

Building a Better Planning System Consultation Paper

March 2009



Government of **Western Australia**
Department for **Planning and Infrastructure**

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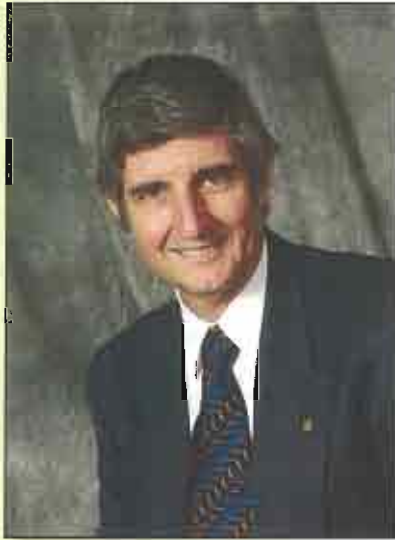
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Foreword

Although fundamentally sound, the State's planning processes have been under strain in recent years as they struggled to cope with a prolonged period of strong economic and population growth, diverse regional development and changing community expectations about sustainable management practices. More recently, the economic downswing has led to a focus on the timeliness and efficiency of the planning system to support measures to stimulate economic growth through infrastructure investment and residential development.

A good planning system should be invisible but accommodating and stimulating. Instead there have been complaints about delays in obtaining planning approvals, uncertainty as to processes and outcomes, a lack of capacity to deliver strategic outcomes and poor infrastructure coordination.

As a result there is now a lack of community and business confidence in the planning system. Western Australian cannot afford to have such a fundamental part of the State's institutional framework holding back development and investment decisions.

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. Similarly, at the national level the Commonwealth Government has made planning reform and infrastructure development a national priority. Other States have taken the lead in planning reform and Western Australian cannot be complacent if it wants to remain an attractive place for residential and business investment.

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.

Building a Better Planning System sets out a broader planning agenda for lasting reform and improvement. Industry and the planning community are invited to comment on the proposals and approach.

Submissions need to focus on strategic priorities and deliverable actions that address community and industry concerns and most importantly will result in long term improvements to the planning system.

Following the consultation period (to end April 2009) the intention is to release a final strategic statement that will be the blueprint for reform.

I hope that this document will encourage debate, result in sound advice and build a consensus for change.

Eric Lumsden, PSM
Director General
Department for Planning
and Infrastructure



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Our Approach

Building a Better Planning System is an industry and stakeholder consultation paper that identifies a number of strategic priorities and actions to improve the planning framework.

The approach taken is to refocus strategic priorities, address design and operational problems in the planning approvals processes and clarify and streamline the institutional arrangements. The intention is to improve the strategic capability and operational capacity of the planning framework. Strategic improvements focus on planning outcomes such as infrastructure coordination, land availability, housing affordability, environmental issues, public transport use and urban lifestyle. Operational improvements are to make the planning processes work better and involve issues such as agency resources, management practices and planning processes.

To achieve either operational or strategic reform requires an integrated and coordinated approach. In particular, planning outcomes are dependent on the effectiveness of planning instruments and tools as well as how well they are managed and operated.

Building a Better Planning System is presented in two parts. The first part provides an overview of the WA planning framework, focuses on reform in other jurisdictions and identifies strategic issues to be addressed in considering improvements in Western Australia. The second part of the document presents a proposed *Strategic Priorities and Action Plan* for building a better planning system.

The intention is that *Building a Better Planning System* will deliver new and improved planning processes and instruments that will:

- clear the backlog of approval applications and reduce the time taken to obtain approvals;
- adopt a risk management based approach to development assessments to speed up approvals and simplify the processes;

- shift the focus away from statutory processing to the achievement of strategic outcomes;
- reduce complexities and inconsistencies through the adoption of standardised planning instruments such as Model Scheme Text and structure plans;
- enable better infrastructure coordination and give a spatial dimension to the State budget processes;
- focus on regional communities with particular attention being given to supporting economic development;
- develop a new vision for Perth and the regions of WA; and
- improve standards of governance through clearer and more effective accountabilities and responsibilities.

