



# ***PUBLIC ACCOUNTS COMMITTEE***

## **INQUIRY INTO DEVELOPER CONTRIBUTIONS FOR COSTS ASSOCIATED WITH LAND DEVELOPMENT**

**Report No. 8**

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## **INQUIRY INTO DEVELOPER CONTRIBUTIONS FOR COSTS ASSOCIATED WITH LAND DEVELOPMENT**

### **Report No. 8**

Presented by:  
**Mr J.B. D'Orazio, MLA**  
Laid on the Table of the Legislative Assembly  
On 21 October 2004



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## COMMITTEE'S FUNCTIONS AND POWERS

The Public Accounts Committee inquires into and reports to the Legislative Assembly on any proposal, matter or thing it considers necessary, connected with the receipt and expenditure of public moneys, including moneys allocated under the annual Appropriation bills and Loan Fund.

The Committee may:

- 1 Examine the financial affairs and accounts of government agencies of the State which includes any statutory board, commission, authority, committee, or trust established or appointed pursuant to any rule, regulation, by-law, order, order in Council, proclamation, ministerial direction or any other like means.
- 2 Inquire into and report to the Assembly on any question which:
  - (a) it deems necessary to investigate;
  - (b) is referred to it by resolution of the Assembly;
  - (c) is referred to it by a Minister; or
  - (d) is referred to it by the Auditor General.
- 3 Consider any papers on public expenditure presented to the Assembly and such of the expenditure as it sees fit to examine.
- 4 Consider whether the objectives of public expenditure are being achieved, or may be achieved more economically.



## INQUIRY TERMS OF REFERENCE

On 15 October 2003, the Public Accounts Committee resolved to examine and report on developer contributions for infrastructure costs associated with land development, with the following Terms of Reference:

1. To inquire into the current formulae applied to developer contributions, State and local government taxes, levies and other contributions to infrastructure and service costs to both public and private sectors for new frontal (green field) development;
2. It is generally accepted that as densities increase, the average infrastructure costs per dwelling decrease. In terms of new frontal development, at what density is the greatest financial efficiency in infrastructure costs obtained, while recognising that most frontal development will be at a relatively low density;
3. What factors relating to new frontal developments contribute to disproportionately high increases in infrastructure, and may otherwise be avoided;
4. To inquire into the current formulae applied to developer contributions, State and local government levies and any other contributions to infrastructure costs for in-fill development;
5. To compare relative contributions in Western Australia to those in other jurisdictions in Australia;
6. To provide a comparative analysis between Terms of Reference 1 and 4 and to formulate recommendations to address inequities and strengthen efficiency in relation to private and public infrastructure contributions; and
7. To determine any patterns emerging where densities for in-fill development can be calculated having regard to capacities of existing infrastructure and in the effort to maximise cost efficiencies in infrastructure and service providers.



## CHAIRMAN'S FOREWORD

It is with great pleasure that I table the Public Accounts Committee's report into *Developer Contributions for Infrastructure Costs Associated with Land Development* in the Legislative Assembly. The Inquiry has taken over 12 months to complete due to the wide range of issues to examine.

During the course of the Inquiry, the Committee received 49 written submissions, took evidence from 68 witnesses at public and closed hearings, and conducted a number of briefings.

The Committee has examined contributions to public infrastructure made by land developers and to the various methods used by the State government and local authorities to calculate infrastructure costs.

The Committee determined that the planning system in Western Australia is well served by a centralised authority in the Western Australian Planning Commission. This planning model has significant benefits over those of other Australian states, particularly in establishing consistent policies and practices.

Some core elements of developer contributions are consistent in the various schemes operating around Australia. These provide that contributions should reflect the actual costs of infrastructure and that the infrastructure provided through such contributions should directly benefit the land development and its residents.

In particular, the Committee found that land developments that 'leapfrog' the existing developed urban area should fund the extensions to the infrastructure required to support them.

The Committee found that the standards of infrastructure provided are not consistent across local government areas and this creates greater uncertainty for land developers who want to know what is expected of them. However, the Committee also noted that it is important to reflect local needs, particularly in regional Western Australia.

I would like to acknowledge the performance of our seconded Research Officer, Stuart McKnight, who provided the Committee with a comprehensive coverage of issues to consider as part of this Inquiry.

I also thank the Committee's Principal Research Officer, Andrea McCallum, for the coordination and management role she undertook for the Inquiry, and the Committee's Research Officer, Simon Kennedy, who worked behind the scenes to support the Committee.

I would like to express my gratitude to Committee members for their contribution to this Inquiry: Hon. Monty House MLA, Mr John Bradshaw MLA, Mr Tony Dean

MLA, and Ms Jaye Radisich MLA. They have each brought valuable knowledge and experience to the Inquiry, and it was a pleasure to work with them.

MR J.B. D'ORAZIO, MLA  
CHAIRMAN

## ABBREVIATIONS AND ACRONYMS

ARA	Armadale Redevelopment Authority
CEO	Chief Executive Officer
Committee	Public Accounts Committee
DCP	Development Contribution Plan
DHW	Department of Housing and Works
DLI	Department of Land Information
DPI	Department for Planning and Infrastructure
EPRA	East Perth Redevelopment Authority
Government	The Government of Western Australia
ICC	Infrastructure Coordinating Committee
ICS	Infrastructure Charges Schedule
IDAS	Integrated Development Assessment System
Inquiry	Inquiry into Developer Contributions for Costs Associated with Land Development
MRA	Midland Redevelopment Authority
MRIT	Metropolitan Region Improvement Tax
MRS	Metropolitan Region Scheme
MRWA	Main Roads Western Australia
PC	Productivity Commission
PPP	Public Private Partnerships
PRS	Peel Region Scheme
PTA	Public Transport Authority
SDCA	Special Developer Contribution Areas
SPP	Statements of Planning Policy
SPS	State Planning Strategy

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State	State of Western Australia
SRA	Subiaco Redevelopment Authority
TPS	Town Planning Scheme
Treasury	Department of Treasury and Finance
UDAC	Urban Development Advisory Committee
UDIA	Urban Development Institute of Australia
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission
WATC	Western Australian Treasury Corporation



## GLOSSARY

Country Land Development Program	A program to coordinate State and local government planning and infrastructure to support land development in regional Western Australia. Includes the anticipated residential, commercial and industrial land development within a five-year horizon. Is similar to the Metropolitan Development Program.
Developer Agreements	Agreements between land developers and local authorities for the provision, funding and timing of infrastructure required as a result of the particular development in question.
Developer Contributions	Contributions of land, infrastructure or money from developers to fund the increased needs of the community for urban services when land is developed.
Development	Any change in land use, including housing, any demolition, erection, construction, alteration of or addition to any building or structure or the land and any excavating or other works.
Development Control	Power exercised by a responsible authority for ensuring compliance with planning requirements.
Impact Fees	Fees charged to developers to mitigate the impacts of a specific development. This term is commonly used in the USA and is synonymous with developer contributions.
Lot	A defined portion of land depicted on a plan or diagram publicly exhibited in the public office of the Department of Land Information for which a separate Crown Grant or Certificate of Title has been or can be issued.

Metropolitan Development Program	A rolling annual program with a five-year development outlook for land in the Perth Metropolitan Region and the Peel Sector (Mandurah and Murray local government areas). It coordinates State and local government planning with the infrastructure requirements to support land development.
Metropolitan Region Scheme	Statutory land-use planning scheme for the Perth Metropolitan Region. Its principal functions are to reserve land, identify non-reserved land and classify it into zones, and control development on reserved and zoned land.
Metropolitan Region Improvement Fund	A fund which draws its revenue from the Metropolitan Region Improvement Tax and is used to implement the Metropolitan Region Scheme.
Metropolitan Region Improvement Tax	A tax applied to properties in the Perth Metropolitan Region, predominantly commercial, industrial and residential investment properties (ie. owner-occupier properties are exempt) at a rate of 15 cents per \$100 unimproved land value.
Peel Region Scheme	Statutory land-use planning scheme for the Peel Region. Its principal functions are to reserve land, identify non-reserved land and classify it into zones, and control development on reserved and zoned land.
Planning Region	Western Australia has 10 planning regions that consist of local authority areas that have similar economic, social or locality characteristics.
Region Scheme	A town-planning scheme for a region prepared for matters of state or regional importance to enable effective planning and coordination of land use and development.

Reserves	Land classified in regional and town planning schemes for public purposes. Includes land required for specific infrastructure requirements.
Residential Planning Codes (R-Codes)	Provisions relating to residential density and development standards outlined in a Statement of Planning Policy adopted by the Western Australian Planning Commission.
Standards Headworks Charge	A developer contribution paid to the Water Corporation equivalent to 40% of the capital costs of major headworks, such as dams, water treatment plants, wastewater treatment plants and major pipes.
Statement of Planning Policy	A policy regarding general planning controls, or matter which may be the subject of a local government town planning scheme, or which relates to a specific region or area of the State. These are policies of the Western Australian Planning Commission made pursuant to the provisions of section 5AA of the <i>Town Planning and Development Act, 1928</i> .
Statutory Planning	The legal form of planning where legislation and planning law prescribe the procedures for preparation, adoption and implementation of controls for land use and development.
Strata Subdivision	The creation of lots containing land and/or buildings, which are, defined either by survey or cubic space.
Strategic Planning	The provision and coordination of long-term land use planning and development.
Structure Plan	A plan which provides a framework for the coordinated provision of land use, development, infrastructure and allocation of services at either regional, district or local level.

Subdivision	Division of land into lots (refer to definition of 'lot').
Town Planning Appeal	A request for independent adjudication on a decision taken with respect to a town planning application or enforcement action against unauthorised development.
Town Planning Scheme	A set of provisions that identify the way land in the scheme area is to be used and developed. It may comprise scheme maps, a text and an explanatory report.
Town Planning Scheme Amendment	A change to the content of a Town Planning Scheme map and/or text. Requires the approval of the Western Australian Planning Commission and the Minister for Planning and Infrastructure.
Western Australian Planning Commission	Established pursuant to section 4 of the <i>Western Australian Planning Commission Act, 1985</i> on 1 March 1995. It is comprised of a Chair and members representing State and local government, industry and community groups. It is responsible for urban, rural and regional land use planning in Western Australia.
Zones	The classification of land in regional and town planning schemes indicating the use and development of that land. Excludes land in reserves.

## EXECUTIVE SUMMARY

Infrastructure refers to basic urban services such as sewerage, drainage, water, electricity, roads, public transport and a range of community facilities such as parks, schools, libraries and recreation centres. These services increase the value of land by allowing land to be used for designated purposes such as homes, shops and warehouses.

Historically, the State Government has provided most of the major and regional infrastructure such as public transport, schools, hospitals and freeways. Local authorities have provided and maintained facilities such as local parks, community centres and recreation amenities.

Land developers have generally provided the on-site works such as local roads, utility reticulation and local landscaping. These are referred to broadly as 'developer contributions' and can include land, physical infrastructure or cash provided by land developers to provide the services expected by the community.

While some infrastructure is required before land can be developed and sold such as local roads and utilities, other infrastructure can be delivered over time, such as community facilities.

Community expectations have increased to demand more and better infrastructure and for it to be available as soon as land is developed. This puts additional pressure on funding infrastructure, particularly where there are many high-growth areas across the State.

The Inquiry found that developer contributions are not generally passed on to the land purchaser, but paid for by the original landowner. In other words, increasing the cost of developing land tends to decrease the value of undeveloped land. This is contrary to the argument put forward by the development industry, which has long argued the impact on housing affordability.

This Inquiry can be distilled down to two key questions - how developer contributions can be used to:

- (i) help State and local government meet the community's expectations for urban infrastructure and services; and
- (ii) guide urban development to improve the sustainability and liveability of urban towns and suburbs.

Interest in developer contributions at state and local government level is increasing in order to find new ways to fund the ever higher quality of infrastructure and capital facilities required to serve new development areas, without reducing the levels of service to existing residents.

Fundamental to any improvements is the principle of administrative simplicity and cost efficiency.

This Inquiry focuses on the infrastructure servicing residential land.

## FINDINGS

Page 31

### **Finding 1**

The role of the Western Australian Planning Commission in subdivision control, inter-agency coordination and community consultation is critical to the successful implementation of planning in Western Australia.

Page 41

### **Finding 2**

Structure and Outline Development Plans are not currently being utilised to their full capacity as tools to coordinate the provision of infrastructure.

Page 45

### **Finding 3**

There are a number of ways of establishing the infrastructure funding requirements for future subdivisions, including:

1. Guided Development Schemes;
2. Outline Development Plans;
3. Resumptive Town Planning Schemes;
4. Town Planning Schemes; and
5. Structure Plans.

Page 46

### **Finding 4**

It is contrary to the *Town Planning and Development Act, 1928* for local authorities to use zoning controls to extract developer contributions. The most appropriate opportunity for local authorities to require developer contributions is at the development or subdivision application stage.

Page 46

**Finding 5**

The centralised planning system in Western Australia provides the most efficient and effective delivery and coordination of infrastructure.

Page 49

**Finding 6**

Leapfrog development generally requires extensions to major infrastructure, including major roads and utility networks. In the past, Government instrumentalities have absorbed or pre-funded many of these additional or accelerated these costs in their respective budgets.

Page 52

**Finding 7**

The powers of the State to zone, resume and approve development of land are critical to the coordinated redevelopment of sizeable infill areas with diffuse ownership and land use.

Page 53

**Finding 8**

The Redevelopment Authority model may be tailored to the specific needs of a development area and utilise the combined expertise of the Government and the private land development industry to achieve positive outcomes.

Page 57

**Finding 9**

The Redevelopment Authority model will become more important as the land development focus shifts from urban expansion to redevelopment of existing suburbs.

Page 60

**Finding 10**

Some local authorities in regional areas act as land developers in order to stimulate population and employment growth. However, development costs can exceed the price that land purchasers are willing to pay.



Page 61

**Finding 11**

Regional land development could benefit from accurate and transparent costing for infrastructure.

Page 68

**Finding 12**

The Water Corporation pre-funding headworks front is the primary financial mechanism to ensure sequential urban development and inhibit 'leapfrog' land development. While this works well in most cases, the Ellenbrook subdivision is an example of leapfrog development that was facilitated by the Water Corporation funding major works out of sequence.

Page 72

**Finding 13**

The Water Corporation has strict policies to minimise its liability and exposure to development risks. These policies include 40% cost recovery for major headworks, full cost recovery for minor works, requiring developers to pre-fund works that are not in the programmed Capital Investment Program, charging annual rates on vacant lots and sometimes requiring developers to pay a bond to cover potential operating costs.

Page 72

**Finding 14**

The marginal viability of land development in some regional areas is sometimes at odds with the Water Corporation's stance to force developers to assume the entire development risk. At times the Water Corporation's stance on these matter can seem excessive to developers.

Page 75

**Finding 15**

The current system of apportioning developer contributions for primary schools among smaller developers is too complex to administer effectively.

Page 83

**Finding 16**

The assumption that developer contributions are automatically passed on to the end-purchaser of a developed lot is incorrect. Instead, increases in the development costs tend to reduce the value of undeveloped land.

Page 83

**Finding 17**

The retail price of land essentially depends on the ability and willingness of consumers to pay, indicating that market demand and supply are more important considerations than land development costs.

Page 85

**Finding 18**

The assertion by the land development industry that developer contributions are passed on to the end consumer in higher prices is not supported by extensive research.

Page 89

**Finding 19**

Due to better use of existing infrastructure, it is cheaper to provide housing on infill sites than greenfield sites.

Page 95

**Finding 20**

Maximising the use of existing infrastructure, in preference to providing new infrastructure, can provide significant cost savings to government.

Page 95

**Finding 21**

Under-utilised infrastructure within the metropolitan area should be identified. However, the Committee recognises that there are increased costs to upgrade infrastructure to accommodate increased densities.

Page 97

**Finding 22**

Some land developers in Western Australia have acknowledged the benefits of providing community infrastructure in marketing subdivisions and are providing and/or funding such infrastructure even if it is not required to do so as a condition of subdivision or development.

Page 106

**Finding 23**

Developer Agreements, based on Outline Development Plans and/or Schemes, that have undergone public scrutiny, can provide significant benefits for government, land developers and the public.

Page 115

**Finding 24**

One key reason developer contributions in New South Wales are significantly greater than other States is due to the *Land Acquisition (Just Terms Compensation) Act, 1991* which requires governments and infrastructure agencies to purchase land for public purposes at full market value.

Page 116

**Finding 25**

In New South Wales, the 'rate-pegging' restriction of limiting local councils to rate increases directly in line with the CPI has contributed to increases in developer contributions pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979*.

Page 116

**Finding 26**

A developer contributions model such as that used in New South Wales under Section 94 of the *Environmental Planning and Assessment Act, 1979* is not warranted or suitable for Western Australia.

Page 118

**Finding 27**

The Victorian developer contributions system seems to have a more comprehensive financial mechanism of curbing leapfrog land development than the system in Western Australia.

Page 121

**Finding 28**

The Development Contributions Plans as applied in Victoria allow local authorities to charge development contributions for community facilities. These contributions are capped at \$450 (soon to be increased to \$1,000), which provides greater certainty to developers than in New South Wales.

Page 126

**Finding 29**

The decentralised planning system in Queensland provides local authorities with subdivision and planning control within their respective jurisdictions. This sometimes impedes the implementation of regional infrastructure that crosses the boundaries of a number of local authorities.

Page 129

**Finding 30**

Developer contributions are not an effective way to control urban form or where development should occur. However, they do have a role to stop premature development in some areas.

## RECOMMENDATIONS

Page 31

### **Recommendation 1**

The centralised control of planning and subdivision in Western Australia should remain with the Western Australian Planning Commission.

Page 37

### **Recommendation 2**

The Department for Planning and Infrastructure should produce a concise handbook outlining subdivision and development processes in Western Australia.

Page 96

### **Recommendation 3**

Local authorities should have the ability to recoup infrastructure costs through their Town Planning Schemes. The costs should be clearly set out in an Outline Development Plan (or similar plan) and funds should be managed in a trust account and spent on the infrastructure for which they are collected within a reasonable period.

Page 106

### **Recommendation 4**

The Department for Planning and Infrastructure should develop model Developer Agreements for use by local authorities.

Page 109

### **Recommendation 5**

Any further extension of developer contributions towards social infrastructure should only be in the form of an amendment by the Western Australian Planning Commission to Planning Bulletin No. 18, as it relates to subdivision as well as being incorporated into an overall design plan.

Page 129

**Recommendation 7**

Greenfield developments that leapfrog the existing urban front should be required to completely fund extensions to infrastructure that would otherwise be provided by the State Government. This includes extensions to major roads and utility networks.

Page 129

**Recommendation 8**

Leapfrogging the existing urban front should not proceed unless there has been an agreement between the developer and the State Government regarding funding of major infrastructure. However, in principle the Committee recommends that the developer pay for the extra costs associated with leapfrogging the urban front.

Page 132

**Recommendation 9**

The redevelopment authority model should be extended to encompass broader redevelopment and infill areas.

Page 132

**Recommendation 10**

An overall metropolitan current infrastructure plan should be prepared which clearly identifies under-utilised infrastructure.

Page 132

**Recommendation 11**

The State Government should do everything possible to utilise the development potential of redevelopment and infill areas. This should aim to make better use of spare capacity in existing economic and community infrastructure.

## **MINISTERIAL RESPONSE**

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Public Accounts Committee directs that the Minister for Planning and Infrastructure, Hon. Alannah MacTiernan, MLA, report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.





## CHAPTER 1 INTRODUCTION

### 1.1 Reasons for the Inquiry

The Committee has been concerned that recent research into the costs of urban infrastructure required to service land development commissioned by the Western Australian Planning Commission indicated that Western Australia's State and local government are subsidising land development and infrastructure more than any other Australian state.<sup>1</sup>

This issue increased in prominence nationally in 2003 with the Productivity Commission's *Inquiry into First Home Ownership*. While the terms of reference specifically covered first home ownership, it necessarily incorporated the wider issue of housing affordability and the factors that drive up the prices of land and housing. Many of the submissions to that Inquiry argued that the role of developer contributions has a direct impact on housing affordability.<sup>2</sup>

Another concern raised by the public of Western Australia in 2003 was that of continued urban sprawl and its impacts on sustainability. Outcomes from *Dialogue with the City*, which brought together 1,100 people from the community in September 2003 to discuss the future of Perth, indicated wide support for tighter planning controls to limit urban sprawl and encourage greater medium-density development. Most of the terms of reference for this Inquiry have some bearing on the potential use of developer contributions as a tool to discourage urban sprawl and encourage infill development.<sup>3</sup>

### 1.2 Submissions

The Committee received 49 written submissions from a range of organisations, State and local government agencies and individuals. These are listed in Appendix Two, except for one witness who provided a submission after giving evidence in a closed hearing and cannot be identified.

---

<sup>1</sup> See Western Australian Planning Commission (2001) *Future Perth: Costs of Urban Form Working Paper No. 2*. Available at <http://www.wapc.wa.gov.au/publications/futureperth/workingpapers/paper2.pdf> and Western Australian Planning Commission (2003) *Costs of Urban Form Discussion Paper*. Available at <http://www.wapc.wa.gov.au/publications/greaterperth/GPpapers/GPdp7.pdf> (accessed 16 June 2004).

<sup>2</sup> See Productivity Commission Report No. 28, *First Home Ownership*, Canberra, 2004. Available at <http://www.pc.gov.au/inquiry/housing/index.html> for details of that Inquiry.

<sup>3</sup> Department for Planning and Infrastructure *Dialogue with the City* Available at <http://www.dpi.wa.gov.au/dialogue/>

### 1.3 Hearings and Evidence

The Committee held a total of 26 hearings with 68 witnesses. These are listed in Appendix Four, except for one witness who requested to give evidence in a closed hearing and cannot be identified.

Five of the hearings were held in Albany on 22 March 2004, involving a total of 14 witnesses. At the request of the WALGA Kimberley Country Zone, one hearing was held in Broome on 27 May 2004, involving six witnesses from the Shire of Broome and the Shire of Derby-West Kimberley.

### 1.4 Investigative Travel

In February 2004, the Committee members travelled to Sydney, Melbourne and Brisbane to increase their understanding and knowledge of issues facing state and local government, planners and land developers in other jurisdictions within Australia. During that time the Committee had 15 meetings with 31 individuals.

The Committee was able to investigate land availability and affordability issues in the Greater Sydney area, which have received significant public attention over the past 12 months. Also in the spotlight are the section 94 provisions of the New South Wales *Environmental Planning and Assessment Act, 1979*, as the basis for some local councils in Sydney charging up to \$51,000 per lot by way of developer contributions. In addition, there has been discussion of imposing developer contributions specifically for public transport of at least \$15,000 per lot. Substantial developer contributions for community facilities are a norm in Sydney, unlike other Australian states.

A major review of developer contributions policy and practice in Victoria was completed in 2003. The Committee was able to discuss details of the new Victorian development contributions system with consultants, professional planners and government agencies responsible for implementation. Infrastructure pricing and headworks charges were also investigated, particularly in relation to water, sewerage and drainage services.

The Committee also examined the developer contributions system in Queensland as incorporated into Queensland's *Integrated Planning Act, 1997* (as amended). This investigation revealed more insights into the challenges of regional planning in jurisdictions where local authorities hold almost all statutory planning powers.

## CHAPTER 2 BACKGROUND

### 2.1 Urban Infrastructure and Land Development

*Australians today expect to have a range of basic urban services when they purchase a house. These include sewerage, drainage, water, electricity, roads, public transport and a range of community facilities such as parks and libraries — collectively described as infrastructure.<sup>4</sup>*

Urban infrastructure contributes directly to the economic functioning of a society and to the quality of life enjoyed by its citizens. In fact, infrastructure is often classed as being ‘economic’ or ‘social’ to reflect its primary benefits:

- Economic (‘hard’) infrastructure — refers primarily to ‘utilities’ such as water, sewerage, drainage, electricity, gas, telecommunications, rail, roads and public transport; and
- Community or social (‘soft’) infrastructure — refers primarily to human services that are used by the community. Examples include local parks, recreation centres, child care centres and public libraries.

Historically, local, state and federal governments have provided and paid for most of the infrastructure delivered to the community:

*Governments have undertaken the funding of economic infrastructure through a combination of borrowings, tax funded general revenue subventions and user charges. Social infrastructure remains funded largely through general tax revenue. Over the years, there has been an increase in private sector involvement in infrastructure provision, largely as a consequence of funding constraints faced by governments.<sup>5</sup>*

A base level of urban infrastructure is considered essential to modern life, and over time, as living standards have improved, society’s expectations of the minimum acceptable standard of this infrastructure have increased:

*Rising community demand and the escalating cost of supplying a range of services traditionally provided by governments is placing substantial pressure on public finances in most developed economies.<sup>6</sup>*

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<sup>4</sup> Productivity Commission, *First Home Ownership*, Productivity Commission Discussion Draft, Melbourne, December 2003, p.115.

<sup>5</sup> Industry Commission, *Impediments to Regional Industry Adjustment*, Volume 1 Report, Report No. 35, Commonwealth of Australia, Canberra, 17 December 1993, p.229.

<sup>6</sup> Productivity Commission, *Review of National Competition Policy Arrangements*, Productivity Commission Issues Paper, Canberra, April 2004, p.11.

Development contributions were first introduced in Australia during the 1950s when the respective approval authorities for land subdivision began requiring developers to provide land for public open space and improvements such as sealed roads and footpaths. Over time, more items of infrastructure were added to the list of subdivision conditions. When public authorities and local councils responsible for providing water and sewerage services ran short of capital, subdivision development of new areas was delayed. Contributions by the developers also helped to remove these financial constraints from the land development process.<sup>7</sup>

Up until approximately 20 years ago, only a basic level of initial infrastructure was provided and then subsequent infrastructure was added and the existing infrastructure gradually upgraded. This was commonly provided by governments through a combination of borrowing and retained earnings and then recouped over time from general rates and taxes.

A number of factors led to a shift in this practice, not just in Australia, but generally across developed countries. These include:

- Increasing community expectations for higher standards and earlier installation of infrastructure;
- Concern about high public debt levels forcing governments to balance budgets and reduce debts;
- Changes in government approaches to providing services towards:
  - National Competition Policy principles promoting competitiveness in the delivery and funding of urban services;
  - free enterprise competition leading to more of these services being delivered by corporatised or privatised organisations;
  - user or beneficiary pays principles to ensure that those who directly benefit from the infrastructure or service are those paying for it; and
  - greater transparency in the costs incurred and benefits obtained from government services.
- Greater involvement of the private sector in providing and maintaining infrastructure, including Public Private Partnerships; and
- Concerns about the long-term environmental, economic and social sustainability of urban settlements.

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<sup>7</sup> Neutze, M., *Funding Urban Services: Options for Physical Infrastructure*, Sydney, 1997.

Given these trends and the fact that the land-buying public are demanding more and better quality urban services, both government and the land development industry are being required to provide better infrastructure, timed more closely to the community's needs.

These pressures have forced governments to look at alternative ways of meeting community expectations. One way of achieving this has been to require land developers to provide or finance more of these urban infrastructure needs when getting approval to subdivide and develop land. This is referred to as developer contributions.

Developer contributions can take the form of:

- contributions of land; and/or
- in-kind contributions of infrastructure works which are later 'gifted' to government or utility agencies to manage and maintain; and/or
- cash payments to government for works to be undertaken in the future.

The Productivity Commission found that developer contributions are justified and appropriate in encouraging user-pays principles in the provision of urban infrastructure:

*There is a strong case for users of infrastructure services paying for costs attributable to them. A charge on users, if it represents the true costs of supply, ensures that demand is not excessive and resources are not wasted. As noted, it also promotes efficient locational choices for housing development. The real issues relate to how to apportion the costs among users and over time.<sup>8</sup>*

Infrastructure directly adds value to land. This raises a key question about how to ensure that those who benefit from infrastructure from increased land values contribute to the provision of that same infrastructure. As stated by Dr Paul McLeod, Dean of the University of Western Australia Business School:

*There is no doubt that when high-quality infrastructure is provided, things like lot prices and so forth are higher than they otherwise would be. What we do not have at the moment is a coherent way of sharing some of the gains that come from the provision of that infrastructure in part funding it. Rather than saying that it should all go to the developer, I prefer to say that it is about time we looked at whether there are better and smarter ways to fund infrastructure in the broader sense, taking into account the fact that when roads, railway lines, schools etc are built, there is a tendency to create land value gains.<sup>9</sup>*

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<sup>8</sup> Productivity Commission, *First Home Ownership*, op cit, pp.XXIV-XXV.

<sup>9</sup> McLeod, Dr P., Transcript of Evidence, 10 March 2004, p.7.

While it is the State Government that provides much of the regional infrastructure such as rail, major roads and regional parks, there is no system for the State to capture an appropriate share of these increased land values. The Committee acknowledges that while increased land values result in higher rates to local authorities, the maintenance costs of high-quality infrastructure are significantly greater than those of existing infrastructure.

Given the requirement to provide a level of infrastructure that meets the expectations of the community, both government and industry are concerned about similar questions when considering new infrastructure:

- What quality and quantity of infrastructure needs to be delivered?
- When does the infrastructure need to be delivered?
- Who will benefit from the infrastructure?
- Who should pay for the infrastructure and how much?
- When and how should they pay?

In addition to the efficient funding and provision of new infrastructure, better utilisation of existing infrastructure can also provide significant benefits to government as well as to the community. This raises the issue of where land development occurs in relation to existing infrastructure.

In particular, infrastructure that has surplus capacity or that can be upgraded at relatively low cost opens opportunities for urban infill and redevelopment. This helps to reduce urban ‘sprawl’, which was strongly opposed by the public during a forum on the future of the Perth region.<sup>10</sup>

Much of the opposition to urban sprawl is based on aspects of sustainability – the social, environmental and economic factors that combine to provide ‘quality of life’. Government’s responsibility to future generations is embodied in the Western Australian State Sustainability Strategy:

*Sustainability is defined as meeting the needs of current and future generations through an integration of environmental protection, social advancement, and economic prosperity.<sup>11</sup>*

Developer contributions also apply to the development of commercial and industrial land. The principles are the same, although obviously, the services consumed and

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<sup>10</sup> Department for Planning and Infrastructure, *Dialogue with the City Outcomes Report*, September 2003, Perth, Western Australia.

<sup>11</sup> Department of Premier and Cabinet, *Hope for the Future: The Western Australian State Sustainability Strategy*, Perth, 2003, p.4.

infrastructure utilised by a business will be quite different to those demanded by a residential household.

The Western Australian Planning Commission's Metropolitan Development Program has identified that more than half (329 out of 576) the land release areas earmarked for the five years to 2007-2008 have "noteworthy issues" that may affect the progress of their development. The most commonly identified issues are the provision of sewerage and water utilities, and adequate access to education and transport services.

The WAPC takes an active role in resolving these issues and promoting land development through its Infrastructure Coordinating Committee. The ICC was established pursuant to the *Western Australian Planning Commission Act, 1985* and is responsible for 'planning for the provision of physical and community infrastructure throughout the State'.<sup>12</sup> The various development and building industry bodies can present their concerns directly to the ICC through a sub-committee, the Land Development Industry Liaison Committee.

To recognise the importance of resolving issues specifically related to the provision of water, sewerage and drainage services, the Urban Development Advisory Committee was established in 1994 to address such matters. Its membership includes the Water Corporation, Urban Development Institute of Australia, the Western Australian Local Government Association, the Master Builders Association, LandCorp, the Association of Consulting Surveyors, the Association of Consulting Engineers Australia, the Housing Industry Association, and the Civil Contractors Federation. The UDAC oversees all Water Corporation policies that relate to headworks infrastructure and charges. The UDAC is well regarded, as stated by Dr Jim Gill, Chief Executive Officer for the Water Corporation:

*It is regarded as the best consultative model in Australia. The Water Corporation has taken on a strong customer service ethos. We want to work with industry in what is very much a growing State. This committee has been set up in that spirit.*<sup>13</sup>

## 2.2 The Nature of Infrastructure

Infrastructure is used as a term to refer to the major physical assets as well as services and facilities that assist modern society to function efficiently with a high standard of living. It has been defined as:

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<sup>12</sup> Section 19(1g) *Western Australian Planning Commission Act, 1985*.

