



# DAP Reforms

## Overview

The State Government is making changes to Western Australia's Development Assessment Panel (DAP) system. The changes were identified in the [Action Plan for Planning Reform](#) (Action Plan) released in August 2019 and in the additional planning reforms legislated in the *Planning and Development Amendment Act 2020*<sup>1</sup> (Amendment Act).

Two initiatives of the Action Plan focus specifically on reforms to improve the DAP system:

- (C7) Development assessment processes are streamlined and outcomes-focussed.
- (C8) DAP processes are more consistent and transparent.

The Amendment Act 2020 made changes to the current DAP system by introducing the ability for:

- A District DAP to be established for one (1) or more districts, and
- A Special Matters DAP to be created to determine matters of State and regional importance.

The State Government has committed to the principles of these main reforms through the Action Plan and the Amendment Act.

**Feedback is now being sought to help refine the detail of this proposal**

### What is a DAP?

A DAP is an independent decision-making body comprised of technical experts and elected local government members. DAPs determine development applications made under local and region planning schemes, in the place of the original decision maker.

### What are the proposed changes to the DAP system?

Key changes include:

- Reducing the number of geographically grouped panels from the current five (5) to three (3). These will be known as 'District DAPs'.
- Fixed term Presiding Members and Deputy Presiding Members (3 to 5 years) for the District DAPs to be employed by the Department of Planning, Lands and Heritage (DPLH). The third specialist member will initially be drawn from a pool, which may change to the same arrangements as the Presiding and Deputy Presiding Members. No changes are proposed to local government representation on a District DAP.
- Creating a Special Matters DAP. The Special Matters DAP will be able to consider and determine projects of State or regional importance, or certain types of applications in precincts of State or regional importance.

<sup>1</sup> Reference: Part 3 – *Development Assessment Panels of the Amendment Act*.

- General process and administrative reforms to improve transparency, consistency and efficiency including the following:

### 1. Delegations

The functions of the local government, in the submission of a report and recommendation to the DAP, have been clarified as follows:

- District DAP report is to be submitted by the Chief Executive Officer (CEO) of the relevant local government.
- Special Matters DAP referral may be a delegated function from Council function to the CEO of the relevant local government.

### 2. Excluded developments

- Current exclusions for certain types of development will continue to apply.

*Reference: r.3 definition for ‘excluded development application’.*

- In addition, developments wholly on reserved land under a region scheme and development applications for public work will be exempt.
- Decision making powers will be returned to the Western Australian Planning Commission (WAPC) or delegated officer in accordance with Section 16 of the *Planning and Development Act 2005* (PD Act) for the above.
- These excluded developments will apply to both the District DAP and Special Matters DAP processes.

### 3. Meeting arrangements

- All DAP meetings are to be scheduled at regular dates and times, with meetings centrally coordinated and convened by DPLH.
- Option to hold meetings outside of business hours, in certain instances (e.g. application of significant public interest).
- All meetings to be made available for electronic attendance, with recordings of meetings also published online.

## How will these changes be implemented?

The *Planning and Development (Development Assessment Panels) Regulations 2011* (DAP Regulations) will provide the administrative framework for both the Special Matters DAP and District DAPs. These Regulations will be supported by a Ministerial Order to be published in the Government Gazette. The Ministerial Order/s will specify:

- The geographical areas for the District DAPs.
- The projects of State and regional importance to be determined by the Special Matters DAP.
- The precincts of State and regional importance and the type of applications that will be determined by the Special Matters DAP in these areas.

## When will the reforms take effect?

The changes to the DAP system are anticipated to be implemented at the beginning of 2023.

## What are the transitional arrangements?

Transitional arrangements will be included. These are not yet determined but might include things like a staggered introduction for the Special Matters DAP, filling the District DAPs from the specialist pool initially (to allow time for recruitment), or other things that might be required.

Any application made to an Local Development Assessment Panel (LDAP) or Joint Development Assessment Panel (JDAP) prior to these changes coming into effect, including those proposals that would meet the criteria for a Special Matters DAP application, will be considered by the relevant District DAP. More detail on the transitional arrangements is provided below:

- **Current DAP applications and amendments to existing DAP approvals**

After commencement, any amendments to DAP approvals determined prior to the date of commencement can be made to either the new District DAP or to the relevant local government outside of the DAP system.

*Reference: Part 7 Division 2 of the DAP Regulations.*

- **Special Matters DAP applications**

An application to the Special Matters DAP can only be lodged after the Special Matters DAP program commences (early 2023).

An application lodged before commencement day will be assessed by the relevant Local Government and determined by the appropriate District DAP.

- **Existing State Development Assessment Unit (SDAU) applications**

These development applications will continue to be assessed by DPLH and determined by the WAPC under Part 17 of the PD Act.

The responsibility for clearing conditions and compliance will remain with WAPC.

Any applications for amendments to approvals through this pathway will also be assessed by the DPLH, and determined by the WAPC under Part 17 of the PD Act.

- **Existing LDAP and JDAPs**

These will become part of the relevant District DAP. For example, the Metro Inner-South JDAP will become part of the Metro-Inner District DAP, unless the application meets the criteria for a Special Matters DAP.

# DAP Reforms

## District Development Assessment Panels

This document provides an overview of the new District Development Assessment Panels (DAPs) which will replace the Local Development Assessment Panel (LDAP) and Joint Development Assessment Panels (JDAPs).

The changes are part of implementing the [Action Plan for Planning Reform](#) (Action Plan), which includes several reforms to improve the DAP system under the initiative C8 – *DAP processes are more consistent and transparent*.

The *Planning and Development Act Amendment 2020*<sup>1</sup> (Amendment Act) introduced the ability for a district DAP to be established for one or more districts.

Feedback is now being sought to help refine the detail of this proposal

### What are the proposed changes?

The key changes include:

- The existing LDAP and four (4) JDAPs to be replaced by three (3) District DAPs.
- Fixed term Presiding Members and Deputy Presiding Members (3 to 5 years) for the District DAPs to be employed by the Department of Planning, Lands and Heritage (DPLH). The third specialist member will initially be drawn from a pool, which may change to the same arrangements as the Presiding and Deputy Presiding Members. No changes are proposed to local government representation on a District DAP.
- Changes to the threshold criteria for applications.

### How will these changes be implemented?

Amendments to the *Planning and Development Act (Development Assessment Panel) Regulations 2011* (DAP Regulations) will provide the administrative framework for both the Special Matters DAP and District DAPs. The DAP regulations will be supported by a Ministerial Order/s to be published in the Government Gazette. The Ministerial Order/s will specify the geographical areas for the District DAPs.

### What are the geographical areas for each of the District DAPs?

The Action Plan states there are to be no more than three (3) geographical area-based DAPs. Under the proposed changes, these will be known as 'District DAPs' with the following areas proposed:

- **Metro-Inner DAP** – existing City of Perth LDAP, Metro Inner-North JDAP and Metro Inner-South JDAP.
- **Metro-Outer DAP** – existing Metro Outer JDAP and Peel Region Scheme Area (Shire of Murray, Shire of Waroona, and City of Mandurah).
- **Regional** – remains unchanged, except Shire of Waroona which will be reallocated to the Metro-Outer DAP.

**Attachment 1** includes a list of local governments in each District DAP and maps for each.

<sup>1</sup> Reference: *Part 3 – Development Assessment Panels of the Amendment Act*.



### What is the threshold for the District DAP process?

The following thresholds are proposed:

- No changes are proposed to the current opt-in thresholds. All applications valued at \$2 million or more can opt-in to the District DAP process.
- Currently the thresholds of \$20m in the City of Perth and \$10m elsewhere are mandatory DAP applications. It is proposed to remove mandatory requirements (thresholds). The District DAP system will be opt-in only.
- Proposals that meet the criteria for mandatory referral to the Special Matters DAP and ‘excluded developments’ are not eligible to undertake the District DAP process.

### What changes are proposed to the DAP membership?

Currently, the Presiding Members, Deputy Presiding Members and Specialist Members for DAPs are appointed by the Minister for Planning under a contract service arrangement. Members are appointed to specific DAPs and, together with other appointed members, may also be placed in a pool from which members can be drawn to cover absences on other panels where an appointed member may be unavailable for any reason.

As part of the Action Plan, the State Government intends to appoint fixed term (3 to 5 years) Presiding Members and Deputy Presiding Members to service all District DAP areas. The intent is that these members would not have other employment

to reduce the potential for conflicts of interest. Members will be employed by the Department of Planning, Lands and Heritage (DPLH). These members will be required to have relevant and related experience and an accredited tertiary qualification in urban or regional planning.

Presiding and Deputy Presiding members may be appointed on a part-time or full-time basis to service all three (3) District DAPs. The third specialist member will be drawn from a smaller pool of experts from a range of disciplines, similar to the current arrangement, or may be appointed on a fixed-term contract in the same manner. The intent of this is to ensure panels have the expertise necessary for decision making on complex matters. The third specialist member will be selected based on the expertise required for the application. There are no changes proposed to the composition of specialist and local government representatives on the panel.

*Reference: r.27, r28, r29, r35 of the DAP Regulations.*

### What changes are proposed to meeting?

The following is proposed in respect to meeting arrangements:

- Meetings will be hosted by the DPLH in a central location and held at regular times and intervals
- DPLH will provide all administrative and governance support
- Meetings will be made available virtually, and will be recorded and published online
- There will be an option to hold meetings outside business hours, where appropriate.

Table 1: Threshold Criteria

Threshold Type	Existing Thresholds	Proposed Thresholds
Minimum opt-in thresholds	Metropolitan – \$2m Regional – \$2m	No change
Minimum mandatory thresholds	City of Perth – \$20m Elsewhere – \$10m	Metropolitan – nil Regional – nil

*Reference: r.3 ‘excluded development application’, r.6, r.7 of the DAP Regulations*

## What clarification has been provided regarding delegations?

Functions of the local government, in the submission of a report and recommendation to the DAP, have been clarified in the amendments to the DAP Regulations.

A District DAP report is to be submitted by the CEO of the relevant local government.

# Attachment 1 – List of District DAP Local Government Areas

## Metro Inner District DAP (19)

Bassendean	Claremont	Mosman Park	South Perth
Bayswater	Cottesloe	Nedlands	Subiaco
Belmont	East Fremantle	Peppermint Grove	Victoria Park
Cambridge	Fremantle	Perth	Vincent
Canning	Melville	Stirling	

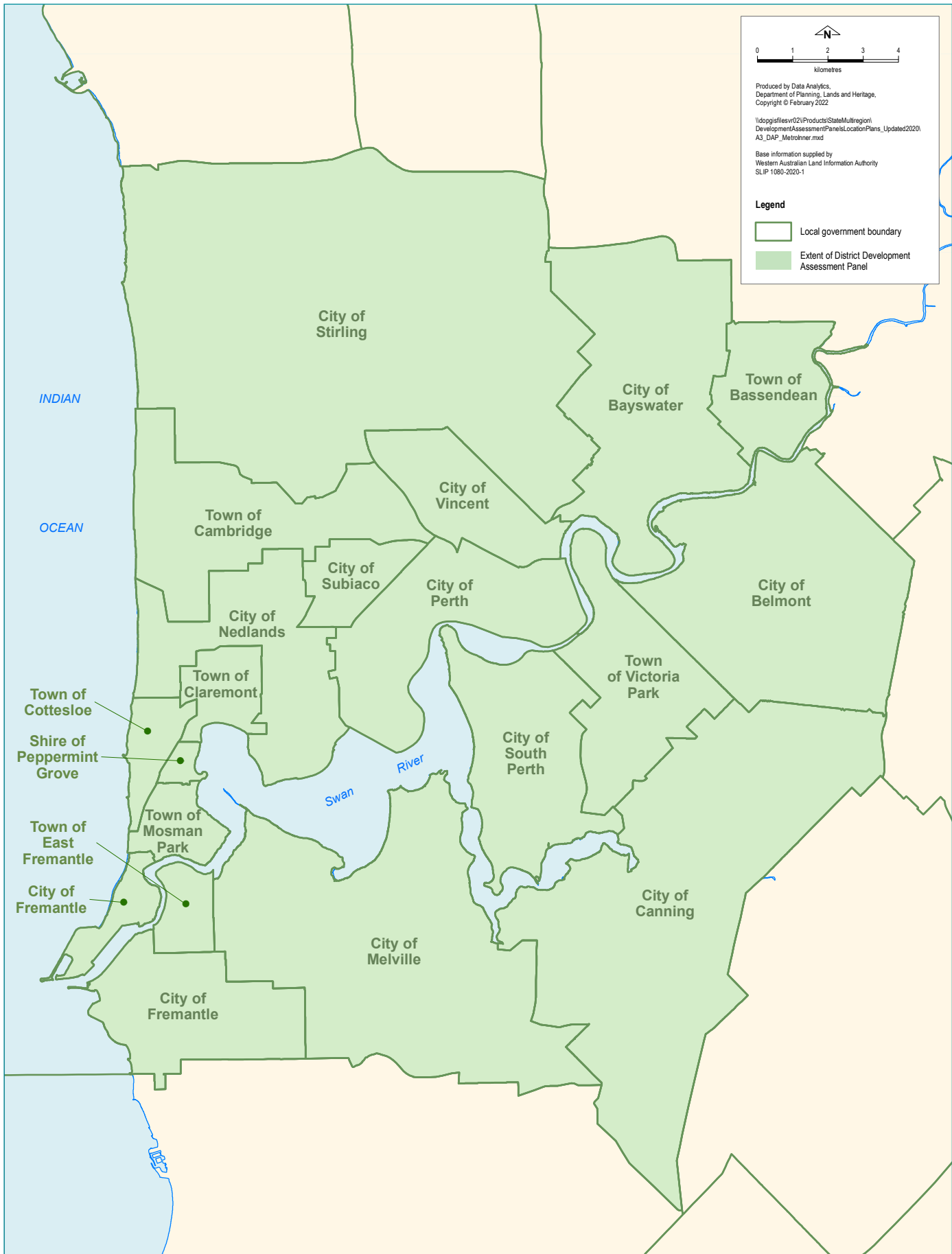
## Metro Outer District DAP (14)

Armadale	Kalamunda	Murray	Wanneroo
Cockburn	Kwinana	Rockingham	Waroon
Gosnells	Mandurah	Serpentine-Jarrahdale	
Joondalup	Mundaring	Swan	

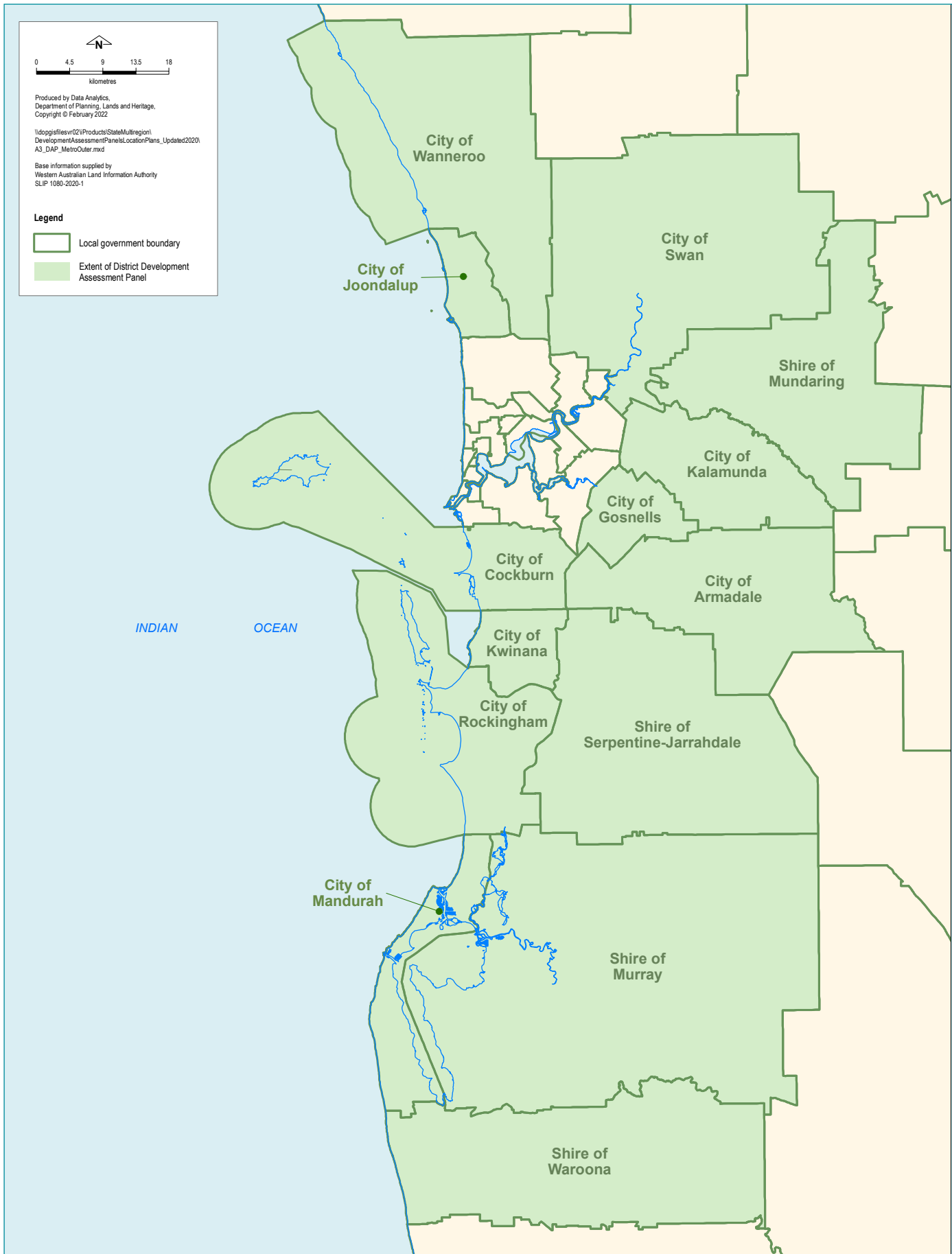
## Regional District DAP (104)

