



2019

COMMUNITY BENEFIT AND DEVELOPMENT INCENTIVES

LITERATURE REVIEW, CASE STUDIES AND RECOMMENDATIONS

PREPARED BY



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INTRODUCTION

Purpose

Currently, there is an absence of evaluation frameworks that can be used by planning authorities and developers to calculate appropriate development incentives derived from the provision of community benefits. This knowledge gap is creating challenges for planning authorities who are assessing developments which propose additional community benefits and in return, seek development incentives.

The purpose of this report is to help local government understand the range of methodologies currently being used by planning authorities nationally and internationally, to achieve community benefits in return for development incentives, while also looking at the downfalls, successes and application of these methodologies.

The report delivers **8 recommendations** which propose specific actions based on evidence gathered through an academic literature review, State Administrative Tribunal judgements, analysis of local, national and international case studies and interviews with local governments.

This report focuses on development incentives where they are linked to the cash contribution or delivery of community benefits.

The report also seeks to address specific questions including:

1. What principles should be used by planning authorities to guide the preparation of a policy or plan, which aims to facilitate community benefits and development incentives? (Page 9)

2. What actions should be undertaken to prepare community benefit and development incentive policies and plans? (Page 7)

Community benefits for development incentives allow a developer to develop to a height or plot ratio, which would not ordinarily be permitted in exchange for a community benefit, which would not otherwise be required or provided.

(American Planning Association, 2019)

Community Benefit

Community benefits are

“contributions that a developer makes towards the provision of essential community infrastructure as part of a negotiated development approval” (Planisphere, 2017, p. 6).

Community benefits are also commonly referred to as public benefits. However, the definition of ‘public’ includes society, communities, organisations, public, private and individuals at large. Whereas, the definition of *community* is concerned with a group of people living within a geographical area and/or who have a particular characteristic, attitude or interest in common (Pfortmuller, 2017).

Historically, the definition of community was based on the shared location of people. However, for many of us, this is no longer the sole or largest definer of how we community. In recent years, we have shifted towards an approach where we selectively choose our own communities to express our identities. Thus, a community in a local government perspective should encompass a locational context, people, relationships and a shared identity (Pfortmuller, 2017). For the purpose of this paper, and to ensure a clear need and nexus with the locality of the development incentive, the appropriate terminology is a ‘community benefit’.

In addition, a community must have trust in one another and the decision-making process. Trust through the decision-making process is often best achieved when the policy, application and decision are transparent and clearly connected to the needs of the local community.

Furthermore, what is considered a community benefit differs between localities and even between intellectuals (Biggar, 2017, p. 17). Thus, community benefits need to be carefully considered by each local government specific to the area being planned.

Community Benefits for Development Incentives

The public sector often has limited resources available to improve urban environments at the speed in which they are actively being redeveloped by the private sector (Jung, 2019, p. 2). Development incentives provide a means through which additional development potential or flexibility can be achieved by developers in return for contributing positively toward local community objectives (as outlined within Part 2.8, State Planning Policy 7.3: Residential Design Codes Volume 2 - Apartments).

Planning agreements and the provision of community benefits are used globally. However, they were first used in the English planning system in the mid 1930’s (Ruston, n.d, p. 1). On the other hand, density bonuses originated in cities such as Chicago (USA) in the 1970’s (Biggar, 2017, p. 13). Across the globe development incentives are also commonly referred to as ‘**development bonuses**’, ‘**development contributions**’, ‘**land value recapture**’, ‘**planning gain**’, ‘**density bonus agreements**’ and ‘**incentive zoning**’. The notion of deriving community benefits from private developers in return for offering development incentives is often coined ‘**community value capture**’ (Biggar, 2017, p. 27). The principle behind community value capture is to reinvest a portion of the developer’s profits back to the community through incentives. The provision of community benefits for development incentives often arises through statutory requirements; however, there are circumstances where community benefits are negotiated on a case-by-case bases between the responsible authority and developer (Planisphere, 2017). Despite the range of definitions used, one important consistency is that community benefits must align with the social, cultural, recreation or environmental needs of local community.

In most circumstances, the uptake and application of community benefits for development incentives depends on a “booming economy and a perceived value for density” by developers (Biggar, 2017, p. 13). On the other hand, in deflated markets development contributions can be an encumbrance and disincentivise developers from starting a development project.

Common Factors

Community benefits are often provided by way of:

1. **A benefit to the community provided on the proponent's land.**
2. **A levy or contribution as part of a development that funds community infrastructure projects.**
3. **Land ceded free of cost to a local authority.**

The types of community benefits, which might be delivered, include (Planisphere, 2017, p. 6):

- **General infrastructure, such as roads, carparks, footpaths, drainage, streetscape improvements or open spaces;**
- **Community amenities, such as community hubs, libraries, sports facilities or health centres; and**
- **Identified shortfalls in specific uses, such as office space or affordable housing.**

While a development incentive is often in the form of increased development potential, for example, increased height, density or plot ratio, it can also include development flexibility such as reduced car parking requirements or impact fees (Schildt, 2012, p. 2). Impact fees are adjusted yearly and are imposed on a developer to mitigate the impacts caused by the development on public services, infrastructure and facilities within the area. It is important to ensure that development incentives do not become the default development standard expected by developers without the application of proportional community benefits. Commonplace accountability and responsibility of development incentive applications can help address this issue.

In summary, the establishment of a community benefits for development incentives policy/plan can be a powerful tool to help value capture and bring about positive change for a locality. Nonetheless, they can also generate a significant increase in wealth and development opportunities for developers. Therefore, there is the potential that policies which are poorly formulated could “distort good planning practice for the sake of improved outcomes” (Planning Institute of Australia, n.d, p. 5).

As with most planning tools, there are always those who consider policy or initiatives such as community benefits for development incentives flawed. For example, “RMIT University planning academic Professor Michael Buxton said that development uplift provision was flawed because public benefit should be part of the approval, not the basis for a bonus” (Lenaghan, 2016). However, this highlights that community benefits provided in return for development incentives really need to go beyond what is expected as standard development and community infrastructure and meet excellence standards or above in order to be applied.

Discretion in Planning

Discretion in planning has been a popular debate over the last decade (Biggar, 2017). The concept of discretion is a central component in Western Australia's (WA) land use planning system and particularly in the community benefit and development incentive space. Discretionary planning allows certainty to be traded for flexibility, in order to adapt to complex development projects, site-specific characteristics and changing circumstances. In countries such as Canada and Australia, discretionary planning can also politicise local decision-making (Biggar, 2017).

Thus, the right balance of discretion in the planning system is highly important. Discretionary powers should account and allow site-specific, but also unusual or unplanned, situations to be accounted and planned for. However, where the planning system can reduce reliance on discretionary powers it increases consistency, transparency and accountability of the process.

In most circumstances, maximum building height and plot ratio including bonuses, should be planned and accounted for. While bonuses may not always be achieved, the bonus achievable should be considered reasonable and objective. Discretion in the form of minor variations should be supported. Nonetheless, using discretion to vary planning, substantially beyond what is planned, diminishes trust with the community and demonstrates that long-term planning for the particular locality may need to be updated.

PRINCIPLES

The following five principles should apply to all levels of planning which consider community benefits in exchange for development incentives. From the preparation of policies, plans and provisions which consider development incentives where community benefits are delivered, to the assessment of development applications which seek to utilise community benefits provisions to gain development incentives.'

NEED AND NEXUS

- The need for the community benefit must be clearly demonstrated and identified through planning studies.
- There must be a reasonable connection between the development, the community demand created and the delivery of community benefit items.

EQUITY

- The contribution or community benefit delivered must be a fair and reasonable cost, based on the benefits delivered and development incentives gained. Further, they should be levied or collected equitably from all developers within an area who seek development incentives.
- Community benefits and development incentives should also be chosen and weighted to reflect local priorities.

CERTAINTY

- The scope, values, measures, timing and priority of community benefit items should be clearly identified and agreed upon by the local government and community through a planning mechanism, rather than on a case-by-case basis.

TRANSPARENCY

- The method for calculating community benefits and development incentives and the manner in which they are applied should be clear and simple to understand and administer.

CONSISTENCY

- The system for requiring, collecting and delivering community benefits for development incentives should be consistent and efficient.

ACCOUNTABLE

- That there is accountability in the manner in which community benefits are determined and expended.
- The responsible authority should implement procedures to ensure that the money collected cannot be used for any purpose other than that for which it was collected and which clearly shows how, when and where the money collected is spent.
- Records should be kept of all decisions made.

RECOMMENDATIONS

This report proposes **8 RECOMMENDATIONS**, which should be considered by planning authorities when preparing or amending a local planning scheme, policy or plan to implement community benefits for development incentives.

Although the recommendations below are not exhaustive, they provide an important starting point and attempt to address issues that have arisen in other jurisdictions.

1. Context

- A. Define who the community benefit should be for; users of the area, locals or activity centre users.
- B. The context of the locality is important.
 - For instance, an existing residential area, may benefit from additional community benefits such as community facilities and affordable housing. However an area which is transitioning from industrial to more residential mixed-use may benefit from initial contributions which upgrade streetscapes, roads and provide public parks, as they are yet to be provided in the area and encourage redevelopment.

2. Community Needs Plan

- A. Work with residents ahead of time to determine their list of priorities for community benefits. This helps to establish trust with residents by ensuring they receive something important to their community in exchange for development incentives.
- B. Community needs plan prepared by sub-districts or even different street blocks. This approach should ensure the specific context and optimal location of benefits provided.
- C. If monetary or cash-in-lieu contributions are expected from developers in exchange for development incentives, then a fund needs to be established. The Community Needs Plan should set out how the funds will be used to deliver the community benefits, and when and how the benefits will be delivered.

3.

Market Analysis and Balancing of Benefits and Incentives

- A. Commission an independent analysis of market conditions to determine the right balance of benefits to bonuses in the locality. Feasibility analysis will help establish where development bonuses and community benefits would enhance development feasibility and how to ensure their equitable share between developers and the community .
- B. The right benefit and incentive balance will depend on the local government's priorities and goals for each precinct and area.
- C. The market analysis should also be prepared in consultation with the development industry. For instance, constructing to specific floor levels can trigger higher costs and building code requirements and thus negatively affect the incentive to develop and provide community benefits.
- D. The value should also be determined based on the exchange of practical values, rather than on the current system's simple 'quantify and calculate' process by an equation for calculation.

4.

Valued and Measurable System

- A. An approach, which values and/or measures the community benefit and development incentives against one another, is required to remove politics from discretionary decision-making.
- B. Development incentives and community benefits could be outlined incrementally. Rather than require the delivery of one community benefit to achieve the maximum development incentive, an option may exist to deliver 75% of the public open space and 25% of the public realm infrastructure required to make up the maximum achievable development incentive. However, this might not work for all benefits, such as 75% delivery of a community facility would create an undesirable and unfinished benefit.
- C. Measures and values could be based on square metres, points, percentages, ratios or monetary values.

5.

Staged or Stepped Approach

- A. Minimise negative amenity impacts on adjacent properties and surrounding locality, as step one.
- B. Development applications should go through a design review panel to ensure design is of excellence or exemplary nature, as step two.
- C. Community benefits provided onsite or through cash contributions, as step three.
- D. Tiered approach for building height and/or plot ratio incentive maximums.

6.

Reasonable Planning Relationship

- A. There needs to be a reasonable planning relationship between the increase in height and density, and the community benefits. Particularly, in relation to geographic proximity and local community demographics.
- B. What is considered a reasonable planning relationship and proximity will differ depending on the type of facility, amenity or benefit provided.

7.

Apply a Maximum Bonus Height or Plot Ratio

- A. Calculate the maximum bonus height or plot ratio in line with the analysis of market conditions. A developer would be unlikely to uptake community benefits if they only receive a 10-15% bonus on their maximum height, as the cost of providing the community benefits is likely to exceed the development incentive.
- B. The development incentives need to add clear value for the developer at the specific site.
- C. Base plot ratios or building heights should not be set at conservative levels which are aimed at triggering community benefit and development incentive policies. A plot ratio and building height for a site should reflect its highest and best use.
- D. The only exception to not include maximum bonus heights should be in central core areas such as the central business district, or areas, which do not interface with low and medium-density residential development. In central core areas, a maximum plot ratio is a more appropriate mechanism to limit the scale of activity and building bulk rather than absolute height.

8.

Implementation

- A. Make the policy or program simple to understand and easy to use. It is likely that voluntary and incentive policies will only be used if developers can understand how to apply them, can easily identify the benefits and are certain they can successfully meet the objectives.
- B. Work with developers to create a process that is transparent and predictable, as mentioned in SPP 7.3.
- C. Policies or plans should illustrate the documentation required to be provided by a proponent to demonstrate the community benefit delivered and incentives sought.
- D. Ideally, the most appropriate way to approach development incentives in a WA context is through local planning schemes, activity centre plans and structure plans, however, they could also be included in local development plans and local planning policies.
- E. Document and record all community benefits and development incentives delivered and in accordance with the community needs plan.

Community Benefit Examples

- Place making initiatives
- Public facilities
- Public amenities
- Provisions for the construction phase such as targeted employment opportunities and local procurement agreements
- Parks and public open space
- Aged care and child care
- Libraries
- Cultural facilities
- Community centres
- Affordable housing
- Heritage preservation
- Dwelling diversity
- Heritage
- Retention of vegetation
- Energy efficient design
- Water conservation
- End of trip facilities
- Bike paths and foot paths
- Pedestrian access links
- Corner site streetscape improvements
- Landscaping
- Public art
- Retirement village
- Streetscape and public realm upgrades
- Public transport infrastructure (above Public Transport Authority minimum standard)
- Carparks
- Road upgrades

Starting Questions

Starting questions to consider alongside plans and policies which provide development incentive provisions for community benefits. The starting questions should be considered by local governments when assessing a development application proposing community benefits for development incentives (Castellas, Brusnahan, Cardin, & Anderson-Oliver, 2019):

1. **What community issues are being addressed?**
2. **Who benefits?**
3. **How much benefit or value is being created?**
4. **What is the projects contribution to positive benefits or negative impacts in the community?**
5. **What risk is there of the project failing to help the community or damaging it?**

SUMMARY

The methods used by planning authorities to facilitate development incentive programs have been “cross fertilised between different countries and cities”, as planners learn from others and adopt new approaches through policy transfer.