<sup>13</sup> Gill, J., Water Corporation, Transcript of Evidence, 5 April 2004, p.2.

*The network of services in a society that are essential for its cohesion and for the efficient functioning of the economy.*<sup>14</sup>

Generally, infrastructure is divided into economic ('hard') or community ('soft') infrastructure. Table 2.1 provides an indication of the classification of the various forms of infrastructure with typical examples. This table also further classifies economic infrastructure into 'major', 'minor' and 'private' works as defined in the State Planning Strategy.<sup>15</sup> This framework of classifying infrastructure is the basis for the developer contributions system used by the Water Corporation.

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<sup>14</sup> Penguin Macquarie Dictionary of Economics and Finance: A Penguin Australia Reference Book, Ringwood, Victoria, Penguin, 1988.

<sup>15</sup> Western Australian Planning Commission, *Public Utilities and Services, State Planning Strategy Discussion Paper*, November 1995.



**Table 2.1 Types of Infrastructure**

Economic ('Hard')	Community ('Soft')
<p><b>Major Infrastructure</b> – Infrastructure that meets a population or economic demand at a regional level (ie. Not as location or time specific as other works).</p> <ul style="list-style-type: none"> <li>▪ Dams, bores and water treatment plants</li> <li>▪ Waste water treatment plants and ocean outfalls</li> <li>▪ Arterial drains</li> <li>▪ Power stations and transmission lines</li> <li>▪ National highways, freeways and railways</li> <li>▪ Train and bus stations</li> <li>▪ Regional parks</li> <li>▪ Heavy industrial sites</li> </ul>	<p><b>Facilities and Services</b> – Infrastructure that relates primarily to human services, including:</p> <ul style="list-style-type: none"> <li>▪ Universities</li> <li>▪ Hospitals</li> <li>▪ Sites for other community uses such as schools and local community centres</li> <li>▪ Schools</li> <li>▪ Libraries</li> <li>▪ Childcare facilities</li> <li>▪ Recreation centres and public swimming pools</li> <li>▪ Local parks and playgrounds</li> </ul>
<p><b>Basic or Minor Infrastructure</b> – Provide the links between a new demand (such as a new applicant wishing to join the system) and the system and are often provided by land developers.</p> <ul style="list-style-type: none"> <li>▪ Reticulation water pipes</li> <li>▪ Reticulation sewers</li> <li>▪ Local drains</li> <li>▪ Local roads</li> </ul>	
<p><b>Private Infrastructure</b> – Components provided and operated by a private entity but which form part of the infrastructure system as a whole. Standards for this infrastructure are necessary to protect the operation of the wider system.</p> <ul style="list-style-type: none"> <li>▪ Utility works within a property including:</li> <li>▪ Water, sewerage and gas plumbing</li> <li>▪ Electricity and telecommunications cabling</li> <li>▪ Gardens and verges</li> </ul>	

The responsibility for providing infrastructure has traditionally fallen on government, split between the Commonwealth, State/Territory and local governments.

The role of the Commonwealth Government is defined in the Australian Constitution, as pointed out by Richard Webb:

*Some of the influence that the Commonwealth exercises over infrastructure provision derives from its constitutional responsibility, for example, for telecommunications and postal services. However, the Commonwealth's influence extends beyond these functions because the Commonwealth has the financial capacity and power under section 96 of the Constitution to provide financial assistance to the States and Territories in areas traditionally their responsibility such as roads, health, and education.*<sup>16</sup>

While the Commonwealth plays an important role, the bulk of the responsibility for infrastructure falls on State/Territory and local governments. As reported by the Industry Commission:

*According to Australian Bureau of Statistics data, State and local governments are responsible for managing and controlling 83 per cent of the public sector capital stock which, in turn, represents a little over one-third of the nation's (net) capital stock...*

*State governments have primary constitutional responsibility for the provision of a wide range of services, both 'economic' and 'social'. Their spending on infrastructure reflects those responsibilities...*

*Local government has a major role in the provision of certain infrastructure, but there are significant differences between States. For example, local government is involved in electricity supply in New South Wales, Victoria and South Australia, but not in Western Australia, Queensland and Tasmania. Water and sewerage facilities are operated exclusively by local authorities in Queensland, and by State authorities in Victoria, Western Australia and South Australia: in other States, both are involved. Transport facilities in the major cities are operated by State authorities, with the exception of the Brisbane City Council which runs a city-wide bus service.*<sup>17</sup>

## **(a) Principles of Infrastructure Delivery**

The key principles of infrastructure delivery are articulated in the State Planning Strategy:

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<sup>16</sup> Webb, R., *The Commonwealth Government's Role in Infrastructure Provision, Research Paper No. 8 2003-04*, Information and Research Services, Department of Parliamentary Services, Commonwealth of Australia, Canberra, 1 March 2004, p.1.

<sup>17</sup> Industry Commission, *Impediments to Regional Industry Adjustment, op cit*, pp.228-9.

*Planning should ensure that physical and community infrastructure by both public and private agencies is co-ordinated and provided in a way that is efficient, equitable, accessible and timely*<sup>18</sup>

This principle recognises that more infrastructure is being provided by private organisations and should be coordinated with the broader public infrastructure to provide the greatest benefits. In addition, the principle establishes the concepts of efficiency, equity, accessibility and timeliness.

**(i) *Efficient Infrastructure Provision***

To provide infrastructure efficiently, it should be delivered at the lowest cost, while still meeting the standards expected by the community. This requires the efficient use of existing urban infrastructure and preventing development in areas which are not currently well serviced or where services and facilities are difficult to provide economically.

Related to this is the preference to provide infrastructure in the optimal location for long-term benefits. This requires providers of infrastructure, whether public or private, to have regard to planning policies and strategic land-use planning in making their investment decisions. The aim of this is to closely integrate land development with the provision of infrastructure services.

Another factor in efficiency is protecting existing assets from inappropriate land use and development in the surrounding area that might affect the long-term operation or expansion of major infrastructure, including airports, seaports, roads, railways and service corridors.

Over the past decade, the National Competition Policy has focused attention on infrastructure efficiency and costs. This affects utilities in particular and has led to national benchmarking to ensure each jurisdiction improves the efficiency of its economic infrastructure.

**(ii) *Equitable Infrastructure Provision***

All members of the community have the right to at least a basic level of infrastructure. Over time this basic acceptable standard has increased, providing a challenge to both governments and the development industry to meet these expectations.

Often if infrastructure is not provided efficiently and closely integrated with land development, then it is not equitable either. For instance, if the provision of schools is not integrated with land development, there is inequity in being able to access those assets.

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<sup>18</sup> Western Australian Planning Commission, Statement of Planning Policy No. 8, State Planning Framework Policy (Variation No.1) May, 2000 Special Gazette No.98, p.8.

The Committee noted that a key issue of equity arises with new developments that do not fully contribute to the infrastructure costs and need to be subsidised by government. This results in one part of the community with older existing infrastructure subsidising another area that has newer and better quality facilities.

**(iii) Accessible Infrastructure Provision**

Ensuring that infrastructure is accessible is particularly difficult in suburbs with low population densities and therefore low demand. The WAPC's Liveable Neighbourhoods Policy attempts to address these issues and encourages developers to increase residential densities, especially around town centres and public transport, to maximise access by walking, cycling and public transport rather than relying on motor vehicles for transport.

Accessibility is often problematical with leapfrog developments that cannot utilise existing infrastructure or facilities such as roads, schools or community services.

**(iv) Timely Infrastructure Provision**

Infrastructure should be delivered in a timely fashion to meet the needs of the community. This is not always the case, particularly in new development areas that are remote from existing services. For instance, there is no high school in Ellenbrook as the current levels of demand do not justify a school.

One of the challenges in the timely provision of infrastructure is the concept of service thresholds. For instance, if a primary school can service between 1,500 and 1,800 households, then how many houses need to be built before the construction of the school is justified?

Timely provision of infrastructure generally requires that land be set aside for the construction of future transport routes and essential services.

**(b) Principles of Funding Public Infrastructure**

There is another set of principles that applies to the funding of infrastructure. These have been developed and tested over a number of years throughout Australian jurisdictions.

The principles of infrastructure funding have been established by planning practice and in legislation and have been tested by appeal bodies and case law.

The Productivity Commission found that developer contributions are justified and appropriate in encouraging user-pays principles in the provision of urban infrastructure:

*There is a strong case for users of infrastructure services paying for costs attributable to them. A charge on users, if it represents the true costs of supply, ensures that demand is not excessive and resources are not wasted. As noted, it also promotes efficient locational choices for housing development. The real issues relate to how to apportion the costs among users and over time.*

*In the Commission's view, it is appropriate that the cost of basic infrastructure contained within a particular development — and therefore of predominant benefit to prospective home owners — should be borne initially by the developer and included in house prices. In principle, upfront charging for infrastructure should not reduce affordability relative to higher charges over time, although in practice marginal borrowers could be disadvantaged if lending institutions do not adjust their maximum loan-to-income rules. Also, such costs will tend to be capitalised in the market value of a house, minimising any inter-generational inequities.*

*Where infrastructure is shared among developments, there is a good case for apportioning its costs according to use, where the incremental costs can be well established and vary across locations. However, where comparable benefits are provided to users across the community, there is a stronger case for recovering such investments out of general rates, taxes or access charges. This is particularly relevant to most 'social' infrastructure, such as community recreation facilities and open space, the costs of which in some jurisdictions are increasingly being borne upfront by developers.<sup>19</sup>*

The development industry has particular concerns about the current infrastructure charging policies and practices in Australia, and has identified key principles as being:

- *charges inappropriately imposed on individual developments, when they should be spread more widely;*
- *charges imposed upfront, when they should be spread over time;*
- *charges that are excessive for their given purpose, sometimes because of 'gold plating' to minimise future maintenance costs for councils;*
- *residents of developments effectively paying twice for some items through both upfront charges and rates or ongoing charges (double dipping);*
- *funds not being spent on the designated purpose; and*
- *lack of scope for, or excessive costs in, appealing against particular charges or requirements.<sup>20</sup>*

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<sup>19</sup> Productivity Commission, *First Home Ownership*, *op cit*, pp.XXIV-XXV.

<sup>20</sup> Productivity Commission, *First Home Ownership*, Productivity Commission Inquiry Report No. 28, Melbourne, 31 March 2004, p168.

The Committee observed that the Productivity Commission's recommendation in response to these concerns provides that developer contributions should directly relate to actual infrastructure costs incurred as a result of the land development being charged:

*Developer charges (and charging for infrastructure generally) should be:*

- *necessary — with the need for the services concerned clearly demonstrated;*
- *efficient — justified on a whole-of-life cost basis and consistent with maintaining financial disciplines on service providers by precluding over-recovery of costs; and*
- *equitable — with a clear nexus between benefits and costs, and only implemented after industry and public input.<sup>21</sup>*

Even with these principles, there is some concern from the development industry that they are open to interpretation, particularly the *nexus* principle. The three elements fundamental to this principle relate to how the infrastructure and land development in question are related in both space and time:

- *Causal nexus* – the principle that the development being charged the contribution should be the cause of the new infrastructure, extension of existing services, or additional capacity on top of that currently provided;
- *Spatial nexus* – the principle that the *locations* of the infrastructure and land development in question should be proximate to increase the likelihood that the 'true' users of the infrastructure are the ones who pay for it; and
- *Temporal nexus* – the principle that the *timing* of the infrastructure provision and the funding should coincide to increase the likelihood that the 'true' users of the infrastructure are the ones paying for it.

### **(c) Practice of Funding Public Infrastructure**

Public infrastructure can be provided and funded through various methods. Some of these methods involve the Government financing the infrastructure from its revenue, surplus and debt-raising. These 'on-budget' ways of financing infrastructure include:

- Taxes and rates;
- Government debt;

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<sup>21</sup> *Ibid*, p.177.

- User and access charges; and
- Development contributions (producer levies).

In addition, there are a few ‘off-budget’ mechanisms to provide public infrastructure, including:

- Subdivision or development conditions;
- Privately provided infrastructure; and
- Public private partnerships.

**(i) Taxes and Rates**

Taxes provide a source of revenue for governments to deliver the goods and services demanded by the public. They can take a number of forms:

*Taxes can be used, first as a general source of revenue, part of which funds the provision of a service (eg. Drainage), second, as a user charge (eg. The tax on motor vehicle fuel), third, as an access charge (eg. Taxes on property to fund water and sewerage), and fourth, to subsidise the provision of a service (eg. Public transport).<sup>22</sup>*

In some cases, special rating or levies have been used to cover particular benefits. A current example of this is Western Australia’s State Underground Power Program for existing suburbs where the capital cost is shared between the relevant local authority, the State Government and the residents who benefit directly from the program.

The Committee noted that the use of revenue from taxes and rates should benefit the whole community rather than subsidising new, high-quality infrastructure to service the very small proportion of people living in new subdivisions.

**(ii) Government Debt**

As infrastructure benefits the public over a long period of time, it also makes sense to spread the burden of financing that infrastructure over a period of time. Governments can generally borrow money at a lower interest rate than private enterprise, because most governments are rated as low risk entities by ratings agencies.

This financing method is linked to the former, as in the long run, revenue from taxes, rates and user charges is used to repay the debt. Managing public debt at responsible levels is important to ensure governments retain good credit ratings. In addition, when

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<sup>22</sup> Neutze, M., *Funding Urban Services: Options for Physical Infrastructure*, op cit, p.125.

government uses debt to fund infrastructure, it is effectively assuming the financial risk for the project.

An example of where government has assumed debt to facilitate land development is the provision of \$40 million in water and sewerage infrastructure works to service the Ellenbrook development in the City of Swan, North East of Perth. Over time, this is repaid by a levy on land sold in the development, but government effectively assumes the risk that development will proceed at a sufficient rate to cover the interest and capital repayments on that debt.

While the Committee noted that the State Government is taking on significant debt to fund urban infrastructure in Perth, it is critical that the future development of land optimises the use of both existing and committed future infrastructure.

### ***(iii) User and Access Charges***

User charges are the most common way of charging for goods and services. They are a unit charge for a specified quantity of a good or service. One of the key advantages of user charges is that they encourage consumers to consume only what they need, or in economic terms:

*...they encourage the use of the service up to the level where the cost of supplying an additional unit would be greater than its value to consumers. Because most goods and services are paid for per unit volume, user charges are more likely to result in the best allocation of resources between infrastructure and other sectors of the economy.<sup>23</sup>*

User charges can be said to be equitable in that individuals only pay if they consume the good or service and only pay for what they consume. User charging is also attractive from a rational economic viewpoint as the charge can reflect the actual cost of producing the good or service.

A disadvantage, however, is that user charging does not account for the user's ability to pay, based on level of income or wealth. Accordingly, consumers on vastly different incomes will be paying a different proportion of their income for goods and services.

In Australian society, as with most western countries, certain goods and services are considered to provide a public benefit to the whole of society. These are classed as public goods and are provided to the public free of charge by government.

Access charges provide users with a right to consume a particular good or service. There are three main forms of access charges:

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<sup>23</sup> *Ibid*, p.112.



1. A fixed and uniform charge per user, which may be combined with a uniform price per unit of use in declining block tariffs;
2. A charge which varies with capacity to use the service; and
3. A charge that varies with the value (either site value or total value) or each property which has access to the service.<sup>24</sup>

In some cases, user charges can be a ‘charge per use’ of a service. For instance, a recreation centre may charge a standard entry fee, regardless of how long the consumer stays.

**(iv) *Development Contributions***

Development contributions are contributions made by developers to the infrastructure required to service land. In Western Australia they can take one or a combination of three basic forms:

- Ceding or giving up land;
- Construction of infrastructure works which are transferred to public authorities on completion of the works; and/or
- Monetary contributions.

**(v) *Conditions on Subdivision and Development***

The requirements for land developers to cede land or undertake various infrastructure works represent ‘off-budget’ provision of infrastructure. Governments benefit from these conditions by not having to directly finance all the infrastructure works involved in developing land. Developers benefit by having greater control over the nature, timing and quality of the infrastructure provided, provided that it meets specific minimum standards.

**(vi) *Privately Provided Infrastructure***

Over time more of the infrastructure traditionally provided by government is now provided by private entities. Some of this is driven by the privatisation of some government instrumentalities, such as Alinta Gas in Western Australia. Some of it represents private parties entering into joint ventures with government to deliver services such as private schools.

In some cases, it is possible to co-locate facilities such as government and private schools which share common facilities, such as playing fields and swimming pools.

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<sup>24</sup> *Ibid*, p.114.

These can provide greater choice to the community while reducing the overall cost of providing those services.

**(vii) Public Private Partnerships**

There is also a move towards public infrastructure being provided by Public Private Partnerships. These provide the private sector an opportunity to share some of the long-term benefits of public infrastructure by also taking on some of the risks of developing and maintaining that infrastructure. These are more common in other states of Australia, particularly with toll-roads, but examples in Western Australia include major construction works such as the Perth Courts Complex and privately operated prisons.

**Figure 2.2 Funding Mechanism Examples**

Taxes and Rates	Government Debt	User and Access Charges	Development Contributions	Conditions on Subdivision and Development	Privately Provided Infrastructure	Public Private Partnerships
Public hospitals School Construction	Dams Power stations Passenger rail	Water rates and usage Electricity usage Telephone	Local Roads Utility reticulation Local Parks	Public open space Roads within a subdivision	Private schools Private hospitals Tollways (not applicable in Western Australia) Gas distribution (Alinta Gas)	Perth Courts Complex

## 2.3 Land Regulation and Property Rights

### (a) Land Laws and Property Rights

Australia's land laws are derived from English common law, under which the Crown is the ultimate or radical titleholder of land. Land is always *owned* by the Crown and is treated as separate from the *interest* or *estate* in the land vested by the Crown in its

private subjects. Therefore, a private landholder has no more than an interest or estate in the Crown's land, as opposed to owning the land *per se*.<sup>25</sup>

Land is often referred to as a 'bundle of rights' conferred by the Crown to a legal person. These basic rights are relatively stable for specific land, although over time, as public need changes, so do property rights. These changes are necessarily subtle and gradual.

Part of the concept of property rights includes the use and change of use of land. One way that governments control these rights is through land-use zonings which indicate broadly the potential uses which can take place on a particular parcel of land. Governments also control the subdivision of land into smaller parcels and the development of land to permit a change of use.

A report was recently tabled by the Western Australian Legislative Council Standing Committee on Public Administration and Finance entitled *The Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia*.<sup>26</sup> At the same time, the development industry released a report setting out its point of view on property rights.<sup>27</sup>

Fundamental to both these reports is the assertion that as public interest evolves, so do property rights in order to meet these changing needs. The main area of contention is how the burden of meeting public interests is balanced between individuals (via property rights and controls) and the wider community (via government).

## **(b) Land for Public Purposes**

As noted earlier, the Crown is the ultimate or radical titleholder of land. Generally the Crown retains land in its direct control that is required for public purposes. Urban infrastructure is one of the most common of these public purposes. However, over time the situation may arise that land that had been granted by the Crown to private landholders is later required for public purposes. This can include land for schools, roads and utility services. In order to carry out its responsibility to meet the growing

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<sup>25</sup> Halsbury's Laws of Australia Online, *Real Property*, Butterworths (subscription service), 5 January 2004, (accessed 25 May 2004), para 355-2000.

<sup>26</sup> Standing Committee on Public Administration and Finance, *The Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia*, Report 7, Second Session of the Thirty-Sixth Parliament, Perth, 2004.

<sup>27</sup> Coalition for Property Rights (Property Council of Australia, Real Estate Institute of Western Australia Inc, Urban Development Institute of Australia), *Property Rights Under Attack In Western Australia: A Paper Addressing the Erosion of Property Rights in Western Australia, Discussion Paper*, April 2004.

needs of the community, the state has the capacity to resume private land and convert it to a public purpose.

The principle of 'eminent domain' refers to the power of a government to acquire private property. It dates from Roman law and many historians point out that the State of Rome would not have been able to build the legendary straight roads without applying the power of eminent domain throughout its empire.<sup>28</sup>

Two fundamental principles of the use of eminent domain by the state are the requirement for public use and that there be just compensation to the individual who is forced to give up land. An early statement of these principles is:

*The property of subjects is under the eminent domain of the State, so that the State, or he who acts for it, may use and even alienate and destroy such property, not only in cases of extreme necessity, in which even private persons have a right over the property of others, but for ends of public utility, to which ends those who founded our society must be supposed to have intended that private ends should give way. But it is to be observed that when this is done, the State is bound to make good the loss to those who lose their property, and to this public purpose, he who has suffered the loss must if needs be contribute.*<sup>29</sup>

As noted by Meidinger, the current use of the principle has changed little:

*"Eminent domain" refers to the power of the state to "take" private property. Least known of the taxing-police-taking triumvirate of governmental powers, eminent domain is said to be subject to only two requirements: that the taking be compensated and that it be for a public use.*<sup>30</sup>

Governments use the power of eminent domain to 'resume' land from private landholders, reinforcing that the state is taking back what it previously controlled. While this principle is integral to the law of real property, it can still result in discord for private landholders and developers who are unaware of, or unhappy with, the terms of the resumption.

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<sup>28</sup> Meidinger, Errol E., *The "Public Uses" of Eminent Domain: History and Policy, Environmental Law*, Vol 11, No 1, Fall 1980. Available at: <http://www.law.buffalo.edu/homepage/eemeid/scholarship/EminentDomain.pdf> (accessed 3 June 2004).

<sup>29</sup> Grotius, Hugo (1583-1645), *De Jure Belli et Pacis*, 1625, cited in Submission No. 121 from Department of Land Administration, December 2001 (received on March 7 2002), p38 as quoted in Standing Committee on Public Administration and Finance, *The Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia*, Report 7, Second Session of the Thirty-Sixth Parliament, Perth, 2004, p.43.

<sup>30</sup> Meidinger, Errol E., *The "Public Uses" of Eminent Domain: History and Policy, Environmental Law*, *op cit*.

The principles of ‘fair’ and ‘just’ compensation for affected landholders are incorporated into the Western Australian *Land Administration Act, 1997*, and have been the subject of substantial case law.

### **(c) Land Administration Legislation**

Western Australia’s dealings in land are established by the *Land Administration Act, 1997*. This defines ‘land’ as including:

- (a) *all land within the limits of the State;*
- (b) *all marine and other waters within the limits of the State;*
- (c) *all coastal waters of the State as defined by section 3(1) of the Coastal Waters (State Powers) Act 1980 of the Commonwealth; and*
- (d) *the seabed and subsoil beneath, and all islands and structures within, the waters referred to in paragraphs (b) and (c).<sup>31</sup>*

The Committee has previously noted the increasing importance of development control over waters and seabeds, particularly as it applies to canal, marina and coastal developments.<sup>32</sup>

Crown land is managed under the *Land Administration Act, 1997* by the Department for Planning and Infrastructure and dealings with land are dealt with by the Department of Land Information.

The *Land Administration Act, 1997* also applies to the Torrens title registration system to all land dealings in the State. This means Certificates of Title are created for Crown land parcels with the “State of Western Australia” noted as the proprietor. Land for infrastructure and public use is vested in the Crown under this system.

Critical to the provision of public infrastructure is the *Public Works Act, 1902*. This was the first noteworthy piece of legislation of the Western Australian Parliament that dealt specifically with the compulsory acquisition of land for public purposes. The Act regulates the:

- acquisition of land;
- compensation for acquired land (via a Compensation Court);

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<sup>31</sup> Section 3 *Western Australian Land Administration Act, 1997*.

<sup>32</sup> Public Accounts Committee, *Inquiry into the Port Coogee Development*, Report No.6, 36<sup>th</sup> Parliament, Perth 2003.

- surveying of land;
- control and construction of roads, railways, rivers and bridges; and
- other general provisions, such as temporary occupation, tramways and refusal to give up land.

## 2.4 Managing Urban Growth

Developer contributions are generally limited to the direct costs of land development and do not take into account the longer-term costs that may arise from land development in a particular area. For instance, the whole community generally finances the cost of extending freeways or passenger rail, not just those in the local vicinity who will make most use of it.

Developer contributions also tend to exclude the external costs associated with a particular land development. For instance, the environmental cost of people commuting a long distance to work by motor vehicle is not included in the land price of a development. Instead, this issue is generally left to governments to resolve.

Bearing these long-term and externality costs is traditionally the accepted role of government, but they can be very costly to the community. For this reason, concern about urban form has escalated in Australia over the past few decades. Critics of urban sprawl cite the economic, environmental and social costs of continually extending the urban front further outwards.

Mr Eric Lumsden, Chief Executive Officer for the City of Swan stated to the Committee that residential density and infrastructure are strongly related:

*There is a view that we should consolidate more in terms of existing infrastructure because of getting added value and maximising the community return. As a general target, the growth of the Perth region, which includes the Peel region, should be in the order of 60 per cent in the inner areas and 40 per cent in the outer areas. At the moment it is the other way around, with something like 40 per cent for the inner areas. The issue for the State is that there are many areas in which density can be increased, but, equally, in other areas where it perhaps should be increased, the infrastructure is lacking in terms of drainage and perhaps sewerage where the infill sewerage program has been halted.<sup>33</sup>*

The issue of urban sprawl is beyond the scope of this Inquiry, but the Terms of Reference do require a specific question to be addressed – whether developer

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<sup>33</sup> Lumsden, E., City of Swan, Transcript of Evidence, 5 April 2004, p.12.

contributions are a valid way to direct further infill and medium density development and dissuade developers from further extending the urbanised boundary of the city.

This indicates that developer contributions could be used as an incentive to develop in areas identified by the Government as providing significant public benefit and as a disincentive for areas that are likely to cause long-term costs to the public.

Evidence to the Committee suggested that developer contributions are not an appropriate tool to manage urban growth as they do not necessarily help to resolve the fundamental problem of better coordinating land and infrastructure development. As expressed by Dr Russel Perry, General Manager, LWP Property Group Ltd, these mechanisms are already available to government, but are not being used effectively:

*Together, the metropolitan region scheme, which is the statutory planning process, and the metropolitan development program provide a suite of vehicles for Governments to properly plan the orderly expansion and growth of Perth. The danger is that we come up with solutions that do not fix the fundamental problem. If the fundamental problem of coordination is not addressed and fixed, issues that I understand the committee has before it, such as developer and infrastructure levies, will not fix the fundamental problem.<sup>34</sup>*

Another point made to the Committee was that the densities of new developments should make better use of major infrastructure. An example of this is the urban development around the South West passenger rail. According to Mr Laurie Piggott, Manager Planning and Property for the Public Transport Authority, developers can contribute to infrastructure through planning that reinforces the use of that infrastructure:

*We [the Public Transport Authority] have entered into a memorandum of understanding with the Landstart joint venture at Wellard. There has been an agreement to include a Wellard railway station in the current south west metropolitan railway project, so it will open at the same time as all the other major stations, subject to Landstart providing for that area a relatively high density development of a high quality design, with mixed use and a minimum number of lots, by the time of the opening of the station. That memorandum of understanding has been signed. Landstart has started redevelopment and it is on target. We are also on target with the railway station.<sup>35</sup>*

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<sup>34</sup> Perry, R., LWP Property Group, Transcript of Evidence, 5 April 2004, p.2.

<sup>35</sup> Piggott, L., Public Transport Authority, Transcript of Evidence, 5 May 2004, p.2.





## CHAPTER 3 THE PLANNING SYSTEM IN WESTERN AUSTRALIA

### 3.1 Overview of Western Australia's Planning System

An assessment of developer contributions must start with an appreciation of the planning system, as it is this system that underlies land development and infrastructure provision. The development of land almost always requires infrastructure to be provided, extended or upgraded to allow land to be used for a new or different purpose. Infrastructure provision and coordination are therefore functions central to the land planning and approval system.

It is generally through the planning system that developer contributions are applied, as this is the stage that approvals are required to subdivide land or change its use. In this way, planning is used to influence the outcomes of land development and ensure that the public interest is protected.

#### (a) The Purpose of Planning

The Western Australian Planning Commission has stated that:

*The primary aim of planning is to provide for the fair, orderly, economic and sustainable use and development of land.<sup>36</sup>*

To achieve this aim, there is a long-established planning system in Western Australia. The planning process is complex and involves all local authorities as well as most State and some federal agencies. In addition, it requires cooperation between private landholders, professional land developers, and business and community groups.

Town planning refers to the coordination of:

*... land use and development through the implementation of plans, policies and statutory processes that enable sustainable growth and ensure a balance is maintained between the communities in which people live and the environment.*

*It is about people and the need to prepare and implement plans with clear objectives to ensure people enjoy a satisfactory quality of life. Planning controls are required to meet the different needs of people living and working together. There are few actions which owners can undertake on their land*

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<sup>36</sup> Western Australian Planning Commission, Statement of Planning Policy No.1, State Planning Framework Policy (Variation No.1) May, 2000 Special Gazette No.98, p.5.

*which do not affect other owners in some way, and planning provisions avoid the conflict that would arise if everyone did as they pleased.*<sup>37</sup>

## **(b) Strategic Basis for Planning in Western Australia**

The strategic basis for planning in Western Australia is based on the *State Planning Strategy 1996*. This guides the role and functions of government departments to coordinate the planning and development process. This is also outlined in the Statement of Planning Policy No 1: State Planning Framework.<sup>38</sup>

In addition, there are a number of other government strategies that relate to the provision of urban infrastructure, including:

- Public Sector Strategic Planning Framework – *Better Planning: Better Services*;
- State Water Strategy;
- Regional Development Policy – *Regional WA: A Better Place to Live*;
- State Industry Policy – *Building Future Prosperity*;
- State Sustainability Strategy – *Hope for Our Future*; and
- Public Private Partnerships – *Partnerships for Growth*.

The Public Sector Strategic Planning Framework is currently used by the Department of Treasury and Finance to assess the performance of reporting agencies. The framework is also used by Treasury to prioritise capital investment projects. Accordingly, it has a direct impact on infrastructure provision and funding in the State. It also reflects the key priorities of Western Australia's well-established planning system.

These strategies can affect land development and urban infrastructure in a number of ways, including:

- influencing the standard of infrastructure that is required to support land development;

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<sup>37</sup> Western Australian Planning Commission, *Planning for People: An Introduction to the Planning System in Western Australia*, August 1996, p.4.

<sup>38</sup> Western Australian Planning Commission, Statement of Planning Policy No.1, State Planning Framework Policy (Variation No.1) May, 2000 Special Gazette No. 98; and Western Australian Planning Commission, *State Planning Strategy*, 1997.

- directing where and when land should be developed or protected from development;
- changing the nature of land development such as dwelling densities; and
- improving the way that urban infrastructure is provided and maintained to meet the changing needs of the community and business.

### (c) **Principal Planning Legislation in Western Australia**

The extant legislation fundamental to the Western Australian planning system is:

- *Town Planning and Development Act, 1928;*
- *Metropolitan Region Town Planning Scheme Act, 1959;* and
- *Western Australian Planning Commission Act, 1985.*

Steps to simplify and consolidate these three acts into one has commenced with the release of a 'Green Bill', or discussion paper, by the Minister for Planning and Infrastructure on 23 April 2004. If the measures recommended in the Green Bill are implemented, they will simplify and modernise the existing planning system. According to the Minister:

*The changes will modernise planning laws and creating a planning system that is understandable, efficient and effective.*

*Some of the key features of the draft Bill include:*

- *the introduction of State Sustainability Strategy principles, which stress the importance of delivering sustainable communities to Western Australia;*
- *streamlining processes when planning, subdividing or developing land;*
- *improving the delivery of State planning commitments through strengthened State Planning Policies and improved co-ordination of local and regional planning; and*
- *providing greater consistency and certainty and improving equity and fairness to stakeholders.*<sup>39</sup>

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<sup>39</sup>MacTiernan, Hon. A. MLA, *Bringing Planning Legislation into the 21st Century*, <http://www.mediastatements.wa.gov.au/media/media.nsf> 23 April 2004, (accessed 14 May 2004).

