



Government of **Western Australia**  
Department of **Planning**

# Implementing Development Assessment Panels in Western Australia

Policy Statement

April 2010

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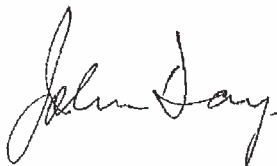
## Minister's foreword

As part of our commitment to improve and streamline the planning approvals process, the Liberal-National Government has introduced the Approvals and Related Reforms (No. 4) (Planning) Bill 2009 which, among other planning reforms, contains the heads of power required to introduce development assessment panels in Western Australia. The Department of Planning released a discussion paper *Implementing Development Assessment Panels in Western Australia* on 10 September 2009, which set out the proposed policy direction regarding the operation of these panels.

Development assessment panels are being introduced for the benefit of the community, and as a direct response to the National Development Assessment Forum's leading practice model. They will be independent decision-making bodies made up of a mix of elected local government members and independent professionals. This will ensure that decisions on development applications will benefit from the best of two very important pools of knowledge - the local member with their knowledge of the local community and detailed history of the local areas, as well as the independent technical expert with their technical knowledge and professional experience.

This policy statement addresses the six key issues raised in submissions regarding the discussion paper, and provides the government's response to these issues. A more comprehensive report on submissions will be released at a later date.

The policy statement will be used to draft regulations under the Approvals and Related Reforms (No. 4) (Planning) Bill 2009 to enable the establishment and operation of development assessment panels.



**John Day MLA**  
**Minister for Planning**



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## 1 Introduction

This policy statement outlines the key policy direction for development assessment panels in Western Australia. The statement takes into consideration issues raised in submissions received on the discussion paper, *Implementing Development Assessment Panels in Western Australia* and the government's objectives for introducing development assessment panels. The refined model will provide the basis for the drafting of the new Planning and Development (Development Assessment Panels) Regulations 2010.

The discussion paper *Implementing Development Assessment Panels in Western Australia* was released for public comment on 10 September 2009. A total of 177 submissions were received on the discussion paper. A separate report detailing the analysis of submissions received on the discussion paper will be released by the Department to expand on this policy statement.

### 1.1 Key issues

The submissions received focused on a number of key areas of the development assessment panel model proposed for Western Australia. These key issues include:

- Financial thresholds and class categories to determine which applications will be determined by a development assessment panel.
- Panel composition and balance between local government elected members and technical specialist members.
- Appointment of proxies for panel members.
- Sitting fees.
- Development assessment panel application fee.
- Appeals process for decisions made by a development assessment panel.

The following section of this policy statement addresses the key issues and resultant amendments made to the model proposed in the discussion paper.

## 2 Development assessment panel financial thresholds and class categories

### 2.0.1 Financial thresholds

The discussion paper proposed that development assessment panels would determine applications of a prescribed class with a total development value of  $\geq \$2$  million in the metropolitan area and  $\geq \$1$  million in non-metropolitan areas. In addition it was proposed that non-metropolitan local governments could choose to delegate all of their development applications, regardless of value or class, to the relevant development assessment panel on a voluntary basis. This flexibility was provided to assist regional local governments with limited resource capabilities.

Ninety eight respondents made specific comments regarding the financial threshold proposed. Of these respondents

- Eighty three argued that the financial threshold proposed were too low to capture the significant applications the panels were intended for.
- Local governments advised that current delegations to officers are set above the proposed class categories and financial thresholds, and so development assessment panels would be determining applications currently determined by planning officers.
- The majority of respondents who suggested a new financial threshold considered  $\geq \$10$  million to be appropriate. Equal numbers of respondents considered  $\geq \$5$  million and  $\geq \$15$  million as the second most appropriate thresholds.
- Two respondents considered the financial threshold as too high and five considered the thresholds proposed appropriate.

Twenty one respondents specifically advocated the voluntary referral of applications to a development assessment panel for determination. Of these respondents:

- Fourteen advocated that the mandatory threshold be removed and applications be determined by a DAP on a voluntary basis only.
- Seven respondents considered it appropriate to have both mandatory thresholds and an optional referral process operating simultaneously.