However, policy transfer is rarely simple or linear, and as such requires a deep understanding of the contextual factors to successfully transfer policy approaches from one jurisdiction to another.

(Gurran, et al., 2018, pp. 11-12)

A KEY REPORT RECOMMENDATION

suggests local governments apply **MEASURABLE AND VALUED DEVELOPMENT INCENTIVES**, within a **MAXIMUM BONUS LIMIT** especially in areas with residential interfaces, otherwise as the saying suggests the sky is the limit.

As discussed, development incentive programs need a robust framework to meaningfully identify and measure community benefits and program delivery effectiveness (Castellas, Brusnahan, Cardin, & Anderson-Oliver, 2019). Further, community benefits must reflect the surrounding locality's unique character and community requirements.

In addition, the historical application of plans, policies and legislation need to be consistently applied. Consistent application of development incentive policies and plans increases certainty and understanding by developers as well as the community, thus increasing trust and meaningful engagement throughout the process. Nonetheless, consistency should not overarch context, need and nexus for the specific site and circumstances presented.

The principles and recommendations proposed in this report provide a basis for learning from the experience of other cities. However, local governments should ensure they take into consideration their own contextual settings.

The question of whether to build community benefits directly or to require their provision by developers is still a matter of judgement, with the choice dependent upon the political and risk tolerance of agencies and local governments and the strength of the real estate market (Sagalyn, 1997, p. 1968).

The report was prepared within a three month timeframe and thus analysed the more prominent documents and cities within this space. The report recognises the potential limitations of such a short timeframe and thus, proposes recommendations and principles which could be applied based on literature and learnings from current practices.

The case studies in the proceeding sections have been provided to help local governments in Western Australia, who may be considering the adoption of development incentive policies, understand the different contexts and methods currently being adopted and implemented nationally and internationally.

CASE STUDIES

LOCAL

Department of Planning, Lands and Heritage, Draft State Planning Policy 3.6 Infrastructure Contributions

In July 2019, the Department of Planning, Lands and Heritage (the Department) released draft *State Planning Policy 3.6: Infrastructure Contributions (SPP 3.6)*. SPP 3.6 applies to new and existing communities in WA whereby land is currently zoned or identified in strategic planning instruments to “accommodate and facilitate population and economic growth”.

The background behind the policy is to create a system that enables the coordination and delivery of essential infrastructure to meet the needs of the growing community. However, many local governments particularly inner city ones dealing with the application of Development Contribution Plans (DCP) have found that DCP’s lack flexibility and require significant time and wage resources to implement and deliver.

SPP 3.6 separates infrastructure into development and community. Development infrastructure is required to support the orderly development/redevelopment of the area, whereas, community infrastructure includes infrastructure required for communities and neighbourhoods to function effectively. Infrastructure items which may be required as contributions can include but are not limited to the following broad terms to the right.

Development and community infrastructure items (although not exhaustive), display striking similarity to community benefits required for development incentives from case studies in WA and across the globe. Furthermore, it demonstrates that developers delivering community benefits for development incentives across the globe are providing not just community infrastructure but also development infrastructure as part of the development incentive bargain.

Accordingly, it becomes apparent that there is a fine line between what needs to be delivered/provided by the developer (relative to their site context) to meet the development and community infrastructure needs of the growing urban communities under a DCP, compared with the delivery of community benefits provided by a developer for development incentives.

Development Infrastructure

- Land for public open space
- Development of public open space
- Foreshore reserves and wetlands
- Primary schools
- Roads (proposed and upgrading)
- Shared cycle paths and foot paths
- Sustainable transport
 - (Includes streetscape and public realm elements)

Community Infrastructure

- Sports facilities
- Foreshore reserves
- Libraries
- Child and after school care
- Multipurpose district community building and basic facilities
 - (Includes meeting rooms, recreation centres, flexible spaces, toilets)

Community benefits for development incentives must still be relevant to the local and growing urban community, but must not be considered essential infrastructure required whether the development seeks bonuses or not.

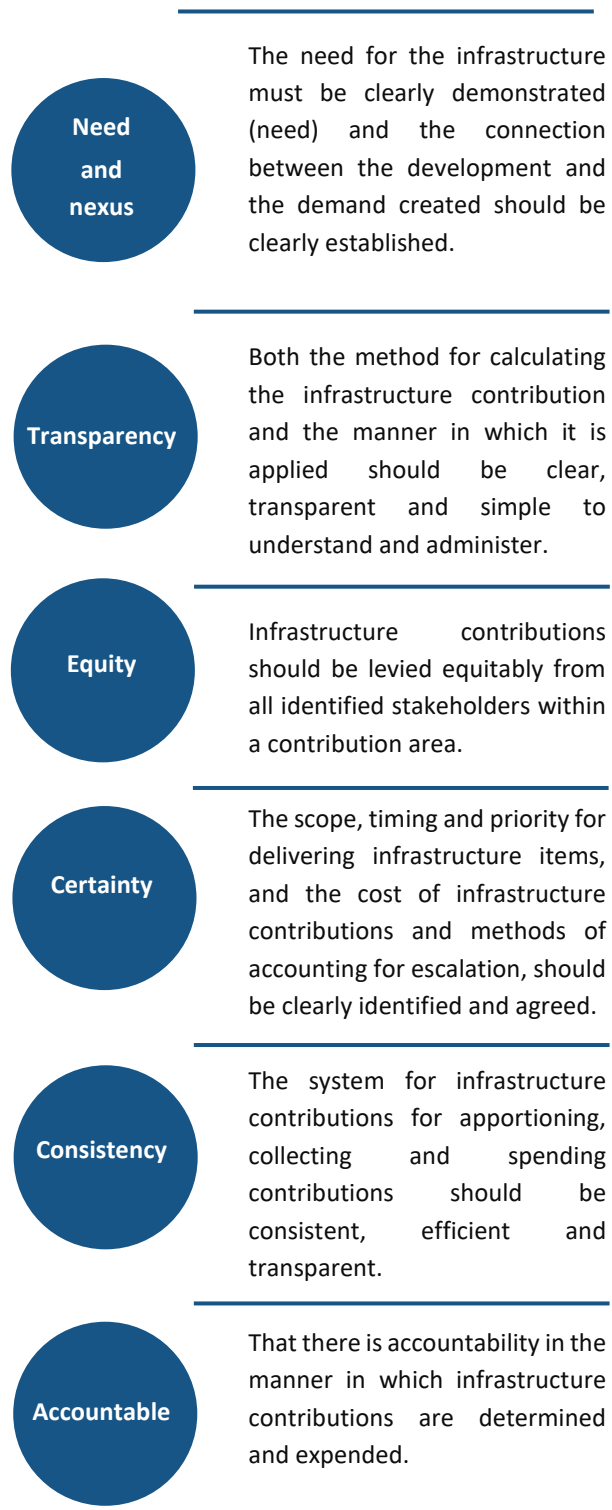
Consequently, local governments need to be certain as well as separate what is essential infrastructure based on the proposed density potential, and what infrastructure should and could be considered beyond the essential needs. Furthermore, careful consideration is required to identify how to accommodate additional infrastructure required from additional dwellings unaccounted for in development potential essential infrastructure.

One of the most significant elements of SPP 3.6 are the six principles that must be applied for all infrastructure contributions. The six principles guide local governments when developing and reviewing infrastructure contributions and DCP's.

The principles appear to align closely with the expectations of communities, developers and the application of discretion by urban planners when determining community benefits for development incentives.

Therefore, this report recommends that planners and decision-makers preparing scheme amendments, structure plans or policies to implement community benefits for development incentives rigorously apply all six principles above.

The six principles of SPP 3.6 are:



State Planning Policy 7.0 Design of the Built Environment

Design WA is a suite of design policies addressing design quality and built form outcomes in WA. Good design assists in improving the urban environment, benefits local communities and leaves a positive future for the next generation. *State Planning Policy 7.0: Design of the Built Environment* (SPP 7.0) recognises that as the “built environment evolves the planning system needs to adapt to the complexity of proposals by requiring a greater emphasis on design”. SPP 7.0 is the overarching Design WA framework and contains 10 design principles, applicable to all development in WA (table 1).

The Office of the Government Architect’s *Better Places and Spaces Policy 2013* identifies a set of criteria to help determine design excellence or exemplary design. In summary, “good design is not a subjective idea: it can be defined and measured” (Office of the Government Architect, 2013, p. 9). The policy alongside Design WA aims to promote the values and benefits of design excellence and reward exemplary achievement in the field. In summary, the Western Australian Office of the Government Architect defines good design as:

- Make a positive contribution to the location, the environment and the community
- Reflect community ambitions and expectations
- Add value and reduce whole-life costs
- Create environments that are safe to construct and safe to use
- Create flexible, durable, sustainable and ecologically sound environments for the community
- Minimise waste of materials and energy and minimise pollution both in construction and use
- Produce facilities that are easy and cost effective to manage, clean and maintain.

Table 1: 10 Design Principle’s, SPP 7.0

Context and character	Responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.
Landscape quality	Recognises that landscape and buildings operate as an integrated and sustainable system, within a broader ecological context.
Built form and scale	Ensures that development massing and height is appropriate to its setting and successfully negotiates between existing built form and the intended local area’s future character.
Functionality and build quality	Meets the needs of users efficiently and effectively, balancing functional requirements to perform well and deliver optimum benefit over the full life-cycle.
Sustainability	Optimises built environment sustainability by delivering positive environmental, social and economic outcomes.
Amenity	Provides successful places that offer a variety of uses and activities while optimising internal and external amenity for occupants, visitors and neighbours, providing environments that are comfortable, productive and healthy.
Legibility	Creates buildings and places that are legible, with clear connections and easily identifiable elements to help people navigate around.
Safety	Optimises safety and security, minimising the risk of personal harm and supporting safe behaviour and use.
Community	Responds to local community needs as well as the wider social context, providing environments that support a diverse range of people and facilitate social interaction.
Aesthetics	Product of a skilled, judicious design process that results in attractive and inviting buildings and places that engage the senses.

State Planning Policy 7.2 Precinct Design Guidelines

In August 2019, the Department released draft *State Planning Policy 7.2 Precinct Design* (SPP 7.2) and *Precinct Design Guidelines* (Design Guidelines). Precinct plans can be prepared for all types and scales of precincts. However, they are generally used to plan for infill circumstance, existing urban areas and all activity centres. Precinct plans should address land use, built form and urban structure.

The Design Guidelines section 2.8 provides guidance on development incentives and community benefits and defines ‘community benefits’ as:

“A positive outcome for the community that responds to the needs of the community and may relate to a precinct or broader sustainability outcomes. The benefit must be measurable and enjoyed by more than the proponents, residents /visitors associated with a specific building, development or other proposal”(Design Guidelines, p.75).

The Design Guidelines include a set of community benefit examples, which include:

- Affordable housing and dwelling diversity
- Heritage
- Retention and restoration or improvement of vegetation
- Economic development
- Public facilities
- Water conservation
- Energy efficient design
- Space and places
- Community development.

The Design Guidelines reference a list of minimum standards expected in a precinct plan as evidenced in table 2. The list aligns closely with the recommendations and principles of this report and reiterates that incentive mechanisms should not become the new default standard. SPP7.2 Guidelines also considers it appropriate for community benefits to be used for flexibility in development standards as well as for development incentives.

Table 2: SPP 7.2 Community Benefit Standards and Recommendation Reference

As a minimum, precinct plans should:	Recommendation
Define the community benefits that might justify greater development potential.	1(A)
Consider the relative weight that may be applied to those community benefits (are some more important than others and therefore worthy of greater encouragement)?	3(A)
Define an ‘upper cap’ for allowable additional development.	7(A)
Outline the process for demonstrating community benefit.	8(C)
Precinct plans should reflect the following:	Recommendation
Mechanisms should be chosen and weighted to reflect priorities identified through context analysis.	3
Apply development incentives in a responsible and accountable manner to avoid the expectation that they become the default development standard in a precinct.	6 and 8
Mechanisms should be weighted so that community outcomes are balanced with the benefit the developer achieves from the additional development allowed through varying the relevant development standard. Whole-of-life costs should be considered where public facilities are proposed.	3
Mechanisms should not result in adverse impacts on adjoining properties or the existing or desired character of the precinct. Where available, design review panel advice should be provided to ensure that high quality design outcomes are achievable and are appropriate to local context.	5(A)
Decision-makers should seek feedback from the development and building industry to achieve a feasible trade-off between bonuses and benefits.	8(B)

State Planning Policy 7.3 R-Codes Volume 2 – Apartments

In May 2019, the Department released *State Planning Policy 7.3: Residential Design Codes Volume 2 – Apartments* (SPP 7.3). SPP 7.3 replaces Part 6 of the Residential Design Codes and focuses on improved design outcomes for apartments and mixed-use development. Part 2.8 of SPP 7.3 contains primary controls designed around community benefits for development incentives.

Accordingly, SPP 7.3's intent is for local governments to drive the application of development incentives where they are intrinsically linked to design excellence. Thus, development incentives are not a state government driven exercise in WA.

SPP 7.3 acknowledges the importance of being able to measure and assess the cost and value of proposed community benefits. Ultimately, this should assist local governments in determining whether the incentive is sufficient to both “attract investment in the desired community benefit” and “**demonstrate that the value of the community benefit is broadly commensurate with the proposed development incentive**”. Further, any development incentive should not negatively affect adjoining properties or impact upon the existing and desired streetscape.

Interestingly, SPP 7.3 is the first policy that requires feedback from the development and building industry prior to setting the standards. Nevertheless, through numerous meetings with WA local governments, it is apparent that many are already approaching the development and building industry, throughout the preparation of their standards. Even so, it is an important step in determining the feasibility and potential uptake of development incentives. As such, all local governments should engage with the development and building industry when drafting and creating new and reviewed policies and plans.

