




## **Statutory Planning Committee**

Notice is hereby given that the next meeting of the Statutory Planning Committee will be held on:

**Tuesday 8 March 2011  
10.00 am**

**5th Floor Conference Room, Albert Facey House,  
469 Wellington Street, Perth**



**Tony Evans  
Secretary**

Please convey apologies to Leah Carr on 9264 7656 or email  
[leah.carr@planning.wa.gov.au](mailto:leah.carr@planning.wa.gov.au)

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# Statutory Planning Committee

## Membership:

Member	Representation	Term of office ends
Mr Gary Prattley	Chairman Section 10(1)(a) Schedule 2 clause 4 (2)(a)	20/4/2013
Mayor Carol Adams	Local Government nominee Schedule 2 clause 4 (2)(f)	1/2/2012
Mr Ian Holloway	Urban and regional planning representative Schedule 2 clause 4 (2)(e)	1/2/2012
Mr Bruce Macdonnell	Department of Planning nominee Schedule 2 clause 4 (2)(b)	Ex-officio
Cr Corinne MacRae	WAPC Nominee Schedule 2 clause 4 (2)(g)	1/2/2012
Ms Elizabeth Taylor	Community representative Schedule 2 clause 4 (2) (d)	1/2/2012
Vacant	Regional Minister nominee Schedule 2 clause 4 (2)(c)	

**Quorum:** 4

## Role:

Schedule 2(4)(4)

The Statutory Planning Committee is the WAPC's regulatory decision-making body and performs such of the statutory planning functions of the Commission under the *Planning and Development Act 2005* and Part II of the *Strata Titles Act 1985* as are delegated to the Statutory Planning Committee under section 16 and such other functions as are delegated to it under that section. These functions include approval of the subdivision of land, approval of leases and licenses, approval of strata schemes, advice to the Minister for Planning on local planning schemes and scheme amendments, and the determination of certain development applications under the Metropolitan Region Scheme.

This meeting is not open to members of the public.

## RELEVANT INFORMATION FOR MEMBERS

### **Disclosure of interests**

In accordance with the *Planning and Development Act 2005* and Part 6 of the Standing Orders 2009, members of Committees (and certain employees) are required to disclose the following types of interests that they have or persons closely associated to them, have:

- direct and indirect pecuniary interests (financial);
- proximity interests (location); and
- impartiality interests (relationship).

A “**direct pecuniary interest**” means a relevant person’s interest in a matter where it is reasonable to expect that the matter if dealt with by the board or a Committee, or an employee in a particular way, will result in a financial gain, loss, benefit or detriment for the person.

An “**indirect pecuniary interest**” means a relevant person’s interest in a matter where a financial relationship exists between that person and another person who requires a board or Committee decision in relation to the matter.

A “**proximity interest**” means a relevant person’s interest in a matter if the matter concerns -

- (i) a proposed change to a planning scheme affecting land that adjoins the person’s land;
- (ii) a proposed change to the zoning or use of land that adjoins the person’s land; or
- (iii) a proposed development, maintenance or management of the land or of services or facilities on the land that adjoins the person’s land.

“**Impartiality interest**” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the member having the interest and includes an interest arising from kinship, friendship, partnership or membership of an association or an association with any decision making process relating to a matter for discussion before the board or a Committee.

Members disclosing any pecuniary or proximity interests for an item can not participate in discussion or the decision making procedure relating to the item and must leave the meeting room during the discussion of the item. Members disclosing an impartiality interest in an item must also leave the room during the discussion or the decision making procedure relating to the item unless the Committee, by formal resolution, allows the member to remain. The reason to allow a member to remain must be stated in the formal resolution and will be minuted.

### **Disclosure of representations**

Where a member has had verbal communication with or on behalf of a person with an interest in a matter which is before a meeting, the member is to disclose the interest.

Where a member is in receipt of relevant written material (including email) from or on behalf of a person with an interest in a matter which is before a meeting, the member is to table the material at the meeting for the information of members and relevant employees.

# **ORDER OF BUSINESS**

- 1. Declaration of opening**
- 2. Apologies**
- 3. Members on leave of absence and applications for leave of absence**
- 4. Disclosure of interests**
- 5. Declaration of due consideration**
- 6. Deputations and presentations**
  - 6.1            Directions 2031 - Feedback from the Consultation Process**  
                    Presenter                      Ms Alix Rhodes
- 7. Announcements by the Chairperson of the board and communication from the WAPC**
- 8. Confirmation of minutes of 22 February 2011**
- 9. Reports (see attached index of reports)**
- 10. Confidential items (see attached index of reports)**
- 11. General business**
- 12. Items for consideration at a future meeting**
- 13. Closure - next meeting to be held on 22 March 2011**

## Statutory Planning Committee

### Minutes

of ordinary meeting 7414  
held on 22 February 2011

#### Attendance

##### Members

Mr Gary Prattley  
Mayor Carol Adams  
Mr Ian Holloway  
Cr Corinne MacRae  
Ms Elizabeth Taylor

Chairman

##### Officers

Mr Cameron Bulstrode  
Mr John Chortis  
Mr Scott Haine  
Ms Silvia Georgeff  
Mr Mat Selby  
Mr Craig Shepherd

##### Department of Planning

Director, Metropolitan Planning Central

Item 10.5  
Items 10.1 and 10.2  
Item 10.5  
Items 10.1 and 10.2  
Item 9.1  
Item 9.2

##### Observers

Mr David Saunders

##### Department of Planning

##### Presenters

Mr Bill Burrell  
Mr Jason Carr  
Mr Brad Gleeson  
Mr Terrance Goff  
Mr Phil Cuttone

##### Department of Planning

Taylor BurRell Barnett  
Taylor BuRrell Barnett  
Director, Development Services at Shire of Serpentine  
Landowner - Orton Road, Byford  
General Manager, Project Development, LWP Property  
Group

##### Committee Support

Ms Leah Carr

Committee Secretary - Department of Planning

## Statutory Planning Committee

Minutes  
of ordinary meeting 7414  
held on Tuesday 22 February 2011

### 1. Declaration of Opening

The Chairman declared the meeting open at 10.01 am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed the Commission Members.

### 2 Apologies

Mr Bruce Macdonnell

### 3 Members on Leave of Absence and Applications for Leave of Absence

Nil.

### 4 Disclosure of Interests

Member	Minute No.	Page No.	Nature of Interest
Mayor Carol Adams	9.6	8	Impartiality

**Resolved**

**Moved by Cr Macrae, seconded by Mr Holloway**

*In accordance with clause 6.10.(7) of the Standing Orders 2009, members of the Statutory Planning Committee agree that the member listed above, who has disclosed an impartiality interest, is permitted to participate in discussion and voting on the item.*

***The motion was put and carried.***

### 5 Declaration of Due Consideration

No declarations were made.

### 6 Deputations and Presentations

6.1 **Adoption of Byford Main Precinct - 'the Glades' Local Structure Plan**

Presenters	Mr Terrance Goff -	Landowner - Orton Road, Byford
	Mr Brad Gleeson -	Director, Development Services at
		Shire of Serpentine Jarrahdale
	Mr Bill Burrell -	Taylor Burrell Barnett
	Mr Jason Carr -	Taylor Burrell Barnett
	Mr Phil Cuttone -	LWP Property Group

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Mr Goff addressed the committee and gave the members a handout which introduced himself and laid out his concerns regarding 'the Glades'. A copy of this handout has been placed on file.

Mr Burrell also tabled a handout which included a large map of 'the Glades - local structure plan. A copy of this handout has been placed on file.

### 7 Announcements by the Chairperson without Discussion

Nil.

### 8 Confirmation of Minutes

#### 8.1 Minutes of the Western Australian Planning Commission meeting held on Tuesday 8 February 2011

**Resolved**

***Moved Mr Holloway, seconded by Ms Taylor***

*That the minutes of the Statutory Planning Committee meeting held on Tuesday 8 February 2011, be confirmed as a true and correct record of the proceedings.*

***The motion was put and carried.***

### 9 Reports

#### 9.1 Proposed Subdivision - Lots 31 And 325 (75) Rupert Street, Subiaco

File	143020/1
Reporting Officer	Senior Planning Officer, Metropolitan Central

**Resolved**

***Moved by Cr MacRae, seconded by Mayor Adams***

*That the Western Australian Planning Commission resolves to approve the amalgamation and proposed subdivision of Lots 31 and 325 (75) Rupert Street, Subiaco subject to the following conditions and advice notes:*

#### **CONDITIONS**

1. *Suitable arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to lot(s) shown on the approved plan of subdivision. (Water Corporation)*

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2. *Suitable arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lot/s shown on the approved plan of subdivision. (Water Corporation)*
3. *Suitable arrangements being made with the Water Corporation for the drainage of the land either directly or indirectly into a drain under the control of that body. (Water Corporation)*
4. *Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply service to the lot(s) shown on the approved plan of subdivision. (Western Power)*
5. *All buildings, outbuildings and/or structures being demolished and materials removed from the proposed Lots 1 and 2 as shown on submitted plans date stamped 14 October 2010. (Local Government)*
6. *The land being graded and stabilised. (Local Government)*

### **ADVICE**

1. *The approval to subdivide issued by the WAPC should not be construed as an approval to commence development on any of the lots proposed. Approval to Commence Development may be required to be issued by the local government.*
2. *With regard to Conditions 1 and 2, Water Corporation policy and practice for the locality may involve the provision of land (for plant and works), easements and/or the payment of financial contributions towards infrastructure. You are advised to contact the Water Corporation.*
3. *Upon receipt of a request from the subdivider, a Land Development Agreement under section 67 of the Water Agencies (Powers) Act 1984, will be prepared by the Water Corporation which will document the specific requirements for the proposed subdivision.*
4. *With regard to Condition 4, Western Power provides only one point of electricity supply per freehold (green title) lot and requires that any existing overhead*



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*consumer service is required to be converted to underground*

5. *If an existing aerial electricity cable servicing the land the subject of this approval crosses over a proposed lot boundary as denoted on the approved plan of subdivision, satisfactory arrangements will need to be made for the removal and relocation of that cable.*
6. *In respect of Condition 5, if any portion of the existing building is to be demolished to facilitate the proposed subdivision, a Planning Approval and/or Demolition Licence is to be obtained from the local government prior to the commencement of demolition works.*
7. *The City of Subiaco has advised that:*
  - 7.1 *with respect of Condition 5, pending to and subsequent to, any demolition of existing improvements on the site, the site is to be kept secure and maintained to a reasonable standard;*
  - 7.2 *prior to the commencement of demolition, two copies of archival records are to be provided to the City and are to consist of:*
    - 7.2.1 *a site plan prepared at a scale of 1:200 showing the location of all structures on the lot which are to be demolished,*
    - 7.2.2 *photographs of all four elevations of the building, its interior and any special architectural features. These photographs are to appropriately labelled.*
    - 7.2.3 *available historical information on the building.*

***The motion was put and carried.***

### 9.2

#### **Adoption Of Byford Main Precinct 'The Glades' Local Structure Plan**

File SPN/0112/1

Reporting Officer Planning Manager Metropolitan South-East

#### **Resolved**

***Moved by Mr Holloway seconded by Ms Taylor***

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*That the Western Australian Planning Commission resolves to:*

- 1. approve the Byford Main Precinct 'The Glades' Local Structure Plan and Local Structure Plan Map dated 15 October 2010 in accordance with Clause 5.18.3.10 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.*
- 2. approve the minor amendment to the Byford District Structure Plan to remove the notation over the land south of Orton Road to Cardup Brook being 'land subject to further study - planning to be finalised subject to resolution of alignment of Orton Road'*

***The motion was put and carried.***

### 9.3

#### **Plantagenet Local Planning Strategy**

File DPI/09/02159/2

Reporting Officer Acting Regional Manager (Albany), Southern Regions

A handout was circulated to members from Mr Peter Duncan of the Shire of Plantagenet. A copy has been placed on file.

#### **Resolved**

***Moved by Ms Taylor, seconded by Mr Holloway***

*That the Western Australian Planning Commission resolves to grant consent to advertise the Plantagenet Local Planning Strategy subject to the following modifications being carried out prior to advertising:*

- 1. The last two sentences of dot point three (3) in S8.1.3 of Appendix 1 being deleted and replaced with "Lot 500 within this planning unit is unsuitable for rural residential and/or rural smallholdings development. Rezoning, subdivision and/or development applications for such land uses on this lot will not be supported by Council"; and*
- 2. In S9 of Appendix 3, delete existing S9.1.3 and S9.1.5-9.1.8; re-number existing S9.1.4 to S9.1.3 and existing S9.1.9 to S9.1.4; and remove the 'rural residential' designation from Lot 5102 on the 'Narrikup Conceptual Structure Plan' map.*

***The motion was put and carried.***

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### 9.4 Shire Of Dandaragan: Local Planning Strategy For Rural Land Use And Rural Settlement Reconsideration - Consent To Advertise

File DP/09/00623/1

Reporting Officer Planning Manager Strategic, Southern Regions

#### **Resolved**

#### ***Moved by Ms Taylor, seconded by Mayor Adams***

*That the Western Australian Planning Commission resolves to certify that the Draft Shire of Dandaragan Local Planning Strategy Rural Land Use and Rural Settlement dated November 2010 is consistent with Regulation 12A of the Town Planning Regulations subject to the modifications outlined in the attached Schedule of Modifications being effected, and should be advertised for a minimum period of not less than 21 days.*

***The motion was put and carried.***

### 9.5 Shire Of Wyndham East Kimberley Local Planning Strategy - Consent To Advertise

File DP.10/00078/1

Reporting Officer Manager Kimberley Planning

#### **Resolved**

#### ***Moved by Mayor Adams, seconded by Ms Taylor***

*That the Western Australian Planning Commission resolves to:*

- 1. approve the Shire of Wyndham East Kimberley Local Planning Strategy for advertising;*
- 2. advise the Shire of Wyndham East Kimberley that additional information is required to be included in the final document as outlined in the officer's comments in the this report.*

***The motion was put and carried.***

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- 9.6 Development Application For Warehouse Extension On Lot 32 Beard Street, Naval Base, Kwinana**  
File 26/50064/5/1  
Reporting Officer Planning Manager, Metropolitan Planning South West

**Mayor Adams disclosed an interest, took no part in discussion and did not vote on this item.**

<b>Member</b>	<b>Nature of Interest</b>
Mayor Adams	Impartiality

**Resolved**

***Moved by Ms Taylor, seconded by Mr Holloway***

*That the Western Australian Planning Commission resolves to approve unconditionally the application for a warehouse extension on Lot 32 Beard Street, Naval Base Kwinana.*

***The motion was put and carried.***

### CONFIDENTIAL ITEMS

- 10.1 Realignment Of Garden Street (From Southern River Road To East Of Passmore Street) Design Concept And Proposed Other Regional Road Reservation Plans**  
File 402/02/01/0225PV  
Reporting Officer Director Infrastructure Planning

**THIS ITEM IS CONFIDENTIAL**

- 10.2 Southern River Road Proposed Other Regional Road Reservation In The Metropolitan Region Scheme – Section From Ranford Road To Corfield Street (Design Concept And Road Reservation Plans)**  
File 402/02/01/0226PV  
Reporting Officer Director Infrastructure Planning

**THIS ITEM IS CONFIDENTIAL**

## Statutory Planning Committee

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- 10.3 City Of Albany Town Planning Scheme No. 3 - Local Planning Scheme Amendment No. 287 - For Final Approval**  
File TPS/0204  
Reporting Officer Department of Planning

**THIS ITEM IS CONFIDENTIAL**

- 10.4 Shire Of Plantagenet- Local Planning Scheme Amendment No. 52 - Consent To Advertise**  
File TPS/0296  
Reporting Officer Acting Manager-Southern Regions

**THIS ITEM IS CONFIDENTIAL**

- 10.5 Shire Of Murray - Nambeelup North Dandalup Local Rural Strategy - Request For Endorsement**  
File 801/6/15/3PV (DP/09/00098/3)  
Reporting Officer Planning Manager Perth, Peel, South West Planning & Strategy

**THIS ITEM IS CONFIDENTIAL**

### 11 General Business

Nil.

### 12 Items for Consideration at a Future Meeting

Item No.	Report	Request	Due
7394/10	Briefing on Direction 2031 and growth management strategies	The Planning Director Directions 2031 will brief the Committee meeting in March 2011	8 March 2011

### 13 Closure

The next ordinary meeting is scheduled for 10.00 am on 8 March 2011.

There being no further business before the Board, the Chairman thanked members for their attendance and declared the meeting closed at 10.56 am.

**CHAIRMAN** \_\_\_\_\_

**DATE** \_\_\_\_\_

# CONFIDENTIAL

## INDEX OF REPORTS

Item	Description
9.1	UPDATE ON THE REVIEW OF STATE PLANNING POLICY 3.1 – RESIDENTIAL DESIGN CODES (R-CODES)
9.2	DEVELOPMENT ASSESSMENT PANELS
9.3	THE SPRINGS, BELMONT. STAGE 1 SUBDIVISION - REQUEST FOR RECONSIDERATION OF CONDITIONS
9.4	MODIFICATIONS TO THE 'INNER MANDURAH PRECINCT PLAN', CITY OF MANDURAH

### CONFIDENTIAL ITEMS

10.1	CITY OF SWAN LOCAL PLANNING SCHEME NO. 17 AMENDMENT NO. 46 - FOR FINAL APPROVAL
10.2	CITY OF SWAN LOCAL PLANNING SCHEME NO.17 - AMENDMENT NO.34 REQUEST FOR RECONSIDERATION
10.3	CITY OF GOSNELLS - LOCAL PLANNING SCHEME AMENDMENT - FOR FINAL APPROVAL
10.4	SHIRE OF RAVENSTHORPE - LOCAL PLANNING SCHEME AMENDMENT NO. 15 - FOR FINAL APPROVAL

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## ITEM NO: 9.1

### UPDATE ON THE REVIEW OF STATE PLANNING POLICY 3.1 – RESIDENTIAL DESIGN CODES (R-CODES)

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planner, Planning Reform
AUTHORISING OFFICER:	A/Director Policy Coordination and Development
AGENDA PART:	A
FILE NO:	DP 10/00574/1
DATE:	18 February 2010
ATTACHMENT(S):	Nil

#### RECOMMENDATION:

***That the Western Australian Planning Commission resolves to note the program for undertaking the review of State Planning Policy 3.1 – Residential Design Codes (R-Codes).***

#### SUMMARY:

The key points relating to this report are as follows:

- A major review of State Planning Policy 3.1 – Residential Design Codes ('R-Codes') has commenced; and
- This report outlines the program for the R-Codes review in 2011.

#### BACKGROUND:

The major review of the R-Codes follows on from the recent amendment to the R-Codes to incorporate additional provisions for multiple dwelling developments, which was gazetted on the 22 November 2010.

The WAPC has previously identified the need to undertake a more substantive review of the codes, to investigate a wide range of issues including, but not limited to:

- consideration of the local planning policies being prepared by local government and the consistency in the formulation of these policies;
- new and emerging residential design trends not currently catered for in the R-Codes;
- sustainable development issues relating to the design and energy efficiency of buildings;
- the role of 'Detailed Area Plans' and their relationship with the R-Codes; and
- design for climate variations to encompass regional design requirements.

After a competitive tender process consultants were appointed in September 2010 to assist in undertaking this review of the R-Codes.

**LEGISLATION / STRATEGIC PLAN / POLICY:**

**Legislation** *Planning and Development Act 2005*  
Section: Part 3 – State Planning Policy

**Strategic Plan**  
Strategic Goal: Planning  
Outcomes: Effective Delivery of Integrated Plans  
Strategies: Implement State and Regional Planning Priorities

**Policy**  
Number and / or Name: State Planning Policy 3.1 – Residential Design Codes (R-Codes)

**DETAILS:**

The review program and timeframes are as follows:

Stage	Start Date	End Date
Background research and stakeholder workshops	Sept 2010	Dec 2010
Prepare consultation paper, revised R-Codes for WAPC and Minister's consideration	Jan 2011	April 2011
Advertising of the draft revised R-Codes and explanatory guidelines to major stakeholders and the public. Five workshops are proposed.	May 2011	July 2011
Review of submissions received	Aug 2011	Oct 2011
Presentation of final R-Codes and explanatory guidelines to WAPC	Oct 2011	Dec 2011
Seek endorsement from Minister followed by implementation of the new Codes	Jan 2012	Mar 2012

**GOVERNMENT AND CORPORATE IMPLICATIONS:**

The R-Codes are read into the majority of local planning schemes across Western Australia and are effective as a State Planning Policy through these local planning



schemes. Reference to the R-Codes is also provided within the Model Scheme Text (Clause 5.2).