Achieving these key outcomes will ensure that Western Australia remains a highly competitive and attractive place to live and do business.

Submissions

Submissions are invited on this consultation paper and should be lodged with the Department for Planning and Infrastructure by Friday 1st May 2009. The e-mail address for submissions is:

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PART 1

Overview and Strategic Issues





Profile of the WA Planning Framework

An overview of the WA planning framework is presented in the *Appendix*. In summary, the WA planning system has a number of elements that are unique in Australia, some of which are under consideration in other jurisdictions. These elements include:

- the centralisation of authority through the Western Australian Planning Commission (WAPC) which determines the majority of subdivision applications across Western Australia, sets State Planning Policies, develops and manages statutory region schemes for Perth, Peel and Bunbury and associated regionally significant development applications;
- Residential Design Codes that provide the criteria to allow approvals for single dwellings to be planning approval exempt;
- Model Scheme Text that provides a standardised basis for the development of local planning schemes; and
- independent review by the State Administrative Tribunal on most planning approval decisions, with limited third party rights of appeal.

The governance structure and strategic instruments of the planning framework include:

- policy development and decision-making responsibilities are vested in the Minister for Planning, the WAPC and local governments;
- planning services are provided through the Department of Planning and Infrastructure (DPI), other State government agencies and local government;
- a strong and effective statutory base for policy implementation;
- the State Planning Strategy supported by over 100 State Planning Policies and Planning Bulletins;
- Network City 2005;
- the Metropolitan Development Program; and

- separate planning and environmental legislation – the *Planning and Development Act 2005* and the *Environmental Protection Act 1986*.

Key characteristics of this framework to be taken into account in any reform process are:

- the primary State Planning Strategy was prepared in 1997 and predates the recent resource boom and high levels of economic and population growth, especially in the regions. Hence, there is no contemporary State strategic planning framework;
- the key strategic framework for the Perth region – Network City – is not a State Planning Policy and has no statutory authority. Core policy and initiatives under the framework are still to be developed;
- the Metropolitan Development Program – the principal instrument to collect land supply and development information – dates back to 1991 and has become outdated and is in urgent need of reform;
- the Metropolitan Region Scheme has been a successful broad statutory planning framework for planning functions and strategic outcomes in the Perth region;
- lack of an integrated and comprehensive approach to planning for infrastructure or connection to the State budget process to give the government the capacity to stage infrastructure priorities;
- the current strategic framework is urban centric and does not adequately address regional needs;
- there is no longer term vision for Perth and the regions of Western Australia;
- changes to planning instruments have been incremental and focused on land usage rather than broader planning outcomes;
- the need for a sound statutory basis for implementing strategy and achieving outcomes; and



- a degree of duplication, inconsistency and potential for conflict between the environmental and land use planning frameworks. In addition, there is an overlay of Commonwealth environmental approvals that adds further complexity and potential for delay.

At an institutional level the WAPC is the partner with the DPI in the development of the strategic planning framework. Part of *Building a Better Planning System* is to examine and assess the effectiveness and suitability of these relationships and roles from a strategic perspective.

Recent Reforms and Initiatives

The WA planning system has been subject to change over a number of years, with the last major change being the proclamation of the *Planning and Development Act 2005*. The Act greatly reduced the complexity of the legislative environment for planning and promoted sustainable land use management and development. Further, the Act streamlined planning procedures for the preparation and amendment of region schemes, the review of local schemes and the subdivision of land. Nevertheless, these changes were introduced during a period of rapid population and economic growth and there was little opportunity to implement the reforms because of the significant increase in planning approvals. With the economic cycle now in a downswing the opportunity presents itself to not only continue to implement the earlier reforms, but to review and build on earlier improvements to the planning system.



Drivers of Change and Strategic Directions

The recent and prolonged period of economic and population growth followed by the emerging economic downswing and period of investment uncertainty emphasises the need for the planning system to have a high strategic capability as well as operational capacity. Strategic capability gives the planning system the flexibility to deal with change and to implement strategic initiatives such as measures by the State and Commonwealth governments to stimulate investment in infrastructure, large private projects and residential construction.

