



Department of
Planning

Planning makes it happen:
phase two

Review of the Development Assessment Panels

September 2013



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1 Background

Development Assessment Panels (DAPs) came into operation in Western Australia on 1 July 2011. The panels were established as part of the State Government's planning reform agenda *Planning Makes it Happen - a blueprint for planning reform*.

The DAPs system is based on the National Development Assessment Forum's *Leading Practice Model for Development Assessment*. Implementation of DAPs demonstrates the Government's commitment to reform and best practice in the development approval process in Western Australia.

The objective of the DAPs is to provide a greater measure of transparency, consistency and reliability in decision making on complex development applications. The panels include representatives from local government as well as specialist experts in the planning and development industry, to provide balanced and professional decision making that is based on the planning merits of a development application. Fifteen DAPs operate across Western Australia.

The DAPs determine development applications valued above \$15 million in the City of Perth, and above \$7 million across the rest of the State. Applicants also have the option for DAP determination of applications between \$10 million and \$15 million in the City of Perth, and \$3 million to \$7 million across the rest of the State.

The DAPs have now been in operation for two years, allowing sufficient data and statistics to be accumulated to enable a review of how successfully they are operating and whether they are achieving their objectives. In addition to collating operating statistics, the Department of Planning has also conducted forums and surveys with DAP members and local government councillors and planning staff to gather qualitative data to aid the review.

This DAPs review report should be read in conjunction with the Planning Reform Phase Two Discussion Paper, which details initiatives for improvement of the DAPs system.

2 Operational statistics

2.1 Summary of two years of Development Assessment Panels

The following table provides a summary of DAPs applications and activities for the first two years of operation (including data from 1 July 2011 to 30 June 2013).

Table 2.1 – Summary of DAPs statistics

	2011-2012	2012-2013
Applications by type:		
Development application (Form 1)	137	210
Reconsideration (Form 2)	10	32
SAT Review	10	23
Decisions made:		
Form 1 – approved	86	180
Form 1 – refused	3	16
Form 2	6	27
Applications withdrawn	8	8
Application fees received:		
Form 1	\$771,108	\$1,135,752
Form 2	\$1,650	\$4,800
Number of meetings held	64	138
Number of members appointed	595	N/A
Number of members trained	321	6

Over the first two years, the fifteen DAPs operating across Western Australia have determined 318 applications (including development applications and reconsiderations).

In the second year of operation there was a 52 per cent increase in the number of development applications to DAPs. Table 2.3 indicates that the number of applications increased significantly for all metropolitan DAPs, other than Metro-East JDAP, however the application numbers remained fairly constant for the regional DAPs. Table 2.4 also indicates that the number of 'opt-in' applications increased significantly in the second year.

Over both years, approximately 14 per cent of DAP decisions were subject to an application for reconsideration and approximately 11 per cent of decisions were subject to an application for review by the State Administrative Tribunal (this includes refusals and review of conditions of approval).

2.2 State Administrative Tribunal applications

The following table provides a summary of the applications for review, i.e. an appeal, submitted to the State Administration Tribunal (SAT) for DAP determinations (including data from 1 July 2011 to 30 June 2013).

Table 2.2 - SAT applications

Total SAT applications regarding refusal of application	14
Decision still pending*	7
*Of the decisions still pending 6 relate to DAP decisions of the last 12 months	
Mediated outcome to approve application	6
Withdrawn from SAT prior to mediation	1
Total SAT applications regarding condition/s of approval	19
Decision still pending*	13
*Of the decisions still pending 10 relate to DAP decisions of the last 12 months	
Mediated outcome regarding condition/s	6

The majority of SAT applications within the first 12 months were resolved through a mediated outcome – i.e. an agreement between the applicant and the DAP to resolve the matter. This would generally be through modified development plans which were then approved by the DAP or through modified conditions that were acceptable to both parties. The majority of the SAT applications submitted in the second year are yet to be resolved and no application has yet gone through to a full hearing that has resulted in SAT setting aside (overruling) a DAP's decision on an application.

2.3 Applications for each panel

The following table provides a breakdown of the number and type of applications considered by each panel over the first two years from 1 July 2011 to 30 June 2013.