Albany	Cunderdin	Kojonup	Plantagenet
Ashburton	Dalwallinu	Kondinin	Port Hedland
Augusta-Margaret River	Dandaragan	Koorda	Quairading
Beverley	Dardanup	Kulin	Ravensthorpe
Boddington	Denmark	Lake Grace	Sandstone
Boyup Brook	Derby-	Laverton	Shark Bay
Bridgetown-Greenbushes	West Kimberley	Leonora	Tammin
Brookton	Donnybrook-Balingup	Manjimup	Three Springs
Broome	Dowerin	Meekatharra	Toodyay
Broomehill-Tambellup	Dumbleyung	Menzies	Trayning
Bruce Rock	Dundas	Merredin	Upper Gascoyne
Bunbury	East Pilbara	Mingenew	Victoria Plains
Busselton	Esperance	Moora	Wagin
Capel	Exmouth	Morawa	Wandering
Carnamah	Gingin	Mount Magnet	West Arthur
Carnarvon	Gnowangerup	Mount Marshall	Westonia
Chapman Valley	Goomalling	Mukinbudin	Wickepin
Chittering	Greater Geraldton	Murchison	Williams
Collie	Halls Creek	Nannup	Wiluna
Coolgardie	Harvey	Narembreen	Wongan-Ballidu
Coorow	Irwin	Narrogin	Woodanilling
Corrigin	Jerramungup	Ngaanyatjarraku	Wyalkatchem
Cranbrook	Kalgoorlie- Boulder	Northam	Wyndham-East Kimberley
Cuballing	Karratha	Northampton	Yalgoo
Cue	Katanning	Nungarin	Yilgarn
	Kellerberrin	Perenjori	York
	Kent	Pingelly	

# Metro-Inner District DAP: Proposed Local Government Areas



# Metro-Outer District DAP: Proposed Local Government Areas



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# DAP Reforms

## Special Matters Development Assessment Panel

This document provides an overview of the new Special Matters Development Assessment Panel (DAP), which will deal with proposals of State or regional importance.

In July 2020, the *Planning and Development Amendment Act 2020*<sup>1</sup> (Amendment Act) was passed by the WA Parliament. This legislation included the establishment of a Special Matters DAP to determine projects of State or regional importance, or certain types of applications in precincts of State or regional importance.

This document provides an overview of the Special Matters DAP including:

- The criteria for proposals to be considered by the Special Matters DAP,
- The assessment, referrals and determination process, and
- The membership of the Special Matters DAP.

**Feedback is now being sought to help  
refine the detail of this proposal**

### How will these changes be implemented?

The *Planning and Development (Development Assessment Panel) Regulations 2011* (DAP Regulations) provide the administrative framework for the Special Matters DAP. The DAP Regulations will be supported by a Ministerial Order/s to be published in the Government Gazette which will specify:

- The projects of State and regional importance to be determined by the Special Matters DAP
- The precincts of State and regional importance and the type of applications that will be determined by the Special Matters DAP in these areas.

It is proposed that it is mandatory for applications to be considered by the Special Matters DAP if they meet the criteria.

<sup>1</sup> Reference: Part 3 – *Development Assessment Panels of the Amendment Act*.



What is the proposed project criteria and construction value threshold for the Special Matters DAP?

Table 1 includes the proposed criteria for projects of State or regional importance. Proposals must meet the project criteria and construction value threshold to be eligible for the Special Matters DAP pathway.

What is the proposed precincts criteria for the Special Matters DAP?

The Special Matters DAP can also consider certain types of application in precincts of State and regional importance. These precincts are likely to be areas of high development pressure and/or precincts where development is of importance to the wider region or State. Some examples are outlined in Table 2 and shown in Figures 1 to 6 via indicative mapping.

Precinct criteria will apply in addition to the project criteria. That is, proposals must be in a specified precinct and meet the specified criteria to be eligible for the Special Matters DAP pathway.

Which developments are excluded from the Special Matters DAP?

The current exclusions from the DAP system will apply to Special Matters DAP applications. In addition, developments wholly on reserved land under a region planning scheme and development applications for public work will also be exempt. Decision making powers will be returned to the Western Australian Planning Commission (WAPC), or delegated officer, in accordance with Section 16 of the Planning and Development Act 2005 (PD Act).

Reference: r.3 definition for ‘excluded development application’, r.5 and r5A of the DAP Regulations.

Table 1: Project criteria for the Special Matters DAP

Project criteria	Value Threshold	
	Within Perth and Peel Region Scheme areas	Outside Perth and Peel Region Scheme areas
State significant proposals under the Lead Agency Framework	No minimum threshold	No minimum threshold
Resource projects – renewable energy	\$50m	\$30m
Non-residential developments – greater than 20,000 m <sup>2</sup> net leasable area (NLA) (where there is no Structure Plan in place)		
Multiple dwellings – greater than 100 dwellings		
Private hospitals or educational establishments		
Ports, marinas and airports		

**Table 2: Precinct criteria for the Special Matters DAP**

Precinct area	Criteria	
	Multiple dwellings	Net Lettable Area
Perth Central Business District (CBD)	51 or more dwellings	Commercial development greater than 5,000m <sup>2</sup> NLA
South Perth Peninsula	21 or more dwellings	Commercial development greater than 3,000m <sup>2</sup> NLA
Stirling Highway – Winthrop Avenue to Loch Street		
Cockburn Central		
Canning Bridge Activity Centre Plan (ACP) area		
Cottesloe foreshore	10 or more dwellings	
METRONET station precincts		

## What is the process for assessment, referral and determination?

The following processes are proposed:

- The WAPC, supported by the Department of Planning, Lands and Heritage (DPLH), will be responsible for assessing applications within the relevant planning framework. This will include all processes associated with assessment (lodgement, advertising, referrals etc).
- The statutory timeframe for processing Special Matters DAP applications will be 120 (calendar) days.
- The WAPC will be responsible for the coordination of referrals to State agencies and local governments.
- Local governments will be provided 60 days to comment on Special Matters DAP applications. Comments received from local government will be given due regard in the decision making process.
- Following the determination of an application, local governments will be responsible for the clearance and compliance of conditions.

## What is the proposed membership of the Special Matters DAP?

It is proposed the Minister for Planning will appoint seven Special Matters DAP members (and a deputy for each), comprising of the following:

1. Presiding Member, from a list of people nominated by the WAPC.
2. Local Government Representative, from a list of people nominated by the WA Local Government Association (WALGA).
3. Architect, from a list of people nominated by the Australian Institute of Architects (AIA).
4. A person nominated by the Chief Executive Officer (CEO) of the Environmental Protection Authority (EPA).
5. Urban and Regional Planner, from a list of people nominated by the Planning Institute of Australia (PIA).
6. A person nominated by the Director General of the Department of Transport.
7. A person with experience in property economics, commerce and industry, business management, financial management, engineering, surveying, valuation or transport.



**Figure 1: Perth Central Business District Precinct Area (Indicative Only)**





Figure 2: South Perth Peninsula Precinct Area (Indicative Only)





Figure 3: Canning Bridge ACP Area (Indicative Only)

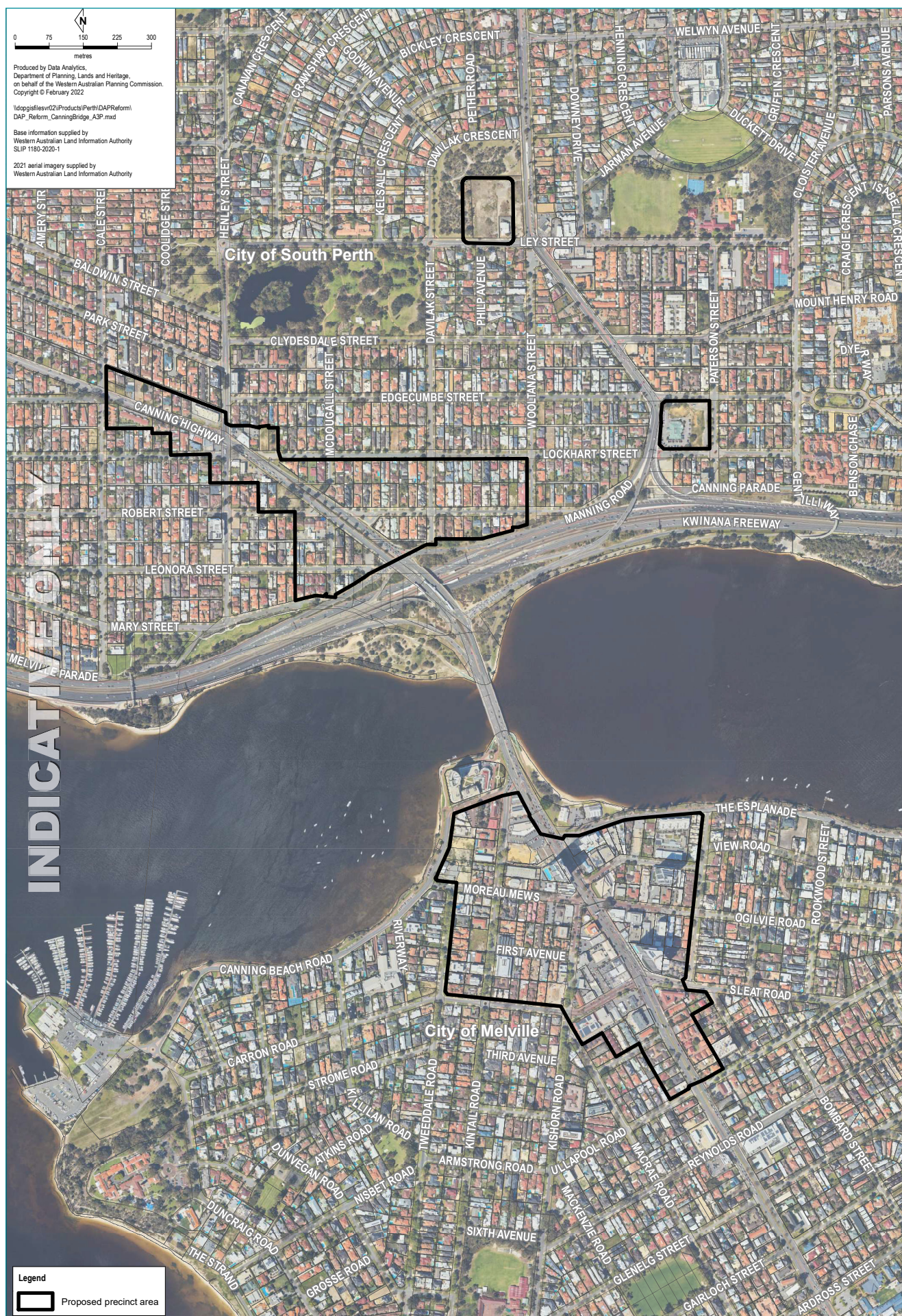




Figure 4: Cockburn Central Precinct Area (Indicative Only)





Figure 5: Stirling Highway (Indicative Only)