In the longer term, one of the greatest planning challenges facing Western Australia is the **State's population and economic growth** that will require the development of economic and social infrastructure to support industry and develop regions and their communities. Over the next 20 years the population of Western Australia is forecast to grow about 35 per cent from 2 million people to 2.8 million people.

Economic growth is expected to recover from the current downswing and continue above the national average. Even in the current economic climate the strong emphasis on infrastructure development requires a highly effective and efficient planning system to stimulate investment and build business confidence.

The **remote resource-rich regions** of Western Australia require special consideration in planning reform. These regions are the economic foundation of the State and have high infrastructure needs, such as ports, rail and housing. The provision of this infrastructure is made more difficult through the lack of a regional land development and construction industry.

Rapid growth in recent years resulted in the State experiencing growing pains, with capacity constraints emerging in skills and materials, housing and land supply in regional areas, public transport, health services, water supply and energy generation. The outcomes were higher construction costs, inflationary pressures, asset speculation

in the housing market and competing claims on the State government's financial resources.

Lifestyle choice needs to be maintained and the quality of Western Australia's **urban environments** sustained to ensure that the city of Perth remains internationally competitive as a place to live and conduct business.

Community expectations are also undergoing change, with greater expectations for sustainable outcomes through land, water and energy use, affordability and diversity in housing, accessibility to transport infrastructure, conservation of areas of environmental and heritage value, involvement in land use proposals, and efficient and timely planning decisions. Communities do not always support change and new development may be resisted.

Climate change and a requirement for **sustainable planning practices** are also issues for planning reform. Planning needs to accommodate and support water and energy conservation, reduced carbon impacts, low cost community housing, higher public transport use and so on.

Housing affordability has become a significant social and political issue, with the average cost of housing in Perth now about eight times the average annual wage/salary. A number of other State governments have responded to this problem with specific housing affordability strategies, with a strong focus on planning reform to increase the supply of land ready for development.

There have been **changes at the national level** that will create new opportunities to develop the State's infrastructure and require a response in terms of planning reform and capability to leverage the funds to the benefit of Western Australia. The Commonwealth government allocated an initial \$20 billion to the **Building Australia Fund**. These funds were to be sourced from the budget surpluses in 2007–08 and 2008–09, with the possibility of further deposits being made from future surpluses. However, in the current economic climate it is understood that the funding level has been reduced



to \$12.5 billion. Western Australia has five projects short-listed for funding in the announcements by **Infrastructure Australia** in December 2008. The focus of the **Building Australia Fund** is to address inadequate or poorly planned infrastructure, with urban congestion and the associated social costs on family life cited as an example. The Fund's priorities are:

- transport infrastructure to help manufacturers, farmers and miners get their goods to market as quickly and cheaply as possible;
- to equip households and businesses with the tools to take full advantage of the Internet and technology; and
- to improve the functioning and quality of life within our major cities and major regional centres.

Also, the Commonwealth government has established the **Housing Affordability Fund**, with \$512 millions over 5 years to foster planning reform (mainly at local government level) as a means of lowering the cost of land and housing through more efficient planning practices, resulting in shorter supply delays and supporting infrastructure service provision. Six projects from Western Australia have been recommended for funding in the first round.

A number of State governments are undertaking or have completed major planning and infrastructure reviews and implemented reforms (see below). The significance of the **changes in other jurisdictions** is not only to serve as a guide for Western Australia, but highlights the need for Western Australia to have a planning and infrastructure framework that is competitive with other jurisdictions to attract infrastructure investment, knowledge industries and immigration/migration.

These emergent issues and drivers of change serve as a guide to *Building a Better Planning System*, to ensure that the planning system has the strategic capability and flexibility to deal with an environment of change and uncertainty through well resourced and focussed institutional/agency arrangements and effective planning instruments.



