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Response to Draft Operational Policy 2.3 – Public Open Space

As the peak industry body for the property and development industry, the Property Council is deeply committed to ensuring the policy environment that delivers high quality, affordable, diverse built form outcomes, that enhance the public realm and enable communities to thrive.

Over several years, housing affordability in WA has been in decline, and the pipeline of new dwellings has been compromised by a range of conditions outside the control of the property industry, and in many cases, the State Government.

The challenge for policymakers is to now respond to the dire need for housing supply in Western Australia. The risk is to introduce policy ideas that are ill-timed and ill-considered, causing the situation to deteriorate. The resultant impact would be ever-growing house prices and ever-rising rents, making a home out of reach for people on low incomes.

The Property Council of Australia

The Property Council of Australia is the peak industry body representing the whole of the property industry. In Australia, the property industry employs more than 1.4 million Australians and shapes the future of our communities and cities.

As industry leaders we support smarter planning, better infrastructure, sustainability, and globally competitive investment and tax settings which underpin the contribution our members make to the economic prosperity and social well-being of Australians.

The Property Council WA membership consists of more than 300 member companies. They are architects, urban designers, town planners, builders, investors and developers. Our members conceive of, invest in, design, build and manage the places that matter most – our homes, retirement living communities, shopping centres, office buildings, education, research and health precincts, tourism and hospitality venues.

This submission is informed by Property Council's membership and expert committee members.

Background

Western Australia is currently facing an extreme housing shortage. According to analysis recently undertaken by the Property Council Tax and Economic Trends Committee, WA will see less than 13,000 new dwelling commencements in FY22-23, increasing to roughly 15,000 to 16,000 commencements in FY23-24. However, we caution that the uptick in FY23-24 is reliant on improved residential construction capacity, only possible via a lowering of construction activity in government transport and infrastructure projects, or the mining sector.

While the new dwelling commencement and existing pipeline of homes under construction may bring some relief to the rental market, there remains a significant deficit of housing supply.

Analysis of Housing Industry Forecasting Group (HIFG) commencement data indicates between 14,000 and 16,000 commencements per annum from FY23 to FY25 inclusive. Assuming a household formation rate of 2.6 people per dwelling, and Treasury's Band C prediction of population growth of 156,000 in that same FY23 to FY25 period, there will be a deficit of between 4,000 and 6,000 dwellings per annum.¹

The shortfall in supply has seen dwelling prices increase substantially, while at the same time higher interest rates have diminished the borrowing capacity of new home buyers – creating a perfect storm.

Borrowing Capacity			
	Aug-22	Jun-23	
	3.96%	5.91%	
Able to make a weekly payment of:	Estimated Loan Size		Fall in Borrowing Capacity
\$200	\$182,534	\$146,059	-\$36,475
\$300	\$273,800	\$219,088	-\$54,712
\$400	\$365,067	\$292,117	-\$72,950
\$500	\$456,334	\$365,147	-\$91,187
\$600	\$547,601	\$438,176	-\$109,425
\$700	\$638,868	\$511,205	-\$127,663
\$800	\$730,134	\$584,234	-\$145,900
\$900	\$821,401	\$657,264	-\$164,137
\$1,000	\$912,668	\$730,293	-\$182,375

In recent years, the state government has commendably introduced various reforms to address this issue and boost housing supply. While many of these reforms have been impactful, some have had the unintended consequence of increasing development costs and diminishing project feasibility.

The Property Council believes further oversight and intervention is required to ensure policy makers can wholly analyse the financial impacts of policies on project feasibility and more generally housing supply in WA.

¹ If population growth exceeds Treasury's medium level expectation (Band C) and is at their top-end prediction (Band E), the population growth in that period will be approx. 183,000, requiring approx. 23,400 dwellings per annum, or a deficit of between 7,400 and 9,400 dwellings per annum. Access <[Western Australia Tomorrow population forecasts](https://www.wa.gov.au) (www.wa.gov.au)>

Response to Operational Policy 2.3

The Property Council supports the provision of well-considered public open space (POS) as essential community infrastructure. Well considered POS adds lifestyle and commercial benefit to communities.

While the Property Council supports the value and benefit of POS, the draft Operational Policy 2.3 (OP 2.3), does not deliver against the principal policy intent 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”. Instead, the policy represents an ill-considered and unjustified tax on development, particularly infill development, which will further diminish the delivery of new housing stock in WA.