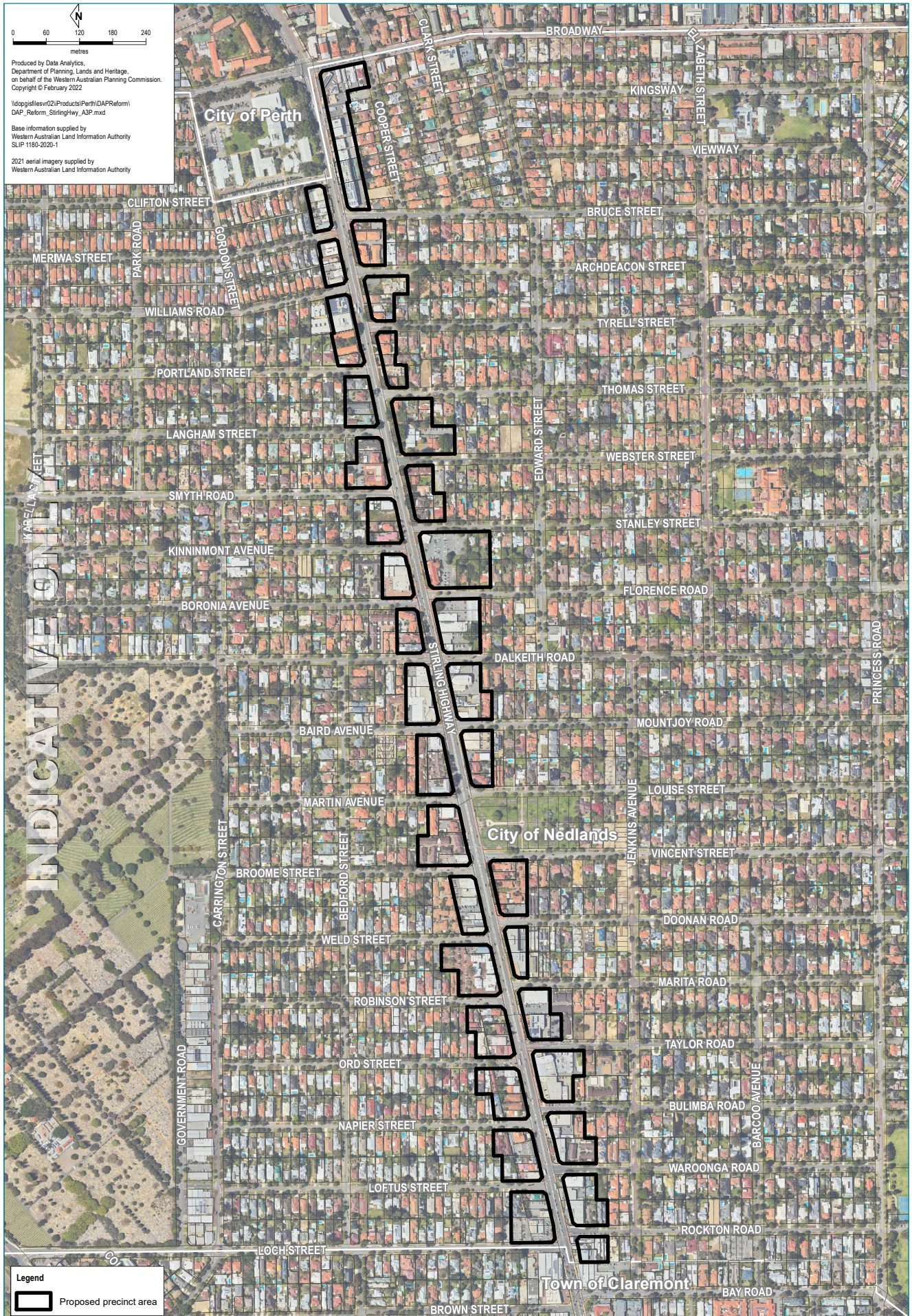




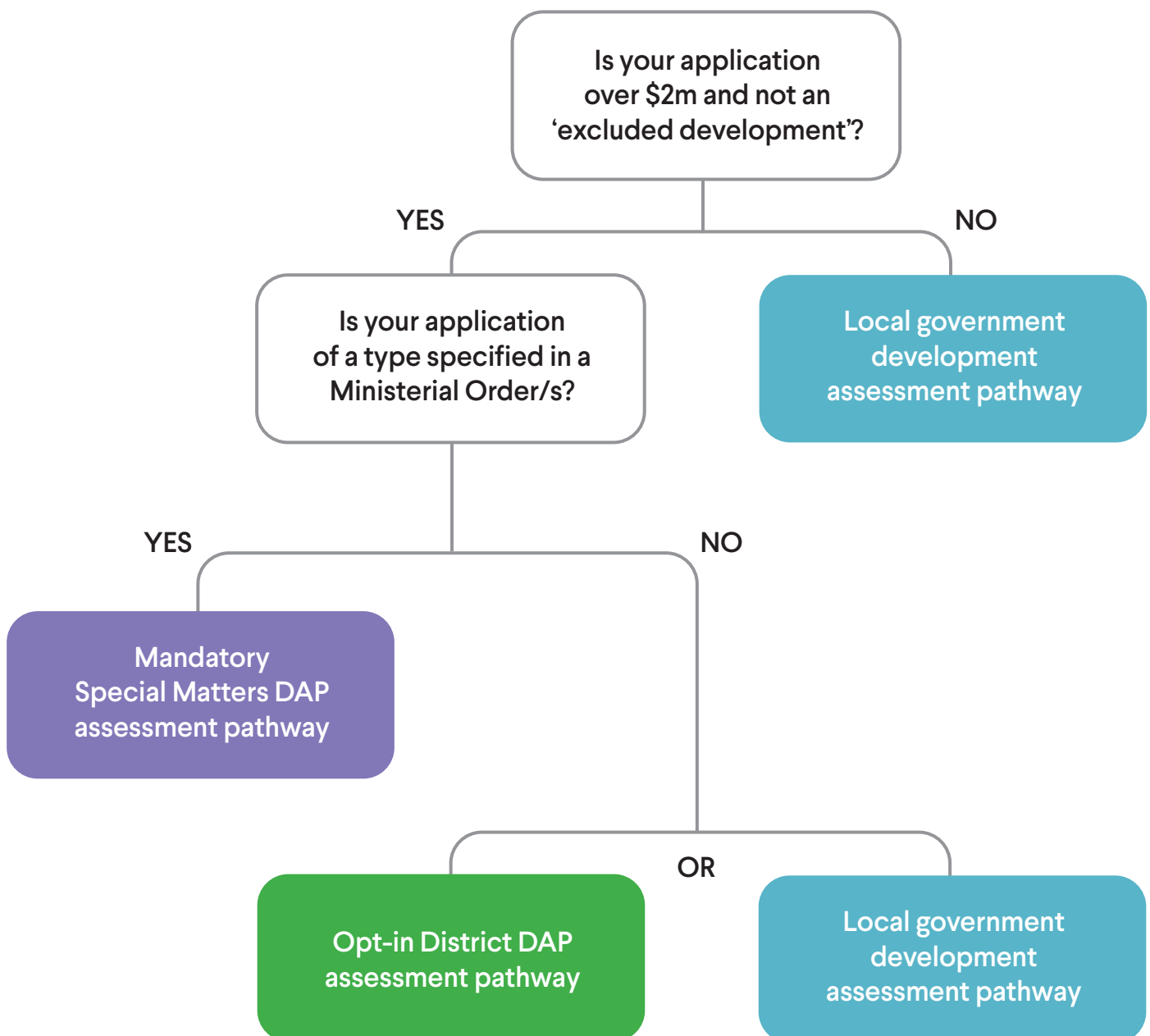
Figure 6: Cottesloe Foreshore Precinct Area (Indicative Only)





# DAP Reforms

## Process flowchart



# **Planning and Development (Development Assessment Panels) Amendment Regulations 2022**

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**Schedule 1 — Fees for applications**

**Schedule 2 — Fees for DAP members**

## **Planning and Development (Development Assessment Panels) Amendment Regulations 2022**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Planning and Development (Development Assessment Panels) Amendment Regulations 2022*.

### **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 *Planning and Development Amendment Act 2020* Part 3 comes into operation.

### **3. Regulations amended**

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

*[The following text is the Planning and Development (Development Assessment Panels) Regulations 2011 showing proposed amendments in track changes. A formal amending instrument will be drafted at a later stage.]*



r. 3

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**3. Terms used**

(1) In these regulations —

*accepted for assessment* has a meaning affected by subregulation (3);

*accreditation body*, for a profession, means the body that accredits qualifications for the profession;

*accredited*, in relation to a tertiary qualification for a profession, means accredited by an accreditation body for the profession;

*administrative officer*, in relation to a DAP, means the administrative officer who provides services to the DAP under regulation 49;

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

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

*approved form* means a form approved by the Director General under regulation 54A;

~~*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 application* means —

(a) an optional DAP application; or

(b) a special matters DAP application;

~~*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 member** means —

(a) a district DAP member; or

(b) a special matters DAP 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, of a DAP,~~ means the person appointed as deputy presiding member of the DAP under regulation 27(1) or regulation 37(2) (whichever is relevant);

**Director General** means the chief executive officer of the department;

**district DAP member** means a member of a district DAP;

**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;
- (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~~

**r. 3**

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~~(ii) a DAP has been established for less than 60 days  
at the time the application is made;~~

(d) public work; or

(e) development wholly within reserved land, that is, land  
reserved for a public purpose under a region planning  
scheme; or

(f) construction of a warehouse;

~~**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;

**optional DAP application** means a development application of  
a class or kind prescribed under regulation 6 in respect of which  
the applicant has made an election under regulation 7;

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

**presiding member**, ~~in relation to a DAP,~~of a DAP, means the  
person appointed as presiding member of the DAP under  
regulation 27(1) or regulation 37(1) (whichever is relevant);

**R-Codes** means the Residential Design Codes prepared by the  
Western Australian Planning Commission under section 26 of  
the Act, as amended from time to time;

**relevant planning instrument**, in relation to a development  
application, means the planning instrument under which the  
application is made;

~~*specialist member* means —~~

~~(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);~~

*specialist member*, of a district DAP, means a person appointed as a member of the DAP under regulation 25(1)(b);

*special matters DAP application* means a development application of a class or kind prescribed under regulation 5;

*special matters DAP member* means a member of a special matters DAP;

*warehouse* means a warehouse/storage as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38.

- (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*

- (3) A reference in these regulations to an application being *accepted for assessment* is —

- (a) in relation to a DAP application made under a local planning scheme — a reference to the application being accepted for assessment under the local planning scheme; or

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- (b) in relation to a DAP application made under a planning instrument other than a local planning scheme — a reference to the application being made in accordance with the requirements of the planning instrument; or
- (c) in relation to an application under regulation 17(1) [or 17K\(1\)](#) — a reference to the application being made in accordance with the requirements of these regulations.

Note for these regulations:

The terms DAP, ~~JDAP, LDAP and district DAP~~, [special matters DAP](#), responsible authority and other terms defined in the *Planning and Development Act 2005* section 4(1) have the same respective meanings [in these regulations](#) 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.

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

### **Division 1 — DAP applications**

#### **4A. Development applications to which regulation 5 or 6 do not apply**

- ~~(1) Regulation 5 does not apply to a development application for approval of a development of a warehouse.~~
- (2) Regulation 6 does not apply to —
  - (a) a special matters DAP application; or
  - (b) a development application in respect of which the responsible authority has under regulation 19 delegated the power of determination.
- (3) Regulations 5 and 6 do not apply to an excluded development application.

#### **5. ~~Mandatory~~ Special matters DAP applications (Act s. 171A(2)(a))**

- (1) A development application for approval of development is prescribed for the purposes of section 171A(2)(a) of the Act if the development —
  - (a) is or is part of a special matter specified under paragraph (a) of the definition of *special matter* in section 171C(1A) of the Act; or
  - (b) is in an area, or a class or kind of area, specified under paragraph (b) of that definition.
- (2) Subregulation (1) has effect subject to section 171A(2A) of the Act and regulation 4A.

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- ~~Subject to regulation 4A and section 171A(2A) of the Act, a development application is of a class prescribed under section 171A(2)(a) of the Act if it is for the approval of~~
- ~~(a) development in the district of the City of Perth that has an estimated cost of \$20 million or more; or~~
- ~~(b) development in a district outside of the district of the City of Perth that has an estimated cost of \$10 million or more.~~

**5A. Determination of special matters DAP applications by special matters DAPs**

Despite any other provision of the Act or a planning instrument, a special matters DAP application —

- (a) must be determined by the special matters DAP established for the special matter to which the application relates, as if the DAP were the responsible authority under the relevant planning instrument; and
- (b) cannot be determined by a local government or the Commission.

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

(1) A development application for approval of development is prescribed for the purposes of section 171A(2)(ba) of the Act if the development is within a district for which a district DAP is established and has an estimated cost of \$2 million or more.

(2) Subregulation (1) has effect subject to section 171A(2A) of the Act and regulation 4A.

~~Subject to regulation 4A and section 171A(2A) of the Act, a development application is of a class prescribed under section 171A(2)(ba) of the Act if it is for the approval of any of the following —~~

- ~~(a) development in the district of the City of Perth that has an estimated cost of \$2 million or more and less than \$20 million;~~



- ~~— (b) development in a district outside of the district of the City of Perth that has an estimated cost of \$2 million or more and less than \$10 million;~~
- ~~— (c) development of a warehouse in any district that has an estimated cost of \$2 million or more.~~

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

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

**8. Determination of optional DAP applications by district DAPs ~~Applications to be determined by DAPs~~**

- (1) Despite any other provision of the Act or a planning instrument, ~~any DAP application~~ an optional DAP application for approval of development within a district for which a district 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~~ an optional 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 district DAP is established, the application is to be determined by the district DAP established for the district in which the ~~greater land area of the development is proposed~~ greatest area of land to which the application relates is situated.

**9. Making ~~of a DAP applications~~ application: and initial procedures unaffected**

(1) Except as provided by Division 3, these ~~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
- (aa) the provisions of a planning instrument as to acceptance of a development application for assessment and requesting further information or material in relation to a development application; or
- (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.

(2) For the purposes of these regulations, a development application is made to the Commission even though it is lodged with or given to a local government if, under the planning instrument under which the application is made, the application would be determined by the Commission but for regulation 5A or 8.

**Division 2 — Dealing with optional DAP applications**

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

- (1) An applicant making ~~a DAP application~~ an optional 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~~ lodged notice, in an approved form, that the application is to be determined by a district DAP; and

- (b) pay to the local government the relevant fee in Schedule 1 [item 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~~ [an optional 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).

**11. Local government must notify [district](#) DAP of ~~DAP~~ application**

- (1) A local government must, within 7 days after the date on which it accepts ~~a DAP application~~ [an optional DAP application](#) for assessment, give the administrative officer (the *relevant administrative officer*) of the [district](#) 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~~ [regulation 10\(1\)](#), completed by the local government;
  - (c) confirmation that the applicant has paid the fee under regulation 10(1);
  - (d) a copy of any notice requiring the applicant to amend the application, or provide further information or material in relation to the application, given to the applicant before the application was accepted for

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assessment under the ~~planning instrument (the relevant planning instrument) under which the application was made;~~ relevant planning instrument;

- (e) any further information or material given to the local government in response to a notice referred to in paragraph (d).
- (2) If, after ~~a DAP~~the application is accepted for assessment, ~~a local~~the local government gives the applicant a notice under the relevant planning instrument requesting that the applicant give further information or material to the local government and the applicant accepts the request, the local government must —
  - (a) within 3 days after the date on which the request is accepted, give the relevant administrative officer —
    - (i) a copy of the notice of request; and
    - (ii) confirmation of the date on which the request was accepted;and
  - (b) within 7 days after the date on which the information or material (if any) is given to the local government in response to the request, give the relevant administrative officer —
    - (i) the information or material; and
    - (ii) confirmation of the date on which the information or material was given to the local government.
- (3) If, after ~~a DAP~~the application is accepted for assessment, the applicant gives the local government further information or material relevant to the application on the applicant's own initiative, the local government must give the further information or material to the relevant administrative officer within 7 days after the date on which it is given to the local government.

**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~~ an optional DAP application is made must give the presiding member of the district DAP that will determine the application a report on the application in a form approved by the Director General.
- ~~(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 48 days after the date on which the application was accepted for assessment; 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 within a period of 90 days or more after the application was accepted for assessment,~~
- ~~within the period that ends 12 days before the day on which the application would be deemed to be refused; or~~
- ~~(c) otherwise—within 78 days after the date on which the application was accepted for assessment.~~
- (3) The report must be given at least 12 days before the day on which the application would be taken to be refused under the relevant planning instrument.

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- (4A) In calculating the period within which the report on ~~a DAP application~~the application must be given under subregulation (3), an excluded day or period is not to be counted.
- (4B) For the purposes of subregulation (4A), an *excluded day or period* is a day or period that, under the planning instrument under which the ~~DAP~~ application is made, is not to be counted in determining when the application must be determined.
- (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~~the 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.
- (7) If a DAP is not given a report on ~~a DAP application~~an application in accordance with this regulation, the DAP may determine the ~~DAP~~ application in the absence of the report.
- (8) If an application is made under a local planning scheme or a local interim development order, the references to the responsible authority in subregulations (2) and (5)(c) are references to the chief executive officer of the responsible authority to which the application is made.

**13. Further services from responsible authority**

- (1) The presiding member of a [district](#) DAP may, at any time after the DAP is notified of ~~a DAP application~~ [an optional DAP application](#) made to a responsible authority, direct the responsible authority to give to the DAP either or both of the following services in connection with the application —
  - (a) technical advice and assistance;
  - (b) information in writing.
- (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 [district](#) DAP must notify an applicant of the following dates —

- (a) the date on which a report under regulation 12(2) on ~~a DAP application~~ [an optional 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 district DAP**

- (1) Except as provided in subregulations (2B)~~(b)~~ and (2C), the provisions of the Act and the planning instrument under which ~~a DAP application~~ an optional DAP application is made apply to the making and notification of a determination by ~~a DAP to whom the district DAP to which~~ the application is given under regulation 11 as if the DAP were the responsible authority in relation to the planning instrument.

- (2A) Subregulation (2B) applies if the ~~If a~~ planning instrument provides that an application is taken ~~deemed~~ to be refused if not determined within a specified period after the application is accepted for assessment.

- ~~(2B) , the following are to be excluded in~~ In calculating, under the planning instrument, the period between when the application is accepted for assessment and when the application is determined, any period of extension under regulation 12(4) is to be excluded, in addition to any excluded day or period defined in regulation 12(4B).

~~(a) any excluded day or period as defined in regulation 12(4B);~~

~~(b) any period of extension for the giving of a report on an application referred to in a notice given under regulation 12(4).~~

- (2C) A dispute that arises in determining whether a day or period is ~~an excluded day or period referred to in subregulation (2B)(a)~~ excluded under the planning instrument or subregulation (2B) is to be determined by the presiding member of the ~~DAP to which the DAP application was given under regulation 11, district DAP,~~ district DAP, whose decision is final.

- (2) The administrative officer of a district DAP must give the ~~responsible authority following~~ a copy of any written notice of a determination of ~~a DAP application~~ an optional DAP

application, together with approved plans and other ancillary documents, given under subregulation (1) to ~~an applicant~~ the applicant —

(a) if the Commission is the responsible authority — the Commission;

(b) the local government of each district in which land to which the application relates is situated.

**16A. Commencement of development under development approval by district DAP**

- (1) In this regulation —  
*substantially commenced* has the meaning given in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 1.
- (2) If development approval is granted by a district DAP pursuant to a DAP application —
  - (a) the development must be substantially commenced within the period of 4 years beginning on the date on which the determination is made; and
  - (b) the approval lapses if the development has not substantially commenced within that period.
- (3) Subregulation (2) applies despite any provision of the planning instrument under which the ~~DAP~~ application is made.

**17. Amendment or cancellation of development approval by district DAP**

- (1) An owner of land in respect of which a development approval has been granted by a district DAP pursuant to a DAP application may apply for the applicable district 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 under regulation 16A(2);

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- (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.

(1A) For the purposes of subregulation (1), the applicable district DAP is the district DAP established for the district in which the land to which the development approval relates is situated or, if there is more than 1 such district, the district DAP established for the district in which the greatest area of land to which the development approval relates is situated.