Building upon this, SPP 7.3 states that advice from the design review panel should be obtained to ensure that high-quality outcomes sought are both achievable and appropriate to the context. Ideally, the most appropriate way to approach development incentives in a WA context is through local planning schemes, activity centre plans and structure plans, however, they could also be included in local development plans and local planning policies.

SPP 7.3 includes a list of community benefit examples, which ‘may’ be included. This list is a good starting point to explore potential community benefits, however, the application of community benefit and development incentives in WA is not limited to this list and should be determined based on local context and a Community Needs Plan.

The list includes the following:

- Affordable housing
- Dwelling diversity
- Heritage
- Retention of vegetation
- Public facilities
- Energy efficient design
- Water conservation.

SPP 7.3 sets out a list of planning objectives for local government consideration when preparing and reviewing development incentives for community benefit. Broadly, the objectives align with the six principles from SPP 3.6. Table 3 outlines and aligns the planning objectives from SPP 7.3 and SPP 3.6.

The policy also recommends that local government weigh each community benefit and development incentive to ensure transparency and consistency. Furthermore, SPP 7.3 introduces the notion of setting an upper limit for development incentives. Commonly, this leads to more certainty for developers and community members. However, in some circumstances, it can stifle out of the box ideas and create lower thresholds where advances in technology and ways of doing things advance well beyond that set out. For example, the achievability of green star energy rating has increased over the years, as has the number of buildings able to achieve what then becomes the new normal. This approach should be something that local governments consider on a case-by-case basis, for each area.

Table 3: SPP 7.3 Objectives and SPP 3.6 Principles

SPP 7.3 Objectives	SPP 3.6 Principles
Development incentives should be compatible with the objectives of this policy, the local planning scheme, applicable structure plans, local development plans and local planning policies.	(a) Need and nexus (f) Accountable
Incentives should be chosen and weighted to reflect local priorities.	(a) Need and nexus (c) Equity (f) Accountable
Incentive-based provisions should provide clearly defined and measureable outcomes required to satisfy community benefit criteria.	(a) Transparency (d) Certainty (e) Consistency (f) Accountable
Incentives should be weighted so that the community outcomes are balanced with the benefit the developers achieves from the additional development allowed through varying the relevant development standard.	(a) Need and nexus (c) Equity (f) Accountable
Application of incentive should not result in adverse impacts on adjoining properties or the existing or desired streetscape character.	(a) Need and nexus (f) Accountable

Design Review Guide

Historically planning has been about compliance with specific metric standards. However, through the introduction of the Design WA suite, the WA State Government is recognising the importance of performance based controls where possible to offer increased flexibility and site-specific outcomes. Design review allows for the qualitative assessment of a proposal against the 10 principles of good design. However, as evidenced in this report most performance based controls come with the need to be consistently applied and assessed rigorously. This is where design review panels can assist in the planning process. Design review panels consists of independent built environment experts who can assist local governments to assess design proposals prior to lodgement. However, their role is as advisors only.

A significant amount of community benefit for development incentive provisions globally and specifically in WA require developments to achieve a design excellence or exemplary standards prior to seeking incentives. Thus, taking into consideration the role of a design review panel it seems fundamental that they play apart in addressing the difficulties and outcomes sought within the community benefit and development incentive space. Furthermore, design review panels are often already part of the process, therefore, linking the requirement for a design excellence/exemplary recommendation, in order to be considered for development incentives should not increase costs or time in the development application process.

In essence, community benefit for development incentive assessment is a three-step approach:

STEP-ONE: development should minimise and manage adverse impacts on an adjacent properties and the public realm.

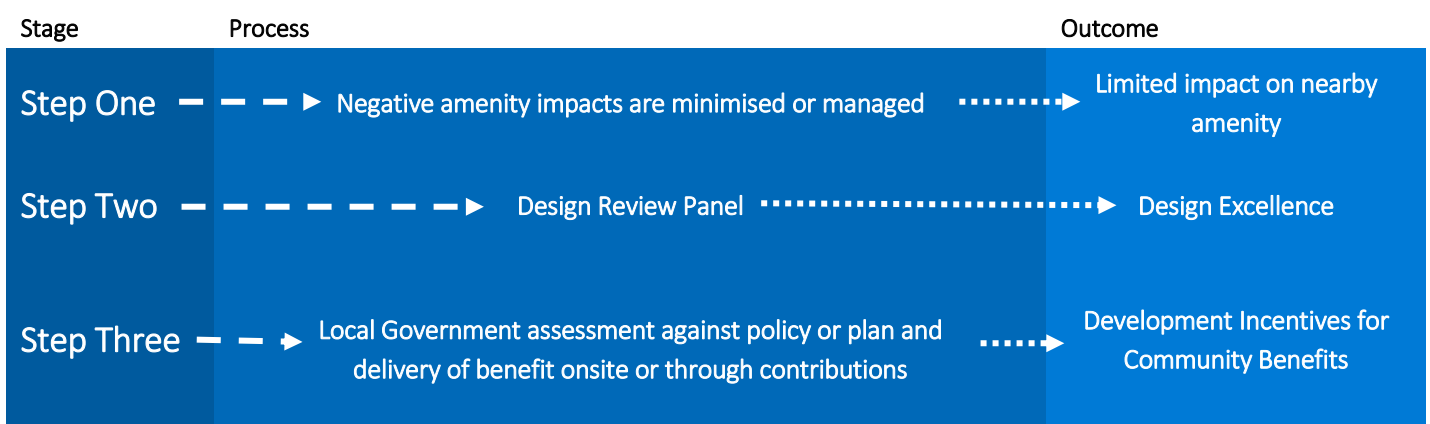
STEP-TWO: requires the development to achieve an excellence/exemplary design recommendation from the design review panel.

STEP-THREE: requires valued community benefits, be delivered in return for development incentives. Community benefits could be delivered onsite, as cash contributions or a combination of both.

This report recommends that WA plans and policies in this space apply the three-step approach described above. What's more, as the saying goes “good design should be indivisible from good planning if better buildings and places are to be provided” (Department of Planning, Lands and Heritage, 2019, p. 8).

Therefore, justification for seeking the highest recommendation from the design review panel as proposed in the three-step approach ensures that new developments make a positive contribution to the public realm, adjacent development and surrounding communities. While also ensuring that the impact of the incentive is minimised or mitigated and the community is not negatively impacted. In light of the three-step approach (diagram 1), design review panels could form a vital part of the assessment of community benefits and development incentive applications.

Diagram 1: Three –Step Approach



Department of Planning, Lands and Heritage, State Planning Policy 4.2: Activity Centres for Perth and Peel

State Planning Policy 4.2: Activity Centres for Perth and Peel (SPP 4.2) provides criteria to guide the planning and development of new, and the redevelopment and renewal of existing, activity centres in Perth and Peel. The aim of SPP 4.2 is to create diverse mixed-use centres, which attract investment, employment and people. SPP 4.2 is predominantly concerned with the location, distribution, and broad land use of these activity centres (Western Australian Planning Commission, 2010). The policy's intention is to encourage and consolidate residential and commercial development into activity centres, and provide equitable community access to goods and services within these centres. Often provision of community benefits for development incentives occurs in areas identified as activity centres, where there is a desire and planning mechanism, which promotes a compact urban form. Thus, encouraging higher density, plot ratio and building height.

The type of development incentives and mechanisms used to achieve a compact urban form should differ between the hierarchy of activity centres (Western Australian Planning Commission, 2010). Whereby, higher order centres are more likely to accommodate increased development incentive flexibility, given the impact of proportionality because of greater base building heights or plot ratios. Further, higher order centres are strategic locations designed to attract the greatest amount of activity, with larger ranges of higher order services and jobs. Whereas, district and neighbourhood centres have a greater focus on the locality and immediate surrounding, thus often requiring less flexible, more prescribed and measurable development incentives.

The following case studies highlight different approaches within a variety of activity centres and while each approach is unique, there are some similarities when you compare similar activity centres together.

Canning Bridge Activity Centre Plan

The **Canning Bridge Activity Centre Plan** (CBACP) is a joint plan between the City of South Perth and City of Melville, which guides development within the Canning Bridge Station precinct.

CBACP sets out the maximum building heights in storeys and metres based on the five zones. The greater the maximum height the closer the subject site is to Canning Bridge Station and Canning Highway, with height decreasing as it disperses into the residential zones.

The desired outcomes of Element 3: Height, requires building height to be “consistent with the desired scale and build form of the centre, and ensure interfaces between zones are managed” (CBACP, 2016, p. 28).

Accordingly, the CBACP establishes the desired scale and built form across the centre and different zones (City of Melville, 18 June 2019, p. 14). For sites located within the M15 (maximum 15 storeys) and M10 zone (maximum 10 storeys) consideration for height greater than that permitted ‘may’ be approved where:

- The relevant desired outcomes of all elements are ‘met’ or exceeded;
- Exemplary design is proposed in the opinion of the Design Advisory Group; and
- Where development includes the provision of a ‘significant’ benefit to the community.

The City of Melville, City of South Perth and the Office of the Government Architect established the Canning Bridge Design Review Panel in 2016 to assist in assessing the design quality of development within the CBACP. The recommendations of the design review panel play an important role in the bonuses provision of CBACP.

The bonus provisions are separated into:

ELEMENT 21: Includes site area, green star energy rating and traffic impact statements in which all of the above must be satisfied.

ELEMENT 22: Where at least four community benefits must be proposed. However, there is limited guidance as to what is required to satisfy the sub-element requirements of element 22 and the exercises of discretion.

As evidenced above, in order to be eligible for bonus provisions and to meet element 21 of CBACP, a development shall be ‘exemplary’ in the opinion of the design review panel.

With the formal introduction of design review panels under Design WA in 2019, the application and benefit of them could be widely used within the community benefit and development incentive space.

Where the above criteria are met, a maximum bonus height limit has not been set for the M10 and M15 zones. To be eligible for bonus provisions the developer must submit a report which demonstrates the exemplary nature of the design, the proportional extent of the bonus height to community benefit and how the community benefit will be guaranteed into the future.

To help guide the exercise of discretion in relation to the awarding of bonus height, the City of Melville drafted an [interim Local Planning Policy 1.18 CBACP – Bonus Building height Provisions \(LPP 1.18\)](#).

LPP1.18 was considered by Council on 20 August 2019 with Council resolving not to proceed with the Policy. It is further noted that at a continuation of that Council Meeting on 27 August 2019, Council resolved to continue the notion of seeking a limit to the amount of bonuses to be awarded by initiating an amendment to the CBACP proposing a 5 storey limit on any bonus height awarded in the M10 or M15 zone.

LPP 1.18 intended to introduce a statement of intent and performance criteria to elaborate, expand and measure on what is expected for each sub-element in Element 21 and 22. Additionally, it proposed to require the developer to demonstrate need for the community benefit and the genuine benefit to the community.

Nevertheless, as noted above, “CBACP does not set an upper limit on bonus height that may be approved in M10 and M15 zones and accordingly LPP 1.18 is not able to introduce an absolute height limit” (City of Melville, 18 June 2019, p. 14). However, LPP 1.18 did propose to introduce a threshold to bonus height as identified in table 4. The threshold to bonus height was to ensure that approved bonus height would be consistent with the desired scale and built form of the centre, and that interfaces between zones were managed.

Although the threshold bonus heights would have only been guiding, any development seeking a bonus beyond would likely have been considered inconsistent with the desired outcomes of Element 3: building height.

Any development seeking a bonus above the additional bonus height limits set in LPP 1.18 would have needed to achieve a six star green star rating, and achieve six sub-elements under Element 22.

Due to the strategic location of M15 sites and the interface and proposed heights of adjacent zones, the increase in change would have been greater than that in the M10 zone. As the M10 zone interfaces with medium-density residential building heights.

Community benefits provided for in Element 22, their statement of intent and performance criteria as per the proposed LPP 1.18 are set out in Table 5.

The City of Melville’s recent dealing with community benefit noted the following areas as being particularly critical to arriving at a system which works:

- Challenges in measuring the value/merit of community benefits
- Challenges in linking bonuses simply to “height” as opposed to floorspace/plot ratio.

In light of the above, the City of Melville Council has resolved at its Council Meeting on 27 August 2019: -

That the Council resolves not to proceed with Draft Local Planning Policy LPP1.18 Canning Bridge Activity Centre Plan – Bonus Building Heights Provisions and instead opts to immediately initiate a review of the Canning Bridge Structure Plan.

