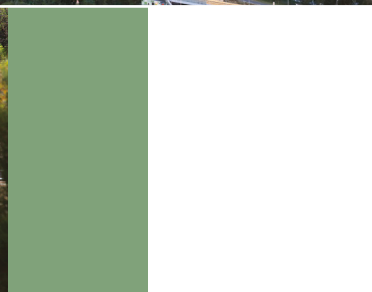
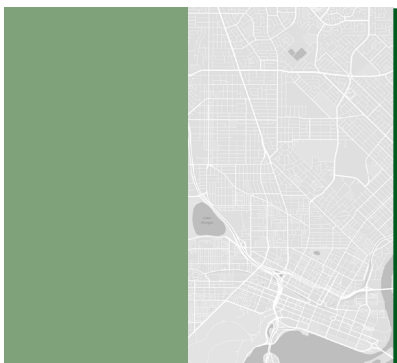


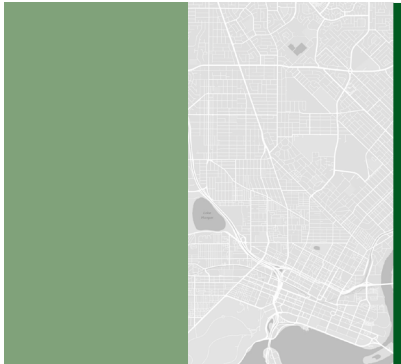
Modernising Western Australia's Planning System

Green paper concepts for a strategically-led system

Discussion paper for planning reform

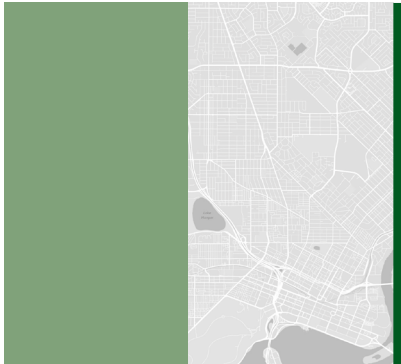
May 2018





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Minister's Foreword



In late 2017, I commissioned an independent review of the planning system. The purpose of the review was to identify ways to make the system more efficient as well as making it more open and understandable to everyone.

The review process involved consultation with a broad range of stakeholders along with consideration of the merits and challenges of planning systems in other jurisdictions. The Green Paper summarises the review findings. It outlines the challenges in the planning system and proposes five key reform areas.

The Green Paper is an independent discussion paper and does not represent Government policy. I encourage you to provide your feedback on the ideas and proposals in the Green Paper.

Your feedback on the Green Paper will inform Government's response and the development of a White Paper that will set out the Government's reform agenda for a modern planning system to enable the State's continued prosperity and liveability.

Hon Rita Saffioti, MLA

Minister for Transport; Planning; Lands

Abbreviations:

DAP	– Development Assessment Panel
DAP Regulations	– Planning and Development (Development Assessment Panel) Regulations 2011
DPLH	– Department of Planning, Lands and Heritage
LPS Regulations	– Planning and Development (Local Planning Schemes) Regulations 2015
MRA	– Metropolitan Redevelopment Authority
MRS	– Metropolitan Region Scheme
PD Regulations	– Planning and Development Regulations 2009
PD Act	– <i>Planning and Development Act 2005</i>
RAR	– Responsible Authority Report
R-Codes	– <i>State Planning Policy 3.1 - Residential Design Codes</i>
SAT	– State Administrative Tribunal
WAPC	– Western Australian Planning Commission

Have your say

The Green Paper is advertised for comment until 20th July 2018

Submissions and feedback are encouraged.

Visit www.planning.wa.gov.au/planningreform

Email planningreform@dplh.wa.gov.au

1. Overview

The State Government is committed to creating a **strategic** and **streamlined** planning system that is more **open** and **understandable** to everyone.

The planning system has become complex and focusses heavily on process and not on the outcomes that users of the system are seeking to achieve. Planning efforts need to shift from development-led to a strategically-led system in which strategic planning is the centrepiece. As housing demand is turning inwards, the planning system also needs to establish a clear planning framework for intensified development.

The Green Paper proposes ways to modernise the planning system for Western Australia to make it fairer, more open and understandable, less complicated and able to reach effective decisions quicker. The Green Paper identifies four principles to underpin WA's planning system as listed below.

Reform Principles

Fairness

The views and interests of all stakeholders are considered and balanced

Transparency

Users are able to understand the planning system

Integrity

The community is meaningfully involved in strategic planning

Efficiency

The planning system is well organised to deliver timely outcomes

Five Key Reform Proposals

The Green Paper proposes five key reforms as listed below.

1. Strategically-led

Make strategic planning the cornerstone of the planning system

2. Legible

Make the planning system easy to access and understand

3. Transparent

Open up the planning system and increase community engagement in planning

4. Efficient

Make the planning system well-organised and more efficient.

5. Delivering smart growth

Refocus the planning system to deliver quality urban infill

Key reform 1: A strategically-led system

Currently, the emphasis of the planning system is on the local planning scheme to carry State, regional and local strategies into effect as the “statutory” requirements of what can be developed.

The focus of the planning system at State and local levels should be on the development of policies and strategic plans at an early stage of the planning process to establish shared objectives and set in place a framework for future development. This will improve the timeliness of later development steps because more of the important and difficult decisions can be resolved prior to development and rezoning proposals.

To emphasise the importance of strategic planning, it is proposed to provide that **strategic planning is a purpose of the *Planning and Development Act 2005* (PD Act)** with a definition of strategic planning.

The sustainable use and development of land is a key purpose of the PD Act but its application is not explained. It is proposed to **define sustainability** in a State Planning Policy with steps on how to balance economic, social and environmental factors for land use planning.

A **Local Planning Strategy** is essential to establish the strategic framework for a local government, and show how State policies and regional strategies are to be implemented through Key Reform 2: A Legible Planning System.

Key reform 2: A legible planning system

The planning framework in Western Australia follows the pattern of:

- State Planning Strategy;
- State Planning Policies;
- Regional Frameworks;
- Regional and Sub-Regional Strategies;
- a Region Scheme for some regions; and
- a local planning strategy and a local planning scheme.

While this is a logical sequence as set in the State Planning Framework, it is not possible to trace a goal, aspiration or objective of a State policy or regional plan to the local planning scheme. The State Planning Policies have developed over many years and many policies are not in a form capable of direct implementation.

For State Planning Policies to lead the WA planning system, it is proposed that they be consolidated together into a **single, concise State Planning Framework**, with clear implementation steps for each stage of the planning process. It is also proposed to reorganise state planning policies into **common elements** that are used directly for regional plans and local planning strategies. These are two fundamental steps required to organise the WA planning system. A user will then

have a line-of-sight and can trace the common elements through the hierarchy of planning instruments.

Local planning strategies and local planning policies currently sit outside local planning schemes and are often out-of-date, ambiguously drafted, inconsistent and hard to find.

It is proposed as a third fundamental step to organise the WA planning system that a “**Comprehensive Local Planning Scheme**” contain local planning strategies (statements), all legal provisions, maps and local planning policies and become a one-stop shop for local users of the planning system.

There is an excessive level of inconsistency across local planning schemes which creates confusion and unnecessary costs for business. It is proposed that a set of **standardised zones, land uses and land use permissibility** apply in Perth and major regional centres.

It is proposed that an interactive **on-line planning portal** be developed by the Department of Planning, Lands and Heritage (DPLH) for keeping comprehensive local planning schemes online in a legible and user-friendly format that can easily be kept up-to-date.

Key reform 3: Transparent planning system

Integrity in the planning process requires that the community has a say in making strategies and plans, and has an understanding of why plans and decisions are made.

Following NSW and South Australia, it is proposed that a **Community Engagement Charter** be developed to establish a duty for planning authorities to engage meaningfully with the community in making and amending strategic plans.

Standards for publishing planning decisions are needed for the community to have confidence in the functioning of the planning system. It is proposed that LPS Regulations require **reasons for decisions** to be provided on planning decisions and that a guide be prepared as to the scope of reasons.

A range of proposals are provided to assist with the **transparency and accountability of DAPs**, for example that there is a longer meeting with more time for deputations if a development application proposes substantial variation to a local planning scheme, and that plans are readvertised prior to reconsideration by the DAP if they are amended through the SAT mediation process.

It is proposed that local governments be required to systematically report on planning matters and performance to provide a basis for monitoring and improvement of the WA planning system.

Key reform 4: An efficient planning system

An efficient planning system is well organised with clear roles and responsibilities, delivering key functions in the least complex way.

The WAPC's scope has become too wide for a single board of management to undertake. It is proposed that the **WAPC membership** be revised to five to seven specialist members and the WAPC be granted the ability to establish and abolish its own committees as required.

The WAPC **should refocus its efforts** to prepare and implement regional strategic planning, effectively manage state planning policies, and collaborate with local government to prepare structure plans for key centres and urban corridors. To do so the WAPC needs to create capacity by extending its delegations. It is proposed that the DPLH should assume responsibility for advising the Minister on the operation of the planning system, and an accreditation system be implemented

for local government to receive WAPC delegations, such as determination of basic subdivision proposals.

Proposals have been developed to resolve process issues and bottlenecks that have emerged in the planning system. Proposals include:

- assisting proponents with issues arising from agency **planning referrals**;
- allowing an **applicant to seek pre-lodgement advice**;
- requiring local government advice **within 10 business days** if **additional information** is required;
- **approved structure plans** to be read as part of a local planning scheme, with the "force and effect" of the scheme;
- a fast-track **30-day planning approval process for single house applications** that require only minor variations to the R-Codes.

Key reform 5: Planning for smart growth

To meet infill housing and employment targets, the planning system needs to be able to plan and deliver the **key urban infill** locations of activity centres, urban corridors and station precincts. It is proposed that the State Government develops **clear planning and delivery arrangements among the WAPC, MRA and local government** and sets priorities and a program for actions.

The essence of planning is the distribution of population and housing, and it is proposed that local planning strategies include **local housing strategies** (except for small regional local governments).

Urban infill is transforming selected inner and middle suburbs into higher density areas. Upgrading existing infrastructure in inner city areas to cater for planned infill is particularly complicated and expensive and requires special coordination and commitment.

It is proposed that:

1. The WAPC assist with **infrastructure coordination** for the **delivery of priority precincts** including activity centres, urban corridors and station precincts.
2. Local governments be given **timely advice** on the **forward planning of State infrastructure** to inform preparation of Local Planning Strategies and structure plans and improve the response of land use plans to infrastructure capacity constraints and plans.
3. **Local planning strategies include** a section on **infrastructure** and link priority infrastructure items to their 10-year capital expenditure plans.
4. The Metropolitan Region Scheme (MRS) be updated to **include “Urban Corridor”** as a category of roads based on *Perth and Peel @ 3.5million*.

There is still a need to accommodate at least half of Perth’s development in new greenfields development. It is proposed that:

1. An **“Industrial Deferred Zone”** is included in the MRS to provide for the staged consideration of infrastructure for new industrial areas.
2. **Liveable Neighbourhoods** is elevated to a **State Planning Policy, maintained and refined** as a best-practice approach to new greenfield development at regional, district and local level.

2. Need for reform

The Western Australia planning system has supported Perth's position as one of the world's top liveable cities, and helped create regional growth opportunities in balance with the environment.

The planning system involves a complex interweaving of community, business, and government regulatory relationships. Everyone – individuals, organisations and business - needs to be able to participate in planning to achieve the best possible outcomes for Western Australian communities.

Over the years the planning system has become more and more complex, increasingly legalistic and less responsive. Unnecessary regulation needs to be removed to reduce costs for businesses and new home purchasers.

Planning has also become very difficult for people to understand and participate in. The community needs to have faith that the planning system is being operated in a fair and transparent manner that properly balances the wide range of interests that make up our communities.

The Minister for Planning Hon Rita Saffioti MLA has established this review to ensure our planning system is efficient, transparent and collaborative.

The State needs a contemporary planning system that meets our future needs: supporting infill development with increasingly complex projects such as METRONET; strengthening our suburbs by increasing housing choice and boosting public transport; and, enhancing the quality of our built and natural environments.

1.0 Review scope

The terms of reference for this planning review are:

1. **Make strategic planning the cornerstone of all planning decisions** by shifting the emphasis of the planning system to strategic planning and land use policy so that important issues are resolved before development proposals and rezoning requests, which will improve the quality and timeliness of development assessment.
2. **Clarify State and local planning roles** by setting clear roles, responsibilities and functions of the WAPC and the DPLH in conjunction with State departments and agencies, and local government.
3. **Open up the planning system** so that it is understandable to the wider community, recognising the need for community participation.
4. **Create more certainty for industry** by clearly defining development assessment pathways.
5. Link **planning and infrastructure delivery** to strategic planning for growth.
6. Ensure that the planning system facilitates a **sustainable settlement pattern**, ensuring land use is fully integrated with transportation and infrastructure, giving priority to infill development and ensuring any new areas of growth are contiguous with existing communities.
7. Respond to community concerns about the **accountability and transparency of Development Assessment Panels** in the approvals process.
8. Examine how **the use of technology** can be used to improve the planning system.

This **Green Paper** has been prepared by a review team, led by Evan Jones in the capacity of an independent reviewer. It includes an explanation of key issues and sets out proposals for modernising the planning system which can be assessed against the fundamental planning principles of fairness, transparency, integrity and efficiency.

The Green Paper process is to allow stakeholders to consider the review team's identified issues, options and proposals and to provide the opportunity to suggest alternative solutions that address the issues raised.

The **Green Paper** is a discussion paper and it does not commit the State Government to the views expressed or to a particular direction for future action.

Submissions received on the **Green Paper** will be considered in the preparation of a **White Paper** in 2018 by the State Government that will set out its proposed reforms for planning.

1.1 Review process



FIGURE 1: PLANNING REVIEW AND REFORM PROCESS

1.2 Pre-review legislative proposals

This review coincides with proposed legislative changes to the PD Act and LPS Regulations in response to *Planning Makes it Happen Phase Two (2013)* which had been identified over several years and are understood to have broad support from local government and industry.

It is proposed to progress proposals that will reduce red tape together with amendments which arise from the proposals of this review. The proposals to amend the PD Act are set out in Part 4 Implementation.

2.0 Reasons to change

2.1 Achieving consistency

Historically, the arrangement of the WA planning system was fixed by the creation of a central authority, the Town Planning Board, in 1928 to control subdivision of new settlements and to prepare their town planning schemes, the first being for Augusta, Nyabing and Wiluna.

The first Model Scheme Text in 1976 and more recently, LPS Regulations, set model and deemed provisions for local planning schemes. However over time, local planning schemes and the ancillary documents which support them, such as local planning policies, have become more and more complex with significant variation between them.

There are 146 local planning schemes currently in operation (2018) totalling 13,091 pages with 1,065 'general' zones and 1,365 'Special Use' zones. Figure 2 shows the wide variation in the number of zones amongst metropolitan local governments with most having 10 zones and one local government having some 22 zones.

In only 20 schemes reviewed in preparation for this Green Paper, there were 278 different land uses identified and 80 of those (almost a third) are used only once.

In a review of local planning frameworks, it was difficult to locate all relevant documents, read them together, understand the relationship between them and interpret the content. Some local governments would refer to planning, building and engineering policies without making a distinction between them.

“Planning is always remaking itself as it is embedded in and responds to a world that is always in the process of being remade¹”

The variation in scheme zones and land uses cannot be explained by the need for differing provisions to respond to local character.

Most planners, let alone residents, are unable to maintain a working knowledge of any particular local planning framework or how local planning schemes work across various local authorities. These results in uncertainty, delays and increased costs, and a loss of community trust.

The planning system has become complex and focusses heavily on process and not on the outcomes that users of the system are seeking to achieve. The Green Paper proposes to shift to a more streamlined planning system that facilitates development when it is in accordance with a strategic plan.

¹ Perry, David C. (2003). “Making Space: Planning as a Mode of Thought”. *Readings in Planning Theory, Edition 2, Campbell S. and Fainstein, S. Editors* 142-162 at 151

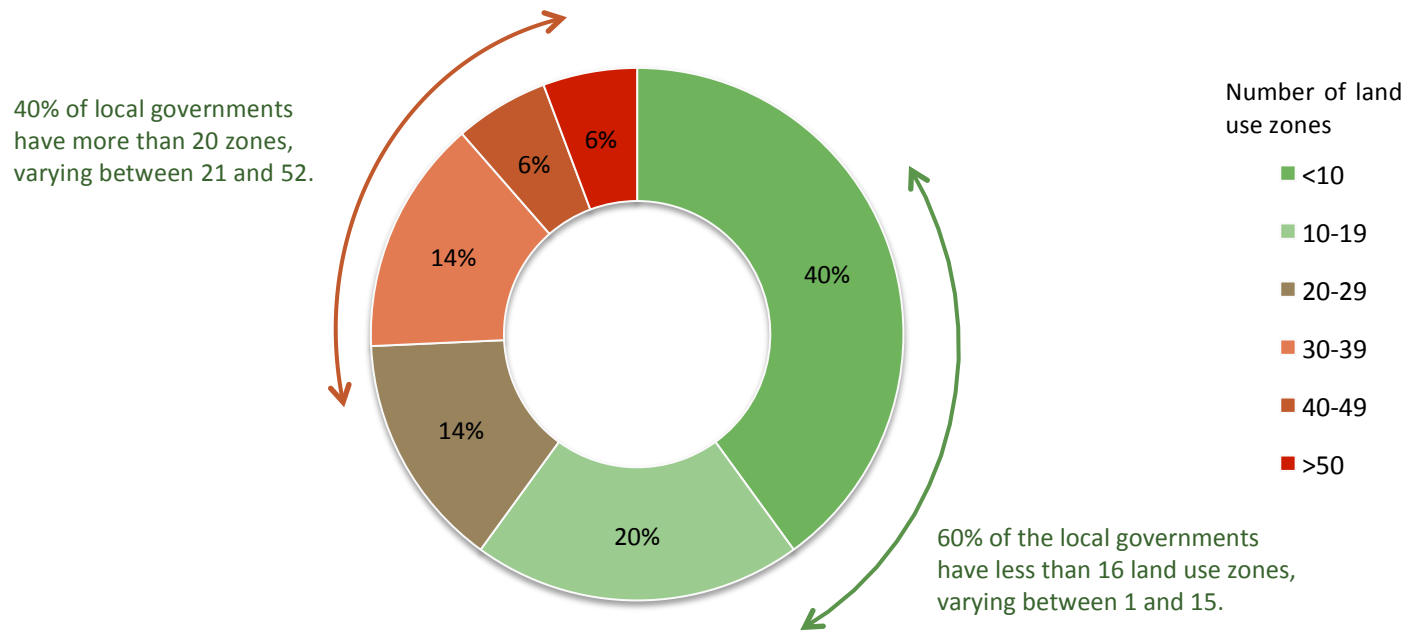


FIGURE 2: NUMBER OF ZONES IN METROPOLITAN LOCAL PLANNING SCHEMES

2.2 Moving to a strategic planning focus

The current operation of the planning system emphasises the local planning scheme as the focus of planning efforts with only weak links to strategic planning.

Regulation 11 of LPS Regulations provides that a local planning strategy must be developed for each local planning scheme, and include:

- long-term planning directions for the local government; and
- the rationale for any zoning or classification of land under the local planning scheme.

An audit of local planning strategies for the Green Paper indicated that the approach to local planning strategies has been highly inconsistent. Many are in draft form, some are published on a council website and others are published on the DLPH website; some councils have multiple strategies while others do not have a local planning strategy.

The Uniform Legislation and Statutes Review Committee in its 2015 Review of Development Assessment Panels found (p30):

Finding 1: The Committee finds that the out-dated nature of some local planning schemes; their inconsistency with state planning policies and strategic planning frameworks and the inconsistencies of local planning requirements across local governments have contributed to the types of determinations being made by development assessment panels.

Without a clear message in a plan for a desired outcome, consideration of planning proposals for use or development has become focussed on consideration of the negative impacts, not what the proposals collectively aim to achieve².

Individual projects need to be placed in a broader strategic framework of planned urban and regional development.

The Productivity Commission reported that Australian State planning system reform efforts should be directed at focusing on the earlier stages of planning when strategic land use policy and its associated plans are put in place³. The Commission found that this is likely to improve the timeliness of development assessments because more of the important and difficult decisions have already been resolved prior to a development proposal or request for rezoning (Figure 3).