This is the second Green Bill regarding the consolidation of planning legislation to be released in the past four years. The second Green Bill incorporates and builds on the first after extensive consultation. Public comment on this Green Bill closed on 24 May 2004.

Western Australia has had a series of principal planning authorities since the Town Planning Board was established in 1928. The principal body for planning is currently the Western Australian Planning Commission, a statutory body established under the *Western Australian Planning Commission Act, 1985* with responsibility for:

- preparing and implementing a State Planning Strategy;
- monitoring and forecasting land supply throughout the State;
- undertaking the amendment and management of the Perth Metropolitan Region Scheme;
- assessing all subdivision and some development applications; and
- preparing and managing country region schemes.<sup>40</sup>

Under these powers, the WAPC is responsible for maintaining and approving a series of statutory instruments, including:

- the State Planning Strategy, prepared by the WAPC pursuant to s. 18(1)(b) of the *Western Australian Planning Commission Act, 1985* to provide broad guidance for land use planning and development across the State;
- Statements of Planning Policy, pursuant to s. 5AA of *the Town Planning and Development Act, 1928*, which:

*...may make provision for any matter which may be the subject of a town planning scheme under this Act but shall be directed primarily towards broad general planning and facilitating the coordination of planning throughout the State by all local governments.*<sup>41</sup>

- Region Schemes, established under the *Metropolitan Region Town Planning Scheme Act, 1959* or the *Western Australian Planning Commission Act, 1985* and
- Local Government Town Planning Schemes, established by local government under the *Town Planning and Development Act, 1928*.

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<sup>40</sup> Western Australian Planning Commission Internet site at: <http://www.wapc.wa.gov.au/index.html> (accessed 21 May 2004).

<sup>41</sup> Section 5AA(2) *Town Planning and Development Act, 1928*.

## 3.2 Administering the Planning System in Western Australia

Western Australia's planning system is administered at three major levels:

- Minister for Planning and Infrastructure;
- Western Australian Planning Commission (supported by the Department for Planning and Infrastructure); and
- Local authorities (142 mainland local councils).<sup>42</sup>

The Western Australian planning system has several important features that distinguish it from other Australian states and most overseas jurisdictions:

- An independent statutory body to coordinate planning and provide advice on planning matters to government – The Western Australian Planning Commission;
- Integrated approval processes for land subdivision and development coordinated by the WAPC;
- The primacy of regional strategic planning, supported by statutory region schemes for two of the State's 10 regions; and
- A hypothecated tax (Metropolitan Region Improvement Tax) in the Perth Metropolitan Region to implement the Metropolitan Region Scheme.

### (a) Minister for Planning and Infrastructure

The Minister for Planning and Infrastructure is the ultimate authority for planning in the State. The Minister is responsible for:

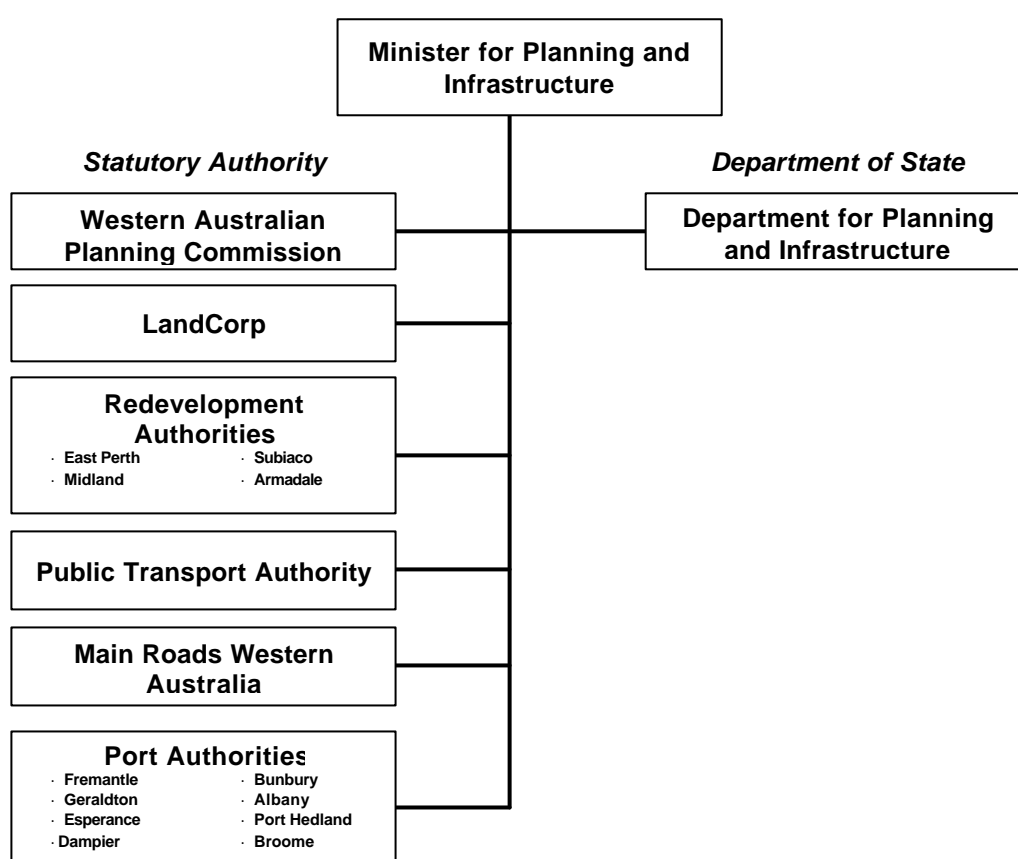
- Overseeing the administration of planning agencies;
- Maintaining and reviewing planning legislation;
- Statutory and strategic planning matters; and
- Approving statutory region schemes and local government town planning schemes and amendments.<sup>43</sup>

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<sup>42</sup> Western Australian Planning Commission, *Planning for People: An Introduction to the Planning System in Western Australia*, Perth, Western Australia, 1996.

While the role of planning involves most of the State's major government agencies, the core responsibility rests with the Planning and Infrastructure portfolio (see Figure 3.1). The portfolio has a planning and coordination role, carried out in a working partnership between the WAPC and the DPI, and an implementation role for land use (LandCorp, Redevelopment Authorities) and transport (Public Transport Authority, Main Roads Western Australia and Port Authorities).

**Figure 3.1 Planning and Infrastructure Portfolio of the Western Australian Government**



The Planning and Infrastructure portfolio incorporates the State's premier land and transport planning and implementation agencies. This was one of the outcomes of the

<sup>43</sup> Stokes R., DPI, Transcript of Evidence, 10 March 2004, p.1; and Western Australian Planning Commission, *Planning for People: An Introduction to the Planning System in Western Australia*, August 1996.

current government's Machinery of Government Taskforce to provide a more effective and efficient public sector.<sup>44</sup>

The breadth of scope of the agencies in the Planning and Infrastructure portfolio indicates that it has a crucial role in the State's strategic planning, land development and delivery of major transport infrastructure.

The role of planning, however, engages most of the State's major government portfolios as well as local government, industry and community groups. The role of coordinating these diverse stakeholders is one of the tasks of the WAPC.

#### **Finding 1**

The role of the Western Australian Planning Commission in subdivision control, inter-agency coordination and community consultation is critical to the successful implementation of planning in Western Australia.

#### **Recommendation 1**

The centralised control of planning and subdivision in Western Australia should remain with the Western Australian Planning Commission.

### **(b) Western Australian Planning Commission**

The Western Australian Planning Commission is the primary planning body in Western Australia and is the decision-making authority responsible for strategic and statutory planning and development across Western Australia. It undertakes a major coordinating role across all aspects of the State's planning process. It is responsible for the preparation and amendment of region schemes and all subdivision approvals.

While it has existed in different forms since 1928, the WAPC was formally established by the *Western Australian Planning Commission Act, 1985*, which also sets out its composition and functions. The WAPC's other functions are set out in the *Town*

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<sup>44</sup> Machinery of Government Taskforce, *Government Structures for Better Results, The Report of the Taskforce Established to Review the Machinery of Western Australia's Government*, June 2001.

*Planning and Development Act, 1928 and the Metropolitan Region Town Planning Scheme Act, 1959.*<sup>45</sup>

The WAPC itself consists of nine government appointed representatives of the community and government. Due to the range and volume of work presented to the WAPC, as at June 2003, it has established 36 specialised committees. These are comprised of a broad membership including the community, State agencies, land development industry, building associations, local government, infrastructure providers and conservation groups.

The WAPC has a responsibility to the community to provide assurance that amenity, environmental, economic and social considerations are thoroughly explored before far-reaching planning decisions are taken. For this reason, it operates as a partnership between the community, business and all levels and sectors of government. Accordingly, public consultation is integral to the planning process.

The key strategic and statutory responsibilities of the WAPC are:

- *State Planning Strategy: The WAPC's vision for Western Australia as stated in the State Planning Strategy, is audited, reviewed and implemented through the preparation of more detailed regional plans and strategies;*
- *Statements of Planning Policy: Statements of planning policy are prepared to lead overall planning policy and the preparation of other non-statutory and operational policies;*
- *Statutory Planning: The WAPC has responsibility for subdivision, development, and strata title and license approvals. It has responsibility to advise the Minister for Planning and Infrastructure on local government town planning schemes;*
- *Region Schemes: Anticipating population growth in the State, the WAPC reviews the Metropolitan Region Scheme and the Peel Region Scheme; and establishes and reviews planning schemes for the State's regions as required;*
- *Legislation: The WAPC provides advice on legislative and regulatory reform to the Minister for Planning and Infrastructure;*

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<sup>45</sup> On 23 April 2004 the Minister for Planning and Infrastructure released a Green Bill for public comment to consolidate the three primary Acts relating to planning in Western Australia into a single Act. The draft Green Bill also aims to streamline the land planning and development process, strengthen the State Planning Policies, introduce principles outlined in the State Sustainability Strategy and the improve coordination, consistency and certainty of the planning and land development process. See MacTiernan, A. MLA, *Bringing Planning Legislation into the 21<sup>st</sup> Century*, 23 April 2004. Available at: <http://www.mediastatements.wa.gov.au/media/media.nsf> (accessed 14 May 2004).



- *Land Supply: The WAPC monitors and forecasts land supply throughout the State and develops strategies to ensure a timely supply of affordable residential land; and*
- *Trends: Research projects initiated by the WAPC gather information that ensure that decisions are taken in the knowledge that contemporary trends in planning have been considered.*<sup>46</sup>

### **(c) Department for Planning and Infrastructure**

The Department for Planning and Infrastructure is the only government department in the Planning and Infrastructure portfolio and is the leading agency in policy, planning and funding of transport and land use in Western Australia.

The DPI integrates the planning and policy functions of transport and land use. It works in partnership with the WAPC to help fulfil the WAPC's strategic and statutory responsibilities in the land planning and development process. The DPI provides professional and technical advice to the Minister and the WA Planning Commission.

The DPI's goal is to facilitate:

*Communities that are socially, economically and environmentally sustainable.*<sup>47</sup>

The two key outputs that aim to achieve the above outcome are:

*Policy and Planning – Land use and transport infrastructure planning and implementation strategies to guide the State's long-term urban settlement and social and economic development, coordination and development of strategic transport policies and plans.*

*Service Delivery – Service delivery in the areas of transport infrastructure, land development, land and property services and management of the portfolio's land and transport infrastructure assets.*<sup>48</sup>

Actions to execute these key functions include providing the resources to assess applications for subdivision, development and amendments to Region and Town Planning Schemes. Of these, the subdivision approval process is a major milestone allowing developers and landowners to develop land for its prescribed purpose:

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<sup>46</sup> Western Australian Planning Commission, *Annual Report 2003*, Perth, Western Australia.

<sup>47</sup> Department for Planning and Infrastructure, *Annual Report 2003*, Perth, Western Australia, p.7.

<sup>48</sup> *Ibid.*

*The Department partnered the Western Australian Planning Commission in approving approximately 14,600 residential lots and almost 900 lots for commercial, industrial, rural and other purposes across the State. The residential lots were associated with building approvals for 21,600 dwelling units with an average construction value of \$140,000. This injected more than \$3 billion into the State, while non-residential building activity contributed an additional \$1.6 billion. This economic activity generates 20,000 jobs directly and 65,000 jobs indirectly.<sup>49</sup>*

The DPI also provides services to the WAPC by undertaking strategic planning and developing planning policy. One such action was the *Dialogue with the City* undertaken by the DPI as a consultative process to establish a direction for the future of the Perth Metropolitan Region and the Mandurah and Murray municipalities.

#### **(d) Local Government**

Western Australia has 142 local authorities which are each responsible for the preparation and administration of respective local Town Planning Schemes, including control over land use and development under the local scheme.

In the Perth Metropolitan Region and the Peel Region, where Region Schemes are in place, local authorities are required to ensure their respective Town Planning Schemes are consistent with the Region Scheme.

In planning-related matters, local authorities are responsible for:

- identifying areas for acceptable land use;
- establishing residential densities;
- keeping Town Planning Schemes up to date; and
- making planning decisions based on the provisions and controls incorporated in Town Planning Schemes.<sup>50</sup>

While local authorities are responsible for preparing Town Planning Schemes and residential planning codes (R-codes), these have to be approved by the WAPC and the Minister for Planning and Infrastructure.

In areas where Region Schemes apply, currently the Perth Metropolitan Region and the Peel Region, the development control rests with the WAPC. However, this power

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<sup>49</sup> Department for Planning and Infrastructure, *Annual Report 2003*, Perth, Western Australia.

<sup>50</sup> Western Australian Planning Commission, *Planning for People: An Introduction to the Planning System in Western Australia*, August 1996.

is delegated back to local authorities for most development applications. Development applications that have regional significance may need to be referred to the WAPC.

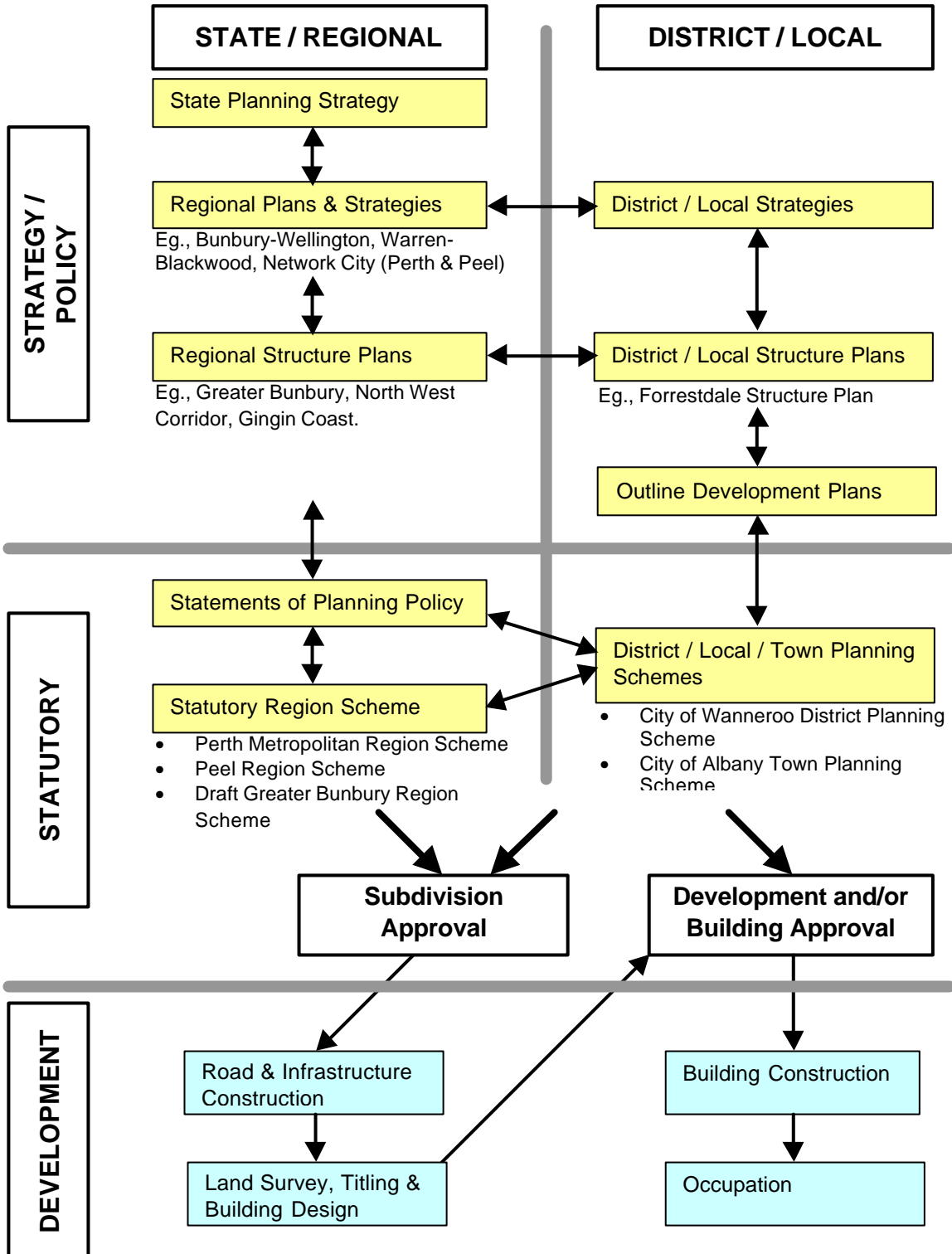
While the WAPC is responsible to determine all subdivision applications, the relevant local authority is invited to comment on subdivision proposals. Besides fulfilling a planning role, local authorities can also act as land developers and infrastructure providers. These other functions of local authorities are covered in more detail below.

### **3.3 The Planning Process**

The major stages of the planning process in Western Australia are shown in figure 3.2. This provides a summary of the strategic and statutory stages that precede approval to subdivide and develop land. These processes are facilitated by the WAPC working in partnership with government agencies and local authorities.

Figure 3.2 also provides examples of each of the key stages of the strategic and statutory planning process. The structure plan stage is where infrastructure is with district and local structure plans showing the most detail. Structure plans are covered in greater detail later in this Chapter.

Figure 3.2 Overview of the Planning Process



The planning system necessarily involves a large number of government agencies, private organisations and individuals, as well as a number of statutes and processes. As the community's expectations increase, the standard of outcomes required by these entities also increases, adding further complexity to the system. Even with the centralised planning system in Western Australia and the forthcoming introduction of a consolidated Planning Bill, there is still a need for a concise overview of the planning system, written in plain English.

The most recent such document is the *Planning for People* publication produced by the former Ministry for Planning in 1996. This publication, while still relevant, does not incorporate the numerous changes in government policy and planning practices that have occurred over the past eight years.

### **Recommendation 2**

The Department for Planning and Infrastructure should produce a concise handbook outlining subdivision and development processes in Western Australia.

Western Australia's planning processes are designed to respond to and manage the interplay between environmental, infrastructure and community concerns. They aim to achieve a quality environment that can be developed at a profit for the private parties involved.

On average, it takes three to five years to progress through the planning and development of new land and housing under the State's existing planning processes. While significant effort is being made at State and national levels to improve these systems, the complexity and sensitivity of issues relating to land and the environment are unlikely to change.

With a predictable population growth and household formation growth rate, the development industry has become more sophisticated in the development process, which has resulted in a 'just in time' land development system. This reduces the holding time and costs of developed land. It is not practical or financially viable to have a supply of subdivided and serviced land with all the infrastructure installed to meet sudden surges in demand. To do so would require land developers to be willing to incur the relevant holding costs. As a result, there is a potential for both government and the land development industry to be 'caught short' in times of peak demand for lots.

In some cases, it may be possible to predict upcoming periods of high land demand such as high employment and population growth or one-off shocks such as the

introduction of the Goods and Services Tax. At other times, however, peaks in land demand are hard to predict, such as the:

- surge in investor interest in residential housing following the share market downturn in late 2001/early 2002; and
- extension of the First Home Owners Grant by the Australian Government bringing forward home purchases by new homeowners.

In order to respond to concerns from the land development industry, reviews of the planning system were conducted during 2003 in an attempt to streamline the processes.

## **(a) The Strategic Planning Process**

### **(i) State Planning Strategy**

The State Planning Strategy is Western Australia's premier strategic planning document and brings together the work of planning, environment, infrastructure and development bodies. The Strategy is built around five key principles that reflect responsible planning and community priorities:

*Environmental principle: To protect and enhance the key natural and cultural assets of the State and deliver to all Western Australians a high quality of life which is based on environmentally sustainable principles.*

*Community principle: To respond to social changes and facilitate the creation of vibrant, accessible, safe and self-reliant communities.*

*Economic principles: To actively assist in the creation of regional wealth, support the development of new industries and encourage economic activity in accordance with sustainable development principles.*

*Infrastructure principle: To facilitate strategic development by ensuring land use, transport and public utilities are mutually supportive.*

*Regional development principle: To assist the development of regional Western Australia by taking account of the region's special assets and accommodating the individual requirements of each region.<sup>51</sup>*

The infrastructure principle recognises the importance of major works and urban infrastructure in the use and development of land. It identifies specific roles for planning in the better coordination and implementation of infrastructure:

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<sup>51</sup> Western Australian Planning Commission, *State Planning Strategy Final Report*, December 1997, Perth, Western Australia.

*Planning should ensure that physical and community infrastructure by both public and private agencies is co-ordinated and provided in a way that is efficient, equitable, accessible and timely. This means:*

- *planning for land use and development in a manner that allows for the logical and efficient provision and maintenance of infrastructure including the setting aside of land for the construction of future transport routes and essential services;*
- *protecting key infrastructure, including ports, airports, roads, railways and service corridors, from inappropriate land use and development;*
- *facilitating the efficient use of existing urban infrastructure and human services and preventing development in areas which are not well serviced, where services and facilities are difficult to provide economically and which creates unnecessary demands for infrastructure and human services; and*
- *encouraging providers of infrastructure, whether public or private bodies, to have regard to planning policies and assist strategic land use planning in making their investment decisions in order to ensure that land use and development is closely integrated with the provision of infrastructure services.<sup>52</sup>*

This policy statement introduces core values for providing infrastructure in an efficient, equitable, accessible and timely manner. These principles influence the quality, cost and availability of urban services.

**(ii) Structure Plans**

Structure plans provide frameworks for the coordinated provision of land development, infrastructure and urban services.<sup>53</sup>

While not always a statutory requirement, they facilitate the statutory process by providing an agreed upon set of guidelines for subdivision and development approvals. They are often used as a basis for amendments to Region and Town Planning Schemes and then once these are in place, are a useful basis for determining the subdivision and development of land.

There are three levels of structure planning:

- *Regional Structure Plans* – covering regions or subregions and providing a framework on issues such as limits to growth in urban areas, major commercial centres, transport links, infrastructure and servicing requirements,

<sup>52</sup> Western Australian Planning Commission, *Statement of Planning Policy No. 1, State Planning Framework Policy (Variation No.1)* May, 2000, *op cit*, p.8.

<sup>53</sup> Western Australian Planning Commission, *Planning for People: An Introduction to the Planning System in Western Australia*, *op cit*.

environmental protection and regional open space. Regional Structure Plans often form the basis of amendments to Region and Town Planning Schemes;

- *District Structure Plans* – providing a greater level of detail than Regional Structure Plans and can including issues such as residential densities, location of commercial and industrial areas, retail strategies, location of community facilities, school sites, public open space and transport network details. While they can vary in scale they most often cover whole suburbs. They are generally prepared by local government in consultation with the Department for Planning and Infrastructure; and
- *Local Structure Plans* – providing specific detail on the proposed pattern of development and guidelines for rezoning, subdivision and development. Local Structure Plans include details of housing density, road layouts, pedestrian/cycle networks, public open space, school sites, physical infrastructure (utilities), community purpose sites and commercial centres. These plans are at a ‘neighbourhood’ scale of an area serviced by a single primary school (1,500 to 1,800 residential lots).

The WAPC oversees and approves these structure plans in association with the Minister for Planning and Infrastructure and local authorities.

Structure planning is particularly useful in areas of fragmented landholdings where a large number of landowners hold small land parcels or where there are significant development constraints.

According to the WAPC’s Planning Bulletin No. 37, structure plans may include details such as:

- (a) building envelopes;
- (b) distribution of land uses within a lot;
- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, finished site levels and drainage;
- (i) protection of sites of heritage, conservation or environmental significance;



- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the local government.<sup>54</sup>

The Committee notes that there is a potential to show specific community facilities as well as utility and transport infrastructure at the structure planning stage. The Department of Housing and Works includes this level of detail in the structure plans it is currently preparing. This provides an opportunity to present preliminary costing for the infrastructure required as a basis for agreements as to who is responsible for funding and constructing those requirements.

**(iii) *Outline Development Plans***

Outline Development Plans, also referred to as Comprehensive Plans of Development, are sometimes a requirement of Town Planning Schemes, but are not in themselves, statutory instruments. They are often prepared for urban release areas, generally referred to as residential development zones in Town Planning Schemes, prior to subdivision and development.

ODPs show a higher level of infrastructure detail than structure plans. In addition, they usually depict the lot layouts, major buildings such as shopping centres, public open space and landscaping improvements.

ODPs can also form the basis of developer contributions showing the appropriate cost-sharing of infrastructure between the various landholders affected. These typically depict the developer contribution schedules for cells or precincts accompanying the plan. They have no legal status, however, unless they are incorporated into a district or Town Planning Scheme, recommended by the WAPC and approved by the Minister for Planning and Infrastructure.

The Committee considers that local authorities need to ensure that any use of ODPs as the basis of developer contributions needs to conform to the WAPC's Planning Bulletin No. 18 before being incorporated into a statutory scheme.

**Finding 2**

Structure and Outline Development Plans are not currently being utilised to their full capacity as tools to coordinate the provision of infrastructure.

<sup>54</sup> WAPC Planning Bulletin No. 37, *Draft Model Text Provisions for Structure Plans*, February, 2000, Perth, Western Australia.

The Committee also noted that the WAPC provides a focus of planning resources and expertise required to deal with strategic planning issues. These resources are not available at the local authority level as pointed out by Dr Paul McLeod, Dean University of Western Australia Business School, as the land developers increase in size there is a need to provide a balance to the expertise and resources held by these larger developers:

*However, one notices around the place, certainly around Australia, and certainly overseas, that developers are getting bigger. Better developers are doing things on a scale that did not exist 30 or 40 years ago. Developers in Victoria are doing 25 000 houses. Some of those real estate agents will never leave the estate in their career. The development is almost bigger than the shire in which it sits in terms of financial flow and capacities. Sometimes it is clear that they negotiate with the State Government and bypass the local shire because they are so big. There are a couple in Queensland like that, particularly those done by Delpha Constructions. I have been involved in some planning recently in the north west corridor. There are really only six landowners between Brighton, Butler and Yanchep, and two of them account for 40 per cent of the land. It is not the old style developer of six, eight or 30 lots in an area. These people must lay out shopping centres and think about roads and railway lines. Undoubtedly, when you look around the country – this is certainly the case with developers I have spoken to – some shires are struggling to have the same level of resources available to deal with matters. On the other side of the development, and the same access to consultants and all the things necessary for the development.<sup>55</sup>*

## **(b) The Statutory Planning Process**

The statutory planning process involves three major steps of zoning, subdivision and development controls. Zoning is set out in Region Schemes, where applicable, and in local government Town Planning Schemes. The WAPC oversees the preparation of these schemes that are approved by the Minister for Planning and Infrastructure.

The WAPC is also responsible for all subdivision approvals in Western Australia. Development approvals are submitted and approved by local councils unless the development has State significance, in which case it is referred to the WAPC.

Subdivision of land is any division or amalgamation of land into a new land parcel. It also includes boundary realignments between two adjoining lots (such as may be required for widening a road).

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<sup>55</sup> McLeod Dr P., University of Western Australia Business School, Transcript of Evidence, 10 March 2004, p.5.

Development refers to a change in the land use and may include the erection, construction or alteration of any buildings or the excavation or other works taking place on any land. As an example, the erection of a mobile phone tower constitutes development and will require local authority approval. The WAPC is the approving authority for development proposals on land reserved under the Metropolitan Region Scheme, which includes land for public purposes, including hospitals, high schools, universities and airports, civic and cultural use, parks and recreation, railways, ports, state forests, water catchments, waterways and major roads. In addition, development proposals on any land that is declared as a 'Planning Control Area' or subject to a 'Clause 32' resolution pursuant to the *Town Planning and Development Act, 1928* also needs approval from the WAPC.

**(i) Statements of Planning Policy**

While the State Planning Strategy provides the strategic framework and direction for planning in Western Australia, the Statements of Planning Policy are statutory tools to help implement the Strategy. The SPPs are prepared by the WAPC pursuant to Section 5AA of the *Town Planning and Development Act, 1928* and generally apply to all land in Western Australia.

The key purpose of the State Planning Framework and SPPs is to:

*Inform the Commission, local government and others involved in the planning process on those aspects of State level planning policy which are to be taken into account, and given effect to, in order ensure integrated decision-making across all spheres of planning.*<sup>56</sup>

**(ii) Region Schemes**

The Metropolitan Region Scheme for Perth was established in 1963 as a result of the Stephenson-Hepburn strategic plan of 1955. The Scheme provides an ongoing mechanism for implementing strategic plans for land use in the Perth Region and assists in providing increased certainty for landowners affected by long-term planning proposals. The scheme establishes zones and reservations to guide land use and development at a regional level. Also, landowners affected by reservations of the scheme are provided with the opportunity to seek compensation.

In order to fund the acquisition of land reserved under the MRS and to pay compensation to affected landholders, a special levy was also introduced in 1959 – the Metropolitan Region Improvement Tax. This applies to all land in the Perth Metropolitan Region that is assessable for land tax. Land purchased under this system includes regional parks and reserves, land for major transport infrastructure (road and rail) and other special purposes.

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<sup>56</sup> Western Australian Planning Commission, *Statement Of Planning Policy No. 1, State Planning Framework Policy (Variation No.1)*, 30 May 2000, Special Gazette No. 1, Perth, Western Australia.

The Peel Region Scheme, the first Region Planning Scheme in Western Australia outside the metropolitan area, was passed on 20 March 2003. A Greater Bunbury Region Scheme is being developed. These build on from the success of the MRS in achieving long term planning controls to provide land for development and infrastructure requirements.

The key land zones and reserves of the MRS are:

<b>Zones</b>	<b>Reserves</b>
Urban	Parks & Recreation
Urban Deferred	Railways
Central City Area	Port Installation
Industrial	State Forests
Special Industrial	Water Catchments
Rural	Civic and Cultural
Private Recreational	Waterways
Rural – Water Protection	Regional Roads (Primary and Other)
	Public Purposes

### *(iii) Town Planning Schemes*

Local authorities are responsible for the initiation and five-yearly reviews of Town Planning Schemes. These control and guide land use and development in a district or town site. The schemes are otherwise known as District Zoning Schemes or Townsite Schemes.

The Schemes are reviewed by the WAPC and recommended to the Minister for Planning and Infrastructure for approval.

In areas where a Region Scheme exists, the Town Planning Scheme must be consistent with the Region Scheme. Town Planning Schemes generally show more detail than Region Schemes, including primary school sites, light industrial areas and local open space.

In addition to Town Planning Schemes, some local authorities have Guided Development Schemes. These help to indicate the nature and timing of infrastructure required to service the community.

**Finding 3**

There are a number of ways of establishing the infrastructure funding requirements for future subdivisions, including:

1. Guided Development Schemes;
2. Outline Development Plans;
3. Resumptive Town Planning Schemes;
4. Town Planning Schemes; and
5. Structure Plans.

**(iv) Subdivision Approvals**

The WAPC has a statutory role to assess all land subdivision applications and is the final approving authority for development applications. Accordingly, the WAPC is able to ensure that government policy is implemented in the subdivision and development of land.

The key stages in the subdivision assessment and approval processes are:

- Pre-lodgement;
- Discussion and negotiation;
- Determination;
- Reconsideration;
- Construction Approval;
- Occupation License; and
- Subdivision clearances.