Table 4: Maximum building height in CBACP and the proposed LPP 1.18

Zone	CBACP		Proposed LPP 1.18		Change
	Maximum building height		Maximum building height with bonus		
M10	10 Storeys	32 meters	15 Storeys	48 metres	50% increase
M15	15 Storeys	48 meters	25 Storeys	80 metres	66% increase

Table 5: LPP 1.18 Element 22 Statement of Intent and Performance Criteria

Element 22	Statement of Intent	Performance Criteria Includes
<p>High quality active street frontages, furniture and landscaping which contributes to the character of the centre and are kept maintained by agreement with the owners and strata company in perpetuity.</p>	<p><i>Encourage the provision of high quality, usable and active street frontages that contribute to the character and usability of the centre.</i></p>	<ul style="list-style-type: none"> - Strategically located with public demand - Freely available - Suitable shape, size and use - Passive surveillance - High quality materials - Universal access
<p>Landscaped spaces and/or other facilities (rooftop and or podium level gardens, recreation spaces and entertainment facilities) accessible to the public.</p>	<p><i>Encourage the provision of high quality, usable and publically accessible spaces which contribute to the vibrancy, character and usability of the centre.</i></p>	<ul style="list-style-type: none"> - Not dominated by alfresco dining or commercial uses - Designed so that the public can use at all times - Managed and maintained
<p>Provision of public facilities such as toilets, showers and sheltered bike storage.</p>	<p><i>Encourage the provision of high quality, usable and publically accessible amenities which contribute to the convenience, usability and accessibility of the centre.</i></p>	<ul style="list-style-type: none"> - Strategically located with public demand - Freely available - Suitable shape, size and use - Along street frontages - Designed for safety, passive surveillance and universal access. - Managed and maintained
<p>Affordable housing and ceded to department of housing or not for profit organisation.</p>	<p><i>Encourage the provision and retention of a diversity of housing types which are affordable and accessible to a wide section of the community.</i></p>	<ul style="list-style-type: none"> - Strategically located with need and amenity of residents - Number provided responds to needs - Arrangement of ceding
<p>Provision of view corridors and sunline to adjacent properties.</p>	<p><i>Encourage developments, which are designed to maximise availability of view corridors throughout the precinct and to maximise solar access to adjacent properties, particularly where public spaces are provided.</i></p>	<ul style="list-style-type: none"> - Buildings positioned and setback from boundaries to minimise bulk and maximise view corridors - Buildings designed to maximise the mid-winter natural sunlight especially for public open space
<p>Improvement to pedestrian networks or linkages which contribute to the overall character and connectivity of the centre.</p>	<p><i>Encourage the provision of high quality, usable and publically accessible additions or enhancements to the pedestrian network which are strategically located and designed to contribute to the accessibility, walkability, connectivity, vibrancy, character and usability of the centre.</i></p>	<ul style="list-style-type: none"> - Strategically located with regards to public demand - Freely available and suitable shape, size and use - Designed for 24/7 public access - High quality materials - Passive surveillance - Universal access - Arrangement of ceding - Managed and maintained

<p>Community, communal or commercial meeting facilities.</p>	<p><i>Encourage the provision of strategically located, high quality, usable facilities that respond to the needs of the precinct and which contribute to wellbeing vibrancy, diversity and vitality of the community.</i></p>	<ul style="list-style-type: none"> - Existing or anticipated need - Strategically located in regards to need and other community facilities - Ongoing management - Suitable shape, size and use - Universal access
<p>Development comprises a hotel.</p>	<p><i>Encourage the provision of land use to promote economic development of the precinct, support diversity of accommodation in the precinct and to specifically contribute to development of the precinct as a centre for tourism, business and commerce.</i></p>	<ul style="list-style-type: none"> - Strategically located in regard to the precincts attractions and amenity of guests - In mixed-use, the hotel designed to minimise conflict (separate lobby) - High-quality and sufficient scale to respond to demand
<p>Development comprises an aged care facility.</p>	<p><i>Encourage the provision and retention of a diversity of aged care accommodation types and/or direct aged care support services, which supports the growth of the centre, recognises the strategic location of the precinct and responds to the demands of the ageing demographic in the region.</i></p>	<ul style="list-style-type: none"> - Strategically located in regards to needs and amenity - Number of beds and dwellings responding to need and of a magnitude to ensure ongoing management - Operated by appropriate provider - Design allows for high levels of integration with precinct - Active street frontages
<p>Land for road widening along Canning Highway is ceded free of cost.</p>	<p><i>To support the timely and efficient acquisition of land required for road widening to facilitate access and transport initiatives on roads such as Canning Highway.</i></p>	<ul style="list-style-type: none"> - Land identified for road widening ceded free of cost - Suitable arrangement for ceding at later date and interim design of space
<p>Car parking for public use beyond the users of the building.</p>	<p><i>To encourage the timely and efficient provision of public car parking spaces within precinct as part of the effective management of parking resources, with a view to ensuring sufficient off street parking for visitors to the precinct.</i></p>	<ul style="list-style-type: none"> - Strategically located with regard to needs and demand - Easily accessible by public - Ceded to local government - Minimise conflict with other uses - Management model

Melville District Activity Centre Plan (MDACP) sets maximum building heights based on storeys not metres and only defines plot ratios in residential zones. In addition, MDACP permits additional building height above that specified for centre-zoned land, where at least one community benefit is provided in proportion to the additional development.

The items of community benefit considered under MDACP include:

- Public right-of-way to improve pedestrian or vehicle connectivity
- Upgrades to streetscapes, street trees and landscaping
- Upgrades to footpaths and cycle paths
- New or improved public open space
- Public facilities
- Exemplary environmental or sustainable design
- Any other community benefit that furthers the objectives of the MDACP.

However, different to CBACP, **Section 4.5.26** of MDACP limits additional building height for community benefit to two storeys. One additional storey is available on corner sites under Section 4.5.27, however, this is linked to good urban design rather than community benefits.

This approach provides increased certainty for developers and transparency for the community. Further, in this circumstance given the adjacent interface with low to medium-density residential and lower hierarchy activity centre than the CBACP area, the City of Melville considers it more appropriate to limit bonus height.

Under **Melville City Centre Structure Plan (MCCSP)** building heights are to be 'generally' in accordance with the building height plan. The use of 'generally' opens up building heights to the exercise of discretion. Section 10.3.1 of MCCSP states that if additional height is sought then the applicant must provide community benefits for the 'users' of the city centre area proportional to the bonus sought. Though, no maximum bonus height is provided. This, is one of the only studies that defines who the community benefit users are.

Similar to MDACP, items of community benefits considered under the MCCSP include:

- New or improved public spaces
- Upgrades to streetscape or landscaping
- Upgrades to foot and cycle paths or their infrastructure
- Place-making initiatives or public art
- Public facilities
- Affordable housing
- Exemplary environmental or sustainable design
- Any other community benefit that furthers the objectives of the MCCSP.

Interestingly, place-making initiatives are considered a community benefit. This is a good example of an intangible benefit being offered, which would not be considered a community benefit for the life of the project or in its entirety. But rather provide an initial or introductory phase community benefit. This could be a vital benefit in areas, where initial investment could increase activation in the area and encourage further redevelopment.

The City of South Perth is currently progressing draft **South Perth Activity Centre Plan (SPACP)** and proposed **Town Planning Scheme No .6 (TPS 6) Amendment No. 61** (Amendment 61) to set the strategic vision and statutory planning requirements for development within the area. Nonetheless, while Amendment 61 and SPACP propose bold changes in the community benefit and development incentive space, they are only in draft form at the time of writing. Further, public consultation on the documents only finishing in July 2019. Post consultation it is likely that there will be modifications to the draft SPACP and Amendment 61, before they are presented to the City of South Perth Council and then the WAPC and Minister for final approval.

Under SPP 4.2 the SPACP area is classified as a district centre. SPACP and Amendment 61 aim to encourage built form variety, through a tiered system of building height and plot ratio limits.

Proposed building height, plot ratios and tower gross floorplate area, assist in defining the building envelope and form part of Amendment 61, Schedule 9B. The inclusion of building height and plot ratio limits into TPS 6, increases certainty of compliance with legislative requirements. Building upon Schedule 9B, SPACP contains building height and plot ratio objectives, which must be given due regard in decision-making.

In preparation of Amendment 61, the City of South Perth met with developers and stakeholder groups. One of the main concerns raised by developers regarding the current process was the lack of certainty. Developers sought more certainty in both the community benefit assessment process and bonus heights considered.

Proposed Town Planning Scheme No. 6 Amendment No.61

Schedule 9B achieves variety in building height and plot ratio through a tiered system of limits. Further, tower gross floorplate area limits are designed to ensure that the taller towers are increasingly slimmer. Essentially, “tiers work on the principle that as a building gets taller and larger it must become slender, relative to the size of the site”. Thus providing “more space around taller buildings, providing view lines between buildings and minimising negative amenity impacts” (City of South Perth, 2019).

The application of tiers to mitigate negative amenity impacts is similar to the New Zealand approach, in which building heights in the Central Business District are not limited, so long as the height proposed does not cause negative amenity impacts in regards to overshadowing and views.

Schedule 9B proposes three tiers of building heights and plot ratio limits;

BASE: No bonuses.

TIER 1: All sites have the opportunity to achieve up to the tier 1 limits.

TIER 2: Only certain sites have the potential to achieve tier 2 limits. Sites with opportunity for tier 2 heights are located in areas with existing tall buildings, and are highly accessible by public transport.

Table 6 summaries the building height and plot ratio bonuses attainable for base, tier 1 and tier 2. Evidently, compared with base and tier 1 there is a significant increase in the height bonus achievable under tier 2. However, it corresponds to a much smaller increase in plot ratio achievable under tier 2. This, emphasises that the taller the building the slimmer the design and further it is setback.

Table 6: Amendment 61 Base, Tier 1 and Tier 2 building height and plot ratio comparisons.

	Base	Tier 1	Tier 2
	<i>(Low to high-density)</i>	<i>(Low to high-density)</i>	<i>(Medium to high-density only)</i>
Building height Table 2	14.4m – 50.7m	21-52% bonus on top of base height	Approx. 245% increase from base height
Plot ratio Table 6	2.0 – 7.2 plot ratio	12-20% bonus on top of base plot ratio	Approx. 37% increase from base plot ratio

The tiered system should increase certainty for developers and the community regarding building size and density, while also allowing for specific site flexibility and variety in built form outcomes (City of South Perth and Roberts Day, 2019, p. 18). Furthermore, forecast demands can still be achieved using the base height and plot ratio calculations, without developers seeking tier 1 or 2 bonus provisions. The application of a tier system accounts for smaller sites not necessarily meeting the base height, and for the flexibility to achieve higher forecasts if growth is underestimated. In order to exceed base limits the proposal:

- a) will not have a significant adverse effect on the amenity of the locality;
- b) achieves an excellent (Tier 1) or exemplary (Tier 2) standard of design; and
- c) provides a public benefit contribution to the local government (to the value of the additional plot ratio above the base building height or plot ratio limit whichever is the greater amount of additional plot ratio).

The above criteria are almost identical to the three step approach recommended in diagram 1. Point b) is measures against architectural design policy and guidelines of the WAPC and relevant sections of SPACP.

As well as the advice of the City’s design review panel. Additionally, point c) requires “the amount of public benefit contribution to be directly related to the amount of additional development potential sought” and the method for calculating the amount

is set out in Schedule 9B, Section 8.2 (City of South Perth and Roberts Day, 2019, p. 19).

The public benefit contribution shall be calculated according to the following methods;

- 8.2.1** An independent value of the subject site agreed by the Local Government
- 8.2.2** Value per square metre of the base plot ratio applicable to the subject site (land value of the development site / (base plot ratio x site area) = value of plot ratio (\$/m²))
- 8.2.3** The amount of plot ratio of a proposed development above the base building height limit or base plot ratio (the higher of these two calculations is used):
 - (a) Proposed plot ratio - base plot ratio = additional plot ratio or
 - (b) Proposed plot ratio area above the base building height limit/site area = additional plot ratio
- 8.2.5** Additional plot ratio area is calculated by: additional plot ratio x site area = additional plot ratio area (m²)
- 8.2.6** Amount of public benefit contribution: additional plot ratio area (m²) x value of plot ratio (\$/m²) = public benefit contribution (\$)

In summary, the larger the additional height or plot ratio sought the larger the contribution paid.

Draft South Perth Activity Centre Plan

Building height objectives are set out in Part 1 Section 4.1.1 of SPACP and include;

- (iii) *To facilitate and manage growth across the ACP area based on population growth forecasts and identified economic and transport capacity, reflecting the centres role as an inner city activity centre.*
- (iv) *To establish a consistent and transparent performance based approval process that accommodates additional development potential in return for public benefit contributions in appropriate locations and development proposals.*

SPACP provides guidance on how public benefit contributions can be spent and the community benefit items, which can be delivered:

- Community facilities
- Streetscape and public realm upgrades
- Street trees and landscaping
- Upgrades to public open space
- Transport infrastructure
- Infrastructure upgrades
- Placemaking initiatives.

The City of South Perth acknowledges that design quality is qualitative and by attempting to regulate high-density development through quantitative measures will result in average design being approved and exceptional design being refused. Therefore, in line with Design WA the City of South Perth consider design quality standards of paramount importance.

Under Section 7.5 of SPACP, a developer may choose to provide the community benefit item onsite in lieu of a monetary contribution, if the need and demand of the items are agreed to by the City. However, the City of South Perth anticipates that most public benefit contributions will be through monetary contributions with very few provided onsite.

Accordingly, the following design quality requirements are applicable to the base, tier 1 and tier 2 categories:

BASE: A development up to base height and plot ratio limits must meet all the relevant Design WA requirements, as well as manage impacts on the amenity of surrounding properties and public realm.

TIER 1: Design quality shall exceed good design and be considered design excellence. Design excellence must substantially exceed (through demonstration) Design WA and all other applicable requirements.

TIER 2: Building design must be considered exemplary design. Tier 2 also requires the developer to undertake an independent design competition between at least three architectural firms. The winning architect would then be chosen by the independent assessors. Tier 2 exemplary design requires the building to deliver an iconic development, which makes a unique contribution to the area, its skyline and architecture within Australia.

A fund is to be established by the City of South Perth for public benefit contributions. The fund will be managed and guided by a Public Benefits Plan setting out how the money will be spent, the items that can be funded, the location of specific benefits and a clear plan for how and when the benefits will be delivered. The Public Benefits Plan must also include a rationale demonstrating the need and demand for each item. A draft Public Benefits Plan is set to be completed in late 2019.

The City of Stirling initially advertised the **Herdsman Glendalough Structure Plan** (HGSP) in 2015, however, in October 2015 the State Government introduced the *Planning and Development Act (Local Planning Scheme) Regulations 2015* (the Regulations). Subsequently, the City of Stirling is currently amending HGSP in accordance with the Regulations. The case study below will assess the guiding principles and approaches of HGSP 2015.

The Herdsman Glendalough locality has been a long established urban and industrial area, traditionally characterised by showrooms, office buildings, low-density residential development and light and cottage industrial activities. As a result, the area is relatively low-density, with poor pedestrian amenity, limited public open space and industrial interfaces. HGSP aims to grow the area as a key high-density, mixed-use employment and residential centre (Taylor Burrell Barnett, 2014, p. 2).