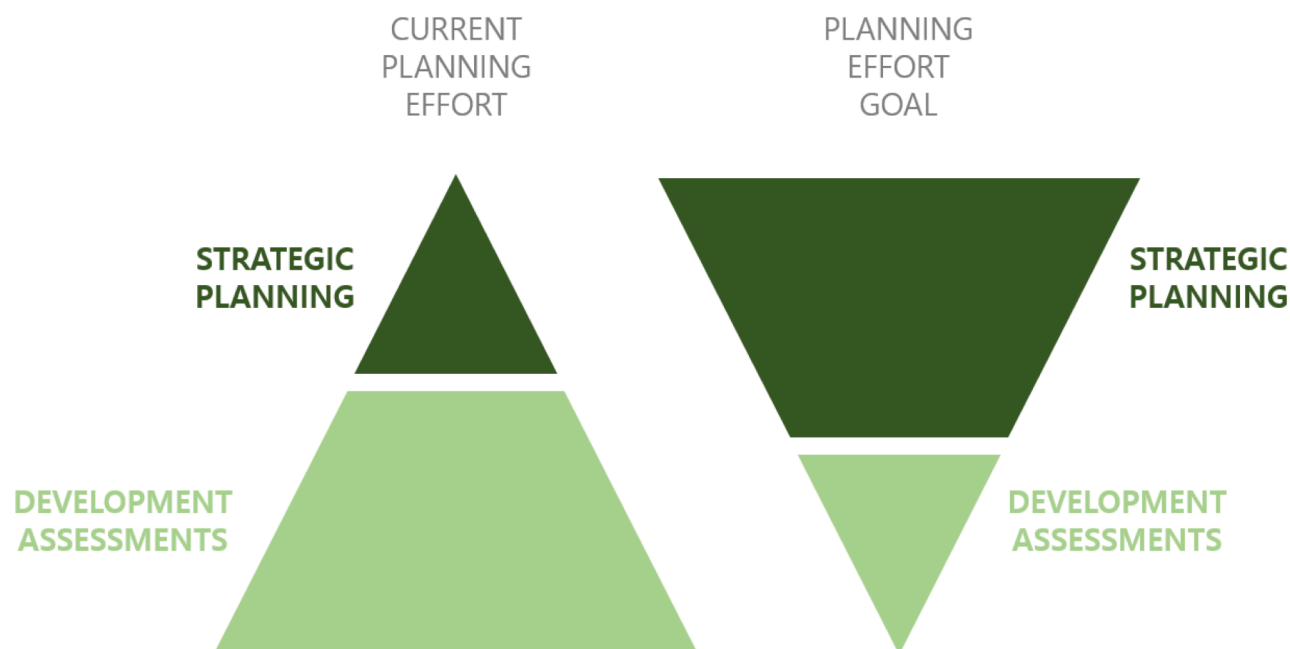


FIGURE 3: CHANGING THE FOCUS OF PLANNING EFFORTS - SOURCE: PRODUCTIVITY COMMISSION

² White, Gary. Government Planner, Queensland in presentation “Planning Culture” April 2012.

³ Productivity Commission’s Performance Benchmarking of Australian Business Regulation: Role of Local Authority as Regulator, July 2012

Figure 3 illustrates the current emphasis on development control under a local planning scheme instead of strategic planning being the main driver of planning decisions.

The modern idea of strategic planning is that it is an evidence-based examination of the character of the area to be planned, an analysis of the future increase in population, a collaboration with the community to identify their goals and aspirations for the future, and then a conclusion of the way in which land should be used to further the goals and aspirations.

The emphasis of modern town planning is on the strategic plan as it carries the aspirations of the community. The legal controls over the uses to which land can be put – the “planning scheme” – follows the strategic plan and implements that plan on the ground.

The strategic planning process provides an opportunity for the early involvement of the community to be part of their future. Landowners with the aid of that plan can better understand the background behind their land use options in a planning scheme.

A strategically-led system allows for a line of sight to be established through the various State and local strategies to understand how they work together and, most importantly, it will enhance the quality of decision-making.

A reversal of this emphasis is long overdue. Many of the proposals put forward in this Green Paper flow from giving precedence to strategic planning.

2.3 Clarify state and local planning roles

There are several different planning authorities in Western Australia, such as the WAPC, the Metropolitan Redevelopment Authority, and local government, as well as various agencies whose decisions impact on planning outcomes. It is not always clear how to navigate through the different levels of government or which is responsible for ultimate planning outcomes.

The State Government is undertaking reform of the public sector through structural changes aimed at creating collaborative departments focused on whole-of-government objectives and delivering services in a more efficient and effective way.

It is appropriate in this context for the Green Paper to examine land use planning roles of State and local government to ensure an efficient and effective planning system.

2.4 Adapting the planning system for urban infill

Western Australia is the most centralised planning system of all Australian States and Territories⁴. The State (through the WAPC) controls development for Perth and can call in major development within the Peel and Bunbury regions. It approves local structure plans for new development areas, and all subdivision.

The theory and concepts relating to urban planning have undergone major changes in the 90 years since the members of the Town Planning Association drew up the Town Planning and Development Bill in 1927.

It is essential and a key purpose of this review that the planning system now aligns with modern planning practices most particularly with an emphasis on a strategically-led system through “strategic planning”.

Since its inception, the primary purpose of the planning system has been to efficiently shape outwards suburban growth and ensure a continuous land supply pipeline for new fringe housing.

There is an agreed need in Perth and the major regional centres for a more consolidated urban form by accommodating a significant proportion of growth in existing suburbs. Urban infill development is designed to make efficient use of existing areas through close access to existing urban infrastructure, land and buildings, thereby reducing costs and having better access to existing facilities and jobs.

As housing demand is turning inwards, the planning system needs to adapt from its orientation to fringe growth in order to establish a clear planning and regulatory framework that can provide the certainty over the location, types and quality of intensified development sought by developers, the community and local governments⁵.

The changes also require a revision of State and local planning roles by setting clear roles, responsibilities and functions of the WAPC and the DLPH, in conjunction with related State departments and agencies and local authorities.



⁴ Williams, Peter (2012). “Statutory Planning”. Planning Australia. *An Overview of Urban and Regional Planning, Edition 2*, Thompson S. and Maginn, P. Editors 98-123 at 112.

⁵ Buxton, Michael, Goodman, Robin and Moloney, Susie (2016). “Planning Melbourne. Lessons for a Sustainable City”. CSIRO Publishing. Page 83.

3. Planning reform proposals

Reform principles

The purpose of land use planning by the public sector is to promote and protect the collective interests of the community through the planning, development and management of cities, towns and regions across the State.

Four key principles of **fairness, transparency, integrity, and efficiency** are set out in this Green Paper as the foundation premises for a capable and modernised planning system for Western Australia. The principles represent fundamental expectations of the way that planning as a governmental administrative system should be conducted.

The principles are used in this **Green Paper** as criteria against which proposals for reform can be analysed and assessed. Planning systems should not be static and they should be continually improved to maintain an effective system. New proposals should also be assessed against these principles to ensure that each proposal serves the greater community good. Application of the principles will increase the level of fairness, make the system more transparent to users, ensure that decisions have integrity, and that good practice is applied to allow the system to operate more effectively.

Reform principles

Fairness ensures that the rights and expectations of all residents will be considered and balanced when planning for growth and change.

In the planning context, the principle of fairness is contained in a “strategic plan,” which sets out proposals as to the appropriate, balanced, future direction for a local or regional area. Strategic planning is therefore the backbone of planning as it is the place that all community and government expectations are formulated and explained.

Fairness is created in strategic planning where the community is involved in the making of the plan and where it is explained what plans have been made and why.

Integrity in planning requires that the community has a say in the making of strategies and plans, and understands therefore why decisions are made.

Integrity also expects that planning decisions as to the allocation of land uses, rezonings, and planning approvals be fully explained, justified, made available to the public, and be free of any impropriety. Research has shown that there will be respect for a decision if the decision makers are perceived as competent, honest, open, fair, reliable, reciprocating, respectful and committed.⁷

Transparency expects that users (residents, developers, and councillors) are able to understand how the planning system operates, have certainty about land use requirements and know why planning decisions are made.

Planning proposals and requirements derive their usefulness only if they are understood by the community.⁶ The more the planning system is transparent and is able to be understood by the community, the greater is the chance of its acceptance and the promotion of better community and government relations. While all planning systems will have some complexity, it should be explained in a manner that minimises confusion.

Efficiency ensures that the planning system is well organised and competently managed to deliver key activities in the least complex way through well-defined and adaptable processes with the right resources and defined outcome measures.

Efficiency arises as a consideration because as the planning system evolves to deal with change and complexity, the operation of the system inevitably develops administrative bottlenecks and practices become ingrained that are no longer relevant. The purpose of this planning review is to find key ways around these barriers informed by national and international best practice.

⁶ Weston, J. & Weston, M. (2016). “Inclusion and transparency in planning decision-making: Planning officer reports to the planning committee”. *Planning, Practice and Research*, 28(2): 186-203.

⁷ Hoppner, C. (2009). “Trust – A monolithic panacea in land use planning?” *Land Use Policy* 26(4): 1046-1054.

Key reform 1: A strategically-led system

Fairness principle realised through strategic planning

The principle of fairness for land use planning is that a strategic plan for a region or local government area will consider and balance the rights and expectations of all residents when planning for growth and change.

Indicating where increased density must go, preserving the character and amenity of neighbourhoods and distributing open space are examples of planning decisions made to balance the entitlements of residents and needs of the community. Planning accomplishes this through **strategic planning**, a process that is an evidence-based analysis of the nature of the area to be planned, its future needs, and the goals and aspirations that a community collectively seeks to accomplish.

A “strategic plan” sets out considerations as to the **appropriate, balanced, future direction for a local or regional area**. Strategic planning is therefore the backbone of planning as it is the place in which all community and government expectations are formulated and explained.

Fairness is therefore found in strategic planning when the proposals of a plan are explained along with reasons for the proposals.

1.1 Prominence of strategic planning

There have been many strategic plans in Western Australia; most importantly, the *Stephenson-Hepburn 1955 Plan for the Metropolitan Region: Perth and Fremantle* and the 1970 *The Corridor Plan for Perth*. The WAPC has a long standing record of making planning strategies, such as the State Planning Strategy 2050 as well as Regional and Sub-Regional Strategies.

The PD Act identifies the preparation and review of planning strategies and planning policies for the State as express functions of the WAPC⁸. The Act provides that these documents are a basis for “coordinating and promoting land use planning, transport planning and land development”, but does not provide further detail of what the strategies and policies should contain.

The PD Act is deficient in its treatment of strategic plans and does not clearly articulate the relationship between plans, policies and schemes, except that a local planning scheme must apply any State Planning Policy that is relevant to the scheme and be consistent with a region planning scheme (if applicable).

The PD Act provides only that a “planning scheme” means a local or region planning scheme and the powers to prepare these schemes are given to local government and the WAPC. These are the statutory controls that implement strategic planning, however nothing is mentioned about the role of a strategic plan, its contents and the relationship of that strategy to the scheme.

⁸ *Planning and Development Act 2005* (WA) s14(b)

In practice strategic plans follow the pattern of:

- State Planning Strategy;
- State Planning Policies;
- Regional Frameworks;
- Region and Sub-Regional Strategies;
- a Region Scheme for some regions; and
- a local planning strategy and a local planning scheme.

This is a very long string of documents that should be followed sequentially and consistently. However this rarely happens in practice due to the time and resources required to prepare these documents. Consequently, the centre of planning is occupied by the statutory region and local planning schemes with little connectivity to the strategic plans or policies that should have informed the local or regional planning scheme in the first place.

The emphasis of the system is on the local planning scheme to carry State, regional and local strategies into effect as the “statutory” requirements of what can be developed. However, a gap has widened between State policies, regional plans and local planning schemes, leading to a proposal-driven system, rather than strategically-led.

The importance of strategic planning is not made explicit and emphasised properly in Western Australia. It exists but, as it is the key to proper planning, it should be elevated to become the core of planning activity and not remain a concept in regulations and guidelines. Accordingly, if it is accepted that strategic planning is the essence of good planning in Western Australia, then it should be made the centrepiece of the PD Act.

There are many instances of the inclusion of the nature of a strategic plan in legislation. The British Columbia *Local Government Act*, provides (section 471(1)) “An official community plan (strategic plan) is a statement of objectives and policies to guide decisions on planning and land use management, within the area covered by the plan, respecting the purposes of local authorities.” The Act then provides (section 478(2)) that once a strategic plan is effective, all actions by the council “must be consistent with the relevant plan.” As the activities including the legal controls must be consistent, it is recognition that the strategic plan is prior in time to the legal control.

Review proposals:

1.1.1 Provide in the PD Act that strategic planning is a purpose of the Act and provide a definition of strategic planning.



FIGURE 2: HIERARCHY OF PLANNING ELEMENTS

A. Strategically-led LPS reviews

The LPS Regulations require a review of a local planning scheme every five years in which a local government looks at its local planning scheme and concludes if the scheme:

1. is satisfactory in its existing form; or
2. should be amended; or
3. should be repealed and a new scheme prepared in its place.

The local government is also to determine whether the local planning strategy for the scheme:

1. is satisfactory in its existing form; or
2. should be reviewed; or
3. should be repealed and a new strategy prepared in its place.

In a strategically-led approach, the starting point should be the review of a local planning strategy, and not the local planning scheme. This will, for example, indicate if the local government is delivering sufficient housing to meet a regional target.

The Local Planning Manual 2010 indicates that a local planning strategy should provide strategic direction for land use planning and development over the ensuing 10 years or longer as the basis for the local planning scheme.

The LPS Regulations timeframe of five years is appropriate for a local planning strategy as new State Planning Policies and strategies may need to be responded to, along with any local matters.

Review proposals:

1.1.2 Provide in the LPS Regulations that the review of a local planning scheme must be informed by, and respond to, a review of the local planning strategy.

B. Strategic basis for complex amendments

Regulation 11 of the LPS Regulations requires that a local planning strategy is required to be prepared for each local planning scheme. This establishes a connection between the strategic intent and the statutory scheme requirements.

“Complex Amendments” to a local planning scheme are categorised as not being consistent with a local planning strategy; the amendment proposal will either not have been contemplated or will necessitate a significant change to a local planning strategy. However, there is currently no requirement to examine the effect of a proposed complex amendment on a local planning strategy, notwithstanding there is a clear intention to institute a significant change.

Review proposals:

1.1.3 Provide in the LPS Regulations that a complex scheme amendment must be accompanied by a proposed amendment to the Local Planning Strategy (in the form of a report).

1.2 Need to explain sustainability for land use planning

The PD Act s. 3 (1) includes as a key purpose to “(c) promote the sustainable use and development of land in the State”.

The importance of sustainability is further reinforced throughout the Act. The WAPC is to advise the Minister on “*the coordination and promotion of land use, transport planning and land development in the State in a sustainable manner*” and to keep the State Planning Strategy and planning policies under review for this purpose (PD Act s. 14).

The Act also provides that a planning scheme can deal with “*Any other matter necessary or incidental to the sustainable development or use of land* (PD Act Sched. 7 Cl. 15(1)).”

The term also appears throughout the State Planning Framework, including State Planning Policy and supporting documents.

While it is therefore clear that sustainability is intended to be a core consideration in the planning system, there is no clear definition for either “sustainable” or “sustainable use and development” in the Act, or in other key documents within the planning framework, including the State Planning Strategy and State Planning Policies. Nor is there guidance as to how sustainability can be utilised as a concept in planning decision-making.

This was acknowledged by the State Administrative Tribunal in *Moore River Company Pty Ltd v Western Australian Planning Commission* [2007] WASAT 98, where it was stated [98] “The experts agreed that the principles of sustainability have yet to find expression in their full statutory form.”

The term “sustainability” is widely accepted as describing the balancing of the diverse interests of economic growth, environmental protection, and social benefit in urban planning.

The exact principles to be applied and the manner in which they are to be implemented have not yet been made clear in the Act, in the State Planning Strategy or in a State Planning Policy with the State approach to sustainability still being led by the State Sustainability Strategy of 2003.

Importantly, in the context of planning, sustainability should not be guided solely by environmental needs. The planning system equally needs to ensure that economic and social needs of the current and future society are met through the pattern and nature of development which occurs.

To be useful, the concept of sustainability as a set of principles requires a wider meaning than just the balancing of economic growth, environmental protection, and social inclusion. A good example of this wider definition can be found in the Northern Ireland Sustainable Development Implementation Plan 2011-2014:

Sustainable development aims to bring viability, stability and opportunity to all of our social, economic and environmental activities and programmes. It does not aim to stop us from growing our economy. It does not seek to obstruct our attempts to improve our society and communities. It does not prevent us from using and capitalising on our natural resources. Rather its goal is to put in place economic, social and environmental measures to ensure that we can continue to do all of these things effectively in the years to come.

In the now replaced UK *Planning Policy 1 – Delivering Sustainable Development*, it was provided (para. 24) that:

Planning authorities should demonstrate how their plans are integrating various elements of sustainable development and should seek to achieve outcomes which enable social, environmental and economic objectives to be achieved together. Considering sustainable development in an integrated manner when preparing development plans, and ensuring that policies in plans reflect this integrated approach, are the key factors in delivering sustainable development through the planning system. Planning decisions should be taken in accordance with the development plan unless other material considerations indicate otherwise. Planning decisions taken in accordance with the plan are therefore key to the delivery of sustainable development.

Including “sustainability” as a specific planning element in a State Planning Policy will turn the attention of all planning authorities to this central element of the PD Act. Inclusion of the definition in a State Planning Policy rather than the PD Act will provide for flexible guidance, with the concept being able to be expanded over time.

Review proposals:

1.2.1 An overarching State Planning Policy be developed which:

- i. *Provides a definition of sustainability for the planning system which reflects a balancing of economic development, environmental considerations, and social needs;*
 - ii. *Reinforces sustainability as an essential element required to be taken into account in the making of any strategy or policy; and*
 - iii. *Indicates the particular steps related to how economic, social and environmental factors are balanced.*
-



FIGURES: BALANCED DECISION MAKING

1.3 Housing distribution

There is a need for greater housing density as the population increases in Western Australia. Areas that were previously low density or single-family housing may need to absorb medium or high density apartments and there is a very fine balance to be reached as to which areas to preserve and which to develop. This universal issue raises claims of unfairness by those seemingly disadvantaged and is a prime focus for controversy. Consequently, this issue should be given a higher priority than is currently the case.

The essence of planning is the distribution of population across a region and the need for areas to be developed for new housing or further infill. It is based on the idea that every local government accepts a fair share of housing types for different ages, incomes, family composition and increased density to support population growth. The decisions as to additional housing requirements for increased population for each area are carried out in Western Australia by the WAPC exercising its strategic planning function. To be implemented, it requires each local government to find the means to accept and accommodate the additional housing that has been ascribed to their area.

As an example, the WAPC's *Perth and Peel @ 3.5million* plan allocates additional dwellings to local governments for infill housing without explanation as to how the quantity was derived. No methodology is provided to the local government as to how to carry out an analysis of where additional housing ought to be located or how to balance the need for additional housing with protecting existing character.

Although this deficiency may appear to be a technical issue, its importance is in the context of upholding the principle of fairness for local residents. Strategic planning may show an area requiring higher density dwellings, changing the character of the area, and another may be left alone as a single family residential area. How a local government is to make these choices is among the most important of all planning issues but has been given little attention in Western Australia.

A local government, to understand where to accommodate increased density requirements and different dwelling types, must carefully analyse the current and future housing situation. In order to make an informed decision, it needs to analyse a range of factors such as an appropriate mix of tenure types (ownership, rental), the demand for each type, the median house and rental prices, the take-up rate by tenure type, the breakdown of the population by age and income, and then project this forward in terms of population growth.

Good practice internationally is to undertake a periodic analysis of housing needs as an essential local government duty. For example, the San Diego *Regional Housing Needs Assessment* (Policy No. 033) requires every local government to analyse how to accommodate regional growth forecasts by calculating housing needs based on demographic, housing and market factors, plus specific community needs based on hardship, vacancy rates and household size. The recognised period is to prepare the strategy every five years for a 10-year period.

Some of the larger local governments in WA have in the past prepared local housing strategies, such as the City of Wanneroo in 2005. These strategies are crucial to strategic planning and must be elevated in importance and prepared with instructions from the DPLH and, most importantly, with cooperation of DPLH and WAPC.

There is a range of local government sizes in Perth and there are formal and informal cooperative arrangements in place between local governments through which groupings of councils could undertake a joint Local Housing Strategy for particular areas.

Review proposals:

- 1.3.1 Provide that every local planning strategy include a local housing strategy, except for low growth and small regional local governments which only require basic local planning scheme requirements.*
 - 1.3.2 The DPLH to provide guidance for local government in the Local Planning Manual on how to prepare a Local Housing Strategy, including a methodology for local housing analysis.*
-

Key reform 2: A legible planning system

Planning systems around the world take a similar form to Western Australia:

1. A **State strategic plan** that sets out the planning goals for the State.
2. Next are **policies** that indicate the State Government's overarching ideas of planning to be imposed on all local authorities.
3. **Regional strategies** create a framework for future development carried through **region schemes**.
4. Local authorities then have a **local planning strategy** conforming to the State policies and regional strategies.
5. There is the **planning scheme**, the legal requirements for implementation of the strategic plan at the local level.
6. Finally **local policies** that provide guidance on the content of the planning scheme.

A user of the planning system should be able to look at the goals in the local government strategic plan, understand the policies that shape those goals and see how that impacts their property through the planning scheme.

2.1 Key issues

The key issues that stand in the way of a legible planning system in Western Australia are:

- *Line-of-sight* failure of strategies and plans: planning strategies at the State and regional level express different aspirations and goals than local government strategies and plans. It makes it challenging to follow through one particular idea from one level to the next.
- *Complexity* of the planning process: the natural consequence of the complexity of understanding a strategic plan, policies, a planning scheme and land use decisions made under that scheme is that there are many government and consultant reports, policies, maps, final plans, draft plans, and reports and amendments in progress. It is very difficult for the community to understand how the documents, policies, and controls work together.
- *Confusion* as to the relationship of the legal instrument to the strategic plan: the historic development of planning in Western Australia has been with an emphasis on the legal controls contained within the local planning scheme, which is divorced from the strategic plan that led to the scheme. It is thus difficult to understand how a regional strategic plan and a local strategic plan have resulted in the controls in the Planning Scheme and why particular choices for zoning or permissible land uses have been made.

2.2 Streamlining state planning policies

State Planning Policy 1 – State Planning Framework categorises State Planning Policies, regional and sub-regional strategies and other policies and guidance, but it is still difficult for a user of the planning system to understand how the local planning strategy has been influenced by State regional and sub-regional strategies and policies. This is because the policies are inconsistent in form and many are not written in a manner that is directly capable of being implemented.

