

## **4.1 Review and Reform of Planning and Development Assessment Systems (05-036-03-0020 AH)**

**Moved: Mayor David Boothman / Seconded Cr Frank Cvitan**

**That:**

- 1. WALGA, in conjunction with member Councils, develop and undertake a planning and development approvals review and reform program comprising:**
  - 1.1 engagement of appropriate consulting services by WALGA to undertake a detailed review, from start to finish, of the process for gaining planning approval from Local Government in Western Australia including referral roles of other agencies; and**
  - 1.2 development and implementation of a planning reform and best practice program, based on the findings and recommendations of stage one, specifically for Local Governments in Western Australia.**
- 2. the planning reform and best practice program be developed into a funding application, on behalf of the sector, to the Commonwealth Government for funding assistance to adopt and implement the identified reforms, tools and best practice initiatives within individual Councils.**

**RESOLUTION 548.4/2009 CARRIED.**

### **Background**

In recent years, Governments internationally have sought to modernize planning systems to meet the evolving needs of the twenty-first century: the development of global economies, rapid population growth and climate change to name a few.

During the years since the current WA planning system as we know it was introduced, the system has been incrementally modified and adapted to meet this ever changing environment. This has resulted in complexity, duplication and delays

Within Australia, the need for improvements in planning and development assessment systems was recognized as essential as far back as 1996, when the Bell report *Time for Business* identified a number of important areas where red tape needed to be cut. Recommendation 29 of the report suggested:

*That the three spheres of government develop a reform strategy for referral and concurrence procedures in the building and development industry by 1 July 1997. The strategy should include a system for resolving problems between*

*government agencies and ensuring the delegation of decision making to the lowest level practicable taking into account the scale of development*

Over time, this has led to the Commonwealth and State and Territory Governments agreeing to broad reform of planning systems and regulations to ensure Australian planning systems are efficient, responsive and appropriate.

In April 2007, the Council of Australian Governments (COAG) specifically highlighted the continuing significance of development assessment reform and restated its commitment to streamlining and harmonising development assessment processes within jurisdictions. It noted that a more streamlined development assessment process can reduce the costs facing business and deliver positive economic, social, and environmental outcomes for the entire community.

In 2008, the Local Government Planning Ministers' Council (LGPMC) reported to COAG on progress with development assessment reform within their jurisdictions indicating that:

- States and Territories have reviewed, or are reviewing their local government development assessment legislation, policies and objectives to ensure that they remain relevant, effective, efficiently administered, and consistent across their jurisdiction;
- States and Territories have put in place, or are putting in place, strategies to ensure that referrals are limited to agencies with a statutory role relevant to the application, and that referral agencies specify their requirements in advance and comply with clear response times;
- all jurisdictions agree to review the outcomes of the current system and software trials of electronic development assessment processing and, if appropriate, facilitate further trials, with the aim of maximising the uptake of electronic development assessment processing by the end of 2009; and
- all jurisdictions agree that all new tender specifications for electronic development assessment software purchased by Commonwealth, State, Territory and Local Government will incorporate a National Communication Protocol for transferring development application information electronically from 1 July 2007.

COAG subsequently requested that the Local Government and Planning Ministers' Council continue to work towards implementing key elements of the Development Assessment Forum's Leading Practice Model which include:

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| 1 | Effective policy development | Elected representatives should be responsible for the development of planning policies. This should be achieved through effective consultation with the community, professional officers and relevant experts. |
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| <b>2 Objective rules and tests</b>                        | Development assessment requirements and criteria should be written as objective rules and tests that are clearly linked to stated policy intentions. Where such rules and tests are not possible, specific policy objectives and decision guidelines should be provided.  |
| <b>3 Built-in improvement mechanisms</b>                  | Each jurisdiction should systematically and actively review its policies and objective rules and tests to ensure that they remain relevant, effective, efficiently administered, and consistent across the jurisdiction.  |
| <b>4 Track-based assessment</b>                           | <p>Development applications should be streamed into an assessment 'track' that corresponds with the level of assessment required to make an appropriately informed decision. The criteria and content for each track is standard.</p> <p>Adoption of any track is optional in any jurisdiction, but it should remain consistent with the model if used.</p>   |
| <b>5 A single point of assessment</b>                     | <p>Only one body should assess an application, using consistent policy and objective rules and tests.</p> <p>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.</p> <p>Referral agencies should specify their requirements in advance and comply with clear response times.</p>   |
| <b>6 Notification</b>                                     | Where assessment involves evaluating a proposal against competing policy objectives, opportunities for third-party involvement may be provided.   |
| <b>7 Private sector involvement</b>                       | <p>Private sector experts should have a role in development assessment, particularly in:</p> <ul style="list-style-type: none"> <li>• Undertaking pre-lodgement certification of applications to improve the quality of applications.</li> <li>• Providing expert advice to applicants and decision makers.</li> <li>• Certifying compliance where the objective rules and tests are clear and essentially technical.</li> <li>• Making decisions under delegation.</li> </ul>  |
| <b>8 Professional determination for most applications</b> | <p>Most development applications should be assessed and determined by professional staff or private sector experts. For those that are not, either:</p> <p>Option A – Local government may delegate DA determination power while retaining the ability to call-in any application for determination by council.</p> <p>Option B – An expert panel determines the application.</p> <p>Ministers may have call-in powers for applications of state or territory significance provided criteria are documented and known in advance.</p> |