**CONSULTATION:**

In November 2010, as part of the initial discussions about the current operation of the R-Codes, nine workshops were arranged with key stakeholders. Ninety-five participants attended the workshops and provided input on a wide range of key objectives and issues that need to be addressed in the review.

As an amendment to a State Planning Policy, formal public advertising of the R-Codes for at least 60 days is required in accordance with the Act, and public workshops will be held in both Perth and regional locations to ensure that the proposed amendments to the R-Codes are widely publicised and considered.

**OFFICER'S COMMENTS:**

An R-Codes Review Technical Advisory Group ('TAG') has also been established to provide professional, local government and development industry perspectives concerning the current operation of the R-Codes; to assist in the review of the R-Codes to ensure that the policy remains relevant and effective for residential development within WA; and to provide advice on possible improvements to the content and implementation of the R-Codes. The TAG is expected to meet 4-6 times during the review.

A short presentation on the proposed review will be provided at the Statutory Planning Committee meeting.



## ITEM NO: 9.2

### DEVELOPMENT ASSESSMENT PANELS

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY: Department of Planning  
REPORTING OFFICER: Senior Legislation and Policy Officer  
AUTHORISING OFFICER: Director – Special Projects  
AGENDA PART: A  
FILE NO: DP/09/00781/1  
DATE: 28 February 2011  
ATTACHMENT(S):  
1. Planning Bulletin 106 – New Legislation Provisions for Development Assessment Panels  
2. Planning and Development (Development Assessment Panels) Regulations 2011

### RECOMMENDATION:

*That the Western Australian Planning Commission resolves:*

- 1. to approve the attached Planning Bulletin 106 – New Legislation Provisions for Development Assessment Panels;**
- 2. to note the attached Planning and Development (Development Assessment Panels) Regulations 2011 ('DAP regulations').**

### SUMMARY:

The key points relating to this report are as follows:

- New *Planning and Development (Development Assessment Panels) Regulations 2011* ('DAP regulations') have been prepared and endorsed by the Minister's Working Group, which is presented to the SPC for noting;
- The DAP regulations are forecasted to be gazetted on or around 5 April 2011; and
- A relevant *Planning Bulletin 106 – New Legislation Provisions for Development Assessment Panels* has been prepared and is presented to the SPC for approval, which is forecasted to be published on 8 April 2011.

**BACKGROUND:**

The DAP regulations are part of the new legislative measures designed to improve the planning system through the introduction of 15 “Development Assessment Panels” (“DAPs”). These panels will make decisions on applications for development approval where a proposed development is of significant value. This will streamline the approval process and provide greater transparency, consistency and reliability in decision making on complex development applications.

In terms of implementing the new DAPs framework, SPC may wish to take note, for its own information, the following key intended dates:

- *14 March* – Minister’s Short-List Working Group meeting to select specialist DAP member nominations.
- *21 March* – Cabinet to approve DAP fees.
- *5 April* – ExCo to approve DAP regulations.
- *7 April* – DAP regulations gazetted.
- *8 April* – Planning Bulletin 106 published.
- *18 April* – Cabinet to note and approve nominated specialist DAP appointments.
- *19 April* – Letters sent to local governments asking for nomination of local government DAP members (with local governments officially having 40 days from 2 May).
- *2 May* – Minister Orders creating 15 x DAPs gazetted.
- *13 June* – Local government nomination period ends.
- *27 June* – Cabinet to note and approve nominated local government DAP appointments.
- *1 July* – DAPs become operational throughout Western Australia (i.e. able to begin accepting DAP applications).

As part of the abovementioned implementation, it is important that the Department, with the approval of SPC, publish a relevant planning bulletin at the same time or very soon after the gazetting of the DAP regulations on 7 April 2011.

**LEGISLATION / STRATEGIC PLAN / POLICY:**

<b>Legislation</b>	<i>Approvals and Related Reforms (No. 4) (Planning) Act 2010</i> (‘2010 Amendment Act’), amending the <i>Planning and Development Act 2005</i> (‘PD Act’) and <i>Local Government Act 1995</i> (‘LG Act’).
Section:	Part 11A
<b>Strategic Plan</b>	
Strategic Goal:	N/A
Outcomes:	N/A

Strategies: N/A

**Policy**

Number and / or Name: N/A

**DETAILS:**

The prepared *Planning Bulletin 106 – New Legislation Provisions for Development Assessment Panels* is attached for the SPC's comment and approval. The planning bulletin aims to summarise the effect of the relevant parts of the new DAP regulations. A further Q&A document, Standing Orders and a series of Operational Manuals will also be placed on the DAP website when complete.

**GOVERNMENT AND CORPORATE IMPLICATIONS:**

The purpose of Development Assessment Panels is to streamline the approval process and provide a greater measure of transparency, consistency and reliability in decision making on complex development applications. Implementation of the DAPs model demonstrates the Government's commitment to streamlining and improving the planning approval process, in line its policy articulated in the discussion paper "*Implementing Development Assessment Panels in Western Australia*" released in September 2009 and the Policy Statement released in April 2010.

It is envisaged that the DAP model will achieve significant benefits for local governments, the development industry, landowners, the general community and other stakeholders.

**CONSULTATION:**

The DAP regulations were prepared by the Parliamentary Counsel's Office and endorsed by the DAPs Regulations Working Group on 11 February 2011. The DAP Regulations Working Group included representatives from the Western Australian Local Government Association (WALGA), the Housing Industry Association, the Property Council, the Urban Development Institute of Western Australia, the Real Estate Institute of Western Australia and the Master Builder's Association. The DAP Fees Working Group, also made up of Industry and WALGA representatives, endorsed the fees on 15 February 2011.

**OFFICER'S COMMENTS:**

In summary, the SPC is asked to approve the attached planning bulletin and note the attached DAP regulations.

## PLANNING BULLETIN 106 – NEW LEGISLATIVE PROVISIONS FOR DEVELOPMENT ASSESSMENT PANELS

### 1. Introduction

As part of the Government's commitment to streamlining and improving the planning approvals process in Western Australia, the WA Parliament passed the *Approvals and Related Reforms (No. 4) (Planning) Act 2010* (the '2010 Amendment Act'). The provisions of the 2010 Amendment Act – apart from Part 3 – commenced on 22 November 2010.

The 2010 Amendment Act contains a number of amendments to the *Planning and Development Act 2005* (the 'PD Act') that are designed to improve the planning system. Part 3 of the 2010 Amendment Act contains the heads of powers required to introduce development assessment panels ('DAPs') in this State, through the making of regulations by the Governor. The detail of how these panels will be established, administered and operated are set out in the new *Planning and Development (Development Assessment Panels) Regulations 2011* ('DAP regulations').

### 2. What are DAPs?

DAPs are panels comprising a mix of technical experts and local government representatives with the power to determine applications for development approvals in place of the relevant decision-making authority. The introduction of DAPs is one of the fundamental principles of the national Development Assessment Forum's ('DAF') leading practice model for development assessment. This model also promotes limiting referrals to agencies with a relevant role for advice only, avoiding the need for separate approval processes. South Australia and New South Wales have already introduced development assessment panels into their planning systems in accordance with the DAF model. Victoria has also recently passed legislation to implement development assessment commissions to perform the role of development assessment panels.

The introduction of DAPs in Western Australia will have significant benefits for local governments, the development industry, landowners, the general community and other stakeholders. They aim to help to improve the planning system by providing more transparency, consistency and reliability in decision making on complex development applications. As regulations prepared under this part will clearly identify what classes of development applications are to be determined by development assessment panels, applicants will be well aware of who will be determining their application, regardless of the location of the development. The determination of complex applications will also be improved by the involvement of experts with technical knowledge on the panel.

The involvement of independent experts will also help to strike an appropriate balance between local representation and professional advice in decision making by ensuring that decisions made by the panel are based on the planning merits of an application. Finally, the use of development assessment panels will help to address issues with dual approvals by making the relevant panel the single decision-making authority under both local and region planning schemes.

Following the gazetting of the DAP regulations the Minister will establish fifteen different DAPs on **2 May April 2011**; however, these will not start to consider new applications until 60 days after their establishment. Therefore, DAPs will not practically commence operation until **1 July 2011**.

### 3. Purpose

The purpose of this planning bulletin is to provide an overview of new provisions that take effect under Part 11A of the PD Act and the DAP regulations. Where appropriate, the relevant section or regulation is quoted in brackets. Please note this document is only a guide and not intended otherwise to have any legal effect.

Please note a range of manuals will also be available for local governments, DAP members and applicants. These documents will provide further details on the procedures outlined in this bulletin, and will be available on the DAP website at [www.daps.planning.wa.gov.au](http://www.daps.planning.wa.gov.au)

#### 4. Glossary

In this planning bulletin:

**Administrative officers** means members of the DAP Secretariat.

**2010 Amendment Act** means the *Approvals and Related Reforms (No. 4) (Planning) Act 2010*, which amended the *PD Act*.

**DAP** means a Development Assessment Panel.

**DAP regulations** means the *Planning and Development (Development Assessment Panels) Regulations 2011*.

**DAP secretariat** means officers of the Department assisting DAPs, defined in the DAP regulations as administrative officers.

**CEO** means the Director General of the Department of Planning.

**The Department** means the Department of Planning.

**JDAP** means a Joint Development Assessment Panel.

**LDAP** means a Local Development Assessment Panel.

**Minister** means the Minister for Planning.

**PD Act** means the *Planning and Development Act 2005*.

**PDR** means the *Planning and Development Regulations 2009*.

**TPR** means the *Town Planning Regulations 1967*, including the *Model Scheme Text*, and its equivalent as amended from time-to-time.

**WAPC** means the Western Australian Planning Commission.

The above definitions are for guidance purposes only. Readers are otherwise directed to the various definitions found in the PD Act and DAP regulations. To the extent of any inconsistency, the definitions in the PD Act and DAP regulations prevail.

#### 5. Summary of new sections in the PD Act

Part 3 of the 2010 Amendment Act introduces a new Part 11A - Development Assessment Panels into the PD Act. In summary, the new sections contain the following:

- The Governor may prescribe mandatory classes or kinds of development applications that must be determined by a DAP, as if the DAP was the responsible authority (either the relevant local government and/or WAPC), under the relevant local or region scheme, or interim development order (s.171A(2)(a)). A determination of (or failure to determine) a prescribed development application by a DAP is to be regarded, and have effect, as if was made by the relevant local government or the Western Australian Planning Commission.



- The Governor may also prescribe opt-in classes or kinds of development applications that must be determined by a DAP, where an applicant has elected such an application to be determined by the DAP (s.171A(2)(b)).
- The Governor may also prescribe regulations allowing additional functions to be delegated to the relevant DAP by the responsible authority (s.171B). It is intended that small local governments (and the Western Australian Planning Commission if relevant) will use this section to delegate to the relevant DAP the power to determine development applications that are not of a class prescribed under section 171A.
- The Minister will establish a development assessment panel for each local government area, by the publication of an Order in the *Gazette* (s.171C). Two different types of development assessment panels will be established by the Minister:
  - *Local development assessment panels*, which will be established to service a single local government, where that local government is deemed to be a high-growth local government with enough development to support its own panel, by determining applications made under the local planning scheme (and if applicable, the relevant region planning scheme); and
  - *Joint development assessment panels*, which will be established to service two or more local governments that are not high-growth local governments, by determining applications made under each local planning scheme (and if applicable, the relevant region planning scheme).
- The Governor may prescribe regulations concerning the constitution, procedures and conduct of DAPs (s.171D).
- The Governor may prescribe regulations concerning the administration and costs of DAPs (s.171E).
- The DAP regulations are to be reviewed as soon as practicable after the expiry of 2 years from the day on which regulations made under this Part first come into operation (s.171F).

## 6. Summary of the new DAP regulations

To give effect to these new provisions in the PD Act, the *Planning and Development (Development Assessment Panels) Regulations 2011* ('DAP regulations') have been introduced. The DAP regulations contain six Parts, with three additional Schedules.

This planning bulletin will now summarise the contents of each Part and Schedule. For details of the provisions summarised in this Planning Bulletin, please refer to the full regulations, which are available from the State Law Publisher.

### **Part 1 – Preliminary**

This Part states that regulations 1 and 2 come into operation on the day of gazettal and that the rest of the DAP regulations come into operation on the day on which section 43 of the 2010 Amendment Act comes into operation.

This Part also contains the terms used in the DAP regulations (r.3). Readers should note that many terms used in the DAP regulations, such as the 'Development Assessment Panel' itself, are defined in section 4 of the PD Act rather than the DAP regulations.

The following definitions in the DAP regulations are of particular note:

- "DAP application", which includes mandatory applications (r.5) and opt-in applications (r.7). Importantly, delegated applications (r.19) are not technically

“DAP applications”; however, for the most part are practically treated as if they were DAP applications (r.21(2)(b));

- “DAP member” means both a specialist member and a local government member, and also includes an alternate member;
- “excluded development application”, which makes it clear that even where a development application falls within the financial thresholds of a DAP application, certain types of applications, such as the construction of a single house, cannot be determined by DAPs. Furthermore, subsection (d) makes it clear that even when the DAP regulations commence operation, DAPs will not begin considering development application until 60 days after they are established by the Minister.

## ***Part 2 – Development applications and determinations***

This Part sets out what types of development applications will be determined by DAPs, and the process to be followed in the lodgement, assessment and determination of such applications.

The DAP regulations reflect the policy direction set out in the Policy Statement regarding mandatory DAP applications and applications that will be subject to the “opt-in” process. These applications are defined as follows:

- *Mandatory DAP Applications* (r.5): An application for development where the estimated cost of development is \$7 million or more (and \$15 or more in the City of Perth), and which is not an excluded development application. Such an application must be determined by a DAP (s.171A(2)(a) of the PD Act).
- *Optional DAP Applications* (r.6 & r.7): An application for development of a total value of more than \$3 million but less than \$7 million (more than \$10 million but less than \$15 million in the City of Perth) which is not an excluded development application and has not been delegated to the DAP by the relevant local government. Such an application must be determined by a DAP when the applicant has elected to have the DAP determine the application (s.171A(2)(ba) of the PD Act).

This Part also sets out the processes to be followed in relation to the making and assessment of DAP applications, including the role of local governments and the WAPC, as well as the role of the Department of Planning and the DAP. In summary, the process is as follows:

- The applicant lodges a DAP application (r.7(2)(a)) with the relevant local government (Form 1, sch.3, r.10(1)(a)), together with the new DAP determination fee (r.10(1)(b), sch.1). It should be noted that the DAP application and DAP fee is an addition, not a replacement, to the ordinary development application form prescribed under any planning scheme(s) (r.10(2)) and fee prescribed under the PDR (r.10(3)). Thus, an applicant will in many cases submit two forms and pay two fees, one for the DAP and one for the local government.
- The local government notifies the Department of the receipt of the DAP application and confirmation that the applicant has paid the DAP fee, within 7 days of receipt (r.11). The local government also remits the DAP fee to the Department within 30 days (r.10(5)).
- The responsible authority (the local government or the WAPC) assesses the application in the usual way, in accordance with the relevant local or region planning scheme. Local governments and/or the WAPC will undertake the same advertising and referrals for DAP applications as currently apply under their schemes (r.9(b)).



- The responsible authority prepares a report containing its recommendations on how the DAP application should be determined (r.12).
- The DAP Secretariat, comprising officers of the Department (r.49), organises the DAP meeting where that application will be determined. This may involve administrative tasks not included in the regulations, such as notifying DAP members, organising deputy members to attend if required, and liaising with the local government in organising the venue for the DAP meeting. Local governments will also usually assist in providing a venue, electronic equipment and catering for DAP members as required (r.50).
- The Department puts the agenda for the meeting on the DAP website, along with details of the time, date and location of the meeting (r.39(1)). It also provides this information to the applicant (r.15) and relevant local government (r.39(2)).
- The DAP conducts a public meeting (r.40) to determine the application(s) (r.16). The meeting procedures under Division 2 of Part 4 of the DAP regulations are to be followed, as well as the procedures set out in any Practice Notes (i.e. Standing Orders) issued by the CEO. The DAP is otherwise required to determine a DAP application in accordance with the provisions of the relevant planning instrument (r.16(1)). Any determination made by a DAP will be taken to be a determination made by the responsible authority (r.8(1)(a)).
- The Department sends notification of the decision made by the DAP to the applicant in accordance with the relevant planning instrument (r.16(1)) and also gives a copy to the responsible authority (r.16(2)).
- Where a decision has been granted, an applicant may also make a minor application seeking to amend or cancel the approval or any conditions imposed (r.17). A minor amendment application is made by submitting the prescribed form (Form 2, sch.3) to the relevant local government with the prescribed minor fee.
- By contrast to other applications, the DAP will usually meet to determine any r.17 minor amendment application through means of instantaneous communication (r.40(a)).
- If an applicant is dissatisfied with a decision of either a DAP application or r.17 minor amendment application, he or she can seek a review from the State Administrative Tribunal (r.18(2)). In any such review, the application will be defended by the DAP (r.18(3)).

### ***Part 3 – Delegation to DAPs***

This Part allows local governments and the WAPC to delegate the power to determine development applications that (s.171B & r.19):

- fall within the optional DAP application thresholds, being more than \$3 million but less than \$7 million (more than \$10 million but less than \$15 million in the City of Perth) and where the application is not an excluded development application; but
- where an applicant has decided not to opt-in to have the matter determined by a DAP; and
- where the responsible authority nevertheless decides that the application is of a class of development that should be delegated to a DAP for determination.

It is intended that local governments (and the Western Australian Planning Commission if relevant) will more likely use this section to delegate to the relevant DAP the power to

determine development applications that are not of a mandatory class prescribed under section 171A.

All delegations made under this Part will be published in the *Government Gazette* (r.20). In providing clarity about what types of applications have been delegated to a DAP, the Department will ensure that all delegation instruments relating to DAPs are listed on the DAP website (r.20(3)).

The fact that a local government has decided to delegate certain matters to a DAP does not preclude that local government from nonetheless making a determination on a delegated development application (r.21(1)). Furthermore, although delegated applications do not technically fall within the definition of a 'DAP application', the procedures mostly otherwise apply as if they were DAP applications (r.21(2)(b)).

Finally, it is important to note that an applicant is not required to pay a DAP fee for a delegated application, although the relevant local government fee under the PDR will still be payable in the usual manner. Subject to any agreement with the CEO, if a local government chooses to delegate any matter to a DAP, the local government must pay the DAP fee (r.22). This is to ensure applicants are not imposed with an additional fee for an application they did not choose to have determined by a DAP, whilst ensuring DAPs are still provided with the prescribed fee necessary to resource a DAP decision. It will remain wholly a matter for local governments whether they exercise their discretions in delegating any classes of applications to DAPs (r.23).

#### **Part 4 – Development assessment panels**

This Part comprises of three Divisions:

- Division 1 – DAP members;
- Division 2 – Meetings; and
- Division 3 – Conduct of DAP members.

##### Division 1 – DAP members

This Division sets out:

- the composition of DAPs (r.23 & r.25);
- the process by which members are nominated and appointed (r.23, r.25 & r.37);
- the qualifications and experience that specialist members must have to be eligible to sit on a DAP (r.35);
- how alternate members will be appointed and used (r.28);
- the term of office for DAP members (r.29);
- the requirement for all DAP members to attend training before sitting on a DAP (r.30);
- fees and allowances that DAP members will be paid (sch.2, r.31); and
- the circumstances in which a DAP member's office becomes vacant or a member may be removed from office (r.32).

All DAPs will comprise of the following membership (r.23(1) and r.25(1)):

- 2 local government representatives; and
- 3 specialist members – one of whom is the presiding member (with a planning qualification and experience), one of whom is the deputy presiding member (also with a planning qualification and experience), and one who will otherwise possess relevant qualifications and/or expertise.

This Division also sets out the process by which these members are nominated and appointed to a DAP. Local government representatives are nominated by the relevant local government, and appointed by the Minister (r.24 and r.25). Specialist members with the required qualifications and experience are listed on a register (r.35). The register is then reviewed by a special working group, which compiles a list of nominees for the Minister to consider (r.36 & r.38). Specialist members are appointed by the Minister (r.37). All members must complete the required training before they can sit on a DAP (r.30). All members are paid the sitting fees under Schedule 2.