State Planning Policies have been developed over many years for a wide range of purposes and the overall policy suite has expanded significantly in length. There is little consistency of form. Many policies are lengthy and written in complex language and often are not directly capable of implementation.

Policies and strategies often overlap with no clear guidance as to how different policy strands are intended to be meshed. This gives rise to uncertainty for the translation of State Planning Policies into local planning strategies and local planning schemes and in decision making for all stakeholders and the community.

Good practice is for policies to be presented in a simple and consolidated form, written clearly “in plain English” without losing policy essence or clarity. Examples of reducing broad suites of state-level planning policies are the United Kingdom National Planning Framework, which is less than 100 pages, and Planning Policy Wales at around 200 pages.

The approach for Western Australia should be to craft a consolidated policy suite that sets the right balance between brevity and clarity⁹, aiming at 100-150 pages.

The purpose of a consolidated policy suite is to set out policy in a clear and legible manner. There is a place for supplementary technical advice and guidance to local government to ensure the effective implementation of the state planning policies. Current guidance documents should be reviewed to ensure that they explain the meaning of State Planning Policies and are operationally and technically useful for local government and other stakeholders.

Rationalisation of policies should exclude those such as the R-Codes, which are included by reference into local planning schemes or are operational policies which guide subdivision and development.

Revision of State Planning Policies will require a priority effort including finalising outstanding draft policies in this new form. Most content is already available and requires reorganisation in a logical and standardised format.

Review proposals:

2.2.1 State Planning Policies be consolidated into a single state planning policy framework with supplementary technical guidance.

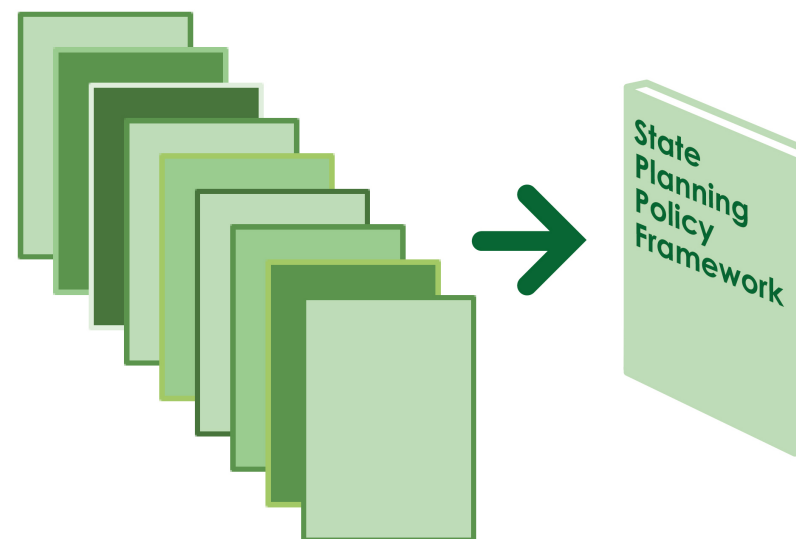


FIGURE 6: A SINGLE STATE POLICY FRAMEWORK

⁹ House of Commons, Communities and Local Government Committee. The National Planning Framework 21 December 2011 (p.12)

2.3 Line-of-sight

There is no “line-of-sight” between the levels of strategic planning documents and statutory documents which implement them on the ground. It is not possible to trace a goal, aspiration or objective of the wider strategic plan to a local government plan. This reduces the importance of State Planning Policies as the strategies are not understood at the regional and local level where they are implemented.

Good practice for creating a line-of-sight from a local planning strategy to State strategic planning is to:

- require that State Planning Policies be organised into common planning elements that are also used for strategic planning; and
- require that every local government, in their local planning strategy and local policy documents, reflects the common planning elements that make up the State strategic planning framework.

The California *General Plan Guidelines* are mandated by legislation and require that every strategic plan be organised into separate elements, which are required for every city and metropolitan plan. They include such elements as density, education, flooding, health, housing, land use, public holdings and recreation, and an explanation of each element is provided. It is only when these elements are not suited to a particular community can they be excluded.

The advantage of this system is it organises State Planning Policies in topics that are directly useable for regional and local strategies, which then allows every State Planning Policy and regional strategy to follow a common format. Organising policies and strategies in this form enables a user to trace the common elements through the hierarchy of strategic planning instruments.

State Planning Policies need to be consolidated and reorganised into common elements in order to provide clear arrangements for planning efforts across the planning system (refer Figure 7).



FIGURE 7: PROPOSED COMMON PLANNING ELEMENTS

Review proposals:

2.3.1 WAPC to establish common strategic “elements” for the State Planning Framework including but **not limited to**:

- a “sustainability” element;
- a “land use element” that includes the distribution of uses of land as well as density;
- a “housing element” that includes the types of housing;
- an “environmental element”;
- an “open space element”;
- an “urban form and design element”; and
- an infrastructure element.

and prepare Technical Guidance for the details of each element to be included;

2.3.2 Provide that every State Planning Policy, regional or sub-regional plan and the local planning strategy must follow these elements, unless otherwise agreed to by the WAPC.

2.3.3 Provide that every local planning strategy must explain how it has addressed the requirements of each common strategic element against the requirements of State Strategy, Planning Policy or regional or sub-regional strategy.

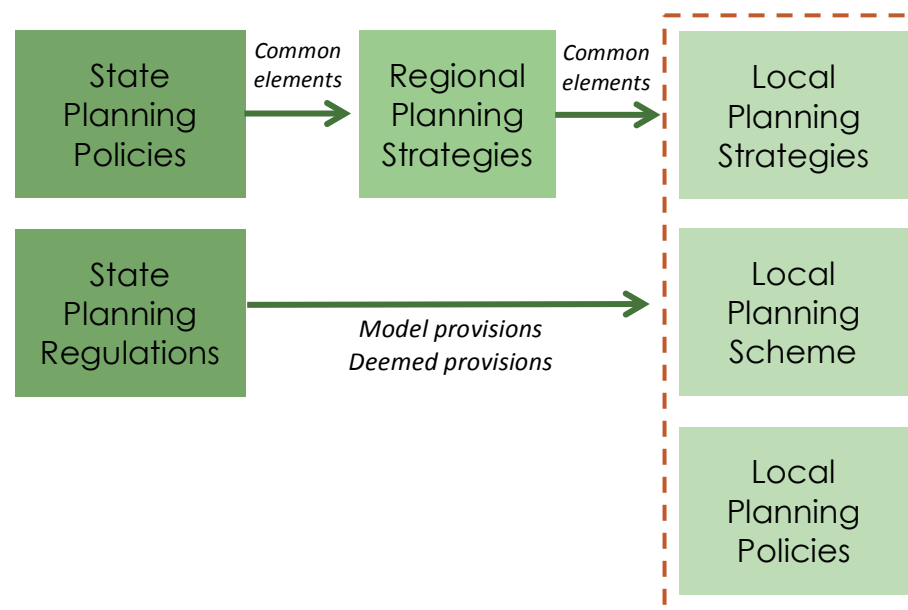


FIGURE 8: RELATIONSHIP BETWEEN STATE PLANNING DOCUMENTS AND LOCAL PLANNING SCHEME

A related issue is that the PD Act is ambiguous regarding the extent to which all public authorities (such as the MRA) are subject to State Planning Policies, or whether they apply only to local governments.

Review proposals:

2.3.4 Provide in the PD Act that all planning decision makers are to have due regard to State Planning Policies.

2.3.5 Provide in the Metropolitan Redevelopment Authority Act 2011 that in performing functions under the Act, the MRA must have regard to State Planning Policies.

2.4 Planning process complexity

Local planning strategies and local planning policies sit outside local planning schemes and there is only a weak interlinking between these documents that are vital to explain the rationale for local planning scheme zones, land use permissions and development requirements.

It is a particularly difficult task for a user of the planning system to determine how the local planning framework may affect their property or proposal. It involves locating a number of documents (assuming the user knows what they are looking for), reading those documents together, understanding the relationship and precedence between the documents and interpreting the content into plain English.

Good Practice to enable efficient navigation and use of local planning requirements is to present the local planning framework as a coordinated framework including the strategic plan, planning scheme and policies so they can be understood as interlinked.

- There should only be *one* document that a user of the planning system needs to examine that contains local strategies, legal provisions, maps and policies.
- The legal controls that are needed to implement the strategic plan and to guide development should be in the one document. Those controls must be consistent with the strategic plan so that it is then clear to the reader why land use choices have been made.
- The single document should contain the relevant parts of all other documents that it advances as necessary to explain what is planned for the area and not require the reading of those external documents.

In addition, the documents often suffer from ambiguously drafted provisions, conflicting requirements and differing formats that make it difficult for a user to understand and translate what it means for them on the ground.

A review of local planning policies for the Green Paper had difficulty in locating the policies of many local governments, other local governments had hundreds of pages of policies, and some local planning policies were merged with building and engineering policies.

Officers from one local government advised the review team that they were not sure of the total number of their local planning policies (and structure plans). Others had their local plans and policies spread out over multiple documents, with some only available in hard copy.

Case study 1: Local process complexity

“A new mixed commercial and residential development in the Mixed Use Commercial Zone will have to consider this new policy plus up to 15 (yes 15!) other local planning policies. If it was a heritage site, add another 5 local planning policies.

This is as well as the new overarching local planning strategy and existing local planning strategies for Activity Centres & Neighbourhoods, and for Integrated Transport. These are all separate to the Scheme, or Local Area or Structure Plans, and independent of State Policy such as R-Codes, Design SPP etc. This collection of local policy and strategy add up to in order of 730 pages!!

730 pages that don't really help you know if your DA has any chance of success. 730 pages that do very little to guide and facilitate desired or good quality outcomes”.

Email to the Review Team 13/02/18

This is the arrangement with the *Victorian Planning Provisions*. The concept behind this system is that the user can find all of the strategic plans, policies, and planning controls that apply to their land in one place. There is no need to trace through the various documents that led to the planning scheme or the various A Local Planning Strategy which sets out the long-term directions for land use and development in the local government area and provides a rationale for the zones and particular provisions of a local planning scheme.

- Local planning policies to guide decision-making in relation to specific discretion included in a zone or scheme provision.

This arrangement applied to Western Australia would see Part 1 of the Local Planning Strategy – the strategic statement - and all local planning policies being included into a “Comprehensive Local Planning Scheme” so that all relevant strategic and policy guidance is contained in one place with the statutory scheme provisions (refer Figure 9).

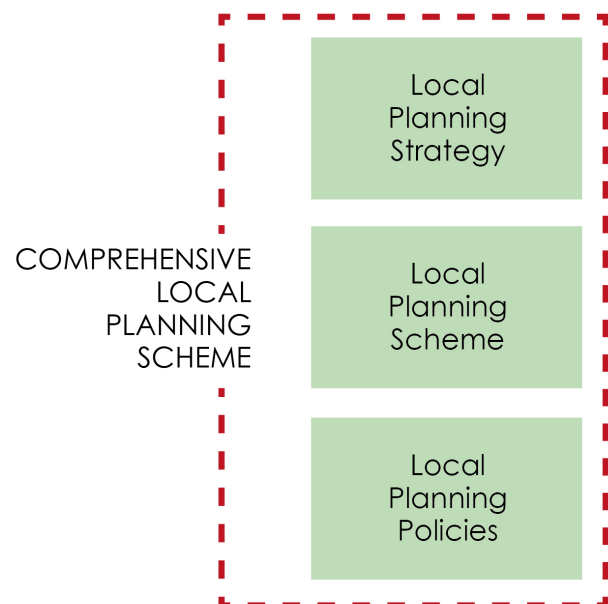


FIGURE 9: PROPOSED COMPREHENSIVE LOCAL PLANNING SCHEME

A Comprehensive Local Planning Scheme could have tailored steps for each component as follows in Figure 10.

COMPREHENSIVE LOCAL PLANNING SCHEME	Weight	Amendment / approval Process
Local planning strategy	Decision makers shall take into consideration the intent of the Local Planning Strategy	1. Initiated and prepared by the Local Government 2. Reviewed by DPLH for correct format and consistency with State strategic framework 3. Endorsed by WAPC 4. Approved by Minister
Local planning scheme	Retain the “force and effect” of the Act.	As per existing scheme adoption/ amendment processes
Local planning policies	Decision makers shall take into consideration Local Planning Policies	1. Initiated and prepared by the Local Government 2. Reviewed by DPLH for correct format and consistency with State Planning Policies 3. Endorsed by WAPC 4. Approved by Minister

FIGURE 10: PROPOSED COMPREHENSIVE PLANNING SCHEME COMPONENTS AND APPROVAL PROCES

This proposal is a significant change for the Western Australian planning system and the way a local planning framework is presented. A Comprehensive Local Planning Scheme is advocated as the most direct method for improving transparency and legibility in the local planning framework. Without intervention, the planning system at the local level will likely follow the current pattern and continue with a high degree of disorder and illegibility for users.

To proceed, the Comprehensive Local Planning Scheme approach would require substantial initial resources from both State and local government, and it is suggested that the WAPC provide resources to assist in the establishment of this proposal.

The approach would also require additional processing at State level as it introduces the need for local planning policies to be subject to State-level scrutiny to ensure content does not conflict with State Planning Policies and use of a consistent format. This should be undertaken by the DPLH and approved by the Minister for Planning.

Review proposals:

- 2.4.1 *Require that a local planning scheme be published with the inclusion of the local planning strategy (in the form of a local strategic statement) and local planning policies in a document to be called a "Comprehensive Local Planning Scheme".*
- 2.4.2 *DPLH to provide guidance for local government in the Local Planning Manual on the content and format of a local planning strategy and local planning policies.*

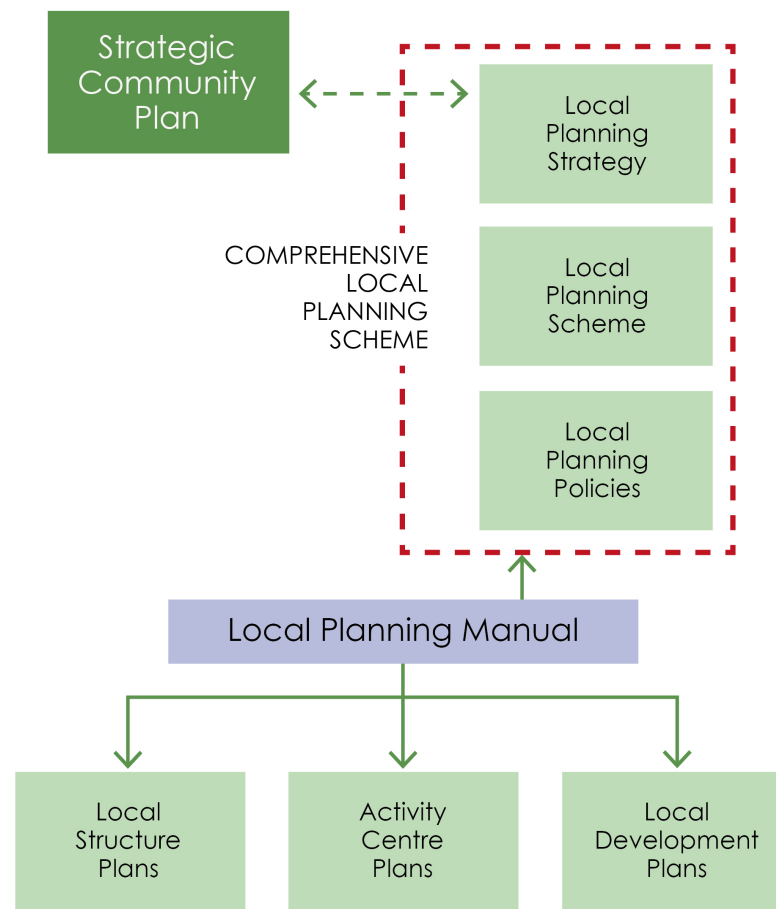


Figure 11: Local Planning Manual

A. Local planning scheme reviews underway

The LPS Regulations provide that a local planning strategy must be prepared and reviewed concurrently with the local planning scheme to which it relates.

LPS Regulations (r.65 and 66) require local governments to review, and if necessary update any local planning strategies and local planning schemes more than five years old by April 2018, and it is unlikely that there will be full compliance.

Anticipating changes to the local planning framework arising from this review, substantive work on local planning strategies and schemes should be put on hold until there is certainty regarding the format and content of local planning strategies and schemes moving forward. Small low growth regional councils that only require basic local planning schemes should in any case be exempt.

Review proposals:

2.4.3 Local governments currently undertaking, or about to embark on, a substantive review of their planning frameworks delay preparation of local planning strategies and local planning schemes (and related omnibus amendments) until guidance on the format and content of local planning frameworks is available.

B. Overlapping use of planning instruments.

Informal feedback received by the review team indicates that some local governments may be avoiding local and activity centre structure plans because of the cost of preparation, the time taken to bring them into effect and their scrutiny by the WAPC.

There may also be an element of “process shopping”, for example local structure plans being adopted as a local planning policy to avoid the normal process and WAPC review.

The planning system provides a range of planning instruments that have specific roles in order to maintain an orderly system and they should be used for their intended purposes.

Review proposals:

2.4.4 Provide in the LPS Regulations for a clear distinction of the purposes of Local Structure Plans, Activity Centre Plans, Local Development Plans and Local Planning Policies.

2.4.5 The DPLH to provide guidance in the Local Planning Manual on the appropriate use of each local planning instrument.

2.5 Form of a local planning strategy

The local planning manual of the WAPC sets out that local planning strategies are to be set out with a Part 1: Strategy and Part 2: Background Information and Analysis. As discussed, it is proposed that Part 1 of be included, as a succinct strategic statement, in the Comprehensive Local Planning Scheme.

The Victorian Municipal Strategic Statements is a good example that connects the local government profile and key issues to a vision and strategic plan as follows in Figure 12 (using WA terminology).

Review proposals:

2.5.1 The DPLH to update the Local Planning Manual with guidance on the preparation, the content and format of a Local Planning Strategy and strategic statement, in a similar form to a Victorian Municipal Strategic Statement.

Local planning strategy / strategic statement

INTRODUCTION
Local government profile
Key issues and influences
Vision and strategic directions
Strategic framework plans
OBJECTIVES AND STRATEGIES
Key Issues
Objectives to address issue
Land use strategies to achieve vision and objectives
IMPLEMENTATION
Policy guidelines
Scheme implementation

FIGURE 12: CONTENT OF LOCAL PLANNING STRATEGY

Case Study 2 includes an example of good practice in the way in which simple and clear objectives and strategies are included in the Municipal Strategic Statement of the Whittlesea Planning Scheme for the topic of urban infill.

Case study 2: Whittlesea Planning, Municipal Strategic Statement extract, Victorian Planning Provisions

MANAGING GROWTH IN OUR ESTABLISHED SUBURBS

The City of Whittlesea is experiencing significant housing growth and change and will continue to do so in the future. Although much of this growth is directed towards the City's new growth areas, there is increasing pressure to manage housing growth within the established urban areas of the municipality.

Increasing the availability of housing options within the established suburbs of the municipality will be important to address the changing demographic profile and the general decline in household size in the city.

To accommodate the changing demographic trends and housing needs of the community, council has developed a *Housing Diversity Strategy* that provides the strategic approach to planning for residential growth and change in the established suburbs of the municipality.

The established suburbs of the municipality include Lalor, Thomastown, Bundoora, Epping, Mill Park, part of South Morang and Whittlesea Township.

More diverse housing in terms of size, type, tenure, cost and style within the established suburbs, in particular well located medium and higher density housing, will ensure greater housing choice for residents as their housing needs change and will enable residents to 'age in place' close to established social networks, family support and services. A diverse range of housing can also help to encourage greater housing affordability within the municipality.

Objective 1: To manage housing growth and change within the established suburbs of the municipality to ensure there is a diverse mix of housing that meets the needs of the local community and reflects demographic changes and trends.

- Strategy 1.1 Implement the Housing Diversity Strategy.
- Strategy 1.2 Provide diverse housing size, type, tenure, cost and style.
- Strategy 1.3 Provide well located medium and higher density housing.
- Strategy 1.4 Encourage developments which support "ageing in place".
- Strategy 1.5 Support housing affordability by providing a range of housing types.

2.6 Form of local planning policies

The deemed provisions of the LPS Regulations allow a local government to prepare a local planning policy in respect of any matter related to the planning and development of the local planning scheme area. A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.

There is a large range in the content and style among local governments for local planning policies that detract from their principle purpose of guiding planning discretion within local planning schemes.

A local planning policy is a policy statement of intent or expectation. It gives the local government an opportunity to state its view of a planning issue and its intentions for an area. It should state what a local government will do in specified circumstances to provide guidance to decision making on a day-to-day basis.

Local planning policies can be area-based to apply to all planning applications in a particular zone or location. They can also be theme-based for a particular land use type, for example bulky goods or for particular areas such as a local water catchment. Good practice when preparing a local planning policy is for it to:

- be written in clear, concise, plain English;
- not repeat or contradict the State Planning Framework;
- not repeat or contradict the local planning strategy;
- not contain broad strategic objectives and strategies which should be included in the local planning strategy;
- be derived from an objective or strategy found in the Local Planning Strategy;
- relate to a specific discretion provided by the scheme and assist the local government in making a decision using that discretion;
- be self-contained and not rely on external documents or guidelines unless those documents are incorporated into the scheme; and
- not contain mandatory requirements which should be included in a local planning scheme.

