

Explanatory note

Position Statement

Public Open Space

Explanatory note provides an overview of the Position Statement Public Open Space content and addresses queries on key changes.

INTRODUCTION

Public open space (POS) refers to land reserved in a local planning scheme for public recreation use, typically parks for sport, recreation or nature. POS is essential in urban areas for:

- Supporting community health and wellbeing
- Providing essential green infrastructure (e.g. cooling, drainage, habitats)
- Meeting the community's diverse recreation needs.

Since the 1950s, anyone subdividing land to create new residential lots have typically contributed 10 per cent of the subdividable land area as POS, either as a parcel of land or the financial equivalent. This has worked well in new (greenfield) developments, but many older suburbs developed before the 1950s or under evolving planning frameworks have never reached this standard.

Furthermore, as suburbs are redeveloped with more housing and less private green space like back yards, the need for POS increases. To ensure fair and suitable access to quality POS, anyone creating new lots (land subdividers) are expected to contribute to the cost of

meeting this additional demand - sharing responsibility with government and supporting functional and healthy neighbourhoods and communities.

1. HOW WILL POS BE PROVIDED UNDER THE POSITION STATEMENT?

The Position Statement keeps the minimum 10 per cent POS requirement, particularly for new urban areas, and provides additional guidance on infill POS contribution rates. Clear guidance is also provided for POS assessment and delivery in redeveloped (infill) areas.

All types of subdivision (including those known colloquially as green title, survey strata, built strata and community title), can increase the need for POS. The Position Statement ensures these are assessed consistently, and subdividers may be required to contribute land or money when their projects create additional need for POS. This is based on the 'need and nexus' principles embedded within State Planning Policy 3.6 Development Contributions, which refers

to there being a link between the subdivision and the demand for POS as the basis for seeking a reasonable contribution.

The Position Statement gives guidance on when contributions may be required, how existing POS is considered, and guides fairness and timeliness in POS planning.

It is important to note that regional open space (ROS) serves broader conservation or recreation purposes and is usually provided in addition to local POS requirements.

2. HOW ARE POS CONTRIBUTIONS CALCULATED?

POS contributions are calculated as a percentage of the gross subdivisible area (GSA), generally equating to the residential use portion of a site, as per the Western Australian Planning Commission's (WAPC) Liveable Neighbourhoods policy.

Subdividers either provide the land area free of cost or pay a cash in lieu equivalent of the undeveloped value of the land. The same calculation and methodology are used for both types of contributions.

For mixed-use sites, if the proportion of residential area is unclear for determining the GSA, the total site area is used instead, with further guidance provided in the Position Statement.

The default infill rate of contribution may vary depending on the POS percentage of the GSA already existing within the locality.

For calculation purposes, the 'locality' reference in the Position Statement is by default defined by the suburb boundary. Local governments may refine the boundary for practical reasons where needed, such as:

- Reflecting physical barriers (e.g. regional roads, railway lines or wetlands) that limit easy access to POS.
- Expanding the locality especially when:
 - The subdivision is close to the suburb boundary and pedestrian access between both suburbs is readily available to the subdivision; or
 - Access to local POS is close and convenient to, but outside, the subdivision's suburb boundary.

In such cases, the average POS percentage of both impacted established suburbs may be used in the calculation.

3. WHAT ARE THE NEW INFILL POS CONTRIBUTION RATES?

For infill subdivisions, the Position Statement sets default POS contribution rates (typically as cash in lieu but may be land when practical) but also establishes an interim period where no contribution will be required as follows:

Immediate contribution rates until 18 December 2027:

- 0% for all infill subdivision creating five lots or less.
- 0% for all infill subdivision creating six lots or more.

Contribution rates (excluding 'built strata') from 19 December 2027:

- 0% for infill residential subdivisions creating five lots or less.
- 2% for residential subdivisions comprising six or more lots, with a monetary cap of \$1,600 per residential lot, where the subdivision is in a locality with 10% or more existing POS
- 5% for infill residential subdivisions creating six or more lots, with a monetary cap of \$4,000 per residential lot, where the subdivision is in a locality with less than 10% existing POS
- The 5% may be further reduced to 2.5% for infill residential subdivisions comprising 6 or more lots, with a monetary cap of \$2,000 per lot, where communal open space is provided within the subdivision that will be developed to offer a POS-like function (such as a rooftop garden). The space must be in addition to any Residential Design Codes communal open space area requirements

- For infill mixed-use subdivisions, the contributions are also calculated at 0%, 2%, 2.5% or 5% rates as applicable, and are also capped as per the above.