- (2) An application under subregulation (1) —
  - (a) may be made during or after the period within which the development approved must be substantially commenced under regulation 16A(2); and
  - (b) must be made in ~~the form of Form 2 in Schedule 3;~~ an approved form; and
  - (c) must be accompanied by the ~~relevant fee set out in~~ Schedule 1 item 2; and
  - (d) must be lodged with the local government with which the DAP application was lodged.
- (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~~ an optional DAP application.
- (4) The DAP may determine ~~an application~~ the 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 and the relevant responsible authority 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.

**17A. Amendment or cancellation of development approval by responsible authority**

- (1) An owner of land in respect of which a development approval has been granted by a [district](#) DAP pursuant to a DAP application may apply, under the relevant planning instrument, for the responsible authority under that instrument to amend or cancel the development approval (an **application**).
- (2) For the purposes of subregulation (1), the provisions of the Act, the *Planning and Development (Local Planning Schemes) Regulations 2015*, the *Planning and Development Regulations 2009* and the relevant planning instrument apply to the making and determination of, and the review of a decision on, an application as if the development approval —
- (a) had not been granted pursuant to a DAP application; and
  - (b) had been granted by the responsible authority.

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- (3) As soon as practicable after an application is determined, the responsible authority must give the administrative officer of the DAP that granted the development approval 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 of the application is subject;
  - (d) reasons for any refusal of the application.

**Division 3 — Dealing with special matters DAP applications**

**17B. Special matters DAP applications: modification of procedures**

- (1) The functions of a local government under a planning instrument in relation to the making, receipt, assessment and determination of a development application are, in the case of a special matters DAP application, to be performed by the Commission.
- (2) For the purposes of subregulation (1), the planning instrument under which the application is made has effect, in relation to the application —
- (a) as if references to a local government in provisions relating to the functions referred to in subregulation (1) were references to the Commission; and
  - (b) with any other necessary modifications.
- (3) Subregulations (1) and (2) have effect subject to regulations 5A and 17I (under which a special matters DAP is to determine the application).
- (4) A special matters DAP application made under a local planning scheme is taken to be a complex application for the purposes of the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 64 (as that clause applies as part of the local planning scheme).

(5) When advertising in relation to a special matters DAP application in accordance with the relevant planning instrument, the Commission must, for each district in which land to which the application relates is situated —

(a) notify the local government of the district of the application; and

(b) invite the local government to make submissions on the application to the special matters DAP that will determine the application.

(6) If, in relation to a special matters DAP application, the relevant planning instrument provides that the application is taken to be refused if it is not determined within a specified number of days after it was accepted for assessment, the instrument has effect as if the specified number of days were 120.

**17C. Making special matters DAP application: notice and fees**

(1) In this regulation —

*design* includes a draft of the design;

*design review*, in relation to development the subject of a special matters DAP application, means a review of the design of the development conducted by the State Design Review Panel for the purposes of determining the application;

*State Design Review Panel* means the committee called the State Design Review Panel established under Schedule 2 clause 1 of the Act.

(2) An applicant making a special matters DAP application to the Commission for development approval under a planning instrument must, when lodging the application —

(a) give to the Commission notice, in an approved form, that the application is to be determined by a special matters DAP; and

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- (b) pay to the Commission the following —
  - (i) the administration fee in Schedule 1 item 3;
  - (ii) the assessment fee in Schedule 1 item 4.
- (3) The form required under subregulation (2) is required in addition to any application form required under the planning instrument.
- (4) In addition to the fees payable under subregulation (2)(b), an applicant must pay the Commission, for each design review conducted in relation to the development after the 3<sup>rd</sup> design review, the fee in Schedule 1 item 5.
- (5) A fee payable under subregulation (4) is payable on completion of the design review.
- (6) If a special matters 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 fees payable under this regulation are payable once only.
- (7) The Commission must, within 30 days after the date on which it receives the application, remit to the department the administration fee paid under subregulation (2)(b)(i).

**17D. Commission must notify special matters DAP of application**

- (1) The Commission must, within 7 days after the date on which it accepts a special matters DAP application for assessment, give the administrative officer (the *relevant administrative officer*) of the special matters DAP that will determine the application the following —
  - (a) a copy of the application;
  - (b) a copy of the notice given under regulation 17C(2)(a), completed by the Commission;



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(c) confirmation that the applicant has paid the fees under regulation 17C(2)(b);

(d) a copy of any notice requiring the applicant to amend the application, or provide further information or material in relation to the application, given to the applicant before the application was accepted for assessment under the relevant planning instrument;

(e) any further information or material given to the Commission in response to a notice referred to in paragraph (d).

(2) If, after the application is accepted for assessment, the Commission gives the applicant a notice under the relevant planning instrument requesting that the applicant give further information or material to the Commission and the applicant accepts the request, the Commission must —

(a) within 3 days after the date on which the request is accepted, give the relevant administrative officer —

(i) a copy of the notice of request; and

(ii) confirmation of the date on which the request was accepted;

and

(b) within 7 days after the date on which the information or material (if any) is given to the Commission in response to the request, give the relevant administrative officer —

(i) the information or material; and

(ii) confirmation of the date on which the information or material was given to the Commission.

(3) If, after the application is accepted for assessment, the applicant gives the Commission further information or material relevant to the application on the applicant's own initiative, the Commission must give the further information or material to the relevant administrative officer within 7 days after the date on which it is given to the Commission.

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- (4) A requirement under this regulation to give information to the relevant administrative officer of a special matters DAP also includes a requirement to give the information to the local government of each district in which land to which the application relates is situated.

**17E. Commission must report to special matters DAP**

- (1) The Commission must, for each special matters DAP application, give the presiding member of the special matters DAP that will determine the application a report on the application in a form approved by the Director General.
- (2) The report must be given at least 12 days before the day on which the application would be taken to be refused under the relevant planning instrument.
- (3) In calculating the period within which the report on the application must be given under subregulation (2), an excluded day or period is not to be counted.
- (4) For the purposes of subregulation (3), an *excluded day or period* is a day or period that, under the planning instrument under which the application is made, is not to be counted in determining when the application must be determined.
- (5) Despite subregulation (2), the presiding member of the DAP may, by notice in writing given to the Commission and with the consent of the applicant, extend the period within which the report on the application must be given.
- (6) The report must provide sufficient information to enable the DAP to determine the application, including —
- (a) a recommendation as to how the application should be determined; and
- (b) copies of any advice received by the Commission from any other statutory or public authority consulted by the Commission in respect of the application; and
- (c) any other information that the Commission considers is relevant to determining the application.

- (7) A special matters DAP that receives a report under subregulation (1) must have regard to, but is not bound to give effect to, the recommendation included in the report.
- (8) If a special matters DAP is not given a report on an application in accordance with this regulation, the DAP may determine the application in the absence of the report.

**17F. Further services from Commission**

- (1) The presiding member of a special matters DAP may, at any time after the DAP is notified of a special matters DAP application made to the Commission, direct the Commission to give to the DAP either or both of the following services in connection with the application —
  - (a) technical advice and assistance;
  - (b) information in writing.
- (2) The direction must be in writing and must specify —
  - (a) the services required; and
  - (b) the time within which the Commission must comply with the direction.
- (3) The Commission must comply with a direction given to it under this regulation.

**17G. Costs and expenses incurred by Commission**

The costs and expenses incurred by the Commission in giving a report under regulation 17E, or advice, assistance or information in compliance with a direction under regulation 17F, are to be borne by the Commission.

**17H. Notification to applicant**

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

- (a) the date on which a report under regulation 17E(1) on a special matters DAP application made by the applicant is received by the DAP;

- (b) any date on which the DAP directs the Commission under regulation 17F(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.

**17I. Determination by special matters DAP**

- (1) Except as provided in this regulation, the provisions of the Act and the planning instrument under which a special matters DAP application is made apply to the making and notification of a determination by the special matters DAP to which the application is given under regulation 17D as if the DAP were the responsible authority in relation to the planning instrument.
- (2) When determining a special matters DAP application, the special matters DAP must have due regard to any submission made by the local government of a district in which land to which the application relates is situated, that was received within the period of 60 days after the day on which the local government was invited to make submissions under regulation 17B(5)(b).
- (3) A submission may be made by the chief executive officer of the local government if the local government permits the chief executive officer to do so.
- (4) Subregulation (5) applies if the planning instrument provides that an application is taken to be refused if not determined within a specified period after the application is accepted for assessment.
- (5) In calculating, under the planning instrument, the period between when the application is accepted for assessment and when the application is determined, any period of extension under regulation 17E(5) is to be excluded, in addition to any excluded day or period defined in regulation 17E(4).

(6) A dispute that arises in determining whether a day or period is excluded under the planning instrument or subregulation (5) is to be determined by the presiding member of the special matters DAP, whose decision is final.

(7) The administrative officer of a special matters DAP must give the following a copy of any written notice of a determination of a special matters DAP application, together with approved plans and other ancillary documents, given under subregulation (1) to the applicant —

(a) the Commission;

(b) the local government of each district in which land to which the application relates is situated.

**17J. Commencement of development under development approval by special matters DAP**

(1) In this regulation —

*substantially commenced* has the meaning given in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 clause 1.

(2) If development approval is granted by a special matters DAP pursuant to a DAP application —

(a) the development must be substantially commenced within the period of 4 years beginning on the date on which the determination is made; and

(b) the approval lapses if the development has not substantially commenced within that period.

(3) Subregulation (2) applies despite any provision of the planning instrument under which the application is made.

**17K. Amendment or cancellation of development approval by special matters DAP**

(1) An owner of land in respect of which a development approval has been granted by a special matters DAP pursuant to a special

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matters 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 under regulation 17J(2);
- (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 under regulation 17J(2); and
- (b) must be made in an approved form; and
- (c) must be accompanied by the following —
  - (i) the administration fee in Schedule 1 item 6;
  - (i) the assessment fee in Schedule 1 item 7
- and
- (d) must be lodged with the Commission.

(3) Unless otherwise provided in this regulation, regulations 17C to 17F apply to an application under subregulation (1) as if the application were a special matters DAP application.

(4) The DAP may determine the 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 and the Commission, and the local government of each district in which land to which the application relates is situated, 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 special matters DAP must ensure that the notification is published on the DAP website.

(7) The reference in subregulation (1) to the DAP to which an application may be made is a reference to the special matters DAP established for the special matter or matters that cover the class or kind of development approved.

#### **Division 4 — Review by State Administrative Tribunal**

### **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 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.



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- (2) A person who has made a DAP application or an application under regulation 17 or 17K 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*, other than section 31, the presiding member of 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.
- (4) For the purposes of reconsideration of a decision on an invitation made under the *State Administrative Tribunal Act 2004* section 31, the decision-maker is the DAP that made the reviewable decision.

**Division 5 — Advice to Minister by special matters DAP**

**18A. Advice to Minister by special matters DAP**

- (1) A special matters DAP may, at the request of the Minister, give the Minister advice concerning an application of the kind described in subregulation (2) that is referred to the Minister under section 246 of the Act.

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(2) The kind of application is an application for review by the State Administrative Tribunal of —

(a) a determination of a development application by a responsible authority or a district DAP; or

(b) a condition imposed in the determination of a development application by a local government or a district DAP; or

(c) a deemed refused development application.

(3) In subregulation (2)(c) —

**deemed refused development application** means a development application, for the determination of a responsible authority or a district DAP, that is taken under the Act or a planning instrument to have been 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.

## **Part 3 — Delegation to DAPs**

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

(1) A development application is an application of a class prescribed for the purposes of this regulation if —

(a) the application is for approval for development that has an estimated cost of \$2 million or more; and

~~(b) the application is one of the following —~~

~~(i) an application that is not an excluded development application;~~

~~(ii) an application for approval for the construction of less than 10 grouped dwellings and any associated carport, patio, outbuilding and incidental development;~~

~~(iii) an application for approval for the construction of less than 10 multiple dwellings and any associated carport, patio, outbuilding and incidental development.~~

(b) the application is not a special matters DAP application; and

(c) the application is not an excluded application.

(2) A local government may, by written instrument, delegate to a district 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 [district](#) DAP —
  - (a) the power of the Commission to determine a development application of a class prescribed under subregulation (1) that is 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 unless the local government or the Commission has notified in writing —
  - (a) the applicant; and
  - (b) the Director General.
- (7) A [district](#) DAP to which a power is delegated under this regulation cannot delegate that power.

**20. Commencement 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.
- (2) A body that delegates to a [district](#) DAP under regulation 19 must give a copy of the instrument of delegation to the Director General.

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**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~~ delegates under regulation 19 the power to determine a development application —
  - (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~~ lodged, notice, in an approved form, that the application is to be determined by a district DAP; and
  - (b) regulations 11 to 16 apply as if the application were ~~a~~ an optional DAP application.
- (3) If a local government or the Commission ~~has delegated~~ delegates 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~~ lodged, notice, in an approved form, that the application is to be determined by a district DAP; and
  - (b) regulations 11 to 16 apply as if the application were ~~a~~ an optional DAP application.
- (4) A district 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 [district](#) 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 the application an amount equal to the amount that would have been payable under regulation 10(1)(b) by the applicant if [regulation 10 were applicable to the application.](#) ~~the application were made under that regulation.~~
- (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 the application an amount equal to the amount that would have been payable under regulation 17(2)(c) by the applicant if [regulation 17 were applicable to the application.](#) ~~the application were made under that regulation.~~
- (3) The Director General may enter into an agreement with a local government as to the payments under subregulation (1) or (2).

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

### **Division 1 — District 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 is an eligible voter of the district for which the LDAP is established.~~

~~— (3) — For the purposes of subregulation (2) 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. District DAP ~~JDAP~~ members**

- (1) The members of a ~~JDAP~~district DAP, at any meeting of the ~~JDAP~~DAP to determine or otherwise deal with a development application or an application ~~to amend or cancel a determination of the JDAP, are~~ under regulation 17 are —

- (a) the 2 local government members ~~included on the local government register~~ for the relevant local government in relation to the ~~development~~ application; and
- (b) 3 persons appointed to the ~~JDAP~~DAP as specialist members.

- (2) In subregulation (1)(a) —

local government member, for the relevant local government, means a person designated as a local government member for the local government under regulation 26(2)(a);

*relevant local government*, in relation to ~~a development~~ an 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~~26A applies to the appointment of specialist members.

**26. ~~JDAP~~District DAP local government member register**

- (1) The Minister must cause to be established and maintained a register of local government members of ~~JDAPs~~district DAPs.
- (2) Subject to subregulation (4), the register must include, for each local government of a district for which a ~~JDAP~~district DAP is



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established, the names of ~~2-4~~ members of the council of the local ~~government~~. government —

(a) 2 of whom must be designated as the local government members for the local government; and

(b) 2 of whom must be designated as alternate members for the local government.

(3) Whenever it is necessary to include a member of a council of a local government ~~on a local~~ on the 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 instead include on the register a person who is an eligible voter of the district of the local government.

(5) For the purposes of subregulation (4) 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.

**26A37. Appointment of specialist members ~~and alternate specialist members~~**

(1) The Minister, when appointing a person as a specialist member of a district DAP under regulation ~~23(1)(b) or 25(1)(b) or an alternate member under regulation 28(1)(c)~~, must appoint —

(a) a person selected by the Minister from the register maintained under regulation 35; or

(b) an officer of the department nominated by the Director General.

- (2) The Minister must not appoint as a specialist member of a district 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 district DAP at the same time.
- (4) At least 2 of the specialist members of each district DAP must have ~~experience, and a tertiary qualification, in town planning, experience and an accredited tertiary qualification in urban and regional planning.~~

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

- (1) The ~~Minister~~Director General must appoint —
- (a) one of the specialist members of a district DAP with experience and ~~a~~an accredited tertiary qualification; in urban and regional planning as the presiding member of the DAP; and
  - (b) another of the specialist members with that experience and qualification as the deputy presiding member.
- (2) Subject to ~~subregulation 3A~~ subregulation (3A), the deputy presiding member of a district DAP must act as presiding member when the presiding member of the DAP is unable to do so by reason of illness, absence or other cause.
- (3A) If both the presiding member and the deputy presiding member of a district DAP are unable to act as presiding member of the DAP by reason of illness, absence or other cause, the Director General may appoint the presiding member of another district DAP to act as presiding member of the DAP.

- (3) No act or omission of a person acting in place of another under this regulation~~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.~~

(1) In subregulation (2) —

*alternate member*, for a local government, means a person designated under regulation 26(2)(b) as an alternate member for the local government;

*local government member*, for a local government, means a person designated under regulation 26(2)(a) as a local government member for the local government.