Alternate members will be appointed in the same way, and will sit on the DAP when a DAP member is unable to perform the functions of the member by reason of illness, absence or other cause. Obviously, only a local government alternative can sit in for a local government alternate member (r.28(4)), as can a specialist alternative for an ordinary alternative member (r.28(5)).

The Minister is required to appoint one of the 3 specialist members as the Presiding Member of the DAP. The Presiding Member must be a planning expert. At all DAP meetings that the Presiding Member attends, that person will preside over the meeting. The Minister is also required to appoint a Deputy Presiding Member, to preside when the Presiding Member is absent. The Deputy Presiding Member must also be a planning expert (r.27).

All DAP members are appointed for 2 years (r.29(2)). The regulations allow for DAP members to continue sitting on a DAP for up to 3 months once their term has expired, until the vacancy is filled (r.34). DAP members can be reappointed to the same DAP following the expiry of their term, or may be replaced by another person (r.29(3)).

This Division also sets out the circumstances in which the Minister can remove a DAP member from office (r.32(3)). This includes:

- neglect of duty;
- misconduct or incompetence;
- mental or physical incapacity to carry out duties in a satisfactory manner; or
- absence from 3 DAP meetings without leave first being obtained.

Finally, this Division states that a DAP member's office becomes vacant if the DAP member's situation changes in any of the following ways (r.32(1)):

- the DAP member dies, resigns or is removed from office by the Minister;
- the DAP member becomes a bankrupt or a person whose affairs are under insolvency laws;
- the DAP member is convicted of an offence punishable by imprisonment for more than 12 months; or
- the DAP member is convicted of an offence under section 266 of the PD Act (which deals with failing to act honestly, failing to declare a conflict of interest, disclosing information or making improper use of information).

## Division 2 – Meetings

This Division sets out the meeting procedures to be followed by all DAPs, including the taking of minutes. Meetings are to be conducted in accordance with this Division, as well as the Standing Orders published by the Department (referred to in the DAP regulations as practice notes, r.40(5)).

All DAP meetings will be open to the public (r.30(2)). The Presiding Member has the power to invite a person to make a presentation to the DAP on a DAP application (r.40(3)). The Presiding Member also has the power to allow a person to attend a DAP meeting by telephone or other means of instantaneous communication (r.43). The

circumstances in which these powers will be exercised will be set out in the Standing Orders.

The quorum for a DAP is the Presiding Member (or Deputy Presiding Member), one other specialist member and one local government member. Deputy members can only be act in the place of a member when an issue of quorum arises (r.41). Each DAP member has one vote. In the event of a deadlocked vote, the Presiding Member has the deciding vote (r.42).

Finally, this Division also requires minutes of the DAP meeting to be kept by an officer of the local government hosting the DAP meeting, or another person approved by the CEO of the Department. Minutes will be provided to the Department within 5 days of the meeting, and put on the DAP website after they have been confirmed by the DAP (r.44).

### Division 3 – Conduct of DAP members

This division requires all DAP members to abide by certain rules of conduct (r.45). These requirements are in addition to the requirements regarding conflict of interest and use of information that are set out in section 266 of the PD Act.

This Division requires the CEO of the Department to prepare a Code of Conduct (r.45(1)), which must be complied with by all DAP members (r.45(2)). The Minister can remove a member from a DAP for breaching the Code of Conduct (r.32(4)).

This Division also sets out what rules apply regarding the acceptance of gifts (r.46). These requirements are similar to those currently in place under the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007*. There are two types of gifts addressed in this Division:

- *Prohibited gifts* which are gifts worth \$300 or more, or 2 or more gifts that are in total worth \$300 or more;
- *Notifiable gifts* which are gifts worth between \$50 and \$300, or 2 or more gifts that are in total worth between \$50 and \$300.

DAP members are not permitted to accept a prohibited gift from a known applicant, or a person “who it is reasonable to believe” may be intending to undertake development that the DAP will be required to determine (r.46(2)). However, DAP members are permitted to accept notifiable gifts as long as they notify the CEO of the Department that they have accepted such a gift (r.46(3)). Failure to notify the Department may result in the Minister removing that DAP member from the DAP (r.32(4)).

Finally, this Division also emphasises the professional behaviour expected of DAP members. DAP members are not to make statements about the competency or honesty of local government officers or public sector officers, or use offensive or objectionable expressions regarding those officers (r.47). Only the presiding member is permitted to publicly comment on determinations made by the DAP (r.48).

### **Part 5 – Administration**

This Part will set out how administrative support will be provided to each DAP. Most support will be provided by the DAP Secretariat, such as organising agendas, organising meetings, booking travel for DAP members and paying the sitting fees of DAP members (r.49). However, each local government will also be required to undertake some administrative tasks on behalf of the DAP, including taking minutes at DAP meetings, provided a venue for DAP meetings, provide electronic equipment if required and organising catering (r.50). The DAP Secretariat is also required to establish and maintain a DAP website, which will have information about each DAP created (r.51).

This Part also contains the primary enforcement provisions for the successful operation of the DAP system (r.52). Where necessary, the Minister can order a DAP, a local

government, the WAPC, or the Department to provide any necessary information or document to him or her (r.52(3) and s.18 PD Act). The Minister can also order that such information be provided to the DAP (r.52(2)(d)), or make use of the WAPC's and local government's staff to obtain such information (r.52(3)(d)).

Finally, this Division requires the CEO of the Department to prepare an annual report on the performance of DAPs (r.53).

### ***Part 6 – Miscellaneous***

This Part contains transitional provisions dealing with what happens to a DAP application if the Order establishing the DAP is amended or revoked before the application is determined (r.54). For example, if a DAP application has been forwarded to the DAP but not determined when the Order creating the DAP is revoked, then that application is to be forwarded to the new LDAP or JDAP created to serve that local government. The new LDAP or JDAP will determine the application. The provisions support section 171I of the PD Act.

In addition, this Part requires the Department to conduct an annual review of the new DAP fee (r.55). The Department will provide the information collected during each annual review to the Standing Committee of the Legislative Council that will review the DAP regulations after two years of operation, under new section 171F of the PD Act.

### ***Schedule 1***

Schedule 1 contains the item of fees payable by an applicant when submitting a DAP application (r.10 & r.17). The relevant fee is calculated on estimated cost of development. It is important to note the following:

- The DAP fee is in addition to any local government development application fee payable under the PDR (r.10(3)). Therefore, DAP applications may in effect require two fees be paid – one for the DAP under this schedule and one for the local government under the PDR.
- The fee for an r.17 minor amendment application is prescribed under item 2 (currently only \$150), as distinct from other ordinary DAP applications under item 1 (currently ranging from \$3,376 to \$6,320).
- A delegated application (r.19) is not technically a DAP application, although in many other respects the application is treated the same way. Thus, an application is not required to pay the DAP fee under schedule 1 is required. The DAP fee will instead be paid by local government (r.22).

### ***Schedule 2***

Schedule 2 sets out the relevant sitting fees for DAP members (r.31). It is important to distinguish the relevant fees for:

- presiding members, compared with other members, where presiding members are entitled to a slightly higher fee to reflect additional responsibilities imposed under the regulations;
- ordinary DAP applications, compared with r.17 minor amendment applications, to reflect the scale and complexity of ordinary DAP applications, as well as to reflect that ordinary applications are open to the public whilst r.17 applications are determined through instantaneous means;
- fees for determining an applications, compared to attending a proceeding before the State Administrative Tribunal, where the fees are otherwise the same; and



- training fees, where both prospective presiding members and all other members are entitled to the same fee, and only at the satisfactory completion of the training.

### **Schedule 3**

Finally, Schedule 3 contains the relevant DAP forms. Again, it is important to distinguish between:

- DAP application forms compared with local government development application forms. As noted above, DAP application forms are submitted in addition to, not a replacement of, local government development application forms prescribed under each relevant local planning schemes (r.10(2)).
- An ordinary DAP application form, which is intended to cover mandatory (r.5), opt-in (r.6 & r.7) and delegated (r.19) applications, compared with minor amendment applications (r.17).

### **7. Further information**

Legislation, including copies of the DAP regulations, the 2010 Amendment Act and amended PD Act can be obtained from the State Law Publisher at:

10 William Street  
Perth WA 6000  
Phone: (08) 9321 7688  
Fax: (08) 9321 7536  
Email: [sales@dpc.wa.gov.au](mailto:sales@dpc.wa.gov.au)  
Website: <http://www.slp.wa.gov.au>

Copies can also be obtained from the DAP website at [www.daps.planning.wa.gov.au](http://www.daps.planning.wa.gov.au)

Please note a range of manuals will also be available for local governments, DAP members and applicants. These documents will provide further details on the procedures outlined in this bulletin, and will be available on the DAP website.

For further information, please refer to the DAP website or contact the Department of Planning at:

Albert Facey House  
469 Wellington Street  
Perth 6000  
Western Australia  
Tel: (08) 9264 7777  
Fax: (08) 9264 7566

### **8. Disclaimer**

This planning bulletin is intended as a guide only. It is not intended to be comprehensive or to cover particular circumstances.

Readers are advised to refer to the legislation, which is available from the State Law Publisher, and to seek professional legal advice should they have specific legal questions in relation to their particular circumstances.

Western Australia

## Planning and Development (Development Assessment Panels) Regulations 2011

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Made by the Governor in Executive Council.

**Part 1 — Preliminary**

**1. Citation**

These regulations are the *Planning and Development (Development Assessment Panels) Regulations 2011*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Approval and Related Reforms (No. 4) (Planning) Act 2010* section 43 comes into operation.

**3. Terms used**

- (1) In these regulations —  
*administrative officer*, in relation to a DAP, means the administrative officer who provides services to the DAP under regulation 49;

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***alternate member*** means a person appointed under regulation 28;

***applicant*** means a person who makes a DAP application;

***CEO*** means the chief executive officer of the department;

***DAP application*** means —

- (a) a development application prescribed under regulation 5; or
- (b) a development application prescribed under regulation 6 in respect of which the applicant has made an election under regulation 7;

***DAP member*** means —

- (a) a specialist member or local government member of a LDAP; or
- (b) a specialist member or local government member of a JDAP,

and includes an alternate member;

***DAP website*** has the meaning given in regulation 51;

***department*** means the department of the Public Service principally assisting the Minister in the administration of the Act;

***deputy presiding member***, in relation to a DAP, means the person appointed as deputy presiding member of the DAP under regulation 27(1);

***excluded development application*** means a development application for approval of —

- (a) construction of —
  - (i) a single house and any associated carport, patio, outbuilding and incidental development;
  - (ii) less than 10 grouped dwellings and any associated carport, patio, outbuilding and incidental development;

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- (iii) less than 10 multiple dwellings and any associated carport, patio, outbuilding and incidental development;

or

- (b) development in an improvement scheme area; or
  - (c) development by a local government or the Commission;
- or
- (d) development in a district for which —
    - (i) a DAP is not established at the time the application is made; or
    - (ii) a DAP has been established for less than 60 days at the time the application is made;

**local government member** means —

- (a) in relation to a LDAP — a person appointed as a member of the LDAP under regulation 23(1)(a);
- (b) in relation to a JDAP — a person included on the local government register;

**local government register** means the register maintained under regulation 26;

**member**, in relation to the council of a local government, has the meaning given by the *Local Government Act 1995* section 1.4;

**planning instrument** has the meaning given in section 171A(1) of the Act;

**presiding member**, in relation to a DAP, means the person appointed as presiding member of the DAP under regulation 27(1);

**R-Codes** means the *State Planning Policy 3.1 Residential Design Codes (Variation 1)* made under section 26 of the Act, including any amendments made to the policy;

**specialist member** means —

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- (a) in relation to a LDAP, a person appointed as a member of the LDAP under regulation 23(1)(b);
  - (b) in relation to a JDAP, a person appointed as a member of the JDAP under regulation 25(1)(b).
- (2) In these regulations the following terms have the meaning given to them in the R-Codes —

*carport*

*dwelling*

*grouped dwelling*

*incidental development*

*multiple dwelling*

*outbuilding*

*patio*

*single house*

Note: The terms DAP, JDAP, LDAP and responsible authority and other terms defined in the *Planning and Development Act 2005* section 4(1) have the same respective meanings as in that provision.

**4. Notes not part of the law**

Notes in these regulations are provided to assist understanding and do not form part of the regulations.

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**5. Mandatory DAP applications (Act s. 171A(2)(a))**

Any development application that —

- (a) is not an excluded development application; and
- (b) in the case of an application for development in the district of the City of Perth — is for the approval of development that has an estimated cost of \$15 million or more; and
- (c) in the case of an application for development in a district outside of the district of the City of Perth — is for the approval of development that has an estimated cost of \$7 million or more,

is of a class prescribed under section 171A(2)(a) of the Act.

**6. Optional DAP applications (Act s. 171A(2)(ba))**

Any development application that —

- (a) is not —
  - (i) an excluded development application; or
  - (ii) a development application in respect of which the responsible authority has under regulation 19 delegated the power of determination;
- and
- (b) in the case of an application for development in the district of the City of Perth — is for the approval of development that has an estimated cost of \$10 million or more and less than \$15 million; and
- (c) in the case of an application for development in a district outside of the district of the City of Perth — is for the approval of development that has an estimated cost of \$3 million or more and less than \$7 million,

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is of a class prescribed under section 171A(2)(ba) of the Act.

**7. Election in respect of r. 6 application**

- (1) An applicant making a development application of a kind prescribed under regulation 6 may elect to have the application determined by a DAP.
- (2) The election must be made by —
  - (a) completing the notice of election in the form of Part A of Form 1 in Schedule 3; and
  - (b) attaching it to the development application.

**8. Applications to be determined by DAPs**

- (1) Despite any other provision of the Act or a planning instrument, any DAP application for approval of development within a district for which a DAP is established —
  - (a) must be determined by the DAP as if the DAP were the responsible authority under the relevant planning instrument in relation to the development; and
  - (b) cannot be determined by the local government for the district or the Commission.
- (2) If a DAP application made under a region planning scheme or regional interim development order is for approval of development in more than one district for which a DAP is established, the application is to be determined by the DAP established for the district in which the greater land area of the development is proposed.

**9. Making of applications and initial procedures unaffected**

These regulations do not affect —

- (a) the manner and form in which a development application or an application for amendment or cancellation of a development approval must be made under a planning instrument; or



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- (b) the requirements under a planning instrument as to notification, advertising and consultation procedures prior to determination of a development application or an application for amendment or cancellation of a development approval.

**10. Making a DAP application: notice and fees**

- (1) An applicant making a DAP application to a responsible authority for development approval under a planning instrument must, when lodging the application —
  - (a) give to the local government with which the application for development approval is lodged a completed notice in the form of Form 1 in Schedule 3; and
  - (b) pay to the local government the relevant fee in Schedule 1.
- (2) The form required under subregulation (1) is required in addition to any application form required under the planning instrument.
- (3) The fee payable under subregulation (1) is payable in addition to any fees, costs and expenses that are imposed by a local government in accordance with the *Planning and Development Regulations 2009* in relation to the development application.
- (4) If a DAP application in respect of the same development is required to be made under both a local planning scheme and a region planning scheme, or under both a local interim development order and a regional interim development order, the fee referred to in subregulation (1)(b) is payable once only.
- (5) The local government must, within 30 days after the date on which it receives the DAP application, remit to the department the fee paid under subregulation (1).

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**11. Local government must notify DAP of DAP application**

A local government must, within 7 days after the date on which it receives a DAP application, give the administrative officer of the DAP that will determine the application the following —

- (a) a copy of the DAP application;
- (b) a copy of the notice given under regulation 10(1) and completed by the local government;
- (c) confirmation that the applicant has paid the fee under regulation 10(1).

**12. Responsible authority must report to DAP**

- (1) For the purposes of this regulation, a development application that is forwarded by a local government to the Commission in accordance with a region planning scheme is taken to have been made to the Commission.
- (2) A responsible authority to which a DAP application is made must give the presiding member of the DAP that will determine the application a report on the application in a form approved by the CEO.
- (3) The report must be given —
  - (a) if the DAP application is made to the Commission or is not required to be advertised under a local planning scheme or local interim development order — within 50 days after the date on which the application was made; or
  - (b) if —
    - (i) the DAP application is required to be advertised under a local planning scheme or local interim development order; and
    - (ii) the scheme or order provides that the application is deemed to be refused if it is not determined

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within a period of 90 days or more after the application is made,

within the period that ends 10 days before the day on which the application would be deemed to be refused; or

- (c) otherwise — within 80 days after the date on which the application was made.
- (4) Despite subregulation (3), the presiding member of the DAP may, by notice in writing given to the responsible authority and with the consent of the applicant, extend the period within which the report on a DAP application must be given.
- (5) The report must provide sufficient information to enable the DAP to determine the DAP application, including —
  - (a) a recommendation as to how the application should be determined; and
  - (b) copies of any advice received by the responsible authority from any other statutory or public authority consulted by the responsible authority in respect of the application; and
  - (c) any other information that the responsible authority considers is relevant to determining the application.
- (6) A DAP that receives a report under subregulation (2) must have regard to, but is not bound to give effect to, the recommendation included in the report.

**13. Further services from responsible authority**

- (1) The presiding member of a DAP may, after receiving a report on a development application from a responsible authority under regulation 12, direct the responsible authority to give the DAP any or all of the following services —
  - (a) technical advice or assistance in connection with the application; or

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- (b) further information in writing in connection with the application.
- (2) The direction must be in writing and must specify —
  - (a) the services required; and
  - (b) the time within which the responsible authority must comply with the direction.
- (3) A responsible authority must comply with a direction given to it under this regulation.

**14. Costs and expenses incurred by responsible authority**

The costs and expenses incurred by a responsible authority in giving a report under regulation 12, or advice, assistance or information in compliance with a direction under regulation 13, are, to the extent that they are not payable by an applicant under the *Planning and Development Regulations 2009* regulation 49, to be borne by the responsible authority.

**15. Notification to applicant**

The administrative officer of a DAP must notify an applicant of the following dates —

- (a) the date on which a report under regulation 12(2) on a DAP application made by the applicant is received by the DAP;
- (b) any date on which the DAP directs a responsible authority under regulation 13(1) to give advice, assistance or further information in respect of the application;
- (c) the date of the meeting at which the DAP will consider the application.

**16. Determination by DAP**

- (1) The provisions of the Act and the planning instrument under which a DAP application is made apply to the making and

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notification of a determination by a DAP to whom the application is given under regulation 11 as if the DAP were the responsible authority in relation to the planning instrument.

- (2) The administrative officer of a DAP must give the responsible authority a copy of any written notice of a determination of a DAP application, together with approved plans and other ancillary documents, given under subregulation (1) to an applicant.

**17. Amending or cancelling development approval**

- (1) An owner of land in respect of which a development approval has been granted by a DAP pursuant to a DAP application may apply for the DAP to do any or all of the following —
  - (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
  - (b) to amend or delete any condition to which the approval is subject;
  - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
  - (d) to cancel the approval.
- (2) An application under subregulation (1) —
  - (a) may be made during or after the period within which the development approved must be substantially commenced; and
  - (b) must be made in the form of Form 2 in Schedule 3; and
  - (c) must be accompanied by the relevant fee set out in Schedule 1; and
  - (d) must be lodged with the local government with which the DAP application was lodged.



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- (3) Unless otherwise provided in this regulation, regulations 10 to 13 apply to an application under subregulation (1) as if the application were a DAP application.
- (4) The DAP may determine an application under subregulation (1) by —
  - (a) approving the application with or without conditions; or
  - (b) refusing the application.
- (5) As soon as practicable after the application is determined, the presiding member must give the applicant, the relevant responsible authority and the administrative officer of the DAP written notification of the determination which must include the following —
  - (a) the date of the determination;
  - (b) the determination;
  - (c) the terms of any condition to which the approval is subject;
  - (d) reasons for any refusal;
  - (e) unless the application is granted unconditionally, a statement of the effect of regulation 18.
- (6) The administrative officer of the DAP must ensure that the notification is published on the DAP website.
- (7) A development approval granted by a DAP pursuant to a DAP application cannot be amended or revoked by a local government.

