

14 May 2009

Our Ref: (05-036-03-0020)

Submission: Better Planning  
Strategic Policy and Management Division  
Department for Planning and Infrastructure  
Albert Facey House  
469 Wellington Street  
PERTH WA 6000

Dear Sir/Madam

**Building a Better Planning System – Consultation Paper**

Thank you for an opportunity to comment on the draft *Building a Better Planning System – Consultation Paper*.

The WALGA State Council Meeting will be held on 3 June 2009 and as such, this is an interim position as the following comments have not yet been considered nor endorsed by State Council. Please be advised that we reserve the right to withdraw or modify our position in the future

During the submission period comments received from local governments are generally supportive of the approach to planning reform outlined in the document. However, it is recommended that WALGA and the Department for Planning and Infrastructure work in partnership to clarify the detail and to progress planning reform in Western Australia.

The main issues raised by local governments during the comment period generally address “actions taken” and are summarized below:

**1. Simplify Planning Approvals**

**Fast Track public housing works on zoned land**

Self assessment by the Department of Housing is questioned in terms of its commercial objectives which having the potential to be at odds with local planning objectives, and this may impact adversely on quality outcomes.



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### Adopt a risk based approach to development assessment

This action involves implementation of the national 'best practice' Development Assessment Forum model. This involves a risk based approach to subdivision and development proposals, with the level of assessment linked to the level of complexity, scale and likely impact of the application.

In other States this has involved three different levels of development assessment (such as exempt, self assessable and assessable). The consultation paper states that Local Government may have some discretion to define which development proposals fall into which categories. This is intended to be implemented through the review of the Model Scheme Text.

A risk based approach to development is supported however the different levels of development assessment need to be clarified, particularly exempt development which is described as "*in which the application is not required to comply with any codes or standards*". It is questioned when development would be exempt from compliance with any codes or standards. In considering exempting further development from planning approval, there is a need to consider the cumulative impact of such development.

Caution needs to be taken with respect to self assessable development. As suggested for public housing, it may be difficult to undertake a self assessment of one's own work and remain objective. The potential conflict of interest needs to be addressed.

Local Government should be given all discretion (not just some discretion) to determine which proposals fall into the relevant development assessment categories.

### Ensure majority of single houses are planning approval exempt

This action involves exempting single houses from planning approval where they comply with the acceptable development provisions of the Residential Design Codes (R Codes). This essentially involves applicants making their own self assessments against the R Codes and relies upon building surveyors picking up any variations which would require planning approval.

While it may be acceptable in some suburban locations to dispose with planning approval it may not be appropriate in some inner city or rural locations.

It is agreed that the proposed Building Certifiers Bill and its impact on the planning process requires further review.

### Ensure appropriate information is provided with applications

This action involves approval agencies clearly outlining development requirements to applicants and the establishment of gateway processes to ensure that inappropriate applications are returned promptly. This action is supported.

### Simplify and streamline public works approvals

This action involves standardizing provisions under region schemes with respect to public works approvals as well as expanding the scope of public works which are exempt for planning approval under the region schemes.



Greater clarity with respect to public works approvals is supported and also expansion of exemptions under the MRS for minor public works.

A risk based approach needs to be taken when considering exemptions. There are numerous examples of State Government public works, which have resulted in poor broader planning outcomes. A recommendation role by Local Government may be appropriate.

#### Abolish dual approvals for development

This action involves removing the need for both an approval under the region scheme (from WAPC) and under the local planning scheme (from local government). The consultation paper infers that in matters of State or regional significance, the Minister or WAPC should be the sole determining body.

Dual approvals not only create the potential for conflicting decisions but also create confusion when it comes to clearing conditions. The removal of the requirement for dual approval of development is supported, however, Local Governments should retain the right to determine developments of State or regional significance within their municipalities in consultation with State Government.

#### Development Assessment Panels

This action involves the establishment of Development Assessment Panels (DAP), as in other States, to assess major projects where Local Governments have limited technical capacity. These panels would include elected representatives, as well as, independent experts.