Accordingly, the Herdsman Glendalough Detailed Area Plan allows for performance based bonus criteria to help achieve high-quality built form and redevelopment of the area, through the:

- a) Creation of residential development in an area where residential development is not historically dominated;
- b) Create new public road connections and road upgrades; and
- c) New high-quality public spaces.

When the above criteria are satisfied, the City is looking to provide a valued and measurable approach, for the application of bonuses to plot ratio and building height. The measures are likely to separate the above three criteria into sub-criteria based on the amount of space, quality provided, or number of dwellings.

For example, if the developer only gave up 50m² for public open space, versus 500m² then the later would receive a greater bonus amount.

Given this approach, it is probable that a maximum number of achievable bonus points will also be included. Accordingly, the building height and plot ratio plus the maximum bonuses points earned is the maximum height and plot ratio achievable. By setting an upward limit when the plan is advertised, both the community and developers understand that although there is discretion, the bonus height and plot ratio maximum cannot be exceeded. As a result, improving transparency in the process. Furthermore, by including values and measures into the detailed area plan, it gives greater guidance to the developers and decision-makers, regarding the objectives and value of expectations, which must be delivered to achieve the bonuses.

The intent of HGSP bonus criteria is first focused on developing the area with higher-density residential uses rather than providing additional community facilities. Fundamentally, the benefit elements are based on a need to get people to live and move into the area.

Once again, the provision of community benefits for development incentives is also reliant on the developer delivering the highest quality of design as determined by the design review panel. Ensuring that built form is not compromised, and negative amenity impacts from the scale of the development are minimised. Furthermore, in the mixed-use and residential zones, any new development for 10 or more multiple dwellings is required to incorporate a minimum of 12% affordable dwellings onsite.

Overall the anticipated detailed area plan improvements will provide valued and measurable criteria for assessing and determining bonuses. Therefore, improving transparency and consistency in the decision-making process. Furthermore, the bonus criteria for consideration are directly related to the Herdsman Glendalough area.

Town of Victoria Park

Burswood Station East is included in the State Governments Burswood Peninsula District Structure Plan (BPDSP) and considered suitable for high-density mixed-use and residential redevelopment. The precinct is currently zoned 'office/residential' and the provisions contained within the Town of Victoria Park Town Planning Scheme No.1 (TPS 1) allow for a slight intensification of development, but not to the level envisaged by BPDSP or the Towns draft Local Planning Strategy.

To recognise the intent and densities proposed in BPDSP, the Town of Victoria Park has initiated **TPS 1 Amendment No. 82** (Amendment 82) to amend the Burswood Station East plan. Amendment 82 is likely to propose building height increases and remove plot ratio calculations from the area.

Alongside Amendment 82 the Town is currently preparing a **draft local planning policy** to provide detailed guidance for developments to potentially exceed the base requirements where consistent with developer incentive provisions.

Developer incentive provisions are likely to fund or deliver upgrades to streetscapes and the public realm. The policy is likely to incentivise monetary contributions where possible and allow for the provision of onsite contributions if required.

The approach is aimed at removing reliance on Clause 29 in decision-making where proposed developments exceed the base requirements but are still consistent with the areas vision. Therefore, the policy should provide improved certainty for developers, consistency in decision-making and assessment by decision-makers. Any developer seeking development incentives would be required to contribute monetary or onsite contributions to a value equal to the bonus sought.

Through external engagement, the Town has identified and therefore expressed that improvements to public realm and transport infrastructure should be a priority and thus any development bonuses would likely be linked closely to the provision of these two elements.

The proposed local planning policy is likely to provide the foundation for a public realm funding framework.

Historically and currently the area is zoned 'office/residential' with an industrial/office built feel. The public realm funding framework should assist in upgrading the public spaces and streetscapes of the Burswood Station East Precinct, to thus encourage developers, business and residents to upgrade and deliver higher-density development. The Town considers that without initial uplift in public realm, it is unlikely that redevelopment for mixed-use and residential development to the height and scale desired would be achieved.

As similar to the City of Stirling Herdsman Glendalough Structure Plan area, the Burswood Station East area requires fundamental changes to the streetscape and fabric of the area to encourage higher density residential development, before developers seek bonuses for community facilities. Without changes to the essential urban fabric, roads, streetscapes and public open space, investment for higher-density residential into the area is limited.

Additionally, it is anticipated that development incentives to the area could offer an increase of more than 100% to the new maximum building height. Thus, it is likely that with such large incentives, developers will face lower costs and increased return values, therefore, increasing the likelihood of developers seeking and using development incentives.

Furthermore, the Town of Victoria Park currently has a **Local Planning Policy No.33: Guides to concessions on planning requirements for mixed-use, multi-dwelling and non-residential development**. The policy outlines additional requirements that need to be satisfied in order to be considered favourably in terms of plot ratio and height concessions.

In order to be considered for a concession the development must demonstrate how it meets superior standards across all the following areas:

- a) Response to local character and townscape;
- b) Contribution to the existing streetscape;
- c) Impact on the adjacent public realm;
- d) Site planning and building block layouts ;
- e) Internal apartment design;
- f) Long-term building performance and services; and
- g) Development overall.

Each area has standard requirements that need to be met. Although the standards above could be considered superior onsite outcomes, do not provide any real or delivered benefits to the community.

Consequently, approaches similar to the left should only be used to encourage or grant concession on heights and plot ratios that are between the low and medium-density scale, and not where development seeks concessions up to 100% greater than that permitted.

The City of Perth's **City Planning Scheme No.2** (CPS 2) is the applicable planning framework controlling most of the City of Perth area, with the exception of parts of Crawley and Nedlands. Within CPS 2 plot ratio is a key control and performance measure used to determine acceptable built form.

CPS 2 Part 3 Section 28 bonus plot ratio allows the City to permit an increase in plot ratio, up to the maximum plot ratio specified under the plan. Bonus plot ratio is an incentive mechanism, which allows additional plot ratio in return for the provision of public facilities and priority land uses.

Under Section 28 bonus plot ratio may be permitted up to either a maximum of 20% or 40% for the delivery of the following outcomes dependent on location;

- Conservation of a place in the local government's heritage list
- Public facility which makes a significant contribution to the amenities of the locality
- A new residential use
- A new special residential use
- A new high-quality hotel.

Limits are also set for the amounts that can be awarded for individual categories as shown in table 7. In addition, any application of bonus plot ratio must not adversely affect the cultural heritage significance of any place on the heritage list, the amenity, streetscape, desired character of the precincts or have a significant adverse impact on adjoining properties in the locality.

Planning Policy Manual Section 4.5.1 – Bonus Plot Ratio delves deeper into what is expected and required to meet the provisions set out in Part 3 Section 28 of CPS 2 (Table 7). The policy provides a set of essential criteria, performance requirements and required documentation for each of the bonus categories.

Any application for bonus plot ratio for public facilities and heritage in the City of Perth is based on individual circumstances and the extent of bonuses will depend on (City of Perth, 2017, p. 7):

- The public need for and the location priority of the proposed facility or amenity;
- The design quality of the facility or amenity and achievement of the performance requirements;
- The inherent difficulties in providing each particular facility or amenity, or conserving the place, as the case may be; and
- The relationship between the value of the increase in plot ratio for the property and the public benefit(s) received in exchange.

Similar to the majority of bonus policies in the WA context, any application seeking to deliver community benefits for development gains is required to exhibit architectural design excellence, and achieve a built form, height and scale that is appropriate to the amenity, streetscape and locality.

Bonus plot ratio in the City of Perth is not as of right, it must be earned and the developer is required to demonstrate that the bonus facility/amenity delivers an identifiable strategic need or benefit and that the proposed building is appropriate within the city centre.

In the case of public facilities, the benefit must result in the provision of a "public good" which benefits the "population of the city and the community as a whole, enhance enjoyment of the City and contribute positively to the overall physical environment and ambience of the City" (City of Perth, 2017, p. 7). By defining who the community benefit is to benefit, explicitly lets the developer understand who the target audience of the benefit is and enables them to address this in their planning report.

The policy manual stipulates that where a small amount of bonus plot ratio (150m² or less) is sought for a public facility the benefits to the public are likely to be limited and instead, in these circumstances the City would recommend the purchase of transfer of plot ratio. (i.e. plot ratio which has been approved for transfer from a place on the heritage list or within a heritage area).

Moving forward, however, the City of Perth recently drafted a local planning strategy and released it for preliminary community consultation (**draft City Planning Strategy June 2019**). The Strategy provides strategic planning and development guidance, which will assist the City to prepare a new planning scheme.

The draft Strategy recommends citywide actions, which could see changes in the new scheme relating to the bonus provisions. Land use and activity strategy 4 action (a) and built environment strategy 1 action (b) from the strategy are linked with changes to the bonus provision and are to be completed within the next five years. The draft Strategy also recommends the investigation of additional development incentives/contributions for the delivery of the following outcomes:

- Environmentally sustainable design
- Affordable housing
- Public art
- Cultural industries
- Community infrastructure
- Design excellence.

The built environment strategy 1 action (b) encourages the development of public spaces where there is a strategic need. Taking from the strategy actions, it appears the City of Perth could ensure the strategic need of all benefits delivered through a community needs plan or similar, to create a coordinated and justified delivery of incentives within the City.

Accordingly, there is opportunity for the City to consider the application of recommendations within this report through the preparation of the new scheme and bonus plot ratio provisions.

LAND USE AND ACTIVITY STRATEGY 4 ACTION (a)

The city will review current bonus provisions in the new scheme, in response to the application of special residential bonuses, short-stay and hotel development.

BUILT ENVIRONMENT STRATEGY 1 ACTION (b)

The city will review bonus provisions for the delivery of new public spaces and investigate mechanisms to ensure and encourage the delivery of bonuses where there is a strategic need.

(City of Perth, 2019, p. 25)

Table 7: Bonus Plot Ratio CPS 2 and Planning Policy Manual Section 4.5.1

Delivery	Provision	Essential Criteria	Performance Requirements
Conservation of a place on the local government's heritage list	Maximum 20% per lot	<ul style="list-style-type: none"> Place to be protected and conserved and is on the heritage list 	<ul style="list-style-type: none"> Retention of as much as possible Sensitively introduced new buildings Culturally conserve the use Interpretation strategy
Public facility which makes a significant contribution to the amenities of the locality	Maximum 20% per lot	<ul style="list-style-type: none"> Strategically located and there be a need for it Freely available and accessible to the public Outstanding design quality 	<ul style="list-style-type: none"> Sufficient size and configuration Facility contains appropriate range of activities and features for day and night time activities Universal access
	<i>Public Spaces</i>	<ul style="list-style-type: none"> Strategic location and need Improve connectivity Public use freely available Universally accessible, safe, convenient and comfortable 	<ul style="list-style-type: none"> At street level Sufficient width Weather protection Lined with range of activities and features of interest
	<i>Pedestrian Facilities</i>	<ul style="list-style-type: none"> Significant community need Well designed and appropriately located 	<ul style="list-style-type: none"> Suitable management arrangements Use maximised Appropriate signage
Incorporates new residential use	Maximum 20% per lot	<ul style="list-style-type: none"> Separate lobby and floor to other uses Bonus floor area must be for residential use 	
Incorporates a new special residential use (i.e. short term accommodation)	Maximum 20% per lot	<ul style="list-style-type: none"> Separate lobby and floor to other uses Back of house/administration Minimum bathroom requirements No laundry facilities 	
Incorporates a new hotel (high-quality accommodation)	Maximum 40% per lot	As per special residential above plus: <ul style="list-style-type: none"> Spacious lobby reception Restaurant, bar, Swimming pool Minimum room size Kitchen and laundry facilities Minimum of 4 additional facilities 	

Metropolitan Redevelopment Authority

In the Scarborough redevelopment, area the Metropolitan Redevelopment Authority (MRA) uses maximum building height and building envelopes to regulate built form and development potential.

The [Scarborough Design Guidelines 2016](#) offer development incentives for additional height above the base height, where community above the standard requirements are delivered. Development above the base height is at the discretion of the MRA and should only be up to the maximum additional height. Furthermore, the development must achieve:

- One or more of the benefits identified;
- Achieve design excellence; and
- Compliance with the common and site-specific controls applicable to the site.

Section 2.2 of the Design Guidelines considers that design excellence delivers excellence across “all areas of the built environment including places, spaces, systems and environments” (Metropolitan Redevelopment Authority, 2016, p. 19). The design excellence intent within the Scarborough redevelopment area is :

“The pursuit of design excellence in the Redevelopment Area augments the general level of good design creating highly valued and highly responsive environments. The needs of various users are met and exceeded in innovative ways that not only support the community but provide meaning and identity (Metropolitan Redevelopment Authority, 2016, p. 19).”

Interestingly, a design excellence intent, ensures the design review panel understands the objectives of good design relative to the Scarborough precinct.

In addition to the requirement for design excellence developments seeking additional height should provide one or more of the following:

- Achievement of tier 1 or 2 of the Green Building
- 3 star hotel with at least 50 rooms
- Publicly accessible vehicle or pedestrian access way in a location identified by the MRA
- Road widening ceded free of cost
- 15% or more affordable housing
- Public car park with a minimum of 100 bays.

The assessment of community benefits is through the value of the proposed benefit as demonstrated, by the applicant. The value of demonstration should indicate the floor area lost and floor area added as valued metrics.

Overall, the additional building height achievable is equivalent to a 50% bonus above the base height. However, there have been cases whereby development is approved well in excess of the maximum additional height. In the above circumstances, the assessment took concluded that the proposed development went way beyond the community benefit and design excellence expected in the Design Guidelines.

The [MRA Water bank Design Guidelines 2015](#) introduce a minimum and maximum building height with additional height permitted under certain criteria. In summary, the maximum height is double that of the minimum height. However, to achieve the maximum height all development criteria have to be met, including public realm requirements. To satisfy public realm objectives a community needs assessment or place activation plan is required to be prepared and submitted as part of the development application process. The community needs assessment should demonstrate that the community facility proposed will be a functional asset meeting the needs of the community, and be used by residents of the precinct and wider area.