## 18. Review by State Administrative Tribunal

- (1) In this regulation —  
*decision-maker* has the meaning given in the *State Administrative Tribunal Act 2004* section 3(1);  
*deemed refused DAP application* means a DAP application that is taken under the Act or a planning instrument to have been

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refused because a determination of the application was not made, or notice of the determination was not given to the applicant, within the time allowed under the Act or planning instrument.

- (2) A person who has made a DAP application or an application under regulation 17 may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of —
- (a) a determination by a DAP to refuse the application; or
  - (b) any condition imposed by a DAP in the determination of the application; or
  - (c) a deemed refused DAP application,
- as if the determination or deemed refusal were a determination of a responsible authority.
- (3) Despite section 171A(3) of the Act and any other provision of these regulations, for the purposes of the *State Administrative Tribunal Act 2004*, a DAP is —
- (a) the decision-maker in respect of a determination of a DAP application by the DAP or a deemed refused DAP application; and
  - (b) the respondent in any application for review of the determination or deemed refusal.



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**Part 3                      Delegation to DAPs**

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**Part 3 — Delegation to DAPs**

**19.        Determination of certain development applications may be delegated to DAP**

- (1) Any development application that —
  - (a) is not an excluded development application; and
  - (b) in the case of an application for development in the district of the City of Perth — is for the approval of development that has an estimated cost of \$10 million or more and less than \$15 million; and
  - (c) in the case of an application for development in a district outside of the district of the City of Perth — is for the approval of development that has an estimated cost of \$3 million or more and less than \$7 million,is of a class prescribed for the purposes of this regulation.
- (2) A local government may, by written instrument, delegate to a DAP established for the district of the local government —
  - (a) the power of the local government to determine a development application of a class prescribed under subregulation (1) that is made to the local government; and
  - (b) the power of the local government to amend or cancel determinations of applications of that kind.
- (3) The power to delegate can be exercised by a local government only by or in accordance with a decision of an absolute majority (as defined in the *Local Government Act 1995* section 1.4) of the council of the local government.
- (4) The Commission may, by written instrument, delegate to a DAP —
  - (a) the power of the Commission to determine development applications prescribed under subregulation (1) that are made to the Commission; and

- (b) the power of the Commission to amend or cancel determinations of applications of that kind.
- (5) The local government or Commission may delegate the power either generally or as provided in the instrument of delegation.
- (6) A local government or the Commission must not make a delegation under this regulation or amend such a delegation without the prior consent of the CEO.
- (7) A DAP to which a power is delegated under this regulation cannot delegate that power.

**20. Commencement and publication of delegation**

- (1) An instrument of delegation under regulation 19, and any instrument amending or revoking the delegation, takes effect on the day specified in the instrument, being a day that is not earlier than the day on which notice of the instrument is published in the *Gazette* under this regulation.
- (2) A body that delegates to a DAP under regulation 19 must give a copy of the instrument of delegation to the CEO.
- (3) The CEO must cause the notice of the instrument to be published in the *Gazette* and on the DAP website.
- (4) The body that delegated the power must pay the costs of publication of the notice in the *Gazette*.

**21. Effect of delegation**

- (1) Nothing in regulation 19 or 20 or this regulation prevents or limits the application of the *Interpretation Act 1984* sections 58 and 59 to a delegation made under regulation 19.
- (2) If a local government or the Commission has delegated under regulation 19 the power to determine a development application —

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- (a) the applicant must, in addition to any application required under the planning instrument under which the application is made, give to the local government with which the application is lodged a notice in the form of Form 1 in Schedule 3; and
  - (b) regulations 11 to 16 apply as if the application were a DAP application.
- (3) If a local government or the Commission has delegated under regulation 19 the power to amend or cancel the determination of a development application —
  - (a) the applicant for amendment or cancellation must, in addition to any application required under the planning instrument under which the application is made, give to the local government with which the application is lodged an application in the form of Form 2 in Schedule 3; and
  - (b) regulations 11 to 16 apply as if the application were a DAP application.
- (4) A DAP exercising a power that has been delegated to the DAP under this regulation is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) A power exercised by a DAP pursuant to a delegation under this regulation is taken to be exercised by the body that delegated the power.

**22.        Payments in respect of exercise of delegated power**

- (1) Subject to any agreement made under subregulation (3), a local government that under this Part delegates a power to determine a development application must pay to the department in respect of each application that is determined by a DAP pursuant to the delegation an amount equal to the amount that would have been payable under regulation 10 by the applicant if the application were made under that regulation.

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- (2) Subject to any agreement made under subregulation (3), a local government that under this Part delegates a power to amend or cancel a development application must pay to the department in respect of each application that is determined by a DAP pursuant to the delegation an amount equal to the amount that would have been payable under regulation 17 by the applicant if the application were made under that regulation.
- (3) The CEO may enter into an agreement with a local government as to the payments under subregulation (1) or (2).

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## **Part 4 — Development assessment panels**

### **Division 1 — DAP members**

#### **23. LDAP members**

- (1) The members of a LDAP are —
  - (a) 2 persons appointed to the LDAP as local government members; and
  - (b) 3 persons appointed to the LDAP as specialist members.
- (2) The members must be appointed in writing by the Minister.
- (3) Regulation 24 applies to the appointment of local government members.
- (4) Regulation 37 applies to the appointment of specialist members.

#### **24. Local government members of LDAP**

- (1) Whenever it is necessary to make an appointment under regulation 23(1)(a), the Minister must —
  - (a) in writing, request the local government of the district for which the DAP is established to nominate a member of the council of the local government for appointment; and
  - (b) unless subregulation (2) applies, appoint the person so nominated.
- (2) If, within 40 days after the date on which the Minister makes a request to a local government under subregulation (1) or such longer period as the Minister may allow, the local government fails to nominate a person for appointment in accordance with the request, the Minister may appoint under regulation 23(1)(a) a person who —
  - (a) is an eligible voter of the district for which the LDAP is established; and

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- (b) the Minister considers has relevant knowledge or experience that will enable that person to represent the interests of the local community of that district.
- (3) For the purposes of subregulation (2)(a) a person is an eligible voter of a district if that person is eligible under the *Local Government Act 1995* section 4.29 or 4.30 to be enrolled to vote at elections for the district.

**25. JDAP members**

- (1) The members of a JDAP, at any meeting of the JDAP to determine or otherwise deal with a development application or an application to amend or cancel a determination of the JDAP, are —
  - (a) the 2 local government members included on the local government register as representatives of the relevant local government in relation to the development application; and
  - (b) 3 persons appointed to the JDAP as specialist members.
- (2) In subregulation (1)(a) —  
*relevant local government*, in relation to a development application, means the local government of the district in which the land to which the development application relates is situated.
- (3) The specialist members must be appointed in writing by the Minister.
- (4) Regulation 37 applies to the appointment of specialist members.

**26. JDAP local government member register**

- (1) The Minister must cause to be established and maintained a register of local government members of JDAPs.



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- (2) Subject to subregulation (4), the register must include the names of 2 members of the council of each local government of a district for which a JDAP is established.
- (3) Whenever it is necessary to include a member of a council of a local government on a local government register under subregulation (2), the Minister must —
  - (a) in writing, request the local government to nominate a member of the council of the local government for inclusion on the register; and
  - (b) unless subregulation (4) applies, include on the register the name of the person nominated.
- (4) If, within 40 days after the date on which the Minister makes a request under subregulation (3) or such longer period as the Minister may allow, the local government fails to nominate a person for inclusion on the local government register in accordance with the request, the Minister may include on the register as a representative of the local government a person who —
  - (a) is an eligible voter of the district of the local government; and
  - (b) the Minister considers has relevant knowledge or experience that will enable that person to represent the interests of the local community of that district.
- (5) For the purposes of subregulation (4)(a) a person is an eligible voter of a district if that person is eligible under the *Local Government Act 1995* section 4.29 or 4.30 to be enrolled to vote at elections for the district.

**27. Presiding member and deputy presiding member**

- (1) The Minister must appoint —
  - (a) one of the specialist members of a DAP with experience and a tertiary qualification in planning as the presiding member of the DAP; and



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- (b) another of the specialist members with that experience and qualification as the deputy presiding member.
- (2) The deputy presiding member must act as presiding member when the presiding member is unable to do so by reason of illness, absence or other cause.
- (3) No act or omission of the deputy presiding member acting as presiding member is to be questioned on the ground that the occasion for his or her so acting had not arisen or had ceased.

**28. Alternate members**

- (1) The Minister may, in writing, appoint —
  - (a) an alternate member for any person appointed under regulation 23(1)(a); and
  - (b) an alternate member for any person included on the local government register under regulation 26; and
  - (c) such number of persons eligible to be appointed as specialist members as the Minister considers necessary to form a pool of alternate members for specialist members.
- (2) Regulation 24 applies in relation to an appointment under subregulation (1)(a).
- (3) Regulation 26 applies in relation to an appointment under subregulation (1)(b).
- (4) An alternate member for a local government member of a DAP may act in the place of the local government member if the local government member is unable to perform the functions of the member by reason of illness, absence or other cause.
- (5) If a specialist member other than the presiding member is unable to perform the functions of the member by reason of illness, absence or other cause, an alternate member from the pool referred to in subregulation (1)(c) may, on the request of the presiding member, act in the place of the specialist member.

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- (6) A person cannot act in the place of a specialist member of a DAP if the person is —
  - (a) employed under the *Local Government Act 1995* section 5.36 by the local government of a district for which the DAP is established; or
  - (b) a member of the council of the local government of a district for which the DAP is established.
- (7) An alternate member acting under this regulation may despite anything in these regulations, continue to act, after the occasion for so acting has ceased, for the purpose of completing any determination of a DAP application.
- (8) An alternate member, while acting in the place of a DAP member, has the same functions and protection from liability as a DAP member.
- (9) No act or omission of a person acting in place of another under this regulation is to be questioned on the ground that the occasion for so acting had not arisen or had ceased.

**29. Term of office**

- (1) A DAP member holds office for the term specified in the member's instrument of appointment.
- (2) The term of office specified in an instrument of appointment must not exceed 2 years.
- (3) A person's eligibility for reappointment as a DAP member or the term for which a person may be reappointed is not affected by an earlier appointment.

**30. Training of DAP members**

- (1) A person who is appointed as a DAP member cannot perform any functions as a member of that DAP until the CEO is of the opinion that the member has satisfactorily completed the training for DAP members provided by the department.

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- (2) Subject to subregulation (3), a DAP member who satisfactorily completes training for DAP members provided by the department is entitled to be paid the amount specified in Schedule 2 item 7.
- (3) Unless the Minister has given written consent to the payment, the amount referred to in subregulation (2) is not payable to a DAP member who is —
  - (a) an employee as defined in the *Public Sector Management Act 1994*; or
  - (b) an employee of a department or other agency of the Commonwealth; or
  - (c) a local government employee; or
  - (d) a judicial officer or retired judicial officer; or
  - (e) an employee of a public academic institution.

**31. Fees and allowances for DAP members**

- (1) Subject to subregulation (6), a DAP member who attends a DAP meeting is entitled to be paid the fee set out in Schedule 2 item 1 or 2, as the case requires.
- (2) Subject to subregulation (6), a DAP member who attends a DAP meeting to determine an application under regulation 17 is entitled to be paid the relevant fee set out in Schedule 2 item 3 or 4 but is not entitled to be paid the fee set out in Schedule 2 item 1 or 2.
- (3) Subject to subregulation (6), a DAP member who, at the invitation or requirement of the State Administrative Tribunal, attends a proceeding in the Tribunal in relation to the review of a determination of the DAP is entitled to be paid the fee set out in Schedule 2 item 5 or 6, as the case requires.
- (4) A DAP member is entitled to be reimbursed for motor vehicle and travel expenses at the rate decided from time to time by the

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Public Sector Commissioner for members of Government boards and committees.

- (5) Fees and allowances for DAP members are payable by the department.
- (6) Unless the Minister has given written consent to the payment, fees are not payable under this regulation to a DAP member who is —
  - (a) an employee as defined in the *Public Sector Management Act 1994*; or
  - (b) an employee of a department or other agency of the Commonwealth; or
  - (c) a local government employee; or
  - (d) a judicial officer or retired judicial officer; or
  - (e) an employee of a public academic institution.

**32. Casual vacancies**

- (1) The office of a DAP member becomes vacant if the member —
  - (a) dies, resigns or is removed from office under this regulation; or
  - (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
  - (c) is convicted of an offence punishable by imprisonment for more than 12 months; or
  - (d) is convicted of an offence against section 266 of the Act.
- (2) A DAP member may at any time resign from office by giving a written resignation to the Minister.
- (3) The Minister may, by notice in writing given to the member, remove a DAP member from office on the grounds of —
  - (a) neglect of duty; or
  - (b) misconduct or incompetence; or



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- (c) mental or physical incapacity to carry out the member's duties in a satisfactory manner; or
  - (d) absence without leave granted under regulation 33 from 3 consecutive meetings of the DAP of which the member had notice.
- (4) Failure to comply with regulation 45(2), 46(2) or (3), 47 or 48 is capable of constituting misconduct for the purposes of subregulation (3)(b).
  - (5) The Minister must, by notice in writing given to the member, remove a DAP member from office if the member ceases to hold a position or qualification by virtue of which the member was appointed.
  - (6) A notice given under subregulation (3) or (5) must specify the ground of removal.
  - (7) The removal takes effect on the day on which the member is given the notice or on such later day as is specified in the notice.

**33. Leave of absence**

The Minister may grant leave of absence to a DAP member on the terms and conditions determined by the Minister.

**34. Extension of term of office during vacancy in membership**

- (1) If the office of a DAP member becomes vacant because the member's term of office expires, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).
- (2) However, subregulation (1) ceases to apply if the member resigns or is removed from office under these regulations.
- (3) The maximum period for which a DAP member is taken to continue to be a member under this regulation after the member's term of office expires is 3 months.

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**Part 4** Development assessment panels

**Division 2** Specialist members

**r. 35**

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**Division 2 — Specialist members**

**35. Register of persons eligible to be specialist members**

- (1) The Minister must cause to be compiled and maintained a register of persons who —
  - (a) have experience in one or more of the following areas of expertise —
    - (i) town planning;
    - (ii) architecture;
    - (iii) urban design;
    - (iv) engineering;
    - (v) landscape design;
    - (vi) environment;
    - (vii) law;
    - (viii) property development or management;and
  - (b) have —
    - (i) a tertiary qualification relevant to their area of expertise and experience practising or working in their area of expertise that is, in the opinion of the Minister, sufficient to allow them to perform the duties of a specialist member; or
    - (ii) extensive experience practising or working in their area of expertise that is, in the opinion of the Minister, sufficient to allow them to perform the duties of a specialist member;and
  - (c) are willing to hold office as a specialist member of a DAP.
- (2) The following persons are not eligible to be included on the register —

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r. 36**

- (a) an officer of the department;
  - (b) a member of a parliament as defined in the *Local Government Act 1995* section 2.20.
- (3) The register must include the following details in relation to each person on it —
- (a) the name of the person;
  - (b) the qualifications and experience of the person;
  - (c) any other details the Minister considers appropriate.
- (4) The Minister may from time to time add a person to the register.
- (5) The Minister may remove a person from the register —
- (a) on the written request of that person; or
  - (b) if the person is removed from office as a DAP member under regulation 32; or
  - (c) if the person is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
  - (d) if the person is convicted of an offence punishable by imprisonment for more than 12 months; or
  - (e) if the Minister is satisfied that the person is no longer eligible to be included on the register or willing to hold office as a specialist member of a DAP.

**36. Short-list of persons recommended for appointment**

- (1) When it is necessary to appoint a specialist member of a DAP or an alternate member of a DAP under regulation 28(1)(c) the Minister must, in writing, request the working group established under regulation 38(1) to submit a short-list of persons recommended for the appointment.
- (2) The working group must, within such time as is specified by the Minister, submit to the Minister a short-list of one or more



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persons selected by the working group from the register maintained under regulation 35.

- (3) The short-list must not include a person who is —
  - (a) employed under the *Local Government Act 1995* section 5.36 by the local government of a district for which the DAP is established; or
  - (b) a member of the council of the local government of a district for which the DAP is established.

**37. Appointment of specialist members and alternate specialist members**

- (1) The Minister, when appointing a person as a specialist member of a DAP under regulation 23(1)(b) or 25(1)(b) or an alternate member under regulation 28(1)(c) —
  - (a) must have regard to the short-list submitted under regulation 36; and
  - (b) if the Minister does not appoint a person listed on the short-list, must appoint a person selected by the Minister from the register maintained under regulation 35.
- (2) The Minister must not appoint as a specialist member of a DAP a person who is —
  - (a) employed under the *Local Government Act 1995* section 5.36 by the local government of a district for which the DAP is established; or
  - (b) a member of the council of the local government of a district for which the DAP is established.
- (3) A person may hold office as a specialist member of more than one DAP at the same time.
- (4) At least 2 of the specialist members of each DAP must have experience, and a tertiary qualification, in town planning.

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Division 2  
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**38. Short-list working group**

- (1) A working group is established to submit to the Minister under regulation 36 short-lists of persons recommended for appointment as specialist members of DAPs.
- (2) The working group consists of the following members —
  - (a) the CEO or an officer of the department nominated by the CEO;
  - (b) a person nominated by WALGA and appointed by the Minister or, if subregulation (5) applies, a person appointed in accordance with that subregulation;
  - (c) a person nominated by the WA Division of the Planning Institute of Australia Incorporated and appointed by the Minister or, if subregulation (5) applies, a person appointed in accordance with that subregulation;
  - (d) a person appointed by the Minister from nominations submitted under subregulation (4) or, if subregulation (5) applies, a person appointed in accordance with that subregulation.
- (3) When it is necessary to appoint a person under subregulation (2)(b) or (c), the Minister must request WALGA or the Planning Institute of Australia Incorporated, as the case requires, to nominate a person for appointment.
- (4) When it is necessary to appoint a person under subregulation (2)(d), the Minister must request each of the following bodies to nominate a person for appointment —
  - (a) the Housing Industry Association;
  - (b) the Urban Development Institute of Australia;
  - (c) the Property Council of Australia;
  - (d) the Real Estate Institute of Western Australia;
  - (e) the Master Builders Association of Western Australia.

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**Division 3** Meetings

**r. 39**

- (5) If, within 14 days after the date on which the Minister makes a request under subregulation (3) or (4) for nomination for appointment, no nomination has been made, the Minister may appoint any person the Minister thinks fit.
- (6) The member referred to in subregulation (2)(a) is the presiding member of the working group.
- (7) A working group member, including the presiding member, has a single vote on a decision to be made by the working group and, in the case of an equality of votes, the presiding member also has a casting vote.
- (8) A matter that is to be decided by the working group must be decided by a majority of votes.
- (9) A decision is a valid decision of the working group even though it is not made at a meeting of the working group, if each member of the working group agrees in writing to the proposed decision.
- (10) Subject to any direction of the Minister, the working group may determine its own procedures.
- (11) Regulations 29, 32, 33 and 34 apply in relation to a member of the working group appointed under this regulation as if any reference in those regulations to a DAP member were a reference to a member of the working group.

**Division 3 — Meetings**

**39. Notice of meetings**

- (1) The time, date and location of each DAP meeting, and the agenda for the meeting, must be published at least 5 days before the meeting —
  - (a) on the DAP website; and

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Development assessment panels

**Part 4**

Meetings

**Division 3****r. 40**

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- (b) by each local government of a district in which development under a development application will be considered at the meeting —
  - (i) on its website; or
  - (ii) if the local government does not have an operating website, by means approved by the CEO.

- (2) The administrative officer of the DAP must notify local governments of the details necessary to enable the local governments to comply with subregulation (1)(b).

**40. General procedure concerning meetings**

- (1) At a meeting of a DAP, the DAP may determine —
  - (a) one or more development applications; or
  - (b) one or more applications under regulation 17.
- (2) Any DAP meeting to determine a development application is to be open to the public.
- (3) The presiding member of a DAP may invite a person to advise or inform, or make a submission to, the DAP in respect of a development application.
- (4) Unless the presiding member otherwise directs, a DAP meeting to determine an application under regulation 17 —
  - (a) is to be held by each other person at the meeting being simultaneously in contact by telephone, or other means of instantaneous communication; and
  - (b) is not open to the public.
- (5) The CEO may issue practice notes about the practice and procedure of DAPs and each DAP must comply with those practice notes.