Review proposals:

- 2.6.1 The LPS Regulations be amended to provide that local planning policies are to be prepared in a manner and form approved by the WAPC.*
 - 2.6.2 The DPLH to update the Local Planning Manual to provide guidance for the form, content and writing of a local planning policy.*
-

2.7 Consistency of local planning schemes

The State Government uses three methods in providing for consistency of local planning schemes:

1. The LPS Regulations provide model provisions which must be included, unless the Minister for Planning approves a variation.
2. The LPS Regulations provide deemed provisions which apply directly to local planning schemes.
3. State planning policies such as the R-Codes are included in a local planning scheme by reference. The LPS Model Provisions include a table for other State planning policies to be read as part of scheme.

Issues arise with the deemed and model zone provisions as outlined below.

A. Deemed provisions

The deemed provisions sit within the LPS Regulations, separate to the local planning scheme. This requires users to read separate documents together in order to understand how the scheme and deemed provisions work together. Users of the local planning scheme may not know that there are deemed provisions that supersede scheme requirements. Some local governments have prepared informal 'working copies' that combine deemed and scheme provisions for internal day-to-day use.

Local governments are meant to bring their local planning schemes into alignment with the deemed provisions over time by amending conflicting clauses and deleting obsolete ones. This will address the issue of conflicting clauses, but a user will still need to access the LPS Regulations in addition to the local planning scheme in order to read a whole document.

To meet the principle of legibility, a local planning scheme, when accessed by an end user, should also contain the deemed provisions. This will require a specific section to be allocated in a local planning scheme for the deemed provisions, so that updates to deemed provisions in the LPS Regulations are automatically reflected within a local planning scheme.

Review proposals:

2.7.1 Provide in the PD Act that deemed provisions are to be included in a comprehensive local planning scheme.

2.7.2 Provide in the LPS Regulations that a comprehensive local planning scheme is to include a specific section for deemed provisions.

B. Model zones

The LPS Regulations model provisions set out 20 model zones and zone objectives for adoption by local governments in their planning schemes. There is no guidance with respect to land use permissibilities within zoning tables for particular zones, but the model provisions set out the symbols to be used and definitions for the land use terms.

An audit of the 146 local planning schemes found some 1,036 zones with different names and different land use permissibilities. The same land use in a similar zone, for example a grouped dwelling in a Residential zone varies in permissibility among local governments with similar characteristics. A more detailed review of 20 sample local planning schemes identified the use of 278 unique land uses within those schemes that could mostly have been defined using the model land use definitions within the model provisions.

Figure 13 shows selected land use permissibility within the commercial zone for typical local governments. In one local government a land use may be permitted in a particular zone, and in another, the same land use may be prohibited in the same zone. This extreme degree of inconsistency cannot be explained by the need for local variation and is without any real justification.

Problems arise from a user's perspective. A simple change of use from a small 'shop' to a local 'office' may require a planning approval, and may be subject to different development standards such as the number of car parking bays required, triggering a request for payment of a cash-in-lieu of car parking contribution. These requirements are unnecessary red tape for small business.

Model provisions clearly have not been effective in achieving standardisation of zoning and land uses through periodic local planning scheme reviews in Western Australia.

Levels of standardisation for zones and land use permissibility have been introduced in other jurisdictions around Australia. In Victoria, state-wide planning provisions set out which land uses are permitted, discretionary or prohibited in a particular zone. New South Wales has a similar system, with the ability for local government to determine the permissibility of uses which are not provided within the standard instrument.

	Belmont	Canning	Joondalup	Mosman Park	Rockingham	Victoria Park	Vincent	Wanneroo	Busseton
Land use									
Aged persons home/dwelling	D	X	D	X		P	D	D	X
Caravan park and camping grounds	X	A	X	X	X		D	X	A
Child care centre/premises	D	A	D	D	D	P		D	A
Educational establishment	D	D	D	D	D	P	D	D	P
Grouped dwelling	D	X	D	X	D	P	D	D	D
Hazardous industry	X	X	X	X	X	X	X	X	
Hospital	X	X	D	X	X	D	D	D	D
Hotel	X	A	D	D	A	D	A	D	A
Light industry	X	IP	X	X	X	D	A	X	X
Multiple dwelling	D	X	D	X	D	P	D	D	D
Office	D	D	P	D	D	P	P	P	X
Residential building	X	X	D	X	D	D		D	X
Restaurant/café	D	D	P	D	D	P		P	P
Restricted premises	D	A	D	D	X	X/D		D	D
Service station	X	X	D	X	D	D	D	D	D
Shop	D	IP	P	D	P	D	P	P	P
Showroom	D	P	P	D	D	P	P	P	P
Single house	D	X	D	D	X	P	P	D	D
Tavern	A	A	D	D	D	D	A		A
Transport depot	X	X	X		X	X	D	X	D

FIGURE 13: SELECTED LOCAL GOVERNMENT LAND USE PERMISSIBILITY WITHIN THE COMMERCIAL ZONE

Note: In some cases, in one local government a land use may be permitted in a particular zone, and in another, the same land use may be prohibited in the same zone.

It is proposed for consistency that the most common zones be included in the deemed provisions of the LPS Regulations together with the permissibility of land uses. The zones should include residential, industrial, commercial and centre zones. A standard set of zones, land uses and permissibility would be triggered by a scheme review (and inclusion of the zoning) and henceforth be included in the local planning scheme as deemed provisions.

Many existing land uses are similar and there is an opportunity for like land uses to be grouped into themes to reduce the number of land uses, simplify land use permissibility and increase flexibility for operators. For example, land uses such as an 'amusement parlour', 'cinema/theatre', 'small bar' and 'restaurant/café' could be grouped into an entertainment theme. A single permissibility and common development standards could apply within the theme. Operators would then have flexibility to configure spaces as required, without the need to seek a change of use.

Proposals which have a very low level of planning risk are being subjected to a disproportionate level of planning assessment as they are caught up in an assessment and approval process established to deal with high-risk proposals. There is a need to refine land use definitions and their treatment in a zoning table to recognise differences in scale and potential impacts of development that falls under a single definition. For example, there is no difference in a zoning table between how a small shop or large shop, a small café or a large restaurant ought to be dealt with, although the planning considerations and potential impacts are very different. Similarly, a light industrial use located in the centre of an industrial area will be subject to the same approval requirements as a light industrial use on the perimeter of the industrial area (i.e. potentially adjoining residential uses), despite the potential for land use conflict being very different.

Other jurisdictions, including Victoria, Queensland, South Australia and Tasmania attach parameters or conditions to land use permissibility within their schemes, so that those proposals which are low risk are not subject to planning assessment or are subject to a streamlined assessment process.

Review proposals:

2.7.3 Provide in the LPS Regulations that there are deemed provisions which set out standardised zones, land uses and land use permissibility which:

- i. group like-land uses into themes for which common development standards can be prepared;*
 - ii. identify low risk land use proposals by including suitable parameters for which a streamlined planning process apply; and*
 - iii. are mandatory for local government to adopt within their municipalities through the next scheme review or omnibus amendment.*
-

C. Guidance provided to local government

The intent of the Local Planning Manual (2010) is to provide local government with a “how to” guide to preparing local planning strategies and schemes; however it requires significant updating.

A number of proposals within this Green Paper relate directly to the local planning framework and local government will require reliable and detailed guidance on how instruments should be prepared and administered, particularly regarding the scope, content and format of instruments. These include:

- preparation of a Local Housing Strategy;
- preparation of a Local Planning Strategy and local strategic statement, including technical guidance on how to incorporate the common strategic elements set out in the State Policy Framework;
- content and form of a Comprehensive Local Planning Scheme; and
- content and form of Local Planning Policies.

The Local Planning Manual should provide all the information necessary for a local government to prepare and administer its local planning framework in a single document. In addition to the proposals above, this should also include guidance for local government and proponents on how to prepare and administer local structure plans, activity centre plans and local development plans, which currently sit in separate documents. This document must be kept up to date and be the reference point for State and local government regarding how to prepare particular instruments and their manner and form.

Review proposals:

2.7.4 *The DPLH to revise and keep up-to-date the Local Planning Manual to ensure it provides local government with the guidance required to prepare and administer its local planning framework and properly reflects the expectations of DPLH and WAPC.*

2.8 Location of local development standards

Development standards were originally provided in local by-laws and were later transferred into planning schemes to provide certainty over requirements. In 1999 a general discretion clause was introduced into the Model Scheme Text to provide for reasonable variations to those requirements.

Mandatory development standards (where variation was not permitted) were still included in a local planning scheme via use of specific provisions to override the general discretion clause introduced through the Model Scheme Text. Other development standards were included in the local planning scheme or local planning policies, or both.

The model provisions of the LPS Regulations have removed the ability to include development standards in the General Development Requirements part of local planning schemes, except for placement in tables for “*Additional Site and Development Requirements*”, which are additional to those set out in the R-Codes, a local structure plan, activity centre plan, local development plans or State and local planning policies. The model provisions provide that decision-makers may vary any site and development requirements provided in those tables.

This arrangement is leading to community confusion and angst, particularly when planning approval is granted by a decision-maker (such as a Development Assessment Panel) for a development that includes a variation to a development standard.

A key assurance offered in the introduction of Development Assessment Panels was the ability for a local government to amend its local planning scheme to provide for appropriate development standards that would need to be followed by a DAP. The general discretion clause gives rise to the perception that there is no certainty in development standards provided through a local planning scheme.

Local planning schemes control use and development of land on the basis of a community vision established through a local planning strategy and other strategic documents incorporated into the local planning scheme. Local governments ought to have an ability to provide for certainty over key development requirements by inserting mandatory development standards in to their local planning scheme which aren’t the subject of a general discretion clause.

Situations where mandatory development standards may be appropriate are thought to be quite limited (and should not be exploited). Situations which may be considered, for example, may include building height or plot ratio controls in communities which are in transition from a single or grouped dwelling neighbourhood to include multiple dwellings. Another example may be an urban corridor where higher density development is occurring which backs on to existing single houses and may warrant a fixed minimum rear setback for new development.

Introducing certainty with regard to particular development standards will assist communities in accepting the prospect of changing land use and higher densities in their neighbourhoods by providing certainty and comfort as to the final form of new development.

Review proposals:

2.8.1 *Provide in the LPS Regulations that there be a location within the model provisions for mandatory development requirements for key sites and matters.*

2.9 On-line local planning schemes

Local planning schemes in Western Australia are currently located on the DPLH website and are stored and processed in a single PDF document-based format.

Other States have available or are developing 'Planning Portals' which maintain all local planning schemes in a central location. Victoria (Planning Schemes Online) and New South Wales (ePlanning and Planning Portal) have both developed a "one stop shop" for accessing schemes electronically in a 'Table of Content' format, and also allows users to search for the relevant local planning framework by using their address.

An online system will help make a Comprehensive Local Planning Scheme accessible for users. In particular, the use of interactive or 'live' documents could also allow links, notes and hints/tips to be embedded in the document to further assist users in navigation and understanding of the local planning framework.

Maintaining local planning schemes electronically will also allow deemed provisions to be amended or updated automatically as they are finalised, removing the need for individual schemes to be amended when procedural matters are refined or clarified.

Review proposals:

2.9.1 *Develop an interactive 'Planning Portal' for keeping local planning schemes online and accessing them in a legible and user-friendly format.*

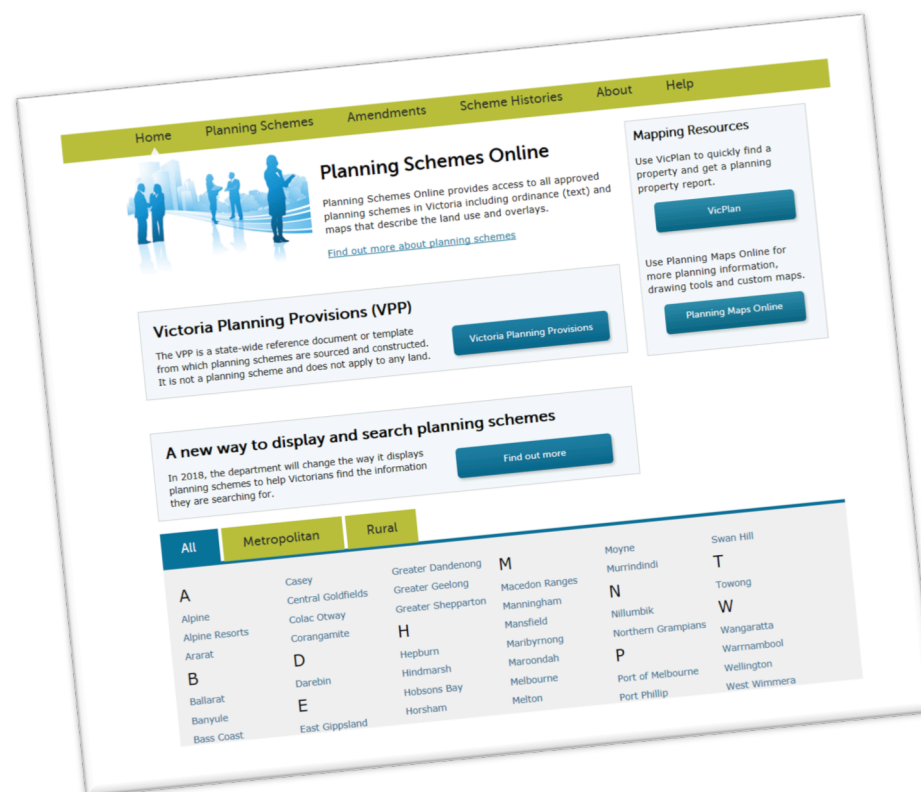


Figure 14: Victorian **Planning Schemes On-Line** Homepage

Key reform 3: A transparent planning system

Integrity principle carried through community engagement in strategic planning

The essence of integrity in the planning process is that **the community has a say** in the making of strategies and plans, and understands therefore why plans and decisions are made.

Integrity in respect of decision-making is a continuum, starting with the community expressing views as to the strategic plan and then being able to **assess why a decision-maker has made a decision**. It requires community engagement with the strategic planning process, understanding how decisions get made and being able to have faith that the decision-makers will act properly.

This is a sound doctrine of participatory democracy as applied to planning.

3.1 Key issues

The question of community engagement in strategic planning is a matter of the planning culture. In some places, such as Portland, Oregon, there is a high level of community involvement in strategic planning and planning decisions, while in Singapore there is no community engagement of relevance.

In Western Australia the level of community engagement in planning processes is mixed, largely dependent on the culture and willingness of the planning authority. Some local authorities seek detailed involvement of their communities up front in preparation of a new plan or strategy, whilst others undertake the minimum level of consultation required to comply with the PD Act and LPS Regulations by only seeking community engagement after a scheme amendment has been initiated or a development proposal received.

The natural consequence of raising the strategic plan to prominence, as outlined in Key Reform Area 1: *A Strategically Led System*, is that there must be community engagement *during* the process of its creation and not merely after the strategic plan is prepared.

If an individual has been involved in the strategic planning process and development of a local planning scheme, there is a natural belief that decisions will be made in accordance with the intention of the strategic plan and content of the scheme. In order to understand the decisions that are then made, it is important to also have knowledge of how decisions are made and also that the reasons for a decision are clear and the decision-makers are accountable.

The following issues have been identified as barriers to improving the transparency and integrity of the planning system in Western Australia:

1. Inconsistent community engagement during the strategic planning process, often with community consultation only after the strategic plan is in draft form, i.e. consultation in the form of feedback rather than true engagement;
2. Lack of understanding of the reasons for planning decisions; and
3. Concerns regarding the transparency and accountability of the DAP process.

3.2 Community engagement

Many global cities are fostering community engagement in the planning system by enabling residents and communities to have involvement in developing the strategic plan at the formative stages - inputting to defining visions, objectives and challenges for the community.

It is recognised that this may require a reorientation of approach in some planning authorities. A difficulty in mandating different levels of community engagement in the planning process is that the means of engagement and its scope may have to vary greatly according to the level of complexity and sensitivity of the issues, resources available and the size of the planning authority. It is not possible to develop a “one size fits all” requirement for engagement in the making of a strategic plan.

A. Community engagement charter

Good practice identified from planning systems around the world is for community engagement in strategic planning which:

1. Give the highest visibility to the idea that every planning authority engage with their communities in the *making* of a strategic plan in such manner as it sees fit. There is thus a positive duty to engage and it makes the community aware that it is to be engaged.
2. Establish a Community Engagement Charter for the planning system that indicates the overall manner in which this is accomplished in terms of the goals of engagement, when to give notice to the community to participate, information to be provided (including the documents available to the planning authority), the methods to be used and the points of contact.

A charter or policy to guarantee participation in the strategic planning process is now common and an accepted aspect of strategic planning.

The 2017 New South Wales amendments to the *Environmental Planning and Assessment Act 1979* require planning authorities to prepare a Community Participation Plan that details how and when the community will be involved in planning matters and will give the community a right to be informed and an opportunity to participate early in respect of strategic planning.

The South Australian State Planning Commission is developing a Community Engagement Charter that provides the basic principles that:

1. Engagement is genuine;
2. Engagement is inclusive and respectful;
3. Engagement is fit for purpose;
4. Engagement is informed and transparent; and
5. Engagement is reviewed and improved.

As recognised in *Planning Makes it Happen: Phase Two*, the PD Act and LPS Regulations include some out-dated consultation requirements for planning proposals, such as requirement in the PD Act for notice of a State Planning Policy and region scheme amendments to be advertised in a daily and a Sunday newspaper. These should be reviewed and updated in conjunction with the development of the proposed community charter.

Review proposals:

- 3.2.1 *The DPLH should develop a Community Engagement Charter for all aspects of the planning system that includes principles with regard to:*
 - i *Planning authorities having a duty to engage with the community in a manner that allows residents to contribute to the making or amending of a strategic plan; and*
 - ii *In the making or amending of a strategic plan, the community, as soon as possible, be given information as to what is proposed and any documents that the planning authority intends to examine.*
 - 3.2.2 *Align engagement processes in the planning regulations to the Community Engagement Charter.*
 - 3.2.3 *Revise public notification and engagement requirements for planning proposals in the PD Act and LPS Regulations to update out-dated requirements.*
-

B. Local planning strategies and strategic community plans

In Western Australia there are two requirements at the local government level for the preparation of formal strategic plans; a “Strategic Community Plan” required by the *Local Government Act 1995*, and a local planning strategy under the LPS Regulations.

A Strategic Community Plan is part of a nation-wide system for integrated financial and administrative reporting. It is the highest level plan set by a local government, setting out a long-term vision, values and aspirations of an area. However it is not planning-focussed.

Where the preparation or review of a Strategic Community Plan and a local planning strategy coincide, a local government should be able to undertake community engagement on both strategic community planning and land use planning as a single process.

While the plans will be related, they should be kept separate as they are for different purposes. The Local Planning Manual (2010) blurs this distinction and provides that a local planning strategy should “incorporate the actions required to implement the strategy” including “such as infrastructure development, promotion, direct investment and other development initiatives” (p8).

Actions in a local planning strategy should be limited to such as preparing policy guidelines, applying specific provisions such as applying a special control for an environmentally significant area, or identifying where further strategic work is required. Matters such as resourcing and infrastructure should be included in the 10-year capital expenditure plan of a Strategic Community Plan.

Review proposals:

3.2.4 Make provision within the LPS Regulations that the local planning strategy must be in accordance with the Community Strategic Plan under the Local Government Act to the extent that it is relevant.

3.2.5 DPLH to revise the Local Planning Manual to clarify that:

- i. actions in local planning strategies are limited to those matters that can be carried out within the local planning scheme;*
- ii. acknowledge a concurrent community participation process between a Strategic Community Plan and a local planning strategy.*



FIGURE 15: COMMUNITY INVOLVEMENT IN STRATEGIC PLANNING

Reasons for decisions

Planning decisions are made by the WAPC, DPLH (under delegation from the WAPC), the MRA, DAPs, local government and the SAT (on review). All of these decisions, including subdivision approval, development approval and amendments to local planning schemes, arise in different contexts with various considerations.

It may be the case that one decision does not express fully the reasons for that decision such as pro forma reasons for refusal, while others explain it in a complicated manner.

The decisions of the SAT, being part of our judicial system, have a long history of fulsome, well-reasoned decisions. The same cannot be said for other planning decision makers, such as local government or a DAP. There is currently a lack of consistency on full disclosure of reasons for planning decisions.

The introduction of standards for decision-makers to prepare and publish planning decisions gives the community greater confidence in the functioning of the planning system. If a planning decision is negative for residents, they should be able to examine and understand the reasons for the decision.

Good practice in other planning jurisdictions is to establish guidelines for the publication of planning decisions.

The practice in the UK has been to allow a summary of reasons to be provided where approval is granted, but detailed reasons for a refusal. The Queensland *Planning Act 2016* provides (s. 63(5)) that in the notice for the determination of a development application, reasons must be given that include a description of the assessment benchmarks applied, a description of the matters raised in submissions and how the decision-maker dealt with those matters and the reasons for the decision.

A fact sheet "Statement of Reasons" produced by the Queensland Department of Infrastructure, Local Government and Planning to support the requirement of the Act, states the essence of the reasons (adapted to the language of the Western Australian system).

- Set out the relevant parts of the scheme and the key issues on which the conclusions depend.
- Detail the steps in the reasoning process that led to the decision that will enable the reader to understand exactly how the decision was reached.
- Set out the information, documents and other material that the decision maker found to be relevant, credible, and significant in relation to each part of the decision.
- Use plain English, avoiding vague language or technical jargon.
- Be of a length that approximately reflects the nature, importance and complexity of the decision, as well as the time available to prepare it.

Review proposals:

3.3.1 *The DLPH to publish a Guide as to the Scope of Reasons by Planning Decision Makers, having regard to the Queensland model.*

3.3.2 *Provide in the LPS Regulations that reasons for decisions are to be provided on planning proposals.*

3.4 Transparency of DLPH and WAPC statutory reports

DPLH reports and recommendations to the Statutory Planning Committee and the WAPC regarding region schemes and local planning schemes are not currently made publicly available. Similarly the decisions of the Statutory Planning Committee and the WAPC are not published.