For 'built strata' subdivisions, both residential and mixed-use, these same provisions apply, but with a longer deferral period. For 'built strata' subdivisions, there will be no contribution requirement for any subdivision where the related development approval is approved before 19 December 2029, provided the subdivision occurs prior to 19 December 2033 (refer to 'built strata' below).

These default infill rates do not apply to larger redevelopment infill sites (referred to as 'brownfield' for the purposes of distinction) as they typically have no existing POS, nor have previously contributed, therefore, the minimum 10 per cent POS provision would apply.

4. CAN THE DEFAULT INFILL CONTRIBUTION RATES BE VARIED?

Local governments are encouraged to review POS needs as part of their strategic planning, considering existing POS, population growth, subdivision activity, and local requirements. A structure plan for an infill area can also include this review and propose alternative ways to meet POS needs, which may justify changes to the default contribution rates.

Such changes, whether through a local planning strategy, scheme, or structure plan, must be well justified, have undergone community consultation and be endorsed by the WAPC. These contribution rates will be in the local planning framework to ensure transparency and consistency after the deferral period.

Any revised POS contribution rate, either up or down, must relate to the demand created by new subdivision, not to existing shortfalls. Increases above the default rates will only be considered by the WAPC where significant additional need is demonstrated for improved facilities and/or land purchases are required to meet this additional demand.

5. WILL BUILT STRATA SUBDIVISION CONTRIBUTE TO POS?

Yes, but only under certain conditions:

- If the related development application is approved on or after 19 December 2029, the same residential infill contribution rates as applied to other forms of subdivision will apply to all 'built strata' applications from that date onwards.

Note: Given the time required for construction, a POS condition on an infill built strata lot is unlikely to occur for several years after December 2029.

- For development applications approved before 19 December 2029, a POS contribution will only apply to related 'built strata' subdivision applications approved from 19 December 2033 onwards.

Until 19 December 2033, the default contribution rate remains 0% where the related development application is approved before 19 December 2029.

In either case, consistent with all default contribution rates, these can be modified through an advertised and WAPC endorsed strategic needs analysis, using the standard planning framework to ensure transparency and consistency.

Note that if the parent lot of a built strata subdivision has already made a POS contribution at the 10 per cent rate and no density change has occurred since, further contribution from a built strata subdivision is unlikely, as it's treated like a staged subdivision.

6. WHAT IS THE PURPOSE OF THE DEFERRAL PERIODS?

The deferral periods for POS contributions are to provide additional time to adapt to revised infill POS contribution rates to assist predictability, particularly for projects that have already commenced. Prioritising infill housing targets is also a key issue at this time and will be actively considered by the WAPC during the deferral period.

7. WHAT WILL HAPPEN AT THE END OF THE DEFERRAL PERIODS?

The Department of Planning, Lands and Heritage will monitor infill residential subdivision approvals, progress on infill development targets and the implementation of the Position Statement during the deferral periods, reporting back to the WAPC before the end of each deferral period. The WAPC will consider housing and construction market conditions ahead of the end of each deferral period and consider any policy adjustments that may be required. The WAPC will continue to give a high priority to the construction of new infill dwellings and meeting the infill dwelling targets.

8. WILL NON-RESIDENTIAL SUBDIVISION CONTRIBUTE TO POS?

POS contributions from non-residential subdivision are only required if a need is clearly and transparently identified and justified through an endorsed local planning framework.

The Position Statement provides additional guidance that responds to the increase in mixed land use development, the growing need for green infrastructure and amenity in non-residential areas. It acknowledges Western Australia's diverse landscapes, tree coverage, climates and communities and therefore sometimes POS may be appropriate in non-residential areas.

9. WHY ARE FIVE LOT OR LESS INFILL SUBDIVISIONS NOT CONTRIBUTING TO POS?

Under previous policies, small infill subdivisions (five lots or fewer) were generally exempt from POS contributions to provide greater consistency and reduce complexity. The Position Statement retains and formalises this with a default zero per cent contribution. However, local governments may still seek POS contributions if well justified and consulted upon through an endorsed local planning framework, after the two-year deferral period.