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**Division 3** Meetings

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**41. Quorum**

- (1) At a meeting of a LDAP, 3 members of the LDAP including —
  - (a) the presiding member; and
  - (b) another specialist member; and
  - (c) a local government member,constitute a quorum.
- (2) At a meeting of a JDAP, 3 members of the JDAP including —
  - (a) the presiding member; and
  - (b) another specialist member; and
  - (c) one of the local government members referred to in regulation 25(1)(a),constitute a quorum.

**42. Voting**

- (1) A DAP member at a DAP meeting, including the presiding member, has a single vote on a decision to be made by the DAP and, in the case of an equality of votes, the presiding member also has a casting vote.
- (2) A matter that is to be decided by a DAP at a meeting of a DAP must be decided by a majority of votes of the members present.

**43. Attending meeting remotely**

If the presiding member of a DAP consents, the presence of a person at a meeting of the DAP need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone, or other means of instantaneous communication.

**44. Minutes**

- (1) Accurate minutes of a meeting of a DAP must be kept, in a form approved by the CEO, by —

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Division 3  
r. 44**

- (a) an officer of the local government at whose offices the DAP meeting is held; or
  - (b) another person approved by the CEO.
- (2) The local government at whose offices a meeting of a DAP is held, or the person who takes the minutes, must give the administrative officer of the DAP a copy of the minutes of the meeting within 5 days after the date of the meeting.
- (3) The minutes of a meeting given under subregulation (2) must be confirmed and signed by the person who was the presiding member at the meeting.
- (4) The minutes that are confirmed and signed under subregulation (3) must be published on the DAP website within 10 days after the date of the meeting.
- (5) If —
  - (a) the presiding member is not available to confirm and sign the minutes of a meeting; and
  - (b) the deputy presiding member was present at that meeting,the deputy presiding member may confirm and sign the minutes.
- (6) The administrative officer of the DAP must give the local government a copy of the signed minutes.
- (7) The local government must publish a copy of the signed minutes —
  - (a) on its website; or
  - (b) if the local government does not have an operating website, by means approved by the CEO.



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**Part 4** Development assessment panels

**Division 4** Conduct of DAP members

**r. 45**

**Division 4 — Conduct of DAP members**

**45. Code of conduct**

- (1) The CEO must make and maintain a written code of conduct in respect of DAPs.
- (2) Each person performing functions as a DAP member must comply with the code of conduct.
- (3) The CEO may amend the code of conduct from time to time.

**46. Gifts**

- (1) In this regulation —

*gift* has the meaning given in the *Local Government Act 1995* section 5.82(4) except that it does not include a gift from a relative as defined in section 5.74(1) of that Act;

*notifiable gift*, in relation to a DAP member, means —

- (a) a gift worth more than \$50 and less than \$300; or
- (b) a gift that is one of 2 or more gifts given to the member by the same person within a period of 6 months that are in total worth more than \$50 and less than \$300;

*prohibited gift*, in relation to a DAP member, means —

- (a) a gift worth \$300 or more; or
- (b) a gift that is one of 2 or more gifts given to the member by the same person within a period of 6 months that are in total worth \$300 or more.

- (2) A person who is a DAP member must not accept a prohibited gift from a person who —
  - (a) is undertaking development approved by the DAP; or
  - (b) is seeking to undertake development requiring approval by the DAP; or
  - (c) it is reasonable to believe is intending to undertake development requiring approval by the DAP.

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r. 46**

- (3) A person who is a DAP member and who accepts a notifiable gift from a person who —
- (a) is undertaking development approved by the DAP; or
  - (b) is seeking to undertake development requiring approval by the DAP; or
  - (c) it is reasonable to believe is intending to undertake development requiring approval by the DAP,
- must notify the CEO of the acceptance in accordance with subregulation (4) as soon as practicable after the member becomes aware that the person has made or is intending to make the application for approval.
- (4) Notification of the acceptance of a notifiable gift must be in writing and must include the following —
- (a) the name of the person who gave the gift;
  - (b) the date on which the gift was accepted;
  - (c) a description, and the estimated value, of the gift;
  - (d) the nature of the relationship between the DAP member and the person who gave the gift;
  - (e) if the gift is a notifiable gift under paragraph (b) of the definition of **notifiable gift** in subregulation (1) (whether or not it is also a notifiable gift under paragraph (a) of that definition) —
    - (i) a description; and
    - (ii) the estimated value; and
    - (iii) the date of acceptance,of each other gift accepted within the 6 month period.
- (5) The CEO must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.



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**Part 4** Development assessment panels

**Division 4** Conduct of DAP members

**r. 47**

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**47. Relations with local government and public sector employees**

A DAP member attending a DAP meeting must not, either orally, in writing or by any other means —

- (a) make a statement that a local government or public sector employee is incompetent or dishonest; or
- (b) use offensive or objectionable expressions in reference to a local government or public sector employee.

**48. Public comment**

- (1) A DAP member, other than the presiding member, must not publicly comment, either orally or in writing, on any action or determination of a DAP.
- (2) Subregulation (1) does not apply to comments made at a meeting of a DAP.

## Part 5 — Administration

### 49. Administrative officer

- (1) In this regulation —

*departmental officer* means a public service officer employed in the department;

*employed in the department* includes seconded to perform functions or services for, or duties in the service of, the department;

*public service officer* has the meaning given in the *Public Sector Management Act 1994* section 3(1).

- (2) Each DAP is to have an administrative officer.
- (3) The CEO must make a departmental officer available to provide services to a DAP as its administrative officer.

### 50. Other staff and facilities

If a DAP is established for the district of one or more local governments, the local governments must —

- (a) make available at least one local government employee to provide administrative support to the DAP at meetings of the DAP; and
- (b) provide the DAP with such facilities at an office of the local governments as the DAP may reasonably require to perform its functions including —
- (i) an appropriate venue for DAP meetings; and
  - (ii) electronic equipment; and
  - (iii) catering.

### 51. DAP website

The CEO must establish a website (the *DAP website*) containing —

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**Part 5 Administration**

**r. 52**

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- (a) information required under these regulations to be published on the website; and
- (b) such other information about DAPs as the CEO considers appropriate.

**52. Minister may require information**

- (1) In this regulation —

*document* includes any tape, disk or other device or medium on which information is recorded or stored;

*information* means information specified, or of a description specified, by the Minister that relates to a DAP application.

- (2) The Minister is entitled —

- (a) to request a local government to obtain information; and
- (b) to have information in the possession of a DAP or a local government; and
- (c) if the information is in or on a document, to have, and make and retain copies of, that document; and
- (d) to give to a DAP information furnished under this regulation or under section 18 of the Act.

- (3) For the purposes of subregulation (2) the Minister —

- (a) may request a local government to obtain information; and
- (b) may request a DAP or a local government to furnish information to the Minister; and
- (c) may request a DAP or a local government to give the Minister access to information; and
- (d) for the purposes of paragraph (c), may make use of staff of the local government to obtain the information and furnish it to the Minister.

- (4) A DAP must comply with a request made under subregulation (3) and the relevant local government is to make

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Administration

Part 5

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r. 53

its staff and facilities available for the purposes of subregulation (3)(d).

**53. Annual report**

- (1) The CEO must include in the annual report prepared by the CEO for the purposes of the *Financial Management Act 2006* Part 5 a report on the operations of each DAP for the financial year.
- (2) The report must include details of the following —
  - (a) the number, nature and outcome of DAP applications received by each DAP;
  - (b) the time taken to determine each DAP application;
  - (c) the number of determinations made by each DAP that have been the subject of an application for review by the State Administrative Tribunal;
  - (d) any other information the CEO considers relevant.

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**Part 6**                      **Miscellaneous**

**r. 54**

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**Part 6 — Miscellaneous**

**54.      Amendment or revocation of order establishing DAP:  
         transitional provisions**

- (1) If an order made under section 171C of the Act establishing a DAP is revoked, any DAP application of which the DAP has been notified under regulation 11 and which has not been determined by the DAP must —
  - (a) if, at the same time as the order is revoked, another DAP is established for the district in which the development is proposed, be determined by that DAP; or
  - (b) otherwise, be determined by the responsible authority to which the application was made.
- (2) If an order made under section 171C of the Act establishing a JDAP is amended so that it is no longer established for a district, any DAP application for development in that district of which the JDAP has been notified under regulation 11 and which has not been determined by the JDAP must —
  - (a) if, at the same time as the order is amended, another DAP is established for the district in which the development is proposed, be determined by that DAP; or
  - (b) otherwise, be determined by the responsible authority to which the application was made.

**55.      Review of fees**

The CEO must —

- (a) cause a review of the fees prescribed under Schedule 1 to be carried out as soon as practicable after each anniversary of the day on which these regulations come into operation; and
- (b) cause a report on the review to be prepared; and

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Miscellaneous

**Part 6**

**r. 55**

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- (c) provide a copy of the report, and any relevant information used for the purpose of the review, to the Minister.

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**Schedule 1      Fees for applications**

**Schedule 1 — Fees for applications**

[r. 10, 17]

<b>Item</b>	<b>Application</b>	<b>Fee</b>
1.	A DAP application where the estimated cost of the development is —	
	(a) not less than \$3 million and less than \$7 million	\$3 376
	(b) not less than \$7 million and less than \$10 million	\$5 213
	(c) not less than \$10 million and less than \$12.5 million	\$5 672
	(d) not less than \$12.5 million and less than \$15 million	\$5 834
	(e) not less than \$15 million and less than \$17.5 million	\$5 996
	(f) not less than \$17.5 million and less than \$20 million	\$6 158
	(g) \$20 million or more	\$6 320
2.	An application under r. 17	\$150



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Fees for DAP members      **Schedule 2**

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**Schedule 2 — Fees for DAP members**

[r. 30, 31]

- |    |   |       |
|----|---|-------|
| 1. | Fee for presiding member per meeting to determine development applications                      | \$500 |
| 2. | Fee for any other member per meeting to determine development applications                      | \$400 |
| 3. | Fee per meeting for presiding member to determine applications to amend or cancel determination | \$100 |
| 4. | Fee per meeting for any other member to determine applications to amend or cancel determination | \$50  |
| 5. | Fee for presiding member attending proceeding in State Administrative Tribunal                  | \$500 |
| 6. | Fee for any other member attending proceeding in State Administrative Tribunal                  | \$400 |
| 7. | Fee for training  | \$400 |

**Planning and Development (Development Assessment Panels)  
Regulations 2011**  
Schedule 3      Forms

**Form 1**

**Schedule 3 — Forms**

**1. Notice of development application to be determined by DAP  
(r. 7, 10, 21)**

<p align="center"><i>Planning and Development Act 2005</i> <i>Planning and Development (Development Assessment Panels)</i> <i>Regulations 2011</i></p> <p align="center"><b>Notice of development application to be determined by DAP</b></p>	
To	[Name of local government or WAPC]
Planning scheme(s)	[Name of planning scheme(s) that applies to the land described below]
Land	[Lot number or other relevant description]
Details of development application made to responsible authority	[Number and date of development application]
Estimated cost of development	[\$]
<p align="center"><b>PART A</b></p> <p align="center"><b>Notice of election to have development application determined by DAP (r. 7 — to be completed if required)</b></p>	
I give notice that I elect to have the development application that is attached to this notice determined by a DAP.	
Applicant's signature:	
Date:	

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Forms    **Schedule 3**

**Form 1**

<b>PART B</b>	
<b>Acknowledgment of initiation of development application to be determined by DAP</b>	
[To be completed and signed by applicant in the presence of a local government officer]	
Notice	I give notice that I [please tick one of following]: <input type="checkbox"/> understand that this is a mandatory DAP application (r. 5) <input type="checkbox"/> have elected to have the development application that accompanies this notice determined by a DAP as an optional DAP application (r. 7) <input type="checkbox"/> understand that this is an application of a class delegated to a DAP for determination (r. 19)
Applicant's signature:	
Date:	
<b>PART C</b>	
<b>Acknowledgment by local government</b>	
[To be completed and signed by a local government officer in the presence of the applicant]	
Development application	[Confirmation of intended recipient of development application made to responsible authority] <input type="checkbox"/> Local government <input type="checkbox"/> WAPC <input type="checkbox"/> Dual local government and WAPC
DAP fee	<input type="checkbox"/> DAP fee that has been paid by the applicant \$..... (Schedule 1) <input type="checkbox"/> Amount to be paid by local government \$..... [delegated applications only (r. 22)]
Name of officer:	Signature:
Position/Title:	Date:

**Planning and Development (Development Assessment Panels)  
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**Schedule 3** Forms

**Form 2**

**2. Application for amendment or cancellation of a DAP  
determination (r. 17, 21)**

<p><i>Planning and Development Act 2005</i>  <i>Planning and Development (Development Assessment Panels)</i>  <i>Regulations 2011</i>  <b>Application for amendment or cancellation of a DAP-determined application</b></p>	
<p><b>How to complete this form</b>          This form is for the amendment or cancellation of a development application that has been determined by a Development Assessment Panel (DAP). Please ensure that all fields have been completed correctly. Once completed the applicant must submit this form together with the relevant fees to the local government.</p>	
<b>Part 1: Amended or cancelled development application details</b>	
Estimated cost of development:	\$
Description of proposal:	
Lot number:	
Street number and name:	
Town/suburb:	
Existing use:	
Proposed use:	
Original DAP determination date: ____ / ____ / ____	
<b>Part 2: Applicant details</b>	
Title:	
Given name/s:	
Family name:	
Organisation/Company name [if applicable]:	
Postal address:	Postcode:

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Forms **Schedule 3**

**Form 2**

Telephones:	Work:	Mobile:	Home:
Fax number:	Email address:		
<b>Please note: unless otherwise requested, DAP secretariat will contact you using your nominated email address.</b>			
<b>Part 3: Owner Declaration</b>			
I declare that all the information provided in this application is true and correct.			
Signature:		Date:	
OR Letter of Consent attached <input type="checkbox"/> <input checked="" type="checkbox"/>			

By Command of the Governor,

Clerk of the Executive Council.



## ITEM NO: 9.3

### THE SPRINGS, BELMONT. STAGE 1 SUBDIVISION - REQUEST FOR RECONSIDERATION OF CONDITIONS

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planner
AUTHORISING OFFICER:	Director
AGENDA PART:	C
FILE NO:	135544
DATE:	23 February 2011
ATTACHMENT(S):	Attachment 1: WAPC approval letter dated 14 July 2010 Attachment 2: Approved plan of subdivision Attachment 3: request for reconsideration
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Belmont
LOCAL SCHEME ZONING:	The Springs Special Development Precinct
LGA RECOMMENDATION:	
REGION DESCRIPTOR:	Metropolitan North East
RECEIPT DATE:	11 August 2010
PROCESS DAYS:	194 days
APPLICATION TYPE:	Request for reconsideration
DESCRIPTION OF PROPOSAL:	RESIDENTIAL AND COMMERCIAL MIXED USE,
CADASTRAL REFERENCE:	Lots 1, 1, 2, 2, 3, 51, 52, 86-89, 94, 100, Part 101, 102, 103, 111-118, 123-126, 125, 129, 133, 136, 137, 201-210, 301, 302 & 3000, HAWKS BURN ROAD, GREAT EASTERN HIGHWAY, ROWE AVENUE, RIVERSDALE ROAD & GRAHAM FARMER FREEWAY.

**RECOMMENDATION:**

*That the Western Australian Planning Commission resolves to:*

1. *retain Condition 14.*
2. *modify the final dot point of Advice Note 16 of WAPC approval 135544 to read as follows:*

*"Main Roads Western Australia advises that the current land requirement is reflected in the attached MRWA drawing number 1060-065."*
3. *delete Condition 23 of WAPC approval 135544.*
4. *modify Condition 27 of WAPC approval 135544 as follows:*

*"All remediation works including validation of remediation shall be completed to the specifications of the Department of Environment and Conservation prior to the issuing of certificates of title for the proposed lots. (Department of Environment and Conservation)"*
5. *delete Condition 33 and Advice Note 13 of WAPC approval 135544 and replace with the following wording:*

*Condition 33*  
*"The subdivider is to prepare and submit to the City of Belmont a cost contribution schedule for the equitable apportionment of costs for the provision of common services and infrastructure associated with the development of The Springs to the satisfaction of the City of Belmont." (Local Government)*

*Advice Note No. 13*  
*"With regard to Condition 33 the cost contribution schedule will assist the City of Belmont in the preparation of the Developer Contribution Plan to be included within Amendment No. 53 to Town Planning Scheme No. 14 for the area defined as The Springs within The Springs Local Structure Plan."*
- 6) *all other terms and conditions remain as per the Commission's original decision dated 13 July 2010.*



## INTRODUCTION

1. On the 13 July 2010 the Statutory Planning Committee (SPC) of the Western Australian Planning Commission (WAPC) approved a subdivision proposal over the abovementioned land, subject to conditions. (**ATTACHMENT 1:** WAPC approval letter)

The approved plan of subdivision proposes the following:

- \* 10 super lots ranging in area from 1594m<sup>2</sup> to 4044m<sup>2</sup> for residential and mixed use purposes;
  - \* local road reserves;
  - \* 2 public open space (POS) lots of 1161m<sup>2</sup> and 2500m<sup>2</sup> (**ATTACHMENT 2:** Subdivision Plan);
2. The subject land is zoned "Urban" under the Metropolitan Region Scheme (MRS) and is zoned "The Springs Special Development Precinct" (Development Area 11) under the City of Belmont Town Planning Scheme No. 14 (TPS 14).
  3. The subject land is affected by 'The Springs Structure Plan' (the Structure Plan), which was adopted by the WAPC on 17 December 2009. Landcorp owns the majority of the land (approximately 75%) within The Springs structure plan area.
  4. On the 13 August 2010 the applicant lodged a request for reconsideration of subdivision conditions 14, 23, 27 and 33. (**ATTACHMENT 3** - Request for reconsideration).

## CONSULTATION

The City of Belmont and other relevant referral agencies have been consulted. Responses received are discussed below.

## COMMENTS

An assessment of the request for reconsideration is set out below:

### Condition 14

Condition 14 of the WAPC's conditional approval dated 13 July 2010 states:

*Great Eastern Highway being widened to provide for a proposed dedicated bus lane and left turn slip lane into the land from Great Eastern Highway and the Great Eastern Highway and Brighton Road intersection being upgraded, including any required road widening of Brighton Road to the satisfaction of the Western Australian Planning Commission on advice of Main Roads Western Australia. The land required for these works is to be set aside as separate lots for acquisition and*

*easements for access and services are to be provided over these lots at the cost of the applicant. The easements are to provide that the benefits of the easements are to be automatically extinguished upon dedication of the road widening lots as public roads. (Main Roads Western Australia)*

An accompanying advice note (16) is included on the approval, which states:

"The applicant is advised that Condition 14 has been imposed in the absence of agreed detailed design and land requirement plans being finalised. With respect to the design and land requirement plans the following advice is provided:

- \* The dedicated bus lane between Graham Farmer Freeway and Brighton Road is to have a 3 metre offset (verge) from the outside kerb of the bus lane;
- \* The design and construction of the left turn slip lane is to be consistent with the concept plan prepared by SKM;
- \* With regard to the operation of the Brighton Road intersection, Main Roads Western Australia acknowledges that the current proposal for the roundabout is acceptable;
- \* Main Roads Western Australia considers that the Brighton Road approach to the Great Eastern Highway traffic signals should include provision for two right turn lanes and one shared through/right lane. The applicant should liaise with Main Roads Western Australia regarding this matter; and
- \* Main Roads Western Australia advises that a revised land requirement plan is currently being prepared by consultants BG & E Consulting Engineers and once finalised this will be provided to the applicant."

The applicant has sought reconsideration of Condition 14 on the basis that there is an unreasonable degree of uncertainty for the landowner in accepting this condition given that the land requirement plan being prepared by BG & E has not yet been finalised. Subsequent to the WAPC's approval being granted, Main Roads Western Australia (MRWA) advises that it has now finalised the land requirement plan (MRWA Drawing No: 1060-065). The applicant has reviewed the land requirement plan and raises no objection. Accordingly, it is considered that the final dot point of advice note 16 be modified to refer to the MRWA land requirement plan 1060-065.

It is recommended that WAPC resolve to retain Condition 14 and modify the final dot point of Advice Note 16 as follows:

- \* Main Roads Western Australia advises that the current land requirement is reflected in the attached MRWA drawing number 1060-065.