While local authorities have no direct control over subdivision approvals, they can provide comment to the WAPC when it refers a subdivision application. In some

cases a subdivision also requires a rezoning under the Town Planning Scheme, which the local council does have a role in approving.

**Finding 4**

It is contrary to the *Town Planning and Development Act, 1928* for local authorities to use zoning controls to extract developer contributions. The most appropriate opportunity for local authorities to require developer contributions is at the development or subdivision application stage.

**Finding 5**

The centralised planning system in Western Australia provides the most efficient and effective delivery and coordination of infrastructure.

**(v) *Development Approval Process***

Development applications are lodged with and generally determined by local authorities. If the development has regional significance, then it is referred to the WAPC. Where a Region Scheme exists, the WAPC can 'call in' any development application it considers has regional significance. The WAPC then assumes responsibility as the approving authority for that application instead of the local authority.

Development approvals, also known as planning approvals, are generally required prior to the use, or change of use, of land or building. The primary means of controlling development in Western Australia is the Residential Planning Codes (R-Codes). The R-Codes are WAPC policy under section 5AA of the *Town Planning and Development Act, 1985*.

## **CHAPTER 4 LAND DEVELOPMENT AND INFRASTRUCTURE**

### **4.1 Land Developers in Western Australia**

Land in Western Australia is developed by a combination of government agencies, professional land developers, local government, small business and individuals. Of these the State Government is the most significant land developer, particularly through the Department of Housing and Works, LandCorp and the four Redevelopment Authorities. Through these organisations, the State Government is able to achieve social and economic benefits for the wider community that are not delivered by the private development industry.

Local authorities also undertake land development, particularly in smaller country towns. The Committee heard evidence that land development presents a significant challenge to a number of regional local authorities.

Although the State Government is the largest single land developer in Western Australia, private land developers develop most of the residential and commercial land. The private industry also plays a key role in joint ventures with the State Government to develop land. While the development industry acknowledges that developer contributions are valid, it also raised concerns about the need for greater certainty regarding development costs and standards.

#### **(a) State Government Land Developers**

##### **(i) *Department of Housing and Works***

The Department for Housing and Works has three major functions that relate to this Inquiry:

- Homeswest – providing approximately 40,000 dwellings for rental, particularly to low and moderate income households;
- Keystart Loan Schemes – providing more than \$500 million in home loan finance to low and moderate income households; and
- Landstart – covering the land development function of the organisation.

The Homeswest program provides affordable and secure rental housing by subsidising rental payments to no more than 25% of a household's income. Homeswest also assists people with special needs, including those with disabilities, Aboriginal people, youth and other low income groups. As well as directly providing rental properties,

Homeswest also provides interest-free loans for bond assistance, which allows people access to the private rental market while people wait on the list for public housing. Long-term tenants also receive assistance to purchase their rental home under the Goodstart home ownership scheme.

The Keystart program is aimed at helping Western Australian households with low and moderate incomes to purchase a dwelling. This helps people achieve the aspiration shared by 95% of the community who want to own their own home.<sup>57</sup>

Through its Landstart division, the DHW is Western Australia's largest single land developer:

*It produces between 2 500 and 3 000 lots a year and has done for probably the past 10 or 15 years, so it is responsible for about 20 or 25 per cent of the residential market in this State. It is the biggest land developer in this State.*<sup>58</sup>

The operations of Landstart take into account government responsibilities such as the provision of public housing and the demonstration of new standards of infrastructure to meet more stringent sustainability objectives.

One of Landstart's functions is to develop large greenfield land parcels as the urbanised Perth metropolitan area expands. Examples of this are Ellenbrook (10,500 lots), 33 km to the north-east of Perth, Butler (8,000 lots) on the coast 47 km north of Perth, and in the future, Amarillo (17,000 to 25,000 lots) about 50 km south of Perth.

Landstart also undertakes smaller land development infill projects as well as redevelopment projects under the New Living Program. This is an urban renewal program that refurbishes existing Homeswest properties and offers them for sale to existing tenants and members of the public.

The Landstart program has two major aims. First, it supports the public housing responsibility of the DHW by providing rental properties distributed throughout new subdivision areas. This relates to the new philosophy of merging public housing with owner-occupier and private rental housing. Another facet of this aim is that Landstart promotes affordable land for first homebuyers, which has the consequential benefit of reducing demand for public housing.

Secondly, the DHW aims to return a profit from its land development functions. The DHW will refrain from developing land that is not viable. One example of this is a 260-hectare parcel in Armadale that has been held by the DHW for 30 years, but the development costs are greater than the current market prices.<sup>59</sup>

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<sup>57</sup> Finding from the National Housing Strategy, as reported by Joyce, G., Department for Housing and Works, Transcript of Evidence, 7 April 2004, p.4.

<sup>58</sup> Joyce, G, Department for Housing and Works, Transcript of Evidence, 7 April 2004, p.2.

<sup>59</sup> *Ibid.*



One of the land development projects undertaken by Landstart is the Ellenbrook joint venture with Sanwa Property Group commenced in 1994. This development, when built-out, will include a total of 10,000 residential lots as well as commercial development to service the local community.

The Committee noted that leapfrog developments such as Ellenbrook, 10 kilometres from the existing urban front, involve significant up-front capital in order to extend utility and public services. Extensions to the water and sewerage trunk mains to service Ellenbrook were funded by the Water Corporation at a cost of \$20 million. A special agreement between Ellenbrook joint venture developers and the Water Corporation will enable this cost to be repaid through an increase to the Water Corporation's Standard Headworks Charge.<sup>60</sup>

More recently, the State has accelerated capital works for main roads to service the Ellenbrook subdivision. Again, the Ellenbrook joint venture developers have contributed one third of these funding requirements, but the State Government and local authorities have to fund the other two thirds of the capital costs.

As the Ellenbrook project has a total development timeframe of 12 years, it is atypical of the majority of land development projects undertaken in Perth. The Committee considers that one of the benefits of such projects is that developers tend to take a greater interest in the development of community infrastructure. This includes making voluntary contributions over and above the minimum standard required by regulations and developer contributions.

#### **Finding 6**

Leapfrog development generally requires extensions to major infrastructure, including major roads and utility networks. In the past, Government instrumentalities have absorbed or pre-funded many of these additional or accelerated these costs in their respective budgets.

#### **(ii) LandCorp**

LandCorp is the State Government's land and property development agency. Its principal areas of activity are:

- Providing sufficient industrial land to meet the State's economic needs;
- Providing major regional infrastructure developments;

<sup>60</sup> Perry, R., LWP Property Group, Transcript of Evidence, 5 April 2004.

- Disposing of surplus government land assets;
- Urban infill and renewal projects; and
- Consultancy services to government agencies.<sup>61</sup>

LandCorp operates under the *Western Australian Land Authority Act, 1992* and the *Western Australian Land Authority Amendment Act, 1998*, which require it to operate on a commercial basis, answer to a board of directors and pay rates and taxes in line with private sector operators. Profits made by LandCorp are paid as dividends to the State Government.

Under its enabling legislation, the functions of LandCorp are:

- (a) to be an agency through which the government provides or promotes the provision of land for the social and economic needs of the State;
- (b) to be an agency through which the Crown and public authorities may dispose of land;
- (c) to be an agency through which local governments and regional local governments may dispose of land in accordance with the *Local Government Act, 1995*;
- (d) to complete the development of the Joondalup Centre, in accordance with the plan referred to in section 18, on the land described in Schedule 2;
- (e) to identify other potential centres of population and centres of population in need of redevelopment, and use its powers to bring about the provision or improvement of infrastructure and facilities for the same; and
- (f) for the purposes of these functions to:
  - (i) acquire, hold, deal with and dispose of land; and
  - (ii) plan, undertake, provide for, promote and co-ordinate the development of land.<sup>62</sup>

One of the major benefits of a government-owned land developer such as LandCorp is that it is able to take on projects that private developers avoid due to the perceived

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<sup>61</sup> Principles identified on the LandCorp website. Available at <http://www.LandCorp.com.au/> (accessed 17 May 2004).

<sup>62</sup> Section 16 (1) *Western Australian Land Authority Amendment Act, 1998*.

commercial risks involved. Examples of this include industrial land development that involves long project lead-times and demonstration projects that involve new or higher standards of development than are the normal practice. Projects in this category include residential land developments that are considered more sustainable.

Harvest Lakes at Atwell, south of Perth is one of LandCorp's flagship urban renewal projects aimed at demonstrating leadership in ecologically sustainable development. It has demonstrated that the adoption of more sustainable practices in both land development and home building can still be commercially viable. It also has the support of the housing industry and conforms to the criteria of the Housing Industry Association's GreenSmart sustainable development program.

LandCorp is also managing a major redevelopment project in the Hope Valley – Wattleup area. This involves 900 hectares of land that was mixed rural and residential and transforming it into industrial land.

Another example of LandCorp undertaking land development that is not necessarily financially viable is the Townsite Development Program, which operates in more than 100 of the smaller country towns in Western Australia. LandCorp's Internet website states the aim and operation of this program:

*The program aims to provide sufficient land to stimulate social and economic growth to these areas – creating job opportunities and attracting new residents and tourists.*

*LandCorp works with local councils, regional development commissions and local selling agents to achieve the best possible outcomes for regional towns, guaranteeing future development.<sup>63</sup>*

The Committee noted that a number of the regional local councils are very concerned about high infrastructure costs and low land values impeding development in regional towns. While LandCorp's Townsite Development Program assists with addressing these development constraints, some local authorities undertake their own land development to promote employment and population growth.

### **(iii) Redevelopment Authorities**

Redevelopment authorities have been particularly successful in transforming areas of industrial land in the Subiaco, East Perth and Midland localities. Another recently established Authority operates in the Armadale area.

The Redevelopment Authorities act on behalf of the State Government to facilitate redevelopment through planning, consultation and project management. Government

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<sup>63</sup>Further information on LandCorp's Townsite Development Program is available at <http://www.LandCorp.com.au> (accessed 28 June 2004).

provides the seed capital in order to undertake planning, infrastructure, subdivision and development.

A key benefit of using Redevelopment Authorities is that they have the powers of the State in regard to land rights, resumption, planning and infrastructure provision.

The Redevelopment Authorities that operate in Perth have control over zoning by repealing the relevant Town Planning Scheme and the Metropolitan Region Scheme within the redevelopment area. This effectively makes the Redevelopment Authority the statutory zoning and approval body for all development within the prescribed area.

While the powers of resumption have not been used often by the Redevelopment Authorities active in Perth, they have been important in acquiring land from private landholders who were not interested or active in developing their land.

#### **Finding 7**

The powers of the State to zone, resume and approve development of land are critical to the coordinated redevelopment of sizeable infill areas with diffuse ownership and land use.

The East Perth and Subiaco projects were initiated in the early 1990s as part of the 'Building Better Cities' program. These projects focused on the regeneration of inner city areas close to the Perth CBD. The Midland and Armadale projects commenced nearly a decade later and represent a focus of revitalising strategic town centres and their communities.

The use of the Redevelopment Authority model is likely to be repeated and evolve for several reasons:

- The success of the Redevelopment Authority models in achieving positive social, environmental and financial returns;
- A State Government commitment to urban sustainability and concerns about the long-term effects of continued urban sprawl;
- Inherent complexities of redevelopment including dealing with fragmented land holdings in multiple ownership, community concerns and environmental issues;
- The powers of a statutory authority to promote the efficient redevelopment of land; and

- Concern within the current Government over the better utilisation of existing urban infrastructure in preference to developing new infrastructure on or beyond the urban front.

Redevelopment Authorities operate in various forms across Australia, as pointed out by Mr Tony Morgan, Chief Executive Officer of the East Perth Redevelopment Authority:

*Whether in New South Wales with the Sydney Harbour Foreshore Authority, Melbourne with the Melbourne Docklands, Newcastle with the Honeysuckle Development Corporation or Brisbane with South Bank, those vehicles – I think that a dozen are in action around Australia at the moment – are important. However, it is not the right vehicle for every occasion. I have some background working with LandCorp, and the public sector through a LandCorp-type vehicle has a role, particularly in some of those greenfields locations. However, we all know now that the private sector is getting better at the game.<sup>64</sup>*

### **Finding 8**

The Redevelopment Authority model may be tailored to the specific needs of a development area and utilise the combined expertise of the Government and the private land development industry to achieve positive outcomes.

#### **(iv) East Perth Redevelopment Authority**

The East Perth Redevelopment Authority is responsible for undertaking, promoting and coordinating the redevelopment of 146 hectares of inner city land in East Perth. It was established under *East Perth Redevelopment Authority Act, 1991*, which defines its functions and the area over which it operates.

The *East Perth Redevelopment Authority Act, 1991* enables EPRA's Board of Directors to establish its purpose and vision. The Board has defined EPRA's purposes to be:

*to utilise its special powers to plan, coordinate and undertake the urban renewal of specified land on behalf of the Western Australian Government.*

The Board has defined EPRA's vision as:

<sup>64</sup> Morgan, A., East Perth Redevelopment Authority, Transcript of Evidence, 7 April 2004, p.9.

*to be the leading urban renewal authority in Western Australia by using our special expertise to deliver outstanding and successful projects that build better living communities.*<sup>65</sup>

The Committee noted that while the EPRA planning scheme has a provision for developer contributions, these have been waived to date. As advised by Mr Tony Morgan:

*In East Perth there has been a five-year holiday from the planning scheme application provisions. Much of the landholdings in EPRA was in government ownership and those provisions have never really been enforced, because the private developments were relatively small, and after the expiry of the five-year holiday in 1997, that principle continued and EPRA has never really recovered any development contributions...*

*For the redevelopment authority it is a balance between getting people to pay contributions, and giving them encouragement to come into the project and invest to create jobs and all the other things that happen with the project.*<sup>66</sup>

EPRA has recently assumed responsibility for the Northbridge project (28 hectares) and the Perth Eastern Gateway project (40 hectares) near the Causeway at the eastern boundary of Perth city. While the Gateway is still in its early stages, it may involve some features pertinent to this Inquiry, including developer contributions to infrastructure and the common use of private facilities. These aspects were stated to the Committee by Mr Tony Morgan:

*Because of the ownership make up there – there is a lot of private ownership, there is Gloucester Park, the WACA and the City of Perth holdings – we will apply the development contribution there. So we will review the basis of that contribution in terms of the scheme, but we will certainly apply that development contribution and draw money from the City of Perth, Gloucester Park, the WACA and other players to make sure that the financials work for that project...*

*In the Gateway [Perth Eastern Gateway] project we see the need for increased development activity to provide for community facilities. The gateway entrance to Gloucester Park and the TAFE building is forming a community hub. For it to thrive and support the community, we need most probably to regenerate those buildings, while protecting heritage, to get some use out of them. I think the developer contributions in the Gateway project, which is an extension of East Perth to the Causeway, mean that there is a need to review the scoping procedure and how we can use that contribution scheme to support that program. However, with Trinity College's support – and it is very supportive – we are very keen to ensure that its facilities, such*

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<sup>65</sup> Available from the East Perth Redevelopment Authority website at <http://www.epra.wa.gov.au/epra/> (accessed 17 May 2004).

<sup>66</sup> Morgan, A., Transcript of Evidence, 7 April 2004, pp.3-6.

*as its sports hall and swimming pool, become facilities for all the people in that gateway area. Given its sports program and its new swimming pool, there are many weekends and after-hour periods when the community can use the swimming pool. In saying that all these things can be passed to the development, it is certainly not the case I am putting forward. I am saying that we need to do the smart things, but we also need to do the even smarter things to see how we can get better use out of infrastructure in inner city areas.*<sup>67</sup>

(v) ***Subiaco Redevelopment Authority***

The Subiaco Redevelopment Authority was established under the *Subiaco Redevelopment Authority Act, 1994* and has involved significant infrastructure expenditure to redevelop an industrial site into high-value residential and commercial land. This is significant to this Inquiry as it is an example of the successful application of developer contributions to fund infrastructure improvements.

The major infrastructure improvements in Subiaco included:

- Land remediation;
- Placing the railway line and a new railway station underground (at a cost of approximately \$38 million); and
- Road extensions.

The SRA absorbed the costs of placing the rail line and the new station underground, but the costs of extending the roads around the redevelopment area are being passed on to the landholders through developer contributions. The contribution mechanism implemented by the SRA accounts for the fact that some landholders benefit more than others for the various infrastructure improvements. Within the redevelopment area there are five separate contribution areas, each involving specific infrastructure works. The contribution rate varies from \$22 per square metre of land area in two of the five areas, through to \$47 per square metre in the most extensively improved contribution area.

The development industry has recognised the success of the Subiaco redevelopment. The Urban Development Institute of Australia awarded the 2004 Urban Renewal Award to the Subiaco Redevelopment Authority stating that:

*The Subiaco Redevelopment Project is an outstanding solution to both residential and commercial considerations. Its transformation from an industrial site to a development that works well with its existing surrounds has created a very desirable location across a range of market sectors.*

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<sup>67</sup> *Ibid*, pp.4-7.

*(Judges Citation) A major urban renewal by any measure encompassing townhouses, apartments, parkland, commercial office, retail shopping, home office, service industry and public transport, Subiaco Redevelopment Project is a very impressive example of urban renewal.*

*A wide range of government departments and authorities, together with numerous consultants and professional disciplines, have been coordinated by the Subiaco Redevelopment Authority to produce an integrated result equal to any of its peers and endorsed overwhelmingly by market support.*

*A neglected area of Perth's suburbia has been transformed brilliantly into a renewed urban environment.<sup>68</sup>*

The financial success of the Subiaco redevelopment in increasing the value of land was stressed to the Committee by Mr Mark Hedges, Executive Director, Place Creation, for the East Perth Redevelopment Authority:

*The planning scheme changed those uses from light industrial to residential and there was an immediate eight times increase in land value. Now, nine years later, it is tracking more like a 15 times increase in land value. It has gone from \$100 a square metre light industrial to about \$1 500 a square metre residential. That has led to the private sector interest in this area and people examining whether they wish to stay in the area or capitalise on the upgraded land value under the planning scheme.<sup>69</sup>*

**(vi) Midland Redevelopment Authority**

The Midland Redevelopment Authority was established in 2000, under the *Midland Redevelopment Authority Act, 1999*. It covers two major land parcels comprising 256 hectares. The first parcel to be developed comprises 145 hectares including the sites of the former Midland Railway workshop and the WA Meat Industry Authority. The other parcel of 111 hectares in Woodbridge on the banks of the Swan River will be developed at a later stage.

As well as the significantly larger land area covered by the MRA, another feature that distinguishes it from the EPRA and SRA redevelopment areas is the greater focus on business and commercial park development rather than residential use.

**(vii) Armadale Redevelopment Authority**

The Armadale Redevelopment Authority was established by the *Armadale Redevelopment Act, 2001*. This legislation empowers the ARA to deliver economic

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<sup>68</sup> As appears on the Urban Development Institute of Australia's website, available at [http://www.udia.com.au/html/udia\\_national\\_awards\\_for\\_excellence\\_2004.htm](http://www.udia.com.au/html/udia_national_awards_for_excellence_2004.htm) (accessed 18 May 2004)

<sup>69</sup> Hedges, M., East Perth Redevelopment Authority, Transcript of Evidence, 7 April 2004, p.3.



and social development by exercising planning and development controls over specified areas.

The responsibility to deliver social and economic benefits in particular are highlighted in the stated functions of the ARA:

- *plan, undertake, promote and coordinate the development and redevelopment of land in the redevelopment area;*
- *prepare and keep under review a redevelopment scheme for that area;*
- *control developments in that area;*
- *identify opportunities for investment in Armadale and to encourage that investment;*
- *identify opportunities for the provision of facilities and programmes to support and enhance community life in Armadale, and to encourage the provision of those facilities and programmes;*
- *facilitate and encourage the provision of diversified employment opportunities in Armadale;*
- *identify infrastructure services necessary to promote economic and social development in Armadale, and to encourage the provision of those services;*
- *facilitate coordination between relevant statutory bodies and State government agencies for the purpose of promoting economic and social development in Armadale;*
- *provide information and advice for the purpose of promoting economic and social development in Armadale; and*
- *generally to take steps to encourage, promote, facilitate and monitor economic and social development in Armadale.*<sup>70</sup>

### **Finding 9**

The Redevelopment Authority model will become more important as the land development focus shifts from urban expansion to redevelopment of existing suburbs.

<sup>70</sup> Available at <http://www.LandCorp.com.au/> (accessed 18 May 2004). Also refer to Sections 15 and 16 of the *Armadale Redevelopment Authority Act, 2001*.

## (b) Local Authorities as Land Developers

Local authorities also act as land developers in cases where land held by the authority is no longer required for its existing use, and in country areas where private developers are reluctant to take on the relatively higher risks of land development. In some of the smaller regional towns, land cannot be developed and sold at a profit and the local authority takes on the land development at a loss in order to increase its local population and employment.

The Committee heard evidence that a number of rural shires are developing land and selling it at a loss. The cost of extending roads, sewerage, water and power are particularly prohibitive in many of the smaller towns due to the poor economies of scale that are possible. As noted by Mr Peter Duncan, Manager Planning and Development for the Shire of Denmark:

*The growth rate and lot take-up in small country towns is much slower than in metropolitan Perth. The high infrastructure costs and headwork charges for water, power, sewerage etc mean that the developer – whether it be LandCorp or a private developer – must to carry that factor for a lot longer. He will not sell 100 lots on day one; he will sell one lot in the first month and a couple of lots in the second month. The smaller towns are feeling the pinch in that area. The Water Corporation charges a fairly standard fee for headworks on a statewide basis. There needs to be some flexibility in the way government agencies set their headwork charges. If the charges were more flexible, it would effectively mean that the Perth metro region would subsidise smaller country towns. I do not know whether that is possible...*

*The difficulty is the rate of the take-up of lots. We are looking at structure planning in the small settlement of Peaceful Bay and Nornalup. A big factor is how quickly the lots will sell and the standard costs and charges that apply in those areas. The real estate fraternity is basically saying that it will not sell 100 lots on day one to recover that heavy cost. That is the difference. We are not saying that the developments should not be based on cost recovery. However, a system must be implemented whereby small towns are given some encouragement to develop and grow and take the pressure off the larger centres, such as Denmark. We are trying to encourage villages to grow within the rural districts, but the biggest problem is getting the development to physically happen. No single large developer is going to release a subdivision of 300 lots. A landowner will release a subdivision of 10 lots. Spreading the costs over 10 lots does not work.<sup>71</sup>*

Regional towns also face the problem of leapfrog development and a form of ‘semi-rural’ sprawl. As the charges levied by the utilities to provide water, sewerage and electricity are based on actual site specific costs, some areas can be developed at a

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<sup>71</sup> Duncan, P., Shire of Denmark, Transcript of Evidence, 22 March 2004, p.8.

lower cost than others. As pointed out by Mr Robert Stewart, Chief Executive Officer for the Shire of Plantagenet:

*We believe that the present system for the charging of headworks costs by government utilities is not only counterproductive, but also encourages ill-advised development. We presume and hope that this is an inadvertent result and should not be further encouraged. The Shire of Plantagenet would prefer to encourage subdivision activity of residential land within existing town sites where normal amenities such as roads, schools, shops etc are readily available.*

One of the factors that may contribute to this is the State's sewerage policy, which provides that lots of less than 2,000 square metres should have reticulated sewerage where available. Developments with lot sizes greater than 2,000 square metres are generally exempt from this requirement and can therefore avoid the usually significant costs associated with reticulated sewerage.

In the Committee's view, there is a limit to the extent to which governments should intervene in the choices made by the public in terms of where they choose to purchase land for housing.

In some of the smaller country towns, poor demand means that land prices do not include the infrastructure costs. One example is Cranbrook, 40 kilometres from Mount Barker. The current price of residential lots is between \$20,000 and \$30,000. However, as pointed out by Mr Graham Stanley, Chief Executive Officer of the Shire of Cranbrook, serviced vacant lots can be purchased at much lower prices:

*By way of example, the Shire of Cranbrook purchased a lot of land in the Cranbrook town site on which a company is building two units. It cost us about \$5 500.*

*It is fronted by a sealed road and has sewerage and power.<sup>72</sup>*

At the same time, infrastructure costs for land development in Cranbrook are around \$30,000 for a property owned by the council. As pointed out by Mr Nick Burges, the Shire's President:

*We also have a property with headworks in a small development of four two-hectare lots. I believe the cost is quoted at \$30 000 per lot, although I do not have the figures with me. Power runs through that block and water runs alongside on the road. We cannot see why \$30 000 should be charged.<sup>73</sup>*

A similar example in the town of Mount Barker involved a property purchased for \$87,000 in 1997 that was proposed for a four lot residential subdivision. The figures

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<sup>72</sup> Stanley, G., Shire of Cranbrook, Transcript of Evidence, 22 March 2004, p.19.

<sup>73</sup> Burges, N., Shire of Cranbrook, Transcript of Evidence, 22 March 2004, p.20.

in Table 4.1 provided by Mr Robert Stewart, Chief Executive Officer of the Shire of Plantagenet show this could not be developed viably.

**Table 4.1 Development Costs Example for Mount Barker**

<b>Type of Cost</b>	<b>\$</b>	<b>\$</b>
Land purchase price (1997)		\$ 87,000
Water Corporation infrastructure and charges	\$ 15,300	
Western Power infrastructure and charges	\$13,300	
Site Works	\$ 11,351	
Surveyors fees	\$ 2,200	
<b>Total Development Costs</b>		<b>\$ 42,151</b>
Miscellaneous Costs		\$ 8,000
<b>Total Land and Development Costs</b>		<b>\$137,151</b>
<b>Estimated Gross Sale Proceeds</b>		<b>\$131,000</b>
Estimated Loss on Development		\$ 6,151

Examples like this indicate that the undeveloped land was not worth the \$87,000 purchase price. The concern that local authorities have, which is shared by many other developers, is understanding with greater certainty what the development costs will be for a particular parcel of land before it is purchased.

The Committee agrees that the lack of demand for residential lots in some country towns means that land development is often not viable.

#### **Finding 10**

Some local authorities in regional areas act as land developers in order to stimulate population and employment growth. However, development costs can exceed the price that land purchasers are willing to pay.

**Finding 11**

Regional land development could benefit from accurate and transparent costing for infrastructure.

**(c) Private Land Developers**

The land development industry in Australia has consolidated over the past decade and the trend is for fewer but larger developers to undertake long-term projects. This creates an issue as to the relative negotiation power between the planning and approval authority and the developer. As stated to the Committee by Dr Paul McLeod, Dean of the University of Western Australia Business School:

*... one notices around the place, certainly around Australia, and certainly overseas, that developers are getting bigger. Better developers are doing things on a scale that did not exist 30 or 40 years ago. Developers in Victoria are doing 25 000 houses. Some of those real estate agents will never leave the estate in their career. The development is almost bigger than the shire in which it sits in terms of financial flow and capacities. Sometimes it is clear that they negotiate with the State Government and bypass the local shire because they are so big. There are a couple in Queensland like that, particularly those done by Delpha [Delphin] Constructions. I have been involved in some planning recently in the north west corridor. There are really only six landowners between Brighton, Butler and Yanchep, and two of them account for 40 per cent of the land. It is not the old style developer of six, eight or 30 lots in an area. These people must lay out shopping centres and think about roads and railway lines. Undoubtedly, when you look around the country – this is certainly the case with developers I have spoken to – some shires are struggling to have the same level of resources available to deal with matters on the other side of the development, and the same access to consultants and all the things necessary for the development.*

In Western Australia, some of the largest private land developers include:

- Australand Holdings Ltd;
- Caversham Property Pty Ltd;
- Ellenbrook Management Pty Ltd;
- Peet & Co Ltd;
- Satterley;

- 
- Stockland WA;
  - Mirvac Fini;
  - Multiplex;
  - Urban Pacific; and
  - Yanchep Sun City Pty Ltd.

Each of these companies plans to develop more than 1,000 residential lots from 2004 to 2009. Some of these companies are operating in joint ventures with government land development agencies, particularly through the Landstart program and LandCorp.

Private property developers are represented by a number of professional bodies, including:

- Housing Industry of Australia;
- Property Council of Australia;
- Real Estate Institute of Australia; and
- Urban Development Institute of Australia.

## **4.2 Major Infrastructure Providers**

Urban infrastructure is provided by a range of organisations, including the three levels of government in Australia and the private sector. The general responsibilities for providing infrastructure are set out in Table 4.2. This also indicates areas of shared responsibility.

**Table 4.2 Responsibility for Providing Infrastructure**

<b>Responsible Body</b>	<b>Economic Infrastructure</b>	<b>Social Infrastructure</b>
Australian Commonwealth Government	Aviation Services (air navigation, etc) Telecommunications Postal Services National roads (shared with State Government) Local roads (shared with local government) Railways (shared with State Government)	Tertiary education Public housing (shared with State Government) Health facilities (shared with State Government)
Western Australian Government	Aviation Services (regional air services and facilities) National roads (shared with Australian Government) Local roads (shared with local government) Railways (shared with Australian Government) Ports and sea navigation Electricity supply Dams, water and sewerage systems Public transport (train, bus)	Educational institutions (primary, secondary and technical) (shared with Australian Government) Childcare facilities (shared with local government) Community health services (base hospitals, small district hospitals and nursing homes) (shared with Australian Government) Public housing (shared with Australian Government) Sport, recreation and cultural facilities (shared with local government) Libraries (shared with local government) Public order and safety (courts, police stations, traffic signals, etc)
Local Government	Roads (local) Sewerage treatment (In Western Australia this applies to some regional local authorities only) Drainage (some local authorities only) Aviation (regional airports and airstrips – shared with State Government) Electricity supply (not applicable in Western Australia)	Childcare facilities (shared with local government) Sport and recreation facilities, parks and open space (shared with State government) Tourist facilities (shared with State government) Libraries (shared with State government) Community centres and nursing homes

Responsible Body	Economic Infrastructure	Social Infrastructure
Private Infrastructure Providers	Gas distribution and reticulation (Alinta Gas) Tollways (not applicable in Western Australia)	Childcare centres Private schools Welfare agencies Nursing homes
Land Developers	Roads within a subdivision Reticulation of utilities	Land for Public Open Space Land for Primary Schools

### (a) Commonwealth Government Infrastructure Providers

The Commonwealth Government has responsibility for telecommunications and postal infrastructure under the Australian Constitution. In addition, section 96 of the Constitution provides for the Commonwealth to assist State/Territory and local governments with funding to provide specific infrastructure.

The Commonwealth Government also provides key economic infrastructure that is of national importance. In terms of urban infrastructure and developer contributions, however, the two most important Commonwealth infrastructure providers are Telstra and Australia Post.

#### (i) *Telstra*

Telstra is Australia's principal telecommunications provider, and is currently 51% owned by the Commonwealth Government. Its operations are subject to the *Telecommunications Act, 1997*, which places specific functions on the organisation to support government policy.

One example of this is that Telstra is the primary universal service provider responsible for ensuring "that all people in Australia, no matter where they live or conduct business, have reasonable access, on an equitable basis, to standard telephone services and payphones".<sup>74</sup> As well as fulfilling these public responsibilities, Telstra functions on commercial principles as a commitment to the National Competition Policy.

Specific figures on the cost of Telstra's infrastructure are protected by commercial confidentiality. Developers generally pay the cost of installation of telecommunications cabling within a subdivision as part of the common trenching with other utilities such as electricity and gas.

<sup>74</sup>Universal Service Obligation, available at <http://www.telstra.com.au/universalservice/index.htm?tR=3at> (current at 30 June 2004).



**(ii) *Australia Post***

The Australian Constitution also makes the Commonwealth Government responsible for providing postal services. This function is the responsibility of Australia Post.

Australia Post absorbs the cost of providing all urban infrastructure. The cost to provide these services is relatively low per residential lot. While these costs were not determined as part of this Inquiry, research conducted for the Industry Commission in the mid 1990s put the unit cost at \$67 (inflated to 2004 prices) per residential lot.

**(b) *State Government Infrastructure Providers***

**(i) *Western Australian Treasury Corporation***

The Western Australian Treasury Corporation does not directly provide infrastructure or instigate infrastructure planning. However, it has a central role in assessing major infrastructure proposals and is responsible for fiscal management of State revenues and expenditures.