This action is supported in principle, particularly where staff technical skills are lacking to adequately assess development proposals.

Further details need to be provided with respect to how these panels would work, and further consideration given to the implications, as this would represent a significant change from current Local Government consideration of development.

#### Development decisions tracked and reported

This action involves voluntary and, in the long-term, mandatory reporting by Local Governments with respect to development applications.

This action is supported. This will enable benchmarking of approvals agencies and assist in verification of complaints from the development industry with respect to delays in the approval process.

It is considered that the same tracking requirements imposed on Local Government should be applicable to DPI.



## **2. More Effective Planning Instruments**

### Rewrite the Model Scheme Text (MST) based on Development Assessment Forum (DAF) principles

This action involves reviewing the MST to simplify provisions, improve consistency and support reduced timeframes, including extending the range of developments exempt from planning approval. The consultation paper states that the effectiveness of the new MST will rely on WAPC and the Minister for Planning enforcing standards provisions and Local Government agreement to forgo some flexibility to achieve a greater level of consistency and efficiency.

The review of the MST is supported however flexibility needs to be provided to address local context issues. Efforts to achieve efficiency should not take precedence over quality planning outcomes.

There is presently no guidance for developers, Local Government or the community on how proposals like town planning schemes are processed by DPI and how long they will take to process. It is considered that open transparent procedures be introduced to promote greater transparency and understanding in the community.

It is recommended that key performance indicators and targets for some of DPI processes such as those related to town planning schemes and local planning strategies be introduced.

### Integrate State Planning (Planning and Development Act) and environmental approvals (EPA Act) and Appeals Processes

This action involves a review of all environmental legislation and approvals processes and consideration of their integration with planning legislation and approvals processes.

This action is supported in principle so long as environmental outcomes are not compromised. The reason for separating this legislation needs to be examined and reviewed to determine whether this still remains valid. It is important that environmental issues are adequately addressed to ensure sustainable development.

This is particularly important with current issues such as climate change which have been identified in the consultation paper. There is a need for greater powers in some areas to ensure that financial objectives do not override other objectives.

An initiative to ensure that decisions are made on a balance of considerations rather than biased towards one consideration to the exclusion of others is welcomed.

### Reduce State and Local Government Policy Complexity

This action involves the preparation of guidelines for the preparation of State Government policies, and a requirement for all policies at different levels of government being required to meet the legal tests set by the State Administrative Tribunal. These tests are, be reasonable, based on sound planning principles, clear and precise, realistic and able to be implemented.



This action also involves considering limits to the scope of local planning policies, via the review of the Model Scheme Text (MST), which unreasonably impact on land and housing affordability. There is a need for clear policy frameworks and for policies to be legally sound and reviewed regularly.

It is of concern however that consideration is being given to reducing the scope of local planning policies which unreasonably impact on land and housing affordability. While there is merit in considering housing affordability, like environmental concerns, this should not be to the exclusion of other issues of community concern.

Greater clarification is required as to what might be considered an unreasonable impact. There is concern that this may limit the ability of Local Governments to establish best practice policies. Whilst there is a need to address issues of housing and land affordability this should not be at the cost of other planning outcomes.

It is agreed that a clearer more consistent policy framework is necessary. State and WAPC policies should address broader and universal standards and matters, whilst local planning policies should address more area and issue specific matters.

#### Underpin planning by supporting preparation of timely and simplified local planning strategies

This action involves greater support being provided by the DPI to Local Governments preparing local planning strategies via both staff assistance and the provision of standard mapping and information packages. The Local Planning Schemes Manual (which provides guidance with respect to local planning strategies) is also intended to be reviewed.

This action is supported, Local Government welcomes greater guidance, assistance and open and transparent procedures from DPI.

#### Initiation of Local Planning Scheme Amendments with Right of Appeal to State Administrative Tribunal

Under current legislation, if a Local Government resolves not to proceed with a local planning scheme amendment request, there is no right of review to either the State Administrative Tribunal, the WAPC or the Minister for Planning. The development industry has suggested that there needs to be right of appeal to SAT on refused amendment requests.

