

## **Retainment of the current Development Assessment Panels (DAP) model**

With the recent downturn in the mining and resources sector, the development industry has an increasingly important role to play in strengthening the State's economy. Development Assessment Panels (**DAPs**) are a key enabler for the development industry to deliver housing that is affordable and located where people want to live and work.

However, recent criticisms of DAPs have captured people's attention yet the facts have been misunderstood. The Property Council of Australia has prepared this paper to address recent criticisms of the Development Assessment Panel model and why we need to retain this important planning reform.

The Property Council of Australia is the peak industry body for the property development and investment sectors in WA. The Property Council represents a broad membership that includes residential and commercial property developers, local government and planning consultants who take part in the DAP process and who will be significantly impacted by any changes to the current model.

DAPs were introduced in 2011 as a major planning reform intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge. Since then, DAPs have delivered a significant improvement in the development assessment determination process which has greatly assisted the property development sector to meet the challenges of our growing state.

DAPs improved processes previously hindered by red tape and which resulted in costly development delays. DAPs have allowed Local Governments to focus their resources on setting their strategic and statutory planning agenda, while the DAPs implement those planning policies as approved by each Council.

In 2015, the WA Local Government Authority surveyed its members and found that 94 per cent of applications are determined in accordance with the recommendation of the local government councils<sup>1</sup>.

Recently, the role and powers of DAPs have been subject to significant public debate, with a growing 'anti-DAP' campaign emerging and gaining the attention of both major political parties. Part of this campaign has been calls to change, or even scrap, the current DAP model.

The Property Council does not support any changes to the current DAP model and recommends the current system remains for the following reasons:

- 1. DAPs are a major reform that deliver planning outcomes in the broad community interest**
- 2. DAPS provide consistent and timely processing of Development Applications**
- 3. DAPs implement Council policies approved by State and local government**

This paper presents an overview of how the current DAP model operates in practice.

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<sup>1</sup> WALGA Submission to the Legislative Council on Uniform Legislation and Statutes Planning and Development Act (Development Assessment Panels) regulations 2011, 2015.

### **DAPs are a major reform that deliver planning outcomes in the broad community interest**

The introduction of DAPs was a priority of the Department of Planning's *Planning makes it happen – a blueprint for planning reform*. DAPs were identified as a mechanism for achieving greater transparency, consistency and reliability in the planning decision making process.

In 2009 the Department of Planning discussion paper *Implementing Development Assessment Panels in Western Australia* identified a number of issues necessitating reform of the development approval process. Issues included a lack of clarity regarding local government and WAPC approval processes, limited local government resources to properly assess/determine applications, and a lack of consideration for 'regional impacts' of proposed development.

Prior to the implementation of DAPs, decisions on major developments were determined by the local authority, either by planning staff under delegated authority of the Council, or by the Council itself. However, as a result of the limited planning resources, long lead-in timeframes for Council agendas and lack of community engagement skills of many local governments, very few major development applications met statutory approval timelines and large scale development applications were often delayed - sometimes by years. Where decisions were made without a clear planning basis, it was common for conditions of approval to be appealed in the State Administrative Tribunal (**SAT**). This was a costly and time consuming process which could have been avoided had the decision been made by appropriately qualified/ experienced officers and members of Councils.

### **DAPs provide consistent and timely processing of Development Applications**

DAPs have recently been criticised for a lack of adequate public consultation and the length of time required to determine development applications under the DAP system.

*DAP regulations ensure that DAPs can only make informed and impartial decisions on an application that has followed due statutory planning process which includes public consultation.*

For example, the public consultation process undertaken during the assessment of a development application is carried out by, or at the instruction of the local authority, in accordance with the relevant Local Planning Scheme, and is the same for both DAP and non-DAP applications. These processes typically involve a statutory timeframe for submissions to be prepared and received, and submitters are notified of the upcoming Council Meeting or DAP meeting at which the application will be determined.

*DAPs have a decision-making role at the end of the statutory assessment and determination process, which is the same for DAP and non-DAP applications.*

Statutory timeframes for the assessment and approval of planning applications are the same for both DAP applications (under the *Planning and Development (Development Assessment Panel) Regulations 2011*) and non-DAP applications (under the *Planning and Development Regulations*

2005). If a decision is not made within statutory time periods, the applicant has the right to appeal to the **SAT** on the basis of a 'deemed refusal'.

DAP applications set clear timeframes for local authority planning officer(s) to undertake the planning assessment and provide a report and recommendations to the DAP for determination. There is no such requirement applicable to non-DAP applications, which can commonly lead to the determination deadline being exceeded.

Predictability of development approval time-frames processes and outcomes are critical to the development industry to ensure feasibility of development and prevent unnecessary project delays. The DAP system has significantly improved the certainty around timing of determinations for proposed major developments, and is acknowledged in the development industry's strong support for DAPs (and overwhelming 'opting in' for DAP determinations wherever possible).

#### **DAPs implement planning policies approved by State and Local Government**

DAPs are comprised of five (5) members - 2 local government representatives appointed by the relevant Council and 3 specialist members appointed by the Minister for Planning.

This structure has been criticised for a perceived lack of democratic accountability in the planning and development approvals process - specifically that decisions are being made by 3 out of 5 DAP members who while experts in the planning sphere, they are not elected representatives of Local Government. However, DAPs are only responsible for making decisions that are in accordance with statutory planning frameworks, which have been endorsed by democratically elected Councils and approved by the Western Australian Planning Commission or the Minister for Planning. All Local Planning Schemes, as well as statutory and strategic planning policies are required to be advertised in draft for public comment prior to endorsement by the local council or, in some cases, Ministerial approval. This public consultation process provides the community with the opportunity to have their say on local issues that matter most to them.

The DAP is an independent decision making body which is reflected in the regulations that govern the conduct of members. Unlike Councils, where the community at large, including developers and other interested parties, can make direct representations to elected members, DAPs cannot be canvassed by any party, including the applicant. Decisions of the DAP are based purely on the facts at hand having followed due process, and are less susceptible to external influence.

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