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| <b>9 Applicant appeals</b>    | <p>An applicant should be able to seek a review of a discretionary decision.</p> <p>A review of a decision should only be against the same policies and objective rules and tests as the first assessment.</p>  |
| <b>10 Third-party appeals</b> | <p>Opportunities for third-party appeals should not be provided where applications are wholly assessed against objective rules and tests.</p> <p>Opportunities for third-party appeals may be provided in limited other cases.</p> <p>Where provided a review of a decision should only be against the same policies and objective rules and tests as the first assessment.</p> |

A number of projects to achieve the desired outcomes are underway in all spheres of government. Most recently at a State Government level, the Department of Planning released the consultation paper *Building a Better Planning System*. In the paper, the Director General states:

*The Government has made improvements to the planning system a matter of high priority. One of the first decisions made by the Government was to focus on reducing the complexity and time taken to obtain development approvals for major resource projects. This initiative has expanded into a broader reform of other approvals processes, especially those that apply to urban land.....*

*While streamlining the approvals processes for major projects has been the first priority of the Government, without a broader and more strategic approach to planning reform, measures taken to improve the planning approvals processes may end up being piecemeal and short-lived. In particular, there is a need to look at the effectiveness of planning systems in their totality to achieve a more effective balance between economic, social and environmental outcomes.*

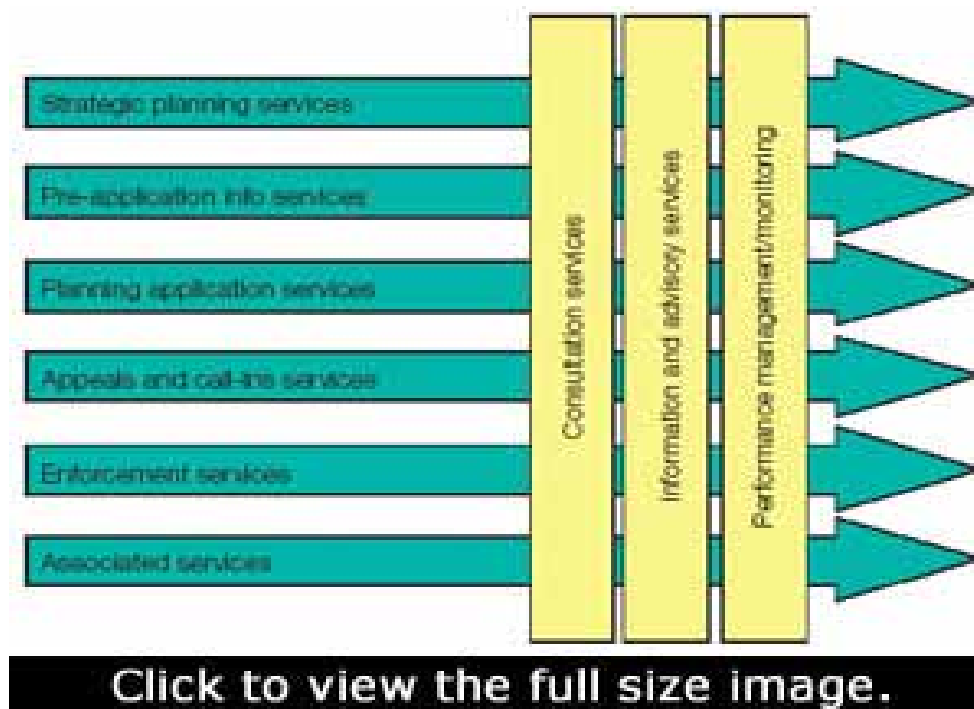
The paper goes on to identify six priority areas for reform:

- simplifying planning approvals
- more effective planning instruments
- integrated coordination of infrastructure and land use planning
- a comprehensive regional planning framework
- strengthening governance and institutional arrangements.