Reform in Other Jurisdictions

A number of State governments have completed or are undertaking major planning and infrastructure reforms and are in the process of the implementing these reforms. The motivation behind reform in other jurisdictions is both strategic and functional and includes factors such as:

- strong population growth;
- reduced complexity and improved governance;
- economic benefits (both South Australia and New South Wales identify significant economic benefits);
- lifestyle (heritage protection and planning for older citizens);
- need for infrastructure planning and coordination;
- declining housing affordability; and
- managing the impact of climate change on the environment (higher public transport use, sustainable outcomes, open space protection and water efficiency).

Strategic responses and initiatives include:

- a dedicated and high level process for reform, including public consultation;
- streamlining environmental assessment and planning processes to reduce red tape and expedite approvals/development;
- the coordination of planning and infrastructure strategies as part of the State budget process;
- a strong regional focus with local government partnerships;
- capital city strategies for Sydney, Melbourne and proposed for Adelaide;
- institutional change, with some State's focusing on functional reform and creating separate planning agencies while others have focused on strategic reform and amalgamated planning and infrastructure;
- the devolution of planning decisions and use of private certifiers;

- greater independence through the separation of decision-making processes and Ministerial roles; and
- establishment of Development Assessment Panels to provide independent advice on major development proposals.

These reforms will serve as a benchmark for reform in Western Australia.



Principles for Better Planning

The Department believes that the nine principles on which to build a better planning system are:

Timeliness The planning system needs to have timelines to provide certainty and avoid delays.

Efficiency The planning system should not only be affordable and at reasonable cost to the proponent and the community but be efficient in an economic sense – that is, it should encourage optimal investment outcomes for the economy as a whole.

Simplicity The planning system should be user friendly, understandable and avoid over-lapping or conflicting requirements.

Transparency The planning system needs to be clear, open and accessible.

Sustainable A sustainable planning system integrates economic, social and environmental outcomes to protect the natural and built environments and recognize that future generations are stakeholders in the planning process.

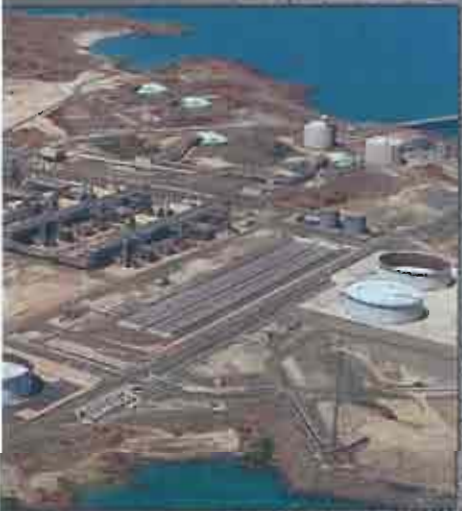
Accountable There needs to be clear and enforceable accountabilities and responsibilities in planning processes.

Fairness The planning system needs to be considered fair by all stakeholders to ensure equity, minimize disputes and ensure confidence in decision-making. A process for an independent review of decisions is an important part of a fair planning system.

Consistency Uniform and standard planning requirements and processes ensures certainty, effectiveness, transparency and simplicity.

Suitability Planning requirements and processes should be appropriate to the need.





PART 2

Strategic Priorities Action Plan





Introduction

Building a Better Planning System is a consultation paper to identify and reach consensus on the key priority areas and actions for planning reform.

Six key strategic priorities have been identified to improve the functional capability and operational capacity of the planning system:

1. Simplify planning approvals.
2. More effective planning instruments.
3. Prioritise major projects.
4. Integrated co-ordination of infrastructure and land use planning.
5. Develop a comprehensive regional planning framework.
6. Strengthen governance and institutional arrangements.

For planning reform to be effective and based on consensus, there needs to be a broad agreement on these six strategic priorities and the associated actions, the details of which are set out below.

1 Simplify Planning Approvals

The proposed reforms will seek to ensure greater simplification and address some of the problems that have emerged in the planning system in recent years, including:

- complaints of lengthy approval delays;
- lack of reporting timelines;
- complexity of the approvals processes;
- multiple layers in the approvals process;
- a focus on processes rather than outcomes;
- lack of transparency in decisions;
- poor quality development application information;
- inconsistent decisions on proposals;lack of coordination between different approval authorities;

- lack of certainty of application outcomes; and
- lack of clarity as to application assessment criteria.