The model used by the WATC for assessing the benefits of specific capital expenditure projects uses the *Better Planning: Better Services – A Strategic Planning Framework for the Western Australian Public Sector* document released in November 2003.<sup>75</sup>

**(ii) *Department for Planning and Infrastructure***

The Department for Planning and Infrastructure is responsible for the planning and coordination, but not the provision, of urban services. It is the only government department in the Planning and Infrastructure portfolio. As such, its primary role is in developing and implementing government policy and planning for the State.

Apart from owning and operating some specific facilities, including the Hillarys Boat Harbour and the Barrack Street Jetty, it does not directly provide urban services. It does, however, play a key role in coordinating infrastructure provided by government entities and private industry in accordance with government priorities and policies.

**(iii) *Main Roads WA***

Main Roads WA is the statutory authority responsible for providing and maintaining the State's network of freeways, highways and main roads.

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<sup>75</sup> Available at <http://www.dpc.wa.gov.au/psmd/pubs/psrd/spfnov2.pdf> (accessed 24 May 2004); and Government of Western Australia, *Budget: Reader's Guide to the 2004-05 Budget Statements*, Perth, May 2004.

MRWA does not normally collect developer contributions to fund roads under its control. Two forms of contributions that do occur towards roads managed by MRWA are the ceding of land and voluntary contributions by developers to bring forward construction of major roads.

In the case of some large land holdings, the WAPC has requested that the landholder cede land to the Government for major roads including freeway and highway reservations.

As an example of contributions towards the construction of roads, the developers of the Ellenbrook subdivision voluntarily offered to contribute to the capital costs of major roads:

*... we needed to access Perth's ring-road system, so we put forward a proposition to government whereby we would contribute \$3 million, of which \$1 million would be to upgrade Lord Street, which goes down the eastern side of Whiteman Park, and \$2 million would go into the next leg of Reid Highway connecting Tonkin Highway to West Swan Road, if the Government came forward with its contribution on that. That effectively meant \$3 million to bring forward those roadworks.<sup>76</sup>*

**(iv) Public Transport Authority**

The Public Transport Authority is responsible for building and operating the State's public transport network including rail, bus and regional coach services. Similar to the situation with major roads, there are not usually developer contributions for public transport. However, the ceding of land and voluntary contributions have been made for public transport.

Once again, the Ellenbrook developers provided a voluntary contribution to fund the operational costs of bus services to the subdivision for a three-year period until a service was justified by the resident population.

**(v) Water Corporation**

The Water Corporation has significant influence over urban development, due primarily to the high cost of sewerage and water infrastructure and the need to install significant parts of these networks before land development can commence.

One of the ways the Water Corporation affects development is by requiring developers to pre-fund water and sewerage headworks if the development is beyond the existing urban front. To assist developers, these fronts are published in the WAPC's Metropolitan Development Program: Land Release Plan. This Plan shows the areas where land developers intend to develop land within a five-year horizon.

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<sup>76</sup> Perry, R., LWP Property Group, Transcript of Evidence, 5 April 2004, p.6.

The MDP also incorporates the Water Corporation's headworks pre-funding boundaries for water and wastewater infrastructure. Water and sewerage infrastructure required to enable developments outside this boundary have to be pre-funded by the land developer. This is part of the Water Corporation's policies to ensure that development risk remains with developers by:

- Requiring developers to construct non-frontal major works which will only be repaid if developments in the area meet appropriate targets. This ensures the cost of advancing works out of sequence is borne by the developer; and
- Requiring developers with remote developments to fund all minor works and usually, most of the local major works.<sup>77</sup>

Land inside the headworks pre-funding boundary is either already serviced or is programmed in the Water Corporation's budget.

This mechanism is claimed to be the most effective control over urban growth in Perth. It provides strong financial incentives to develop land in a sequential manner, which provides benefits to State and local government by allowing more focused spending on infrastructure and community services. As pointed out by Mr Gary Meinck, General Manager Policy for the Water Corporation:

*... we encourage by our pricing mechanism a continuous frontal development, which is the best for the community. It is not just water and waste water; it is for roads and schools – all that infrastructure that comes with development. If people want to leapfrog, we have arrangements by which they can have the opportunity to pay up front and they get paid back on the basis of how quickly they develop the lots; in other words, we hold them to their predictions, because very often developers can be optimistic.<sup>78</sup>*

A claim was put to the Committee that the Water Corporation has had the most control of any government instrumentality over where urban development occurs, particularly in the case of major developments beyond the existing urban front:

*Ellenbrook brought specific challenges because it was 10 kilometres from the urban front and because of Whiteman Park, amongst other things and the Gnangara water mound. At that stage, the Water Authority was the main instrumentality directing growth through its funding policies. Particularly with Ellenbrook, it took the view that it was non-frontal and therefore the developer should pay for the capital cost of water and sewerage. It was about \$20 million up-front to take the services across Gnangara Road to Ellenbrook.<sup>79</sup>*

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<sup>77</sup> Water Corporation, Written Submission, pp.2-3.

<sup>78</sup> Meinck, G., Water Corporation, Transcript of Evidence, 5 April 2004, pp.20-21.

<sup>79</sup> Murphy, D., LWP Property Group, Transcript of Evidence, 5 April 2004, p.3.

The Committee notes that no other government agency or local authority seems to have a financial mechanism to direct land development in a sequential and orderly manner. At the same time, Ellenbrook is an example where the Water Corporation has facilitated significant leapfrog development by providing and funding the necessary infrastructure.

The Ellenbrook subdivision is an atypical case where the Water Corporation took on a development risk by funding major works at a cost of \$20 million necessary to provide reticulated sewerage and water to the suburb. As the Ellenbrook subdivision is outside the Water Corporation's headworks contribution area, this cost would normally have been the responsibility of the developer.

A special agreement was made with the developer to repay the \$20 million in funding over the life of the development on the basis of an additional charge per lot. The Committee notes, however, that by funding the works necessary to facilitate the leapfrog development of Ellenbrook, the other State Government agencies have been placed under additional pressures to fund roads, schools and other services that could otherwise have been met largely by utilising the existing infrastructure elsewhere in Perth.

**Finding 12**

The Water Corporation pre-funding headworks front is the primary financial mechanism to ensure sequential urban development and inhibit 'leapfrog' land development. While this works well in most cases, the Ellenbrook subdivision is an example of leapfrog development that was facilitated by the Water Corporation funding major works out of sequence.

The responsibilities for funding Water Corporation infrastructure are shown in Table 4.3. This depicts the types of infrastructure funded and the different funding methods.

**Table 4.3 Water Corporation Infrastructure Provision and Funding**

Infrastructure Classification	Description	Responsibility for Providing
<b>Major Works</b>	<p>Regional infrastructure such as:</p> <p><u>Water</u> - dams, catchments, reservoirs, bores, water treatment plants and major water distribution mains;</p> <p><u>Wastewater</u> – wastewater treatment plants, pumping stations, rising mains and sewer collector mains;</p> <p><u>Drainage</u> – main drains and compensation basins; and</p> <p><u>Other</u> – depots and offices.</p> <p>These are commonly referred to as ‘headworks’ by the Water Corporation and the development industry.</p>	<p>Developers contribute 40% of the total capital costs of water, sewerage and drainage major works through ‘Standard Headworks Charges’.</p> <p>If the development occurs <i>within</i> the Water Corporation’s headworks front then, the remaining 60% cost is funded by the Water Corporation and recouped over time from annual service and usage charges.</p> <p>However, if the development occurs outside of the headworks development front, then the developer has to pre-fund the remaining 60% of the headworks costs. The Water Corporation then repays the developer within a 10-year period (see text).</p>
<b>Minor Works</b>	Local works required to connect a property to the major works for a scheme. These are typically water and wastewater reticulation.	Developers fund and provide the minor works required for a development and give them over to the Water Corporation to maintain.
<b>Private Works</b>	Servicing components within a land owner’s property which begin at the connection point to the Water Corporation’s scheme.	Land owner is responsible for funding, providing and maintaining these works. These are generally incorporated into building costs.

The Water Corporation currently levies ‘Standard Headworks Charges’ on the basis that land developers should meet 40% of the cost of building the major water and sewerage infrastructure that is required to service a subdivision.

The remaining 60% of the cost of major works is recovered from householders as a component of annual service charges and volume charges. Importantly, there is no “tax” element to the headworks charges, although there may be some dispute as to how much should be recovered through up-front fees, payable by the developer, and how much through the annual service charges, payable by the homeowner.

A challenge in calculating the amount of headworks charges is the issue of how to attribute the impact of a new development on the demand for infrastructure (such as

dams, catchments and treatment plants) that is substantially constructed in advance, sometimes by many years, of expected demand.

In this regard, the Water Corporation's underlying approach is to derive a total replacement value for all existing headworks infrastructure and divide this value by the total number of residential units serviced by its network. This average existing cost is then assumed to apply to each new residential lot in a subdivision.

For a standard residential lot, the Standard Headworks Charges as at June 2004 were:

- Water           \$2,859 per normal single residential lot (450m<sup>2</sup> or more);
- Wastewater   \$1,426 per normal single residential lot (450m<sup>2</sup> or more); and
- Drainage       \$5,445 per hectare.

Where developments occur beyond the existing headworks front for water and sewerage services, additional headworks contributions may be applied by the implementation of Special Developer Contribution Areas, or alternatively, the developer may pre-fund all of the cost of the required headworks infrastructure. This approach reflects the principle that developers should accept the risk and cost of advancing the timing of the provision of infrastructure. Currently in the Perth metropolitan region, there are two main Special Developer Contribution Areas – in the North West and North East Corridors – involving additional headwork charges of approximately \$3,000 per lot.

Where developers pre-fund all of the cost of any required headworks infrastructure, the Water Corporation will refund the cost to the developer after an agreed period, which is generally a maximum of 10 years.

One of the issues brought to the attention of the Committee was that a land developer was required to pay the Standard Headworks Charge before the actual headworks had been built. In addition, the unsold vacant lots were liable for annual sewerage rates. As stated by Mr Graeme Robertson, Managing Director of RC Developments:

*The western moiety of Walpole was owned by the State and was called Boronia Ridge. It was 37 hectares of land. DOLA started to subdivide it. Thirty years ago it was zoned R10. A subdivision plan was done at that stage on a basic grid pattern, which was the thing of the day. DOLA did the first 20-odd lots. When DOLA discovered that the green movement was caning it, it decided it might not be a bad idea to get a private developer to come in and cop the flak. At the time there was no sewerage in Walpole and it did not look like there was ever going to be any, so we did the design so that we could use ATUs. There was scheme water but no sewerage. .... Unfortunately for us we got to the point at which we were ready to roll with stage 1 and the infill sewerage program came along. We were told that there would be a sewer condition on it immediately .... We were about to move into this and we had*

*let the contracts. The question we first put was: when is the sewerage treatment plant coming in? I was told, "It will be there by the time the first house is built, so you do not have to worry about it Mr Robertson. You take your main to the hot side of Highway 1 and it will all be taken care of." So we proceeded. Of course, to sign off on any subdivision you have to get each authority to sign off. The water authority had by this stage discovered that it was up against the same green movement, which was trying desperately to stop the sewerage treatment plant from being built on the basis that it would stop the world going around. They managed to do that quite adequately for three years. The water authority then said, "Well, Robertson, in that case if you want your clearances, you have to put up a \$420 000 bond right now and \$120 000 of that will be towards carting your sewage in trucks somewhere." The Denmark shire would not take it but the Albany shire would, so we were then stuck carting sewage across three shires to get rid of it. It is an expensive process. The difficulty was exacerbated by the fact that we had already paid headworks for a sewerage treatment plant that was not there. We had acted in good faith. We were now paying for the cartage of the sewage from the people who had shifted in first up, and we were also being charged sewerage rates on our vacant blocks. Talk about a double whammy! I went to the various ministers concerned and to the water authority. The water authority obviously has a very unlevel playing field; all the good bits are down its end. It decided that it did not want to set a precedent, so we just had to suffer. In the end I said that we would not pay these rates because it was ridiculous. They put a moratorium over the whole development so that whenever I sold a block it took them anyway. I decided that the only way to counter this argument was to stop selling blocks, so I stopped selling blocks for a while and then it sued me.*

The Committee sought a written response on this issue from the Water Corporation, which indicated that a number of factors contributed to the developer paying for cartage, a bond and sewerage rates. In summary, most of these issues arose because the developer (Sunland Pty Ltd) was undertaking a development beyond the area programmed for sewerage works in the Corporation's five-year Capital Investment Program. As such, the developer was required to pre-fund the major headworks (ie. the sewerage treatment plant), but chose not to in favour of carting the sewerage to the nearest available treatment plant. The Water Corporation also stated that at the time, there were vacant lots available in the existing Walpole townsite and the Sunland subdivision was therefore a leapfrog development requiring the developer to pay for all additional infrastructure costs. In addition, the bond paid by the developer to the Water Corporation was to cover the costs of carting sewerage in case the developer did not meet this obligation or became insolvent. The Water Corporation also claimed that charging sewerage rates to the vacant lots reflects the liability that rests on it to provide a sewerage service. The fact that the lots are vacant is therefore a business risk accepted by the developer.

**Finding 13**

The Water Corporation has strict policies to minimise its liability and exposure to development risks. These policies include 40% cost recovery for major headworks, full cost recovery for minor works, requiring developers to pre-fund works that are not in the programmed Capital Investment Program, charging annual rates on vacant lots and sometimes requiring developers to pay a bond to cover potential operating costs.

**Finding 14**

The marginal viability of land development in some regional areas is sometimes at odds with the Water Corporation's stance to force developers to assume the entire development risk. At times the Water Corporation's stance on these matter can seem excessive to developers.

**(vi) Western Power Corporation**

Western Power Corporation is a statutory authority providing electricity services to the State. It operates on commercial profit-seeking principles as required by the *Electricity Corporation Act, 1994*. Under these principles, profits are paid to the State as dividends and the Corporation also pays local authority rates and charges and the equivalent of the Commonwealth Government income tax.

It owns and operates two major interconnected systems, the South West and the North West Interconnected Systems, as well as 28 separate systems in remote areas, providing power to a total of 847,000 industrial, commercial and residential customers.

Western Power owns four major power stations and 32 smaller regional stations with a total capacity of 3,273 megawatts, representing 56% of the State's total electricity generation. Private industry produces the remaining 44% of generation capacity, which has increased significantly over the past decade as a result of National Competition Policy, the strength of the resources sector and the distribution of natural gas through major pipelines across the State facilitating gas-powered electricity turbines.

Developers are not currently required to contribute to major electricity infrastructure such as power stations or transmission lines. Advice from Western Power indicates that these costs currently average \$1,650 per new residential lot. Income from usage tariffs and annual charges are then used to recoup these capital costs over the life of the assets.



The Committee contrasted this funding arrangement with that of the Water Corporation which funds 60% of these equivalent major works, with the remaining 40% funded by land developers through the Standard Headworks Charge.

The ‘minor works’ for electricity infrastructure are fully funded by the land developer, which corresponds to the situation with the equivalent minor works for water, sewerage and drainage. Typical costs for such infrastructure per single residential lot are:

▪ High-voltage infrastructure – including switchgear	\$ 800
▪ Low-voltage infrastructure – including transformers	\$1,200
▪ Streetlights	\$ 200
<b>TOTAL</b>	<b>\$2,200 per lot</b>

Western Power uses subdivision conditions through the WAPC to impose conditions on developers to fund infrastructure works that are needed as a consequence of the development. These costs are project specific.

Developers are also required to install local reticulated electricity distribution cabling and transformers to standards set by the Office of Energy and Western Power. Developers also pay the direct costs of connecting to the existing electricity network.

Western Power’s development charges are based on recovery of costs for the extension of the existing network within a new subdivision. As there is no “headworks component”, such as a contribution to the additional cost, if any, for power generating stations, major transmission lines, the charging process is much more straightforward than the water/sewerage payments to the Water Corporation.

The developer’s contribution to Western Power for a typical residential lot is \$2,200 for the full capital cost of the electrical infrastructure within a typical metropolitan residential subdivision with blocks around 600 square meters. This cost includes high voltage infrastructure such as transformers, low voltage infrastructure and street lighting. It does not include any cabling within the lot boundaries, which form part of minor works provided directly by the developer, as detailed below.

**Table 4.5 Western Power Infrastructure Provision and Funding**

Infrastructure Classification	Description	Responsibility for Providing
<b>Major Works</b>	Regional infrastructure such as:  <u>Generation</u> – power stations  <u>Transmission</u> – High tension power lines from power stations.	Western Power pays the entire cost – approximately \$1,650 per lot
<b>Minor Works</b>	Local works required to connect a property to the major works for a scheme. These include:  <u>Distribution</u> – low voltage power lines;  <u>Transformers</u> ; and  <u>Lead-ins</u> – connections to dwellings.	Developers fund and provide all minor works required for a development and give them over to Western Power to maintain.
<b>Private Works</b>	Servicing components within a land owner's property which begin at the connection point to Western Power's network.	Land owners are responsible for funding, providing and maintaining these works. These are generally incorporated into building costs.

**(vii) Department of Education and Training**

The Department of Education and Training funds the building of primary and secondary schools. While the Department covers the whole cost of the construction of these schools, the terms of acquisition of the land vary according to the type of school:

*The Department of Education and Training acquires land for secondary and primary school sites. The committee must understand that we purchase secondary school sites because they are considered to be major items of infrastructure. Historically, primary school sites have been given up as a condition of subdivision by developers, and, therefore, that is the issue in terms of contributions.<sup>80</sup>*

Developers are required to provide a 3.5 hectare site for a primary school for every 1,500 to 1,800 residential lots. For smaller developments, developers are required to provide a monetary contribution proportional to the size of the development and the cost of purchasing a primary school site.

<sup>80</sup> Bloor, R., Department of Education and Training, Transcript of Evidence, 31 March 2004, p.2.

**Finding 15**

The current system of apportioning developer contributions for primary schools among smaller developers is too complex to administer effectively.

**(viii) Department of Health**

Major health infrastructure such as that provided by the Department of Health is a primary responsibility of government and is provided as a public service. As such it is not directly related to specific land development areas and there is generally no direct contribution from land developers to fund major health assets.

The Committee noted that this situation is the same in most states, with state governments fulfilling this responsibility with funding assistance from the Commonwealth Government.

While there is generally no direct link between the Department of Health and land development, the Department directly influences the State's sewerage policy. In general, this stipulates that all residential lots less than 2,000m<sup>2</sup> in area are required to be connected to reticulated sewerage where it is available.

**(c) Local Government as Infrastructure Providers**

Local authorities are required to provide and maintain significant community infrastructure including local roads, parks, libraries, community centres, recreation facilities and child care centres.

With pressure on local government to provide more and better quality infrastructure facilities, there is a need to find alternatives to rate revenues to fund these community demands. Developer contributions are one possibility.

The Western Australian Local Government Association suggested to the Committee three models of development contributions:

*The first position is the requirement for a uniform but flexible framework within which local governments and developers can negotiate or agree on the scope and standards of the infrastructure provided. Some frameworks are essential, as their outcomes ultimately impact upon the future ongoing maintenance and enhancement of the responsibilities of local governments once a developer's association with a subdivision has ceased. There are, therefore, concerns of ongoing maintenance associated with developments. The association's position has been to take the view that requirements are*

*ultimately imposed on local governments to ensure on behalf of the community that adequate subdivisional and arterial connecting roads infrastructure and community-based recreation and social infrastructure are in place as well as the implementation of and compliance with state government initiated policies on environmental management and sustainability that are applicable throughout the Perth metropolitan area and in regional urban centres.*

*The second position is the adoption of a new and broader definition of “community infrastructure” to recognise and accommodate an increase in the diverse range of facilities; for example, multipurpose recreation centres, senior citizens centres and libraries. Libraries are extremely important to local government; some 16 million items are loaned by libraries in Western Australia each year. These must now be provided within a subdivisional context as a result of changing demographics and heightened community expectation.*

*The third position is the identification of a fixed per-lot contribution that developers would be required to make to local governments for the provision of essential community infrastructure based upon need, driven by the establishment and expansion of new subdivisional communities. The association supports the position advocated by its membership that local governments should have the capacity to obtain from developers a fixed contribution of not less than \$5 000 per lot to be linked to the CPI for the provision of essential community infrastructure based upon need, driven by the establishment and expansion of new subdivisional communities.<sup>81</sup>*

The Committee acknowledges that developers in New South Wales and Victoria contribute to the capital costs of community infrastructure. In New South Wales these contributions can include the purchase price of the land as well as the construction and establishment costs of buildings. In Victoria, contributions for community infrastructure were capped at \$450 per residential lot although this is set to increase to \$1,000.

Most of the State’s residential land development is taking place in the areas of Perth’s outer metropolitan councils. These councils have relatively high rates to fund the facilities and services they need.

The Committee noted that local councils have limited capacity to increase rates. The State Government has also recognised the special infrastructure needs of these outer metropolitan councils by establishing the Outer Metropolitan Community Fund, administered by the Department of Local Government and Regional Development. This fund provides grants between \$5,000 and \$50,000 to local authorities, incorporated community and business groups, volunteer organisations and philanthropic foundations within the following local authority areas:

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<sup>81</sup> Robartson, C., Western Australian Local Government Association, Transcript of Evidence, 5 April 2004, p.3.

- City of Wanneroo;
- City of Swan;
- Shire of Mundaring;
- Shire of Kalamunda;
- City of Armadale;
- City of Rockingham; and
- Town of Kwinana.

The fund will provide \$1 million per year over four years and can be used for sustainability or community initiatives as well as for capital works to provide public facilities such as:

- Facilities or infrastructure enhancements for tourism development;
- Community facilities and infrastructure eg public toilets, public playgrounds, shelter or fixed improvement for public facilities;
- Facilities supporting children and/or youth;
- Infrastructure which improves access to telecommunications and other technology; and
- Restoration or development of heritage buildings or sites for a community purpose.

The Committee noted that while this is a positive contribution to the councils eligible under the guidelines, it is a direct example of the State Government subsidising urban development in the outer metropolitan area. The magnitude of subsidy, however, is small relative to the how much the State's water and electricity agencies pay for major works.

Another concern that local authorities expressed to the Committee was the issue of maintaining infrastructure and operating community facilities. Importantly, of the Australian and overseas developer contributions systems examined in this Inquiry, none provide for contributions to the ongoing costs of maintaining infrastructure, only the initial capital cost of land, and sometimes construction.

While not part of the developer contributions system, some developers have made voluntary contributions to maintaining infrastructure. The Committee noted that this situation usually occurs where the developer is releasing land over an extended period

of time and it is therefore in the developers' interests to have infrastructure developed and maintained to a high standard.

An example provided by Dr Paul McLeod, Dean of University of Western Australia Business School, indicated that money placed in trust is being used to maintain parks established by Satterley development in Wanneroo, north of Perth:

*Therefore, what is coming to fruition now – and what we did in Wanneroo – was to get the shire to specify the right standard of infrastructure that it thinks is right for those things in the future and we estimate the cost to the shire of maintaining that infrastructure, which includes replacing the lakes, the pumps and so forth. That is the shire's standard, if you know what I mean. We then estimate the value of the infrastructure that the developer is handing back and the operating costs over time and we set up a trust fund for the difference, the interest on which will fund the difference. Therefore, when the developer hands back the infrastructure, he hands the shire a lump sum to fund the difference between what the shire would normally expend over time from its rates, without pushing up the rates or having differential rates, and what the developer believes is the standard for its ongoing maintenance. A simple example is a local park. The City of Wanneroo specifies a cost of \$12.50 or thereabouts a square metre for maintaining local parks. If the developer hands back a park that will cost \$15 to \$16 a square metre to maintain for 20 years, or an appropriate time frame, we can calculate the difference in funds required to maintain that local park at that sort of rate so that the shire will not have to push up the average rate to the whole shire because it has a particular estate that has a higher level of service.<sup>82</sup>*

#### **(d) Private Infrastructure Providers**

There are many other providers of infrastructure for the State, but the Committee considered them to have no, or only peripheral relevance to land development. These include major economic infrastructure providers such as the port authorities and regional airports. Other State government agencies also provide urban services although they have not been included in this report due to time constraints. Examples are Fire and Emergency Services, Police Service and regional local authorities providing waste collection and recycling services.

Private infrastructure providers work closely with government to coordinate the provision of infrastructure relating to land development where it results in identifiable cost savings. The WAPC's Infrastructure Coordinating Committee has a sub-committee, the Utility Providers Services Committee, with representation from the State Government and private utility providers. The sub-committee produces the

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<sup>82</sup> McLeod, Dr P., University of Western Australia Business School, Transcript of Evidence, 10 March 2004, p.2.

Utility Providers Code of Practice, which covers issues such as infrastructure standards and common infrastructure trenching relating to land development. Another sub-committee of the ICC, the School Sites Committee, includes representation from the State Government and major private school providers.

The Committee considers that with the exception of the School Sites sub-committee of the ICC, the delivery of community services is not well coordinated. Potential to share office facilities between Government agencies may go unexploited.

*(i) Alinta Gas*

In Western Australia, gas is not classified as an essential service that must be included in subdivisions. For this reason, it is imperative that gas is installed at the time of development to ensure gas is available before dwelling construction commences in order to achieve a high connection ratio. Reticulating areas after development is unattractive because householders have installed their appliances using other energy sources.

As a general rule, the major gas utility in Western Australia, Alinta, absorbs the cost of reticulated gas infrastructure rather than asking developers to contribute to the cost of infrastructure. This partly reflects the relatively low cost of gas infrastructure and a policy of encouraging developers to include the provision of gas in subdivisions at the early planning stage.

Alinta pays the costs of reticulating gas in subdivisions where:

- the new residential subdivision abuts Alinta's existing network;
- the average lot frontage does not exceed 20 metres; and
- the developer provides a common trench.

If a new subdivision does not abut existing gas infrastructure, however, Alinta may request that the developer contribute to the infrastructure costs. The amount charged is negotiated on a case-by-case basis and adjusted to suit the individual circumstances of each subdivision. This calculation incorporates a financial analysis which compares capital costs with expected net revenues and required returns.

Typical costs of providing gas infrastructure to residential lots is approximately:

- Reticulation \$600 per lot (\$ 30 per metre x 20 metres);
- Distribution \$500 per lot (\$100 per metre x 5 metres); and
- Transmission \$150 per metre (linear metre in ground).

Common trenching with other utilities (with the exception of water and sewerage), is the most important measure in minimising the costs of providing infrastructure in new subdivisions. If no common trench is provided, costs are approximately three times higher. Lot size can also be an important factor as the service cost per lot is directly related to the width of road frontage.

As pressure regulation in the distribution system is comparatively expensive to implement, distribution pipes for additional lots are added as required. Costs can also be maintained by carrying out subdivision development in an orderly fashion with a progressive “development front”, or restricting *ad hoc* development, remote from existing infrastructure.

#### **(ii) Private Schools**

Schools operated by private organisations currently educate nearly one third of all students in Western Australia. Most of these organisations are affiliated with the Catholic, Anglican, Baptist, Uniting Church or Seventh Day Adventist denominations. Of these, the Catholic Education Commission is by far the largest, providing education to 64,500 students in 157 schools across Western Australia.<sup>83</sup>

The Catholic Education Office, which is the executive arm of the Catholic Education Commission, made a written submission to the Committee raising a number of issues relating to infrastructure and development of new schools. These issues address:

- Structure planning, site selection and acquisition;
- Utility charges and conditions, particularly by Western Power and the Water Corporation;
- Varying standards between local authorities; and
- Traffic management and parking requirements.

The Committee recognises that these issues are common to a number of developers and are addressed in other parts of this report.

#### **(e) Land Developers**

In addition to the charges levied by major utilities, developers typically provide and fund all other infrastructure within a subdivision directly, such as roads, footpaths,

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<sup>83</sup>Catholic Education in Western Australia,  
[http://web1.ceo.wa.edu.au/servlet/page?\\_pageid=54&\\_dad=portal30&\\_schema=PORTAL30&\\_type=site&\\_fsiteid=33&\\_fid=2979&\\_fnavbarid=2960&\\_fnavbarsiteid=33&\\_fedit=0&\\_fmode=2&\\_fdisplaymode=1&\\_fcalledfrom=1&\\_fdisplayurl=](http://web1.ceo.wa.edu.au/servlet/page?_pageid=54&_dad=portal30&_schema=PORTAL30&_type=site&_fsiteid=33&_fid=2979&_fnavbarid=2960&_fnavbarsiteid=33&_fedit=0&_fmode=2&_fdisplaymode=1&_fcalledfrom=1&_fdisplayurl=) (current as at 29 June 2004).



landscaping, minor works for water/sewerage and power, such as reticulation from mainlines to and within individual lots, and drainage. These are conditions of subdivision as applied by the WAPC.

These general requirements apply to all developers, including State and local government, private land developers, individuals and not-for-profit organisations.

The cost of these types of infrastructure will vary according to topography and the intended market for the development (eg. Homebuyers may place a premium on the landscaping of a subdivision).

Special infrastructure payments may also be required from developers to meet an increased need for various offsite infrastructure, such as need for a local council to upgrade an arterial road to meet increased traffic or a requirement to extend the public transport system to developments beyond the existing urban frontier.<sup>84</sup>

The nature of these contributions will vary according to individual circumstances and are subject to approval by the WAPC. Under the principles applied by the WAPC, local authorities are not able to seek contributions from developers for the purpose of funding general community services such as libraries, as developers claim is occurring in some other states. Local government infrastructure charges in Western Australia are modest and substantially lower than charges in Sydney, which charge up to \$64,000 per lot.

As noted earlier, local authorities that gave evidence to the Committee are keen for developers to contribute funds for building and maintaining community infrastructure.

Developers' obligations to provide infrastructure are set out in the Western Australian Planning Commission's Planning Bulletin No. 18. These requirements are summarised in Table 4.6.

**Table 4.6 Summary of Developer Contributions Associated with Subdivision**

Land Contributions	Infrastructure Works	Monetary Contributions
Public open space equivalent to 10 percent of the gross subdivisional area, or alternatively, a cash-in-lieu contribution subject to agreement between the developer, WAPC and local authority;	Reticulation of: <ul style="list-style-type: none"> <li>• Water;</li> <li>• Sewerage;</li> <li>• Drainage works; and</li> <li>• Electricity supply infrastructure.</li> </ul>	Standard water, sewerage and drainage headworks charges for off-site major infrastructure works; and
Certain land for foreshore	This covers on-site works as well	If an area is in fragmented ownership, monetary contributions can be required in lieu of land or infrastructure works and to

<sup>84</sup> Pursuant to the *Town Planning and Development Act, 1928*.

Land Contributions	Infrastructure Works	Monetary Contributions
<p>reserves on the coast, rivers and lakes – normally the requirement is 30 metres;</p> <p>Land for government primary schools – generally four hectares per school, but may be reduced to 3.5 hectares if the school site is co-located with public open space;</p> <p>Land for widening existing roads where the subdivision induces additional traffic movements;</p> <p>Land for district distributor roads in new development areas that expand the urban front; and/or</p> <p>Land for primary distributor roads and railway reserves where justified by the subdivision.</p>	<p>as off-site capital works such as major pump stations, trunk sewers or transmission lines that are necessary to, or contribute to, the subdivision. Note that these works are in addition to monetary charges by the Water Corporation and Western Power for off-site major infrastructure;</p> <p>All roads and traffic works required within the subdivision and linked to a constructed public road. These roads provide access to individual lots and allow utility services to be reticulated in the road reserves;</p> <p>Footpaths, pedestrian accessways and dual-use paths where required (generally along one side of a road);</p> <p>Upgrading, construction and widening of existing roads and right of ways to accommodate additional traffic generated by a subdivision; and/or</p> <p>New district distributor roads including earthworks for the whole road reserve, the construction of one carriageway comprised of two lanes and associated drainage works. In addition, where set out in a structure plan for the area, grade-separated pedestrian crossings and dual-use paths may be required as a contribution.</p>	<p>reimburse other owners where costs are shared.</p>

### 4.3 Land Development and Infrastructure Costs

The relationship between land development and infrastructure costs is one that has received considerable attention in Australia over the past few years.