Industry and local government are particularly critical of this lack of transparency for a number of reasons:

- the content of reports and recommendations of officers of the DLPH are not able to be scrutinised and responded to;
- it is difficult to ascertain when matters will come before the Statutory Planning Committee or the WAPC for consideration and interested parties are therefore denied an opportunity to state their case through a deputation; and
- deputations are made to the WAPC and Statutory Planning Committee by proponents or submitters 'blindly', with no knowledge of the officers' advice, any issues raised or recommendation.

Making officers' reports and recommendations to the Statutory Planning Committee and the WAPC available to the public would resolve these concerns and allow stakeholders the opportunity to address any matters of concern directly, improving the deliberations of the Statutory Planning Committee and the WAPC.

Review proposals:

3.4.1 WAPC practice be modified to publish Statutory Planning Committee and WAPC agenda items, reports and recommendations on region and local schemes and amendments.

3.5 Reporting by Local and State Government on planning matters

While some local governments report voluntarily on the performance on planning matters in annual reports, this not a mandatory requirement. Monitoring of systems allows them to be scrutinised and managed; consequently, there are persistent industry calls for the collection and publication of information on local government performance in undertaking statutory planning functions.

New South Wales and Victoria have mandatory reporting systems in place for local government on a variety of planning matters.

Industry concerns have mainly focussed around timeliness. The lack of available data on planning processes is an impediment to analysing the planning regulatory system and identifying opportunities for improvement or directing efforts to address deficiencies. In addition to improving local government accountability and transparency, the provision and analysis of reporting by local government on planning matters would provide a reference for continuous improvements in local planning by:

- identifying opportunities for simpler, more consistent and innovative processes;
- identifying emerging trends or issues within the planning framework;
- informing development of policy and future planning reforms; and
- observing levels and distribution of planned development activity.

Figure 16 summarises the data which could be collected from local government on an annual basis, to align with current reporting required by the Local Government Act. Data could be published on the "My Council" website.

Quantity and value	Volume and value of development applications determined and the proposal type (i.e. new construction/addition/change of use).
Timeliness	Average net and gross development application processing times and the percentage determined within statutory timeframes.
Currency	Age, status and last review of the local planning scheme and local planning strategy.
Development activity	Details on the types of proposals, such as number of dwellings or floor space of commercial/retail/industrial proposals.
Consistency	Details on any variations to development standards supported (i.e. the use of discretion).
Delegations	The percentage of development applications determined by officers.

FIGURE 16: MEASURES OF PLANNING PERFORMANCE

Many planning decisions in WA are interconnected between local government, DLPH and the WAPC. A system of reporting on local government performance necessitates monitoring of key statutory planning items by DLPH and WAPC.

Performance indicators on consideration of subdivision, local planning schemes and scheme amendments are already provided by the WAPC and DLPH in their annual reports and should be extended in a second phase to include summary detail on assessment of local planning strategies, structure plans, and development applications.

It is proposed to introduce reporting on planning matters in two phases:

1. As a first phase to monitoring the planning system, regulations be prepared for mandatory reporting by local government on planning matters, including performance of statutory responsibilities.
2. As a second phase, performance monitoring of the WAPC/DPLH be extended to include detail on the consideration of local planning strategies, local planning scheme reviews, structure plans, and development applications.

Review proposals:

3.5.1 Provide in regulations mandatory reporting by local government on planning matters.

3.6 Transparency and accountability of Development Assessment Panels

DAPs were established in 2011 to determine development applications that meet set land use types and value thresholds. It was argued that DAPs would introduce more expertise into planning processes and expedite approvals. DAPs were to make their expert evaluation against local plans, and that a community through its local government, would have the ability to set the framework for DAPs to make its decisions.

A 2012 Review of DAPs in the Productivity Commission's Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator concluded "In the Commission's view, the Western Australian Development Assessment Panel (DAP) system contains most of the features desirable in an alternative assessment pathway" (p. 431).

The idea of expert evaluation of development proposals was recommended in 2005 in *A Leading Practice Model for Development Assessment in Australia* by a national Development Assessment Forum (DAF). DAF's proposition of professional determination for most applications was to provide objective and expert evaluation of applications against known policies and objective rules and tests, and provide the efficient and transparent assessment of most applications¹⁰.

As discussed in this Green Paper, the current planning system in Western Australia is unable to provide clear guidance. Finding 1 of the 2015 Uniform Legislation and Statutes Review Committee review of DAPs was¹¹:

The Committee finds that the out-dated nature of some Local planning schemes; their inconsistency with state planning policies and strategic planning frameworks and the inconsistencies of local planning

¹⁰ Development Assessment Forum *A Leading Practice Model for Development Assessment in Australia*, March 2005 p22

¹¹ Uniform Legislation and Statutes Review Committee, Report 93 *Review of Planning and Development (Development Assessment Panels) Regulations 2011*, 8 September 2015 page 30

requirements across local governments have contributed to the types of determinations being made by development assessment panels.

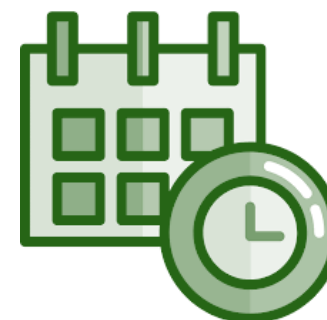
This review is also concerned that State and local planning frameworks are not up-to-date or clear for proponents, decision-makers and the community. Also, model provisions in the LPS Regulations allow decision-makers to vary any site and development requirements that have been included in a local planning scheme. These factors together with other significant discretions in some local planning schemes result in inconsistent DAP decision making and unpredictable and unclear outcomes for the community.

A. Meeting times and frequency

The openness of DAPs would be improved if they were more accessible. Currently, DAP meetings are sporadic and held at different times of day. This requires individuals who wish to attend a DAP meeting to ensure they are aware of the meeting time, date and location and for those with work, school or family commitments, to make arrangements to ensure they can attend. To improve accessibility and familiarity of the DAP process, it is proposed that meetings be held at regular times outside of business hours.

Review proposals:

3.6.1 *Provide for DAP meetings to be held at regular times and outside of business hours.*



B. Audio recording of DAP meetings

It is important that the meeting deliberations are open to those people present and others who may wish to review how particular decisions were made. Meeting minutes are insufficient for this purpose as they are only a very short summary of what was discussed and considered. If DAP meetings were recorded, it would be an exact record of everything that was presented and discussed and can be stored as a record of the meeting itself in accordance with the *State Records Act 2000*. Many local governments already make available recordings of their council meetings.

Review proposals:

3.6.2 Provide for the recording of each meeting of a DAP and made available on the DAP website of DPLH.

C. DAP deferring decisions

Two issues have arisen which require guidance as to when deferral of a DAP decision may be appropriate.

Firstly, the review team has been approached by local government concerned that after a RAR is provided for publication for an upcoming DAP meeting, a proponent may prepare new information to address any concerns raised in the RAR and provides this directly to the DAP via deputation at the meeting, bypassing the scrutiny of the responsible authority and community. Examples provided to the review team include amended plans or technical reports, such as a traffic impact assessment.

While the DAP Regulations (Reg 40(3)) contemplate further submissions at a DAP meeting, both oral and written, this should be limited to information to assist the DAP in determining the proposal presented in the RAR, rather than an opportunity to present new information for the DAPs consideration.

The DAP procedures allow for amended plans or additional information to be submitted during the assessment period. This allows the responsible authority time to digest any new information, undertake consultation (if required) and provide advice and recommendation on that information within the RAR.

If new information is provided to a DAP, which it intends to rely upon to make a determination, the item should be deferred to allow the information to be properly assessed and advice provided to the DAP by the responsible authority. It is recommended that clarification be provided in DAP practice notes on this point.

Secondly, there are time pressures on DAPs to resolve substantive issues by way of conditions, in order to make a decision as efficiently as possible, without the need for further submissions or another meeting. Examples have been provided to the review team where an ambiguous condition was imposed by the DAP to secure an approval which resulted in significant time and resources being required to determine how the condition could be satisfied, due to confusion regarding the expectation of the DAP in applying the condition, the expectations of the local government in administering the condition and the implications for the proposal as a whole, which were not understood.

While conditions of planning approval can be used to ensure proposals are acceptable, a condition should not be imposed if it is imprecise or results in a materially different proposal.

Review proposals

3.6.3 Provide clarification in DAP Practice Notes:

- i. If new information is submitted to the DAP after an RAR, the DAP should consider whether a decision should be deferred pending further RAR advice; and*
 - ii. As to when it may be appropriate to defer a decision, such as where issues are raised which require further detailed technical consideration by responsible authorities.*
-

D. Reasons to be provided for each decision

Regulation 44 of the DAP Regulations requires that the minutes of a DAP meeting record the reasons for a determination of the DAP. The DAP practice notes provide that in cases where the DAP adopts the responsible authority's recommendation, the minutes of the meeting can provide that the reasons for decision is per the responsible authority report.

In these cases, there is no record of the reasons for determination of a development. This can give the impression that any matters raised with the DAP during deputations were not taken into account, and that the decision was based solely on the responsible authority report. Reasons for all determinations of the DAP, whether the responsible authority's recommendation has been adopted or not, is good practice in accountable and transparent decision making.

Section 3.3 of the Green Paper proposes that the DLPH develop a Guide on the scope of reasons for decisions, having regard to the Queensland model that sets out the rationale for all decisions.

At least one panel member will be required to draft reasons and it will be appropriate that they be remunerated accordingly.

Review proposals:

3.6.4 Amend the DAP Practice Notes to require reasons for decisions to be given in all decisions made by a DAP, including where the DAP adopts the responsible authority's recommendation contained within the RAR.



E. Reconsidering a decision arising from a SAT review

It is open to an applicant to seek a review by the State Administrative Tribunal (SAT) of a planning decision in response to a refusal, or condition of approval which is unacceptable to the applicant.

Generally, the first step the SAT will undertake is to hold mediation between the parties. In many cases, following a SAT mediation, new information or amended plans are submitted for reconsideration by the DAP but this is not re-advertised. There is no opportunity for the community to make further submissions until the responsible authority report is published on the DAP website.

Due to the lack of further consultation an impression is gained that a DAP reconsideration of a SAT matter is a foregone conclusion.

DAP regulations and practices should be modified to ensure that new information or amended proposals submitted through the SAT process are re-advertised prior to the responsible authority preparing its report and recommendation to the DAP. The only exception to this should be where the proposal is amended in such a way that the applicant complies with all development standards and therefore does not seek approval for any variations to the planning framework. To assist an understanding of any changes, an applicant should be required to clearly highlight amendments to plans and the justification for those amendments.

Review proposals:

3.6.5 Provide for a requirement that applications amended through a SAT process are readvertised unless the amended plans comply with all development standards.

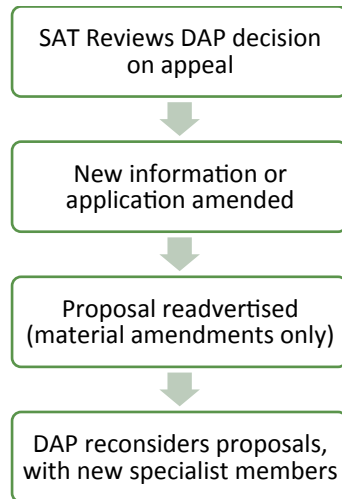


FIGURE 17: PROPOSED DAP ACTION FOLLOWING SAT PROCESSES

F. Constitution of a DAP responding to an invitation of the SAT to reconsider its decision

The DAP Procedures Manual provides that the appropriate person to attend SAT mediations and hearings on behalf of the DAP is the presiding member or, if they are unavailable, the deputy presiding member¹². Where the matter is reconsidered, the DAP Practice Notes provide that the DAP member should publicly acknowledge if they have attended a SAT process in relation to any DAP application to be considered at that meeting, during the ‘disclosure of interests’ in the order of business¹³.

¹² Department of Planning, Lands and Heritage *Development Assessment Panel Procedures Manual*, November 2017 p 34

¹³ Department of Planning, Lands and Heritage *Development Assessment Panel Practice Note 7: Tribunal, Court Reviews and Other Legal Proceedings*, November 2017 p 22

Community members and DAPs members have raised concerns with this review about this process. DAP members have suggested that where they have participated in a SAT negotiation, they are perceived to have a preconceived position on an issue where it is reconsidered by the DAP. Community members have suggested that where there is not a unanimous DAP decision, the presiding member does not necessarily reflect the majority of the DAP in negotiations at SAT.

Options that could assist in addressing the apprehension of bias are:

1. Where an amended application is reconsidered by the DAP following a SAT mediation, new specialist members and/or the presiding member could be called on to hear the amended application. This would ensure that the amended application is considered afresh. However, it may result in the raising of new issues by the DAP and need for further SAT proceedings.
2. s.242 of the PD Act provides for SAT to receive or hear submissions in respect of an application from a person who is not a party, but in the Tribunal’s view has a sufficient interest in the matter. Guidance in this process should be provided with a view to allowing submissions and sometimes hearings for contentious applications.

Review proposals:

3.6.6 *Provide that where a DAP has been invited to reconsider its decision following a SAT mediation, new specialist members be drawn from the available pool of members.*

3.6.7 *The SAT should consider preparing a framework for allowing parties with a sufficient interest in a matter to make a submission or be heard during SAT mediation of DAP matters.*

G. Proposals seeking significant variations

The expectation that DAP applications will be dealt with as efficiently as possible may result in DAPs feeling under pressure to resolve often complex and technically difficult issues during meetings in order to avoid the need for further submissions or meetings to determine a proposal.

There needs to be recognition in the operation of the DAP system that DAPs are often required to consider contentious proposals and there is sometimes wide discretion or little guidance provided in local planning frameworks that necessitates a broader examination of strategic intent and context than was intended under the DAF's *A Leading Practice Model for Development Assessment in Australia*.

A more accessible, inclusive and intensive DAP consideration is required where the presiding member is of the view that:

1. An application seeks substantial variations to site and development standards; or
2. A local planning scheme provides the DAP with the ability to exercise significant discretion such as a height bonus that is the subject of subjective criteria, notwithstanding that further technical advice may be given such as through a Design Advisory Committee; or
3. A proposal is of such a contentious nature that it warrants special consideration.

This may include a longer time for submitters to make deputations, the opportunity for panel members to undertake a site visit and could include meetings being held over two or more sessions for the DAP to hear presentations and then seek further advice or information from the responsible authority.

Review proposals:

- 3.6.8 Provide for expert DAP members to be drawn from a pool of members across the State on the basis of the type and complexity of the application being heard.*
- 3.6.9 Provide for an expanded and flexible meeting process where the DAP Presiding member is of a view in relation to an application for development that wider community and local government viewpoints need to be examined.*
-

H. DAP consideration of region scheme matters

The WAPC determines regionally significant development proposals by withdrawing its delegation to local government under region schemes. For example, under Clause 32 of the *Metropolitan Region Scheme* the WAPC will determine applications for extensions of shopping centres where there is no Activity Centre Structure Plans, new poultry farms or extensions, and constructions of buildings close to the coastline which exceed set out height limitations.

Following introduction of the DAPs, if a regionally significant proposal falls within the value and type set out by the DAP Regulations, the WAPC is required to forward the proposal to a DAP for consideration.

An applicant is also required to obtain a separate development approval under a local planning scheme which is also determined by a DAP.

The requirement for a DAP to determine regionally significant proposals is anomalous as the WAPC is already an independent technical decision-maker. The involvement of the DAP undermines the status of the WAPC as the highest order planning authority in the State. Further, a situation may result where a DAP determination gives rise to a land compensation claim with strategic and financial implications for the State.

The DAP Regulations should be amended to remove DAPs as a decision-maker for development applications of regional significance.

Review proposals:

3.6.10 Provide in the DAP Regulations that the WAPC retains its decision making ability with respect to development applications under region schemes.

I. Chief presiding member

The introduction of DAPs has required new administration arrangements in local and State government. This has caused teething problems with DAP operations which have been addressed on an ongoing basis since their introduction. DAPs continue to need refinement to improve their effectiveness and efficiency and it would be beneficial for a presiding member to also be appointed as the Chief Presiding Member with appropriate remuneration to take responsibility for the operation of key aspects of DAPs.

Review proposals:

3.6.11 Provide for a presiding member to be appointed also as the Chief Presiding Member to:

- i Oversee the quality and consistency of DAP procedures and decisions (such as consistency of the use and content of conditions; the quality of RAR reports) and recommend changes to DAP procedures and Standing Orders to DPLH;*
 - ii Assist in identifying panel members appropriate to sit in accordance with the basis of the type and complexity of the application being heard; and*
 - iii Identify training needs for DAP members for the approval of the Director General DPLH.*
-



FIGURE 18: CHIEF PRESIDING MEMBER APPOINTED TO DAP

Key reform 4: An efficient planning system

Efficiency principle: to deliver activities in the least complex and most timely way

The **need for efficiency is clear**. The Productivity Commission's *Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator* (2012) emphasises the need for process efficiency improvements in planning and that government should be accountable for the efficiency and effectiveness of their activities.

As used here, efficiency means that **the planning system is well organised** with clear roles and accountabilities, and is competently managed to deliver key functions in the least complex way through well-defined and adaptable processes with the right resources and defined outcome measures. It also includes the "process efficiency" – **resolving obvious bottlenecks** that have emerged by developing practical solutions.

4.1 Arrangement of state and local planning

A. Roles of WAPC, DPLH and local government

The planning system in Western Australia has been founded upon a centralised planning system with an independent, technical statutory authority¹⁴.

A Town Planning Board was established in 1929 to control subdivision and make recommendations to the Minister on local government town planning schemes¹⁵. A Metropolitan Region Planning Authority was established in 1960 to prepare and manage a statutory region scheme for the Perth Metropolitan Region. In 1995,

both bodies were merged into a State Planning Commission, the functions of which were broadened to preparing a State Planning Strategy and undertaking regional planning across the State.

The current Western Australian Planning Commission was established in 2005, and replaced the State Planning Commission. The WAPC has been established under the PD Act as a board of management, and it is serviced by staff of the DPLH under a service agreement.

¹⁴ Paul Maginn and Neil Foley. From a centralised to a 'diffused centralised' planning system in Western Australia. *Australian Planning*, 2014 Vol.51, No. 2, 151-162

¹⁵ Foley, N. 1995. Outline of the Evolution of Town and Regional Planning Administration in Western Australia: 1927-1995. Nedlands: N. Foley.

The WAPC now has extensive responsibilities under the PD Act. These include:

- advising the Minister for Planning on the administration, revision and reform of legislation relating to land use, transport planning and land development;
- preparing a State Planning Strategy and State Planning Policies;
- preparing regional plans, administering statutory region schemes and determining or providing a Responsible Authority Report on regionally significant applications for development;
- providing recommendations to the Minister for Planning on local planning schemes and amendments;
- determining local structure plans and activity centre plans; and
- determining applications for subdivision.

The WAPC's broad range of functions makes for a substantial workload which is addressed through the use of WAPC Committees, particularly the Statutory Planning Committee and by delegating functions to the DPLH. Notwithstanding these management arrangements, the WAPC's scope has become too wide, with too many functions for a single board of management to undertake. The wide scope and large volume of matters coming before the WAPC results in inefficiencies in dealing with statutory planning matters, and a lack of focus and delays in undertaking strategic planning and policy development.

The WAPC needs to increase its capacity to effectively manage the State policy framework and prepare and implement regional and sub-regional plans. In particular, there is a need for the WAPC to strengthen its leadership role and work proactively with local governments and agencies to prepare urban corridor and activity centre plans.

Capacity needs to be created for the WAPC to undertake strategic planning by delegating statutory functions for matters that are not of regional or State strategic planning significance to the DPLH and local government.

Firstly, the roles of the WAPC and DPLH have been blurred with respect to advice on the operation of the State planning system, as a function of the WAPC is to advise the Planning Minister on "the administration, revision and reform of legislation relating to land use, transport planning and land development" (s.14(a)(ii) PD Act). Consistent with other States, the DPLH should be responsible

for the operation of the State planning system (including the PD Act and regulations), and provide leadership and guidance to local government on how to manage their local planning frameworks.

Secondly, an accreditation system is proposed for local governments to receive additional WAPC delegations for local planning matters. The accreditation system would require local governments to have up-to-date local planning strategies and schemes, and have appropriately qualified planning officers and appropriate delegations to those officers.

Accredited local governments should receive delegation from the WAPC to determine small infill subdivision within the metropolitan area and regional centres, and subdivision in accordance with an approved local structure plan. Consideration should also be given to removing the "Optional DAP applications" category specified within the DAP Regulations for accredited local governments, handing back determination of these applications to the local government.

Figure 19 shows this review's proposed shifts in delegations. The revised delegation and accreditation system should be regularly reviewed with the WAPC making adjustments over time to ensure appropriate outcomes are being delivered.

Review proposals:

4.1.1 Provide that the PD Act be amended to delete the WAPC function s14.(a)(ii) of advising the Minister for Planning on the administration, revision and reform of legislation.

4.1.2 Provide for a local government accreditation process.

4.1.3 Increase delegations from WAPC to DPLH and local government, for the purpose of the WAPC focussing on the State policy framework and regional strategic planning.