Reform proposals are to focus on addressing these problems and ensure that:

- the policy and assessment requirements by local government, State agencies and the WAPC are clear and straightforward so outcomes are predictable, and provided proponents submit appropriate application information;
- the level of assessment is appropriate to the scale and impact of the proposal;
- there is consistency of government requirements through the approvals process;
- the community is consulted, proponents are able to respond but community input is managed and focused on planning issues;
- balanced, outcome-focused decisions are made to timelines;
- dual approval process are eliminated as much as possible; and
- the performance of agencies with responsibility for the approval processes is tracked and reported.

Actions currently underway

1.1 Extend the 'short-track' subdivision system

'Short-track' is the WAPC's on-line subdivision referral and approvals system, used to assess and determine urban subdivisions under five lots that meet certain criteria. Short-track is currently underway with six high volume local governments and three State government agencies. Average referral times have been reduced to 18 days compared with statutory referral times of 42 days. Over 1,000 applications have been determined under 'short-track' since the initial trial began. Extension of 'short-track' to further metropolitan councils is under consideration, subject to the agreement of the individual local governments.



1.2 Simplify approvals for multi-unit housing

Streamlining of development approvals for multi-unit development is proposed via the preparation of a Multi-Unit Housing Code. The Code is intended to provide a clearer framework for medium and high density project design and assessment. Preparation of the Code is funded and underway, managed by DPI. The Code should provide both a 'fast-track' deemed to comply approval path and a performance based approval path.

1.3 Provide greater clarity regarding subdivision engineering conditions

Engineering requirements for subdivision development are especially problematic as current WAPC model conditions are generic. In practice, a wide range of standards and specifications are applied, with varying levels of consistency across local government. The Institute of Public Works Engineering (WA Division) Subdivision Guidelines are currently being reviewed, with DPI funding in association with the Western Australian Local Government Association and other industry stakeholders. The new guidelines will provide minimum engineering standards to ensure a greater level of consistency across local government (see Section 1.5).

1.4 Monitor and enforce referrals and response times

The *Planning and Development Act 2005* specifies that State and local government referral advice on a subdivision is to be received within 42 days. Average metropolitan local government response times varied from 32 to 282 days over the 12 month period to November 2008. Response timeframes are currently monitored but not reported, and consideration is being given to DPI providing regular reporting on performance to relevant agencies and local governments, with the objective of receiving over 80 per cent of responses within 42 days. Lagging metropolitan and regional local governments have been contacted, seeking their cooperation in improving response times.

To reduce the number of non-essential conditions, more rigour is required in the number of

applications that are referred to State government agencies, the matters on which advice is provided, the usefulness of their responses and the response times.

Memoranda of Understanding with the Department of Environment and Conservation and the Department of Water need to be reviewed to ensure a more risk-based approach is adopted by these key agencies. Specific resourcing is also required to service planning and land use approvals if performance improvements are to be delivered. Some agencies such as the Department of Health, which receive limited referrals, have limited staff capacity to provide planning referral advice.

1.5 Reduce and simplify model subdivision conditions

Model subdivision conditions are overdue for review, with the objectives of reducing the number of conditions imposed on approvals, standardising and simplifying conditions to core issues, ensuring conditions are specific, so that proponents have clarity of requirements and avoid condition duplication. There needs to be some scope for individual local government conditions to reflect local situations. A DPI review of model conditions will commence in April 2009.

DPI will need to continue to monitor and audit condition requests from referral agencies to ensure consistency with SAT – established criteria for setting conditions. Regular training of State and local government approvals officers is also to be considered.

1.6 Delegate most built strata subdivision applications to local government

It is proposed that most built strata subdivisions be delegated by the WAPC to local government, except where there are matters of regional significance (such as reservations), or matters impacting on Crown land and other specific exemptions where WAPC input is warranted. Delegation to local government, underway via existing legislation (section 16 of the *Planning and Development Act 2005*), will include reporting requirements to enable monitoring of the applications no longer considered by the WAPC.