Table 2.3 - Applications for each panel

DAP name	Form 1 applications 2011-12	Form 1 applications 2012-13	Form 2 applications 2011-12	Form 2 applications 2012-13	SAT review 2011-12	SAT review 2012-13
Perth DAP	5	17	1	1	0	0
Metro Central JDAP	16	38	1	7	0	6
Metro East JDAP	13	14	1	2	1	1
Metro North West JDAP	14	36	0	8	1	6
Metro South West JDAP	10	22	0	3	3	1
Metro West JDAP	16	23	4	4	3	6
Peel JDAP	4	5	1	0	0	1
Mid-West JDAP	3	1	0	1	0	0
Wheatbelt JDAP	2	2	0	0	0	0
South West JDAP	4	4	0	0	0	0
Great Southern JDAP	4	4	0	0	1	2
Gascoyne JDAP	0	2	0	0	0	0
Goldfields-Esperance JDAP	0	1	0	0	0	0
Kimberley JDAP	2	1	0	0	0	0
Pilbara JDAP	44	40	2	6	1	0

The Pilbara JDAP has considered the most number of applications, with 84 Form 1 applications and eight Form 2 applications over the two years. All other regional DAPs have only considered a small number of applications each year. Each of the Perth metropolitan DAPs considered a fairly comparable number of applications each year, with all metropolitan DAPs, other than Metro East JDAP, receiving a fairly substantial increase in applications in the second year.

2.4 DAP application values

The following table summarises the value of DAP applications received each year.

Table 2.4 - Development application values

	\$3m and <\$7m	\$7m and <\$10m	\$10m and <\$15m	\$15m and <\$20m
2011-12	14	28	21	18
	\$68,437,469	\$243,562,969	\$254,490,338	\$310,730,839
2012-13	45	29	33	26
	\$192,935,000	\$239,827,900	\$385,973,000	\$446,859,055

	\$20m and <\$50m	\$50m and <\$100m	> \$100m	Total Applications
2011-12	32	11	13	137
	\$904,851,883	\$715,291,568	\$3,509,000,000	\$6,009,765,066
2012-13	44	17	16	210
	\$1,243,310,000	\$1,881,191,652	\$3,461,000,000	\$7,158,096,607

In the first two years of operation the DAPs have received 347 applications for approval of development with a total value of more than \$13.1 billion.

The number of applications is spread fairly consistently across development values from \$3 million up to and over \$100 million, with the majority of applications over the two years being in the value range of between \$20 and \$50 million.

There has been a significant increase in the number of applications in the \$3 to \$7 million range in 2012-13. This range is the 'opt-in' range (except for the City of Perth DAP), where applicants have chosen to have their application determined by the DAP rather than the relevant local government. There has been a 200 per cent increase in applications in this range in the second year of DAP operations and this range now has the highest volume of applications. There was however no opt-in applications for the City of Perth DAP in the first two years (City of Perth has a separate opt-in range of \$10 to \$15 million).

3 Stakeholder feedback

3.1 Stakeholder review forums

A number of review forums were held by the Department of Planning after the first 12 months of DAPs operation, to obtain detailed feedback on the operation, success and issues related to DAPs. The forums included the following stakeholders:

- Panel presiding members
- Panel members – specialist and local government members
- Development industry representatives
- Senior local government planning staff

Key themes emerged from discussion at the forums, generally specific to the particular stakeholder groups. A summary of these themes is as follows:

Panel presiding members

- Local government reports and decisions are depoliticised.
- Provides professional rigour.
- Decision making process more efficient in regional areas.
- Improvement in consistency and application of conditions.
- Highlights deficiencies in some local government policy frameworks.
- Reliance on accuracy and comprehensiveness of local government officer's report.
- Considerable preparation time required which is not recognised.
- Ongoing training and mentoring for new meeting chairs is valuable.
- Need for improved planning assessment/analysis in planning reports.

Panel members – local government and specialist

- Depoliticises decision making.
- Benefits of professional advice in regional areas.
- Perception from the public that interaction not as robust.
- Local issues not given as much weight as technical criteria.
- Process takes longer in some examples.
- Dollars do not necessarily indicate complexity.
- Short timeframe for members to consider complex reports.
- Suggest grouping some of the metro panels together.

Industry groups

- Has increased local government accountability and awareness of good planning processes.
- Very successful – quickly became part of the language.
- Consistency is improving.
- Continue to monitor the independence of officer recommendations and relationship with elected members.
- Suggest broadening the scope of DAPs.

Local government planners

- Has streamlined dual approval reports.
- DAP decisions are generally consistent with officer's recommendations.
- Minor variations (Form 2) should be delegated to local government.
- Conditions imposed by local governments not consistent.
- Inconsistency between local governments in relation to council consideration.
- DAPs have increased timeframes on some applications which would previously have been determined under delegated authority.

