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Your Ref: LUP/1544; D11/69868

31st August 2011
The Chief Executive Officer
City of Rockingham
Administration Centre
PO Box 2142
Rockingham DC WA 6967

By email: andrew.hammond@rockingham.wa.gov.au
brett.ashby@rockingham.wa.gov.au

Dear Mr. Hammond

Amendment No.114 to Town Planning Scheme No.2 - Development Contribution Plan No.2

The Urban Development Institute of Australia (UDIA WA) is pleased to provide comment on the draft *Amendment No.114 to Town Planning Scheme No.2 - Development Contribution Plan No.2*. UDIA (WA) is the peak body representing the urban land development industry in Western Australia. UDIA is a membership organisation with members drawn from the development, planning, valuation, engineering, environmental, market research and urban design professions. Our membership also includes a number of key State Government agencies and Local Government Authorities from across the state. Nationally, UDIA represents the interests of thousands of members and includes all the major land development companies, both public and private, and specialist consultancy firms.

UDIA recently met with Mr. Brett Ashby and Mr. Michael Quirk of the City of Rockingham to discuss the draft development contribution plan. While the methodology to determine the contributions for the various development contribution sub-areas appears to be rigorous there are departures from *State Planning Policy 3.6 – Development Contributions for Community Infrastructure* and the model scheme text that UDIA does not support. UDIA was closely involved with development of State Planning Policy 3.6 and we support the adoption of development contribution plans by local government where they are consistent with and comply with the principles of SPP 3.6. The principles are core to development contribution plans and should be included given the requirement for a DCP to demonstrate need and nexus, transparency and certainty amongst others.

SPP 3.6 contains model text provisions with the intention that these be incorporated into Town Planning Schemes where a DCP is being implemented. The approach of the City of Rockingham to deviate from this is not supported by UDIA.

Following are the key issues UDIA wishes to raise in response to the DCP.

Key Issues

- **Changes to the timing for payment of contributions**

The draft DCP proposes that payment is to be made once the City recommends to WAPC that conditions be cleared. Generally, payment is made when WAPC issues the final clearance on the DCP with the contribution payment being closely related to the creation of titles. We do not support the City's approach to bring forward payment as there could be significant lead times between the when the local authority recommends to WAPC that conditions be cleared and WAPC receiving recommended clearances from other agencies.

- **Proposed timeframe of the DCP**

The draft DCP proposal for a 20 year period of operation is in conflict with SPP 3.6 which stipulates a 10 year time horizon. It is unreasonable to include a 20 year timeframe as infrastructure requirements may change over time and the longer period provides little certainty to the developer that the infrastructure will be provided. The community inevitably pays twice, through the initial contribution included in the purchase price of land and thereafter through rates. The DCP should include only those items of infrastructure that are required within a 10 year timeframe.

- **Timing of the provision of infrastructure**

The City needs to have a clear timeframe for the delivery of infrastructure yet the discussion UDIA recently held with the City suggested that the timing for provision of infrastructure is flexible insofar as the delivery could be delayed where the City is unable to prefund the infrastructure. This is in conflict with SPP 3.6 which seeks to provide certainty that the infrastructure for which a contribution has been collected from developers will be provided in the timeframe stipulated in the DCP.

- **Costs of finance**

The DCP infrastructure costs include the costs of interest and fees payable by the City on finance. This is unreasonable and in conflict with SPP 3.6. The City's contribution is on behalf of the existing community and the developer's contribution is on behalf of the future community. It is inequitable that the City can recover interest and fees from the DCP and not the developer when in fact it is likely that the developer is paying interest and fees on their portion of the contribution. We recommend that the costs of finance and fees be removed from the costs calculations of the DCP.

- **Cost calculation**

UDIA believes the methodology applied to the calculation of costs is flawed. The draft DCP indicates that the costs are indexed for up to 20 years and then apportioned to each precinct on a cost per dwelling basis. This is inequitable as it means that those who pay early pay are penalised by paying a future cost and not today's cost. Costs are reviewed and adjusted annually which makes it redundant to charge future costs when these are already adequately accounted for.

- **Legal representation and arbitration costs**

The proposal to include the costs of legal representation and arbitration in the DCP is opposed by UDIA. We interpret this to mean that where a developer disputes the City's proposal, the developer is effectively paying for the City's defence.

Summary

UDIA is unable to support the City of Rockingham's Proposed Amendment 114 to Town Planning Scheme No.2 in its current format and we recommend that further consideration be given to the issues raised in this submission. We appreciate that DCP's are complex documents and that the careful planning and coordination of infrastructure is difficult but fundamental to the economic and social well-being of any community. A DCP has to provide certainty to developers, infrastructure providers and the community about the charges that apply and how funds will be spent and it is our view that Amendment 114 does not achieve this.

Thank you for the opportunity to comment and we anticipate that this feedback will be given due consideration in finalisation of the amendment.

Yours sincerely

A handwritten signature in black ink that reads "Debra Goostrey". The signature is written in a cursive style with a large initial 'D' and a trailing flourish.

Debra Goostrey

Chief Executive Officer