At its June meeting, State Council resolved to support the guiding principles outlined in the *Building a Better Planning System Paper* ie:

### Comment

It is clear land use planning is a complex process. It requires the coordination of development assessment decisions taken at different times and by different agencies and stakeholders that would otherwise be made independently of one another.



Without doubt, Australians are demanding more from their built environment and from the development systems that shape it. Sustainability and environmental issues are more prominent, economic needs are becoming increasingly diverse and we are now more aware of how important the built environment is in achieving sustainable communities.

As a consequence of the growing volume and complexity of development activity and the increasing interest and expectations of communities about what is appropriate, the pressure on local government development assessment systems and resources has increased considerably. This pressure has been compounded by a shortage of planning resources, a complex policy framework, duplication and conflict with State Government agencies in the assessment process and an overall lack of strategic planning for WA.

Given the following circumstances:

1. State Councils' recent support for the guiding principles in *Building a Better Planning System*;
2. The Systemic Sustainability Study (SSS) recommendations relating to shared planning services and the growing pressure on Local Government planning resources and capacity;
3. The current reform program being pursued at a State and Commonwealth level; and
4. anticipation of the broader reforms to be developed by the State and Commonwealth Governments;

it is recommended that the Association, in conjunction with member Local Governments, commence a planning review and reform program for WA Local Governments.

The focus of the program could include, but would not be limited to: Local Governments role and responsibilities within the planning system; appropriate policy and plan setting; approval process efficiency gains; tracking and performance measurement; operational and budgetary requirements and impact assessment of State Government requirements.

The first stage could comprise the engagement of expert consulting services by WALGA to undertake a detailed review, from start to finish, of the process for gaining planning approval from Local Government in WA. It should include case studies for a range of different types of development such as housing, business and major industry.

The aim of this stage is to identify where in the process delays occur (eg strategic planning; scheme amendment; decision making), the reasons for delays in determining planning applications (eg lack of regional plans; poor policy; poor quality applications), and then to make recommendations for dealing with these and reducing unnecessary burdens for **all** parties involved in the process.

The review would look objectively at:

- a) Proportionality – in particular, that the requirements and process in relation to smaller scale developments are proportionate or reasonable in relation to the scale of development or its impact;
- b) Process – that the stages and requirements of the planning approval process are clearly defined and accessible to the public eg is approval required, pre-lodgement considerations and clearance of conditions following the grant of planning permission;
- c) Engagement – that the involvement of key parties, such as elected members, affected neighbors and referral agencies is working effectively;

- d) Culture –the effect that the current regime is having on behaviours and outcomes; and
- e) Complexity – in particular, the policy framework and the complexity of the planning application process to identify how it could be further improved to ensure unnecessary bureaucracy is reduced, without compromising good planning outcomes, to make the process faster and more effective.

The second stage would consist of developing and implementing a planning reform and best practice program, based on the findings and recommendations in Stage 1, specifically for Local Governments in WA.

The programs' goal would be to ensure local government effort, guidance, processes and regulations are applied where they are effective. It should reduce the unnecessary burdens on staff, elected members and individuals whilst increasing business efficiency, job satisfaction, customer service and community satisfaction.

It is anticipated that some of the deliverables from the program would include such things as:

- Clarity on State – Local Government roles and responsibilities;
- Recommendations for legislative and policy amendments by the State Government;
- Models of best practice policy and plan setting;
- Model business processes and tools;
- Guidelines and checklists for applicants
- Electronic development assessment systems and processes; and
- Funding for resources to support internal change management processes.

At an appropriate time, the planning reform and best practice program would be developed into a funding application, on behalf of the sector, to the Commonwealth Government for funding assistance to develop and implement the initiatives within individual Councils.

By initiating this program Local Government in WA will be demonstrating responsible leadership to other spheres of government, the development industry and the community. It will also ensure that as far as possible, the reforms to be undertaken within Local Governments are supported by the sector; are consistent with the objectives of the SSS; and will be of direct benefit to Local Governments and their communities.

Finally, it will enable the sector driven initiatives to be coordinated and integrated with the broader State and national reforms being driven externally, thus ensuring as smooth a transition and adoption of an improved planning system as possible.

### **Recommendation**

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