3.2 Survey results

Participants at the review forums were given the opportunity to complete a survey, as shown in Table 3.2. Participants rated their opinion on whether improvements have been shown in development assessment decision making through the use of DAPs to determine development applications instead of local government councillors and planning staff. The survey was taken after the first 12 months of operation.

Survey groups:

- Panel presiding members
- Panel members – specialist and local government members
- Development industry representatives
- Senior local government planning staff

Number of survey responses - 55

In the survey, transparency of decision making and quality of decision making rated very highly with DAP presiding members and industry groups. Presiding members also responded positively on the improvements to the consistency and reliability of decision making. Other DAP members' opinions varied among each of the survey questions, this may be a result of generally different responses from local government members and specialist members of the DAPs. Local government planners' responses were also varied. Overall, industry groups responded very favourably towards all survey questions regarding DAPs decision making.

The biggest area of lack of satisfaction and disagreement was whether DAPs had improved the efficiency and timeliness of decision making; 44 per cent of all respondents did not feel that they had, with over half of panel members and planning staffing providing a negative response. However, 100 per cent of industry representatives felt that efficiency and timeliness had improved.

Table 3.2 – Survey responses

Survey Question	Survey group	Per cent favourable	Per cent neutral	Per cent unfavourable
DAPs has improved the transparency of decision making	Presiding members	89	11	0
	Panel members	33	41	26
	Industry	100	0	0
	Local government	13	47	40
	Overall	42	35	24
DAPs has improved the consistency and reliability of decision making	Presiding members	78	22	0
	Panel members	33	37	30
	Industry	100	0	0
	Local government	20	47	33
	Overall	42	35	24
DAPs has improved the quality of decision making	Presiding members	78	22	0
	Panel members	44	41	15
	Industry	75	25	0
	Local government	7	47	47
	Overall	42	38	20
DAPs has improved the efficiency and timeliness of decision making	Presiding members	22	55	22
	Panel members	11	37	52
	Industry	100	0	0
	Local government	7	40	53
	Overall	18	38	44
DAPs has improved the quality of planning conditions	Presiding members	67	11	22
	Panel members	41	26	33
	Industry	75	25	0
	Local government	0	47	53
	Overall	36	29	34

4 Outcomes assessment

The following sections examine key criteria to enable an assessment as to whether DAPs are meeting their original objectives of providing a greater measure of transparency, consistency and reliability in decision making on complex development applications.

4.1 Significance of applications

All of the development applications submitted to the DAPs within the first year have been reviewed in relation to whether they could be considered 'significant' applications and reflect the original objectives of DAPs to determine complex, high value applications that require a level of expert decision making. A summary of findings is shown in Table 4.1.

Overall, 93 per cent of applications were considered to be significant development applications, being of a considerable development scale, complexity and value, and therefore appropriate for determination by a DAP. These significant applications required a consideration of many factors, such as access, traffic, design and infrastructure, as well as community consultation and feedback, and often consideration of proposed variations to local planning schemes and policies, and the exercise of discretionary decision making powers.

The threshold values also appear to be appropriate for capturing applications of significance for DAPs. The majority of applications at all values were found to be significant applications, including those at the lower end of the threshold range (below \$10 million) and within the \$3 - \$7 million opt-in range.

Of the ten applications in the first year considered to not be significant applications for the purposes of DAPs determination, four of these applications were for a warehouse or storage in an industrial area. It is considered that applications for such development do not fall within the intent of DAPs to consider significant and complex development applications, particularly where they are on land zoned for industrial development and are a permitted use in the local scheme.

Table 4.1 - Significant applications

	Not significant	Significant
\$3m to \$7m (opt-in)		
	3 (21%)	11 (79%)
\$7m to \$10m		
	5 (18%)	23 (82%)
\$10m to \$15m		
	0 (0%)	20 (100%)
\$15m and over		
	2 (3%)	73 (97%)
Total	10 (7%)	127 (93%)

4.2 Decision timeframes

While data is not readily available on all local government development application processing timeframes prior to the implementation of the DAPs, anecdotal feedback indicates that it was extremely variable for different applications and between local governments.