Development Assessment Panels, Western Australia

Development Assessment Panels (DAP) are decision-making bodies established under the *Planning and Development (Development Assessment Panels) Regulations 2011* (Regulations 2011). The intent of DAP's is to enhance the balance between technical advice and local knowledge in the decision-making phase of planning applications. However, in recent years DAP's have been required to determine developments based heavily on the application of discretionary powers, for which current policy or plans do not provide detailed enough information or measures to justify the discretion.

For example, the Metropolitan Central Joint DAP recently considered an application for a 16 storey mixed-use residential development in Applecross. The application was refused because:

“the panel was not satisfied that the additional 6 floors for which an exercise of discretion could be justified; first, given the absence of any proportionality test by which the 60% increase in the number of floors could be measured against the community benefits to be provided and, secondly, the extent and nature of the community benefits themselves.”

The Department of Planning, Lands and Heritage released the Action Plan for Planning Reform 2019 (Action Plan). The Action Plan aims to create a more consistent and transparent DAP process. There are currently nine DAP panels constituted across WA, which has led to a variation of governance, decision-making and record keeping across the panels. The Action Plan actions include reducing the number of DAP's from nine to three.

A reduction in the number of DAP panels and the introduction of full time DAP specialist members should increase consistency in discretionary decision making across the state.

Most major mixed-use and high-density residential development in WA meet the DAP monetary threshold and are therefore determined by DAP's. It is therefore, essential that panel members have a set of comprehensive planning documents to help guide them and justify the decision. Furthermore, the clearer, more measurable and descriptive the planning documents which provide provisions for development incentives where community benefits are provided, the easier it is for DAP members to answer the following questions taken from the DAP Making Good Planning Decision Document 2018 (pg. 80):

1. Does the report contain enough information?
2. Does the report cover all the issues?
3. Does the report have sound findings?
4. Does the report contain evidence to support the statements made in the officer comments section?
5. Is the recommendation sufficient?
6. Does the recommendation seem appropriate and reasonable?

National

Queensland

Local governments in Queensland are responsible for preparing local area plans and place codes. A number of local area plans allow for floor space or plot ratio bonuses where there is the inclusion of public benefits and achievement of high-quality design. The **Gold Coast City Plan Version 7 Schedule 6.5 City Plan Policy – Community Benefit Bonus Elements (CPP 6.5)** provides guidance as to what constitutes a community benefit and the residential density bonus amounts that can be contemplated by Council.

The application of Schedule 6.5 applies to the following zones; medium and high-density residential, mixed-used, centre, neighbourhood (where the building height is greater than three storeys) and innovation.

Section 3(d) of the policy stipulates that bonuses achieved through the provision of public benefits ‘should’ not exceed 40% above the density on the overlay map. Applicants are to document and demonstrate the items for which bonus floor space is being claimed and cannot double-dip or apply the same item into different categories. Bonuses are calculated based on a percentage of the original density in the overlay map. The bonus elements and the calculation methods prescribed in Schedule 6.5 are set out in table 8.

In previous versions of the City Plan such as the 2003 version, bonus amounts were often calculated through squared metre bonus values, however, it appears that the City of Gold Coast as moved away from this approach to a percentage based system.

Table 8: Bonus Elements prescribed in Schedule 6.5

Purpose	Minimum benefit	Bonus (as a % of maximum density)	Supporting Information
Green buildings	4 stars	0.5%	<i>Ecological sustainable development report with development application and post completion</i>
	4.5 stars	1%	
	5 stars	3%	
	5.5 stars	5%	
	6 stars	7 %	
Community facilities and improvements	Public pedestrian accessibility enhancements	3% plaza 2.5% partial access way 5% access way	<i>Report demonstrating the desirability of the public facility, survey of existing, benchmarking of additional benefits, compatibility with approved community plans, standards of the benefit, quantity surveys report outlining cost and ongoing maintenance</i>
	Upgrades or new public parks or streetscapes (<i>play equipment, footpaths, BBQ and seating, lighting, trees, signage and information, underground electricity</i>)	1% per \$50,000 improvement value – Max of 3% for streetscapes – Max of 10% for public parks	
	Public toilets	1%	
	Public art or artistic lighting	1% per \$50,000 value up to 10	
	monetary contribution (<i>towards improvement program</i>)	1% per \$50,000 value up to 5	
Site amalgamation	Site range between 1,215m ² to full city block	1% to 6%	

Victoria

The **Melbourne Planning Scheme (MPS) Clause 22.03: Floor Area Uplift and Delivery of Public Benefits** applies to Schedules 1, 2 and 3 of the capital city zone. The objectives of Cl 22.03 aim to “ensure that a development delivers a commensurate public benefit when floor area uplift is sought”. The policy specifies that where a development seeks floor area uplift for the delivery of a public benefit it is to:

- a) Ensure the appropriateness of the value of public benefit
- b) Ensure the management and maintenance of the public benefit
- c) Ensure the complete and timely delivery of the public benefit.

Further, when assessing the development the responsible authority must ensure that the public benefit is in line with state and local policy and strategic initiatives, the quantity and value of the benefits are appropriately calculated and the public benefit can realistically be delivered and managed.

How to calculate floor area uplifts and public benefit’s 2016 is a “document adopted by the Minister for Planning, Victoria which provides guidance on how to calculate the value of a floor area uplift and what equivalent public benefits may be provided” (Victoria State Government, 2019). Accordingly, the value of any floor area uplift is measured as 10% of the gross realisation value per square metre (GRV/m²) for floor space above the allowable ratio (see Figure 1). GRV/m² “depends on the corresponding uses and the precinct in which

the development is located” and is depicted in table 1 of the document (Victoria State Government, 2016). The GRV/m² is higher in retail uses and slightly lower but alike in hospitality, commercial and residential uses, further, core areas are higher than areas on the periphery of the core like Southbank.

Figure 2 below from the how to calculate floor area uplifts and public benefits document dated 2016 categorises public benefits and provides valuations and estimated value calculations. Nevertheless, the document notes that the list is not exhaustive and other proposals may be considered, where the benefit is in line with state and local policies and initiatives and agreed to be of comparable value. Despite a sufficient list of public benefits on offer, the majority of applications which applied for a floor area uplift, delivered office space with very few other benefits provided (Fishermans Bend Planning Review Panel, 2018).

Furthermore, for example, Fishermans bend has it’s own **How to calculate floor area uplifts and public benefit’s** document dated 2017. The document details that community infrastructure can only be delivered if it is identified in the Fishermans Bend Community Infrastructure Plan and sites are to be located within an investigation area relevant to the infrastructure proposed. The value of development benefit generated compared with the value of community benefit gains is subject to the approval of the Valuer General.

Figure 1: GRM/m2 figures (Victoria State Government, 2016, p. 2)

USE	PRECINCT (see Fig.1)							
	Eastern Core	North Eastern	Civic	Flagstaff	Western Core	Spencer	Southbank	Docklands
Retail	\$17,000	\$14,000	\$16,000	\$15,000	\$17,000	\$14,000	\$12,000	\$14,000
Hospitality	\$9,000	\$8,000	\$8,000	\$7,000	\$7,500	\$6,500	\$6,500	\$6,500
Commercial	\$9,000	\$6,000	\$7,000	\$5,500	\$7,000	\$5,000	\$5,000	\$5,000
Residential	\$9,000	\$8,000	\$8,000	\$7,000	\$7,500	\$6,500	\$6,500	\$6,500

Source SGS using EY data

Figure 2- How to calculate floor area uplifts and public benefits (Victoria State Government, 2019, p. 4)

Public Benefit category	Description and Components	Valuation (and Estimated Value)
Publicly accessible open areas on site (additional to any public open space contribution under Clause 52.01 of the Planning Scheme)	<p>Plazas, laneways, required setbacks and parks directly accessible from public street or public area. The provision may include one or more of the following components:</p> <p>a) An area whose title is transferred to a public authority, municipal council or the Crown</p> <p>b) An area retained in private ownership with a legal encumbrance to provide unrestricted public access and an appropriate private maintenance regime</p> <p>c) Civil works such as paving, walls, canopies, artworks, furniture, planting, irrigation, drainage and ancillary works necessary for the proper functioning of the area (but excluding site preparation and any sub-structure), to the satisfaction of the receiving agency</p>	<p>The valuation may include one or more of the following components (corresponding to the Description and Components at left):</p> <p>a) Independent market valuation of the transferred land based on location (est. \$15,000 - 25,000 / m²)</p> <p>b) Independent market valuation of the land prior to encumbrance based on location (est. \$15,000 - 25,000 / m²)</p> <p>c) Independent quantity surveyor valuation of the civil works (Hard landscaped areas: est. \$1,500 - 2,500 / m²) (Soft landscaped areas: est. \$1,000 - 1,500 / m²)</p> <p>d) In all cases related administrative and/or holding costs, as justified</p>
Publicly accessible enclosed areas within proposed building	<p>Independent floor space suitable for public or a registered not for profit use with appropriate access from public area or street. The provision may include one or more of the following components:</p> <p>a) An enclosed area whose title is transferred to a public authority, municipal council or the Crown</p> <p>b) An enclosed area leased at a peppercorn rent to a public authority, municipal council or the Crown for a period of at least 10 years</p> <p>c) Fit-out works such as finishes, fixed furnishings, lighting, air conditioning and other services necessary for the proper functioning of the area to the satisfaction of the receiving agency, but excluding structure, building envelope or general servicing (unless those are transferred to the receiving agency)</p>	<p>The valuation may include one or more of the following components (corresponding to the Description and Components at left):</p> <p>a) Independent market valuation of the transferred area (est. GRV/m² from Table 1 for the predominant building use for the precinct specified in Fig.1)</p> <p>b) Independent market valuation of the leasehold value for the total duration of the lease (est. 5% of GRV/m² per annum for the equivalent building use for the precinct specified in Fig. 1)</p> <p>c) Independent quantity surveyor valuation of the fit-out works (est. \$2,000 - 3,000 / m²)</p> <p>d) In all cases, related administrative and/or holding costs as justified</p>
Affordable housing within proposed building	<p>A dwelling unit or units whose title is transferred free of charge to a not-for-profit registered housing association or provider</p>	<p>Independent market valuation of the transferred dwelling unit (est. GRV/m² from Fig.1 for residential use for precinct specified in Fig. 1)</p> <p>In all cases, related administrative and/or holding costs as justified.</p>
Competitive design process for design of proposed building	<p>Australian Institute of Architects endorsed applicant sponsored competitive design process utilising Australian Institute of Architects Architectural Competition Guidelines.</p>	<p>Double the cost of documented architectural fees and administration costs associated with the competition including fees of Australian Institute of Architects as the endorsing agency (est. \$1.0M - 2.0M)</p>
Strategically justified uses including Office on site or within proposed building	<p>Office use (or desirable educational or community related use, agreed with the Responsible Authority) secured by legal agreement for a period of at least 10 years</p>	<p>Independent market valuation of the difference in gross realisation value between commercial office use or other agreed use and residential use for the precinct where the development is located (est. Difference in GRV/m² between commercial and residential uses from Table 1 for precinct where the development is located)</p>

New South Wales (NSW)

Voluntary Planning Agreements (VPA's) are voluntary agreements between a planning authority and a person (developer) and are often used in place of DCP's. The *Environmental Planning and Assessment Act 1979 (EPAA 1979)* provides the legal basis for planning agreement's under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provided any other material public benefit, or combination of them to be used for or applied towards public purpose (s.7.4 (1) EPAA 1979).

Typically, VPA's apply to development applications, which rezone land or propose variations to development standards, thus, increasing the development yield (Gurran, et al., 2018, p. 37).

The scope of planning agreements are commonly used for (NSW Government: Planning and Environment, 2016, p. 23):

- Compensation for loss or damages caused by developments, such as obligations for replacing, restoring public amenity or resources to predevelopment standard.
- Development contributions towards the recurrent costs of infrastructure, facilities, services or even for habitat protection. This recurrent cost may bind future owners to make periodic payments, often set up through an endowment fund which is managed by a trust.
- Development contributions to meet the demand for infrastructure and amenities such as public transport or recreational facilities created by development.
- Wider community benefits offsite/onsite.
- Provision of affordable housing and or transport and infrastructure.
- Monitoring of development impacts.
- Conservation or enhancement of the natural environment.

VPA's can include provisions for the delivery of public benefits, funding of recurrent cost as well requiring developers to monitor the planning impacts of a development. VPA's in NSW are determined by the circumstances of ease case. However, while a case-by-case basis allows for site-specific outcomes, it also opens a can of worms which allow for politics, discretion, consistency and transparency to be biased and challenged.

Furthermore, developers and private planning consultants noted that VPA's can improve site specific flexibility and delivery of public benefits, but they also add significant cost to a project when they are not executed properly (Donaldson, 2016).

Despite planning agreements being a principle based approach, they allows decision-making bodies to consider even larger impacts or benefits to the community, including ongoing costs, and studies. Overall, around half of Sydney's local governments have VPA's in place; of these 19 refer to the provision of affordable housing. However, as a whole, the use of VPA's for affordable housing has been limited (Gurran, et al., 2018).

To highlight this, as of 2018, 236 VPA's for residential and mixed-use projects are listed on the state register, but only "two agreements record affordable housing benefits" at St Mary's Development in Blacktown and Kolotex and Labelcraft sites in Leichhardt (Gurran, et al., 2018, p. 38).

Notwithstanding this, some local governments such as Waverly Council, clearly define how to calculate value uplift from planning bonuses and affordable housing in their policies, whereas other such as Randwick Council offer specific sites where affordable housing can be considered.

In 2017, the NSW Department of Planning and Environment (DPE) advertised a draft update of VPA framework. The update introduced greater VPA process clarity and provided increased consistency and transparency. Issues raised from developers and decision-making bodies regarding the current and updated draft VPA framework include;

- Confusion between allowing councils to capture a share of the developer’s profit from the value uplift and statements that councils should not use VPA’s to capture windfall gains.
- The policy outlines expectations and principles, rather than methodologies. Particular this is an issue for local governments in NSW as VPA’s are provided for in State Law.
- Inclusion of public engagement in VPA process.