- (2) If, in relation to a district DAP, a local government member for a local government is unable to perform the functions of a member of the DAP by reason of illness, absence or other cause,

an alternate member for the local government may act in their place.

- (5) If a specialist member of a district DAP, other than the presiding member, is unable to perform the functions of the member by reason of illness, absence or other cause, the Director General may appoint a person selected by the Director General from the register under regulation 35 as an alternate member ~~from the pool referred to in subregulation (1)(c) may, on the request of the presiding member, to~~ act in the place of the specialist member.
- (6) A person cannot act in the place of a specialist member of a district 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~~ 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 district DAP member, has the same functions and protection from liability as a district 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 specialist member of a district DAP ~~DAP member~~ holds office for the term specified in the member's instrument of appointment.

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- (2) The term of office specified ~~in an instrument of appointment~~ must not exceed —

(a) for a specialist member who is not an officer of the department — 3 years; and

(b) for a specialist member who is an officer of the department — 5 years.

- (3) A person's eligibility for reappointment as a specialist member of a district DAP ~~DAP member~~ or the term for which a person may be reappointed is not affected by an earlier appointment.

**30. Training of district DAP members**

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

- (2) Subject to subregulation (3), a district DAP member who satisfactorily completes —

(a) the training for DAP members referred to in subregulation (1) is entitled to be paid the amount specified in Schedule 2 item 7; and

(b) a course of re-training for DAP members is entitled to be paid the amount specified in Schedule 2 item 8.

- (3) Unless the Minister has given written consent to the payment, the amount referred to in subregulation (2) is not payable to a district 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 district 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.~~
- ~~— (3A) A DAP member may be paid 50% of the fee to which the member would have been entitled under subregulation (1) or (2) for attending a DAP meeting if —~~
  - ~~— (a) the DAP meeting is cancelled after the agenda for the meeting was published in accordance with regulation 39(1); and~~
  - ~~— (b) the Director General approves the payment.~~
- (1) A specialist member of a district DAP who attends a meeting of the DAP is entitled to be paid —
  - (a) if paragraph (b) does not apply — the fee in Schedule 2 item 1; or
  - (b) if the member attends the meeting for less than 4 hours — the fee in Schedule 2 item 2.
- (2) A local government member of a district DAP who attends a meeting of the DAP is entitled to be paid —
  - (a) if paragraph (b) does not apply — the fee in Schedule 2 item 3; or
  - (b) if the sole purpose of their attendance at the meeting is to determine an application under regulation 17 — the fee in Schedule 2 item 4.

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(2A) If a meeting of a district DAP is cancelled after the agenda for the meeting is published under regulation 39(1), each member of the DAP who was to attend the meeting may, if the Director General approves in writing, be paid —

(a) for a specialist member — 50% of the fee in Schedule 2 item 2; or

(b) for a local government member — 50% of the fee to which the member would have been entitled under subregulation (2).

(3) ~~Subject to subregulation (6), a~~ A district 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.

(3B) ~~Subject to subregulation (6), the~~ The presiding member of a district DAP who determines a dispute under regulation 16(2C) is entitled to be paid the fee ~~set out~~ in Schedule 2 item 9.

(4) A district DAP member is entitled to be reimbursed for motor vehicle and travel expenses at the rate decided from time to time by the Public Sector Commissioner for members of Government boards and committees.

(5) Fees and allowances for district DAP members are payable by the department.

(5A) Subregulations (1) to (4) have effect subject to subregulation (6).

(6) Unless the Minister has given written consent to the payment, fees are not payable under this regulation to a district 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 [district](#) 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 [district](#) 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 [district](#) DAP member from office on the grounds of —
  - (a) neglect of duty; or
  - (b) misconduct or incompetence; or
  - (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; or
  - (e) unreasonable failure to undertake the training for DAP members referred to in regulation 30(1).
- (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).



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~~—(5A) A person appointed as a local government member of a DAP on the nomination of a local government under regulation 24(1)(a) ceases to be a member of the DAP if the person ceases to be a member of the council of the local government.~~

(5A) If the office of a local government member of a district DAP becomes vacant, the member resigns or is removed from office, the person ceases to be included on the local government register.

(5B) A person included on the local government register on the nomination of a local government under regulation 26(3)(a) ceases to be included on the register if the person ceases to be a member of the council of the local government.

(5) ~~Except in the circumstances referred to in subregulation (5A),~~ The Minister must, by notice in writing given to the member, remove a district 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.

**32A. Suspension**

(1) The Minister may, by notice in writing given to the member, suspend a district DAP member from office —

(a) until the Director General is of the opinion that the member has satisfactorily completed the training for DAP members provided by the department; or

(b) if the Minister proposes to remove the member from office under regulation 32(3) or (5) — until the Minister either removes the member from office or decides not to do so.

(2) A notice given under subregulation (1) must specify the ground for suspension.

(3) The suspension takes effect on the day on which the member is given the notice or on a later day specified in the notice.

**33. Leave of absence**

The Minister may grant leave of absence to a [district](#) 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 [district](#) 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 [district](#) DAP member is taken to continue to be a member under this regulation after the member's term of office expires is 3 months.

**~~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~~[urban and regional](#) planning;
    - (ii) architecture;
    - (iii) urban design;
    - (iv) [civil or structural](#) engineering;

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- (v) landscape ~~design~~ architecture;
  - (vi) ~~environment~~ environmental impact assessment;
  - ~~(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~~ experience and an accredited tertiary qualification 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 district DAP.
- (2) The following persons are not eligible to be included on the register —
- (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 [district](#) 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.

**~~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), 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.~~



**Division 2 — Special matters DAP members**

**36. Special matters DAP members**

- (1) A special matters DAP must have 7 members, appointed by the Minister in writing.
- (2) The appointments must be of the following —
- (a) a person selected by the Minister from a list of 3 to 5 persons submitted by the Commission;
  - (b) a person selected by the Minister from a list of 3 to 5 persons submitted by WALGA;
  - (c) a person selected by the Minister from a list of 3 to 5 persons, with experience and an accredited tertiary qualification in architecture, submitted by the Australian Institute of Architects or, if the institute ceases to exist, an equivalent body approved by the Minister;
  - (d) a person nominated by the CEO as defined in the *Environmental Protection Act 1986* section 3(1);
  - (e) a person selected by the Minister from a list of 3 to 5 persons, with experience and an accredited tertiary qualification in urban and regional planning, submitted by the Planning Institute of Australia or, if the institute ceases to exist, an equivalent body approved by the Minister;
  - (f) a person nominated by the Director General as defined in the *Transport Co-ordination Act 1966* section 4(1);
  - (g) a person who has experience in one or more of the following areas: economics, commerce and industry, business or financial management, engineering, surveying, transport or valuation.

**37. Presiding member**

- (1) The Minister must appoint the member of a special matters DAP referred to in regulation 36(2)(a) as the presiding member of the DAP.

- (2) The alternate member of the presiding member of a special matters DAP is, when acting in the place of the presiding member, taken to be the presiding member.
- (3) If both the presiding member and the alternate member of the presiding member of a special matters DAP are unable to act by reason of illness, absence or other cause, the Director General may appoint another member of the DAP to act as the presiding member.

**38. Alternate members**

- (1) For each member of a special matters DAP referred to in a paragraph of regulation 36(2), the Minister must, in writing, appoint an alternate member in accordance with that paragraph.
- (2) An alternate member for a special matters DAP member may act in the place of the special matters DAP member if the special matters DAP member is unable to act by reason of illness, absence or other cause.
- (3) 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 special matters DAP application.
- (4) An alternate member, while acting in the place of a special matters DAP member, has the same functions and protection from liability as the special matters DAP member.
- (5) 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.

**38A. Fees and allowances for members**

- (1) A special matters DAP member who attends a meeting of the DAP is entitled to be paid —
  - (a) if paragraph (b) does not apply — the fee in Schedule 2 item 1; or

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- (b) if the member attends the meeting for less than 4 hours — the fee in Schedule 2 item 2.
- (2) If a meeting of a special matters DAP is cancelled after the agenda for the meeting is published in accordance with regulation 39(1), each member of the DAP who was to attend the meeting may, if the Director General approves in writing, be paid 50% of the fee in Schedule 2 item 2.
- (3) A special matters 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 in Schedule 2 item 5 or 6, as is relevant.
- (4) The presiding member of a special matters DAP who determines a dispute under regulation 17I(6) is entitled to be paid the fee in Schedule 2 item 9.
- (5) A special matters DAP member is entitled to be reimbursed for motor vehicle and travel expenses at the rate decided from time to time by the Public Sector Commissioner for members of Government boards and committees.
- (6) Fees and allowances for special matters DAP members are payable by the department.
- (7) Subregulations (1) to (5) have effect subject to subregulation (8).
- (8) Unless the Minister has given written consent to the payment, fees are not payable under this regulation to a special matters DAP member who is —

  - (a) an employee as defined in the *Public Sector Management Act 1994* section 3(1); 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.

**38B. Term of office**

(1) A special matters DAP member holds office for the term specified in the member's instrument of appointment.

(2) The term of office specified must not exceed 5 years.

(3) A person's eligibility for reappointment as a special matters DAP member or the term for which a person may be reappointed is not affected by an earlier appointment.

**38C. Administrative matters for special matters DAP members**

Regulations 30, 32, 32A, 33 and 34 apply to and in relation to a special matters DAP member, to the extent relevant —

(a) as if references in those regulations to a district DAP member were references to a special matters DAP member; and

(b) with any other consequential modifications.

**Division 3 — Meetings**

**39. Notice of meetings**

(1AA) This regulation has effect in relation to a meeting of a special matters DAP —

(a) as if references in it to a local government were references to the Commission; and

(b) with any other consequential modifications.

(1) The time, date and location of each DAP meeting, and the agenda for the meeting, must be published at least 7 days before the day of the meeting —

(a) on the DAP website; and



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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 Director General.
- (1A) The local government must, at least 7 days before the day of the DAP meeting, give written notice of the time, date and location of the DAP meeting, and the agenda for the meeting, to each person who made a written submission to the local government in relation to a DAP application to be considered at the meeting.
- (1B) However, the local government is not required to give a notice under subregulation (1A) if —
  - (a) the submission was received after the period for receipt of submissions specified in the notice advertising the DAP application; or
  - (b) it is not reasonably practicable to do so; or
  - (c) the DAP application was not advertised.
- (1C) Notice under subregulation (1A) may be given by email or post.
- (2) The administrative officer of the DAP must notify local governments of the details necessary to enable the local governments to comply with subregulations (1)(b) and (1A).

**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 [or 17K](#).
- (2) Any DAP meeting to determine a development application or, unless otherwise directed under subregulation (4), an application under regulation 17 [or 17K](#) is to be open to the public.

(2A) The requirement in subregulation (2) is satisfied if members of the public can observe the meeting using audiovisual communication.

(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) The presiding member may direct that a DAP meeting to determine an application under regulation 17 or 17K —

~~— (a) is to be held by each other person at the meeting being in contact by telephone, or other means of electronic communication; and~~

~~— (b) is not open to the public.~~

(5) The Director General may issue practice notes about the practice and procedure of DAPs and each DAP must comply with those practice notes.

#### **41. Quorum**

~~At a meeting of a DAP, 3 members of the DAP, including the presiding member, constitute a quorum.~~

(1) A quorum for a meeting of a district DAP is 3.

(2) A quorum for a meeting of a special matters DAP is 5.

(3) A quorum must include the presiding member of the DAP, or the person acting as the presiding member.

#### **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~~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 Director General, by—

~~—(a) an officer of the local government at whose offices the DAP meeting is held; or~~

~~—(b) another~~ a person approved by the Director General.

- (1A) For each determination of a development application, or application under regulation 17 or 17K, by a DAP the minutes must include a record of —

- (a) the determination; and  
(b) reasons for the determination.

- (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 or, in the case of a district DAP, the deputy presiding member if they were present 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~~ each relevant 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 Director General.

#### **Division 4 — Conduct of DAP members**

##### **45. Code of conduct**

- (1) The Director General 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 Director General 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



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- (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.
- (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 Director General 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 Director General must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.

**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 Director General 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 Director General must establish a website (the **DAP website**) containing —

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

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- (4) A DAP must comply with a request made under subregulation (3) and the relevant local government is to make its staff and facilities available for the purposes of subregulation (3)(d).

**53. Annual report**

- (1) The Director General must include in the annual report prepared by the Director General 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 Director General considers relevant.



## 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 district 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 district 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~~district DAP is amended so that it is no longer established for a district, any DAP application for development in that district of which the ~~JDAP~~DAP has been notified under regulation 11 and which has not been determined by the ~~JDAP~~DAP must —
  - (a) if, at the same time as the order is amended, another district 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.
- (3) If a development application becomes a special matters DAP application after it is made, the application is to be dealt with and determined as if it had not become a special matters DAP application.
- (4) Subregulation (5) applies in relation to a development approval if the special matters DAP application pursuant to which the development approval was granted would not be a special

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matters DAP application were it to be made at the time of the application of this provision.

- (5) An owner of land in respect of which the development approval was granted cannot make an application under regulation 17K to amend or cancel the approval but may do so under regulation 17 or 17A.

**54A. Approved forms**

- (1) The Director General may approve forms for use under these regulations.
- (2) The Director General must ensure that an approved form is published on the DAP website.
- (3) A failure to comply with subregulation (2) does not affect the validity of anything done under the Act.

**54B. Delegation by Director General**

- (1) The Director General may delegate to another officer of the department any power or duty of the Director General under another provision of these regulations, other than regulations 26A, 22(3), 40(5) and 45.
- (2) The delegation must be in writing signed by the Director General.
- (3) An officer to whom a power or duty is delegated under this regulation cannot delegate that power or duty.
- (4) An officer exercising or performing a power or duty that has been delegated to them under this regulation is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Director General to perform a function through an officer or agent.

**55. Review of fees**

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

## **Part 7 — Transitional Provisions**

### **Division 1 — Provision for Planning Regulations Amendment Regulations 2020**

**56. Application of amendments made by *Planning Regulations  
Amendment Regulations 2020***

The amendments to these regulations made by the *Planning  
Regulations Amendment Regulations 2020* Part 4 do not apply  
to a DAP application made before the day on which that Part  
comes into operation.

### **Division 2 — Provisions for *Planning and Development (Development Assessment Panels) Amendment Regulations 2022***

**57. Terms used**

In this Division —

**commencement day** means the day on which the *Planning and  
Development Amendment Act 2020* Part 3 comes into operation;

**DAP application** has the meaning given in regulation 3(1) as in  
force immediately before commencement day;

**JDAP** has the meaning given in section 4(1) of the Act as in  
force immediately before commencement day;

**LDAP** has the meaning given in section 4(1) of the Act as in  
force immediately before commencement day.

**58. Local government register**

- (1) Subregulation (2) applies to a person included on the local  
government register for a local government immediately before  
commencement day.

(2) The person is taken to have been designated, on commencement day, as a local government member for the local government under regulation 26(2)(a).

(3) Subregulation (4) applies to a person whose appointment under regulation 28(1)(b) as an alternate member, for a person included on the local government register for a local government, is in effect immediately before commencement day.

(4) The person is taken to have been designated, on commencement day, as an alternate member for the local government under regulation 26(2)(b).

**59. DAP applications to continue as optional DAP applications unless r. 60 applies**

(1) A DAP application lodged with a responsible authority that, immediately before commencement day, had not been determined becomes, on commencement day, an optional DAP application.

(2) Subregulation (1) is subject to regulation 60.

**60. Development applications that become special matters DAP applications on commencement day**

(1) This regulation applies to a development application lodged with a responsible authority before commencement day that —

(a) immediately before commencement day, had not been determined; and

(b) on commencement day, becomes a special matters DAP application.

(2) The application is to be dealt with and determined as if it had not become a special matters DAP application.



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**61. Previous determinations of LDAPs and JDAPs**

Regulations 17 and 17A apply in relation to a development approval granted before commencement day by an LDAP or a JDAP as if the references in regulation 17(1) and 17A(1) to a development approval granted by a district DAP included a reference to a development approval granted by an LDAP or a JDAP.

## Schedule 1 — Fees for applications

[~~r. 10 and 17~~ [r. 10, 17, 17C and 17K](#)]

[Heading inserted: SL 2021/104 r. 4.]