Condition 23

Condition 23 of the WAPC's conditional approval dated 13 July 2010 states:

*Uniform fencing along the boundaries of all of the proposed lots abutting the Great Eastern Highway and/or Public Open Space are to be constructed. (Local Government)*

An accompanying advice note (5) is included on the approval, which states:

*With regard to Condition 23, prior to the commencement of works the subdivider is to provide details of the proposed uniform fencing to the City of Belmont and obtain approval.*

The applicant has sought reconsideration of Condition 23 on the basis that such fencing is not the responsibility of Landcorp and will be provided by future developers in accordance with the design guidelines. The City of Belmont advises that it concurs with the applicant's justification and does not object to the condition being deleted.

It is recommended that WAPC resolve to delete Condition 23 and advice note 5.

Condition 27

Condition 27 states:

*All remediation works including validation of remediation are to be completed to the specifications of the Department of Environment and Conservation prior to the commencement of any site works. (Department of Environment and Conservation)*

The applicant objects to Condition 27 on the basis that it prevents any other site works being undertaken prior to the completion of all remediation and validation of remediation. The applicant contends that this is unnecessarily restrictive and has sought to have the condition wording modified to require that all remediation including validation of remediation be completed prior to the issue of titles for the proposed lots.

The Department of Environment and Conservation (DEC) advises that it does not object to the applicant's request, and has provided recommended modified wording. Given that the DEC does not object to the applicant's request, it is recommended that Condition 27 be modified as follows:

It is recommended that WAPC resolve to modify Condition 27 as follows:

*All remediation works including validation of remediation shall be completed to the specifications of the Department of Environment and Conservation prior to the issuing of certificates of title for the proposed lots. (Department of Environment and Conservation)*

Condition 33

Condition 33 states:

*The subdivider is to prepare and a Developer Contribution Plan (DCP) as required under the adopted Structure Plan to the specifications of the City of Belmont. In the event that the DCP cannot be finalised prior to fulfilment of the other conditions of subdivision approval, alternative arrangements can be made for the subdivider to enter into an agreement with the City of Belmont setting out a timetable for completion of the DCP and incorporating appropriate provisions to ensure payment of an appropriate contribution to common services and infrastructure. (Local Government)*

An accompanying advice note (13) states:

*With regard to Condition 33, the City of Belmont advise that if the Cost Contribution Plan cannot be finalised prior to compliance with other conditions, this condition can be fulfilled by the applicant entering into an agreement with the City setting out an agreed timetable for the submission of a cost contribution plan, and incorporating security acceptable to the City for payment of an appropriate contribution to common services and community infrastructure.*

The applicant has requested deletion of Condition 33 on the grounds that Landcorp has expended substantial resources over a number of years facilitating the formulation of a DCP over The Springs structure plan area, however despite a concerted effort, the DCP has not yet been finalised. The applicant advises that Landcorp is under pressure to release land for sale with The Springs area, and intends to lodge the first deposited plan with WAPC in mid 2011. Landcorp is concerned that there is a risk that clearance of condition 33 may be delayed or withheld if the DCP is not finalised in the near future. Given that the infrastructure cost information has not been finalised, and subsequently advertised, it is highly unlikely that the DCP will be completed in the next few months.

The approved Structure Plan includes the requirement for a DCP at subdivision stage. However, the Structure Plan also contemplates an alternative arrangement for developer contributions in the event that a DCP cannot be finalised prior to the fulfilment of the other conditions of subdivision approval. This alternative arrangement requires a separate agreement with the City of Belmont setting out a timetable for completion of the DCP and incorporating appropriate and equitable provisions to ensure payment of contributions towards common services and infrastructure.

Currently the City of Belmont Town Planning Scheme No. 14 (TPS 14) does not include developer contribution provisions. In November 2008 the City of Belmont Council resolved to approve a request to advertise an amendment (Amendment 53) to TPS 14. Amendment 53 proposed to: include appropriate developer contribution provisions in TPS 14; to identify The Springs as a developer contribution area; and identify specific cost contribution items and cost estimates for inclusion in the DCP. Following consent to advertise being granted it was revealed that the cost information provided by Landcorp was outdated. Landcorp has since provided updated cost

information and attempted to work cooperatively with the City to finalise the DCP. The matter has become more complicated since the release of SPP 3.6 *'Development Contributions for Infrastructure'* (SPP 3.6) in November 2009, and has resulted in a request from the City for revised documentation to be provided in accordance with SPP 3.6. The amendment has not been considered by the WAPC, and has not progressed further.

In 2008 Landcorp attempted to facilitate an alternative infrastructure contribution arrangement', as provided for in the Structure Plan, via a 'heads of agreement' with the City. Although the consultants on behalf of Landcorp and the City attempted to negotiate acceptable terms, no mutual agreement could be reached and the proposal has since lapsed.

Landcorp has provided a copy of correspondence to the City in which it commits to underwrite the development costs for the project, and also acknowledges the risks associated with the ability to recover development costs from the remaining landowners in light of the current status of Amendment 53. The City has advised that it does not object to the deletion of the condition, however also advises that the developer (Landcorp) is to continue liaising with the City in relation to the progression of Amendment 53 and adoption of a DCP for The Springs. Landcorp officers have advised that they intend to continue to work with the City to finalise the DCP, however are concerned that the DCP will not be finalised by the time they are ready to lodge the first deposited plan.

Although Landcorp is the majority landowner, a number of private landowners remain within the Structure Plan area. Landcorp's undertaking to underwrite the project, and its acknowledgement regarding the risk of not being able to recover a portion of costs incurred is acknowledged. However it is not considered appropriate to entirely remove the statutory mechanism which will facilitate equitable apportionment and recovery of costs. Landcorp intends to continue to work with the City to finalise the DCP, however in the event that the DCP was never finalised, Landcorp would have incurred costs on behalf of the private landowners that may not be recoverable. Given that Landcorp is a state government organisation it would not be appropriate for a public body to absorb costs attributable to a private developer with little prospect of such costs ever being recovered.

In order to facilitate a resolution to the matter a meeting was held on Tuesday 8 February 2011 involving all relevant stakeholders. At that meeting the concerns of Landcorp were acknowledged and it was also accepted that there was a need for the DCP requirement to be retained in a form which could accommodate the time constraints outlined by Landcorp. It was proposed that Condition 33 could be modified to instead require a cost contribution schedule, including the equitable apportionment of costs amongst all landowners, to be submitted to the City. Provision of this information would be the extent of the condition requirements. The effect of the new condition is to ensure the timely provision of information to the City which will facilitate the progression of the DCP, and certainty for Landcorp in terms of the future clearance of the condition. Both the City and Landcorp supported this approach, and have subsequently reached agreement on the final wording of the replacement condition and advice note as below.

Condition 33

*"The subdivider is to prepare and submit to the City of Belmont a cost contribution schedule for the equitable apportionment of costs for the provision of common services and infrastructure associated with the development of The Springs to the satisfaction of the City of Belmont. (Local Government)"*

Revised Advice Note No. 13

*"With regard to Condition 33 the cost contribution schedule will assist the City of Belmont in the preparation of the Developer Contribution Plan to be included within Amendment No. 53 to Town Planning Scheme No. 14 for the area defined as The Springs within The Springs Local Structure Plan."*

It is considered that the modified condition addresses the outstanding cost information component of the DCP, and gives adequate certainty to Landcorp. Accordingly, it is recommended that Condition 33 and Advice Note 13 be replaced with the above wording.

**CONCLUSION**

Accordingly it is recommended that the WAPC resolve that:

1. Condition 14 be retained.
2. The final dot point of Advice Note 16 be modified;
3. Condition 23 be deleted;
4. Condition 27 be modified; and
5. Condition 33 and related Advice Note 13 be deleted and replaced with a revised condition and advice note.



Your Ref :  
Enquiries : Robert Cull (Ph 9264 7676)

Hassell Pty Ltd  
152-158 St Georges Terrace  
PERTH WA 6000

### Approval Subject To Condition(s) Freehold (Green Title) Subdivision

Application No : 135544

#### *Planning and Development Act 2005*

Applicant	:	Hassell Pty Ltd 152-158 St Georges Terrace PERTH WA 6000
Owner	:	Commissioner Of Main Roads Waterloo Crescent EAST PERTH WA 6004, Western Australian Land Authority Level 3, 40 The Esplanade PERTH WA 6000
Application Receipt	:	20 July 2007

Lot number	:	1, 1, 2, 2, 3, 51, 52, 86-89, 94, 100, Part 101, 102, 103, 111-118, 123-126, 125, 129, 133, 136, 137, 201-210, 301, 302 & 3000
Location	:	-
Diagram/Plan	:	Diagrams 30354, 10077, Strata Plan 14386, Plans 20954, 1638, 12726, 20953 Deposited Plans 41842, 41843, 41845, 30675
C/T Volume/Folio	:	1288/339,1288/340,1755/92,1752/292,2611/656,2219/131, 1583/329,1583/330,1264/812,2646/871,1583/327,2146/415, 2146/416,1080/230,1732/484,1315/758,1046/850,1728/377, 1617/190,1617/191,1521/970,1164/466,1264/425,1503/88, 2219/102,100/115A,1728/378,1827/88,1260/350,1282/355, 2227/387-2227/396,2219/149,2219/153,2611/655,1563/961
Street Address	:	Hawksburn Road, Great Eastern Highway, Rowe Avenue, Riversdale Road & Graham Farmer Freeway
Local Government	:	City of Belmont





The Western Australian Planning Commission has considered the application referred to and is prepared to endorse a deposited plan in accordance with the plan date-stamped 20 July 2007 once the condition(s) set out have been fulfilled.

This decision is valid for four years from the date of this advice, which includes the lodgement of the deposited plan within this period.

The deposited plan for this approval and all required written advice confirming that the requirement(s) outlined in the condition(s) have been fulfilled must be submitted by 14 July 2014 or this approval no longer will remain valid.

### **Reconsideration - 28 days**

Under section 151(1) of the *Planning and Development Act 2005*, the applicant/owner may, within 28 days from the date of this decision, make a written request to the WAPC to reconsider any condition(s) imposed in its decision. One of the matters to which the WAPC will have regard in reconsideration of its decision is whether there is compelling evidence by way of additional information or justification from the applicant/owner to warrant a reconsideration of the decision. A request for reconsideration is to be submitted to the WAPC on a Form 3A with appropriate fees. An application for reconsideration may be submitted to the WAPC prior to submission of an application for review. Form 3A and a schedule of fees are available on the WAPC website: <http://www.wapc.wa.gov.au>

### **Right to apply for a review - 28 days**

Should the applicant/owner be aggrieved by this decision, there is a right to apply for a review under Part 14 of the *Planning and Development Act 2005*. The application for review must be submitted in accordance with part 2 of the *State Administrative Tribunal Rules 2004* and should be lodged within 28 days of the date of this decision to: the State Administrative Tribunal, 12 St Georges Terrace, Perth, WA 6000. It is recommended that you contact the tribunal for further details: telephone 9219 3111 or go to its website: <http://www.sat.justice.wa.gov.au>

### **Deposited plan**

The deposited plan is to be submitted to the Western Australian Land Information Authority (Landgate) for certification. Once certified, Landgate will forward it to the WAPC. In addition, the applicant/owner is responsible for submission of a Form 1C with appropriate fees to the WAPC requesting endorsement of the deposited plan. A copy of the deposited plan with confirmation of submission to Landgate is to be submitted with all required written advice confirming compliance with any condition(s) from the nominated agency/authority or local government. Form 1C and a schedule of fees are available on the WAPC website: <http://www.wapc.wa.gov.au>

### **Condition(s)**

The WAPC is prepared to endorse a deposited plan in accordance with the plan submitted once the condition(s) set out have been fulfilled.



The condition(s) of this approval are to be fulfilled to the satisfaction of the WAPC.

The condition(s) must be fulfilled before submission of a copy of the deposited plan for endorsement.

The agency/authority or local government noted in brackets at the end of the condition(s) identify the body responsible for providing written advice confirming that the WAPC's requirement(s) outlined in the condition(s) have been fulfilled. The written advice of the agency/authority or local government is to be obtained by the applicant/owner. When the written advice of each identified agency/authority or local government has been obtained, it should be submitted to the WAPC with a Form 1C and appropriate fees and a copy of the deposited plan.

If there is no agency/authority or local government noted in brackets at the end of the condition(s), a written request for confirmation that the requirement(s) outlined in the condition(s) have been fulfilled should be submitted to the WAPC, prior to lodgement of the deposited plan for endorsement.

Prior to the commencement of any site works or the implementation of any condition(s) in any other way, the applicant/owner is to liaise with the nominated agency/authority or local government on the requirement(s) it considers necessary to fulfil the condition(s).

The applicant/owner is to make reasonable enquiry to the nominated agency/authority or local government to obtain confirmation that the requirement(s) of the condition(s) have been fulfilled. This may include the provision of supplementary information. In the event that the nominated agency/authority or local government will not provide its written confirmation following reasonable enquiry, the applicant/owner then may approach the WAPC for confirmation that the condition(s) have been fulfilled.

In approaching the WAPC, the applicant/owner is to provide all necessary information, including proof of reasonable enquiry to the nominated agency/authority or local government.

The condition(s) of this approval, with accompanying advice, are:

#### CONDITION(S)

1. Those lots not fronting an existing road being provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) being constructed and drained at the applicant/owner's cost. As an alternative the WAPC is prepared to accept the applicant/owner paying to the local government the cost of such road works as estimated by the local government subject to the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC. (Local Government)
2. All road reserves are to conform with the SKM report titled Parking Strategy and Traffic Impact Assessment dated 20 November 2008 to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission (Local Government)



3. Street lighting being provided along all subdivisional roads. (Local Government)
4. The subdivider providing corner truncations in accordance with Liveable Neighbourhoods to the satisfaction of the Western Australian Planning Commission. (Local Government)
5. Arrangements being made with the local government for the reconstruction and drainage of the existing Rowe Avenue, Hawksburn Road and Riversdale Road. (Local Government)
6. The proposed slip lane access from Great Eastern Highway shall be designed and constructed to the specifications of the City of Belmont and Main Roads Western Australia and the satisfaction of the Western Australian Planning Commission. (Local Government)
7. Cul-de-sacs and on street embayment parking to be designed and constructed to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission (Local Government)
8. The Rowe Avenue/Hawksburn Road intersection being designed and constructed to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission (Local Government)
9. Proposed lot 16 being modified to provide a truncation at the junction of Rowe Avenue and Brighton Road to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission (Local Government)
10. Bicycle parking shall be designed and implemented within all road reserves to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission (Local Government)
11. The dual use path/footpath as shown on the plan prepared by Taylor Burrell Barnett plan titled Proposed Footpath Plan October 2007 (04/101) (copy attached) being constructed by the applicant/owner. (Local Government)
12. The configuration of proposed lot 20 being modified so that direct road frontage to existing Hawksburn Road is provided to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission (Local Government)
13. Pursuant to Section 150 of the Planning and Development Act (as amended), a covenant preventing motor vehicle access onto Graham Farmer Freeway/Great Eastern Highway benefiting Main Roads Western Australia being lodged on the Certificates of Title of the proposed lots 16, 17, 18, 20, 22 and 23.
14. Great Eastern Highway being widened to provide for a proposed dedicated bus lane and left turn slip lane into the land from Great Eastern Highway and the Great Eastern Highway and Brighton Road intersection being upgraded, including any required road widening of Brighton Road to the satisfaction of the Western Australian Planning Commission on advice of Main Roads Western Australia. The land required for these works is to be set aside as separate lots for acquisition and easements for access and services are to be provided over these lots at the cost of the applicant. The



easements are to provide that the benefits of the easements are to be automatically extinguished upon dedication of the road widening lots as public roads. (Main Roads Western Australia)

15. All septic sewer systems including all tanks and pipes and associated drainage systems (soakwells or leach drains) and any stormwater disposal systems are to be decommissioned, removed, filled with clean sand and compacted. (Local Government)
16. All buildings, outbuildings and/or structures being demolished and materials removed from the proposed lots. (Local Government)
17. The applicant/owner is to provide a geotechnical report certifying that the land is physically capable of development prior to the commencement of site works. (Local Government)
18. The land being graded and stabilised. (Local Government)
19. The land being filled and/or drained at the subdivider's cost to the satisfaction of the Western Australian Planning Commission and any easements and/or reserves necessary for the implementation thereof, being granted free of cost. (Local Government)
20. Prior to the commencement of the subdivisional works a construction management plan shall be prepared and approved to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission. (Local Government)
21. The configuration of proposed lots 17 and 18 being modified so that the common boundary is perpendicular to Rowe Avenue.
22. The proposed reserve(s) shown on the approved plan of subdivision being shown on the Deposited Plan as a "Reserve for Recreation" and vested in the Crown under Section 152 of the *Planning and Development Act 2005*, such land to be ceded free of cost and without any payment of compensation by the Crown.
23. Uniform fencing along the boundaries of all of the proposed lots abutting the Great Eastern Highway and/or Public Open Space are to be constructed. (Local Government)
24. The existing drainage facility on lot 89 Rowe Avenue is to be modified to correspond with the ultimate design of the proposed 'Rowe Avenue' public open space as depicted in The Springs Structure Plan to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission (Local Government)
25. An Acid Sulfate Soils Self-Assessment Form and, if required as a result of the self-assessment, an Acid Sulfate Soils Report and an Acid Sulfate Soils Management Plan shall be submitted to and approved by the Department of Environment and Conservation before any site works are commenced. Where an Acid Sulfate Soils Management Plan is required to be submitted, all site works shall be carried out in accordance with the approved management plan. (Department of Environment and Conservation)

26. Prior to commencement of site works, investigation for soil and groundwater contamination is to be carried out to the specifications of the Department of Environment. (Department of Environment and Conservation)
27. All remediation works including validation of remediation are to be completed to the specifications of the Department of Environment and Conservation prior to the commencement of any site works. (Department of Environment and Conservation)
28. Suitable arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to lot(s) shown on the approved plan of subdivision. (Water Corporation)
29. Suitable arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lot/s shown on the approved plan of subdivision. (Water Corporation)
30. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply service to the lot(s) shown on the approved plan of subdivision. (Western Power)
31. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the removal, relocation and/or replacement of electricity supply infrastructure, including plant and equipment, located on or near the lots shown on the approved plan. (Western Power)
32. The transfer of land as a Crown Reserve, free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power)
33. The subdivider is to prepare and a Developer Contribution Plan (DCP) as required under the adopted Structure Plan to the specifications of the City of Belmont. In the event that the DCP cannot be finalised prior to fulfilment of the other conditions of subdivision approval, alternative arrangements can be made for the subdivider to enter into an agreement with the City of Belmont setting out a timetable for completion of the DCP and incorporating appropriate provisions to ensure payment of an appropriate contribution to common services and infrastructure. (Local Government)

#### ADVICE

1. The approval to subdivide issued by the WAPC should not be construed as an approval to commence development on any of the lots proposed. Approval to Commence Development may be required to be issued by the local government.
2. The City of Belmont advise the subdivider that in relation to road construction, streetscape and landscaping works an implementation plan is to be prepared and approved by the City. The subdivider is to liaise with the City for the City's requirements in respect to the implementation plan.



3. With regard to Conditions 15 and 17, the City of Belmont advise that it requires certification from a geotechnical engineer that all septic tanks, soakwells or leach drains and any associated pipework have been decommissioned and removed from the site.
4. Prior to the commencement of road construction or drainage works the subdivider is to prepare and submit detailed engineering design drawings to the City of Belmont and obtain approval.
5. With regard to Condition 23, prior to the commencement of works the subdivider is to provide details of the proposed uniform fencing to the City of Belmont and obtain approval.
6. The Department of Environment and Conservation advise that in accordance with regulation 31(1)(c) of the Contaminated Sites Regulations 2006, a Mandatory Auditor's Report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Environment and Conservation as evidence of compliance with conditions 26 and 27. A current list of accredited auditors is available from the Department of Environment and Conservation web site.
7. The acid sulfate soils condition above makes reference to an "Acid Sulfate Soils Self-Assessment Form". This form can be downloaded from the Western Australian Planning Commission's website at:

[www.wapc.wa.gov.au/Applications/Subdivision+and+application/default.aspx](http://www.wapc.wa.gov.au/Applications/Subdivision+and+application/default.aspx)

The "Acid Sulfate Soils Self-Assessment Form" makes reference to the Department of Environment and Conservation's "Identification and Investigation of Acid Sulfate Soils" guideline. This guideline can be downloaded from the Department of Environment and Conservation's website at:

[www.dec.wa.gov.au/management-and-protection/acid-sulfate-soils/guidelines.html](http://www.dec.wa.gov.au/management-and-protection/acid-sulfate-soils/guidelines.html)

8. In relation to Conditions 28 and 29, Water Corporation policy and practice for the locality may involve the provision of land (for plant and works), easements and/or the payment of financial contributions towards infrastructure. You are advised to contact the Water Corporation.
9. In relation to Condition 30, Western Power provides only one point of electricity supply per freehold (green title) lot and requires that any existing overhead consumer service is required to be converted to underground.
10. If an existing aerial electricity cable servicing the land the subject of this approval crosses over a proposed lot boundary as denoted on the approved plan of subdivision, satisfactory arrangements will need to be made for the removal and relocation of that cable.

