

25th November 2016

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Dear Gail

SPP 3.6 Development Contributions for Infrastructure

The Property Council of Australia welcomes the opportunity to provide comment on the revised 2016 *State Planning Policy 3.6 – Developer Contributions for Infrastructure*.

In preparing this submission the Property Council has consulted with our members; and, while it is acknowledged that the revisions to SPP3.6 are designed to simplify and standardise the approach to how development contributions for infrastructure are levied by local governments, there are major concerns, some of which have been ongoing since 2006. I have summarised those concerns below and set out in Attachment 1 recommendations for the finalisation of SPP 3.6.

Ongoing industry concerns with the Statement of Planning Policy 3.6 are that:

- While SPP 3.6 states that developer contributions have long been “...accepted as an essential part of the planning system...”, the scope of contributions has not always been acceptable to industry. Policy changes over the last decade have led to the inclusion of additional infrastructure items over and above those deemed necessary for development e.g. optional items for liveability and beyond the standard requirements such as sports grounds, sports pavilions, district libraries and child care. At the same time the policy does not allow necessary infrastructure, specifically for example public transport, to be included in a developer contributions plan (DCP).
- A DCP needs to identify growth trends based on service catchment areas – however this is reliant on Councils having a current local planning strategy (which not all Councils have) and that Councils have fully documented the justification and scope for a DCP such as a community infrastructure plan and accompanying capital works budget. The policy needs to provide guidance as to how a DCP would be applied in the absence of a strategic context.

ATTACHMENT 1:

PROPERTY COUNCIL RECOMMENDATIONS FOR FINALISING THE CURRENT REVIEW OF SPP 3.6 DEVELOPMENT CONTRIBUTIONS FOR INFRASTRUCTURE

SPP 3.6

Recommendation: That a transparent and consistent methodology for preparing a DCP be developed in consultation with Councils and industry and included in SPP 3.6

SPP 3.6 requires a DCP to be supported by a Community Infrastructure Plan (5-10 years), Capital Expenditure Plan, projected growth figures and the methodology for determining the proportionate share for existing/ new residents. The delays and inadequacies of local planning strategies is a concern but an even greater concern is the lack of attention given to the foregoing which are necessary to provide the justification and scope for DCPs. In Queensland for example a clear methodology is provided that Councils have to follow which include statutory guidelines that:

- State a maximum trunk charge for infrastructure;
- State development for which the charge may be levied; and,
- Identify for certain Councils priority infrastructure area maps and the proportion of a charge that may be levied by that Council.

Recommendation: That the Department of Planning and WAPC process local planning strategies in a timely manner to meet the timeframes outlined in the WAPC 2015 Local Planning Scheme Regulations.

SPP 3.6 (p 2) states that a fundamental prerequisite of a DCP is that Councils have planned ahead so that a DCP can have a strategic basis and be linked to the local planning strategy. However, the September 2016 Property Council *Benchmarking Local Governments* report found that most Greater Perth Councils fell well below what is expected of a best practice planning system which is needed to plan for growth in their area i.e. only 20% of the 29 Greater Perth Councils surveyed had a current local planning strategy.

GUIDELINES TO ACCOMPANY 3.6

Recommendation: The categorisation of development contribution items should be reviewed to include infrastructure items that support infill development such as the provision of public transport.

Of industry concern, is a key change to SPP 3.6 which categorises an updated list of infrastructure items set out in Schedule 1 of the Guidelines. Infrastructure items on pp. 8 – 9 of the Guidelines are categorised by whether they are standard, necessary or optional for “liveability”. Schedule 1 also specifies responsibility for delivery.

Category A covers infrastructure required as standard as per Appendix 1 of SPP3.6 and essential for subdivision and development and can be included as a condition of subdivision and inclusion in a DCP is not required. However allowable items still lean toward providing for Greenfield subdivision rather than the needs of infill and redevelopment such as public transport and the expansion of power and water services

for inclusion in a DCP.

It appears the items came from the definition of “community infrastructure” in PB100 which was only included to provide guidance on community infrastructure which could be included in DCPs subject to the need and nexus being established.

The concern is that these items will now be regarded as mandatory requirements and will become standard for DCPs even where the need and nexus is not established.

Recommendation: The Guidelines are too flexible and need to be more stringent on the timescales for DCPs. A life span over 10 years should only be considered in very exceptional circumstances which should be stated in the guidelines.

Section 4.1.4.3 of the Guidelines (p13) recommend a lifespan is 5-10 years but a longer than 10 year lifespan may be considered in limited circumstances, if justification for such a timeframe can be demonstrated and subject to the principle of equity being upheld. The timeframe should correspond with the local governments strategic and infrastructure planning and financing cycles.

In practice, some local governments have sought much longer timeframes for DCPs which creates difficulties in terms of who obtains the benefit and in the administration of the DCP.

There are obvious difficulties for Councils in administering DCPs over such a long time frames such as having to develop a clear methodology for returning surplus funds for a project which may have been completed several years before returning these funds.

Similarly participating developers will need to manage the equitable reimbursement of excess funds to investors for a project which may have been completed several years before a Council endeavours to reimburse any surplus funds to participating developers.

Recommendation: Incorporate the model provisions as deemed provisions under Schedule 2 of the LPS Regulations for consistency and certainty.

The WAPC is requesting feedback on implementation of the standard DCP provisions either as Model Provisions, Deemed Provisions or by incorporation of the SPP (and model provisions) into the Model Provisions of the LPS Regulations.

Incorporation of the model provisions as deemed provisions under Schedule 2 of the LPS Regulations is preferred for consistency and certainty.

Recommendation: There should be continued flexibility in the operation of the Guidelines particularly to ensure that the development contribution system does not impact adversely on housing affordability by passing on unwarranted costs to perspective landowners.

It is encouraging to note that a key principle of the system (Establishment Principles on p6 of the Guidelines) is to consider the impact of development contributions on housing affordability.