This policy will have significant adverse effects on the availability and affordability of homes for future buyers and is in direct contradiction to the state government's agenda for density and infill.

Accurate Articulation of Public Open Space Deficit

The Property Council disputes the underlying premise presented in OP 2.3, that there is a deficit of POS across WA. Recent research shows that “Perth’s suburban core contains 3,181 ha of parks or the equivalent of 40 m² of park area per person”². Across the Town of Cambridge and the Cities of Bayswater, Perth, Stirling, Subiaco, and Vincent alone there is 1690.79 hectares of POS which is equal to more than 56 Optus Stadiums.



The standard for public open space in WA set within DCP 2.3³ states:

“The 10 per cent requirement is derived from the recommendations contained in the Stephenson-Hepburn Plan. That report states that for most areas a standard of 3.36 hectares per 1,000 population (excluding school playing fields) is recommended as sufficient for public open space.

On the basis of a uniform density of 30 persons per hectare, a standard contribution of 10 percent of the gross residential area for public open space has been applied since 1956. This requirement

² Bolleter, J. (2015) Scavenging the suburbs | Auditing Perth for 1 million infill dwellings. Perth, WA: AUDRC 1402.

³ Development Control 2.3 Public Open Space, Access <https://www.wa.gov.au/system/files/2021-07/DCP_2-3_public_open_space.pdf>, Page 4

remains valid, as gross residential densities have remained much the same since that time, with smaller lot sizes being offset by declining household occupancies."

OP 2.3 reaffirms that application of the 10 per cent standard set by the Stephenson-Hepburn Plan (1955), "(t)he 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"⁴. The questions must be asked if the standard set is 1955 still reflects the needs of the community in 2023 and beyond, particularly given the integration and extent of private open space in built and survey strata developments.

Irrespective of the appropriateness of the 3.36 hectares per 1,000 population standard, equating to 33.6sqm per person, Perth is already far exceeding the standard. According to the Australian Urban Design Research Centre, the modern Australian suburban standard is 28 m² of park area per person⁵.

The Department of Planning, Lands and Heritage (DPLH) should undertake a thorough investigation to accurately determine areas with genuine POS deficits. Properly understanding the POS requirements outside the arbitrary boundaries of local government areas will allow for an effective articulation of POS requirements and mitigate against a proliferation of pocket parks which are costly for local governments to maintain, serve debatable community benefit and provide strategic need and nexus oversight allowing for a higher utility of POS. The redirection of DPLH's focus on an effective articulation of need will enable the development of a fair and effective policy which enables high quality POS to be developed and preserved.

Identification of Problems Caused by Population Growth in Infill Areas

The secondary intent articulated in the policy is that "(t)he costs of providing, upgrading and maintaining POS should be reasonably, predictably and equitably shared among those that generate a need for it"⁶. The Property Council dispute the proposition that population growth in many of the areas defined under the policy add to the cost of POS beyond that reasonably expected, as:

1. Existing open space is often highly underutilised and is certainly capable of accommodating additional users without the need for upgrade or expansion
2. Maintenance of open space is appropriately funded by rate revenue, as it should be a burden equitably shared by all rate payers, and is not exacerbated by new development
3. New development provides an increased base of rate revenue for the local government, but is unlikely to increase the costs of maintenance of existing open space, and as a result provides a sustainable pool of funds available for upgrade or expansion of open space should this be warranted
4. Planned upgrades of open space are often necessary to accommodate the changing demographic and demands of the existing resident population and are rarely specifically triggered by new development or increased usage of open space.

The policy as proposed does nothing to provide for the equitable sharing of the costs of public open space - it simply reinforces an outdated and ill-fitting policy of requiring a proportion of land

⁴ Draft Operational Policy 2.3, < https://www.wa.gov.au/system/files/2023-07/operational_policy_draft_planning-for-public-open-space-2.3-april.pdf>, pg 2

⁵ Bolleter, J. (2015) Scavenging the suburbs | Auditing Perth for 1 million infill dwellings. Perth, WA: AUDRC 1402.

⁶ Ibid, pg 1

area (or cash-in-lieu thereof) as a condition of subdivision approval, levelling all funding responsibility at new development.