Land developers generally argue that regardless of whether contributions are in-kind or cash, these costs are passed on to the final purchaser of the land. This issue has become more important with the current emphasis on residential affordability.

The Productivity Commission's *Inquiry into First Home Ownership* devoted a chapter of the draft report to the question "Are infrastructure charges excessive?" That inquiry determined that development contributions do not have a significant impact on the eventual price of land or housing and therefore housing affordability:

*While infrastructure charges make up a substantial proportion of the overall cost of house and land packages, increases in those charges will be responsible at most for a small part of recent house price increases.*

*Moreover, it seems unlikely that housing affordability would be improved substantially by improvements in the structure and level of infrastructure charges.<sup>85</sup>*

As supported by recent research by consultants BSD, infrastructure costs are not passed on to the buyer, but instead reduce the value of the land before the infrastructure is put in place:

*One of the myths exposed by research conducted throughout Australia is that higher developer contributions lead to higher land prices. What actually occurs in many cases is that developers' capacity to pay for en globo land is reduced by high developer contributions. Consequently, it is the original landowner who receives less. Research has confirmed that the retail value of land is market driven, and that developer contributions (other than in extreme situations) do little to influence the price paid by the first homebuyer and others in the market.<sup>86</sup>*

#### **Finding 16**

The assumption that developer contributions are automatically passed on to the end-purchaser of a developed lot is incorrect. Instead, increases in the development costs tend to reduce the value of undeveloped land.

#### **Finding 17**

The retail price of land essentially depends on the ability and willingness of consumers to pay, indicating that market demand and supply are more important considerations than land development costs.

<sup>85</sup> Productivity Commission, *First Home Ownership*, *op cit*, p.128.

<sup>86</sup> BSD Consultants, pamphlet as reported by Joyce, G, Department for Housing and Works, in Transcript of Evidence, 7 April 2004, p.3.

In fact, the Committee noted that developers undertake feasibility assessments by calculating the estimated sales price and working backwards to determine if the land can be purchased and developed at a cost that will return an acceptable profit.<sup>87</sup>

For this reason, both government and private land developers seek greater certainty on costs in order to undertake feasibility studies with a greater level of confidence. Developer contributions are one of the development costs that influence the feasibility of development projects.

Mr Glen Finlay, Director Landstart, Department of Housing and Works, stated that developers accept that there will be some level of contributions required to support infrastructure, but that it is certainty about the amount or level of contributions that is of most concern:

*Firstly, the aspect that is of most concern to most developers is not the level that is required but that it be known in advance. The point Greg Joyce quoted from the BSD report was that we cannot add it to the end price of the lot because we are in competition with a whole lot of other developers. As you know, when developers decide to buy a lot, they do their feasibility studies backwards. They work back from the lot price they can achieve and decide how much they can pay for that piece of land.*

*If these charges are all being added on and it is not viable, people just do not buy the land, so that land is not being developed. If, in advance, developers knew exactly what charges they were going to be required to pay, whether they be local government charges, state government charges or anything else that is required, they could do their sums with some accuracy and work out exactly what they could put in.<sup>88</sup>*

Land developers made the point that any increase in development costs, including developer contributions, affects the viability of projects. If a developer already owns a parcel of land for development and then a new cost is introduced, then any increase in costs could make the project unfeasible.

The land development and property industry has argued that infrastructure charges and taxes are responsible for falling housing affordability. This conclusion is not supported by the evidence, as recently determined by the Productivity Commission:

*While infrastructure charges have increased over time and have contributed to higher house prices, they cannot explain the price surge since the mid 1990s.<sup>89</sup>*

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<sup>87</sup> These comments were made in written submissions and hearings from a number of witnesses to this Inquiry.

<sup>88</sup> Finlay, G., Department of Housing and Works, Transcript of Evidence, 7 April 2004, p.5.

<sup>89</sup> Productivity Commission, *First Home Ownership*, *op cit*, p.115.

Similar conclusions have been asserted independently in other jurisdictions. For instance, a review of the literature into impact fees – the USA’s equivalent to developer contributions – has not been able to support the development industry’s contentions that developer contributions result in a net increase in housing prices. As reported by Been:

*...the existing literature does not yet establish that impact fees raise the net price of housing – the price after off-setting benefits such as amenities or savings on alternative financing mechanisms are accounted for.<sup>90</sup>*

### **Finding 18**

The assertion by the land development industry that developer contributions are passed on to the end consumer in higher prices is not supported by extensive research.

An important factor in ensuring that developer contributions are incorporated into unimproved land values is that contributions should be predictable and unavoidable:

*In policy terms, it is important to ensure that, as far as possible, the fee is passed back to landowners rather than passed forward to house purchasers. That objective is best advanced by ensuring that the general level of fee is predictable, as an unavoidable development cost, so that it becomes factored in, over time, to transactions in development land, in the same way as any other fixed cost of development. That way the incidence lies where it should: as a reduction in the development value of the land. The social costs of development come to be reflected in the land price. This will always be inexact. Much depends upon the elasticity of supply of developable land, and for new housing.<sup>91</sup>*

Across Australia, different jurisdictions apply developer contributions to fund infrastructure provided by state and local government. While the industry has argued that these charges are excessive, the evidence does not support this contention:

*The claimed savings or improvements to affordability from reducing developer charges for infrastructure appear overstated, as most categories of*

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<sup>90</sup> Been, V., *Impact Fees and Housing Affordability*, paper delivered to the U.S. Department of Housing and Urban Development’s Research Conference on Regulatory Barriers to Affordable Housing, 22 April 2004, p.35. Available at [http://www.2004nationalconference.com/papers/Impact\\_Fees.pdf](http://www.2004nationalconference.com/papers/Impact_Fees.pdf) (accessed 8 June 2004).

<sup>91</sup> Grant, M., *Planning Obligations*, Main paper presented to *the Town and Country Planning Summer School 1999*, University of Wales, Swansea. Available at <http://www.planningsummerschool.org/papers/year1999/1999MM11.htm> (accessed 1 June 2004).

*charges are justified on efficiency/equity grounds — the category for which such charging is not justified is community-wide social infrastructure, but charges for such items have generally been small.*<sup>92</sup>

A key point in the Productivity Commission's statement is the 'community-wide social infrastructure' which relates back to the beneficiary-pays principle. The notion that new homebuyers should subsidise infrastructure used by the wider community is inequitable as recognised by all development contribution schemes. From this principle comes the importance of fairly apportioning the infrastructure costs to ensure a new homebuyer only pays for their proportion of the infrastructure used.

If the community expects a certain standard of infrastructure, then someone clearly has to pay for it. Whether this is the government or the land development industry in the short term, it is in fact the community that will pay in the long term. This point was clearly articulated by the Productivity Commission:

*While there are claims that upfront charges are reducing affordability, it should not in principle generally make a difference to affordability whether the charges are levied upfront (and hence paid for over time by the home owners through their mortgage repayments) or recovered over time through higher charges or rates.*<sup>93</sup>

Tables 4.7 and 4.8 show the relative impact of development costs between suburban greenfield areas (frontal growth) and urban infill development. These include the proportional impacts of GST, State taxes, infrastructure costs and local government fees on the cost of a typical house and land package for a new home.

These figures were provided to the Committee by the Department for Housing and Works based on the actual development costs for specific greenfield and an infill developments in Perth. They have been accepted by the land development industry as being representative of land development costs borne by private land developers. These same figures were included in the written submission by the Urban Development Institute of Australia to this Inquiry.

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<sup>92</sup> Productivity Commission, *First Home Ownership*, *op cit*, p.115.

<sup>93</sup> *Ibid*, p.128.

**Table 4.7 Indicative Development Costs – Greenfield Development in Perth**

<b>Suburban Greenfield Development</b> (Middle Sector, Perth Metropolitan Region)	<b>\$ per lot</b>	<b>% of total price (including GST)</b>
<b><i>Price of a vacant block of land</i></b>	<b>15,561</b>	6.1%
<b><i>Developer's infrastructure costs</i></b>	<b>51,127</b>	20.2%
<i>Charges by utilities</i>	6,890	2.7%
Water Corporation (for water, sewerage and drainage headworks)	4,390	1.7%
Western Power (electricity connection)	2,500	1.0%
<i>On-site infrastructure costs (non-government)</i>	44,237	17.5%
Site preparation (earthworks, levelling, retaining walls, etc.)	14,393	5.7%
Other infrastructure contributions (landscaping, drainage, roads, etc.)	20,782	8.2%
Water and sewerage reticulation and minor works	2,404	0.9%
Electrical reticulation and minor works	1,391	0.5%
Consultant fees	5,267	2.1%
<b><i>Government taxes, fees and charges paid by the developer</i></b>	<b>3,604</b>	1.4%
Stamp duty on land purchase paid by the developer	925	0.4%
Land taxes (holding cost, if applicable)	1,693	0.7%
Local government clearance fees and charges	123	0.0%
Local government rates (holding cost, if applicable)	863	0.3%
Net GST (on land purchase and development costs)	-	-
<b><i>Developer's management and finance costs</i></b>	<b>9,204</b>	3.6%
<b><i>Selling costs and other professional fees</i></b>	<b>16,261</b>	6.4%
Advertising, agent's commissions, legal and settlement costs	16,261	
<b><i>Developer's margin</i></b>	<b>24,553</b>	9.7%
<b>Total land value (excluding GST)</b>	<b>120,310</b>	47.5%

**Table 4.8 Indicative Development Costs – Infill Development in Perth**

<b>Urban Infill Development</b> (Single Residential Lots of Approximately 500 sq m)	<b>\$ per lot</b>	<b>% of total price (including GST)</b>
<b>Price of a vacant block of land</b>	<b>109,524</b>	33.5%
<b>Developer's infrastructure costs</b>	<b>39,252</b>	12.0%
<i>Charges by utilities</i>	6,890	2.1%
Water Corporation (for water, sewerage and drainage headworks)	4,390	1.3%
Western Power (electricity connection)	2,500	0.8%
<i>On-site infrastructure costs (non-government)</i>	32,362	9.9%
Site preparation (earthworks, levelling, retaining walls, etc.)	12,100	3.7%
Other infrastructure contributions (landscaping, drainage, roads, etc.)	13,044	4.0%
Water and sewerage reticulation and minor works	3,000	0.9%
Electrical reticulation and minor works	1,310	0.4%
Consultant fees	2,908	0.9%
<b>Government taxes, fees and charges paid by the developer</b>	<b>9,803</b>	3.0%
Stamp duty on land purchase paid by the developer	6,816	2.1%
Land taxes (holding cost, if applicable)	2,283	0.7%
Local government clearance fees and charges	105	0.0%
Local government rates (holding cost, if applicable)	600	0.2%
Net GST (on land purchase and development costs)	-	-
<b>Developer's management and finance costs</b>	<b>12,176</b>	3.7%
<b>Selling costs and other professional fees</b>	<b>5,603</b>	1.7%
Advertising, agent's commissions, legal and settlement costs	5,603	
<b>Developer's margin</b>	<b>10,849</b>	3.3%
<b>Total land value (excluding GST)</b>	<b>187,206</b>	57.3%

Tables 4.7 and 4.8 show that GST is the major taxation impact on the final price to the house and land purchaser, accounting for approximately 9% of the cost. For first homebuyers, this is partly offset by the \$7,000 First Home Owner Grant. Stamp duty accounts for 3.9% of an urban infill subdivision and 4.5% of a suburban greenfield subdivision.

With regard to the non-taxation factors, the major costs for developers are those associated with “other infrastructure”, rather than payments to major utilities for water/sewerage and power. Moreover, a major contribution to long term increases in the cost of new housing has come from “other infrastructure”. A recent survey by the Urban Development Institute of Australia suggested that as a proportion of total housing costs, other infrastructure costs have increased from 27% in 1992 to approximately 31% in 2002. This partly reflects the trend toward greater amenity and quality in property development, such as landscaping and road quality, and the preferences of new homebuyers, including first homebuyers.

Total direct State taxes are a minor component of total costs (5%), with the major cost contributions arising from the GST (9%), on-site infrastructure which is funded by the



developer (32%) and the developer's margin (18%), although this component would be significantly influenced by demand conditions at the time of marketing a subdivision and would vary greatly between developers and the type and location of the subdivision.

The relative magnitude of the cost components of land and housing would vary across the metropolitan, regional and remote areas of Western Australia. While detailed data is not available, as a general rule, the cost of the provision of infrastructure and housing construction would be higher in remote and regional regions, particularly in the North West of the State.

**Finding 19**

Due to better use of existing infrastructure, it is cheaper to provide housing on infill sites than greenfield sites.

The Committee emphasises the need to outline how infrastructure costs are shared between State and local government and land developers. This helps to clarify what can be relatively complex funding arrangements. Both local authorities and developers made it clear to the Committee that they don't feel there is enough awareness of how much they currently contribute to infrastructure.

Table 4.9 summarises the distribution of costs of providing regional and public open space. An important source of funds to acquire regional open space and foreshore reserves is the Metropolitan Region Improvement Tax. This was introduced in 1963 to fund Perth's Metropolitan Region Scheme and is managed by the WAPC. While it is listed as a contribution by the State Government, as it is an hypothecated tax raised from landowners, it is essentially a landowner contribution to purchase land reserved under the MRS.

**Table 4.9 Funding Sources for Land to be Used as Open Space**

Land/ Infrastructure	State Government	Local Government	Land Developers
Regional Open Space	100% of land cost and some improvements (MRIT)	Up to 100% of capital improvements and maintenance.	
Foreshore Reserves	Generally 100% of land cost and some improvements (MRIT)	Up to 100% of land cost, capital improvements and maintenance.	
Public Open Space		100% of improvements (less developer contribution if applicable)	100% land (subdivision condition – 10% of total development area or cash-in-lieu). Developers can reduce the public open space contribution down to 8% (with WAPC approval) if it is <u>improved</u> (landscaping, reticulation, recreation facilities, fencing).

The distribution of costs for roads is related to the nature of the road and its function. Table 4.10 shows a summary of the different funding arrangements in place. Not included in this table is the federal government funding provided for national roads. These are roads that link Australia's capital cities and major economic infrastructure such as ports.

**Table 4.10 Funding Sources for Roads, Cycleways and Footpaths**

<b>Land/Infrastructure</b>	<b>State Govt.</b>	<b>Local Govt.</b>	<b>Land Developer</b>
Roads – Primary Distributors (MRWA responsibility)	Generally 100% of land, construction and maintenance costs.		Generally Nil, but land may be required to be ceded free of cost under WAPC Development Control Policy 1.7.
Roads – District Distributors (local authority responsibility)		Second carriageway (when warranted) plus upgrading of initial carriageway with full drainage, kerbing, bus bays, turning facilities, lighting, kerbing and landscaping. Maintenance costs.	Land ceded free of cost plus initial road works – two lanes to rural road standard (subdivision condition or TPS or landowner agreement)
Roads – Local Roads		Maintenance costs.	100% land and construction costs (subdivision condition).
Roads – Upgrades of existing roads		Up to 100% of partial road upgrade and maintenance costs.	Up to 100% of partial road upgrade (subdivision condition)
Footpaths, Dual Use Paths, Pedestrian Accessways, Grade Separated Pedestrian Crossings		Maintenance costs.	100% land and construction costs (subdivision condition).

The current distribution of costs for social or community infrastructure is shown in Table 4.11. This is often the most contentious area for both local authorities and developers. Apart from the developer contributions system in New South Wales, and to a limited extent, Victoria, there are no or limited contributions to community infrastructure in Australia's major states.

**Table 4.11 Funding Sources for Human Service and Community Infrastructure**

<b>Land/Infrastructure</b>	<b>State Govt.</b>	<b>Local Govt.</b>	<b>Land Developer</b>
Schools	Land for high schools and 100% of construction costs for primary and high schools.		Land for primary school sites only (subdivision condition).
Hospitals	100% of land and construction costs.		
Community Facilities (community halls, meeting rooms, recreation/leisure centres, libraries, aged-care centres, child health centres and pre-schools)	Sometimes contributes to infrastructure through grants (Outer Metropolitan Community Fund).	Generally 100% of the construction and fitout costs and sometimes the costs of acquiring land.	Generally nil, but can include land (as part of 10% public open space contribution). Some developers also make a voluntary contribution to buildings.

The WALGA submitted a case for a fixed developer contribution of not less than \$5,000 per residential lot, paid to local authorities to fund community infrastructure. While the Committee noted that such a figure might reflect the actual costs borne by local government for such infrastructure, it is hard to justify that each residential lot generates the need for \$5,000 in new community infrastructure at the time the lot is developed.

The Committee accepts the development industry's argument that the most important factor in land development is certainty of costs and the imposition of a high developer contribution could result in many projects becoming financially unfeasible.

### **(a) Improving Infrastructure Use**

Improving the use of infrastructure is another way to achieve efficiencies for government without requiring the development industry to contribute to new or upgraded infrastructure.

One way to deliver services in a developing area is to have a staged delivery of services that can grow with the community's needs. In new development areas, the use of 'schools in houses', such as Ellenbrook, and 'schools in shops', such as Secret Harbour, helps to deliver education services to communities that are too small to justify separate primary schools at that time. As the student population increases and dedicated schools are built, the houses and shops once utilised as classrooms are then

sold off as houses and shops. Schools also have the added benefit of creating community cohesion.

Rather than government taking the lead in this area, it has generally relied on more progressive developers taking the initiative and bringing the relevant parties together. As in the case of the Ellenbrook development:

*We then get into community infrastructure. As I mentioned, one of the challenges when we started was that there were really no guidelines for community infrastructure for opening up major areas, so we had to do something to get there. It was known as the community plan. It brought together all the relevant public and private service providers. We sat around a table for a couple of years and thought our way through, given the distance from existing services. Out of that came an arrangement for the first primary school, which was the school in houses, which has now been used as a model in other areas. The primary school was very important, not only from an educational point of view but also as a meeting place for the early residents.<sup>94</sup>*

There are also cases where privately provided infrastructure can be utilised by the wider community:

*...with Trinity College's support – and it is very supportive – we are very keen to ensure that its facilities, such as its sports hall and swimming pool, become facilities for all the people in that gateway [Perth Eastern Gateway] area. Given its sports program and its new swimming pool, there are many weekends and after-hour periods when the community can use the swimming pool. In saying that all these things can be passed to the development, it is certainly not the case I am putting forward. I am saying that we need to do the smart things, but we also need to do the even smarter things to see how we can get better use out of infrastructure in inner city areas.<sup>95</sup>*

While there is progress on the sharing of facilities for community use, there are concerns that there are no standards, and that each situation has to be negotiated individually. This challenge even exists when local authorities negotiate with government schools to share facilities. As pointed out to the Committee by Mr Stuart Jardine, Chief Executive Officer of the City of Gosnells:

*At the moment it is piecemeal and ad hoc, and it is frustrating because each one seems to negotiate on a different basis. For instance, one of the wins for Canning Vale high school has been that the council has negotiated to pay for the changing rooms, as part of the schools oval sporting facility. We have no problem with that. However, it can be a different story if we go to another school with a different principal, or the Education Department has a different stance on the matter. There is some discussion amongst the growth councils in terms of how we could get a common policy. For the State Government, it*

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<sup>94</sup> Perry, R., LWP Property Group, Transcript of Evidence, 5 April 2004, p.7.

<sup>95</sup> Morgan, A., East Perth Redevelopment Authority, Transcript of Evidence, 7 April 2004, p.7.

*would be useful to get an agreed position to open that up so that those facilities are made available. There are all the safety factors etc that need to be brought into consideration, but it is a frustrating process because it is ad hoc and piecemeal, and it needs to be better than that.*<sup>96</sup>

Another important factor is that the lifecycle of community infrastructure is not generally built into planning considerations. As most developers move on within a few years of undertaking a particular development, they are not usually concerned with such matters. State and local government, however, need to respond to the community's changing needs over time. Some developers have considered this factor as in the case of Ellenbrook, but there is a concern that government is not being proactive in this area:

*...no density targets are set in existing frontal development. No demographic mixes are managed – which we have been able to do at Ellenbrook – to make sure there is a whole-of-lifecycle development in which there is a mixture of young and old people in the community. That mix is needed so that, when a high school is built, hopefully it will stay there forever rather than be demolished in 10 years because the population has aged. Some issues of soft and hard infrastructure relate to the fundamental planning principles of existing development rather than frontal development.*<sup>97</sup>

Another suggested way of improving the utilisation of infrastructure is to increase densities so that infrastructure can be accessed by more people in a local area. To some degree this responsibility is shared by government and by the development industry:

*I think that the industry has not played its role in density development in the period in which I have been in Perth.... That has been a key objective that has been set up, so that we maximise the infrastructure investment. I still think that Perth produces too many 650 square metre lots, which is not right for the future and does not maximise the investment.*<sup>98</sup>

Encouraging infill development can be difficult due to uncertainty regarding the redevelopment costs involved. Local authorities play a pivotal role in coordinating infill projects but have limited funds to contribute to such projects. Increasing rate revenues is generally not an option, particularly within Perth's outer metropolitan 'growth' councils, which already have the highest rates in the metropolitan area. A suggestion on how to deal with this issue was put forward by Mr Stuart Jardine:

*Gosnells is identical to Swan in that some of the old quarter-acre blocks around the railway station etc are being rezoned. The community has been supportive of that. That may happen in the future. It is something that the*

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<sup>96</sup> Jardine, S., City of Gosnells, Transcript of Evidence, 5 April 2004, p.11.

<sup>97</sup> Perry, R., LWP Property Group, Transcript of Evidence, 5 April 2004, p.9.

<sup>98</sup> *Ibid*, p.8.

*State Government wants to happen. Again, we are in a similar situation. It will not happen easily, because the locals will not be able to afford to provide that. If it could be done through an agreement to which an estimated cost is attached, it will be ring fenced in terms of, for instance, public open space funding. Everyone will know what is going in and what is coming out, even to the point that it might be performance based. That is not something we have discussed particularly. That has to be achieved within a certain time as part of that agreement. That allows the developers to know where they stand and the community to know when things will happen. There is an obligation on local government to ensure that that is facilitated to achieve that outcome with the other partners.<sup>99</sup>*

This suggestion was also supported by Mr Clifford Frewing, Executive Manager, City of Swan:

*One way it could be done fairly simply is by, for instance, the State Government and local government agreeing to rezone a particular area. We would know the current capacity of that area in terms of population and lots and we would be able to calculate the number of lots and the expected population at some future date when it is fully developed. Therefore, by using a standards-based approach, we could calculate what community facilities should exist to service that local community and compare that with the community facilities that currently exist. We would then measure the difference in cost. The number of lots or population would be divided by the difference in cost to produce the contribution. That is about as objective as we might perhaps get in this situation.<sup>100</sup>*

#### **Finding 20**

Maximising the use of existing infrastructure, in preference to providing new infrastructure, can provide significant cost savings to government.

#### **Finding 21**

Under-utilised infrastructure within the metropolitan area should be identified. However, the Committee recognises that there are increased costs to upgrade infrastructure to accommodate increased densities.

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<sup>99</sup> Jardine, S., City of Gosnells, Transcript of Evidence, 5 April 2004, p.13.

<sup>100</sup> *Ibid.*

**Recommendation 3**

Local authorities should have the ability to recoup infrastructure costs through their Town Planning Schemes. The costs should be clearly set out in an Outline Development Plan (or similar plan) and funds should be managed in a trust account and spent on the infrastructure for which they are collected within a reasonable period.

The coordination of land development and infrastructure can have significant benefits by ensuring that urban infrastructure is better utilised. This may mean accelerating the provision of some infrastructure rather than waiting until the urban development has taken place. One example of this is the future growth of the North West corridor in the Perth metropolitan area and the extensions of the passenger rail to service this growth. As pointed out by Dr Paul McLeod, Dean of the University of Western Australia Business School:

*The issue in the north west corridor is as follows: what do you get from the benefit on the other side of the development if you expedite the railway line? The answer comes back that unless you are prepared to have a system whereby the developers work with the planners in the shire and the state planning agencies to let the railway line influence things such as density, urban fall and journey to work, you will not necessarily get what you wanted by letting the railway line go in earlier. If the early provision of the railway provides other benefits as well, you will end up with a more efficient and cost-effective corridor...*

*Evidence around the world suggests that if a railway line goes in before development, the arrangements can be rewritten so that there are minimum densities, not maximum densities, in the zones around the stations, and developers cannot develop that land until it is ready to be developed.<sup>101</sup>*

**(b) Infrastructure Standards**

Another challenge faced by both government and the development industry is the level and quality of infrastructure that is acceptable to the community. These standards have increased over time and will continue to do so. Government sets some of these standards, as in the case of underground power for all subdivisions across Western Australia. Other standards are set by the land-buying public, as in the case of the quality of landscaping and general presentation of a land subdivision. Still other

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<sup>101</sup> McLeod, Dr P., University of Western Australia Business School, Transcript of Evidence, 10 March 2004, p.6.



standards are set by the private sector, such as the building industry in Western Australia 'requiring' level blocks on which to build.

To keep up with these increasing standards, governments and developers have had to lift the base standard of infrastructure provided to the community. Some developers go above and beyond this standard in order to set apart their land development from the rest of the market. Examples of this are optic fibre cabling providing broadband communication services in the Ellenbrook and Butler subdivisions.

### **Finding 22**

Some land developers in Western Australia have acknowledged the benefits of providing community infrastructure in marketing subdivisions and are providing and/or funding such infrastructure even if it is not required to do so as a condition of subdivision or development.

In order to keep up with this, governments have increasingly turned to developer contributions to offset the capital costs of the infrastructure they are responsible for providing.<sup>102</sup>

There is concern from some developers, however, that this trend can have significant fallout in terms of increasing land prices in some areas beyond the capacity of some first homeowners' purchasing capability:

*...if the developer is loaded up with fees, the difference between the haves and have-nots is increased because a growing amount of the population can no longer afford housing because the point of entry is too high because the developer must fund all the development and oncosts. That is a dangerous route to go down. Very careful consideration must be given about introducing developer levies across all items of services, from schools through to water and sewerage. The Government must understand the importance of its role and balance out the funding requirements over the broader community and the various generations.<sup>103</sup>*

The Committee heard evidence that developer contributions are actually paid for by the original landholder by reducing the value of *en globo* land parcels. There can be specific cases, however, where land in Western Australia, particularly in regional

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<sup>102</sup> Grant, M., *Planning Obligations*, Main paper presented to the Town and Country Planning Summer School 1999, University of Wales, Swansea. Available at <http://www.planningsummerschool.org/papers/year1999/1999MM11.htm> (accessed 1 June 2004).

<sup>103</sup> Perry, R., LWP Property Group, Transcript of Evidence, 5 April 2004, p.10.

areas, is priced on a cost-plus basis. In the metropolitan area this can affect those subdivisions that are specifically targeted at first homebuyers and low priced land. In such cases, there is a valid argument that developer contributions may increase the base price of cheaper lots.

The Committee also noted that infrastructure that exceeds the general development standards can present problems with the higher costs of ongoing maintenance.

### (c) **Housing Affordability**

The land development industry expressed concerns to the Committee in relation to housing affordability. Ms Sheryl Chaffer, Assistant Director, Planning, Environment and Policy for the Housing Industry Association stated that:

*Essentially, the main point of our [the Housing Industry Association] submission is that in considering any infrastructure cost system in WA, the underlying factor should take into account housing affordability. We believe that housing affordability is at this point not specifically written into planning legislation, and it needs to be. At the same time, the framework for infrastructure cost is also not specifically written into the planning legislation, and it should be. We believe that whatever developer contributions policy is developed for infrastructure cost should operate within the principles of need, nexus, equity and accountability, and those four elements should form the primary basis of the legislation and should be written into the planning legislation to cover that to adequately enable consideration of maintaining housing affordability within the Perth region.<sup>104</sup>*

Land developers tailor subdivisions to meet a certain 'price point' as part of their overall marketing strategy. Some developers are more concerned with affordability than others. In particular, the philosophy behind the Landstart programme is that it should support the social goal of allowing as many people as possible to purchase their own home. Landstart therefore provides a level of infrastructure that maintains affordability.<sup>105</sup>

Another aspect of affordability was pointed out by the Productivity Commission in its inquiry into First Home Ownership. This found that if the necessary infrastructure was not provided up-front when the land was developed, then it was generally provided by State or local government and funded through rates and tax revenues.

The Inquiry further found that even if developer contributions were to be passed on to the purchaser, which is not supported by the evidence, then the impact on housing

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<sup>104</sup> Chaffer, C., Housing Industry Association, Transcript of Evidence, 5 April 2004, pp.1-2.

<sup>105</sup> Department of Housing and Works, Transcript of Evidence, 7 April 2004.

affordability would be neutral because the resident would always end up paying for the infrastructure either through a slightly higher mortgage payment as the infrastructure cost would be built into the house and land purchase price, or through higher rates or taxes.

This is an important point for the high growth councils in the Perth metropolitan area. According to Mr Stuart Jardine, Chief Executive Officer of the City of Gosnells:

*With regard to need, funding capacity and community expectations in the outer metropolitan areas were higher rated. I am generalising, but local governments in the outer suburbs compared with local governments in metropolitan areas, which tend to be more built up than the development fronts, have lower average household incomes. Therefore, there is a differentiation in the residents' ability to pay for the services...*

*The average weekly household income of residents who live in the inner metropolitan councils is \$877 per week, and it is \$802 per week in outer metropolitan areas, which is a difference of about 9.4 per cent. The average rates assessed in the inner metropolitan residential areas is \$532, and the outer metropolitan area is \$636. That is a 26 per cent variation.<sup>106</sup>*

The issue of housing affordability was raised a number of times by developers. This point centred on the contention that developer contributions would reduce housing affordability. This argument was not supported by the findings of a comprehensive study into housing affordability in Australia, the Productivity Commission's *First Home Ownership* inquiry, published in 2004.

The Committee also noted that planning consultants, BSD, found that developer contributions are passed back to the original landholder rather than being passed forward to the end purchaser.

In March 2004, the median housing loan in Western Australia was \$153,000 and the standard variable housing interest rate was 7.05%. Under these conditions, if a home purchaser had to borrow an extra \$3,500 to cover a price increase on a house and land package, it would have the equivalent effect on repayments as an interest rate rise of 0.25%. Likewise, borrowing an extra \$7,000 would be equivalent in monthly repayments as a 0.5% interest rate increase.

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<sup>106</sup> Jardine, C., City of Gosnells, Transcript of Evidence, 5 May 2004, p.4.



## CHAPTER 5 DEVELOPMENT CONTRIBUTIONS POLICIES AND PRACTICES

### 5.1 Developer Contributions in Western Australia

Developer contributions in Western Australia originate from the State's European settlement. In 1829, early settlers were allocated Crown land on the basis of the amount of capital they introduced – 40 acres for every sum of £3, and 200 acres for every labourer brought into the colony.<sup>107</sup> These grants were, however, subject to improvement conditions that meant that the land was forfeited back to the Crown if the land had not been improved within 10 years of the grant.<sup>108</sup>

The purpose of these conditions was to encourage development of land to make it economically productive. Despite this, there was minimal clearing of land and most allocated land in the State was utilised as pastoral leases. Regulations introduced in 1987 encouraged the purchase of land at low rates, conditional on purchasers satisfying minimum requirements for the improvement and fencing of the land.<sup>109</sup>

The conditional purchase of agricultural land continued through most of the Twentieth Century in an effort to encourage development of productive land. Development conditions were also applied as part of the returned servicemen settlement and group settlement land schemes after each war:

*Those who settled on land after the First World War were given financial assistance but still required to adhere to conditional purchase conditions, and returned servicemen after the Second World War were placed on developed farms, under perpetual lease conditions with low annual rentals<sup>110</sup>*

The War Service Settlement Scheme introduced after World War Two was very successful in increasing the amount of productive land in the State and eligibility to the Settlement Scheme was extended to all civilians in the late 1950s.<sup>111</sup>

<sup>107</sup> Australian Bureau of Statistics, *Early History of Land Tenure*, special article, Year Book Australia 2002, at Internet site:  
<http://www.abs.gov.au/Ausstats/abs@.nsf/94713ad445ff1425ca25682000192af2/88fd067140fc3f4dca2569e300102388!OpenDocument> (accessed 25 May 2004).