It is considered an important tenet of Local Government planning that the Local Government is best able to determine where an amendment is justified.

The State Government's preference is for Schemes to be reviewed every five years rather than allow for iterative change via the SAT, especially to implement State strategic policies. The State Government's preference is supported.

It is recommended that the DPI introduce key performance indicators and targets for the processing of town planning schemes and amendments and local planning strategies.



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### Consider reducing region and local scheme amendment consultation timeframes

This action involves reducing public advertising periods for amendments to region schemes from three to two months, and for local planning schemes from 42 to 30 days.

Consultation timeframes should only be reduced for minor region and local scheme amendments. Consultations timeframes for other amendments should remain as they are to ensure maximum community participation in the planning process.

### Provide mechanisms for the statutory implementation of strategic policies

This action involves making State Planning Policies more specific and place based, with automatic inclusion in local planning schemes to ensure that State strategic objectives are delivered.

The appropriateness of more specific and place based guidance being provided in State Planning Policies is questioned. State Planning Policies should provide broad strategic guidance and Local Governments should determine how this should be applied at a local level.

State strategic objectives should be considered and addressed through regular review of local planning strategies and schemes, as well as through any local planning scheme amendments.

## **3. Prioritise Major Projects**

### Call-in Power for Major Land and Housing Projects of State and Regional Significance

This action involves removing Local Government determination of major land and housing projects which are of State or regional significance and which have been called in by the WAPC for determination. The action also appears to infer that consideration will be given to extending the Minister for Planning's call in power which is currently limited to appeals to SAT. The action also involves providing greater clarity as to matters constituting regional and State government significance, and that these projects could be identified by location, cost or land use type. Projects may include both public works and developments generating significant employment.

Whilst removal of the need for dual approval is supported, Local Governments should retain the right to determine development within their municipalities in consultation with State Government in matters of State or regional significance.

Greater clarity as to what constitutes a project of State or regional significance is strongly supported. The definition of such projects should be determined with reference to what is considered extraordinary in the local context. Defining such projects by cost alone is not supported.

### Prioritisation of Major Land and Housing Projects

Prioritisation of major land and housing projects is supported so long as they are subject to a comprehensive assessment in order to ensure good planning outcomes.



Further guidance needs to be provided with respect to what constitutes a major land and housing project and how Local Government participates in this process.

Consideration should also be given to prioritization of particular types of sustainable economic development which the State wishes to encourage.

It is considered that one of the key impediments to the delivery of major projects is changing political power and agendas at State Government level. Formally committed bipartisan support for major projects should be considered so that political changes do not impede such development.

#### **4. Integrated Coordination of Infrastructure and Land Use Planning**

Completion of a whole of State policy on developer contributions in which Local Government are able to partner private developers for the provision of social and community infrastructure

The completion of a State Development Contributions Policy as an efficient means of funding and supplying social and community infrastructure is strongly supported.

The draft policy has been developed in collaboration with the Urban Development Institute, DPI and WALGA and has been waiting for finalization for some time. Demonstrating delays in the process.

It is considered that the State Government should contribute towards the cost of regional or State social and community infrastructure.

#### **5. A Comprehensive Regional Planning Framework**

Develop a strategic vision and plan for Perth

This action involves the development of an inspirational vision for Perth as well as a review of Network City (to deal with the current economic environment) and the preparation of a supporting implementation strategy. The Metropolitan Centre's Policy is intended to be reviewed as a priority.

This action is generally supported in principle. The review of the Metropolitan Centre's Policy is strongly supported.

The need however for Network City to be recast in light of the current situation is questioned given that this is intended to be a long term planning strategy which should be able to withstand changing economic environments.

Greater whole of government support should be given to implementation of Network City, with appropriate supporting policy development and funding mechanisms to enable proper implementation. Unless the flaws of Network City are evident, it seems incongruous to undertake a comprehensive again.



## **6. Strengthening Governance and Institutional Arrangements**

### Increase the transparency of decisions made by WAPC via web based publication of decisions

This action is strongly supported. The transparency of the WAPC needs to be generally improved.