The policy additionally sets a *minimum* contribution of 10 per cent. In several places, and specifically section 5.1, the policy indicates that 10 per cent may not be sufficient in some areas and suggests that local government may demonstrate a deficiency and require further contributions as a condition of subdivision approval. Requiring a contribution above 10 per cent in any instance is highly inequitable as greenfield sites are only required to cede 10 per cent. In fact, survey strata and build strata development reduce the cost burden as:

1. **The policy gives no reference to increased rates collection, a more appropriate source of local government funding for improvements and upgrades to POS.** People who reside in infill developments, such as high-density apartments, add significant economic value to the local community and directly provide a new source of rates revenue. For example, a development of 100 apartments with an annual rates bill of \$2000 provides the local government with \$1 million in the first five years. The commensurate expense to local government is much lower, and regularly, additional services such as waste management are outsourced to private contractors with councils unwilling or unable to appropriately service the buildings. In these instances, no rates reduction is given to the residents.
2. **Under the R-Codes Volume 2 (Apartment Guidelines) communal open space is a compulsory requirement.** It provides on-site recreational amenities for residents that can include lap pools, gymnasiums, games rooms, large podium decks, saunas, steam rooms, internal and external children play areas, BBQ facilities, running tracks and other positive recreational pursuits. A blanket approach to requiring POS will add significant costs to apartment development and unfairly burden apartment purchasers with the cost of providing *private and POS* in comparison to other types of housing, such as freestanding housing.
3. **The policy broadens the application of the POS to all areas, not just residential areas** and suggests that contributions may be appropriate (subject to justification through a planning instrument) for industrial, commercial, and rural-residential subdivision or development, and essentially encourages local governments to assess and progress a justification tool where it is considered appropriate or beneficial.
4. **The policy does not account for public infrastructure costs saved by infill development.** Each dwelling built in infill areas not only contributes to the state government's infill targets but also alleviates pressure on the urban fringe, reducing demand for major public infrastructure spending required to facilitate greenfield development (major roads and truck infrastructure services for example). The POS policy seeks to tax infill development while ignoring the relief it provides to the public purse.

To justify the intent of the OP 2.3, DPLH must identify and quantify the problems arising from population growth in the new built form typologies captured by this policy, and in particular infill development, that necessitate development contributions. Actualising the challenges will determine the need for future policy development and enable balanced solutions.

Critical Concerns

The Property Council's concerns with OP 2.3 are as follows:

1. **Unnecessary Burden on Apartment Development:** Requiring POS in addition to existing compulsory communal open space for apartments will increase development costs and unfairly burden apartment purchasers compared to other housing types. Already government fees and charges levied on developers constitute between 2.5 –3 per cent of

the development costs of each new multi-residential dwelling. When OP 2.3 is applied, government fees and charges increase by approximately 40 per cent, as the cost impact is demonstrated below on an apartment valued at \$850,000. The below figure does not take into account purchaser taxes, such as stamp duty and GST.

Current Government Fees and Charges 2.5% to 3.0% Developer Costs	Operational Policy 2.3	1.0%	Addition of Operational Policy 2.3 \$8,500 Government Fees and Charges Increased to total of \$31,800
	Stamp Duty	0.5%	\$4,250
	Planning & Building	0.44%	\$3,740
	Headworks	0.7%	\$5,950
	Percent for Art	0.5%	\$4,250
	Rates & Land Tax	0.6%	\$5,100
	Total		\$23,290

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2. **Contradiction with Strategic Policy Aspirations:** Charging a POS contribution contradicts the state government's strategic policy aspirations to support infill development and will further unsustainably entrench greenfield development as the predominant housing typology.
3. **Impact on Housing Affordability:** Property Council analysis estimates that the policy will add between 1.6 to 1.8 per cent to the sale price per apartment and approximately 2.5 per cent to townhouse prices, negatively affecting housing affordability, especially in smaller developments and high land value areas. To quantify the costs to purchasers, the financial impact equals between \$8,500 to \$28,500 per dwelling. Based on a savings ratio of 10 per cent, and a median weekly income for WA families of \$2,214, to save an additional \$8,500 would take more than 38 weeks. For an individual based on a savings ratio of 10 per cent and a median income of \$848 per week, more than 100 weeks of additional saving is required.