<sup>108</sup> Jarvis, Neil (ed), *Western Australia: An Atlas of Human Endeavour*, The Department of Lands and Surveys (Western Australia) in Association with the Education Department of Western Australia, Perth, 1986, p.57.

<sup>109</sup> *Ibid.*

<sup>110</sup> *Ibid.*

<sup>111</sup> *Ibid*, p.81.

The power to require developer contributions for on-site physical infrastructure and the ceding of land for open space is derived from the *Town Planning and Development Act, 1928*. The scope of these contributions is guided by WAPC policy and outlined in various statements of planning policy and planning bulletins. Such developer contributions are normally imposed as conditions on subdivision approval under WAPC policy.

As part of the work for the Greater Perth Plan, some research was conducted into the costs of development on the urban fronts of the major Australian cities. This research indicated that the public sector in Western Australia funds more of the development costs than any other mainland State. On average, between 70% and 78% of the costs of urban fringe development in Perth were met by the public sector. While this is of particular concern to the Committee, the data from this research was conducted in the early 1990s and does not reflect the significant changes in the incidence of infrastructure costs and increased provision of infrastructure by private organisations.

### **(a) Types of Developer Contributions**

Developer contributions in Western Australia take one or a combination of three basic forms:

- 1 ceding or giving up of land for roads, primary schools, public open space, drainage and other reserves necessary for subdivisional development;
- 2 construction of infrastructure works such as roads, sewers and for water supply, which are transferred to public authorities on completion of the works; and/or
- 3 monetary contributions to acquire land or undertake works by public authorities or others. This generally applies in areas of fragmented ownership, where several subdividers contribute to provide services and facilities.

In practice, developer contributions for each of these basic types are currently restricted to uses as specified in Schedule 1 of Planning Bulletin No. 18. In summary, these uses cover:<sup>112</sup>

- 1 Land contributions (which are vested in the Crown when a title is created):
  - Public open space equivalent to 10 percent of the gross subdivisional area, or alternatively, a developer may provide a cash-in-lieu

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<sup>112</sup> Stokes R., DPI, Transcript of Evidence, 10 March 2004 and Western Australian Planning Commission, Planning Bulletin No. 18, Developer Contributions for Infrastructure, February 1997.

contribution subject to agreement between the developer, WAPC and local authority;

- Certain land for foreshore reserves on the coast, rivers and lakes – normally the requirement is 30 metres, but can vary to a lesser or greater degree for topographical or other reasons, such as to protect a floodway;
- Land for government primary schools – generally four hectares per school, but may be reduced to 3.5 hectares if the school site is co-located with public open space;
- Land for widening existing roads where the subdivision induces additional traffic movements;
- Land for district distributor roads in new development areas that expand the urban front; and/or
- Land for primary distributor roads and railway reserves where justified by the subdivision.

2 Infrastructure works (installed by the developer before the title is created):

- Water and sewer reticulation, drainage works and electricity supply infrastructure. This covers on-site works as well as off-site capital works such as major pump stations, trunk sewers or transmission lines that are necessary to, or contribute to, the subdivision. Note that these works are in addition to monetary charges by the Water Corporation and Western Power for off-site major infrastructure;
- Subdivisional roads and other traffic works – including all roads required within the subdivision and linked to a constructed public road. These subdivisional roads provide access to individual lots and also ensure utility services can be reticulated in the road reserves throughout the subdivision;
- Footpaths, pedestrian accessways and dual-use paths where required. Generally this is along one side of a road, or where desirable to provide for public safety and convenience;
- Upgrading, construction and widening of existing roads and right of ways to accommodate additional traffic generated by a subdivision; and/or
- First stage of construction of new district distributor roads. This includes earthworks for the whole road reserve, the construction of one

carriageway comprised of two lanes and associated drainage works. In addition, where set out in a structure plan for the area, grade-separated pedestrian crossings and dual-use paths may be required as a contribution.

- 3 Monetary contributions (paid at the time when clearance is sought):
- Standard water, sewerage and drainage headworks charges for off-site major infrastructure works; and
  - If an area is in fragmented ownership, monetary contributions can be required in lieu of land or infrastructure works and to reimburse other owners where costs are shared.

Notable exclusions to this system are contributions for community facilities, high schools, infrastructure headworks, public transport and major road and rail infrastructure.

**(i) *Monetary Contributions and Cost Sharing***

In areas where multiple landowners have relatively small parcels of land, there are currently three mechanisms for fairly apportioning the costs among the different landowners:

- Town Planning Development Scheme providing for scheme works to be undertaken and for costs to be shared between owners. These are made pursuant to section 7 of the *Town Planning and Development Act* and have the force of law when gazetted. These have been effective in achieving:
  - properly coordinated development; and
  - a fair distribution of costs or contributions between landowners<sup>113</sup>;
- Town Planning Scheme utilising special control area provisions<sup>114</sup> to specify developer contributions. This mechanism is similar to the former method and sets out the process for preparing development contribution plans that prescribe the basis for landowners' contributions within the developer contribution area<sup>115</sup>; and

<sup>113</sup> Stokes R., DPI, Transcript of Evidence, 10 March 2004.

<sup>114</sup> Western Australian Planning Commission's Planning Bulletin No. 66.

<sup>115</sup> Details of these provisions are defined in the Western Australian Planning Commission's Planning Bulletin No. 41. As advised by R. Stokes, DPI, Transcript of Evidence, 10 March 2004, this is currently with the Minister for Planning and Infrastructure for noting and will then be released.



- Private land pooling schemes where landowners enter into legal agreements to develop their land cooperatively. These agreements set out the required infrastructure and contribution arrangements.

**(ii) *Developer Agreements***

Land developers also have the opportunity to enter into arrangements with local authorities to provide infrastructure and facilities that are in excess of the baseline requirements outlined in planning policies and Town Planning Schemes.

These have been reasonably successful in the past:

*The Ellenbrook development in the Shire of Swan, for example, is based on agreements between the developer, the Council and government agencies which provide for contributions by the developer towards the advancement of key infrastructure and sharing of costs for community facilities and public transport.*<sup>116</sup>

It is important to note that developers can benefit substantially by having greater control about the nature, extent and timing of infrastructure from the added promotion and marketing ‘point of difference’ they provide.

*...in some cases, developers are willing to enter into arrangements with local governments and others to provide facilities and services in excess of the normal requirements to promote their particular developments. An example is the Ellenbrook estate in the City of Swan, where the developers entered into agreements with the council and government agencies for contributions to advance key infrastructure and the sharing of costs for community facilities and public transport. That was done to assist in marketing the development.*<sup>117</sup>

In the case of Ellenbrook, this has meant a partnership role between the developer, local authority and other stakeholders to deliver facilities and services that meet the community’s needs. In the words of one developer who appeared before the Committee:

*We contributed \$300 per lot each. Again, it was a model that we had taken from a development in Adelaide. That provides \$7 million over the life of the project. It is important as seed capital for attracting other capital money; it is important for providing a community development officer and a whole range of services and facilities that slip through the crack. That has been a very important model, which you can play with for other areas. It commits the local council and the developer to a very important outcome...*

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<sup>116</sup> Western Australian Planning Commission’s Planning Bulletin No. 41, p.3.

<sup>117</sup> Stokes R., DPI, Transcript of Evidence, 10 March 2004, p.4.

*Perhaps the best way of describing the fund is that the first community centre in Ellenbrook was the result of a \$350 000 budget out of the fund. That in turn acted as seed capital to attract a matching grant from the Lotteries Commission. The Department of Health wanted an infant health nurse. It put in \$150 000 to expand the building. The Department for Community Development put in a similar amount to have some facilities. We ended up with a \$1 million community centre, which opened when the population of Ellenbrook was only 1 000 people. Since then, there has been another partnership by using the fund with the Salvation Army, which has resulted in a creation of a recreation centre. The Salvation Army has put in two-thirds of the capital cost and the fund has put in one-third. The City of Swan owns the facility. The Salvation Army manages it on a long-term peppercorn rental basis. It is just a win-win situation. The church has a facility; the community has a facility; the City of Swan has a facility.<sup>118</sup>*

The use of developer agreements is particularly applicable to large developments that are phased over a long period of time. In such cases, the developers have greater incentive to ensure the community is socially 'viable'.

### **Finding 23**

Developer Agreements, based on Outline Development Plans and/or Schemes, that have undergone public scrutiny, can provide significant benefits for government, land developers and the public.

### **Recommendation 4**

The Department for Planning and Infrastructure should develop model Developer Agreements for use by local authorities.

## **(b) Principles for Applying Developer Contributions in Western Australia**

The principles for applying developer contributions in Western Australia have developed over a number of years through a combination of policy, planning appeals and court decisions. These principles have been assimilated into the Government's

<sup>118</sup> Perry, R., LWP Property Group, Transcript of Evidence, 5 April 2004, p.7.

current policy on developer contributions, which is stated in the WAPC's Planning Bulletin No 18, *Developer Contributions for Infrastructure*.

These same principles apply whether the developer contributions are applied at the subdivision or the development approval stage.

The WAPC's Planning Bulletin No 18, *Developer Contributions for Infrastructure* summarises how the WAPC applies requirements for developer contributions. The principles applied to determining the validity of developer contributions are related to the principal tests for the validity of planning conditions:

- *The subject subdivision must create or contribute to the need for the particular infrastructure or facility for which the contribution is being sought;*
- *The contribution must be fair and reasonable and reflect the true costs of the infrastructure or facility;*
- *The contribution should be fairly apportioned between multiple landowners proportional to the share of the need created by each landowner's subdivision;*
- *A financial contribution must be spent within a reasonable period of time; [and]*
- *There should be accountability in the manner in which contributions are determined and expended.*<sup>119</sup>

Within this set of principles, there is a need to balance the needs of the broader community with the expectations of homebuyers, who arguably pay the bulk of any developer contributions. According to Ray Stokes, Acting Executive Director, Statutory Planning for DPI:

*In considering developer contributions, there is a need to strike a balance between the cost of land for housing and the cost for developers to acquire and develop land for housing with the expectations of future home buyers in an area and the reasonable level of services that can be expected in today's society. That relates to the expectations about what local governments should provide from rate revenues. At the present time, the balance is about where the commission's [WAPC] policies are; however, it may well be that the balance may change in the future. If local governments become less able to resource community infrastructure and developers become more willing to*

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<sup>119</sup> Western Australian Planning Commission, Planning Bulletin No. 18, *Developer Contributions for Infrastructure*, February 1997, p.1, included in written submission to Committee.

*provide social infrastructure to market their developments, it may well be that the balance and the policy settings could change.*<sup>120</sup>

### **(c) Application of Developer Contributions**

Within Western Australia's planning system, developer contributions may currently be applied at either or both of two major stages:

- as a condition of land subdivision (always applied by the WAPC); and/or
- as a condition of development (generally applied by the relevant local authority).

#### **(i) Conditions on Subdivision**

The principal mechanism for levying developer contributions in Western Australia is by way of the conditions imposed by the WAPC at the stage of subdivision approval. Under the *Town Planning and Development Act*, land may not be subdivided without the approval of the WAPC. In granting approval, it can impose such conditions as it thinks fit. There is a right of appeal against conditions imposed by the WAPC to the Town Planning Appeal Tribunal.

While the *Town Planning and Development Act* states that the WAPC may impose such subdivision conditions as it thinks fit, the powers are not unlimited. The courts and appeal bodies have established that there are three principal criteria that must be satisfied when considering the validity of planning and subdivision conditions:

- 1 A condition must be imposed for a planning purpose. It cannot be imposed for a matter unrelated to planning;
- 2 It must reasonably and fairly relate to the development for which approval is given. It cannot be imposed for some extraneous development off the site or away from the circumstances of the particular approval; and
- 3 The condition must be reasonable. According to the relevant case law, that means that the condition must be one that a reasonable planning authority, properly advised, might impose.<sup>121</sup>

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<sup>120</sup> R. Stokes, DPI, Transcript of Evidence, 10 March 2004, p.6.

<sup>121</sup> *Ibid*, p.2.

(ii) *Conditions of Development*

The second point at which developer contributions may be applied is at the development approval stage, where conditions can be imposed by the WAPC or by a local authority on the development of land, under a Region Scheme or a local government scheme.

Local authorities in Western Australia do not have the authority under existing planning legislation to impose developer contributions, unless they are expressly provided for under Town Planning Schemes that have been recommended by the WAPC and approved by the Minister for Planning and Infrastructure.<sup>122</sup>

Even so, local authorities cannot include contributions for community infrastructure in their Town Planning Schemes, as they are not part of the allowable contributions defined in the WAPC's Planning Bulletin No. 18. It was pointed out to the Committee that as local authorities have limited revenue sources, they have to restrict or delay infrastructure investment that the community wants:

*We urge this committee to make a recommendation to the Western Australian Planning Commission to amend planning commission bulletin No 18 to allow some certainty for local government to collect more contributions to enable them to provide community facilities. Otherwise, quite frankly, they will not be provided. This will presumably further alienate the people who are living in the outer metropolitan area of Perth, because they will not be able to enjoy the same standard of living of the people who live within the inner metropolitan area.*<sup>123</sup>

**Recommendation 5**

Any further extension of developer contributions towards social infrastructure should only be in the form of an amendment by the Western Australian Planning Commission to Planning Bulletin No. 18, as it relates to subdivision as well as being incorporated into an overall design plan.

## 5.2 Developer Contributions in other Australian States

Developer contributions systems are used in all Australian states. Each of these systems show considerable variation as shown in Table 5.1.

<sup>122</sup> *Ibid.*

<sup>123</sup> Jardine, S., City of Gosnells, Transcript of Evidence, 5 April 2004, p.13.

In general terms, the New South Wales system is the most extensive in relation to the types of infrastructure funded by contributions and the amounts of those contributions. A key element in that State is the capacity to charge the full capital cost of community facilities.

The Victorian developer contributions system also allows contributions for community infrastructure but these are capped at \$450 per lot for all community infrastructure. This cap is soon to be increased to \$1,000 per lot.

The developer contributions systems in Australia's highest growth States, Queensland and Western Australia, do not currently allow contributions to community facilities.

**Table 5.1 Developer Contributions for Infrastructure in Selected Australian States**

Infrastructure	Western Australia	New South Wales	Victoria	Queensland
Public Open Space	✓ (ceded)	✓	✓	✓
- Land	✓ (ceded)	✓	✓	✓
- Improvements	x			
Primary Schools	✓ (ceded)	✓\$		
- Land	✓ (ceded)	✓\$		
- Improvements	x	x	x	x
Secondary Schools	x	x	x	x
Major Roads	x	✓		
Local Roads	✓	✓	✓	✓
Public Transport	x	✓	✓	
Child Care Centres	x	✓	Capped to a total of \$450 per residential unit	x
Libraries	x	✓		x
Community Centres	x	✓		x
Recreation Facilities	x	✓		x
Sports Grounds	x	✓		x

## (a) New South Wales

### (i) Planning in New South Wales

The planning system in New South Wales puts considerably more responsibility on local councils to fund and deliver urban services. In addition, local councils have the authority to approve subdivision, development and building approvals.

The legislative framework for New South Wales' planning system is provided by the *Environmental Planning and Assessment Act, 1979*, which provides the legal basis for planning and development assessment at various levels of government. This legislation covers a number of broad objectives including matters such as:

- land use and resource management;
- promoting social and economic welfare;
- protecting the environment;
- sharing responsibility for planning between different levels of government; and
- providing opportunities for public involvement and participation.

The New South Wales planning system reforms currently being considered aim to make the system simpler, more strategic and effective, and will result in major efficiency improvements, increased certainty for investment, and reduced costs.<sup>124</sup>

Under the label of ‘planFIRST’, reforms to the planning system are currently being considered within this legal framework. The existing system with the proposed reforms is summarised in Table 5.2.

**Table 5.2 Overview of Planning Controls in New South Wales**

	Plan making		Development assessment	
	Part 3 EP&A Act	planFIRST	Part 4 EP&A Act	Part 5 EP&A Act
State	State environmental planning policies (SEPP)	State planning Policies	State significant developments	State government infrastructure proposals
Regional	Regional environmental plans (REP)	Regional strategies	N/A	N/A
Local	Local environment plans (LEP)  Development control plans (DCP)  Master plans (MP)	Local plans	Development application assessments	Local government infrastructure proposal

New South Wales has developed its planning system around the principle of a “one-stop-shop” approach, through:

- The *Environmental Planning and Assessment Act, 1979*, which brought together the control of subdivision, development and building approvals into a single, but multi-faceted system for all land use applications; and

<sup>124</sup> Planning New South Wales, *Community Engagement: Planning System Reform*, available at <http://www.iplan.nsw.gov.au/engagement/plansystem/planfirst.jsp> (accessed 27 May 2003).



- Linking the approvals, licences or other defined forms of authorisation required under other legislation with a single development consent. Development that requires such other authorisation is defined as “integrated development.”<sup>125</sup>

(ii) *Developer Contributions in New South Wales*

The developer contributions system in New South Wales principally derives from the powers of section 94 of the *Environmental Planning and Assessment Act, 1979*. This act aims to protect, provide and coordinate both physical and social infrastructure while providing and maintaining affordable housing.

Under the provisions of section 94, local councils are able to levy developers for contributions towards public amenities and services required as a consequence of development. These generally cover the capital costs of upgrading urban infrastructure.<sup>126</sup>

Like other states in Australia, the current policies and practices of developer contributions in New South Wales have evolved through a series of policy, review and appeal decisions. Since 1993, councils have been required to produce a Development Contribution Plan as a prerequisite to being able to charge contributions from developers.

A DCP must:

- Demonstrate a nexus between the proposed development and the provision of public facilities, including:
  - *Causal nexus* – the development actually creates a need for, or increases demand for a facility;
  - *Spatial nexus* – the development is likely to serve the needs of those who created the demand for it; and
  - *Temporal nexus* – the facility is to be provided in a timely manner to benefit those who contributed towards its cost.
- Include a requirement for the council to be accountable to collect and use the funds for the purpose for which they were earmarked within a reasonable time and return any unused funds;

<sup>125</sup> Contained in section 92 of the New South Wales *Environmental Planning and Assessment Act, 1979*.

<sup>126</sup> Department of Urban Affairs and Planning (New South Wales), *Section 94 Contributions Manual*, 2nd Edition, 1997.

- Take into account any urban infrastructure (including land) the developer has provided free of charge (work in kind) or any funds previously paid to the council;
- Be ‘reasonable’, including the standard of the facility and the level of contribution sought. The test of ‘reasonableness’ includes whether there is spare capacity in existing facilities, and the location of the facility. Councils, however, ultimately determine whether the contribution plan is reasonable;
- Be transparent and give the opportunity to the public and affected bodies to comment and make submissions to the responsible council about proposed developer contributions;
- Apportion costs to a development that are directly related to proportional impact on infrastructure arising from the demand from residents in that particular development; and
- Be flexible to accommodate different development scenarios.<sup>127</sup>

A general principle behind the New South Wales developer contributions system is that legislative, administrative and compliance costs and complexities should be minimised. It also has to allow for alternative efficient and innovative means of providing public facilities.<sup>128</sup>

Another important, but arguably under-utilised, feature of the *Environmental Planning and Assessment Act, 1979* is the section 92 provisions which confer “state significant development that is integrated development”. This provision provides powers to the New South Wales Minister for Infrastructure Planning and Natural Resources to approve, decline or place conditions on any development approval that is in the State’s interest.

An example of a development contribution for infrastructure provided by the State of New South Wales is the proposed public transport infrastructure levy announced in November 2002. A proposed levy of \$15,000 per lot in four new development areas – Elderslie, Spring Farm, Balmoral Road, and Second Ponds Creek, is intended to go into a dedicated land release contribution fund, which will only be able to be used for the provision of transport infrastructure to the contributing regions. The principle underlying this policy was to ensure “that those who reap profit from the rezoning and

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<sup>127</sup> Access Economics, *Financing Infrastructure for Residential Development, Report for Housing Industry Association Limited*, October 2003; and Department for Urban Affairs and Planning (New South Wales), *Review of the Developer Contributions System, Report to Minister for Urban Affairs and Planning Section 94 Review Committee*, for public discussion, April 2000.

<sup>128</sup> Department for Urban Affairs and Planning (New South Wales) *Review of the Developer Contributions System, Report to Minister for Urban Affairs and Planning Section 94 Review Committee*, for public discussion, April 2000.

release of new land pay their fair share of the cost of making the new suburbs viable and sustainable”.<sup>129</sup>

Development contributions in New South Wales are used to purchase land for public infrastructure as well as constructing buildings and facilities. Land purchases can absorb most of the funds collected from development contributions collected under section 94 provisions. As estimated by Mr Ian Reynolds, General Manager, Blacktown Council, a major growth area in Sydney, approximately 65% to 70% of developer contributions are used to purchase land for public purposes, such as parks, libraries and recreation facilities.

The key reason given for this was the provisions of the *Land Acquisition (Just Terms Compensation) Act, 1991*, which require State and local governments to pay for all land. This contrasts to the situation in Western Australia where developers are required to cede land for public open space (generally 10% of the total development areas) as well as land for primary schools and some utility services.

#### **Finding 24**

One key reason developer contributions in New South Wales are significantly greater than other States is due to the *Land Acquisition (Just Terms Compensation) Act, 1991* which requires governments and infrastructure agencies to purchase land for public purposes at full market value.

In Western Australia, a recent inquiry by the Western Australian Legislative Council Standing Committee on Public Administration and Finance recommended that:

*Recommendation 16: The Committee recommends that any future review by the State Government of the Western Australian constitutional legislation should include detailed consideration as to whether a ‘just terms’ or ‘fair’ compensation provision needs to be incorporated into the legislation with respect to the acquisition by the State Government for public purposes of privately-held property.<sup>130</sup>*

<sup>129</sup> Refshauge, A., Deputy Premier of New South Wales, Media Release, *Transport Levy to Fund Essential Infrastructure for New Homes*, 19 November 2002.

<sup>130</sup> Parliament of Western Australia, Report Seven of the Standing Committee on Public Administration and Finance, *The Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia*, Second Session of the Thirty-Sixth Parliament, May 2004, p.217.

If such a change to the Constitution were to be adopted in a similar fashion to the way it is practiced in New South Wales, government agencies may no longer be able to require land to be ceded to the State as a condition of subdivision. If this were the case, then developer contributions in Western Australia may have to increase dramatically to pay for land at retail prices for public purposes, such as local parks and schools.

The Committee noted that local authorities in New South Wales are restricted to rate increases of no more than the Consumer Price Index. Some of the high growth councils, in particular, have therefore sought funding to provide the necessary community services from other funding sources. Developer contributions are increasingly being used to provide the capital to provide these facilities. This allows a greater proportion of rates to be used for the ongoing operation of these facilities.

**Finding 25**

In New South Wales, the 'rate-pegging' restriction of limiting local councils to rate increases directly in line with the CPI has contributed to increases in developer contributions pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979*.

The conditions in New South Wales that have led to the increase in the use of financial developer contributions do not exist in Western Australia. These conditions include a shortage of developable urban land, high land prices, restrictions on rate increases and the legislative requirements for land to be purchased by government authorities rather than ceded.

Western Australia's situation is very different, largely due to a sufficient supply of land in most parts of the State, a centralised and relatively efficient planning system and the established practice of ceding land for specified public purposes.

**Finding 26**

A developer contributions model such as that used in New South Wales under Section 94 of the *Environmental Planning and Assessment Act, 1979* is not warranted or suitable for Western Australia.

**(b) Victoria****(i) *Planning in Victoria***

The Victorian planning system is guided by a State planning agenda set out in *A Sensible Balance*, released in December 1999 by the then Minister for Planning, Hon. John Thwaites.<sup>131</sup> It sets out the policies and practices for the use of ministerial powers of intervention in planning and heritage matters:

*The Labor Government seeks a planning system that reflects a sensible balance between economic development, social growth and cohesion and the sustainability of Victoria's environment. Our planning policy seeks to: give Victorians back their voice and influence over the decisions that affect their lifestyles; provide greater certainty for individuals, communities and business; and protect Victoria's standing as one of the most liveable environments in the world.*<sup>132</sup>

All municipalities in Victoria are covered by land-use planning controls that are prepared and administered by State and local government authorities. The legislation governing such controls is the *Planning and Environment Act, 1987* (as amended in 2000).

The bodies controlling land-use planning are 'planning' authorities and 'responsible' authorities. A planning authority, which may be a local council or the State Government, conceives land-use planning schemes and devises appropriate controls. A responsible authority, which is usually the local council, administers the scheme, which involves:

- Considering proposals to use or develop land, and giving notices and issuing permits in accordance with the planning scheme;
- Making sure that the land is not used or developed in conflict with the scheme's requirements. Those who do not obey the laws about the land and development can be prosecuted; and
- Issuing Planning Certificates that notify how the land is zoned and if any overlay controls apply to it, as indicated on planning scheme maps.

This decentralised planning system can lead to variations in the application of developer contributions, similar to the situation in New South Wales.

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<sup>131</sup> See Thwaites, J, *A Sensible Balance*, available at <http://www.dse.vic.gov.au> (accessed 31 May 2004).

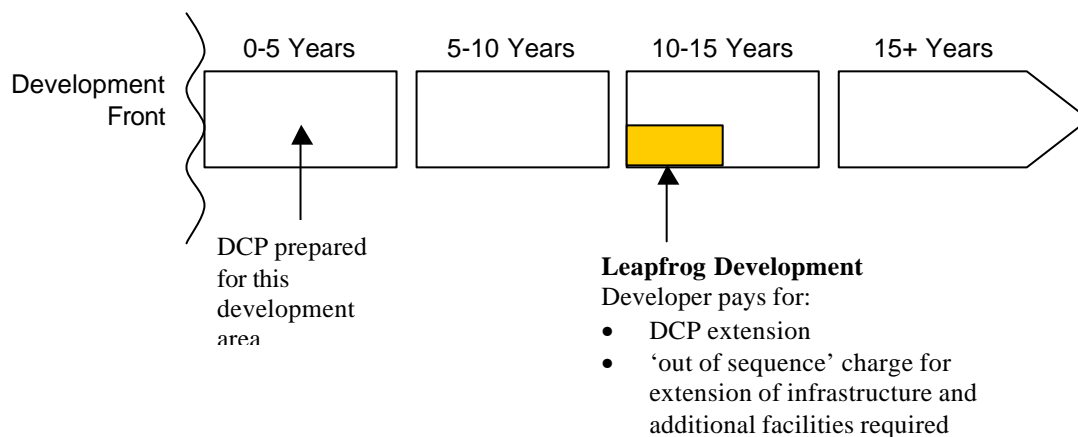
<sup>132</sup> *Ibid.*

**Recommendation 6**

The centralised system in Western Australia appears to be a more suitable system to address developer contributions and results in more consistent standards than in Victoria.

The Victorian developer contributions system includes a financial mechanism for impeding leapfrog development beyond the existing urban front. As shown in Figure 5.1, a developer who builds outside of an area that is programmed for development in the next five years has to pay for the additional planning required to service the area in the form of an 'extended' Development Contribution Plan, as well as paying an 'out-of-sequence' charge to cover the costs of infrastructure that would not otherwise be required.

**Figure 5.1 Development Staging in Victoria**



The Committee notes the benefits of a defined policy to make developers pay for the infrastructure that is required to support leapfrog development. The nearest parallel in Western Australia is the Water Corporation's headworks pre-funding boundaries for water and sewerage works.

**Finding 27**

The Victorian developer contributions system seems to have a more comprehensive financial mechanism of curbing leapfrog land development than the system in Western Australia.

(ii) *Developer Contributions in Victoria*

The Victorian development contribution system is similar to that in New South Wales, although contributions for social infrastructure in Victoria are limited to a far more moderate level. The principles that have been developed from a review of the contributions system in Victoria can be distilled into four key points:

- *Need – Identifying the infrastructure need generated by a development*
- *Equity – The levy must be a fair and reasonable apportionment of cost*
- *Nexus – A demonstrated connection between the development and the infrastructure generated*
- *Accountability – Procedures to ensure that the money collected must be spent on the infrastructure for which it was levied.*<sup>133</sup>

The Victorian *Planning and Environment Act, 1987* aims to:

- Provide for the fair, orderly, economic and sustainable use and development of land;
- Secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and
- Protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community.

Development contributions pursuant to section 173 of the *Planning and Environment Act, 1987*, permit local councils to levy contributions from developers. Funds from developers can be collected via:

- Development Contribution Plans;
- Conditions on planning permits; or
- Voluntary agreements between councils and developers.

A review of the development contributions system in Victoria was completed in May 2003.<sup>134</sup>

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<sup>133</sup> Government of Victoria, *Submission to the Productivity Commission Inquiry: First Home Ownership*, October 2003, p.29.

<sup>134</sup> Department of Sustainability and Environment (Victoria), *A New Development Contributions System for Victoria*, Melbourne, May 2003.

The prerequisites that have to be met before a local council in Victoria can charge a development contribution are similar to those in New South Wales:

- A Development Contribution Plan must be prepared and approved by the Minister;
- Infrastructure to be provided under a DCP:
  - must serve a neighbourhood or larger area;
  - must be used by a broad section of the community; and
  - will in most cases serve a wider catchment than an individual development.
- Infrastructure projects can be included in a DCP if they will be used by the future community of an area, including existing and new development;
- There must be a nexus between new development and the need for new infrastructure – it must be demonstrated that the new development to be levied is likely to use the infrastructure to be provided;
- DCPs must have a reasonable time horizon (not exceeding 20 to 25 years);
- Infrastructure costs must be apportioned on the basis of projected ‘share of usage’ across new and existing residents. However, only new developments can actually be charged the levy;
- The levies collected must be used to provide the infrastructure specified in the DCP; and
- Recurrent costs of the infrastructure and administration costs of developing a DCP may not be levied.

In order to address some of the complexities and costs in preparing DCPs, the development contribution review in 2003 proposed an option of choosing off-the-shelf DCPs. Four off-the-shelf options are available depending on the nature of development: greenfields suburbs, consolidation of outward urban growth, urban infill, and rural areas. These options allow local authorities to implement DCPs and collect developer contributions while avoiding the often high administrative and technical costs in preparing a DCP based on estimated costs relevant to each particular development area. They allow the authority to charge pre-determined levies for roads, drainage, open space and community facilities on a per-dwelling basis.

The off-the-shelf DCPs favour the land developers in that the total contributions are generally less than would otherwise be the case for a full DCP. The savings in



preparation, consultation and administrative time and costs, however, mean an overall better outcome for both developers and the local council.

Following a recent declaration by the Victorian Planning Minister, the following works, services or facilities may be funded from a development infrastructure levy:

- Acquisition of land for roads, public transport corridors, drainage, public open space, and community facilities including, but not limited to, those listed under the last dot point in this list;
- Construction of roads, including the construction of bicycle and foot paths, and traffic management and control devices;
- Construction of public transport infrastructure, including fixed rail infrastructure, railway stations, bus stops and tram stops;
- Basic improvements to public open space, including earthworks, landscaping, fencing, seating and playground equipment;
- Drainage works; and
- Buildings and works for or associated with the construction of maternal and child health centres, childcare centres, kindergartens, or any centre which provides these facilities in combination.

The Committee considers that whilst the development contribution system in Victoria allows for contributions to community infrastructure, by capping these contributions, developers have greater certainty than in New South Wales, where contributions to community facilities are not limited.

### **Finding 28**

The Development Contributions Plans as applied in Victoria allow local authorities to charge development contributions for community facilities. These contributions are capped at \$450 (soon to be increased to \$1,000), which provides greater certainty to developers than in New South Wales.

## (c) Queensland

### (i) *Planning in Queensland*

Prior to 1997, there were approximately 60 different approval systems relating to development in Queensland, each involving separate processes for lodgement, assessment and decision making. Under this previous arrangement, a single development proposal may have needed to go through more than one of these approval systems.