At present only built strata applications of 5 lots and under are undertaken by local government (by exemption pursuant to Regulation 15 of the *Strata Titles Act 1985*). In addition to the reporting requirements under the proposed new delegation, it would be beneficial to require reporting on all built strata applications determined by local government, as the absence of such data has resulted in an under-reporting of State lot production activity by the WAPC, believed to be around 10 per cent of all new lots created.

This reporting requirement is proposed to be included as part of the proposed amendments to the *Planning and Development Act 2005* to improve the monitoring and reporting of all development applications.

1.7 Fast track public housing works on zoned land

Public housing proposals by the Department of Housing require development approval from the WAPC, as a result of a Supreme Court decision. A trial is underway of compliance certification against the Residential Design Codes and local planning schemes by the Department of Housing (code based self assessment). Successful roll-out of the trial should ensure faster assessment of single and grouped public housing developments, pending a review of public works approvals under region schemes (see Section 1.16 and 2.8).

Recommended priority actions

1.8 Adopt a risk-based approach to development assessment

The current national 'best practice' model for development assessment is the Development Assessment Forum (DAF) 'track-based' assessment model. This model is a risk-based approach for subdivision and development approvals. The level of assessment is linked to the level of complexity, scale and likely impact of the application. A risk-based approach to development assessment streamlines low risk development applications, reducing the time taken for approval.

An assessment needs to be made about the types of developments that are low risk. When applied

in other jurisdictions, the characteristics of a risk based development process have included:

- a questionnaire about the proposal;
- three levels of development assessment:
 - *exempt* in which the application is not required to comply with any codes or standards
 - *self assessable* in which the proposal must comply with any applicable codes or standards
 - *assessable* in which a development permit must be obtained;
- typically a qualified planner would be involved in making application in all categories; and
- local governments may have some discretion to define which development proposals fall into the relevant categories.

The 'track-based' DAF approach is to be delivered via the current review of the Model Scheme Text. There will need to be a transitional arrangement to migrate older (non-standard) planning scheme provisions to a standardised model.

The WAPC, in its assessment of development applications under region schemes, similarly needs to consider adopting a track-based assessment model to differentiate minor from major and high impact applications. A Model Region Scheme Text is also recommended to streamline approval requirements (see also 2.8).

1.9 Adopt a risk-based approach to subdivision assessment

As with 1.8 above, a 'track-based' approach needs to be adopted by the WAPC and local government as practice for the categorisation and assessment of subdivision, particularly for minor strata and green title subdivisions. About 80 per cent of subdivision applications are for five lots and under. However, the remaining 20 per cent of applications account for about 75 per cent of total lots for which subdivision approval is sought.



A 'track-based' approach needs to be accompanied by improvement to the current overly complex legislative and policy requirements. There needs to be less flexibility and more certainty of requirements for minor subdivision applications. In the longer term, review of the *Strata Titles Act 1985* (under the authority of the Minister for Lands) needs to be considered to reduce approvals complexity. Reduction and streamlining of the WAPC policy environment is also required (see Section 2.6).

1.10 Trial subdivision delegation to local government

Consideration is being given to a one to two year trial of delegation of large scale subdivision applications to representative local governments. The purpose is to determine if response times and outcomes can be improved on the current WAPC determination arrangements.

1.11 Simplify and streamline structure plan layers and requirements

Structure plans provide the framework and context for residential subdivision approvals and are useful guidance documents. However, the layers of structure plans have become complex and unwieldy and there is little standardisation. Sub-regional, district and local structure plans may be requested, they may be statutory or advisory, and information requirements may not be appropriate to the scale of the plan. It is recommended that the layers of structure plans for residential development be reduced and standardised, provisions simplified, and more guidance be provided as to the information appropriate to the different levels of plan. Concern has also been expressed by members of the development industry about legal or other agreements being required by local government to secure development betterment as a pre-condition of structure plan initiation.

The WAPC could provide guidance on standardised report formats and the statutory elements of structure plans to ensure consistency, especially for large scale residential subdivisions.