In real terms \$8,500 for a new home buyer is also equivalent to:

- EV Charging Station
 - Engineered Timber [instead of carpet]
 - Appliance Brand or Quality Improvement
 - Laundry Washer / Dryer
 - Blinds or Curtains
4. **Misunderstanding of Infill Development:** The policy fails to recognise the open space and native vegetation protection provided by infill projects, which seeks to reduce urban sprawl and the loss of tree canopy. It does not acknowledge the substantial existing POS across several localities. The definition of POS may not adequately consider generous public nature spaces available for the public to access – including riverbanks and parks, beaches, nature reserves and botanic gardens.

5. **Contributions Should Reflect Identified Needs:** Development contributions should be based on identified needs, not as a revenue raising exercise to address existing shortfalls or unjustified expenditure. Contributions must be appropriate and justifiable based on comprehensive analysis. We reiterate local government boundaries are arbitrary constructs and do not reflect each household's access to POS. The use of suburb boundaries as a metric is also inappropriate. If a metric is to be used it should be within a set distance from the site. This metric has been standard practice in the past
6. **Overlooking Increased Rates Collection from Infill Residents:** Infill developments contribute significantly to local government revenue through rates collections. The policy should recognise this aspect and explore other sources of funding for improvements to POS.
7. **Broad Application of the Policy:** The policy's broad application to all areas, including industrial, commercial, and rural-residential, is vague and unjustifiable. Whilst there may be benefit in the provision of open space for these types of developments, the actual need for them has not been substantiated, and as a result should be limited to voluntary or incentivised contribution.
8. **A 10 per cent POS charge will cost infill buyers more than greenfields buyers, due to the lower yield for apartments versus blocks of land on a comparable site and the substantial difference in land value between the two housing typologies.** In the below example, the POS charge paid by an apartment buyer is three times that of the house-and-land package buyer, despite the developer's land costing \$20 million less. While this correspondence relates to public open space, combined, the proliferation of including public art, public open space, public infrastructure, and other development contributions represent a significant cumulative negative impact on the feasibility of a project.



9. **Ignoring Public Infrastructure Savings from Infill Development:** Infill developments reduce the demand for major public infrastructure spending, which should be acknowledged and considered when determining any requirement for development contributions.

10. **Inadequate industry consultation:** The proposed policy's impacts on housing supply, affordability, and broader social and economic implications should be carefully considered through extensive industry consultation. The industry consultation undertaken in developing this policy was grossly inadequate.

Proposed Solutions

Considering the extreme housing shortage in Western Australia and the constraints in the construction market, the Property Council proposes the following solutions be adopted by the State Government:

1. **Abandon Operational Policy 2.3:** We call on the state government to abandon OP 2.3 in its current form, as it poses significant risks to housing supply, affordability, and the overall development industry.
2. **Clarify application of DCP 2.3:** Amend the existing policy DCP 2.3 to explicitly state that it cannot be applied to survey strata and built strata developments. It remains reasonable to apply a POS contribution to green title residential subdivision.
3. **Freeze all existing local government Local Planning Policies and one-off changes that require development contributions unless need and nexus is satisfied:** Place a freeze on all local government policies and one-off contributions that require development contributions until an appropriate audit of need and nexus is undertaken, such as public open space and public art contributions.
4. **Mandate financial impact assessment for all planning instruments that impact residential development:** Require all new planning tools that impact residential development or trigger financial contributions to include a financial and economic impact assessment at both local and state level and obtain approval from the Western Australian Planning Commission.
5. **Mandatory reporting on contribution expenditure:** Consideration should be given to implementing mandatory reporting for all planning tools requiring a development contribution. Contributions not spent in a timely way should be required to be refunded to the contributors.
6. **Expediently deliver the outcomes of the policy consultations:** While OP 2.3 exists, developers need to factor the potential financial impacts of the policy into project feasibilities, and as a result, many marginal projects are currently on hold pending the finalisation. The Property Council stresses the importance of an expedient conclusion to the engagement and for a clear outcome of the consultation to be communicated without delay.

Next Steps

Given the critical housing shortage and potential risks to increasing demand for social housing, we urge the state government to prioritise housing security above the upgrade of POS in infill areas. All government policy should be assessed through the lens of what will positively address the current housing crisis.

We believe that addressing the concerns outlined above will help ensure a fair and balanced approach to funding POS without unduly burdening the development industry that is navigating an environment that is more volatile and uncertain than the GFC period or the initial stages of COVID-19 responses.

Thank you for considering our submission. The Property Council is open to further discussions and is available to provide any additional information or clarification that may assist in your evaluation of the concerns and proposed solutions.