10. IF INFILL IS CONTRIBUTING AT A REDUCED RATE, DOES THIS NOT UNDERMINE THE 10% POS AIM?

Most established suburbs already have between 3 to 10 per cent or more POS as land, with most of that land developed to varying extents to cater for the community sport, recreation or nature needs. Whilst it is reasonable that those creating an additional demand on existing POS help contribute to catering for that demand, it is also reasonable to acknowledge that some of the new demand is already somewhat provided for and a full 10 per cent contribution by infill in established suburbs is not usually warranted.

11. WHAT IF A LOT ALREADY CONTRIBUTED TO POS WHEN IT WAS CREATED?

Infill subdivision typically involves redevelopment at a higher density than originally planned. This increased density and redevelopment creates a need to re-assess urban infrastructure, including POS provision, to accommodate the needs of more people with reduced private gardens. This is particularly important where there is a cumulative impact of multiple infill subdivisions in a locality.

If a subdivision is proposed at the same density as when the site's 10 per cent POS requirement was initially assessed and provided, it is not considered "infill". This scenario is similar to staging a subdivision, even though many years may have passed.

Where density changes are unclear, the site's planning history and the principles of need and nexus will guide decision making.

12. ARE CONTRIBUTIONS REQUIRED IF A LOCALITY ALREADY HAS 10 PER CENT POS?

Possibly, as it may depend on the quality and functionality of the POS, the demand generated by new subdivision and whether POS land contributions, related to the subdivision, have already been resolved elsewhere through structure planning.

While some suburbs or localities may already have 10 per cent POS land area, this figure alone doesn't reflect whether the space is sufficient, accessible, or suitable for current and future residents, or the environment. This is why local level strategic POS planning is important, as it helps assess whether existing POS meets existing and anticipated future community needs.

If a locality is found to have enough POS of sufficient functionality and accessibility to cater for the predicted population and their health, sport, recreation and nature needs, the contribution rate for new subdivisions may be adjusted through a formal planning process that includes public consultation. This ensures any contributions are transparent, fair, and based on local evidence.

In areas without POS strategic analysis, the Position Statement's default contribution rates for infill subdivisions apply, which already recognises whether the locality has 10 per cent or more POS.

13. DOES PRIVATELY OWNED OPEN SPACE REPLACE POS?

No. While private open space like communal areas in apartments or large backyards can support residents, it isn't publicly accessible, secured long-term, or designed for broader community interaction or use, or necessary environmental functions. Therefore, it doesn't replace the need for POS. However, an additional reduced contribution rate may apply to infill strata subdivisions that provide areas of quality communal open space, such as landscaped outdoor recreational spaces, beyond the standard minimum requirements.

14. HOW WILL MONETARY POS CONTRIBUTIONS BE SPENT?

Monetary contributions to POS are known as 'cash in lieu' POS contributions. Local governments are best placed to understand and plan for their community POS needs and as such, local governments manage these POS contributions until there are sufficient funds available to spend on POS land or facility needs, typically within the same locality. Approval from the Minister for Planning is required for this expenditure, in accordance with s.154 of the Planning and Development 2005.

The Position Statement encourages local governments to outline potential sites in their strategic plans where investments in POS will be made to assist with transparency and a streamlined approval process. Given WA's diversity, the rate of contributions collected, and varying community needs, no specific expenditure timeframe or itemised POS facility or landscape treatment list is included in the Position Statement.

15. HOW WILL POS BE PLANNED AND DESIGNED?

POS planning and design will continue to follow Liveable Neighbourhoods policy, supported by site-specific planning and local government input. Where POS is identified in a planning framework, relevant WAPC policies and guidelines also apply. Detailed design, such as landscaping and facilities within POS, is typically approved by the local government.

16. WHAT ARE THE EXPECTATIONS FOR LOCAL PLANNING STRATEGIES IN ADDRESSING POS?

Local planning strategies should summarise existing POS assets, demographics, community needs, strategic analysis, and future POS investments, drawing from their existing documents like strategic community plans, asset and financial management plans, or a dedicated POS Strategy. Any variations to the use of suburb boundaries in determining a 'locality' should also be identified for ease of future reference. This allows for community input and predictability for those seeking to subdivide land.

The WAPC expects this information to be integrated into the local planning strategy, usually via an amendment to an existing strategy. The Position Statement provides guidance to support this process and promote consistent, transparent POS planning.

17. WHAT IF OTHER WAPC POLICY PROVISIONS DIFFER TO THE POSITION STATEMENT?

In accordance with State Planning Policy 1 (SPP 1), where there are any conflicting policy provisions, the more recent policy should be used.