Item	Application	Fee
1.	<a href="#">For an optional</a> <del>A</del> -DAP application where the estimated cost of the development is —	
	(a) <del>not less than \$2 million and less than \$7 \$10 million</del>	<del>\$5 701</del> <a href="#">\$11 600</a>
	(b) <a href="#">\$10 million or more</a>	<a href="#">\$14 500</a>
2.	<a href="#">For an</a> <del>An</del> application under r. 17	\$245
3.	<a href="#">For a special matters DAP application (administration)</a>	<a href="#">\$16 000</a>
4.	<a href="#">For a special matters DAP application (assessment)</a>	<a href="#">\$80 600</a>
5.	<a href="#">For a 4<sup>th</sup> or subsequent design review</a>	<a href="#">\$10 000</a>
6.	<a href="#">For an application under r. 17K (administration)</a>	<a href="#">\$245</a>
7.	<a href="#">For an application under r. 17K (assessment)</a>	<a href="#">\$295</a>

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## **Schedule 2 — Fees for DAP members**

[~~r. 30 and 31~~ r. 30, 31, 38A and 38C]

[Heading inserted: Gazette 16 Dec 2016 p. 5716.]

- |     |   |                  |
|-----|---|------------------|
| 1.  | <del>Fee for presiding member per meeting to determine development applications</del>   | <del>\$700</del> |
| 1.  | <u>Fee for specialist member of district DAP or member of special matters DAP, for attendance, at a meeting, of more than 4 hours</u>   | <u>\$1050</u>    |
| 2.  | <u>Fee for specialist member of district DAP or member of special matters DAP, for attendance, at a meeting, of not more than 4 hours</u>   | <u>\$600</u>     |
| 23. | <del>Fee for any other local government member of district DAP, for attendance at a per meeting to determine development applications</del>   | <del>\$425</del> |
| 3.  | <del>Fee per meeting for presiding member to determine applications to amend or cancel determination</del>  | <del>\$200</del> |
| 4.  | <del>Fee per meeting for any other local government member of district DAP, for attendance at meeting for the sole purpose of determining an application under r. 17 to determine applications to amend or cancel determination</del> | <del>\$100</del> |
| 5.  | Fee for presiding member attending proceeding in State Administrative Tribunal  | \$700            |
| 6.  | Fee for any other member attending proceeding in State Administrative Tribunal  | \$425            |

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|----|--|-------|
| 7. | Fee for training for DAP members   | \$400 |
| 8. | Fee for re-training for DAP members  | \$200 |
| 9. | Fee for presiding member to determine<br>dispute <del>as to compliance with notice</del> | \$200 |

*[Drafting note: Schedule 3 to be deleted]*

Clerk of the Executive Council

Proposed DAP amendment	City of Joondalup 'Phase 2' Planning Reform submission	Comment
<p><b>Delegations</b> (<i>DAP Regulations: r. 12(2)</i>)</p> <p>Functions of the local government, in the submission of a report and recommendation to the DAP, have been clarified in the amendments to the DAP Regulations.</p> <p>A District DAP report is to be submitted by the Chief Executive Officer of the relevant local government.</p> <p>A Special Matters DAP referral may be a delegated function from Council to the Chief Executive Officer of the relevant local government.</p>	Not applicable.	<p>For District DAPs, this aligns with the City's current practice. It should also be clarified that the CEO could sub-delegate this function to another local government employee. For example, the City's Director Planning and Community Development is currently the authorising officer for Responsible Authority Reports submitted on behalf of the City.</p> <p>The introduction of Special Matters DAPs as currently proposed is not supported, as discussed below. In relation to delegations, providing 60 days for Council to provide an informed submission is considered an insufficient timeframe when accounting for lead in times for reports and local government officers needing to assess the application to appropriately inform Council. As the Special Matters DAP has 120 days to determine the application, it is recommended additional time be given for the local government to provide a submission.</p>
<p><b>Excluded developments</b> (<i>DAP Regulations: r.4A</i>)</p> <p>Certain types of development will continue to be excluded from determination through the DAP system.</p> <p>In addition, developments wholly on reserved land under a region scheme and development applications for public works will also be exempt. Decision making powers will be returned to the Western Australian Planning Commission, or a delegated officer, in accordance with Section 16 of the <i>Planning and Development Act 2005</i>.</p> <p>These excluded developments will apply to both the District and Special Matters DAP processes.</p>	Not applicable.	<p>There is no rationale in the consultation material for the new exemption for public works and development on reserved land. The amendment means that these applications will be determined by the WAPC, or delegated officer, rather than a DAP.</p> <p>Should the intent be that these applications are excluded as it is not considered necessary that they are referred to a DAP, the removal of the mandatory threshold for District DAPs will mean that the applicant can choose not to pursue the DAP pathway.</p> <p>The Special Matters DAP is required to consider applications of State and regional significance, with mandatory thresholds. By having public</p>



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		works or developments on reserved land that otherwise meet the mandatory criteria for a Special Matters DAP not follow the DAP process, it is unclear if a consistent process will be undertaken by the WAPC. For example, if these applications will also be advertised as 'complex applications' and be subject to the same rigor of design review.
<p><b>Meeting arrangements</b> <i>(via Procedural Guidance)</i></p> <p>District and Special Matters DAP meetings will, as far as is practicable, be scheduled at regular dates and times, with meetings centrally coordinated and convened by the Department of Planning, Lands and Heritage. There will be an option to convene meetings outside business hours in certain circumstances (such as for applications of significant public interest), subject to further guidance to be developed.</p> <p>Meetings will provide the option for virtual attendance, with recordings of meetings also to be made available online.</p>	<p>The proposed amendments align with the City's comments:</p> <p><i>Greater transparency in the DAP process to make it easier to understand for the community is supported.</i></p> <p><i>It is however noted that the further reduction in the number of panels needs to be implemented in conjunction with a broader review of the DAP system which should include the consideration of other DAP reforms such as:</i></p> <ul style="list-style-type: none"> <li>• <i>Centralising (by DPLH taking responsibility of) the administrative function of DAPs - including where DAP meetings are hosted, administration and governance support)</i></li> <li>• <i>Thresholds for applications</i></li> <li>• <i>Whether or not mandatory applications should exist or if all DAP applications should be 'opt in'</i></li> </ul>	<p>Greater transparency and accessibility in the DAP process is supported. Further detail in the procedural guidance should consider:</p> <ul style="list-style-type: none"> <li>• All meetings providing the opportunity for virtual attendance.</li> <li>• Clear guidance on the particular circumstances that would warrant a meeting being held outside business hours, and who is responsible for determining when this occurs.</li> </ul> <p>The coordination and centralisation of meetings by DPLH requires a review of R.50 of the DAP Regulations, as administrative and governance support should be the sole responsibility of DPLH and not the local government.</p> <p>The scheduling of meetings at regular dates and times is generally supported. However, as applications are required to be determined within a set number of days from the date of lodgement, the responsible authority should not be required to submit a report prior to its due date under the DAP Regulations, in order to meet a pre-set meeting date. The scheduling of meetings should also ensure there is no conflict with local government Council meetings or similar, particularly if considering meetings outside normal business hours as this will have implications on local government representation</p>

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		on the panel itself and as the responsible authority.
<p><b>Fees</b> (via DAP Regulations: Schedule 2)</p> <p>DAP fees have been revised to reflect cost recovery rates for the operations of the District and Special Matters DAP. Fees for the District DAP includes:</p> <ul style="list-style-type: none"> <li>The administrative component to process applications, coordinate meetings and provide support to panel members.</li> <li>Payment of Specialist and local government members.</li> </ul> <p>The costs associated with assessment will continue to go to the local government.</p> <p>The fee for District DAP is proposed to increase from \$5,701 to:</p> <ul style="list-style-type: none"> <li>\$11,600 where the cost of development is less than \$10 million</li> <li>\$14,500 where the cost of development is greater than \$10 million</li> </ul> <p>Fees for the Special Matters DAP includes:</p> <ul style="list-style-type: none"> <li>The administrative component to process applications, coordinate meetings and provide support to panel members.</li> <li>All costs associated with the assessment of applications of State significance.</li> <li>Initial design review requirements for up to three (3) reviews by the State Design Review Panel.</li> <li>Payment of Special Matters DAP members.</li> </ul> <p>The proposed minimum fee for a Special Matters DAP application is \$96,000, being:</p> <ul style="list-style-type: none"> <li>\$16,000 administration fee</li> <li>\$80,600 assessment fee</li> </ul> <p>The proposed modifications to the fees for DAP members include:</p> <ul style="list-style-type: none"> <li>Specialist members increasing from \$425 to \$1,050 (more than four hours) or \$600 (not more than four hours).</li> <li>No change to fee paid to local government members, being \$425 or \$100 for an amendment application.</li> </ul>	<p>The proposed changes to DAP fees does not align with the City's comments, with no review of local government fees undertaken. The City will no longer receive a fee for applications determined by the Special Matters DAP.</p> <p><i>Fees associated with State Government planning processes (ie. subdivision and DAPs) are consistently reviewed and increased annually, however fees associated with local government planning processes have not been reviewed since 2015.</i></p> <p><i>At the same time, more and more is being required of local government in the planning space, which means the number of resources, the skillsets of planning professionals and technology to support planning processes has all increased. This in turn has led to an increase in the cost of providing the service of local government planning.</i></p> <p><i>A review of fees associated with local government planning processes will mean the cost of service is more accurately reflected and will enable local governments to appropriately resource or invest in technology so that an efficient planning service can continue to be provided.</i></p>	<p>There is a need to further review local government fees, noting that the cost recovery fee for a DAP is significantly higher compared to the same application when processed by the local government.</p> <p>For example,</p> <ul style="list-style-type: none"> <li>A development with an estimated cost of \$2 million has a local government fee of \$6,025 (including design review). The DAP fee for these applications will be \$11,600 to cover DPLH administrative costs and payment to panel members.</li> <li>An application to the Specials Matter DAP has a minimum DAP fee of \$96,000. Should the same application be able to be processed by the City, an application fee of \$34,771 would be applicable (including design review).</li> </ul> <p>As outlined in previous submissions, the current fees set under the <i>Planning and Development Regulations 2009</i> does not reflect the cost of service. The difference between the proposed fees being cost recovery for a Special Matters DAP application, and the current local government fees demonstrate this.</p> <p>For Special Matters DAP, a local government fee should be applicable. As experienced with the State Development Assessment Unit (SDAU) process, DPLH is heavily reliant on expertise within local government to assess technical components of a development, including local planning, engineering, health, building and environment. There is often multiple amendments to these proposals requiring additional technical</p>

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		<p>review by local government officers with no remuneration provided to the local government for this service. The local government submission on a Special Matters DAP is also required to be considered at a Council Meeting, taking additional officer time to prepare reports and documents for Council. The cost for the local government to provide this needs to be reflected in the fees charged.</p> <p>In regard to the fees for DAP members, the payment of local government members should be consistent with the specialist member for a District DAP.</p>
<p><b>District DAP areas</b> (Via Ministerial Order)</p> <p>As part of the Action Plan for Planning Reform, the Government is committed to reducing the number of DAPs to no more than three (from five). The three geographical areas are proposed to be:</p> <ul style="list-style-type: none"> <li>• <u>The Metro Inner DAP</u> – comprising of the existing City of Perth LDAP, Metro Inner-North JDAP and Metro Inner-South JDAP areas.</li> <li>• <u>The Metro Outer DAP</u> – comprising the existing Metro Outer JDAP area and including the Peel Region Scheme area (includes City of Joondalup).</li> <li>• <u>The Regional DAP</u> – remain unchanged, with the exception to the Shire of Waroona which will be relocated to the Metro Outer DAP area.</li> </ul>	<p>The proposed amendments generally align with the City's comments:</p> <p><i>The further reduction in the number of panels (to three) is supported as it may improve consistency in decision-making across all DAPs.</i></p> <p><i>It is however noted that the further reduction in the number of panels needs to be implemented in conjunction with a broader review of the DAP system which should include the consideration of other DAP reforms such as:</i></p> <ul style="list-style-type: none"> <li>• <i>Centralising (by DPLH taking responsibility of) the administrative function of DAPs - including where DAP meetings are hosted, administration and governance support)</i></li> <li>• <i>Thresholds for applications</i></li> <li>• <i>Whether or not mandatory applications should exist or if all DAP applications should be 'opt in'.</i></li> </ul>	<p>The reduction in the number of DAPs is supported.</p>
<p><b>Threshold criteria</b> (Via DAP Regulations: r.3 'excluded development application', r.6, r.7)</p>	<p>The proposed amendment to remove the mandatory threshold for District DAPs aligns with the City's submission.</p>	<p>As set out in the City's previous submission, the minimum monetary threshold for District DAPs should be increased to \$4 million.</p>

Proposed DAP amendment	City of Joondalup 'Phase 2' Planning Reform submission	Comment
<p>All applications valued at \$2 million or more may opt in to the District DAP process. There are no mandatory requirements (thresholds) for applications. The District DAP system will be opt-in only.</p> <p>Special Matters DAP applications and 'excluded developments' are not eligible to undertake the District DAP process.</p>	<p>Retaining the minimum 'opt-in' monetary threshold of \$2 million does not align with the City's submission, and it was recommended this be increased to \$4 million.</p>	<p>The removal of the mandatory threshold is supported.</p>
<p><b>Fixed term members</b> (<i>Via DAP Regulations: r. 27, r. 28, r. 29, r. 35</i>)</p> <p>As part of the Action Plan for Planning Reform, the Government intends to appoint fixed-term (3 to 5 years) Presiding and Deputy Presiding Members to service all District DAP areas. The intent is that these members would not have other employment, reducing the potential for conflicts of interest. These members will be required to have relevant and related experience, and an accredited tertiary qualification in urban or regional planning. Members will be employed by the Department of Planning, Lands and Heritage. No changes are proposed to local government representation on a District DAP.</p> <p>The third specialist member will be drawn from a reduced pool of experts from a range of disciplines, similar to the current arrangement. This may change to the same arrangement as the Presiding and Deputy Presiding Member (fixed term employment for 3 to 5 years). The intent of this is to ensure panels have the required expertise necessary for decision making on complex matters.</p>	<p>The proposed amendments partially align with the City's comments, noting there is no proposed requirement for the Presiding and Deputy Presiding Members to have governance expertise.</p> <p><i>The appointment of permanent panel members is supported as it may provide for:</i></p> <ul style="list-style-type: none"> <li>• <i>More consistency in decision-making</i></li> <li>• <i>Continuity and therefore a better understanding of local context</i></li> <li>• <i>Less perception of bias/conflicts if panels members are employed by DPLH (rather than industry representatives)</i></li> </ul> <p><i>It is however recommended that, in the appointment of permanent panel members, particular consideration is given to any presiding member having demonstrated governance experience (in addition to their planning expertise) to ensure meetings are appropriately chaired and administered.</i></p>	<p>The appointment of Presiding and Deputy Presiding Members as employees of the Department of Planning, Lands and Heritage is supported.</p> <p>The Presiding and Deputy Presiding Member should also have demonstrated governance experience, in addition to their planning expertise to ensure meetings are appropriately chaired and administered.</p>