The DAPs provide legislated consistent timeframes for decision making which are strictly monitored as soon as the application is lodged by the applicant. The statutory determination period in which a decision must be made is 60 days, unless public comment is required on the application - then it is 90 days. The following decision making timeframes were achieved over the first two years of DAPs:

Table 4.2 – Decision timeframes

	2011-2012	2012-2013
Number of Form 1 applications determined within the statutory timeframe	50 (56%)	111 (57%)
Number of Form 1 applications not determined within the statutory timeframe. * See Note	39 (44%)	85 (43%)
Average number of days over statutory timeframe	23	23

*Note: the applications not processed within the statutory timeframe included applications for which an extension of time was granted with agreement between the local government and the applicant. Often the local government requires additional information to be provided by the applicant, which the applicant may take some time to provide (particularly if they need to prepare additional information or modified plans).

The determination time for each development application is also dependent on a number of interface processes with local government. These include the time taken for the application to be processed and assessed, the responsible authority report to be prepared and submitted to the DAPs Secretariat, and the minutes of the DAP meeting being submitted to the Secretariat.

During the first 12 months of DAPs operation, five applications requiring dual approval, that is proposals requiring applications to both the Western Australian Planning Commission (WAPC) and the local government, were determined. The average number of days taken was 95. Close monitoring of the timeframes through the DAPs process has resulted in significant improvements in the time taken for dual approvals to be determined than was the case prior to DAPs where two completely separate approval processes operated.

4.3 Consistency of decision making

One of the key objectives of DAPs is to provide consistent and reliable decision making, by including planning professionals in the DAPs to provide a focus on the planning merits of an application. Of the applications determined within the first year, an assessment was undertaken of the differences between the recommendations in the planning authority's (local government or WAPC) report and the DAP's decision.

Table 4.3 – Agreement with report recommendations

	Decision unchanged from report recommendation	Significantly different decision to report recommendation	Changes to conditions recommended in report
Number of applications	23 (26%)	6 (7%)	60 (67%)

The intent of DAPs is that planning staff report directly to the DAP and hence the report recommendations should be based solely on the planning assessment of the application. In this situation it may be expected that the DAP would on most occasions agree with the recommendation to either approve or refuse the application, unless a fundamental flaw or lack of consideration of key issues is found in the planner's assessment.

There is however, some inconsistency in the way that applications are treated by each local government. While some are dealt with at officer level only and the report forwarded directly to the DAP, others are considered by the elected council and their decision presented as the report's recommendation.

The referral of applications to council can add extra time to the determination of the application, as well as potentially including non-planning related considerations in the recommendations. Each DAP includes two representatives from the relevant local government and at this point that local community issues can be raised and considered against the assessment and recommendations in the report.

Table 4.3 highlights that a large proportion (67 per cent) of reports had conditions of approval changed by the DAP. This demonstrates that a need for improved consistency and greater rigour in condition setting has been found by DAPs.

The additional scrutiny given to the conditions imposed on development has helped ensure that only those directly and legally relevant to the application are applied. In some circumstances a local government report has imposed a standard set of conditions and the DAPs have reviewed and removed unnecessary or unwarranted conditions, to achieve a decision where the conditions are clearer in intent, relevant and implementable.

Table 2.2 (SAT applications) indicates that only 19 applications have been made to the SAT in the first two years to review condition/s of an approval. This is approximately 6 per cent of all applications determined by DAPs.

5 Conclusion

This report has provided an assessment of the first two years of operation of Development Assessment Panels (DAPs) in the Western Australian planning system.

Over the first two years, the fifteen DAPs operating across Western Australia have received 347 applications for approval of development with a total value of, more than \$13.1 billion.

Since coming into operation, the DAPs have provided a consistent and reliable process, with positive support from industry and increasing confidence in the process from local government.

As a substantial planning reform, DAPs' operating statistics and analysis demonstrate they are mostly meeting their objectives of providing a greater measure of transparency, consistency and reliability in decision making on complex development applications.

The DAPs have made a significant contribution in ensuring consistency and clarifying the conditions imposed on the approval of development applications, providing greater certainty to industry. The contribution of expert advice from DAP members ensures a focus on the planning issues and consideration of broader issues of impact.

It has been observed that DAPs have influenced a more technical approach, where applications are determined on the basis of the local planning scheme, policies and principles and the appropriate application of conditions. It is entirely appropriate that decisions are based on consideration of these planning instruments and conditions. It is only in this way that the appropriate exercise of statutory planning discretion and a fair, consistent and transparent process can be ensured.

This DAPs review report should be read in conjunction with the *Planning Reform Phase Two Discussion Paper*, which details initiatives for improvement of the DAP system and is open for public comment until Friday 13 December 2013.