers of dwellings or subdivision yields to be achieved in an area. Latent demand is often assessed by projecting future participation, using existing participation rates, such as organised sporting activities, and applying this to projected population figures.

**Greenfield:** undeveloped land that has been identified for future urban use.

**Gross Subdivisible Area:** as set out in Liveable Neighbourhoods (and to be reviewed in preparation of SPP 7.1 Neighbourhood Design).

**Infill:** is the redevelopment of existing urban areas at a higher density than currently exists.

**Locality:** is a spatial term used in land use planning to describe a local area. The size and attributes of a locality can vary depending upon the context and intended application. For this reason, a locality is not specifically defined but rather can

be determined in a similar manner to a precinct in accordance with SPP 7.2. In POS planning, the starting point for identifying a locality is often a suburb area, modified in consideration of walkable catchments and relevant local features.

**Public Open Space:** land that is set aside, used as, and managed for public recreation purposes and reserved for public open space in a local planning scheme.

**Regional Open Space:** land that is designated as Parks and Recreation or Regional Open Space in a region planning scheme.

**Regional Areas:** generally interpreted as areas and country towns located outside of metropolitan and regional centres.