### Mandatory thresholds

Given the level of feedback regarding this element the Department of Planning investigated scenarios across a range of financial thresholds. The financial threshold prescribing which applications must be determined by a development assessment panel have been modified to **≥\$15 million for the City of Perth and ≥\$7 million for all other local governments across the state.**

These monetary values are considered a reasonable compromise between the financial thresholds proposed in the discussion paper and by respondents and the most appropriate for focusing the panels on significant and complex applications.

### Optional thresholds

Under the new development assessment panel model, applicants will have the ability to choose which decision maker shall determine an application that is not of the mandatory financial threshold and prescribed class category discussed above. This amendment to the model has been put forward to acknowledge that some applications with a lower development value are complex and may raise issues of particular state, regional or local significance that are appropriate for consideration by a development assessment panel.

This process will apply to the following types of development applications:

- For applications lodged in Western Australia (excluding the City of Perth), where the development proposed is of a value of between \$3 million and <\$7 million (and not one of the exempt categories of development).
- For applications lodged in the City of Perth where the development proposed is of a value of between \$10 million and <\$15 million (and not one of the exempt categories of development).

In addition the ability for local governments to choose to delegate all their development applications to a development assessment panel will be available to all local governments in the state.

### 2.0.2 Class categories

The discussion paper prescribed a set of class categories to determine which applications above the appropriate financial threshold should be determined by a development assessment panel.

Fifty nine respondents commented on the class categories proposed. The majority of respondents believed the class criteria would:

- Capture applications that are not complex or significant enough to warrant determination by a development assessment panel, and
- Complicate the process of identifying which applications are to be determined by a development assessment panel.

The class categories have been amended to focus on applications that are exempt from development assessment panel determinations only. This provides a more concise and simplistic process for determining which applications will be subject to a development assessment panel. The refined exempt list of developments is as follows:

- applications for approval for the purpose of one or more single houses;
- applications for approval for ten or less grouped or multiple dwellings, including aged and dependant persons dwellings;
- minor applications such as carports, sheds, house extensions, outbuildings.



## 2.1 Panel composition

The development assessment panels proposed in the discussion paper consisted of:

- the chairperson (a specialist member);
- two other specialist members; and
- two local government representatives from the relevant local government.

Eighty six respondents commented on panel composition. Of these:

- The majority of respondents requested that local government elected members either equal or outnumber specialist members on the panels.
- Several respondents suggested the introduction of larger panels to generate greater discussion on and increase technical input to the decision-making process.

It is not proposed to amend the panel composition from that detailed in the discussion paper, as the emphasis on technical expertise is considered to be a key element of the model. Panels will consist of equal numbers of local government elected members and technical specialists, plus an independent chair who is also a technical specialist. As outlined in the discussion paper a quorum will consist of the chair or deputy chair, one local government elected member and one specialist member.

## 2.2 Panel proxies

The two main options put forward in the questions and answers section of the discussion paper in regard to proxies were the appointment of proxies to individual panels or the establishment of a pool of proxies. The first option advocated that specialist member proxies and local government proxies (for each local government) be appointed to individual panels. The second option proposed the creation of a centralised pool of proxy panel members for different panels to draw from.

Fifty one respondents commented on the appointment of proxies. Of these:

- Thirteen respondents, nine of which were local governments, supported the appointment of proxies to individual panels.

- Thirty three respondents, thirteen of which were made by local governments, supported the centralised pool option.

The refined model will require one local government proxy from each local government to be appointed to each development assessment panel in addition to the two permanent LG members on the panel. In the metropolitan area three specialist member proxies will be appointed by the Minister to a centralised pool from which all metropolitan development assessment panels can draw replacement panel members. Given concerns raised regarding travel distances of regional panel members, one specialist member proxy will be appointed by the Minister for each non-metropolitan panel. Proxies will only be used when there is failure to reach a quorum. This will ensure the complexity and disruption of bringing proxies on and off the panel in joint development assessment panel meetings is minimised.