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<p><b>Special Matters DAP – projects</b> (<i>Via Ministerial Order</i>)</p> <p>The following criteria are proposed for projects of State or regional importance:</p> <table border="1" data-bbox="112 400 887 1380"> <tr> <th data-bbox="112 400 448 624" rowspan="2">Criteria</th><th colspan="2" data-bbox="448 400 887 464">Value Threshold</th></tr> <tr> <th data-bbox="448 464 658 624">Perth and Peel Region Scheme Area</th><th data-bbox="658 464 887 624">Outside Perth and Peel Region Scheme Area</th></tr> <tr> <td data-bbox="112 624 448 751">'State Significant proposals' under Lead Agency Framework</td><td data-bbox="448 624 658 751">N/A</td><td data-bbox="658 624 887 751">N/A</td></tr> <tr> <td data-bbox="112 751 448 847">Resource projects – renewable energy</td><td data-bbox="448 751 658 1380" rowspan="5">\$50 million</td><td data-bbox="658 751 887 1380" rowspan="5">\$30 million</td></tr> <tr> <td data-bbox="112 847 448 1062">Non-residential developments – greater than 20,000m<sup>2</sup> NLA (where there is no approved structure plan in place)</td></tr> <tr> <td data-bbox="112 1062 448 1158">Multiple dwellings – greater than 100 dwellings</td></tr> <tr> <td data-bbox="112 1158 448 1286">Private hospitals or educational establishments</td></tr> <tr> <td data-bbox="112 1286 448 1380">Ports, marinas and airports</td></tr> </table>	Criteria	Value Threshold		Perth and Peel Region Scheme Area	Outside Perth and Peel Region Scheme Area	'State Significant proposals' under Lead Agency Framework	N/A	N/A	Resource projects – renewable energy	\$50 million	\$30 million	Non-residential developments – greater than 20,000m <sup>2</sup> NLA (where there is no approved structure plan in place)	Multiple dwellings – greater than 100 dwellings	Private hospitals or educational establishments	Ports, marinas and airports	<p>There was insufficient information for the City to conclude whether the Special Matter DAP was appropriate.</p> <p><i>There is no detail provided in relation to the Special Matters DAP and therefore it cannot be concluded whether its creation is supported or not. Information is needed on:</i></p> <ul style="list-style-type: none"> <li><i>How the Special Matters DAP differs to 'normal' DAPs</i></li> <li><i>What the makeup of the Special Matters DAP will be (ie. will local government be represented in the same way it currently is on 'normal' DAPs</i></li> <li><i>What will be the decision-making scope be – will decisions only take into account the planning framework or also broader matters, similar to the current 'Significant Development Assessment Unit'?</i></li> <li><i>What will local government's role be on Special Matters DAP applications? Would local government still be the responsible authority, or would the City's role be further reduced to a referral agency similar to the current Significant Development Assessment Unit?</i></li> <li><i>What would the triggers be for an applicant to qualify for lodgement to the Special Matters DAP?</i></li> </ul>	<p>It is not clear how the establishment of a Special Matters DAP achieves the objectives outlined in the planning reform and could delay decision making.</p> <p>The types of projects and precincts listed are not all considered to be of State and regional significance and further removes the local government and community from the planning process:</p> <ul style="list-style-type: none"> <li>Special Matters DAP should be opt-in.</li> <li>Multiple dwellings, private hospitals and educational establishments where there is a structure plan in place already have a suitable planning framework to guide development that has been supported by the WAPC. For example, the Joondalup Health Campus and Edith Cowan University are both subject to the Joondalup Activity Centre Plan (JACP). The developments on these sites fit entirely within the expectations of the JACP and should they propose developments that meet the mandatory criteria for a Special Matters DAP, it will unnecessarily delay the planning process for no tangible benefit. Historically, applications on these sites where the cost of development is more than \$50 million have taken on average 80 days for the City of Joondalup to process, being significantly less than 120 days allowed by the Special Matters DAP. Should this be pursued, multiple dwellings, private hospital and educational establishments should be excluded from the Special Matters DAP process where there is a structure plan in place.</li> <li>The projects that could be considered by the Special Matters DAP include quantitative</li> </ul>
Criteria		Value Threshold															
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<p><b>Special Matters DAP – precincts</b> (<i>Via Ministerial Order</i>)</p> <p>The Special Matters DAP can also consider certain types of applications in precincts of State and regional importance. These precincts are likely to be areas of high development pressure and/or precincts where development is of importance to the wider region or State. Some examples are outlined below, with indicative maps in Attachment 1.</p> <table border="1" data-bbox="112 510 887 1321"> <thead> <tr> <th data-bbox="112 510 448 670" rowspan="2">Precinct Area</th><th colspan="2" data-bbox="448 510 887 574">Criteria</th></tr> <tr> <th data-bbox="448 574 658 670">Multiple Dwellings</th><th data-bbox="658 574 887 670">Net Lettable Area (NLA)</th></tr> </thead> <tbody> <tr> <td data-bbox="112 670 448 826">Perth Central Business District</td><td data-bbox="448 670 658 826">Multiple dwellings, 51 or more</td><td data-bbox="658 670 887 826">Commercial development greater than 5,000m<sup>2</sup> NLA</td></tr> <tr> <td data-bbox="112 826 448 1161">South Perth Peninsula Stirling Hwy - Winthrop Ave to Loch St Cockburn Central Canning Bridge Activity Centre Plan area</td><td data-bbox="448 826 658 1161" rowspan="4">Multiple dwellings, 21 or more</td><td data-bbox="658 826 887 1161" rowspan="4">Commercial development greater than 3,000m<sup>2</sup> NLA</td></tr> <tr><td data-bbox="112 826 448 906"></td></tr> <tr><td data-bbox="112 906 448 986"></td></tr> <tr><td data-bbox="112 986 448 1066"></td></tr> <tr> <td data-bbox="112 1161 448 1321">Cottesloe foreshore METRONET station precincts</td><td data-bbox="448 1161 658 1321">Multiple dwellings 10 or more</td><td data-bbox="658 1161 887 1321"></td></tr> </tbody> </table> <p>If an application meets the applicable project/precinct criteria, the Special Matters DAP pathway will be mandatory.</p>	Precinct Area	Criteria		Multiple Dwellings	Net Lettable Area (NLA)	Perth Central Business District	Multiple dwellings, 51 or more	Commercial development greater than 5,000m <sup>2</sup> NLA	South Perth Peninsula Stirling Hwy - Winthrop Ave to Loch St Cockburn Central Canning Bridge Activity Centre Plan area	Multiple dwellings, 21 or more	Commercial development greater than 3,000m <sup>2</sup> NLA				Cottesloe foreshore METRONET station precincts	Multiple dwellings 10 or more			<p>criteria in addition to a value threshold. It is unclear as to why the quantitative criteria and the value threshold determine State or regional importance. For example, if 100 multiple dwellings are considered of State or regional significance, this should be the case irrespective of the monetary value.</p> <p>The types of applications that could be considered by the Special Matters DAP are set by Ministerial Order and the consultation material provides examples only. Mandatory consultation with local governments should be undertaken prior to issuing a Ministerial Order.</p>
Precinct Area		Criteria																	
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<p><b>Special Matters DAP: membership</b> (<i>Via DAP Regulations: r.36</i>)</p> <p>It is proposed to have seven Special Matters DAP members, comprising of the following:</p> <ol style="list-style-type: none"> <li>1. Presiding Member, from a list of people nominated by the WAPC,</li> <li>2. Local Government representative, nominated by the Western Australian Local Government Association (WALGA),</li> <li>3. Accredited Architect, nominated by the Australian Institute of Architects,</li> <li>4. Environmental officer, nominated by the Environmental Protection Authority,</li> <li>5. Urban and Regional Planner, nominated by the Planning Institute of Australia,</li> <li>6. Transport officer, nominated by the Department of Transport, and</li> <li>7. A person with experience in property economics, commerce and industry, business management, financial management, engineering, surveying, valuation or transport.</li> </ol> <p>The Minister will appoint members from a list of nominations provided by each organisation abovementioned.</p>	<p>There was insufficient information for the City to conclude whether the Special Matters DAP was appropriate.</p>	<p>The Special Matters DAP does not include elected members for the local government, as is the case with District DAPs. This further removes the input that local governments can have in these projects.</p> <p>The changes proposed to the district DAP for the Presiding and Deputy Presiding member to be employed by DPLH is proposed to manage conflicts of interest. This same approach has not been applied to the Special Matters DAP membership and there is therefore a greater risk of conflicts of interest arising (real or perceived) that has not been dealt with to the same extent for district DAPs.</p>
<p><b>Special Matters DAP: Assessment, referrals and post-determination processes</b> (<i>Via DAP Regulations: Part 2, Division 3</i>)</p> <p>The WAPC, supported by DPLH, will be responsible for assessing applications within the relevant planning framework. This will include all processes associated with assessment (lodgement, advertising, referrals etc).</p> <p>The statutory timeframe for processing Special Matters DAP applications will be 120 days.</p> <p>The WAPC will be responsible for the coordination of referrals to State agencies and local governments.</p> <p>Local governments will be provided 60 days to comment on Special Matters DAP applications. Comments received from local government will be given due regard in the decision-making process.</p>	<p>There was insufficient information for the City to conclude whether the Special Matters DAP was appropriate.</p>	<p>As experienced with the SDAU process, DPLH have been heavily reliant on local government to provide technical expertise. This has included assessment against the local planning framework, engineering, building, health and environment, and reviewing numerous iterations of development plans. Should this be expected of the local government as part of the Special Matters DAP, it should be reflected with a clear process included in the DAP Regulations and supported with an appropriate fee to the local government. Alternatively, DPLH should be resourced to provide its own detailed technical assessment of proposals.</p> <p>60 days is considered insufficient time to allow local governments to assess and present a</p>

Proposed DAP amendment	City of Joondalup 'Phase 2' Planning Reform submission	Comment
<p>Following the determination of an application, local governments will be responsible for the clearance and compliance of conditions.</p>		<p>proposal to Council to endorse a submission, noting the Special Matters DAP have 120 days to determine an application. A 90 days referral timeframe would be more appropriate for the scale of development. It is unclear that should further submissions be sought from the local government, whether another 60 (or 90) days would be granted to provide sufficient time for further comments to be considered by Council.</p> <p>In regard to consultation, it is recommended that local governments provide input into potential stakeholders to be consulted. Local governments have a greater awareness of local community interest groups and circumstances that will assist in improving transparency in the consultation process.</p> <p>The local government has limited influence in the Special Matters DAP process, however becomes responsible for the clearance of conditions. This is considered inappropriate, and the clearance of these conditions should be retained by the WAPC. There is no scope within the DAP Regulations should the applicant not demonstrate to the local government's satisfaction that a condition has been met, that the WAPC is able to clear the condition as the responsible authority for the application. It is also noted that there is no remuneration to the local government for Special Matters DAP applications to cover the costs associated with clearing conditions.</p> <p>Amendments to approvals issued by the Special Matters DAP are required to be considered by the Special Matters DAP, with no ability for these applications to be considered by the local government or the WAPC. Given these often relate to minor changes to the development, requiring these to follow the Special Matters DAP</p>

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			process could unnecessarily delay developments. It is considered appropriate that minor amendments are able to be dealt with by the WAPC.						
<b>Commencement</b>  It is anticipated that the amendments to the DAP Regulations will come into operation at the beginning of 2023.  Any application made to an LDAP or JDAP prior to the DAP Regulation amendments coming into effect will be considered by the relevant District DAP. This includes an application that achieves the mandatory criteria for Special Matters DAP.		Not applicable.	The amendments to the DAP Regulations should only take effect once all supporting information (e.g. procedural guidance and templates) have been made available and sufficient time provided for local government and industry to transition applications to the new process.						
<b>Transitional arrangements</b>  Details on transitional arrangements are provided below. Further guidance on transitional arrangements will be provided. <table><tr><th>Matter</th><th>Detail</th></tr><tr><td>Current DAP applications and amendments to existing DAP approvals</td><td>Current DAP applications, including those lodged and accepted prior the implementation of the DAP Regulations, will be determined by the new relevant District DAP. This includes applications that meet the criteria for the Special Matters DAP.  After commencement, any amendments to applications determined prior to the implementation of the DAP Regulations can be made to either the new District DAP or to the relevant local government.</td></tr><tr><td>Special Matters DAP applications</td><td>An application to the Special Matters DAP can only be lodged after the Special Matters DAP program commences (early 2023).  An application lodged before commencement day will be assessed by the relevant</td></tr></table>		Matter	Detail	Current DAP applications and amendments to existing DAP approvals	Current DAP applications, including those lodged and accepted prior the implementation of the DAP Regulations, will be determined by the new relevant District DAP. This includes applications that meet the criteria for the Special Matters DAP.  After commencement, any amendments to applications determined prior to the implementation of the DAP Regulations can be made to either the new District DAP or to the relevant local government.	Special Matters DAP applications	An application to the Special Matters DAP can only be lodged after the Special Matters DAP program commences (early 2023).  An application lodged before commencement day will be assessed by the relevant	Not applicable.	For applications that meet the Special Matters DAP threshold, clarification needs to be provided on whether an amendment lodged after the commencement date would be subject to the Special Matters DAP process, or whether these can be dealt with by the local government or District DAP.
Matter	Detail								
Current DAP applications and amendments to existing DAP approvals	Current DAP applications, including those lodged and accepted prior the implementation of the DAP Regulations, will be determined by the new relevant District DAP. This includes applications that meet the criteria for the Special Matters DAP.  After commencement, any amendments to applications determined prior to the implementation of the DAP Regulations can be made to either the new District DAP or to the relevant local government.								
Special Matters DAP applications	An application to the Special Matters DAP can only be lodged after the Special Matters DAP program commences (early 2023).  An application lodged before commencement day will be assessed by the relevant								

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	responsible authority and determined by the appropriate District DAP.		
Existing SDAU applications	<p>These development applications will continue to be assessed by DPLH and determined by the WAPC under Part 17 of the PD Act. The responsibility for clearing conditions and compliance will remain with DPLH.</p> <p>Any applications for amendments to approvals will also be assessed by the DPLH, and determined by the WAPC under Part 17 of the Act.</p>		
Existing LDAP and JDAPs	These will become part of the relevant District DAP. For example, the Metro Inner-South JDAP will become part of the Metro-Inner District DAP, unless the application meets the criteria for a Special Matters DAP.		



# Planning Reform



Proposed Amendments - Planning & Development (Development Assessment Panel) Regulations 2011

## Development Assessment Panel (DAP) Reforms Consultation

### DETAILED SUBMISSION

As part of the [Action Plan for Planning Reform](#), the Government is making changes to Western Australia's Development Assessment Panel system. Proposed amendments to the *Planning & Development (Development Assessment Panel) Regulations 2011* (DAP Regulations) are open for public comment until midnight, Friday 22 April 2022. The following form (Part A – D) is provided to guide your submission.

#### Submitter's Details:

<b>Submitter's name</b>	City of Joondalup	
<b>Email address</b>	info@joondalup.wa.gov.au	
<b>Organisation name (if applicable)</b>		
City of Joondalup		
<b>Submitter/ Organisation type</b>		
Local government or related associations		
<b>Submissions may be published as part of the consultation process. Do you give permission for your name and your company's name (if applicable) to be published?</b>		Yes, please publish my details

#### PART A– GENERAL PROCESS AND ADMINISTRATIVE REFORMS

Various changes are proposed to the DAP Regulations to improve transparency, efficiency and consistency of the DAP system. These are outlined below.

##### 1. DELEGATIONS (*DAP Regulations: r. 12(2)*)

Functions of the local government, in the submission of a report and recommendation to the DAP, have been clarified in the amendments to the DAP Regulations.

A District DAP report is to be submitted by the Chief Executive Officer of the relevant local government.







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A Special Matters DAP referral may be a delegated function from Council to the Chief Executive Officer of the relevant local government.

**Do you support the clarifications regarding the ability to delegate functions of the local government?**

**Conditional support**

**Please outline any suggested improvements or comments below:**

For District DAPs, it should be clarified that the Chief Executive Officer of the local government can sub-delegate this function to another local government employee, being consistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The introduction of Special Matters DAPs as currently proposed is not supported, as discussed below. In relation to delegations, providing 60 days for Council to provide an informed submission is considered an insufficient timeframe when accounting for lead in times for reports and local government officers needing to assess the application to appropriately inform Council. As the Special Matters DAP has 120 days to determine the application, it is recommended additional time be given for the local government to provide a submission.

## **2. EXCLUDED DEVELOPMENTS** (DAP Regulations: r.4A)

Certain types of development will continue to be excluded from determination through the DAP system.

In addition, developments wholly on reserved land under a region scheme and development applications for public works will also be exempt. Decision making powers will be returned to the Western Australian Planning Commission, or a delegated officer, in accordance with Section 16 of the *Planning and Development Act 2005*.

These excluded developments will apply to both the District and Special Matters DAP processes.

**Do you support the proposed additional excluded developments?**

No position

**Please outline any suggested improvements or comments below:**

There is no rationale in the consultation material for the new exemption for public works and development on reserved land.

Should the intent be that these applications are removed as it is not considered necessary that they are referred to a DAP, the removal of the mandatory threshold for District DAPs provides the opportunity for this to occur.



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The Special Matters DAP is required to consider applications of State and regional significance, with mandatory thresholds. By not having public works or developments on reserved land that meet the mandatory criteria for a Special Matters DAP, it is unclear if a consistent process will be undertaken by the WAPC. For example, if these applications will also be advertised as 'complex applications' and be subject to the same rigor of design review.

## 3. MEETING ARRANGEMENTS *(via Procedural Guidance)*

District and Special Matters DAP meetings will, as far as is practicable, be scheduled at regular dates and times, with meetings centrally coordinated and convened by the Department of Planning, Lands and Heritage. There will be an option to convene meetings outside business hours in certain circumstances (such as for applications of significant public interest), subject to further guidance to be developed.

Meetings will provide the option for virtual attendance, with recordings of meetings also to be made available online.