Accordingly, it is important for WA to consider the issues faced in the current NSW VPA case-by-case practice and endeavour to ensure development incentives for community benefits are valued and managed appropriately, consistently and transparently.

City of Hobart

Clause 22.4.1 Building height of the **City of Hobart Interim Planning Scheme 2015** provides a series of performance criteria to which a development must achieve if it seeks additional height greater than the acceptable solutions.

Similar to the Residential Design Codes version one, Clause 22.4.1 contains a list of acceptable solutions, which provide specific height limits, and performance criteria principles that need to be addressed if the development does not meet the acceptable solutions (table 9).

Principles P1.2 and 3.2 allow for discretion where development falls outside the amenity-building envelope. Discretion is only considered in circumstances where the development provides “significant benefits in terms of civic amenity and it must provide a positive contribution to the streetscape and townscape” (Planisphere, 2017, p. 15).

A positive contribution to the streetscape and townscape requires having regard to:

- a) the height, bulk and design of existing and proposed buildings;
- b) the need to minimise unreasonable impacts on the view lines and view cones;
- c) the need to minimise unreasonable impacts on pedestrian amenity from overshadowing of the public footpath;
- d) minimise unreasonable impacts on the amenity of public open space from overshadowing;
- e) minimise unreasonable impacts on pedestrian amenity from adverse wind; and
- f) the degree of consistency with the Desired Future Character Statements.

However, in Hobart the requirement for community benefits does not contain quantifiable targets as to where, what and how much civic amenity is required. Further, the civic amenities are not guided by any civic amenity strategy or policy.

Table 9: Clause 22.4.1 Building height of the City of Hobart Interim Planning Scheme 2015

Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Building height within the Central Business Core Area in Figure 22.2 must be no more than:</p> <p>(a) 15m if on, or within 15m of, a south-west or south-east facing frontage;</p> <p>(b) 20m if on, or within 15m of, a north-west or north-east facing frontage;</p> <p>(c) 30m if set back more than 15m from a frontage;</p> <p><i>unless an extension to an existing building that:</i></p> <p>(i) is necessary solely to provide access, toilets, or other facilities for people with disabilities;</p> <p>(ii) is necessary to provide facilities required by other legislation or regulation.</p>	<p>P1.1</p> <p>Development contained within the Amenity Building Envelope in Figure 22.3 must make a positive contribution to the streetscape and townscape, having regard to:</p> <p>(a) the height, bulk and design of existing and proposed buildings;</p> <p>(b) the need to minimise unreasonable impacts on the view lines and view cones in Figure 22.6 and on the landform horizons to kunanyi/ Mt Wellington and the Wellington Range from public spaces within the Central Business Zone and the Cove Floor;</p> <p>(c) the need to minimise unreasonable impacts on pedestrian amenity from overshadowing of the public footpath for city blocks with frontage to a Solar Penetration Priority Street in Figure 22.2; and</p> <p>(d) the need to minimise unreasonable impacts on the amenity of public open space from overshadowing.</p> <p>P1.2</p> <p>Development outside the Amenity Building Envelope in Figure 22.3 must provide significant benefits for civic amenities such as public space, pedestrian links, public art or public toilets, unless a minor extension to an existing building that already exceeds the Amenity Building Envelope, and must make a positive contribution to the streetscape and townscape, having regard to:</p> <p>(a) the height, bulk and design of existing and proposed buildings;</p> <p>(b) the need to minimise unreasonable impacts on the view lines and view cones in Figure 22.6 and on the landform horizons to kunanyi/Mt Wellington and the Wellington Range from public spaces within the Central Business Zone and the Cove Floor;</p> <p>(c) the need to minimise unreasonable impacts on pedestrian amenity from overshadowing of the public footpath for city blocks with frontage to a Solar Penetration Priority Street see Figure 22.2;</p> <p>(d) the need to minimise unreasonable impacts on the amenity of public open space from overshadowing;</p> <p>(e) the need to minimise unreasonable impacts on pedestrian amenity from adverse wind conditions; and</p> <p>(f) the degree of consistency with the Desired Future Character Statements in clause 22.1.3.</p>

Affordable Housing in Australia

Affordable Housing is defined as rental and owner-occupied housing which meets access and affordability requirements set by the government (Gurran, et al., 2018, p. 6)

In South Australia (SA) between 2005 to 2015, 5,485 affordable homes or 17% of the total housing supply in SA were built through the inclusionary planning target applied to new residential areas. Furthermore, a planning incentive scheme introduced in NSW's in 2009 has delivered around 2,000 affordable rental dwellings in Sydney which equates to 0.5-1% of Sydney's housing support (Gurran, et al., 2018, p. 1). Further, these dwellings are only required to remain affordable for up to 10 years.

Affordable housing development is considered one of the most significant benefits that can be delivered by incentive and bonus zoning. Thus, local government must ensure that affordable housing is provided on-site rather than through financial contributions where possible (Gurran, et al., 2018, p. 51). A study into the application and market delivery of affordable housing in the City of Portland recommended that were a local government requires an increase in the delivery of affordable housing, they should consider making the production of affordable housing onsite the most attractive community benefit option economically.

International

America

Community Benefit Agreements (CBA) emerged in America in the late 1990s as a way to achieve and deliver long-term benefits to residents impacted by developments. CBA's are currently operational in a number of states including; California, Colorado, New York and Florida (not exhaustive) (Gross, LeRoy, & Janis-Aparicio, 2005).

CBA's are enforced as binding contracts by the parties that have agreed to them. In essence, CBA's are negotiated between local governments, developers and community based groups during a projects development application process (Patterson, 2016, p. 231).

The community benefits most often provided for under CBA's include:

- Affordable housing
- Improvements to schools
- Community facilities
- Public parks
- Public access ways
- Design elements.

In addition, CBA's can include provisions relating to the construction phase of the project such as targeted and local procurement agreements.

Developers have expressed that where a community needs assessment and plan was prepared, the benefit process was more certain and protected from public input and scrutiny. In such circumstances, the developer was more likely to use CBA's. Alternatively, in circumstances where a community needs assessment and plan was not prepared, developers were more likely to walk away from developing or not seek bonuses (Patterson, 2016, p. 244).

In short, a community needs plan reduced the developers needs to start from scratch each time and ensured that the benefits delivered were suitable for the community users and locality. Despite what many may think, developers actually preferred to have set in stone community benefits, which could be delivered.

A community needs plan meant developers did not have to undertake extensive community engagement for each application, as the community had already been engaged. Further, it created a more cohesive contribution of community benefits within an area, rather than the first few sites hit with the larger community facilities or benefits for a redeveloping area.

CBA's work best in locations where there is substantial agency investment, the project is large-scale and when the surrounding market is growing or emerging (Salkin, n.d). However, in order for CBA's to be effective and fair the community negotiating the benefit needs to have adequate leverage, thus CBA's are not appropriate in all situations (Salkin, n.d).

One of the more complex problems associated with CBA's being a negotiated process is that developers may view past CBA's as setting a maximum level of what should be offered to the community. Whereas community groups may view it as a minimum level. Thus, taking from the American experience it would seem necessary to ensure that a value-based measure system is adopted to deliver planned community benefits rather than a purely negotiated outcome on a project-by-project basis. In short "community groups should not have to identify upcoming projects, mobilize coalitions, and fight the same battles over and over again" (Gross, LeRoy, & Janis-Aparicio, 2005, p. 75).

Incentive Zoning is land use regulation, which encourages the creation of community amenities and built form design in exchange for development incentives often in the form of bonus density or height (Clark, 2007).

Interestingly, New York City defines incentives or bonuses as

“adjustments to the permissible population density, area, height, open space, use, or other provisions of a zoning ordinance or local law for a specific purpose authorized by the town board.”

(Clark, 2007, p. 265)

In addition to New York City, other states such as Washington, Virginia and Florida also use incentive zoning. Community benefits often provided through incentive zoning include (Clark, 2007, p. 265):

- Low or moderate income housing
- Parks and open space
- Aged care
- Day care
- Other specific physical, social or cultural amenities
- Cash in lieu authorized by the town board.

In New York City, a provision for cash contributions is provided to offset increased density where a developer is unable to produce an amenity suitable to the community.

In areas such as Miami in the high-density centre core, incentive zoning allows for double the base maximum height, through the provision of bonuses. However, as you expand outwards from the centre core, the bonus height achievable is only 50% greater than the base maximum height.

Key learnings from the application of incentive zoning in New York City are:

- Incentive zoning needs to be targeted to locations where higher densities can and should be accommodated for and where land is scarce, so that developers are motivated to achieve the incentives.
- Public goods that are offered need to reflect the community needs and be value added amenities that the market will not provide on its own. In short, not community infrastructure, which is already part of a local government’s capital works program.
- The incentives should be reflective of the market conditions.
- Bonuses should be documented and recorded.
- Coordinated approach for a mix between benefits delivered and cash payments (Jacobs, n.d).

Incentive zoning is one way to preserve and enhance public amenities as growth pressures increase, as well as reduce opposition to developments. However, studies have found that community benefits derived through incentive zoning often benefit the wider community, but may still disadvantage nearby residents (Jacobs, n.d).

Furthermore, multiple studies of incentive zoning have illustrated that they contribute to unaffordable housing for low and middle-income families. As such, it is important to ensure where possible incentives include the provision for delivering affordable housing onsite, to improve this statistic (Jung, 2019, p. 2).

San Francisco and California use an approach called ‘Land Value Capture’ (LVC) which “enables communities to recover and reinvest land value increases resulting from public investment and other government actions”. In short, “public action should generate public benefit” (German & Ehrich Bernstein, 2018, p. 1).

LVC’s are a mix between DCP’s and community benefits for development incentives used in the WA planning system.

LVC’s require developers to contribute a monetary payment as a condition of approval for a development project. These funds are based on the proposed development and finance the cost of improvements and new infrastructure to the area.

In the [City of Portland Central City Plan District](#), density bonuses are available to developers who provide any one of the 18 community benefits, as well as the transfer of density from one site to another (Economic & Planning Systems, Inc, and Otak, 2015).

Portland has found varying degrees of bonus success, with success often reliant on a strong market. However, Portland is experiencing issues with the types of benefits delivered and the inability to meet their priority community benefit needs. In 2015, Portland commissioned a study into their incentive policy.

The study found that it was common for developments to meet their maximum height before they exceeded the maximum floor area ratio. Thus, it is important to ensure when preparing plans the building height and plot ratio calculations are considered together.

Furthermore, the Study contained a summary of findings and recommendations including:

1. Density bonus should be available to all types of projects in a zone.
2. In addition to onsite community benefits a cash contribution should also be an option and may provide improved feasibility for developers.
3. Make the density bonus available in increments.
4. Vary the community benefits by sub-district.
5. Use cash contributions for historic preservation and open space density bonuses.
6. Ensure there are no other mechanism by which development can obtain density bonuses.
7. Standardised the values to make a uniform approach to community benefits and development bonuses.

Summary

Overall, while the use of density bonusing methods to secure affordable housing has typically been upheld in the United State Courts, the use of bounsing for other purposes such as community amenities has “led to successful court challenges” (Moore, 2013, p. 5).

Decisions which successfully challenged the notion have led to the requirement for a clear ‘nexus’ and ‘need’ to be established between the benefits secured or provided through cash in lieu payments and the proposed development.

Canada

Toronto

Under [Section 37 of the Planning Act](#), the City of Toronto has established a standard process for the negotiation and allocation of community benefits when developments propose beyond what is permitted in the zoning-by law (Biggar, 2017, pp. 18, 59). Toronto’s current zoning-by laws set ‘recommended’ building height and densities, rather than maximums. Thus, the system is set up to involve a negotiated process right from the start. This also opens up the doors to speculation, mostly by developers who bet “on what would be the highest and best use of the land they purchase” (Biggar, 2017).

The City of Toronto adopted [Implementation Guidelines for Section 37 of the Planning Act and Protocol for negotiating Section 37 Community Benefits 2017](#) to assist in the implementation of Section 37 bonuses. Under the guidelines community benefit delivered as part of Section 37 must be relevant, reasonable and have a planning purpose, similar to the Newbury test used by the WA State Administrative Tribunal and other appeal bodies in Australia. The Newbury test was adopted from *Newbury DC v Secretary of State for the Environment* (1981) AC578 and requires that development conditions or requirements must (Western Australian Planning Commission, 2019):

- **Be imposed for a planning purpose;**
- **Fairly and reasonably relate to the development for which permission is given; and**
- **Be reasonable.**

Furthermore, the guidelines introduce 12 principles to be followed when using Section 37 (table 10).

Toronto studies have found “socially orientated outcomes” are more often achieved when a bonus policy is prepared and holds precise standards and plans, therefore, promoting “certainty and stability” in the development processes. Likewise, where the bonus policy is too general it leads to confusion and uncertainty and thus creates “outcomes which favour the physical form” and developers (Biggar, 2017, p. 21).

There is growing support in the Toronto community for the inclusion of broader community benefits and growth objectives such as public transit and cash contributions, by contrast to onsite benefits such as public art and day-care centres.

Despite its success, the use of Section 37 is still fraught with criticism, that it is a planning deal between developers and local governments, which silences the community opposition through bribery (Pantalone, 2014, p. 2). A review into Section 37, highlighted that there is overwhelming support from both planning staff and developers for a standardised approach that “calculates the value of the contribution towards community benefits rather than a case-by-case negotiation process” (Gladki Planning Associates, 2014, p. 5). Developers have mentioned that a standardised approach would provide more certainty and allow purchasers of land to factor in the additional costs. Further, the review recommended that “the City of Toronto hire an outside appraiser to provide land values for each square metre of increased density, for different geographic areas across the City and that these values be updated annually” (Gladki Planning Associates, 2014, p. 6).

Finally, the review found that a more succinct approach to address the assessment and delivery of community benefits that met the needs of the community would be to conduct an assessment of potential community benefits required in each neighbourhood. Such as, a community needs plan, which is then updated once during each term of Council.

