

Development Assessment Panels



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, except part three, 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 details on 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').

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.

DELEGATION

- **Mandatory DAP Applications** : An application for development where the estimated cost of development is \$7 million or more, 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** are prescribed under section 171A(2)(ba) of the 2010 Amendment Act, and are applications that must be determined by a DAP if the applicant has chosen the DAP as the relevant decision-maker. The regulations state that an Optional DAP Application is an application with the following characteristics:
 - the value of the development applied for has an estimated cost between \$3 and \$7 million.
 - the development applied for is the construction of a single dwelling, less than ten grouped dwellings or multiple dwellings, carports, patios, outbuildings or associated incidental development; **and**
 - the applicant has elected to have the relevant DAP determine the application.

PROCESS

- The applicant lodges a DAP application with the Shire (with an MRS Form 1), together with the new DAP determination fee. **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. 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 seven days of receipt. The local government also remits the DAP fee to the Department within 30 days.
- The responsible authority 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.
- The responsible authority prepares a report containing its recommendations on how the DAP application should be determined.
- The DAP Secretariat, comprising officers of the Department, organises the DAP meeting where that application will be determined.
- At least 5 days before a DAP meeting the Department puts the agenda for the meeting on the DAP website, along with details of the time, date and location of the meeting. It also provides this information to the applicant and relevant local government.
- The DAP conducts a public meeting (r.40) to determine the application(s). Any determination made by a DAP will be taken to be a determination made by the responsible authority.
- The Department sends notification of the decision made by the DAP to the applicant in accordance with the relevant planning instrument and also gives a copy to the responsible authority.
- 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. A minor amendment application is made by submitting the prescribed form to the relevant local government with the prescribed minor fee.
- If an applicant is dissatisfied with a decision of either a DAP application or minor amendment application, he or she can seek a review from the State Administrative Tribunal. In any such review, the application will be defended by the DAP.

For further information, please contact the WA Planning Commission on 9264 7777 or visit www.daps.planning.wa.gov.au