The *Integrated Planning Act, 1997*, which forms the foundation of Queensland's planning and development assessment legislation, brought all these separate approval processes together into one integrated package. The main elements of this framework include:

- One system for all development related assessments by local and State governments — the Integrated Development Assessment System;
- Local government planning schemes as the main instrument for planning and development assessment;
- State planning policies;
- Regional planning;
- Infrastructure planning; and
- Private certification.<sup>135</sup>

As with planning instruments in other jurisdictions, the purpose of the *Integrated Planning Act, 1997* is to:

*...balance community well being, economic development and the protection of the natural environment by providing a framework for managing growth and change within the State.*<sup>136</sup>

The IDAS consists of four major stages that apply to complex development proposals, while simpler applications may only trigger two of the stages:

- *Application Stage* — application is lodged with the assessment manager (who is usually the local authority). This stage is mandatory for all assessable development proposals;

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<sup>135</sup> Queensland Government, *Integrated Planning Act: Key Elements of the IPA*, Available at: <http://www.ipa.qld.gov.au/docs/IPABrochure.pdf> (accessed 28 May 2004).

<sup>136</sup> *Ibid.*

- *Information and Referral Stage* — application is reviewed. During this stage the assessment manager and some State Government agencies may request further information and particulars about the proposal. This stage is optional depending on the complexity of the development;
- *Notification Stage* — is the stage at which an impact assessable application is publicly advertised and comments on the proposal are invited from the community. This stage is optional depending on the complexity and impact of the development; and
- *Decision Stage* — is the stage at which the assessment manager makes a decision on whether the application is to be approved and advises the applicant and any submitters of their decision. This stage is mandatory.<sup>137</sup>

The legislation sought to introduce key initiatives to reduce the cost of providing basic infrastructure and services to new communities by coordinating State and local government capital works with land use planning decisions in local government planning schemes. The reforms are also designed to provide clear funding principles for basic and essential infrastructure in new communities through infrastructure charges.

#### **(ii) *Developer Contributions in Queensland***

The *Integrated Planning Act, 1997* enables local authorities to impose developer contributions to assist with the provision of ‘basic and essential’ infrastructure only, excluding contributions for social infrastructure that are possible under both the New South Wales and Victorian systems. Councils can only impose infrastructure charges on developers where there is a ‘private’ benefit, rather than for ‘social infrastructure’ such as childcare centres, libraries etc, which provide broader public benefits. In this way, it is similar to the current situation in Western Australia.

All councils are required to prepare Priority Infrastructure Plans that outline the anticipated economic and social infrastructure needs for that community. Within these plans, the infrastructure that is eligible for developer contributions (ie. ‘private benefit’ infrastructure) must be included in an Infrastructure Charges Schedule, prepared by the council.

The ICSs outline the charging rationale and method and can only be applied to the following infrastructure items:

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<sup>137</sup> Queensland Government, *Integrated Planning Act: Introduction to the Integrated Development Assessment System*. Available at <http://www.ipa.qld.gov.au/docs/IntergratedDevBrochure.pdf> (accessed 28 May 2004).

- Water cycle management infrastructure (eg water supply, sewerage and drainage). This includes guidelines to charge contributions for the proportion of existing headworks consumed by the development;
- Transport infrastructure (eg roads, traffic control devices and cycle ways); and
- Infrastructure for local community purposes (eg public recreation land and land for community purposes).

Planning schemes must detail what infrastructure is required to meet the desired standard of service for existing and future development in the area. This provides greater certainty to the community, developers and infrastructure providers and aims to make infrastructure supply more efficient and timely.

Under the previous system, developer contributions were not necessarily related to a proposed development's proportional use of these items. The *Integrated Planning Act, 1997* introduced a developer contribution system designed to be fair, equitable and transparent based on 'user-pays' principles.

Reforms introduced in 2003 introduced a standard set of charges similar to the off-the-shelf Developer Contribution Plan used in Victoria. These enable smaller councils, or councils with limited developments, to avoid the cost and effort associated with the preparation of a fully tailored ICS. They are prepared by councils and endorsed by the State Government.

The guidelines for preparing an ICS include:

- Justification of the need for the infrastructure works/services included in the plan;
- Fees for infrastructure which provides a direct, private benefit to users should be explicitly treated as a user charge;
- Extent to which this infrastructure will be funded purely from developer charges as against other sources;
- Infrastructure charges should be limited to facilities and services where consumer choice is constrained for reasons of health and safety or where there are compelling savings in long term provision costs;
- Demonstration why alternative, more efficient, charging mechanisms cannot be used;
- Infrastructure charges should form part of a service "contract", including a clear plan for the provision of the infrastructure. This should include some assessment of the required timing of the provision of the infrastructure, and

importantly, the boundaries of the area for which the infrastructure is being provided;

- Description of each type of lot, work or use to which developer charges might apply, as well as the rate at which charges apply in each area and their method of calculation, and any provisions for the collection of infrastructure charges where a development permit is not required;
- Service provision plans should be based on “reasonable” performance requirements for infrastructure and engineering solutions which minimise the life cycle costs of meeting these requirements; and
- Infrastructure costs should be equitably apportioned based on estimated proportional share of infrastructure usage.<sup>138</sup>

The *Integrated Planning Act, 1997* provides a process for setting the charges in an ICS, including:

- Identify existing infrastructure, its current spare capacity and the beneficiaries or current service catchment of the infrastructure;
- Estimate the depreciated value of the existing infrastructure;
- Ascertain the new infrastructure required based upon anticipated demand levels;
- Estimate net present value of the new infrastructure required based on the anticipated demand levels; and
- Calculate and apportion charges.<sup>139</sup>

As the Queensland developer contributions system only includes charging for the more “identifiable” infrastructure that delivers a “private” benefit, the apportionment of the charges to developers is more straightforward than in New South Wales where “social” infrastructure apportionment can be complex. Apportioning charges for transport infrastructure can, however, be quite difficult and contentious, because of the open character of these networks.

Initiatives of the Queensland Government to increase residential densities around public transport corridors have been impeded by some local authorities, thereby limiting the success of initiatives such as transit-oriented urban development.

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<sup>138</sup> Access Economics, *Financing Infrastructure for Residential Development, Report for Housing Industry Association Limited*, (Canberra) October 2003.

<sup>139</sup> *Ibid.*

**Finding 29**

The decentralised planning system in Queensland provides local authorities with subdivision and planning control within their respective jurisdictions. This sometimes impedes the implementation of regional infrastructure that crosses the boundaries of a number of local authorities.

## CHAPTER 6 MANAGING URBAN GROWTH

### 6.1 Methods of Urban Growth Management

In evidence before the Committee, it was asserted that there are existing tools to manage urban growth that are not currently being utilised to their full extent. According to Mr Eric Lumsden, Chief Executive Officer of the City of Swan, the current strategic tools to direct urban growth are not being used effectively:

*In defence of the State Government the only system you have at the moment is the structure developed by the Department for Planning and Infrastructure, which has a metropolitan development program that refers to various phases. However, that is a reactionary approach; it is not proactive. Local government might have concentrated development occurring on different development fronts, and so does the State Government, whether it be through the Department of Education and Training or the Water Corporation. Once the asset is built on the ground it has to be maintained, and that creates competition for not only the initial infrastructure but also ongoing operating costs. I see that as a major issue, for not only local government but also government. There is a lack of whole-of-government approach in the board's future planning for the State, and not just for the metropolitan area...*

*I am heavily involved in three committees associated with Alannah MacTiernan's initiative, Dialogue With The City, and that is becoming very apparent in responding to community expectations on the future growth of Perth. Unless our Government develops a whole-of government approach sometime in the future, government, let alone local government, will face major financial issues.<sup>140</sup>*

Building on the existing tools to make them more effective has been suggested as a better tactic than using developer contributions to control urban form, as expressed by Dr Russel Perry, General Manager, LWP Property Group Ltd:

*I have a view based on my experience working in government as well as in the private sector that there are a number of very good tools available to government to deal with infrastructure coordination and planning, and I do not believe that they are being properly utilised. Probably the best example of that is the metropolitan development program. It is a very powerful infrastructure coordination tool that is planning based and it is a vehicle that the development industry certainly contributes to actively and views as being a valuable tool in terms of coordinated planning. Its weakness is that it is not really paid more than lip-service by a lot of government agencies that are in fact the infrastructure providers. ...*

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<sup>140</sup> Lumsden, E., City of Swan, Transcript of Evidence, 5 April 2004, p.5.

*That provides the vehicle to coordinate infrastructure, both soft and hard, in a way that is consistent with government decisions through the metropolitan region scheme, to allow for orderly frontal development. What needs to be done is that the three parties must sign off on the MDP. The problem with the current MDP is that it is descriptive, and is not necessarily implemented. It provides a wonderful agenda for implementation for the local authorities, the developers and the State Government. Those agencies could sign off on it and agree to set up particular agendas and agreements and to implement them for an area that is to be developed over the next five years.*<sup>141</sup>

A similar proposition was put forward by Mr Eric Lumsden:

*Firstly, through the process in the Department for Planning and Infrastructure as well as local government, a structured planning process is required. The structured planning process needs to be drilled down to look at not only land use but also community development, and generally that is done by them putting aside certain sites. That would then require the developer, as well as liaising with the State and local government for these estates, which have rapid concentrated growth in an area, to look at the development program that can then be taken on board to determine how community facilities will be supplied. I might add that that is the same issue with education sites and the provision of primary schools. Local government needs to have a phased program, and that could be tied back with some form of agreement, which Cliff mentioned, within certain parameters, so that, subject to this development occurring at a certain time and the developer contributing a certain rate, we would factor it into our strategic financial planning. We would be able to make sure with a far greater degree of certainty that these facilities are taken on at a certain time. That would have to be negotiated up-front with the developer. That would basically be a signed-off document that could be linked to either the state planning commission processes as a condition of the subdivision or whatever to ensure that that type of agreement is enforced and carried through by all parties involved.*<sup>142</sup>

However, the use of developer contributions to influence where and when development takes place is not supported by the available research in Australia:

*Strategic planning and controls on development can be justified on the basis that some of the social costs and benefits of locational decisions, such as environmental impacts, are not reflected in prices faced by participants in the market. However, a problem with relying on supply-side controls is that they may not adequately account for community preferences. One benefit of a progressive shift to 'user pays' systems for infrastructure services, is that it should reduce the extent to which prescription is necessary to determine*

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<sup>141</sup> Perry, R., LWP Property Group, Transcript of Evidence, 5 April 2004, pp.2-11.

<sup>142</sup> Lumsden, E., City of Swan, Transcript of Evidence, 5 April 2004, p.6.



*where new development can occur. However, any such reduction has not been evident in practice.*<sup>143</sup>

**Finding 30**

Developer contributions are not an effective way to control urban form or where development should occur. However, they do have a role to stop premature development in some areas.

**Recommendation 7**

Greenfield developments that leapfrog the existing urban front should be required to completely fund extensions to infrastructure that would otherwise be provided by the State Government. This includes extensions to major roads and utility networks.

**Recommendation 8**

Leapfrogging the existing urban front should not proceed unless there has been an agreement between the developer and the State Government regarding funding of major infrastructure. However, in principle the Committee recommends that the developer pay for the extra costs associated with leapfrogging the urban front.

Special agreements with developers could be entered into in order to provide major infrastructure ahead of time with incentives to developers. One recent example of coordinating development with major infrastructure is in Wellard, a suburb to the south of Perth, on the route of a new major passenger train line. This development is utilising transit-oriented development to encourage residents in the 2,700 lot subdivision to use the new train station. The development encourages smaller lots than typically developed in new suburbs of Perth – the smallest single lots being about 370m<sup>2</sup>. While this is a new concept for Perth, early indications have been positive with the first land releases occurring in mid-2004.

Such developments that optimise land development with the provision of major infrastructure should be more common, whereas at the moment it is the exception.

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<sup>143</sup> Productivity Commission, *First Home Ownership*, *op cit*, pXXIV.

### (a) Land Supply

The WAPC has statutory responsibility to monitor and ensure the availability of land for development and to coordinate the provision of services and infrastructure across the State. Key mechanisms to fulfil this requirement in urban areas are the Land Development Programs. These programs aim to ensure that infrastructure is delivered in an orderly and cost efficient manner to service development areas.

The land development programs operate within the framework of the State Planning Strategy and are directed by the WAPC's Infrastructure Coordinating Committee.

Under the Metropolitan Development Program a land release plan is prepared annually and provides details on the likely future development of land and infrastructure for residential use in the Perth Metropolitan Region and the Mandurah and Murray municipalities.

The Country Land Development Program has land release plans covering 13 major regional centres in Western Australia and covers the expected development of residential, commercial and industrial land and the associated supporting infrastructure.

The process of land development requires infrastructure to be established in order for land uses to develop and change. Infrastructure therefore can be considered to give land its value, as it allows the holder of the land to use it for a particular purpose. The value of land, therefore, is directly related to the infrastructure that is available to it. Over time, the cost of infrastructure that is provided becomes capitalised in the value of the land that it services.

The type of infrastructure provided to an area of land depends on the structure planning and approved zoning for that land. Structure Plans provide the 'blueprint' for the development of an area and outline the major land uses and transport networks. Within urban areas, the relevant zoning that should be considered is the Region Scheme zoning (in applicable areas), Town Planning Scheme zoning and, if it is a residential area, the applicable Residential Code (R-Code) which determines the maximum density of dwellings.

## 6.2 Infill and Redevelopment

One of the key issues with infill and redevelopment is that it carries greater business risks as it involves more consultation with the local community and residents.

*While the State Government would like to see the infill chances in established suburban areas exploited, developers are already under pressure from taxes*

*and environmental policies, without taking on local councils and powerful community groups in areas such as Perth's western suburbs...*

*High rise apartment development on the beach might catch the headlines, but for many of the land developers, the cost of long community consultation and protracted negotiations with local councils was too big a price to pay.<sup>144</sup>*

A current example is the proposed redevelopment at Scarborough where the development industry has had to undertake significant planning and consultation costs with uncertain outcomes. The Committee notes the development industry's point of view that developers require greater certainty with regard to redevelopment of land.

The WAPC has recently announced a program to assist local authorities to undertake planning processes designed to identify opportunities for infill and redevelopment of existing urban areas. This is under the *Dialogue with the City: Communities Program* and is aimed at meeting the objectives of the *Dialogue with the City* to move beyond community consultation, planning and design to implement proposals.

As stated earlier in this report, in Western Australia there are three key vehicles used to develop land:

- Private land developers;
- LandCorp; and
- Redevelopment Authorities (East Perth, Subiaco, Midland and Armadale).<sup>145</sup>

Private land developers and LandCorp are active in greenfields development, while the Redevelopment Authorities have specific areas of operation as specified in their respective legislation.

LandCorp operates under commercial principles, but it also leads in the implementation of government policy. LandCorp implements new requirements such as those in the State Sustainability Strategy as demonstrations of what can be achieved in a financially viable manner. In addition, LandCorp plays a key role where major public infrastructure is involved, such as Joondalup, Marlston Hill in Bunbury and the Mandurah Ocean Marina.<sup>146</sup>

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<sup>144</sup> The West Australian, *Outer Growth in Housing Lots to Defy Infill Push*, 9 June 2004, p.62.

<sup>145</sup> Morgan, A., East Perth Redevelopment Authority, Transcript of Evidence, 7 April 2004.

<sup>146</sup> Marra, F., LandCorp, Transcript of Evidence, 10 March 2004.

**Recommendation 9**

The redevelopment authority model should be extended to encompass broader redevelopment and infill areas.

**Recommendation 10**

An overall metropolitan current infrastructure plan should be prepared which clearly identifies under-utilised infrastructure.

**Recommendation 11**

The State Government should do everything possible to utilise the development potential of redevelopment and infill areas. This should aim to make better use of spare capacity in existing economic and community infrastructure.

### 6.3 Urban Growth

The basic principles underlying developer contributions have remarkable similarities across different jurisdictions – namely, the nexus requirement that the development has to *cause* the impact that is mitigated by the contribution.

The available research indicates that developer contributions may not be a legally valid means of controlling growth. This does not restrict the proper use of developer contributions, however, to remove government ‘subsidies’ to development. In other words, land developers should be required to contribute to the true costs of developing and servicing land.

Under these principles, however, developer contributions cannot be used as a levy to guide the location and form of urban development as they then risk becoming a levy unrelated to the actual costs and benefits of infrastructure funded through the contribution.

# APPENDIX ONE

## *BRIEFINGS HELD*

<b>Date</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
02.02.04	Mr Kerry Barwise	Director	The Allen Consulting Group
	Mr Stewart Plain	Senior Manager	The Allen Consulting Group
	Mr Ian Reynolds	General Manager	Blacktown City Council
	Mr Ron Moore	Director Finance	Blacktown City Council
	Ms Donna Savage	Development Manager Urban Development	Landcom
03.02.04	Mr Evan Jones	Director of Sydney Strategy	Department of Infrastructure, Planning and Natural Resources (DIPNR)
	Ms Susan Sky	Senior Policy Officer	Department of Infrastructure, Planning and Natural Resources (DIPNR)
	Mr Jeremy Morris	Urban Economist	Department of Infrastructure, Planning and Natural Resources (DIPNR)
	Mr Colin Reid	Director Water and Transport	Independent Pricing and Regulatory Tribunal of New South Wales (IPART)
	Mr Connor Read	Analyst	Independent Pricing and Regulatory Tribunal of New South Wales (IPART)
	Mr Wayne Gersbach	Executive Director Planning and Environment	Housing Industry Association Ltd

PUBLIC ACCOUNTS COMMITTEE

<b>Date</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
04.02.04	Mr Marc Spiller	Director	SGS Pty Ltd
	Mr Alex Hrelja	Associate Director	SGS Pty Ltd
	Mr Chris Turner	Manager – Policy and Projects Unit	Department of Sustainability and Environment
	Mr Jim Papadimitriou	Senior Policy Officer – Policy and Projects Unit	Department of Sustainability and Environment
	Mr Andrew Natoli	Policy Officer – Policy and Projects Unit	Department of Sustainability and Environment
	Ms Helen Gibson	Chief Panel Member	Department of Infrastructure
	Mr Ivars Satins	Manger Land Development & Information	Department of Sustainability and Environment
05.02.04	Dr John Marsden	Director	Marsden Jacob Associates
	Dr Jeff Washusen	Principal Consultant	Marsden Jacob Associates
	Mr Brian Haratsis	Managing Director	Macroplan
	Mr Richard Walker	Director, Economic Analysis	Macroplan
	Mr Con Tsotsoros	Director, Land Use Planning	Macroplan
	Mr Somma Sourivong	Planning Consultant	Macroplan
	Mr Claude Piccinin	Deputy Executive Director	Water Services Association of Australia
06.02.04	Dr Ted Campbell	Director General	Department of Local Government and Planning
	Mr Graeme Ballard	Manger Legislation and Policy Development Division	Department of Local Government and Planning

PUBLIC ACCOUNTS COMMITTEE

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<b>Date</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
	Mr Craig McAlpin	Senior Project Team Leader	Department of Local Government and Planning
	Mr Tom Orr	Senior Project Team Leader	Department of Local Government and Planning
	Mr Graham Wolfe	Executive Director – Queensland	Housing Industry Association Ltd
	Mr Rick Wiley	Assistant Director – Planning and Environment	Housing Industry Association Ltd





## APPENDIX TWO

### ***SUBMISSIONS RECEIVED***<sup>147</sup>

<b>Date</b>	<b>Name</b>	<b>Position</b>	<b>Organisation</b>
05.12.03	Ms Marion Fulker	Executive Director	Urban Development Institute of Australia
07.01.04	Mr Shane Purdy	Executive Manager, Infrastructure Services	Shire of Mundaring
07.01.04	Mr Robert Wood	Architect	Robert Wood Consultancy
19.01.04	Mr Tony Doust	Acting Chief Executive Officer	Shire of Broome
09.02.04	Mr Frank Edwards	Chief Executive Officer	City of Perth
12.02.04	Mr Ian MacRae	Executive Director, Development Services	City of Armadale
16.02.04	Mr Ron Yuryevich	President	Esperance-Eastern Goldfields Country Zone of the WA Local Government Association
16.02.04	Mrs Linda Nixon	Hon. Secretary	Naturaliste Care Services
16.02.04	Mr John Wood	Managing Director	National Lifestyle Villages Pty Ltd
16.02.04	Mr Don Punch	Chief Executive Officer	South West Development Commission
17.02.04	R & L Prestage, G & E Di Toro		
19.02.04	Ms Marion Fulker	Executive Director	Urban Development Institute of Australia

<sup>147</sup> A further witness, who cannot be identified, provided a submission to the Committee following a closed hearing.

PUBLIC ACCOUNTS COMMITTEE

20.02.04	Mr Wayne Prangnell	Director of Operations	Shire of Augusta – Margaret River
23.02.04	Mr Geoff Hendriks	Planning and Development Team Coordinator	Catholic Education Office of WA
24.02.04	Mr Max Hipkins	President	Local Government Planners Association
25.02.04	Ms C Mary Gray	Vice President	Urban Bushland Council WA Inc.
26.02.04	Mr Peter Verschuer	Program Manager, Land Development Policy	Water Corporation
27.02.04	Mr John Dastilik	Executive Director	Housing Industry Association
02.03.04	Mr Darren Long	Chief Executive Officer	Shire of Jerramungup
02.03.04 (amended 07.04.04)	Ms Clare Muhleisen	Research Analyst	Department of Housing and Works
02.03.04	Mr Lindsay Delahaunty	Chief Executive Officer	City of Stirling
10.03.04	Mr Ray Stokes	Executive Director, Statutory Planning	Department for Planning and Infrastructure
12.03.04	Mr Peter Duncan	Manager, Planning and Development	Shire of Denmark
15.03.04	Ms Allison Hailes	Executive Manager, Development	Western Australian Local Government Association
15.03.04	Ms Francesca Lefante	Director, Planning and Development Services	City of Bayswater
16.03.04	Mr EWT Lumsden	Chief Executive Officer	City of Swan
16.03.04	Mr Stuart Jardine	Chief Executive Officer	City of Gosnells
16.03.04	Mr Mark Newman	Chief Executive Officer	City of Mandurah
16.03.04	Mr GG Holland	Chief Executive Officer	City of Rockingham
16.03.04	Mr C Johnson	Chief Executive Officer	City of Wanneroo
16.03.04	Mr Frank Prokop	Executive Director	Recfishwest
16.03.04	Mr Peter Watt		

PUBLIC ACCOUNTS COMMITTEE

18.03.04	Mr Robert Fenn	Executive Director, Development Services	City of Albany
18.03.04	Mr Geoff Oddy	Chief Executive Officer	Aqwest
30.03.04	Mr Alan Summers		
30.03.04	Mr Frank Marra	General Manager, Finance and Business Strategy	LandCorp
31.03.04	Mr Rob Stewart	Chief Executive Officer	Shire of Plantagenet
31.03.04	Mr Richard Bloor	Project Manager, Asset Services	Department of Education and Training
05.04.04	Mr Geoff Cooper	Senior Policy Adviser	Property Council of Australia
05.04.04	Mr Evan Campbell	Development Director	Mirvac Fini
20.04.04	Mr Tony Morgan	Chief Executive Officer	East Perth Redevelopment Authority
20.04.04	Mr Darren Long	Chief Executive Officer	Shire of Jerramungup
03.05.04	Mr Peter Verschuer	Acting Manager, Land Development Branch	Water Corporation
05.05.04	Mr Laurie Piggott	Manager, Planning and Property	Public Transport Authority
05.05.04	Mr Gary Norwell	Executive Director, Technology and Environment	Main Roads WA
08.06.04	Mr Ken Bowron	General Manager, Networks	Western Power Corporation
09.08.04	Mr Geoff Oddy	Chief Executive Officer	Aqwest
05.10.04	Dr Jim Gill	Chief Executive Officer	Water Corporation
07.10.04	Mr David Smith	Executive Director, Economic	Department of Finance and Industry



## APPENDIX THREE

### LEGISLATION

<b>Legislation</b>	<b>State (or Country)</b>
<i>Armadale Redevelopment Authority Act, 2001</i>	Western Australia
<i>East Perth Redevelopment Authority Act, 1991</i>	Western Australia
<i>Electricity Corporations Act, 1994</i>	Western Australia
<i>Environmental Planning and Assessment Act, 1979</i>	New South Wales
<i>Integrated Planning Act, 1997</i>	Queensland
<i>Land Acquisition (Just Terms Compensation) Act, 1991</i>	New South Wales
<i>Land Administration Act, 1997</i>	Western Australia
<i>Land Clauses Consolidation Act, 1845</i>	United Kingdom
<i>Local Government Act, 1995</i>	Western Australia
<i>Metropolitan Region Town Planning Scheme Act, 1959</i>	Western Australia
<i>Midland Redevelopment Authority Act, 2000</i>	Western Australia
<i>Planning and Environment Act, 1987</i>	Victoria
<i>Public Works Act, 1902</i>	Western Australia
<i>State Enterprises (Commonwealth Tax Equivalents) Act, 1996</i>	Western Australia
<i>Subiaco Redevelopment Authority Act, 1994</i>	Western Australia
<i>Telecommunications Act, 1997</i>	Australia
<i>Town and Country Planning Acts, 1990</i>	United Kingdom
<i>Town Planning and Development Act, 1928</i>	Western Australia
<i>Western Australian Land Authority Act, 1992</i>	Western Australia

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<i>Western Australian Land Authority Amendment Act, 1998</i>	Western Australia
<i>Western Australian Planning Commission Act, 1985</i>	Western Australia

## APPENDIX FOUR

### WITNESSES TO HEARINGS<sup>148</sup>

Date	Name	Position	Organisation
10.03.04	Dr Paul McLeod	Dean, Business School	University of Western Australia
10.03.04	Mr Frank Marra	General Manager, Finance and Business Strategy	LandCorp
10.03.04	Mr John Clifton	Business Manager, Business Strategy	LandCorp
10.03.04	Mr Bruce Low	Business Manager, Operations	LandCorp
10.03.04	Mr Raymond Stokes	Acting Executive Director, Statutory Planning	Department for Planning and Infrastructure
22.03.04	Mr Peter Drage	Deputy President	Shire of Cranbrook
22.03.03	Mr Nick Burges	Shire President	Shire of Cranbrook
22.03.03	Mr Graham Stanley	Chief Executive Officer	Shire of Cranbrook
22.03.03	Mr Robert Stewart	Chief Executive Officer	Shire of Plantagenet
22.03.03	Mr Darren Long	Chief Executive Officer	Shire of Jerramungup
22.03.03	Ms Glenyse Garnett	Shire President	Shire of Jerramungup
22.03.03	Mr Peter Duncan	Manager, Planning and Development	Shire of Denmark
22.03.03	Mr Kevin Forbes	Shire President	Shire of Plantagenet
22.03.03	Mr Pascoe Durtanovich	Chief Executive Officer	Shire of Denmark
22.03.03	Mr Kim Barrow	Shire President	Shire of Denmark
22.03.03	Mr Robert Fenn	Executive Director, Development Services	City of Albany

<sup>148</sup> A further witness, who cannot be identified, gave evidence before the Committee at a closed hearing.

PUBLIC ACCOUNTS COMMITTEE

22.03.03	Mr Graeme Robertson	Managing Director	RC Developments
22.03.03	Mr David Lantzke	General Manager	Ardross Group of Companies
22.03.03	Mr Maynard Rye	Deputy Chief Executive Officer	Great Southern Development Commission
31.03.03	Mr Terry Merefield	Quantity Surveyor	Merefield Wilde and Woollard Pty Ltd
31.03.03	Mr Ron Dullard	Director	Catholic Education Office of WA
31.03.03	Mr Geoff Hendriks	Coordinator, Planning and Development	Catholic Education Office of WA
31.03.03	Mr Richard Bloor	Principal Consultant, Asset Planning	Department of Education and Training
31.03.03	Mr Brian Handcock	Property Portfolio Manager, Asset Planning	Department of Education and Training
31.03.03	Mr John Moore	Planning Analyst, Asset Planning	Department of Education and Training
31.03.03	Mr John Nicholas	Manager, Asset Planning	Department of Education and Training
31.03.03	Mr Chris Lewis	General Manager	Australand Holdings Ltd
31.03.03	Mr Justin Crooks	Project Manager	Australand Holdings Ltd
05.04.04	Mr Russel Perry	General Manager	LWP Property Group Ltd
05.04.04	Mr Danny Murphy	Managing Director	LWP Property Group Ltd
05.04.04	Dr Jim Gill	Chief Executive Officer	Water Corporation
05.04.04	Mr Garry Meinck	General Manager	Water Corporation
05.04.04	Mr Peter Verschuer	Program Manager, Land Development Policy	Water Corporation
05.04.04	Mr Roger Bulstrode	Manager, Land Development	Water Corporation
05.04.04	Mr Stuart Jardine	Chief Executive Officer	City of Gosnells
05.04.04	Mr Alexander Frewing	Executive Manager	City of Swan
05.04.04	Mr Eric Lumsden	Chief Executive Officer	City of Swan



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05.04.04	Ms Allison Hailes	Executive Manager	Western Australian Local Government Association
05.04.04	Mr Giuseppe Ripepi	Policy Officer, Support	Western Australian Local Government Association
05.04.04	Mr Clive Robartson	President	Western Australian Local Government Association
05.04.04	Mr Wayne Gersbach	Executive Director, Planning and Environment	Housing Industry Association
05.04.04	Ms Sheryl Chaffer	Acting Director, Planning and Environment	Housing Industry Association
05.04.04	Mr Geoffrey Cooper	Senior Policy Adviser	Property Council of Australia
05.04.04	Mr Dean Mudford	Manager, Apartments WA	Stockland
05.04.04	Mr Evan Campbell	Development Director	Mirvac Fini
07.04.04	Mr Greg Joyce	Director General	Department of Housing and Works
07.04.04	Mr Richard Elliot	Manager, Land Planning	Department of Housing and Works
07.04.04	Ms Clare Muhleisen	Research Analyst	Department of Housing and Works
07.04.04	Mr Glenn Finlay	Director, Landstart	Department of Housing and Works
07.04.04	Mr Mark Hedges	Executive Director, Place Creation	East Perth Redevelopment Authority
07.04.04	Mr Anthony Morgan	Chief Executive Officer	East Perth Redevelopment Authority
07.04.04	Mr Geoff Oddy	Chief Executive Officer	Aqwest
05.05.04	Mr Gary Norwell	Executive Director, Technology and Environment	Main Roads WA

PUBLIC ACCOUNTS COMMITTEE

05.05.04	Mr Lindsay Broadhurst	Route Development Manager	Main Roads WA
05.05.04	Mr Laurie Piggott	Manager, Planning and Property	Public Transport Authority
05.05.04	Mr Ken Bowron	General Manager, Networks	Western Power
05.05.04	Mr Peter Mattner	Manager, Pricing and Regulation	Western Power
05.05.04	Mr Robert Rogerson	Distribution Asset Integration Manager	Western Power
27.05.04	Mr Tom Vinnicombe	Shire President	Shire of Broome
27.05.04	Mrs Veronica Wevers	Deputy Shire President	Shire of Broome
27.05.04	Mr Ian Bodill	Chief Executive Officer	Shire of Broome
27.05.04	Mr Allan Ralph	Manager, Engineering Services	Shire of Broome
27.05.04	Ms Elsia Archer	President	Shire of Derby-West Kimberley
27.05.04	Mr Jonathan Throssell	Chief Executive Officer	Shire of Derby-West Kimberley
22.09.04	Dr Jim Gill	Chief Executive Officer	Water Corporation
22.09.04	Mr Garry Meinck	Chief Operating Officer	Water Corporation
22.09.04	Mr Peter Verschuer	Manager, Land Development	Water Corporation
22.09.04	Mr Malcolm Peacock	Chief Financial Officer	Water Corporation
22.09.04	Mr David Morrison	Economist	Department of Treasury and Finance
22.09.04	Mr Michael Court	Assistant Director, Commercial Policy	Department of Treasury and Finance
22.09.04	Mr David Smith	Executive Director, Economic	Department of Treasury and Finance
22.09.04	Mr Geoff Oddy	Chief Executive Officer	Aqwest

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