Table 10: 12 Principles for Section 37 Implementation (City of Toronto, 2017, p. 4)

Principles	
1. Proposed development must represent good planning.	<i>An owner/developer should not expect inappropriately high density or height increases in return for community benefits and the City should not approve bad development simply to get community benefits.</i>
2. Community benefits should be specific capital facilities, or cash contributions to achieve specific capital facilities.	<i>This principle contains two important sub-principles: a) community benefits should be capital facilities; and b) capital facilities should be specific capital facilities, not general Community benefits should be durable. Cash-in-lieu of capital facilities is only acceptable where the cash is secured for specific local capital facilities.</i>
3. Appropriate geographic relationship between the secured community benefits and the increase in height and/or density in the contributing development.	<i>At a minimum, the planning relationship includes an appropriate geographic relationship and addressing of planning issues associated with the development. Priority location for benefits should be on-site or in the local area. An appropriate geographic relationship exists if one or more of the following criteria are applicable: a) development is located within the catchment area of the benefit delivered; b) development is located within the community or neighbourhood that benefits from the community benefits; c) the occupants of the development have the opportunity to use benefit; and d) development will benefit from the benefits, through increased value, or enhanced marketing or business opportunities.</i>
4. No citywide formula, or quantum, exists for determining the benefits.	<i>Most Section 37 agreements are negotiated on a case-by-case basis, and the amount or value of the community benefits in relation to the value of the density or height increase varies from project to project or from one area of the City to another.</i>
5. Community benefits are listed in the Official Plan (not exhaustive)	<i>The specific community benefits secured in a development are the result of public consultation, discussion among city planning staff, the owner/developer, the local Councillor, and consideration of intensification issues, the nature of the development application, and the strategic objectives and policies of the Official Plan.</i>
6. Matters required to support a development may also be secured in a Section 37 agreements.	<i>Matters either necessary for good planning or routinely required in the absence of using Section 37 are generally not considered to be eligible Section 37 community benefits, and should be provided by the developer notwithstanding any use of Section 37.</i>
7. Good architecture and design is always expected and are not benefits.	<i>The path to good design is not through increased density or height. However, a Section 37 agreement can be used to secure materials, finishes, or special built form features as a legal convenience where the City and the owner agree.</i>
8. Section 37 cash contributions toward capital facilities should be over and above charges.	<i>Section 37 community benefits in the form of cash contributions may be secured toward services and facilities that: – address service needs or deficiencies in the existing community where an appropriate geographic relationship exists – cannot be, or are not, funded by the development charges By-law.</i>
9. Community benefits and the increase in height and/or density must be set out in the zoning by-law.	
10. Section 37 is the primary tool to implement policies in the affordable housing, land and ownership space.	
11. The Ward Councillor should always be consulted by City Planning staff prior to any negotiation of S.37 community benefits.	
12. City Planning staff should always be involved in discussing or negotiating Section 37 community benefits with developers/owners.	

Vancouver

Vancouver uses a planning tool called **Density Bonus Zoning** (DBZ), which is applied to development seeking additional density at the building permit stage. The allocation and delivery of DBZ can be on site or as payments in lieu. Payment contributions are a flat rate per square foot of bonus benefit to be built. The benefits delivered are allocated through public benefits strategies and community plans (City of Vancouver, 2017, p. 8). Community benefits are provided for within the strategies include:

- Parks
- Footpaths and cycle paths
- Cultural and social facilities
- Community centres
- Affordable housing
- Police stations and fire halls
- Heritage preservation
- Basic infrastructure.

The concept of uplift from DBZ is generally accepted amongst the Vancouver community, however, the rationale to determine the portion of uplift is not as certain. The rationales that decrease certainty are:

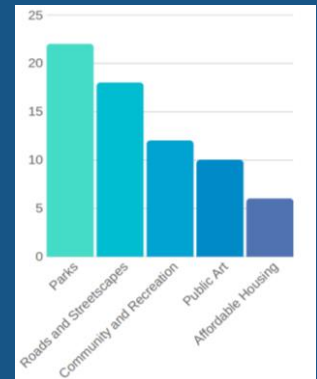
1. **The need to fund infrastructure to serve dense development;**
2. **A desire to share the wealth created by dense development with the city at large;**
3. **The need to compensate those who will be negatively affected by dense development (Moore, 2013, p. 13).**

Vancouver also practice **Community Amenity Contribution's** (CAC) to collect in kind or cash contributions from developers where the city councils grants development rights through rezoning. The intent is to capture the increase in community facilities, which are required because of density increases brought about by rezoning. CAC's help to secure community benefits including "parks, libraries, childcare facilities, community centres, transportation services, cultural facilities and heritage preservation" (Lehrer & Pantalone, 2018).

Summary

The majority of benefit secured in Toronto relate to capital facilities including;

- Parks (22%)
- Roads and streetscapes (18%)
- Community and Recreation Centres (12%)
- Public Art (10%)
- Affordable Housing (6%)



Reinforcing developers preference for visually desirable amenities. Furthermore, one of Toronto's least used benefits is affordable housing at only (6%). Whereas, the Vancouver situation is reverse, in that there are far fewer types of benefits delivered and affordable housing accounts for 10% of the community benefits secured.

Interestingly, across Canada the majority of benefits delivered from the cash in lieu payments are within a 5 minute radius of the development which contributed. Very few extend beyond this frame, with the exception of large multi-district recreation centres for example which are within a 30 minute radius.

However, Section 37 and CAC's both require negotiation on a case-by-case basis for the amount of density, value and type of benefits secured (Moore, 2013, p. 5). The main difference between the two is that Councillors play a role in Toronto's Section 37 and not in Vancouver's CAC's. Meaning Vancouver is often portrayed as more transparent and less unambitious. Nonetheless, both approaches appear ad hoc and are not recommended within the context of the WA planning system. In retrospect, it highlights the need for clearly defined and value measured community benefits that can be delivered for density bonuses, which still offer the option for flexibility within principle to respond to onsite contexts.

South Korea

In South Korea’s capital Seoul, the process for procuring development incentives for community benefits is termed ‘**Floor Area Ratio (FAR) – Incentive**’. FAR – Incentive allow, “additional construction corresponding to the ratio of land or public benefit items provided” (Jung, 2019, p. 2). The incentives gained by the developer can include increased building coverage, FAR or height modulation. Figure 3 below illustrates the modulation approach and value measures used for each incentive.

Nevertheless, Seoul goes one-step further and identifies a base maximum FAR or height, followed by a permitted FAR or height and then a maximum FAR or height. To move between the base and permitted FAR, FAR bonuses must be provided in terms of public amenities. To move between permitted and Maximum FAR, FAR compensation must be provided in terms of land ceded free of cost or donations (Jung, 2019, p. 4). The three-tier approach is illustrated in diagram 2.

The process of FAR - incentives have helped local governments in Seoul improve their urban environment without taxing the public. Nonetheless, the exchange process has found that there is a severe imbalance in the provision of amenities provided by the private sector. With the majority of developers seeking to apply the less expensive and more convenient amenities, such as architectural features and pedestrian paths. In addition, studies have shown that public amenities which required ongoing management or increase

public usage of the area such as car parking and public open space were difficult to build, and were often not used to claim incentives (Jung, 2019, p. 14). Lastly, developers are often quick to include public amenities or density elements that enhance the exclusive use of the buildings future occupants rather than the public at large.

Therefore, by introducing a three-tier bonus approach, the local government is able to ensure that while some public facilities may not be as beneficial to the community as others, the monetary contribution can be used to provide those amenities deemed more costly and cumbersome, where the private sector is not.

Diagram 2: Two-tier approach Seoul

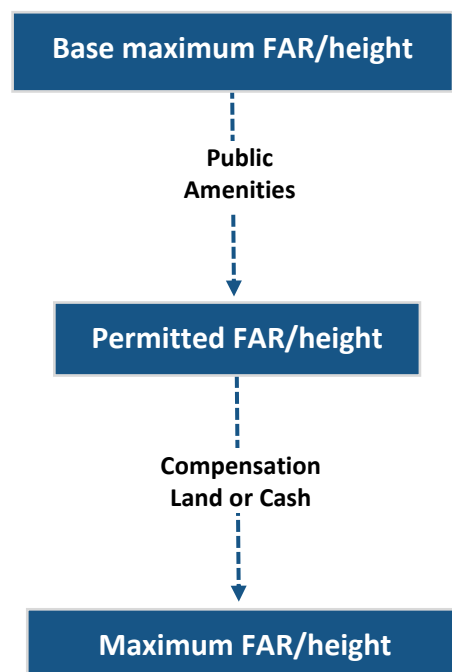


Figure 3- Jung, 2019, p. 3

Category	Modulation Approach
Building Coverage Ratio Modulation	Prescribed building coverage ratio × (1+ Land area for public amenities/Original land area)
Floor to Area Ratio Modulation	Prescribed building coverage ratio × (1+1.5 * Ratio factor × (Land area for public amenities/Land area after implementation of public amenities))
Height Modulation	Prescribed building height × ((1+ Land area for public amenities)/Original land area)

Note: Ratio factor = Ratio of (public amenities land area FAR: commercial land area FAR) when there is disparity between the two.

New Zealand

Auckland

The [City of Auckland Unitary Plan 2016](#) is a legal document, which deals with the central areas natural and physical resources, including land, buildings and services.

The Unitary Plan Chapter H8 – Business – City Centre Zone, Section H8.6.11 Bonus Floor Area Ratio permits variations to the basic floor area ratio (FAR), through the inclusion of bonus floor area. The purpose of Section H8.6.11 is to encourage development and design that contain activities or facilities which provide a benefit to the public.

The City of Auckland District Plan - Central Area Section 2005 Section 6.7.1 was superseded by the City of Auckland Unitary Plan 2016 section H8.6.11. The original District Plan offered a narrower selection of community benefits and in some circumstances larger development incentives compared with benefits provided. The Unitary Plan introduces an expansive list of benefits, which also considers certain activities and land uses as benefits (such as retirement village, camping grounds and visitor accommodation). Interestingly, all bonus features have a zoning classification, with the majority being restricted discretionary (RD). As such, the mere application of the bonus feature alone does not justify development incentive. Instead, the bonus feature must meet the purpose and all standards as set out in section H8.6 to be considered.

Under section H8.6.11 where height limits are shown on a planning overlay map, the lowest height applies as the first level of control. However, the central core does not prescribe height limits, instead height is influenced by the special height controls, which prevent tall buildings shadowing public open space and interrupting protected views. This is similar to the City of Perth.

In addition to Figure 4, the Unitary Plan sections H8.6.12 to H8.6.20 set out the bonus floor area calculations and specific criteria for the following bonus features;

Historic heritage and special character floor space	Provided for the retention or enhancement of historic heritage and special character buildings and enabling them to sell and transfer unusable floor space to another site.
Through-site links	Provided where high-quality through-site link is incorporated, which enhances the pedestrian amenity of the city centre. <ul style="list-style-type: none"> – Through-site link applies to lanes, arcades and covered links (described in Section 8.6.18)
Light and outlook	Provided where a building is setback to encourage, slender design, sunlight access to streets and outlook from buildings and views through the city.
Public open space	Provided where high-quality public open space is incorporated into the development <ul style="list-style-type: none"> – Accessible to the public 24/7 – Be a minim of 10m in length and 10m diameter (if circle) – Entrance must be at street level
Works of art	Provided where high-quality work of art is incorporated into the development and enhances the cultural richness of the city centre. <ul style="list-style-type: none"> – Accessible 24/7 – 5% extra floor area for each 1% of total art construction cost

In considering bonuses, the basic floor area plus any bonus must not exceed the maximum total FAR (MTFAR) as identified on the overlay maps. FAR is the “prime control of the scale and intensity of development in the central area and expresses the relationship between building floor area and site area as a measure of permissible building size” (City of Auckland, 2005).

A development seeking bonuses up to MRFAR must incorporate one or more of the features listed in figure 4. Interestingly, as identified in figure 5, the

bonus square metres of floor area achievable is greater than the square metres of bonus feature required to be provided. In that for every 1m² of bonus feature such as retirement village in area 1 a developer is able to achieve an additional 2m² of bonus floor space.

Despite an extensive list of bonus features, the bonus floor area ratio is only applicable in the business – city centre zone and is not applicable in any other activity centre locations such as the town centre, local centre or neighbourhood centre zones.

Figure 4- Bonus Floor Area (City of Auckland, 2016, p. 17)

Bonus feature	Activity type	Bonus floor area available per m ² of feature provided						Maximum floor area ratio limit to bonuses on a site								
		1a	1b 1c	2	3	4	5	6	1a	1b	1c	2	3	4	5	6
See Map H8.11.8 Bonus areas and Map H8.11.7 Site intensity																
Use or transfer of historic heritage and special character building floor space	C	Refer to Standard H8.6.13						NA	NA	NA	NA	NA	NA	NA	NA	NA
Securing historic heritage and special character building floor space	RD	Refer to Standard H8.6.14						4:1	4:1	4:1	4:1	4:1	1.5:1	1.5:1	1:1	
Activities																
Dwellings	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Home occupations	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Visitor accommodation	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Camping grounds	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Boarding houses	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Student accommodation	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Integrated residential development	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Retirement village	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Supported residential care	RD	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2m ²	2:1	2:1	2:1	2:1	2:1	1:1	1:1	1:1
Public amenities																
Public open space	RD	8m ²	6m ²	6m ²	4m ²	4m ²	3.5 m ²	3m ²	3:1	3:1	2:1	3:1	3:1	2:1	1:1	1:1
Through-site links*	RD	Refer to Standard H8.6.18						1:1	1:1	1:1	0.5:1	0.5:1	0.5:1	1:1	0.5:1	
Works of art	RD	Refer to Standard H8.6.20						1:1	1:1	1:1	1:1	1:1	1:1	1:1	1:1	
Light and outlook																
Light and outlook	P	Refer to Standard H8.6.12						NA	NA							

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