FUNCTION	CURRENT DELEGATION / AUTHORITY	PROPOSED DELEGATION / AUTHORITY
Region Scheme		
Major Amendment	WAPC recommends	
Minor Amendment	WAPC recommends	Statutory Planning Committee recommends
Local Planning Strategies and Schemes		
Local Planning Strategy	Statutory Planning Committee endorses	Statutory Planning Committee recommends
New Scheme	Statutory Planning Committee recommends	
Complex LPS Amendment	Statutory Planning Committee recommends	
Basic and Standard LPS Amendment ¹	Statutory Planning Committee recommends	DPLH recommends
Structure Plans		
Activity Centre Structure Plan	Statutory Planning Committee	
Complex Local Structure Plan ²	Statutory Planning Committee	
Basic and Standard Local Structure Plan ²	Statutory Planning Committee	DPLH
Other		
Local Development Plan	WAPC Chair authorises	DPLH authorises
Local Planning Policy ³	Local Government	DPLH recommends
Subdivision		
General subdivision	DPLH	
Small Infill	DPLH	Local Government approves
In accordance with Local Structure Plan	DPLH	Local Government approves

Notes:

1. Numerous functions are already delegated to DPLH. It is proposed that all basic and standard amendments be delegated to DPLH.
2. The Green paper proposes the introduction of a 'basic', 'standard' and 'complex' stream for region scheme amendments, local planning strategy amendments, local structure plans and amendments.
3. Included within the proposed Comprehensive Local Planning Scheme.

FIGURE 19: PROPOSED FRAMEWORK FOR WAPC DELEGATIONS

B. WAPC board and committees

As WA planning legislation has evolved, membership of the lead planning authority has expanded:

- the Town Planning Board comprised four members being a Town Planning Commissioner and three technical members;
- the Metropolitan Region Planning Authority comprised 11 members being the Chairperson, five people appointed by the Governor and five local government representatives;
- The current WAPC is established as a Board with 16 members being the Chairperson, six people appointed by the Governor including a metropolitan and a regional local government representative, and eight public sector CEOs and a regional representative.

The inclusion of the eight public sector CEOs into the WAPC board has resulted in accountability issues with respect to their obligations to Government and their input to the WAPC as an independent adviser to the Minister for Planning.

Further, public sector CEOs have extensive pressures and responsibilities related to their positions managing large agencies which means there is limited time for giving attention and effort to WAPC matters. The WAPC is now of a size that has proven to be difficult and inefficient to manage.

The common theme in each of the institutional arrangements in the evolution of WA's lead planning authority has been a specialised membership to provide expertise in the good planning methods and practices together with an independent decision-making role. It is recommended that the current WAPC Board should be reduced to a manageable size of five to seven members for these roles, with skilled members from fields relevant to sustainable land use planning, including town planning and local government.

The PD Act sets out in Schedule 2 requirements for the following committees:

- Executive, Finance and Property Committee
- Statutory Planning Committee
- Sustainable Transport Committee
- Infrastructure Coordinating Committee
- Coastal Planning and Coordination Council
- Regional planning committees; and
- District planning committees

Schedule 2 Committee appointments require the approval of the Minister for Planning, which cannot always be given priority.

Schedule 2 of the PD Act should be removed, and the WAPC provided with the ability to establish committees on a needs basis (with the approval of the Minister) to advise the Commission on any matter. This would allow the WAPC to seek specialist advice on matters as required, rather than manage an extensive list of committees and members for matters which may not be required for extended periods. Each committee should consist of at least one member of the Commission who is to be the chairperson of the committee.

Committees which carry out core functions of the WAPC, such as the Statutory Planning and Executive, Finance and Property Committee will still be required and would continue under the suggested committee system.

The Infrastructure Coordinating Committee will in large part be superseded by the recently announced Infrastructure WA, when it becomes operational. The WAPC recently established an Infrastructure Steering Group to look at the coordination of land use plans with physical and community infrastructure. The Infrastructure Steering Group would be usefully maintained as a WAPC Committee to look at key infrastructure to deliver regional and key local plans, for example to consider with a local government the timely provision of infrastructure for the development of a key centre.

It is noted that the Coastal Planning Committee has a history and role beyond the WAPC Framework and may be required to be retained. It is recommended the function and hosting and regulatory framework for this committee be reviewed.

The Sustainable Transport Committee and a range of Regional Planning Committees and District Planning Committees are not operating and can be disbanded.

Review proposals:

4.1.4 *Provide for the PD Act to be amended to:*

- i Revise the membership of the WAPC to five to seven members to have experience, skills or knowledge of any one or more of the following fields—*
 - planning, including strategic land use planning in metropolitan or regional areas;*
 - infrastructure planning, delivery, policy and strategy;*
 - public administration and public policy;*
 - property development;*
 - housing supply;*
 - corporate or public sector governance;*
 - economics, finance or financial management;*
 - management of business or commercial ventures; and*
 - local government.*
- ii Remove committees of the WAPC from Schedule 2, in favour of an ability for the WAPC to establish committees to advise the Commission on any matter, recognising the Statutory Planning Committee and Executive, Finance and Property Committee carry out core functions of the WAPC and will be required immediately under this new system. A committee would consist of at least one member of the Commission who is to be the chairperson of the committee.*

4.1.5 *The role and purpose of a Coastal Planning Committee be reviewed, and consideration be given to the most appropriate host organisation and regulatory framework for the Committee.*

C. DLPH resourcing of WAPC

The DPLH provides resources and expertise to the WAPC. The arrangement between the WAPC and DPLH is formalised in a four-year Service Delivery Agreement that sets out projects and services to the WAPC, together with an Annual Scope of Services.

The agreements between the WAPC and DPLH need to be reviewed to accord with the revised roles of the WAPC and DPLH as proposed above.

In particular, the DPLH needs new positions to be created to recruit senior and experienced town planners to undertake the policy development necessary to underpin the refocussing of WAPC efforts to strategic planning.

Expertise in the private, community and academic sector should also be made more use of in the early stages of policy development to help DPLH and the WAPC scope projects.

Review proposals:

4.1.6 *Revise the Service Delivery Agreement between the WAPC and DPLH to accord with the revised roles of the WAPC and DPLH.*

4.1.7 *Provide for new positions to be created to enable DPLH to recruit senior and experienced town planners to undertake strategic planning and policy development for the WAPC.*

4.1.8 *The DPLH and WAPC establish a protocol for the engagement of non-public sector expertise in the scoping and development of policies.*

4.2 Process efficiency for planning proposals

Key Reform Area 2 sets out proposals to address planning complexity that has arisen over time from a lack of connectedness between State policies and strategies, and between local planning strategies, schemes and policies.

There are always efficiency and timeliness measures that can be introduced based on national and international good practice. This part includes efficiency measures to aid the efficiency of the development process in Western Australia having regard to the key principles of the Green Paper.

This work will be ongoing beyond this review and it is proposed that the DPLH retain a planning reform team for continuous improvement of the planning system.

Review proposals:

4.2.1 A planning reform team be retained by the DPLH to implement proposals arising from the planning review and ongoing reforms to the Western Australian planning system.

A. Planning referrals and conditions

Departments and agencies play a key role in providing specialist advice to planning decision makers on referrals for subdivisions, development applications, structure plans and scheme amendments. Referral authorities will generally advise the planning decision maker if they support or object to a proposal, any advice relating to the proposal or any conditions which ought to be applied in supporting the proposal.

How referral advice is treated by a planning decision maker has developed over time with several issues observed:

1. An industry complaint is that notwithstanding statutory time periods for referral authorities to respond to a request for advice or comment, planning proposals will often not progress until a response is received.
2. Where concerns are raised by a referral authority, a planning decision-maker will defer dealing with the proposal and expect the proponent to satisfy the concerns regardless, as a matter of course.
3. In some cases, planning proposals are reliant on further approvals being received from other agencies under separate legislation. For example, several approaches to this review were made with regard to Main Roads WA which sets its own standards and requirements outside the conditions imposed by a planning approval. This practice diminishes the value of the planning approval process and creates uncertainty and unnecessary delays for industry.
4. Examples have been provided to the review where planning proposals (particularly structure plans or activity centre plans) have been subject to duplicate referral processes, referred once by local government and again by WAPC/DPLH, adding unnecessary time and resources to consideration of a planning proposal.
5. The need for referral of planning proposals to the EPA on matters of detail (for example a structure plan or subdivision) has been raised with the review, particularly following EPA consideration of a region or local scheme amendment for the same area.

The Development Assessment Forum's *A Leading Practice Model for Development Assessment* includes Leading Practice Five: a single point of assessment as follows:

- Only one body should assess an application, using consistent policy and objective rules and tests.
- Referrals should be limited only to those agencies with a statutory role relevant to the application. Referral should be for advice only. A referral authority should only be able to give direction where this avoids the need for a separate approval process.
- Referral agencies should specify their requirements in advance and comply with clear response times.

The objective of a referrals system with a single point of assessment is to ensure the consistent application of policy, through objective rules and tests. Where referrals are required, the assessment criteria or policy are clearly expressed in advance. Applicants therefore know what is required before submitting an application.

Queensland and Victoria have developed frameworks for referrals that list the types of planning applications that are required to be referred and which agencies the applications are referred to. This reform will be valuable to pursue but will require time and dedicated resources to develop.

In the meantime, the DPLH Independent Planning Reviewer should undertake a circuit-breaker role for WAPC matters where a proponent can demonstrate that a referral authority has failed to come to a reasonable position.

Review proposals:

4.2.2 A framework for referral of planning applications to be incorporated in regulations as appropriate.

4.2.3 As an interim arrangement, the DPLH Independent Planning Reviewer be available to assist on issues regarding referral for WAPC matters.

B. Cooperation in an application

Approaches to the review have raised concerns regarding inconsistencies in the way planning authorities process applications, with regard to undertaking referrals, requests for further information or discussion on likely outcomes. The LPS Regulations provide little guidance to planning decision-makers on how to undertake development assessment or interpretation of procedures for dealing with applications.

In one example provided to the review, two days prior to expiry of the statutory timeframe for consideration of an application, a local authority advised the applicant that further information and amended plans were required. These delays lead to a lack of trust in the development assessment process.

After a development application has been lodged, there is no formal process for further discussion and modification or, in fact, alternative ideas, as the development assessment and determination process are geared towards a yes or no final determination. This has flow on effects where appeals to the State Administrative Tribunal force both sides into an adversarial position. From this root cause, comes lack of efficiency in effectively processing an application for development or subdivision.

The UK Barker Review of Land Use Planning (2006) suggested that efficiency includes an increased use of pre-application discussions, better engagement by planning authorities with the public and developers, assistance in complying with conditions by early and speedy assessment by authorities. Although these may or may not be applicable to Western Australia, they illustrate that the most important factor is increased cooperation and not a system where discussion freezes until there is a final determination.

Figure 20 illustrates three methods that are used internationally for encouraging cooperation in the making and processing of a planning application.

Stages	Cooperation model
Pre-lodgement cooperation	Formal discussions between a potential applicant and the planning authority to identify the issues that must be addressed.
Options at application	The applicant may submit multiple options for the same use and development, addressing issues raised in the pre-lodgement phase. A planning authority then meets with the applicant and assists with the preferred option.
Mediation prior to decision	The applicant and planning authority enter into formal mediation to reach agreement on the best outcome for the land the subject of an application.

FIGURE 20: METHODS FOR COOPERATION IN MAKING AND DECIDING AN APPLICATION

Good practice is to improve the efficiency of the application process by providing some means for the planning authority and the landowner to resolve issues before and during the assessment process.

The New South Wales planning department has issued “Development Assessment Best Practice Guide to assist councils to improve delivery timeframes” (March 2017). The Guide suggests a pre-lodgement stage where the applicant meets with council officers to discuss lodgement requirements, optional design review according to the NSW equivalent of the R-Codes, with council providing advice on all aspects of design and planning. The applicant can also request a meeting to review the application for completeness and address any outstanding issues. This involves setting up a formal “pre-lodgement advisory service” in council.

A new procedure with a commensurate fee would be required for a pre-lodgement advice service in Western Australia.

The Queensland state planning department has published “Development Assessment Rules” which provide decision-makers detail on procedures set out in regulations and advises users of the planning system on what they can expect in the development assessment process. The rules include that a local government is to advise an applicant within 10 days of lodgement of an application whether any further information is required. Similar guidance in WA for planning decision-makers would improve efficiency and understanding of the development assessment process.

The review has also heard from local government and the development industry that onerous requirements are being imposed for the preparation of local structure plans.

The Structure Plan Framework includes a comprehensive list of matters to be considered, but not all factors need to be followed for all proposals. The rigid application of the framework leads to unnecessarily long and expensive structure plan processes. It would be helpful if, prior to the preparation of a structure plan in particular, requirements for structure planning of small regional locations in particular should be targeted for reduced requirements.

Review proposals:

-
- 4.2.4 *Provide in regulation that an applicant may seek pre-lodgement advice for development applications.*
 - 4.2.5 *Development Assessment Guidance be published by the DPLH in consultation with local government and industry bodies.*
 - 4.2.6 *Provide in the LPS Regulations that a local government must advise an applicant within 10 business days of receipt of a development application whether additional information is required.*
 - 4.2.7 *Provide a procedure for local government and developer proponents to agree upfront the scope and content of a local structure plan with the DPLH and other agencies as appropriate.*
-

C. Elevating the status of local structure plans

Prior to the introduction of the LPS Regulations, local structure plans were accepted as having the “force and effect” of a scheme, by being read as they were part of the scheme.

This was reviewed during preparation of the LPS Regulations due to a concern that there may not be power in the PD Act to give structure plans this status. As a result the LPS Regulations provided that structure plans are to be given “due regard”. Incorporation of a structure plan into a local planning scheme to provide a high level of certainty requires a separate scheme amendment process.

Industry stakeholders and local government have strongly promoted to this review the elevation of the status of structure plans to be read as part of the scheme to bring certainty to zonings, reservations, density codings and statutory development controls, and to avoid two lengthy separate processes for no real planning gain.

Options to avoid the time taken through sequential structure plan and scheme amendment processes are:

1. incorporate the Structure Planning Process as a Scheme Amendment process so that upon approval it can be incorporated into the local planning strategy and the local planning scheme; or
2. amend the PD Act to provide a head of power for structure plans, once given final approval, to be read as part of the scheme with the “force and effect” of the scheme.

Review proposals:

4.2.8 Provide in the PD Act that the implementation section (part one) of approved structure plans and activity centre plans are to be read as part of the scheme and have the “force and effect” of the scheme.

D. Automatic progression of structure plan proposals

Local government has also raised concerns with the review that under the LPS Regulations, local government must progress a structure plan to advertising and assessment, even if the proposal is considered to lack planning merit. This has resulted in some poor proposals which are unlikely to be supported, unnecessarily causing community angst. It is proposed that this be addressed through an amendment to the LPS Regulations to give the power to local government to refuse to progress, but to include the right for a proponent to seek the views of the WAPC if it feels it has been dealt with unfairly.

Review proposals:

4.2.9 Provide in the LPS Regulations that local government may refuse to progress a local structure plan or activity centre plan and amendment, if it is of the view that the proposals lacks sufficient planning merit. The amendment should also include ability for a proponent affected by such a decision to seek the views of the WAPC and the power for the WAPC to direct a local government to progress a proposal.

E. Development contribution plans

SPP3.6 Development Contribution Plans has been under review by the DPLH to improve the effective operation of contributions for the provision of infrastructure in new and established development areas.

This review has considered further issues raised by stakeholders and suggests proposals to improve the effectiveness of development contribution plans as follows.

1. Scope Creep: Industry has strong concerns regarding local government changing the scope of DCPs without following due process. To improve transparency, a summary of both costs and cost contributions should be included as a schedule in a local planning scheme. This would provide certainty regarding the scope of infrastructure to be delivered, along with costs and cost apportionment. Material changes to these parameters would require a scheme amendment through which owners and developers would be consulted.
2. The DPLH is required to oversee the operation of development contributions, but lacks specialist infrastructure expertise. It is proposed that a planning panel with appropriate infrastructure expertise be established to provide appropriate expertise in reviewing development contribution plans for the WAPC and the Minister for Planning. The cost of the planning panel should be included as a scheme cost.
3. The development industry has raised the concern that monies in development contribution plans in some local governments are not spent when it would be timely to do so. It would be appropriate for the Minister to be able to seek a special report from a particular local government on the operation of a development contribution plan and if necessary, instruct particular actions be taken in the administration of the Development Contribution Plans. Consideration should be given to whether s.211 of the PD Act is sufficient to consider a representation of this nature.

Review proposals:

- 4.2.10 *Provide for development contribution plan cost and cost contributions schedules to be included as a schedule in local planning schemes.*
 - 4.2.11 *Establish a Development Contributions Infrastructure Panel to review proposed local planning scheme amendments that include Development Contribution Plans, with the cost of the review to be included as a development contribution plan administration cost.*
 - 4.2.12 *Provide for in the PD Act an ability for the Minister for Planning to:*
 - i *require a special report from a local government on the operation of a development contribution plan; and*
 - ii *instruct a local government to take particular actions for the administration of a development contribution plan.*
-

F. Fast track approvals for single houses

Often the only interaction with the WA planning system for many people is through an application to a local government to construct a new home or a home addition.

A key reform introduced through the LPS Regulations in 2015 was to exempt the need for planning approval for single house proposals which meet the “deemed-to-comply” requirements of the R-Codes. Planning approval is still required for variations to the R-Codes.

Feedback from industry groups has indicated that the need for planning approval often for R-Code variation is not identified until a building licence is being assessed by a local government. This then results in an eleventh hour requirement to seek planning approval, which leads to building schedule delays, with costs and frustrations for the owner and builder.

Often the source of the confusion lies in the complexity of the regulatory framework and differences in interpretation of policies. The DPLH released a number of R-Codes practice notes to address common areas of confusion and misinterpretation in 2017 and these should be updated or new practice notes added over time to respond to common issues as they arise.

Some local governments for a fee have introduced a ‘deemed-to-comply’ check which allows applicants to submit residential building plans to the local government for assessment and formal written advice as to whether the proposal will require a development approval prior to a building licence being issued. This is helpful, but minor variations to the R-Codes still need to go through a full assessment (with a 60-day statutory timeframe) which is unnecessary where there will be little or no impact for neighbours.

A fast-track planning approval stream of 30 days is proposed for single houses that require only minor variations to the R-Codes such as front and side setbacks, the size of the site area, open space and outdoor living areas, retaining walls, and patios. A definitive list will need to be developed in consultation with local government and industry having regard to the most common minor R-Code variations currently sought.

It is proposed that a working group of DPLH, industry and local government recommend the list of minor variations to be eligible for the fast-track planning approval stream.

Review proposals:

4.2.13 Provide in the LPS Regulations for a voluntary ‘deemed-to-comply’ check for single houses and provide in the PD Regulations a specified fee for the service.

4.2.14 Provide in the LPS Regulations and R-Codes a fast-track 30-day planning approval process for single house applications that require only minor variations to the R-Codes.



G. Track-based approach to planning activity and proposals

Aligning all levels of the planning system with common strategic goals allows a track-based approach, based on the degree of alignment with strategic planning, to be adopted for most planning proposals.

The LPS Regulations have already introduced for local planning scheme amendments a 'Basic', 'Standard' and 'Complex' stream, which allows for more minor matters to follow a fast-track process, and those which are more complex to follow a process with higher levels of scrutiny.

The principle of track-based consideration of planning proposals should be adopted across all levels of the planning system to improve efficiency and focus resources on more complex and higher impact proposals. A track-based approach could be adopted for:

- region planning scheme amendments (as contemplated by *Planning Makes it Happen: Phase Two*);
- local planning strategies and amendments; and
- local structure plan and activity centre plans and amendments.

The basis of a track-based approach could follow:

- Basic: Consistent with strategic planning and only minor technical considerations.
- Standard: Consistent with strategic planning with some consideration of technical matters or potential impacts required.
- Complex: Not contemplated by strategic planning and/or requires detailed consideration of technical issues or impacts.

The streams, depending on the instrument or proposal involved, may include reduced information, consultation, referral and assessment requirements, as well as, future consideration of delegation of basic or standard proposals to local government.

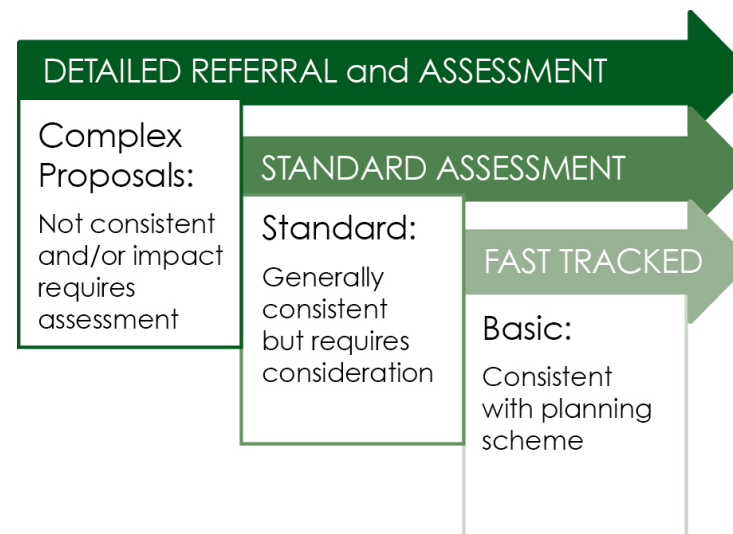


FIGURE 21: TRACK BASED APPROACH FOR PLANNING PROPOSALS

Review proposals:

4.2.15 A framework for “Basic”, “Standard” and “Complex” streams for region scheme amendments, local planning strategies and amendments, and local structure plan/activity centre plans and amendments be developed by the DPLH for implementation through regulation.