## 2.3 Sitting fees

In the discussion paper it was proposed that specialist members be paid a sessional sitting fee by the relevant local government. These fees were to be comparable to the fees paid to members of WAPC committees. On this basis, it was proposed that the sessional fee paid to panellists in Western Australia would be \$400 for specialist members and \$500 for the chairperson. It was not proposed to pay local government elected members a sitting fee as their role on the development assessment panel was considered to be an extension of their current duties.

Seventy nine respondents commented on sitting fees. Of these:

- Twenty three respondents considered the proposed sitting fees too low to attract the appropriate specialists.
- Forty four respondents, predominantly local government, felt that the local government elected members should be paid equal sitting fees to those of the two specialist members.

As the fees proposed in the discussion paper were based on the WAPC committee member fees undertaking similar roles to that expected of development assessment panel members, it is not proposed to alter the sitting

fee rates. However, given that local government elected members will be undertaking the same responsibilities as the specialist members it was considered appropriate to amend this element of the model and provide local government members the same sitting fee of \$400/session. In addition, all panel members will receive travel expenses.

### 2.4 Development assessment panel application fee

The model as outlined in the discussion paper, proposed that the relevant local government would cover the costs incurred by the development assessment panel when determining an application (eg provision of the venue sitting fees and secretariat support). It was proposed that the development application fees that would ordinarily be paid to the local government under the Planning and Development Regulations 2009 would be used to cover the additional costs incurred by the panels.

Eighty seven respondents commented on the resource implications of panels for local government. Of these:

- Comments focused on the cost of sitting fees for panel members, provision of secretariat support by the local government and planning officer time involved in report writing.
- The majority of respondents advocated either an increase in current application assessment fees or the introduction of a new fee as it was considered inappropriate for local government to cover the costs from existing budgets.

In response the Department of Planning engaged consultants to undertake a financial modeling exercise to develop an appropriate development assessment panel application fee. The additional fee will be paid by the applicant to the local government to cover the sitting fee and travel expenses of the panel members determining the application, and as such the fee will vary between metropolitan and non-metropolitan development assessment panels to allow for greater travel costs incurred in regional areas. This additional fee will be established through an amendment to the Planning and Development Regulations 2009. The final fee structure modeling work and analysis is still being progressed.

### 2.5 Appeals

Under the development assessment panel model proposed in the discussion paper the local government would be the respondent for any appeal against a decision made by the relevant development assessment panel under the local planning scheme. Similarly, the WAPC would be the respondent for any application for review lodged for a panel decision made under a region planning scheme.

Fifty nine respondents commented on the appeals system proposed in the discussion paper. Of these:

- The majority of respondents considered it inappropriate and inequitable for local government (or the WAPC) to be required to defend development assessment panel decisions.
- Twenty five comments focused on the additional resources required by local government in terms of officer time, hiring of consultants or additional panel member sitting fees to defend these decisions.

In response the new model requires the relevant development assessment panel to defend their decision at the State Administrative Tribunal (SAT). Therefore, the development assessment panel will be the respondent in SAT proceedings regarding their determinations.

## 3 Next steps

The Department of Planning is currently finalising a summary report outlining the analysis of all submissions received on the discussion paper.

As the key policy issues have been finalised the drafting of the Planning and Development (Development Assessment Panels) Regulations 2010 has commenced. These regulations will not come into effect until the Approvals and Related Reforms (No. 4) (Planning) Bill 2009 has been proclaimed.

The Department of Planning will be developing guidance documents to assist in the operation of panels across the state. These documents will include but not be limited to:

- development assessment panel guidance manual;
- code of conduct;
- standing orders;

- a series of procedural templates (eg agenda, minutes, officer reports, decision notices);
- training manual;
- policy reference manual (specific to each local government and panel).

Expressions of interest for specialist development assessment panel members and nominations from local government are anticipated to be requested in late 2010, depending on when the *Approvals and Related Reforms (No.4) (Planning) Bill 2009* is proclaimed. The nomination and appointment processes for all development assessment panel members will be set out in the new Planning and Development (Development Assessment Panels) Regulations 2010.