**Do you support the option for virtual attendance and recordings of meetings to be made available online?**

**Yes, it is still necessary**

**Do you think it is still necessary to hold meetings outside of core business hours given that meetings will be available online?**

**Yes, it is still necessary**

**Please outline any suggested improvements or comments below:**

Greater transparency and accessibility in the DAP process is supported. Further detail in the procedural guidance should consider:

- All meetings providing the opportunity for virtual attendance.
- Clear guidance on the particular circumstances that would warrant a meeting being held outside business hours, and who is responsible for determining when this occurs.

The coordination and centralisation of meetings by DPLH requires a review of R.50 of the DAP Regulations, as administrative and governance support should be the sole responsibility of DPLH and not the local government.

The scheduling of meetings at regular dates and times is generally supported. However, as applications are required to be determined within a set number of days from the date of lodgement, the responsible authority should not be expected to submit a report prior its due date under the DAP Regulations, in order to meet a pre-set meeting date. The scheduling of meetings should ensure there is no conflict with local government Council meetings or similar, particularly if considering meetings outside normal business



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hours as this will impact on local government representation on the panel itself and as the responsible authority.

## 4. FEES (via DAP Regulations: Schedule 2)

DAP fees have been revised to reflect cost recovery rates for the operations of the District and Special Matters DAP. Fees for the District DAP includes:

- The administrative component to process applications, coordinate meetings and provide support to panel members.
- Payment of Specialist and local government members.

The costs associated with assessment will continue to go to the local government.

Fees for the Special Matters DAP includes:

- The administrative component to process applications, coordinate meetings and provide support to panel members.
- All costs associated with the assessment of applications of State significance.
- Initial design review requirements for up to three (3) reviews by the State Design Review Panel.
- Payment of Special Matters DAP members.

**Do you support the proposed fee changes?**

No

### Please outline any suggested improvements or comments below:

As set out in the City's submission on Planning Reform Phase 2, further review is required of local government fees.

For example, a Special Matter DAP application has a proposed minimum cost recovery fee of \$96,000. Should the same application be processed by the City of Joondalup, an application fee of \$34,771 would be applicable (including design review fees). As outlined in submissions on planning reform, the current fees set under the *Planning and Development Regulations 2009* for local governments does not reflect the cost of service. The difference between the proposed fees being cost recovery for a Special Matters DAP application and the current local government fees demonstrate this.

For Special Matters DAP, a local government fee should be applicable. As experienced with the State Development Assessment Unit (SDAU) process, DPLH is heavily reliant on expertise within local government to assess technical components of a development, including local planning, engineering, health, building and environment. There is often multiple amendments to these proposals requiring additional technical review by local government officers with no remuneration provided to the local government for this service. The local government submission on a Special Matters DAP is also required to be considered at a Council Meeting, taking additional officer time to prepare reports and documents for Council. The cost for the local government to provide this needs to be reflected in the fees charged.

In regard to the fees for DAP members, the payment to local government members should be consistent with the specialist member for a District DAP.



# Planning Reform

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## PART B – DISTRICT DAPS

### 5. DISTRICT DAP AREAS *(Via Ministerial Order)*

As part of the Action Plan for Planning Reform, the Government is committed to reducing the number of DAPs to no more than three (from five). The three geographical areas are proposed to be:

- The Metro Inner DAP – comprising of the existing City of Perth LDAP, Metro Inner-North JDAP and Metro Inner-South JDAP areas.
- The Metro Outer DAP – comprising the existing Metro Outer JDAP area and including the Peel Region Scheme area (City of Mandurah, Shire of Murray and Shire of Waroona).
- The Regional DAP – remain unchanged, with the exception to the Shire of Waroona which will be relocated to the Metro Outer DAP area.

Refer to the information available on the DAP reforms webpage (District DAP summary document) for a list of local governments within each DAP area and associated maps.

**Do you support the proposed configuration of the District DAPs?**

**Support**

**Please outline any suggested improvements or comments below:**

N/A

### 6. THRESHOLD CRITERIA *(Via DAP Regulations: r.3 'excluded development application', r.6, r.7)*

All applications valued at \$2 million or more may opt in to the District DAP process. There are no mandatory requirements (thresholds) for applications. The District DAP system will be opt-in only.

Special Matters DAP applications and 'excluded developments' are not eligible to undertake the District DAP process.

**Do you support the District DAPs being opt-in only?**

**Support**

**Do you support the opt-in threshold of \$2m?**

**Do not support**

**Please outline any suggested improvements or comments below:**



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As raised in the City of Joondalup submission on Planning Reform Phase 2, the opt-in threshold should be increased to \$4 million.

## 7. FIXED TERM MEMBERS *(Via DAP Regulations: r. 27, r. 28, r. 29, r. 35)*

As part of the Action Plan for Planning Reform, the Government intends to appoint fixed-term (3 to 5 years) Presiding and Deputy Presiding Members to service all District DAP areas. The intent is that these members would not have other employment, reducing the potential for conflicts of interest. These members will be required to have relevant and related experience, and an accredited tertiary qualification in urban or regional planning. Members will be employed by the Department of Planning, Lands and Heritage. No changes are proposed to local government representation on a District DAP.

**Do you support appointing presiding and deputy members for 3 to 5-year terms?**

**Support**

**Do you support the required experience and qualifications for members?**

**Conditional support**

**Please outline any suggested improvements or comments below:**

The Presiding and Deputy Presiding Member should also have demonstrated governance experience, in addition to their planning expertise so as to ensure meetings are appropriately chaired and administered.

## 8. THIRD SPECIALIST MEMBER *(Via DAP Regulations: r. 36)*

The third specialist member will be drawn from a reduced pool of experts from a range of disciplines, similar to the current arrangement. This may change to the same arrangement as the Presiding and Deputy Presiding Member (fixed term employment for 3 to 5 years). The intent of this is to ensure panels have the required expertise necessary for decision making on complex matters.

**Do you support the third specialist member being drawn from a pool?**

**Support**

**Please outline any suggested improvements or comments below:**

N/A





# Planning Reform

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## PART C – SPECIAL MATTERS DAP

The Special Matters DAP is intended to consider and determine the following development applications:

- Projects of State or regional importance, or
- Certain types of applications in precincts of State or regional importance.

Special Matters DAP applications are proposed to be mandatory.

### 9. SPECIAL MATTERS DAP – PROJECTS *(Via Ministerial Order)*

The following criteria are proposed for projects of State or regional importance:

Criteria	Value Threshold	
	Perth and Peel Region Scheme Area	Outside Perth and Peel Region Scheme Area
'State Significant proposals' under Lead Agency Framework	N/A	N/A
Resource projects – renewable energy	\$50 million	\$30 million
Non-residential developments – greater than 20,000m <sup>2</sup> NLA (where there is no approved structure plan in place)		
Multiple dwellings – greater than 100 dwellings		
Private hospitals or educational establishments		
Ports, marinas and airports		

Do you support the above project criteria?

Do not support

Please outline any suggested improvements or comments below:

It is not clear how the Special Matters DAP as proposed achieves the objectives outlined in the planning reform and could delay decision making.

The types of projects and precincts listed are not all considered to be of State and regional significance and further removes the local government and community from the planning process:

- Multiple dwellings, private hospitals and educational establishments where there is a structure plan in place already have a suitable planning framework to guide development that has been





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supported by the Commission. For example, the Joondalup Health Campus and Edith Cowan University are both subject to the Joondalup Activity Centre Plan (JACP). The developments on these sites fit entirely within the expectations of the JACP and should they propose developments that meet the criteria for a Special Matters DAP, it will unnecessarily delay the planning process for no tangible benefit. Historically, applications on these sites where the cost of development is more than \$50 million have taken on average 80 days for the City of Joondalup to process, being significantly less than 120 days allowed by the Special Matters DAP. Should this be pursued, multiple dwellings, private hospital and educational establishments should be excluded from the Special Matters DAP process where there is a structure plan in place.

- The projects that could be considered by the Special Matters DAP include quantitative criteria in addition to a value threshold. It is unclear as to why the quantitative criteria and the value threshold determine State or regional importance. For example, if 100 multiple dwellings are considered of State or regional significance, this should be the case irrespective of the monetary value.

The types of applications that could be considered by the Special Matters DAP are set by Ministerial Order. Mandatory consultation with local governments should be undertaken prior to issuing a Ministerial Order.

## 10. SPECIAL MATTERS DAP – PRECINCTS (Via Ministerial Order)

The Special Matters DAP can also consider certain types of applications in precincts of State and regional importance. These precincts are likely to be areas of high development pressure and/or precincts where development is of importance to the wider region or State. Some examples are outlined below. For indicative maps of these precinct areas, please refer to the information available on the DAP reforms webpage (Special Matters DAP summary document).

Precinct Area	Criteria	
	Multiple Dwellings	Net Lettable Area (NLA)
Perth Central Business District	Multiple dwellings, 51 or more	Commercial development greater than 5,000m <sup>2</sup> NLA
South Perth Peninsula	Multiple dwellings, 21 or more	Commercial development greater than 3,000 m <sup>2</sup> NLA
Stirling Hwy - Winthrop Ave to Loch St		
Cockburn Central		
Canning Bridge Activity Centre Plan area		
Cottesloe foreshore	Multiple dwellings	



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METRONET station precincts	10 or more	
<b>Do you support the proposed precincts and development criteria outlined above?</b>	<b>Do not support</b>	
<b>Please outline any suggested improvements or comments below. This may include a different precinct or development type within one of the precincts listed above:</b>		
See comments under 9. above.		
<b>11. MANDATORY REQUIREMENT</b> <i>(Via DAP Regulations: r.5)</i> If an application meets the applicable project/precinct criteria, the Special Matters DAP pathway will be mandatory.		
<b>Do you support Special Matters DAP applications being mandatory?</b>	<b>Do not support</b>	
<b>Please outline any suggested improvements or comments below:</b>		
Special Matters DAP should be opt-in. As set out above, there may be circumstances where a development that meets the proposed Special Matters DAP criteria is consistent and appropriate within the planning framework (e.g. structure plan) and the Special Matters DAP process will delay decision making. Local governments are equipped with their own design review, relevant technical expertise and consultation processes, to appropriately assess and determine these applications. It is noted that Council's could opt for the DAP to consider these applications, which is considered a more appropriate approach than mandating all applications that meet the project/precinct criteria.		
<b>12. MEMBERSHIP</b> <i>(Via DAP Regulations: r.36)</i> It is proposed to have seven Special Matters DAP members, comprising of the following: <ol style="list-style-type: none"> <li>1. Presiding Member, from a list of people nominated by the WAPC,</li> <li>2. Local Government representative, nominated by the Western Australian Local Government Association (WALGA),</li> </ol>		



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3. Accredited Architect, nominated by the Australian Institute of Architects,
4. Environmental officer, nominated by the Environmental Protection Authority,
5. Urban and Regional Planner, nominated by the Planning Institute of Australia,
6. Transport officer, nominated by the Department of Transport, and
7. A person with experience in property economics, commerce and industry, business management, financial management, engineering, surveying, valuation or transport.

The Minister will appoint members from a list of nominations provided by each organisation abovementioned.

**Do you support the proposed membership structure for the Special Matters DAP?**

**Do not support**

**Please outline any suggested improvements or comments below:**

The Special Matters DAP does not include Elected Members from the local government where the development is proposed, as is the case with District DAPs. This further removes local government and local community representation from the decision-making on these developments. The changes proposed to the District DAP for some members to be employed by DPLH allows for better management of conflicts of interest, while this not applied to the majority of Special Matters DAP members. There is therefore a greater risk of conflicts of interest (real or perceived) arising on 'special matters' that has not been dealt with to the same extent for District DAPs.

## **13. ASSESSMENT, REFERRALS AND POST-DETERMINATION PROCESSES** *(Via DAP Regulations: r.8A)*

- The WAPC, supported by DPLH, will be responsible for assessing applications within the relevant planning framework. This will include all processes associated with assessment (lodgement, advertising, referrals etc).
- The statutory timeframe for processing Special Matters DAP applications will be 120 days.
- The WAPC will be responsible for the coordination of referrals to State agencies and local governments.
- Local governments will be provided 60 days to comment on Special Matters DAP applications. Comments received from local government will be given due regard in the decision-making process.



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- Following the determination of an application, local governments will be responsible for the clearance and compliance of conditions.

**Do you support the above process for the Special Matters DAP?**

**Do not support**

**Please outline any suggested improvements or comments below:**

As experienced with the SDAU process, DPLH is heavily reliant on local government to provide technical expertise. This has included assessment against the local planning framework, engineering, building, health and environment, and reviewing numerous iterations of developments. Should this be expected of the local government under the Special Matters DAP, it should be reflected with a clear process in the DAP Regulations and supported with an appropriate fee to the local government. Alternatively, DPLH should be resourced to provide its own detailed technical assessment of proposals.

60 days is considered insufficient time to allow local governments to assess and present a proposal to Council to endorse a submission, noting the Special Matters DAP have 120 days to determine an application. A 90 days referral timeframe would be more appropriate for the scale of development. It is unclear that should further submissions be sought from the local government, whether another 60 (or 90) days would be granted to provide sufficient time for further comments to be considered by Council.

In regard to consultation, it is recommended that local governments provide input into potential stakeholders to be consulted. Local governments have a greater awareness of local community interest groups and circumstances that will assist in improving transparency in the consultation process.

The local government has limited influence in the Special Matters DAP process, however becomes responsible for the clearance of conditions. This is considered inappropriate, and the clearance of these conditions should be retained by the Commission. There is no scope within the DAP Regulations should the applicant not demonstrate to the local government's satisfaction that a condition has been met, that the Commission is able to clear the condition as the responsible authority for the application. There is no remuneration to the local government for Special Matters DAP applications.

Amendments to approvals issued by the Special Matters DAP are required to be considered by the Special Matters DAP, with no ability for these applications to be considered by the local government or the Commission. Given these often relate to minor changes to the development, requiring these to follow the Special Matters DAP process could unnecessarily delay developments. It is considered appropriate that minor amendments are able to be dealt with by the Commission.



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## PART D – GENERAL FEEDBACK

### 14. COMMENCEMENT *(Via DAP Regulations: r.8A)*

It is anticipated that the amendments to the DAP Regulations will come into operation at the beginning of 2023.

Any application made to an LDAP or JDAP prior to the DAP Regulation amendments coming into effect will be considered by the relevant District DAP. This includes an application that achieves the mandatory criteria for Special Matters DAP.

**What do you believe is an appropriate time for implementation of these reforms? Please outline this, and your reasoning, below:**

The amendments to the DAP Regulations should only take effect once all supporting information (e.g. procedural guidance and templates) have been made available and sufficient time provided for local government and industry to transition applications to the new process.

### 15. TRANSITIONAL ARRANGEMENTS

Details on transitional arrangements are provided below. Further guidance on transitional arrangements will be provided.

Matter	Detail
Current DAP applications and amendments to existing DAP approvals	<p>Current DAP applications, including those lodged and accepted prior to the implementation of the DAP Regulations, will be determined by the new relevant District DAP. This includes applications that meet the criteria for the Special Matters DAP.</p> <p>After commencement, any amendments to applications determined prior to the implementation of the DAP Regulations can be made to either the new District DAP or to the relevant local government.</p>
Special Matters DAP applications	<p>An application to the Special Matters DAP can only be lodged after the Special Matters DAP program commences (early 2023).</p> <p>An application lodged before commencement day will be assessed by the relevant responsible authority and determined by the appropriate District DAP.</p>
Existing SDAU applications	These development applications will continue to be assessed by DPLH and determined by the WAPC under Part 17 of the PD Act. The





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	<p>responsibility for clearing conditions and compliance will remain with DPLH.</p> <p>Any applications for amendments to approvals will also be assessed by the DPLH, and determined by the WAPC under Part 17 of the Act.</p>
Existing LDAP and JDAPs	<p>These will become part of the relevant District DAP. For example, the Metro Inner-South JDAP will become part of the Metro-Inner District DAP, unless the application meets the criteria for a Special Matters DAP.</p>

**Please outline any suggested improvements or comments below. This may include additional or alternative transitional arrangements:**

For applications that meet the Special Matters DAP threshold, clarification needs to be provided on whether an amendment lodged after the commencement date would be subject to the Special Matters DAP process, or whether these can be dealt with by the local government or District DAP.

## 16. FURTHER COMMENTS OR SUGGESTIONS

**Do you have any further comments? Please outline any other suggested improvements or comments below:**

Nil.