Key reform 5: Planning for consolidated, connected and smart growth

Policies and plans to manage the growth of urban centres are now established in every Australian State and internationally in the United States, Canada, the United Kingdom, Europe and Asia. Urban growth management controls seek to prevent sprawl and foster more compact development in accordance with widely accepted “smart growth principles”¹⁶.

The WAPC’s metropolitan strategy *Perth and Peel @ 3.5million (2018)* proposes to manage urban growth by limiting new greenfield development to 53 per cent of new dwelling growth and accommodating 47 per cent within existing urban areas through “urban infill”.

The majority of urban infill is proposed to be accommodated within urban corridors, activity centres and station precincts with the remaining portion to be located in general residential areas¹⁷. Given that earlier metropolitan plans for Perth with ambitious infill targets remain unfulfilled, meeting the current urban infill target is a major challenge.

WAPC policies for management of urban growth include State Planning Policy 3 and Development Control Policy 1.6, which both date from 2006. They require updating to reflect the State Government’s METRONET transit oriented development intentions.

The role of State planning agencies also need to be clarified in response to the proposed establishment of Infrastructure WA and emerging conflicts between the coordination of State agencies and infrastructure to deliver new greenfields and infill development.

For example, *Perth and Peel @ 3.5million* proposes the transitioning of over 300 kilometres of key transport corridors into multi-functional corridors, but the plan is difficult to implement because of consistent Main Roads objections to allowing additional access and further development along major roads.

Finally, while significant attention of the planning system needs to shift to delivering infill, there is still a need to accommodate at least half of Perth’s growth in new greenfields development. Liveable Neighbourhoods remains the primary document setting standards for greenfields development in Western Australia. However the 2015 review of Liveable Neighbourhoods has failed to gain industry support for proposed amendments and remains incomplete.

The key matters requiring attention to plan for consolidated and connected smart growth are:

1. clarifying the responsibilities of local and State Government in meeting the WAPC infill development target for *Perth and Peel @ 3.5million*;
2. updating State planning policies to reflect leading practices for urban growth management;
3. clarifying the role of land use and infrastructure planning following the establishment of Infrastructure WA and ensure State infrastructure needs are considered at structure planning and rezoning;
4. revising governance arrangements of urban corridors to promote their revitalisation as proposed under *Perth and Peel @ 3.5million*; and
5. while elevating Liveable Neighbourhoods to a State Planning Policy, ensuring that its content as a best-practice content to new greenfields development at regional, district and local level is maintained with any necessary refinements.

¹⁶ Leslie Stein. Comparative Urban Land Use Planning; Best Practice p 90

¹⁷ WAPC Central Sub Regional Planning Framework of Perth and Peel at 3.5million. 2018 p.49



FIGURE 22: 3.5 ADDITIONAL INFILL DWELLINGS FOR EVERY TEN EXISTING DWELLINGS

5.1 Planning for targeted urban infill

Key Reform Areas 1 – 4 are designed to modernise the planning system into a strategically-led system with a clear connection between State and local planning. This will facilitate incremental infill development which occurs over time as one planning step progresses to the next.

The planning system also needs an ability to be able to intervene more quickly for activity centres, urban corridors and station precincts and directly to bridge the gap¹⁸ between plan-making and implementation through a development-led approach.

Victoria and New South Wales have developed arrangements for the planning and development of key locations that are relevant to Western Australia. In Victoria, “Urban Renewal Precinct Planning” for centres and station precincts is led by the Victorian Planning Authority with local government and relevant agencies. The Victorian Government’s development authority Places Victoria carries out precinct development where State assistance is required.

In New South Wales “Priority Precinct Planning” for key urban renewal corridors and centres is undertaken by the Department of Planning and Environment in consultation with local governments and relevant agencies. Urban Growth NSW Development Corporation then manages the development of “Sydney Growth Centres” where there is a State interest.

In Western Australia, a variety of structure planning approaches are undertaken for key locations of activity centres, urban corridors and station precincts. They range from developer-led, to local government-led and State-led by LandCorp, the MRA, the WAPC and recently METRONET. A chart indicating the relative approaches is shown in Figure 11.

¹⁸ L. Albechts. Bridge the Gap; From Spatial Planning to Strategic Projects. European Planning Studies Vol.14 No.10 November 2006. P. 1489

Approaches to planning for urban infill precincts					
	Plan	Rezone	Coordinate infrastructure	State planning powers	State investment
Developer-led structure plans (incl Landcorp)	✓	✗	✗	✗	✗
Local government-led structure plans	✓	✓	✗	✗	✗
Joint WAPC/local government structure plans	✓	✓	✓	✗	✗
WAPC improvement plans and schemes	✓	✓	✓	✓	✓
MRA redevelopment scheme	✓	✓	✓	✓	✓

FIGURE 23: APPROACHES TO PLANNING FOR URBAN INFILL PRECINCTS

The various structure planning approaches often overlap with no clear guidance as to when or where a particular approach is appropriate. Further, there is no guidance or leadership with regard to which precincts are a priority for planning. Related issues include:

- developers may prepare structure plans for areas in which they have an interest and can progress to WAPC approval but still require a local government to initiate a local planning scheme amendment to give it effect;

- developer-led structure plans were intended for greenfields, and when carried out for infill areas may include proposals for land owned by third parties. There is contention that developers should not be able to apply to propose changes to planning controls for land outside of their control. The circumstances in which a developer-led structure plan for an infill area needs to be defined and the potential for implementation of an approved structure plan to stall due to the need to undertake a scheme amendment needs to be resolved;
- the success of regional plans requires local governments to prepare activity centre plans, and local structure plans for urban corridors, but they have little ability to influence the coordination and delivery of required State infrastructure to unlock the potential of these areas. There is a role for the WAPC to plan for key locations in partnership with local government;
- the MRA was initially focussed on complex redevelopment schemes at rail stations and over the past several years moved into a range of assorted State projects that have a variety of objectives. The WAPC has supported local governments through improvement plans and improvement schemes. Guidance is needed on the appropriate use for State-led and State-supported structure planning and implementation for key infill locations.

The range of approaches to achieving urban infill outcomes needs to be rationalised for the planning, rezoning and implementation of the key urban infill locations of activity centres, urban corridors and station precincts with clear guidance on the roles and relationships of developers, local government and State agencies.

Review proposals:

- 5.1.1 *That the State Government develops clear arrangements for the planning and delivery of the key urban infill locations of activity centres, urban corridors and station precincts, including prioritising of areas which require State and local government collaboration.*

5.2 Updating growth management policies for smart infill development

WAPC policies *SPP 3 - Urban Growth and Settlement* and *DCP 1.6 - Planning to Support Transit Use and Transit Oriented Development*, have not been updated since 2006 and require updating to guide planning for urban infill. A review of these policies presents an opportunity to express the principles that underpin METRONET for wider application.

A review of these policies should adopt as a foundation the Smart Growth principles (see Case Study 3) which provide a positive set of growth management values in straightforward language that can be adapted for Western Australia.

Review proposals:

5.2.1 *A new Consolidated and Connected Smart Growth State Planning Policy that builds on the State Government's METRONET policy and establishes contemporary smart growth principles and practices.*

Case study 3: Smart growth principles

1. Mix land uses.
2. Take advantage of **compact design**.
3. Create a **range of housing opportunities** and choices.
4. Create **walkable neighbourhoods**.
5. Foster distinctive, attractive communities with a **strong sense of place**.
6. Preserve open space, farmland, natural beauty, and **critical environmental areas**.
7. Direct development towards **existing communities**.
8. Provide a **variety of transportation** choices.
9. Make **development decisions predictable**, fair, and cost effective.
10. Encourage **community and stakeholder collaboration** in development decisions.

<https://smartgrowthamerica.org/>

5.3 Planning for land use and infrastructure coordination

A significant part of planning for the State's settlements is largely in place¹⁹. The State Planning Strategy indicates that these planning frameworks now need to be supported through the provision of infrastructure and services. For example, a local government seeking to increase density in a particular area may seek improved public transport to lessen congestion, or require upgrades to utilities such as power or water.

The State Government is establishing Infrastructure WA (IWA) to undertake long-term infrastructure planning and major project coordination for the State. IWA will perform a strategic coordination role across the State, which will both inform and be informed by the WAPC's strategic land use planning work:²⁰

"The WAPC will inform IWA's strategy and other work through the preparation of strategic land use plans and policies (for example Perth and Peel @ 3.5 million), which set the strategic direction for land use across the State. This will assist IWA in identifying infrastructure needs and vice-versa. For example, IWA may prepare advice on how better to utilise existing infrastructure assets, which, in turn, may inform areas more suited to urban consolidation".

With the establishment of IWA, the role of the State Planning Strategy should transition to planning for the State's network of settlements, informing and having regard for IWA infrastructure plans and priorities as indicated in Figure 24.

Population growth in Western Australia is concentrated in and around Perth and major regional centres. Within Perth and the regional cities greenfields outer suburbs are continuing to expand and require the orderly and timely extension of infrastructure. Urban infill is transforming selected inner and middle suburbs into higher density areas. These established areas have existing infrastructure, but particular infrastructure may be aging or not fit-for-purpose and requires upgrading to service additional population. Often upgrading existing

infrastructure in inner city areas to cater for planned infill is particularly complicated and expensive and requires special coordination and commitment.

Coordinated planning for these areas by the WAPC, local government and utility providers will help ensure infrastructure such as schools, parks, community facilities, public transport and road upgrades are delivered to support community needs.

Review proposals:

5.3.1 The WAPC to assist with land use and infrastructure coordination for the delivery of priority precincts through a renewed Committee.

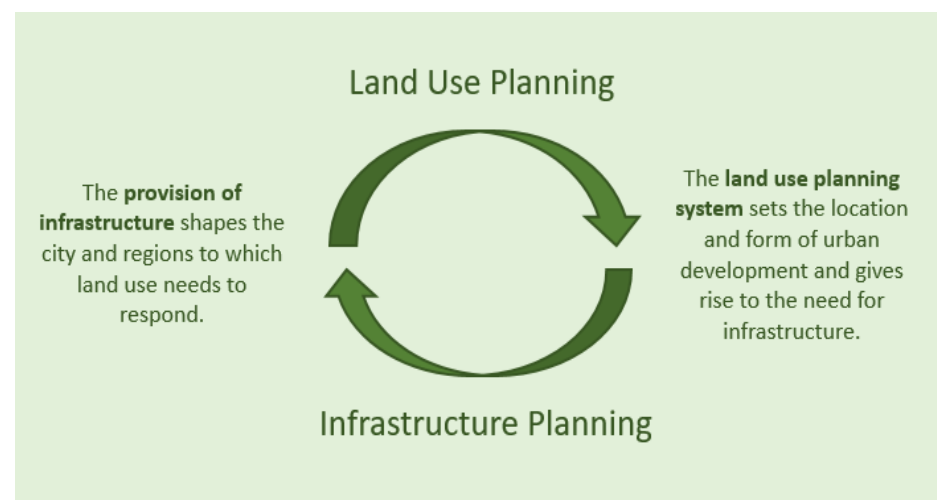


FIGURE 24: LAND USE PLANNING AND INFRASTRUCTURE PLANNING RELATIONSHIP

¹⁹ WAPC State Planning Strategy p 26

²⁰ Infrastructure WA Proposal for public consultation. February 2018. Government of Western Australia p 31

5.4 Coordinating state infrastructure with regional rezonings

Concern has been expressed by local government to the review team that insufficient regard was being paid to the availability of State infrastructure in undertaking amendments to region schemes, particularly the lifting of Urban Deferment under the MRS and in rezoning land from Rural to Industrial.

The WAPC draft *Guidelines for Lifting of Urban Deferment 2017* provides for the transfer of land from the urban deferred zone to the urban zone to be initiated by a landowner, the local government or any public authority. Evidence is required that “the land is capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to staging and financing of services”.

Developers are only responsible for standard infrastructure items that can be required directly as a condition of subdivision. There is a range of State infrastructure, such as roads, which are outside the control of a developer but may be essential for a new development area.

The WAPC should ensure that arrangements are in place for the provision of State infrastructure, concurrent to the lifting of Urban Deferment or rezoning to allow development to occur.

It is noted that the MRS does not currently include the flexibility offered by an “Industrial Deferred Zone” which is currently included in the Peel and Greater Bunbury Region Schemes.

Review proposals:

5.4.1 Provide in the Metropolitan Region Scheme an “Industrial Deferred Zone”.

5.4.2 The WAPC to ensure that any requirements for State infrastructure are in place in the lifting of Urban Deferment or Industrial Deferment, and that the draft Guidelines for Lifting of Urban Deferment 2017 be amended accordingly.

5.5 Coordination of infrastructure for land development

Currently, there is limited advice on State infrastructure plans to assist local government with the preparation of local planning strategies, local structure plans and activity centre plans. As a result there are areas of Perth where “first-in” developers have utilised or exceeded existing infrastructure capacity and development has then become uneconomic for the remaining developers who cannot afford the costs of upgrading infrastructure to create additional capacity.

Preparing land use plans without guidance on infrastructure is inefficient as it gives rise to pressure for infrastructure agencies to respond to unscheduled infrastructure needs; or may result in the prolonged deferment of planned development until infrastructure can be upgraded. Both scenarios distort the programming of orderly development.

Provision should be made for advice on the forward planning of State infrastructure to local governments to inform the preparation of local planning strategies, as well as to proponents of structure plans so that land use plans are better aligned with infrastructure plans, including development contribution plans where needed.

Review proposals:

5.5.1 Provision be made for advice on the forward planning of State infrastructure, including utility providers, to assist local governments in the preparation of local planning strategies and structure plans.

5.6 Coordination of land use and transport for urban corridor development

The importance of land use planning and transport planning integration is a key function of the WAPC in the PD Act, as set out in the State Planning Framework (Community Principal p. 4) as:

“Integrating land use and transport planning and promoting patterns of land use which reduce the need for transport, promote the use of public transport and reduce the dependence on private cars”.

Perth and Peel @ 3.5million includes a direct proposal for key urban corridors in the central area to transition into “locations for increased and diversified places for people to live and work”²¹.

The transition of over 300 kilometres of these corridors is vital to achieve infill housing and employment targets. For example the City of Stirling proposes 30,000 new dwellings along its key urban corridors.

There are numerous agency and authority interests over roads identified as urban corridors, extending to utility infrastructure, regional road functions controlled by Main Roads and public transport interests managed by Department of Transport and Public Transport Authority. Some of these are protected by other Acts outside of the planning system. Consequentially, local government has to negotiate with various interests and navigate a complex web of approvals which can be upturned at any stage by powers given under other Acts. As a result, delivery of urban corridors is occurring very slowly with little infill delivered on these corridors.

The vital transition of road corridors under *Perth and Peel @ 3.5million* into dense mixed urban corridors requires coordination and a broader transport and land use view than can be offered by a single agency or authority with a particular interest in the future of the corridor. To achieve this, the MRS should be updated to reflect planning for mixed use urban corridors via the inclusion of a new MRS reservation of ‘Urban Corridor’ which signal corridors intended to be regionally important public transport corridors, including denser land uses through redevelopment. It is proposed that the Department of Transport would coordinate a whole-of-

transport portfolio response to planning referrals within these reservations. Other governance and funding issues will also need to be resolved in the context of the vital role of these corridors for urban infill development.

A related issue arises in that road widening from plans long past remain embedded in the MRS through road reservations. These reservations are not regularly reviewed and result in the ad hoc setback of development which is disturbing coherent redevelopment plans, such as along Beaufort Street in Mount Lawley.

Review proposals:

5.6.1 The Metropolitan Region Scheme be updated to include “Urban Corridor” as a category of Reserved Roads based on Perth and Peel @ 3.5 Million, with the Department of Transport being made responsible for coordinating a whole of transport portfolio response to planning proposals along the corridor.

5.6.2 A review be undertaken of regional road reservations in place to accommodate road widenings within the Metropolitan Region Scheme for designated Urban Corridors.

²¹ Central Sub-regional Planning Framework of Perth and Peel @ 3.5million, March 2018 (P.32)

5.7 Liveable Neighbourhoods

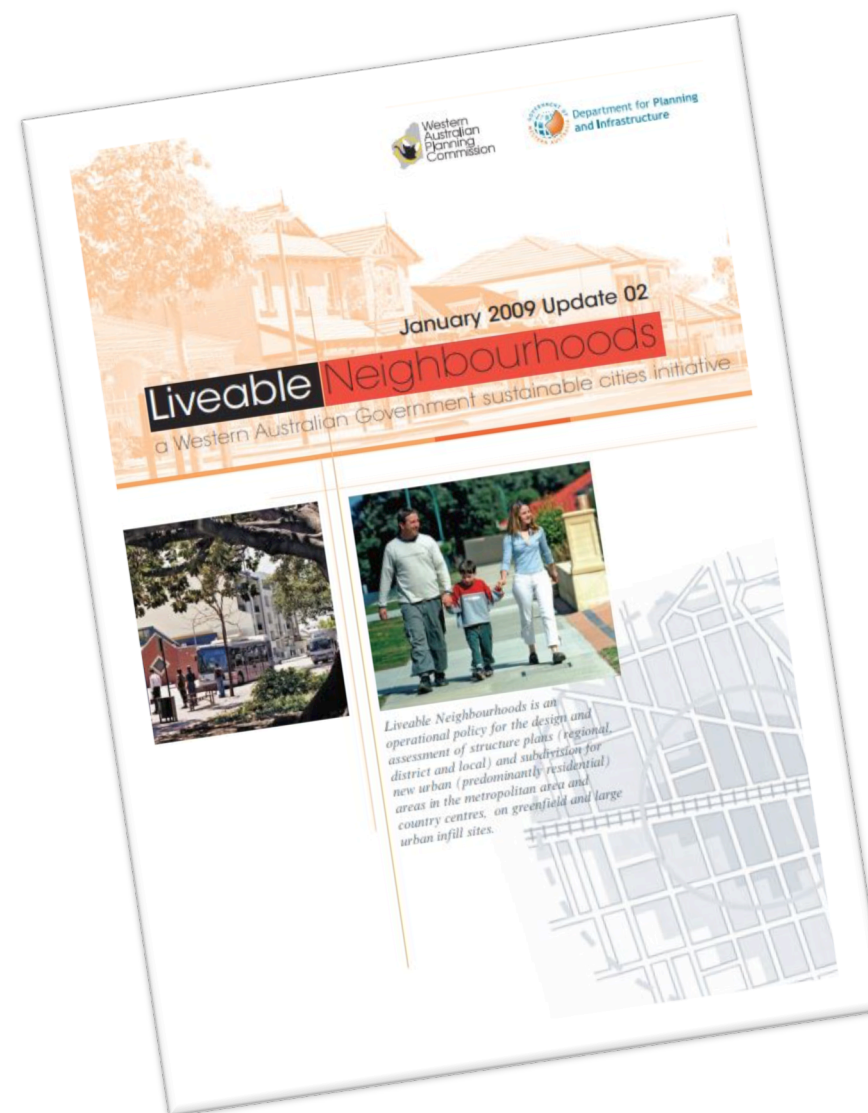
There is still a need to accommodate at least half of Perth's development in new greenfields development. Liveable Neighbourhoods was developed to provide for a more sustainable form of development on Perth's fringes and WA's regional centres. Liveable Neighbourhoods remains nationally and internationally recognised as an influential statement of contemporary residential planning principles²².

A review of Liveable Neighbourhoods was commenced in 2015. The review has failed to gain industry support for proposed amendments and remains incomplete. This is despite direct evidence of Liveable Neighbourhood's effectiveness by the Centre for the Built Environment and Health at the University of Western Australia and two independent reviews (the Planning Group 2003 and the Centre for the Built environment and Health 2015) that any problems lay in the lack of full implementation of the policy.

Reducing the scope of Liveable Neighbourhoods to a neighbourhood design policy will compromise the intent of the document as neighbourhood design policy as well as a sub-regional and local level design policy for greenfields areas. Liveable Neighbourhoods should be elevated to a State Planning Policy and retained intact with minor refinements, with attention given to implementation rather than another review and restructure.

Review proposals:

5.71 *Liveable Neighbourhoods be elevated to a State Planning Policy and maintained and refined as a best-practice approach to new greenfields development at regional, district and local level.*



²² Robert Freestone. Urban Nation: Australia's Planning Heritage, 2010 (p. 67,68)

4. Delivery approach

4.1 Overview

The following provides an overview of an approach for delivery of the main recommended Green Paper proposals, should they be supported by Government following consultation and review. Detailed implementation options will be provided in the White Paper.

A. Modernising the WA planning system

Three essential steps are proposed to modernise the WA planning system:

1. to reorganise state planning policies into **common elements**;
2. to consolidate state planning policies into a **single, concise State Planning Framework**; and
3. to develop a **Comprehensive Local Planning Scheme** that contains local planning strategies (statements), all legal provisions, maps and local planning policies.

There are international and national precedents from which the proposed common elements, the State Planning Framework and Comprehensive Local Planning Scheme can be modelled.

It is proposed that a **single State Planning Framework** could be developed over an 18-month period by the DLPH with WAPC consideration. This will require additional expertise resourced by the WAPC.

Similarly, the legislative framework to implement the proposed **Comprehensive Local Planning Scheme** and guidance to local governments through the Local Planning Manual could be developed concurrently over the same 18-month period. This should include a pilot program of local planning schemes for three typical local governments, including an inner metropolitan, a metropolitan growth and a regional local government. This program will also require additional expertise resourced by the WAPC.

It would be timely for the proposed standardisation of key common zones, land uses and land use permissibility to also be developed for inclusion into new Comprehensive Local Planning Schemes.