11. In relation to Condition 32, the specific location and area of land required is to be to the satisfaction of the WAPC on the advice of the local government and Western Power.
12. Main Roads Western Australia advise the applicant that future subdivision and development of the proposed lots will be required to comply with the requirements of the WAPC's SPP 5.4 *Road and Rail Transport Noise and Freight Considerations in Land Use Planning*, including the preparation and implementation of a noise study in accordance with the SPP and associated guidelines. The noise study may recommend that future noise sensitive development in the vicinity of the Primary regional road reservation incorporate noise mitigation measures to achieve acceptable noise levels, and that a notification be placed on the certificate of title of lots advising of the potential for noise impact.
13. With regard to Condition 33, the City of Belmont advise that if the Cost Contribution Plan cannot be finalised prior to compliance with other conditions, this condition can be fulfilled by the applicant entering into a n agreement with the City setting out an agreed timetable for the submission of a cost contribution plan, and incorporating security acceptable to the City for payment of an appropriate contribution to common services and community infrastructure.
14. The applicant/owner is advised to brief all persons involved in site works and associated activities of their legal obligations with respect to the Aboriginal Heritage Act of WA (1972) prior to construction work.
15. With regard to Condition 33, the DCP is to be prepared in accordance with the WAPC's State Planning Policy 3.6 and incorporate details of the draft DCP adopted by the City of Belmont Council at its meeting 18 November 2008.
16. The applicant is advised that Condition 14 has been imposed in the absence of agreed detailed design and land requirement plans being finalised. With respect to the design and land requirement plans the following advice is provided:
  - \* The dedicated bus lane between Graham Farmer Freeway and Brighton Road is to have a 3 metre offset (verge) from the outside kerb of the bus lane;
  - \* The design and construction of the left turn slip lane is to be consistent with the concept plan prepared by SKM;
  - \* With regard to the operation of the Brighton Road intersection, Main Roads Western Australia acknowledges that the current proposal for the roundabout is acceptable;
  - \* Main Roads Western Australia considers that the Brighton Road approach to the Great Eastern Highway traffic signals should include provision for two right turn lanes and one shared through/right lane. The applicant should liaise with Main Roads Western Australia regarding this matter; and

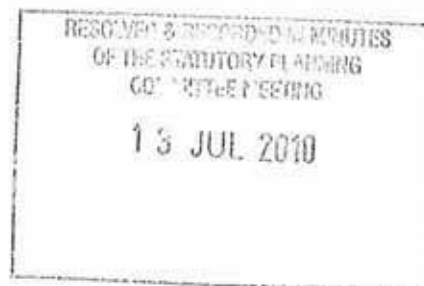




- \* Main Roads Western Australia advises that a revised land requirement plan is currently being prepared by consultants BG & E Consulting Engineers and once finalised this will be provided to the applicant.

A handwritten signature in dark ink, appearing to read "Tony Evans".

Tony Evans  
Secretary  
Western Australian Planning Commission  
14 July 2010



DEPARTMENT FOR PLANNING AND INFRASTRUCTURE  
FILE  
DATE



- NOTES
1. DO NOT SCALE DIMENSIONS. MEASURE BACKSIGHTS.
  2. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.
  3. ALL DIMENSIONS SHALL BE MEASURED TO THE CENTRE OF THE ROAD OR TO THE CENTRE OF THE LOT.
  4. THE DIMENSIONS MAY BE USED IN CONNECTION WITH THE PROPOSED SUBDIVISION.

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1. FOR INFORMATION ONLY. THE INFORMATION IS NOT TO BE USED FOR ANY PURPOSE.

2. FUTURE ROAD RESERVES SUBJECT TO ADDITIONAL LAND ACQUISITION.

REVISION

NO.	DESCRIPTION	DATE
1	FOR LOUPEMENT	15.06.07

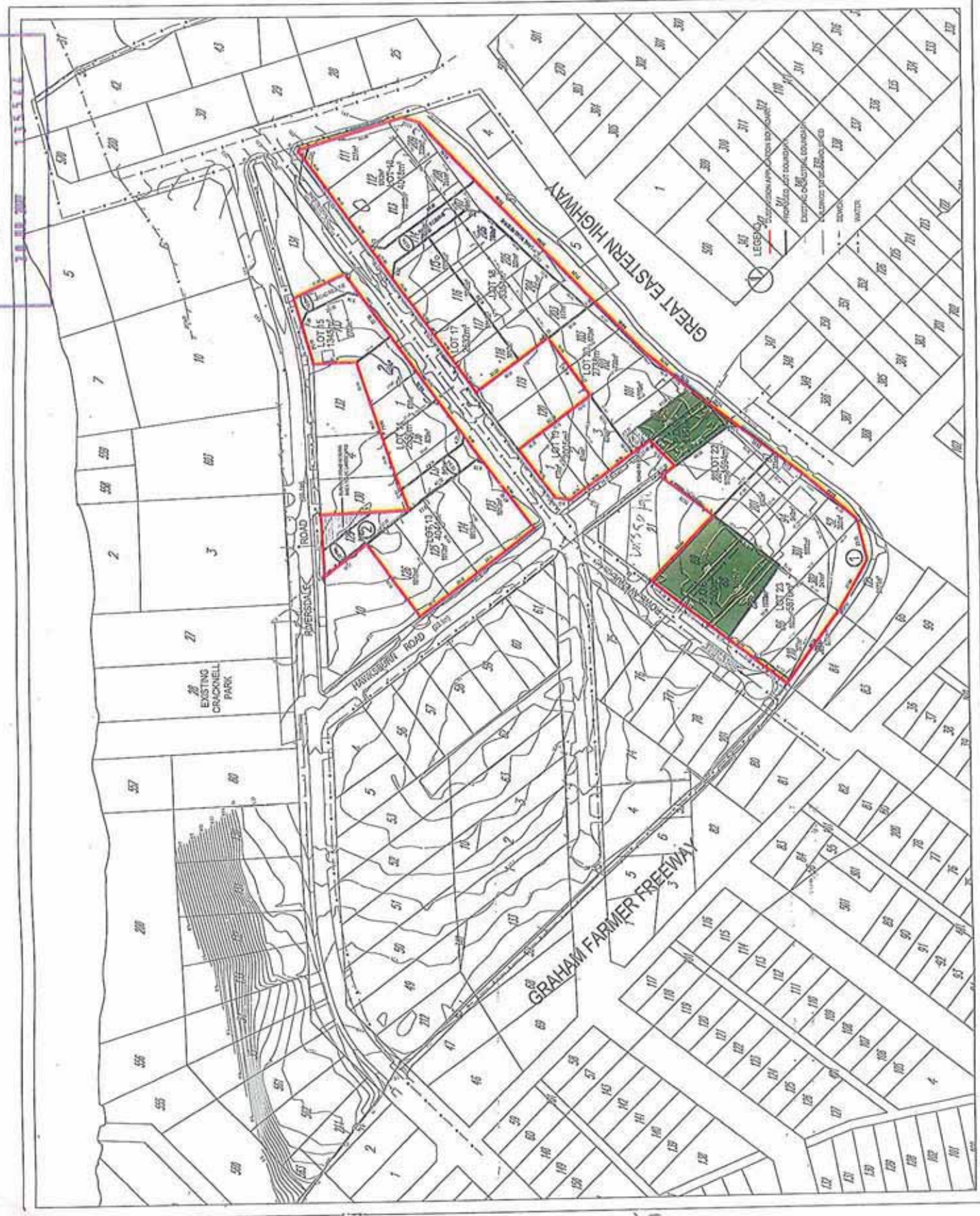
**HASSELL**

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**THE SPRINGS REDEVELOPMENT**  
RIVERVALE, CNR GT EASTERN HWY /  
GRAHAM FARMER HWY  
CLIENT: LANDCORP

**PROPOSED SUBDIVISION PLAN**  
STAGE 1

SCALE: AS SHOWN	1:2000	DATE	15.06.07
BY	15.06.07	CHECKED	15.06.07
DATE	15.06.07	DATE	15.06.07
DATE	15.06.07	DATE	15.06.07





Our Ref: 04/101 PF:ct

11 August 2010

WA Planning Commission (WAPC)  
Albert Facey House  
469-489 Wellington Street  
PERTH WA 6000

187 Roberts Road Subiaco PO Box 8186 Subiaco East Western Australia 6008

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DEPARTMENT OF PLANNING

13 AUG 2010

FILE 135544

Toddville Prospecting Pty Ltd ABN 74 831 437 925

Dear Sir

**RECONSIDERATION REQUEST – APPROVED PLAN OF SUBDIVISION, STAGE 1 THE SPRINGS REDEVELOPMENT (WAPC REF. 135544)**

We write further to the Western Australian Planning Commission's approval of Application No. 13544. On behalf of our client, LandCorp, we seek the Commission's reconsideration of a number of conditions imposed on the approval.

The associated Form 3A is attached, along with a cheque for \$990, being the required fee. The conditions for which reconsideration is sought are outlined below, with information supporting our request.

**CONDITION 14**

*Great Eastern Highway being widened to provide for a dedicated bus lane and left-turn slip lane into the land from Great Eastern Highway and the Great Eastern Highway and Brighton Road intersection being upgraded, including any required road widening of Brighton Road, to the satisfaction of the WAPC on advice of MRWA. The land required for these works is to be set aside as separate lots for acquisition and easements for access and services are to be provided over these lots at the cost of the applicant. The easements are to provide that the benefits of the easements are to be automatically extinguished upon dedication of the road widening lots as public roads.*

Associated advice note no. 16 on the approval includes the following:

*Main Roads Western Australia advises that a revised land requirement plan is currently being prepared by consultants BG&E Consulting Engineers and once finalised this will be provided by the applicant.*

The connection between Condition 14 and Advice Note 16 indicates that the BG&E plan will need to be taken into account in clearing the condition.

This is an unreasonable degree of uncertainty for the land owner in accepting this condition as the BG&E Plan is under development, has not been seen by the landowner and has had no input from the landowner. In addition, the BG&E Plan may be at odds with the SKM Plan that advice note no. 16 also requires compliance with (refer attached).

Given the uncertainty associated with the compliance of this condition, we request reconsideration of Condition 14 until such time as the BG&E Plan has been prepared and reviewed by Landcorp, and deemed to be satisfactory.



#### CONDITION 23

*Uniform fencing on the boundaries of all of the proposed lots abutting the Great Eastern Highway and/or public open space are to be constructed.*

We request the deletion of this condition.

Uniform fencing will not be the responsibility of LandCorp.

Fencing is to be provided by future developers in accordance with the Design Guidelines. The Design Guidelines provide sufficient surety as to the type and standard of fencing to be provided.

The provision of uniform fencing at an earlier stage will have no benefit prior to build out stage during which phase any fencing will almost certainly be damaged.

#### CONDITION 27

*All remediation works including validation of remediation are to be completed to the specifications of the Department of Environment and Conservation prior to the commencement of any siteworks.*

Advice note no. 26 confirms that remediation of the site and validation thereof is to occur prior to siteworks.

We request the modification of this condition to reflect the following wording:

*"Remediation including validation of remediation to be completed prior to the issuing of titles to the satisfaction of the Western Australian Planning Commission on advice from DEC to ensure that the lots are suitable for the proposed use."*

This condition has been applied to previous LandCorp projects and is a better outcome than the condition that was applied as it provides for a greater degree of flexibility from a clearance perspective. For instance it would allow for the prospect of site remediation and works to occur simultaneously (if feasible). The proposed condition retains certainty for the DEC and the Commission that the remediation will take place before the disposal of lots.

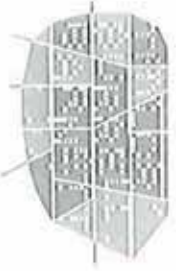
An accompanying advice note as follows would provide greater information on how to satisfy the requirements of the conditions.

In accordance with regulation 31(1)(c) if the Contaminated Sites Regulations 2006, a Mandatory Auditor's Report, prepared by an accredited contaminated sites auditor will need to be submitted to the Department of Environment as evidence of compliance with Condition 27. A current list of accredited auditors is available from [www.dec.wa.gov.au/polution-prevention/contaminated-sites/auditors.html](http://www.dec.wa.gov.au/polution-prevention/contaminated-sites/auditors.html).

We therefore request the substitution of the wording above for the existing Condition 27 wording.

#### CONDITION 33

*The subdivider is to prepare a Developer Contribution Plan (DCP) as required under the adopted Structure Plan to the specifications of the City of Belmont. In the event that the DCP can not be finalised prior to fulfilment of the other conditions of subdivision approval, alternative arrangements can be made for the subdivider to enter into an agreement with the City of Belmont setting out a timetable for completion of the DCP and incorporating appropriate provisions to ensure payment of an appropriate contribution to common services and infrastructure.*



Landcorp has expended substantial resources regarding the formulation of Developer Contributions (notwithstanding it will underwrite the whole development). Matters were progressed by the City in 2008 and an item was put to Council. It is considered that the onus is now on the City to finalise Amendment 53 and the Developer Contributions and this should no longer be the responsibility of Landcorp. Condition 33 imposes significant risk on LandCorp as a landowner given the ultimate content and commitments of the DCS are yet to be finalised. In any case it is inappropriate for a developer to be compelled to undertake its own DCS – particularly when the process of advertising, responses to submissions and final modifications/approvals are out of the land owners control.

It should be noted that whilst we see the onus as being on the City for the preparation and progression of the DCP, LandCorp is working with the City in relation to the ultimate quantum of developer contributions.

On this basis we respectfully request that this condition is deleted as compliance with the DCP will be a requirement of the Scheme.

#### CONCLUSION

We trust that the information contained in this letter is sufficient to enable the modification of the Western Australian Planning Commission's approval to Application No. 135544 in the manner requested. Please note that the applicant wishes to commence subdivisional works in the near future, based on the current approval. Commencement of the subdivisional works is not an acceptance of the conditions the subject of the request for reconsideration. The Commission's acknowledgement is respectfully requested.

We would be pleased to meet with you to discuss our reconsideration request in further detail. In the interim, please do not hesitate to contact Peter Fitzgerald or the undersigned should you have any queries or require any further information.

Yours faithfully  
TAYLOR BURRELL BARNETT

KAREN WRIGHT  
SENIOR ASSOCIATE





## ITEM NO: 9.4

### MODIFICATIONS TO THE 'INNER MANDURAH PRECINCT PLAN', CITY OF MANDURAH

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	PLANNING MANAGER (PEEL)
AUTHORISING OFFICER:	PLANNING DIRECTOR (PEEL)
AGENDA PART:	G
FILE NO:	SPN//0229/1
DATE:	3 February, 2011
ATTACHMENT(S):	<b>Attachment 1</b> - Location Plan <b>Attachment 2</b> - WAPC endorsed IMPP <b>Attachment 3</b> –Revised version of IMPP <b>Attachment 4</b> - Modifications in detail <b>Attachment 5</b> – Schedule of Submissions
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Mandurah
LOCAL SCHEME ZONING:	Precinct Development
LGA RECOMMENDATION:	Approval
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	9 November 2010
PROCESS DAYS:	111 (as at 28 February 2011)
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Nil

#### RECOMMENDATION:

*That the Western Australian Planning Commission resolves to:*

- 1. endorse the modifications to the Inner Mandurah Precinct Plan subject to the following modifications:**
  - 1.1 Section 1.1 - replace the words 'Mandurah City Centre' with 'Inner Mandurah Precinct Area';**
  - 1.2 Reinsert text omitted from Section 2.2 ('City Centre' guidelines);**
  - 1.3 Section 2.3.2 - replace 'Section 7.2' with 'Part 7' of the R-Codes;**

- 1.4** *Update Figure 3 to reflect indicative 1.7 metre widening on the northern side of Pinjarra Road;*
- 1.5** *Section 2.3.3 Table 1 reinsert 'Shop' and associated use permissibility in the land use table;*
- 1.6** *Section 2.5.2 and Figure 1 - change 'Mixed Business/Service Commercial to' 'Service Commercial';*
- 1.7** *Section 2.6.2 include 'Aged Person's Home' as an 'IP' use in table 2.*

**2.** *advise the City of Mandurah of its decision accordingly.*

#### **SUMMARY:**

The key points relating to this report are as follows:

- *The City of Mandurah requests the Western Australian Planning Commission's (WAPC) approval for modifications to the Inner Mandurah Precinct Plan (IMPP).*
- *The endorsed IMPP comprises approximately 177 hectares of developed urban land in Mandurah between the City Centre and Mandurah Bypass (**Attachment 1** - Location Plan, **Attachment 2** – Endorsed IMPP).*
- *The proposed modifications provide for limited areas of increased density and additional mixed-use development. A variation to the precinct's southern boundary is proposed, along with some textual and formatting changes (**Attachment 3** – Revised version of IMPP, and **Attachment 4** - Modifications in Detail).*
- *Six submissions were received during the advertising period, generally relating to zoning, residential density, amenity and traffic impacts.*
- *It is recommended that the advertised modifications to the IMPP be endorsed by the WAPC subject to some further refinements.*

#### **BACKGROUND:**

In June 2002, the WAPC endorsed the Mandurah Inner Area Strategic Plan (MIASP), to guide future development of land between the Estuary and Mandurah Bypass.

In August 2005, the WAPC endorsed the Davey-Lanyon Precinct Outline Development Plan (ODP) for land bound by Pinjarra, Anstruther, Davey and Lanyon Roads. The ODP provides for medium density residential and service commercial development opportunities, and extension of the local road network consistent with the MIASP.



In September 2009 the WAPC endorsed the IMPP, providing the basis for re-development of land between the City Centre and Mandurah Forum Shopping Centre through changes to residential density, zoning and the introduction of design guidelines.

Amendment 58 to the City of Mandurah's Town Planning Scheme 3 (TPS3) was granted final approval in October 2009. The Amendment rezoned land subject of the IMPP from various residential and commercial zones to 'Precinct Development' zone, providing the statutory basis for implementation of the IMPP.

The proposed modifications to the IMPP stem from submissions received during advertising of the draft plan in 2008, generally requesting increased density and development opportunities for specific sites. At that time, Council resolved to review such requests at a later date, to allow re-development opportunities in the interim in accordance with a WAPC endorsed plan.

#### **KEY ELEMENTS OF PLAN:**

The WAPC endorsed IMPP comprises three zones, and includes detailed design guidelines and development standards. The zones within the precinct plan include City Centre R60, Mixed Use/Residential R60 and Residential R60.

The following modifications to the IMPP are proposed:

- (a) a 'Residential R60' area along Davey and Lanyon Streets is being changed to 'Mixed Use/Residential R60, enhancing the east-west commercial function of Pinjarra Road and providing additional commercial and mixed-use opportunities;
- (b) three lots at the intersection of Cox/Allnutt and Anstruther Roads are being changed from 'Residential R60' to 'Mixed Use/Residential R100' to create a consolidated node of density around a proposed pocket park;
- (c) the IMPP's southern boundary is being expanded to include land subject of the Davey Lanyon ODP, in order to rationalise the extent of planning controls applicable to the area. Inclusion of the ODP results in the introduction of two new zones in the IMPP, being 'Mixed Business/Service Commercial' and 'Church/Community Purpose'; and
- (d) minor formatting and textual changes, including land-use controls and development requirements for the new zones within the expanded precinct plan area.