There is a need also for details of the decision making process to be made publicly available. Agendas and minutes of WAPC and its associated committee meetings should be made publicly available similar to Local Government Council / Committee meetings.

There is also a need for better communication with Local Government with respect to the range of projects which are currently being or planned to be undertaken by the DPI. Details of the scope of these projects and indicative timeframes should be made collectively available to assist Local Governments in their own business planning, to ensure that projects align and are timed with those being undertaken at State Government, and to prevent duplication of planning effort.

### Establishment of a joint training program for elected members of Local Governments in partnership with WALGA and Local Government on the planning system and processes

This action is supported. It should be noted that WALGA already runs a training program. It is considered that DPI involvement in training would be valuable.

### Review of the dual planning approvals system, requiring both planning and environmental approvals for development applications

Supported as discussed above.

### Investigate and review the effectiveness of existing disputes resolution mechanism through State Administrative Tribunal

This action is supported.

### Undertake a formal review of the statutory and other supporting committees of the WAPC to determine their effectiveness

This action is supported.

## **Summary**

The fundamental principles identified in the consultation paper are generally supported, in particular the aim to refocus strategic priorities, address design and operational problems in the planning approval processes and clarify and streamline the institutional arrangements.

There are however, significant issues in the 'detail' which need to be addressed before Local Government would be confident that a fair and balanced system has been developed. As such, a partnership with DPI is considered appropriate.





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For enquiries please contact Beryl Foster, Policy Manager Planning & Development on 9213 2056 or [bfoster@walga.asn.au](mailto:bfoster@walga.asn.au).

Yours sincerely

**Ricky Burges**  
**Chief Executive Officer**

10 June 2008

Our Ref: 05-036-03-0020BF/JT

Eric Lumsden  
Director General  
Department of Planning and Infrastructure  
Albert Facey House  
469 Wellington Street  
**PERTH WA 6000**

Dear Eric

**BUILDING A BETTER PLANNING SYSTEM – DISCUSSION PAPER**

Subsequent to the interim submission submitted by WALGA on 14 May 2009 during the comment period for *Building a Better Planning System – Discussion Paper*, the WALGA State Council considered the issue of Building a Better Planning System at its meeting on 3 June 2009 and resolved the following;

**That:**

- 1. the State Council note that an interim submission on the Building a Better Planning system - Consultation Paper has been made to the Department of Planning and Infrastructure (DPI), which included comments received from Local Governments regarding the Consultation Paper and endorsed the principles within the Consultation Paper while reserving local governments position until a greater level of detail is available.**
- 2. WALGA seek to work in partnership with DPI to clarify the detail and progress planning reform in Western Australia; and**
- 3. WALGA particularly note issues raised by the South West Zone**

The South West Zone resolution is listed below:



- 1. The SWZ notes that an interim submission on the Building a Better Planning System consultation paper has been made to the Department of Planning and infrastructure, which includes comments received from local governments regarding the consultation paper but is not able to endorse the principles within the consultation paper until a greater level of detail is available**
- 2. WALGA should seek to work in partnership with the DPI to clarify the detail and progress planning reform in WA**
- 3. The zone especially notes its concern in regard to the following issues:**
  - The time in which local government could comment was insufficient to allow for a properly prepared submission**
  - The proposal for general local planning policies is contrary to the intent of “local control” over planning**
  - The proposal for generalized planning conditions which could override applicable local planning policies**
  - The suggestion to introduce appeal rights against a councils refusal to initiate an amendment is strongly opposed**
  - The proposal to make agendas and minutes of commission meetings publicly available is supported, however this needs to go further by allowing a form of access to meetings**
  - The lack of DPI resources leading to delays in the planning process**
  - The need to recognize the agricultural issues on a similar level to urban and industrial that have been addressed in the consultation paper**
  - The introduction of planning panels is a matter of concern in regional and rural areas**

For enquiries please contact Beryl Foster on 9213 2056 or [bfoster@walga.asn.au](mailto:bfoster@walga.asn.au).

Yours sincerely

**Ricky Burges**  
**Chief Executive Officer**