Reviews of many local planning strategies and local planning schemes are currently underway as a requirement of the LPS Regulations. There are two options to achieve local government compliance with the new Comprehensive Local Planning Scheme format:

1. await the regular five-year review cycle. Any reviews currently underway which are significantly advanced should continue to finalisation. Any local government in the early stages of review or about to embark on substantive review of its frameworks should await finalisation of arrangements for the new Comprehensive Local Planning Scheme: or
2. commit to a condensed timeframe to implement the changes and provide appropriate resources and expertise from the WAPC to both DPLH and local government to implement within two years of the finalisation of arrangements for Comprehensive Local Planning Schemes.

It is recommended an interactive **online planning portal** be developed by the DPLH to keep comprehensive local planning schemes online in a legible and user-friendly format that is quick to amend. This should be scoped for implementation to coincide with the updating of local planning schemes into a Comprehensive Local Planning Scheme format.

Key steps in preparing a consolidated State Planning Framework and Comprehensive Local Planning Scheme are set out in Figure 25.

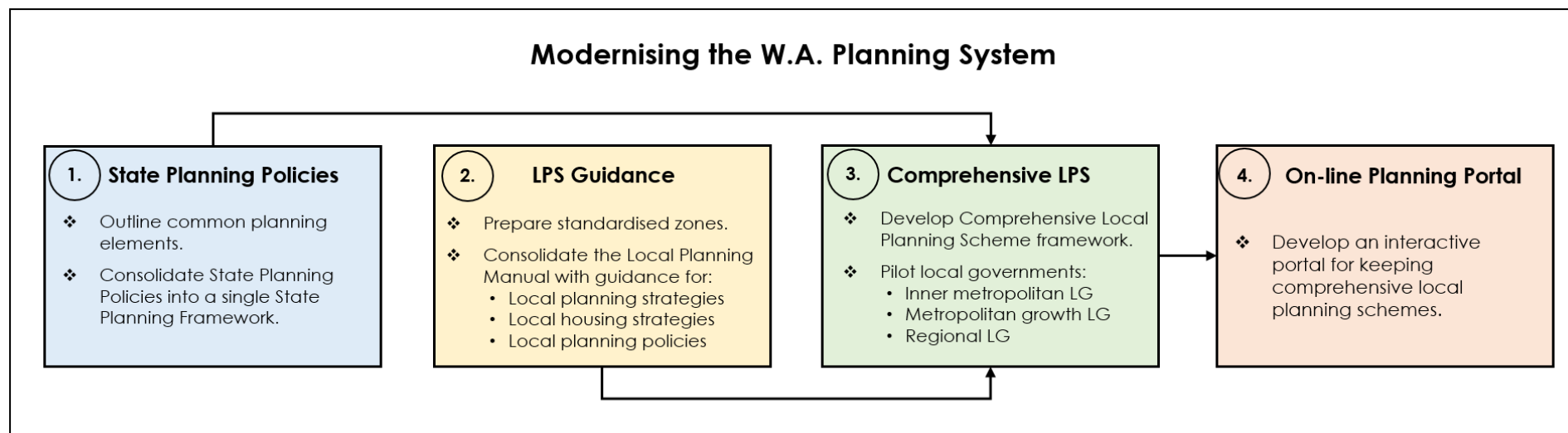


FIGURE 25: IMPLEMENTATION STEPS FOR STATE PLANNING POLICIES AND THE PROPOSED COMPREHENSIVE LOCAL PLANNING SCHEME

B. Arrangement of state and local planning

The PD Act requires amendment to provide for the restructure of the WAPC and its committees. Concurrently, the WAPC should develop a local government accreditation criteria and system to extend delegations proposed in this review, to free the WAPC to effectively manage the State policy framework and prepare and implement regional and sub-regional plans.

It is recommended that the State Government provide for new additional positions to be created within the DPLH to recruit senior and suitably experienced town planners to expedite WAPC strategic planning and policy development.

C. Process efficiency improvements

It is proposed that the DPLH retain a planning reform team for continuous improvement of the planning system. Priorities from this review to improve process efficiency are:

- fast-track approvals for single houses;
- DPLH Independent Planning Reviewer assistance with planning referrals for WAPC;
- approved structure plans to be able to be read as part of the scheme and have the “force and effect” of the scheme; and
- clarifications to Development Contributions Plans.

D. Proposed PD Act amendments

Proposals within this Green Paper require amendments to the PD Act for implementation. A consolidated list of amendments arising from the Green Paper proposals and those identified within the *Planning Makes it Happen: Phase Two* reform package have been prioritised as follows:

Essential planning system reforms:

Planning system framework

- Strategic planning to be made a purpose of the PD Act; (Proposal 1.1.1)
- Provide for a Comprehensive Local Planning Scheme (Proposal 2.4.1)
- Include deemed provisions in a Comprehensive Local Planning Scheme (Proposal 2.7.1)
- Provide for Region Scheme Regulations (Phase Two) to introduce risk-based amendment streams and revise public notification requirements (Proposal 3.2.3).

WAPC governance and functions

- Revise WAPC membership (Proposal 4.1.4)
- Remove committees from Schedule 2 (Proposal 4.1.4)
- Remove WAPC legislative advisory role (Proposal 4.1.1).

Other

- All planning decision-makers to have due regard to State Planning Policies to ensure that the MRA and any other authorities that may receive delegated power from the WAPC give proper consideration to their content (Proposal 2.3.4).

Red tape reduction

- Approved structure plans to have the force and effect of a local planning scheme (Proposal 4.2.8.)
- WAPC to have the power to prepare or amend a local planning scheme to ensure consistency with a region planning scheme (Phase Two)
- Minister for Planning to have the power to be able to withdraw a proposed region scheme amendment (Phase Two)
- Minister for Planning to be able to require a report from a local government on a development contribution plan, and can make instructions (Proposal 4.2.12)

- Provide for certain classes of region and local planning scheme amendments to be exempt from referral to the EPA (subject to separate regulations under the *Environmental Protection Act 1986*) (Phase Two)
- Ability to seek two-year extension of time to lodge 'certified correct' diagram or survey of subdivision (Phase Two)
- Clarification of WAPC approval for pre-sale (Phase Two)
- Expand list of public works which are exempt from development approval under s.5 and 6 (Phase Two).

Administrative refinements

The Planning Makes it Happen: Phase Two package of planning reforms also recommended a number of administrative refinements to aid the clarity and legibility of provisions of the PD Act. These should be progressed in due course.

E. Smart growth

Arrangements for planning and delivery of infill housing and employment should be developed among the WAPC, MRA/LandCorp and METRONET together with establishing priorities for the planning and delivery of key urban infill locations of activity centres, urban corridors and station precincts. The WAPC has a role in assisting local government in planning and infrastructure coordination for key activity centre and urban corridors.

The MRS should be amended to include "Urban Corridor" as a category of Reserved Roads based on *Perth and Peel @ 3.5million*, with the Department of Transport being made responsible for coordinating a whole of transport portfolio response to planning proposals along the corridor.

F. Transparency and accountability of DAPs

This review includes a number of recommendations that require amendments to the DAP Regulations and others that should be implemented through DAP Standing Orders and Practice Notes as soon as practicable.

4.2 Further work

This review has identified further work to help streamline the WA planning system. Two priority matters are:

1. The development of a framework for the referral of planning applications, that provides the types of planning applications that are required to be referred and to which agencies the applications are referred to.

This is required to provide certainty and rigour around interactions of the planning system with specialist agencies, including the need for and timeliness of referrals and methods to resolve issues raised in advice.

2. The expansion of the track-based risk approach to planning activity and proposals which would improve efficiency and focus resources on more complex and higher risk proposals.

5. Schedule of proposals

1.0	A STRATEGICALLY-LED SYSTEM
1.1	Prominence of Strategic Planning
1.1.1	Provide in the PD Act that strategic planning is a purpose of the Act and provide a definition of strategic planning.
1.1.2	Provide in the LPS Regulations that the review of a local planning scheme must be informed by, and respond to, a review of the local planning strategy.
1.1.3	Provide in the LPS Regulations that a complex scheme amendment must be accompanied by a proposed amendment to the Local Planning Strategy (in the form of a report).
1.2	Need to explain sustainability for land use planning
1.2.1	An overarching State Planning Policy be developed which: - i Provides a definition of sustainability for the planning system which reflects a balancing of economic development, environmental considerations, and social needs; - ii Reinforces sustainability as an essential element required to be taken into account in the making of any strategy or policy; and - iii Indicates the particular steps related to how economic, social and environmental factors are balanced.
1.3	Housing distribution
1.3.1	Provide that every local planning strategy include a local housing strategy, except for low growth and small regional local governments which only require basic local planning scheme requirements.
1.3.2	The DPLH to provide guidance for local government in the Local Planning Manual on how to prepare a Local Housing Strategy, including a methodology for local housing analysis.
2.0	A LEGIBLE PLANNING SYSTEM
2.2	Arranging state planning policies for brevity and simplicity
2.2.1	State Planning Policies be consolidated into a single state planning policy framework with supplementary technical guidance.

2.3	Line of sight
2.3.1	WAPC to establish common strategic “elements” for the State Planning Framework including but not limited to: • A “sustainability” element • A “land use element” that includes the distribution of uses of land as well as density • A “housing element” that includes the types of housing • An “environmental element” • An “open space element” • An “urban form and design element” • An infrastructure element. and prepare Technical Guidance for the details of each element to be included.
2.3.2	Provide that every State Planning Policy, Regional or sub-regional plan and the local planning strategy must follow these elements, unless otherwise agreed to by the WAPC.
2.3.3	Provide that every local planning strategy must explain how it has addressed the requirements of each common strategic element against the requirements of State Strategy, Planning Policy or Regional or sub-regional strategy.
2.3.4	Provide in the PD Act that all planning decision makers are to have due regard to State Planning Policies.
2.3.5	Provide in the <i>Metropolitan Redevelopment Authority Act 2011</i> that in performing functions under the Act, the MRA must have regard to State Planning Policies.
2.4	Complexity locating and interpreting the local planning framework
2.4.1	Require that a local planning scheme be published with the inclusion of the Local Planning Strategy (in the form of a local strategic statement) and Local Planning Policies in a document to be called a “Comprehensive Local Planning Scheme”.
2.4.2	DPLH to provide guidance for local government in the Local Planning Manual on the content and format of a Local Planning Strategy and Local Planning Policies.
2.4.3	Local governments currently undertaking, or about to embark on, a substantive review of their planning frameworks delay preparation of local planning strategies and local planning schemes (and related omnibus amendments) until guidance on the format and content of local planning frameworks is available.
2.4.4	Provide in the LPS Regulations for a clear distinction of the purposes of Local Structure Plans, Activity Centre Plans, Local Development Plans and Local Planning Policies.
2.4.5	The DPLH to provide guidance in the Local Planning Manual on the appropriate use of each local planning instrument.
2.5	Form of a Local Planning Strategy
2.5.1	The DPLH to update the Local Planning Manual with guidance on the preparation, content and format of a Local Planning Strategy and strategic statement, in a similar form to a Victorian Municipal Strategic Statement.
2.6	Form of Local Planning Policies
2.6.1	The LPS Regulations be amended to provide that local planning policies are to be prepared in a manner and form approved by the WAPC.
2.6.2	The DPLH to update the Local Planning Manual to provide guidance for the form, content and writing of a local planning policy.

2.7	Consistency of Local Planning Schemes
2.7.1	Provide in the PD Act that deemed provisions are to be included in a comprehensive local planning scheme.
2.7.2	Provide in the LPS Regulations that a comprehensive local planning scheme is to include a specific section for deemed provisions.
2.7.3	Provide in the LPS Regulations that there are deemed provisions which set out standardised zones, land uses and land use permissibility which: - i group like-land uses into themes for which common development standards can be prepared - ii identify low risk land use proposals by including suitable parameters for which a streamlined planning process apply - iii are mandatory for local government to adopt within their municipalities through the next scheme review or omnibus amendment.
2.7.4	The DPLH to revise and keep up to date the Local Planning Manual to ensure it provides local government with the guidance required to prepare and administer its local planning framework and properly reflects the expectations of DPLH and WAPC.
2.8	Location of Local Development Standards
2.8.1	Provide in the LPS Regulations that there be a location within the model provisions for mandatory development requirements for key sites and matters.
2.9	On-line Local Planning Schemes
2.9.1	Develop an interactive Planning Portal for keeping local planning schemes online and accessing them in a legible and user-friendly format.
3.0	A TRANSPARENT PLANNING SYSTEM
3.2	Community engagement
3.2.1	The DPLH should develop a Community Engagement Charter for all aspects of the planning system that includes principles with regard to: - i Planning authorities having a duty to engage with the community in a manner that allows residents to contribute to the making or amending of a strategic plan; and - ii In the making or amending of a strategic plan, the community, as soon as possible, be given information as to what is proposed and any documents that the planning authority intends to examine.
3.2.2	Align engagement processes in the planning regulations to the Community Engagement Charter.
3.2.3	Revise public notification and engagement requirements for planning proposals in the PD Act and LPS Regulations to update out-dated requirements.
3.2.4	Make provision within the LPS Regulations that the local planning strategy must be in accordance with the Community Strategic Plan under the Local Government Act to the extent that it is relevant.
3.2.5	DPLH to revise the Local Planning Manual to clarify that: - i actions in local planning strategies are limited to those matters that can be carried out within the local planning scheme - ii acknowledge a concurrent community participation process between a Strategic Community Plan and a local planning strategy.
3.3	Reasons for decisions
3.3.1	The DPLH to publish a Guide as to the Scope of Reasons by Planning Decision Makers, having regard to the Queensland model.
3.3.2	Provide in the LPS Regulations that reasons for decisions are to be provided on planning proposals.
3.4	Transparency of DPLH and WAPC statutory reports
3.4.1	WAPC practice be modified to publish Statutory Planning Committee and WAPC agenda items, reports and recommendations on region and local schemes and amendments.

3.5	Reporting by Local and State Government on planning matters
3.5.1	Provide in regulations mandatory reporting by local government on planning matters.
3.6	Transparency and accountability of Development Assessment Panels
3.6.1	Provide for DAP meetings to be held at regular times and outside of business hours.
3.6.2	Provide for the recording of each meeting of a DAP and made available on the DAP website of DPLH.
3.6.3	3.6.3 Provide clarification in DAP Practice Notes: i. If new information is submitted to the DAP after an RAR, the DAP should consider whether a decision should be deferred pending further RAR advice ii. As to when it may be appropriate to defer a decision, such as where issues are raised which require further detailed technical consideration by responsible authorities.
3.6.4	Amend the DAP Practice Notes to require reasons for decisions to be given in all decisions made by a DAP, including where the DAP adopts the responsible authority's recommendation contained within the RAR.
3.6.5	Provide for a requirement that applications amended through a SAT process are readvertised unless the amended plans comply with all development standards.
3.6.6	Provide that where a DAP has been invited to reconsider its decision following a SAT mediation, new specialist members be drawn from the available pool of members.
3.6.7	The SAT should consider preparing a framework for allowing parties with a sufficient interest in a matter to make a submission or be heard during SAT mediation of DAP matters.
3.6.8	Provide for expert DAP members to be drawn from a pool of members across the State on the basis of the type and complexity of the application being heard.
3.6.9	Provide for an expanded and flexible meeting process where the DAP Presiding member is of a view in relation to an application for development that wider community and local government viewpoints need to be examined.
3.6.10	Provide in the DAP Regulations that the WAPC retains its decision making ability with respect to development applications under region schemes.
3.6.11	Provide for a Presiding Member to be appointed also as the Chief Presiding Member to: - i Oversee the quality and consistency of DAP procedures and decisions (such as consistency of the use and content of conditions; the quality of RAR reports) and recommend changes to DAP procedures and Standing Orders to DPLH - ii Assist in identifying panel members appropriate to sit in accordance with the basis of the type and complexity of the application being heard - iii Identify training needs for DAP members for the approval of the Director General DLPH.
4.0	AN EFFICIENT PLANNING SYSTEM
4.1	Arrangement of the WA planning system
4.1.1	Provide that the PD Act be amended to delete the WAPC function s14.(a)(ii) of advising the Minister for Planning on the administration, revision and reform of legislation.
4.1.2	Provide for a local government accreditation process.
4.1.3	Increase delegations from WAPC to DPLH and local government, for the purpose of the WAPC focussing on the State policy framework and regional strategic planning.

4.1.4	Provide for the PD Act to be amended to: - i Revise the membership of the WAPC to 5-7 members to have experience, skills or knowledge of any one or more of the following fields— • planning, including strategic land use planning in metropolitan or regional areas • infrastructure planning, delivery, policy and strategy • public administration and public policy • property development • housing supply • corporate or public sector governance • economics, finance or financial management • management of business or commercial ventures • local government. - ii Remove committees of the WAPC from Schedule 2, in favour of an ability for the WAPC to establish committees to advise the Commission on any matter, recognising the Statutory Planning Committee and Executive, Finance and Property Committee carry out core functions of the WAPC and will be required immediately under this new system. A committee would consist of at least one member of the Commission who is to be the chairperson of the committee.
4.1.5	The role and purpose of a Coastal Planning Committee be reviewed, and consideration be given to the most appropriate host organisation and regulatory framework for the Committee.
4.1.6	Revise the Service Delivery Agreement between the WAPC and DPLH to accord with the revised roles of the WAPC and DPLH.
4.1.7	Provide for new positions to be created to enable DPLH to recruit senior and experienced town planners to undertake strategic planning and policy development for the WAPC.
4.1.8	The DPLH and WAPC establish a protocol for the engagement of non-public sector expertise in the scoping and development of policies.
4.2	Process efficiency for planning proposals
4.2.1	A Planning Reform Team be retained by DPLH to implement proposals arising from the planning review and ongoing reforms to the Western Australian planning system.
4.2.2	A framework for referral of planning applications, to be incorporated in regulations as appropriate.
4.2.3	As an interim arrangement, the DPLH Independent Planning Reviewer be available to assist on issues regarding referral for WAPC matters.
4.2.4	Provide in regulation that an applicant may seek pre-lodgement advice for development applications.
4.2.5	Development Assessment Guidance be published by DPLH in consultation with local government and industry bodies.
4.2.6	Provide in the LPS Regulations that a local government must advise an applicant within 10 business days of receipt of a development application whether additional information is required.
4.2.7	Provide a procedure for local government and developer proponents to agree upfront the scope and content of a local structure plan with the DPLH and other agencies as appropriate.
4.2.8	Provide in the PD Act that the implementation section (part one) of approved structure plans and activity centre plans are to be read as part of the scheme and have the “force and effect” of the scheme.
4.2.9	Provide in the LPS Regulations that local government may refuse to progress a local structure plan or activity centre plan and amendment, if it is of the view that the proposals lacks sufficient planning merit. The amendment should also include ability for a proponent affected by such a decision to seek the views of the WAPC and the power for the WAPC to direct a local government to progress a proposal.

4.2.10	Provide for development contribution plan cost and cost contributions schedules to be included as a schedule in local planning schemes.
4.2.11	Establish a Development Contributions Infrastructure Panel to review proposed local planning scheme amendments that include Development Contribution Plans, with the cost of the review to be included as a development contribution plan administration cost.
4.2.12	Provide for in the PD Act an ability for the Minister for Planning to: - i require a special report from a local government on the operation of a development contribution plan - ii instruct a local government to take particular actions for the administration of a development contribution plan.
4.2.13	Provide in the LPS Regulations for a voluntary 'deemed-to-comply' check for single houses and provide in the P&D Regulations a specified fee for the service.
4.2.14	Provide in the LPS Regulations and R-Codes a fast-track 30-day planning approval process for single house applications that require only minor variations to the R-Codes.
4.2.15	A framework for "Basic", "Standard" and "Complex" streams for region scheme amendments, local planning strategies and amendments, and local structure plan/activity centre plans and amendments be developed by DPLH for implementation through regulation.
5.0	PLANNING FOR CONSOLIDATED AND CONNECTED SMART GROWTH
5.1	Planning for targeted urban infill
5.1.1	That the State Government develops clear arrangements for the planning and delivery of the key urban infill locations of activity centres, urban corridors and station precincts, including prioritising of areas which require State and local government collaboration.
5.2	Updating growth management policies
5.2.1	A new Consolidated and Connected Smart Growth State Planning Policy that builds on the State Government's METRONET policy and establishes contemporary smart growth principles and practices.
5.3	Planning for land use and infrastructure coordination
5.3.1	The WAPC to assist with land use and infrastructure coordination for the delivery of priority precincts through a renewed Committee.
5.4	Coordinating State infrastructure with regional rezonings
5.4.1	Provide in the Metropolitan Region Scheme an "Industrial Deferred Zone".
5.4.2	The WAPC to ensure that any requirements for State infrastructure are in place in the lifting of Urban Deferment or Industrial Deferment, and that the draft Guidelines for Lifting of Urban Deferment 2017 be amended accordingly.
5.5	Coordination of infrastructure for land development
5.5.1	Provision be made for advice on the forward planning of State infrastructure, including utility providers to assist local governments in the preparation of local planning strategies and structure plans.

5.6	Coordination of land use and transport for corridor development
5.6.1	The MRS be updated to include “Urban Corridor” as a category of Reserved Roads based on Perth and Peel @ 3.5 Million, with the Department of Transport being made responsible for coordinating a whole of transport portfolio response to planning proposals along the corridor.
5.6.2	A review be undertaken of regional road reservations in place to accommodate road widenings within the Metropolitan Region Scheme for designated Urban Corridors.
5.7	Liveable Neighbourhoods
5.7.1	Liveable Neighbourhoods be elevated to a state planning policy and maintained and refined as a best-practice approach to new greenfield development at regional, district and local level, rather including it into a single Neighbourhood part of Design WA.