## PLANNING CONTEXT:

The IMPP area is zoned 'Precinct Development' in TPS3. The Precinct Development zone provides for preparation and implementation of precinct plans addressing, inter alia, permissibility of land uses, subdivision and development standards, and infrastructure requirements.

## SUBMISSIONS AND CONSULTATION:

The proposed modifications were advertised for public comment during July and August 2010, with six submissions received. The issues raised are presented at **Attachment 5**, together with Council's and DoP's comments.

## DISCUSSION:

### Modification 1

The mixed use zone proposed along Davey and Lanyon Streets is supported as it is consistent with the MIASP, strengthening the east-west link between the City Centre and Mandurah Forum Shopping Centre, and providing for increased local employment opportunities. The primary difference between the current 'Residential R60' zone and the proposed 'Mixed Use/Residential R60' zone relates to land use permissibility, with the latter providing greater scope for commercial development. Also, R60 Mixed Use sites may be developed solely for residential purposes, providing for greater flexibility.

### Modification 2

The 'Mixed Use/Residential R100' site proposed at the Allnutt/Cox/Anstruther Road intersection is not identified in the MIASP, but this is considered a minor departure involving only three lots. Whilst commercial development is unlikely to occur in the short term, Council sees merit in identifying the opportunity for a future consolidated node of density around an upgraded pocket park. Council's position is supported, based on the limited spatial extent of the modification and unique road configuration at this location.

### Modification 3

The expansion of the southern portion of the IMPP to include land subject of the Davey Lanyon ODP is supported. The land use permissibility and development standards for the proposed 'Mixed Business/Service Commercial' and 'Church/Community Purpose' zones west of the Pinjarra/Anstruther Road intersection are consistent with the intent of the Davey Lanyon ODP. The proposed new zoning terminology in the IMPP should be amended to reflect existing zones in TPS3, requiring modification of the 'Mixed Business/Service Commercial' zone to 'Service Commercial'. The City raise no objection to this modification.

Other Matters

Figure 3 of the IMPP should be updated to reflect potential future road widening requirements for the northern side of Pinjarra Road, based on Peel Region Scheme Amendment 011/33 (not yet finalised due to funding considerations).

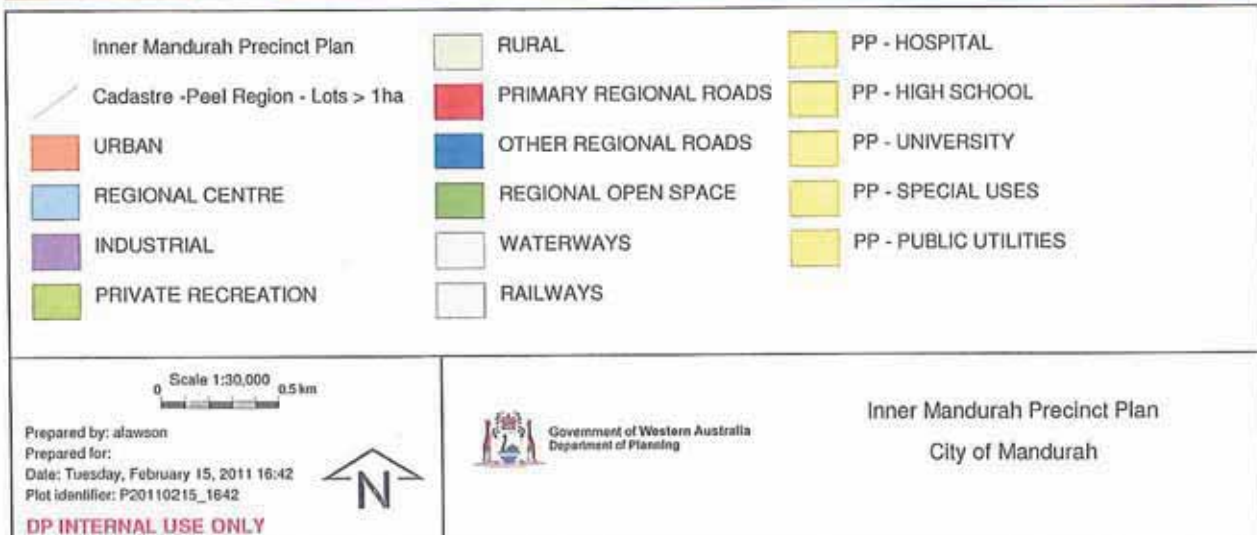
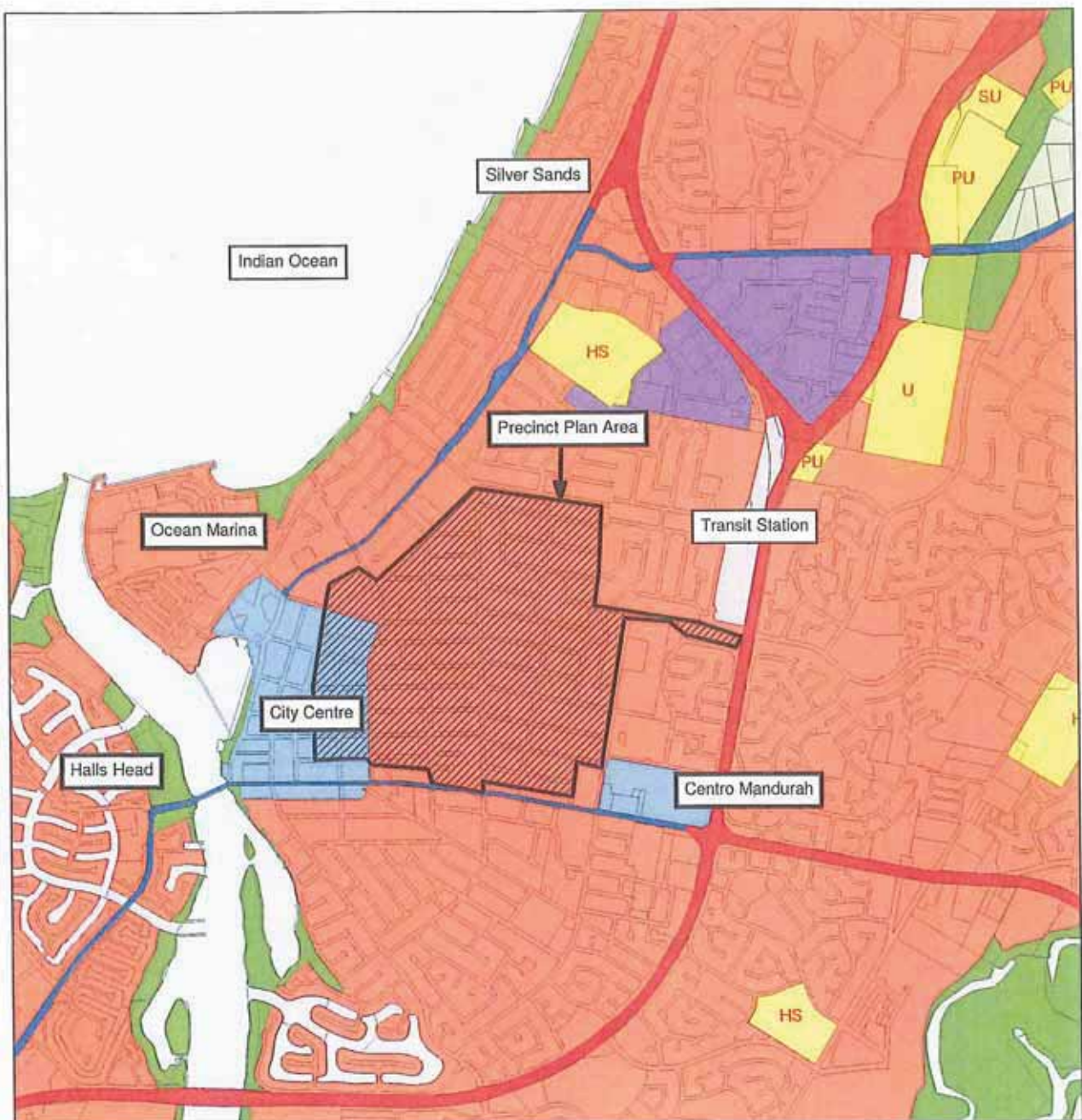
A minor update of the IMPP text is necessary to reference the appropriate multiple dwelling requirements of the revised Residential Design Codes (November 2010).

**MODIFICATIONS:**

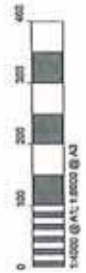
As outlined in the recommendation.

**CONCLUSION:**

It is recommended that the proposed modifications to the IMPP be approved, subject to the additional modifications outlined in the recommendation.

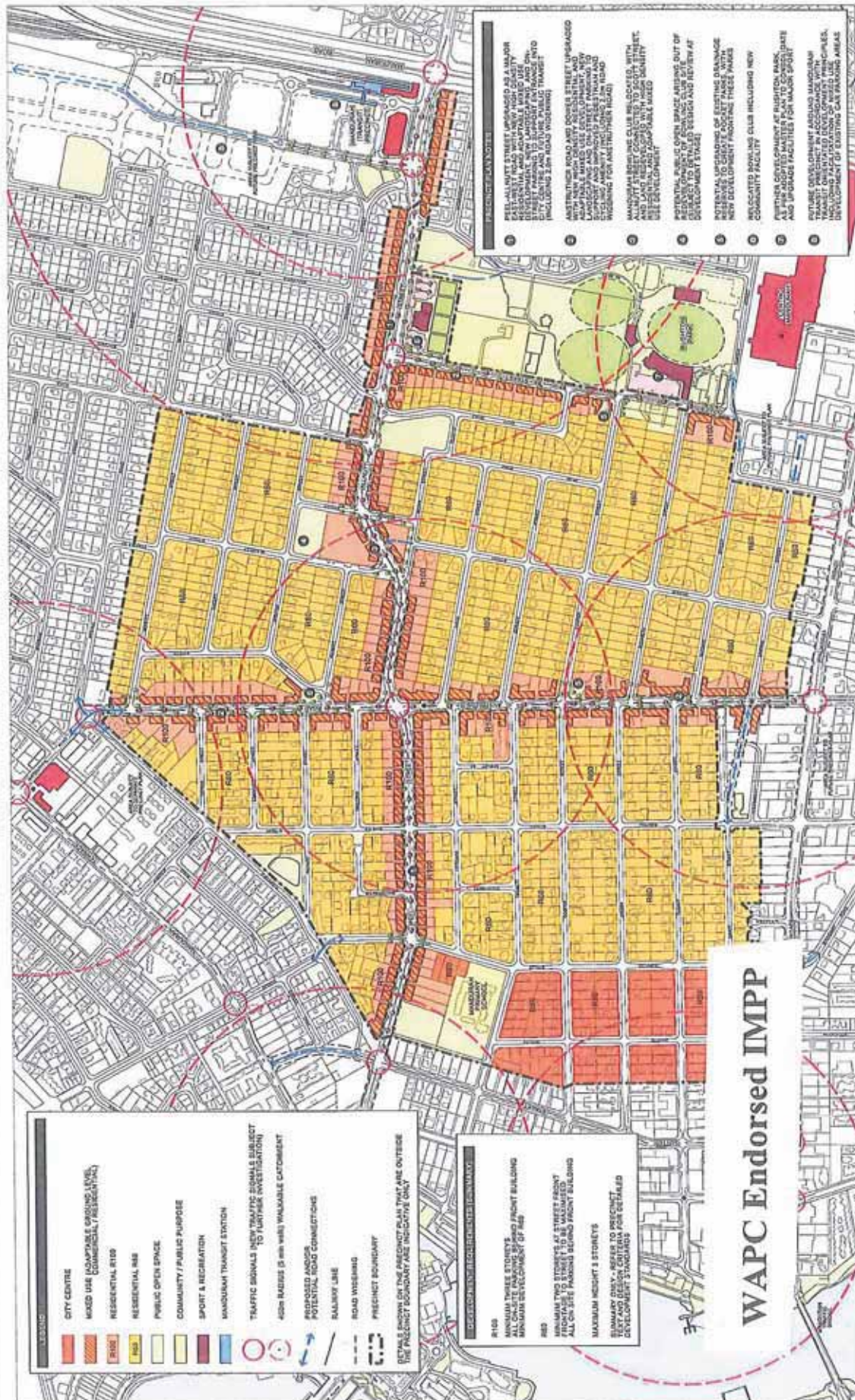






**DATE: 28 SEPTEMBER 2024**  
**PLAN NO: 000070026**

**INNER MANDURAH**  
**PRECINCT PLAN**  
FIGURE 1 INDICATIVE DEVELOPMENT PLAN









# Precinct Plan: Proposed Modification



## Plan Legend

- Mixed Use / Residential R100
- Mixed Use / Residential R60
- Residential R60
- Mixed Business / Service Commercial
- Church / Community Purpose



Precinct Plan Boundary



**Proposed Modification 1 to Inner Mandurah Precinct Plan  
Schedule of Submissions**

Owner / Address	Submission (Summarised comments)	Council Comment	Department of Planning Comment
<p>1. R Clark 32 (Lot 146) Stinton Street And 7 (Lot 107) Lanyon Street</p> <p>Submission relates specifically to Amendments along Davey and Lanyon Streets.</p>	<p>a. I fully support the proposal to change Davey and Lanyon Streets from 'Residential R60' to 'Mixed Use R60'. I believe it will better match the future traffic flows expected in the area. Especially following the realignment of the Davey/Lanyon Street Intersection.</p> <p>b. Although I believe the 'Mixed Use R100' zoning would be more appropriate, I still support your proposal of 'Mixed Use R60'.</p>	<p>a. Noted</p> <p>b. While Davey Street has been identified as being suitable for mixed use development, its role is not likely to achieve the same outcomes as other key connector streets of Anstruther Road and Peel/Allnutt Street. It is not considered appropriate to increase the residential density of these lots from R60 to R100.</p>	<p>a. Noted</p> <p>b. Agree with Council's comments. This aspect can be re-examined in the future if necessary.</p>
<p>2. K Rowe U1/52 (Lot 74) Davey Street</p> <p>Submission relates specifically to Amendments along Davey and Lanyon Streets.</p>	<p>a. Not supportive of the proposed modification of Davey Street from 'Residential R60' to 'Mixed Use R60';</p> <p>b. Concerned that this will increase traffic in the street;</p>	<p>a. Noted</p> <p>b. Davey Street/Lanyon Street is identified in the Mandurah Inner Area Strategic Plan (MIASP) as being a key connector for the southern part of the Precinct area via the creation of a continuous through-road link through to Dower Street. The creation of this link is required to rationalise the connectivity of the roads in that location.</p>	<p>a. The modification is consistent with strategic planning for the area. The MIASP identifies the potential for Davey and Lanyon Streets to support commercial development.</p> <p>b. Agree with Council's comments. There may be some increase in traffic compared with the current low-density residential situation, however any increase is expected to be within the capacity of the local road network and planned modifications thereto.</p>

		<p>c. Concerned with the area having a 'commercial look' to it and wish to retain the area with a 'residential look'.</p> <p>d. Concerned that having commercial properties along Davey Street will result in an increase in cars parking on the road.</p>	<p>c. The proposed modifications do not seek to alter the urban form development standards from those already provided for in the approved Precinct Plan. It is considered that the urban form of Davey Street will reflect surrounding 'Residential R60' development, with the exception that the ground level of any mixed-use or residential development shall be designed to accommodate commercial, office or shop uses over time.</p> <p>d. Noted, however the provision of on-street parking in the Precinct area is already identified as a key design outcome in the existing Precinct Plan. It is considered that removing this provision would be inappropriate.</p>	<p>c. Agree with Council's comments. The guidelines in the IMPP adequately address amenity considerations. Changes to the current low-density residential nature of the area will be inevitable as a result of redevelopment. However, a more sustainable land-use outcome within the precinct is supported</p> <p>d. Agree with Council's comments.</p>
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3.	<p>R J Burges &amp; S J Burges</p> <p>Lot 25 No 26A Anstruther Road</p> <p>Submission relates specifically to Lot 25 Anstruther Road (highlighted on Attachment 3) and the inclusion of the Davey Lanyon Precinct Plan within the IMPP area.</p>	<p>a. The subject site was originally sold as Service Commercial by Land Start. This should stay the same zoning it was sold under.</p> <p>b. From the Lanyon Street extension towards Pinjarra Road, the street block should be zoned as one zoning (Mixed Business/Service Commercial) as this helps with overall parking and site development layout for traffic and pedestrian flows around the sites.</p> <p>c. With 'Mixed Use R100' on the corner of Lanyon and Anstruther only, the Visual impact between the two zonings will make it difficult to make good physical connection between them in regards to design and function.</p> <p>d. It will be difficult to produce a quality building that will comply with the development standards of the precinct plan on a 728m<sup>2</sup> lot.</p>	<p>a. The subject lot has never been zoned Service Commercial and been zoned 'Residential Mixed Use' under the Davey Lanyon Precinct Plan since 2005.</p> <p>b. Noted; It is not uncommon for zonings to change mid-block and it is considered that Lot 25, being similar in configuration to most lots fronting Anstruther Road, should be subject to the same 'Mixed Use R100' provisions as the remainder of the street in order to maintain the built form outcomes of the streetscape.</p> <p>c. Noted; The built form provisions for Lot 25 are consistent with lots directly to the north and east. It is therefore considered that the design and the function of any future development over the site will be consistent with nearby development and be able to successfully interact in regards to visual amenity and function.</p> <p>d. Noted; There are a number of lots similar in size to Lot 25 within the Precinct area which fall within the 'Mixed Use R100' sub-precinct. It is considered that the development standards of the Precinct Plan provide an appropriate framework in which functional and high quality developments can occur on sites of this size.</p>	<p>a. The subject lot was originally zoned Service Commercial under TPS3. As a result of Amendment No 60, gazetted in August 2005, the zoning of Lot 25 and other lots bounded by Davey Street, Pinjarra Road, Randell Street and Anstruther Road was changed to Precinct Development zone.</p> <p>b. Agree with Council's comments. The modifications to the IMPP in respect of site are generally consistent with the intent of the Davey Lanyon ODP.</p> <p>c. Agree with Council's comments.</p> <p>d. Agree with Council's comments.</p>
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4.	<p>M Mezger</p> <p>Lot 107 No 39A Allnutt Street</p> <p>Submission relates specifically to the proposed modifications to lots fronting the intersection of Cox Street, Allnutt Street and Anstruther Road.</p>	<p>a. Introducing 'Mixed Use R100', with minimum three storey development, to these lots will detract from the residential status of the area and potentially devalue my property.</p> <p>b. Been given assurance that development would be confined to Anstruther Road and that the requirement would be for development to cover medical and associated needs. The proposed modifications contradict this information.</p> <p>c. At the present time the junction of Anstruther/Allnutt/Cox is continually used by traffic entering and leaving Cox Street to access Anstruther Road and to access Park Road. To develop the proposed area for mixed use would be involving more traffic directly on to what is a busy intersection.</p>	<p>a. Noted</p> <p>b. Noted</p> <p>c. Noted; Due to the unique configuration of the immediate road network of this junction, traffic is likely to avoid using Cox Street as a thoroughfare.</p>	<p>a. Changes to the current low density residential nature of the area will be inevitable as a result of redevelopment. However, a more sustainable land-use outcome within the precinct is supported. Property values are not a planning consideration.</p> <p>b. The proposed modifications affect only three lots, in close proximity to Anstruther Road. The eventual use of the sites will be determined largely by the market, within the context of the uses permitted by the IMPP, which may include medical related uses similar to those existing on Anstruther Road.</p> <p>c. Further advice from Council indicates measures including recent intersection improvements coupled with the spacing of indicative driveway locations are sufficient to mitigate traffic concerns. This position is supported.</p>
5.	<p>M Baker</p> <p>Lot 91 No 3 Aldgate Street (highlighted on Attachment 3)</p>	<p>a. I find the zoning of my block paradoxical to other similar blocks in the area. Other lots similar in location and configuration are zoned R100 while mine is R60. Request modification to zoning of my property to R100.</p>	<p>a. Modifying of this block from R60 to R100 should form the basis of a possible future modification to the Precinct Plan to evolve from further investigation into potential 'Mixed Use' sites.</p>	<p>a. Agree with Council's comment. An increase in density from R60 to R100 may have some merit. However, such a modification should be advertised for public comment before a decision is made.</p>
6.	<p>Water Corporation</p>	<p>No Comment.</p>		<p>Noted.</p>