1.12 Avoid dual approvals for structure plans

At present, structure plans generally require the approval of local government and the endorsement of the WAPC. This requirement can be considered a dual approval, although it is reasonable that there is WAPC review when structure planning is the precursor to subdivision. To avoid double handling it is proposed that where possible joint rather than sequential assessment of structure plans by DPI and local government staff occurs.

1.13 Track and monitor structure plans

To enable tracking of approval timeframes through local government and the WAPC, notification to the WAPC that a structure plan has been lodged with the local government is desirable. This will also assist the DPI's proposed Urban Development Program in identifying forward land supply.

1.14 Ensure majority of single houses are planning approval exempt

The majority of single houses should remain exempt from a requirement for planning approval under the Residential Design Codes. The R Codes, in force since 1985 (and preceded by the General Residential Codes in 1966), have been successful in exempting most single dwellings from planning approval. The R Codes is an initiative being adopted in other jurisdictions as part of their planning reform agendas. The WAPC needs to resist requests by local government to require planning approval for single houses under local planning schemes. Local government and the WAPC should make clear to the building industry that no planning approval is required (ie there is a development 'fast-track' option available) if dwellings are compliant with R Code provisions.

There is some risk that the proposed Building Certifiers Bill will result in an increase in planning approval requirements by local government for single houses. Such an outcome would need to be closely monitored and addressed promptly if delays ensue.



1.15 Ensure appropriate information is provided with applications

Delays in the approval process occur when incomplete and incorrect application information is submitted by proponents to approval authorities. Approval agencies need to ensure that information requirements are clear to applicants for both large and small development proposals, and that a gateway process is established to return inappropriate applications promptly. It is not uncommon that consultant and developer proponents provide inadequate advice to demonstrate compliance with assessment criteria. Clear policy and approval requirements are necessary, especially via the WAPC and council websites.

1.16 Simplify and streamline public works approvals

Approval requirements for public works on reserved and zoned land under region schemes are complicated and confusing. A recent Planning Bulletin (No. 94) has attempted to clarify the situation. However, provisions under region schemes need to be standardised. A Model Scheme Text for region schemes is considered desirable (see Section 2.8). The scope of exempt developments in region schemes could be widened, especially for public works. Legal clarification is also required of the status of government trading bodies in developing public works.

1.17 Abolish dual approvals for development

An inherent characteristic of WA's dual region scheme and local planning scheme approach is that dual approvals are required for some developments under a region scheme (from the WAPC) and under the relevant local planning scheme (from the local government). There are opportunities for decisions to conflict, with resolution then required via the State Administrative Tribunal. In such cases, particularly with regard to matters of State or regional significance, dual approvals need to be eliminated. 'Call in' powers for the Minister for Planning and the WAPC for matters of State and regional significance respectively, in part to avoid dual approvals, needs to be considered and would

have to be implemented via legislative change (see Section 3).

Legislative review may also be required around the need for the referral of minor matters to ancillary Committees, such as the Swan Valley Planning Committee.

1.18 Development Assessment Panels

In cases of major projects that are likely to face significant approval delays and may be highly contentious, and in cases where major projects are proposed but there is limited local government technical capacity to undertake an appropriate level of assessment, Development Assessment Panels are being considered, as have been established in other States. Development Assessment Panels would include elected representatives as well as independent experts.

1.19 Development decisions tracked and reported

The number of State and local government approval applications, decisions, and decision timelines, including where delays are due to proponents, need to be collected and reported to ensure that claims of approval delays or efficiencies can be verified, and to allow benchmarking of approval agencies. WA has poor reporting standards relative to the other States, compounded by local governments' use of differing software systems. The long term rollout of Electronic Development Assessment (eDA), initiated but not fully funded by the Commonwealth, would appear to be the best approach to approvals reporting. In the short term, voluntary reporting by local government to the Minister for Planning via the WAPC on approvals volume, cost and performance is supported. In the longer term, legislative change that would introduce mandatory reporting may have to be considered.



2 More Effective Planning Instruments

The current range and multiple layers of planning instruments adds to the complexity of the planning system and reduces its effectiveness through overlapping and at times ambiguous requirements. There has also been a lack of enforcement in application.

The basis for improvements for more effective planning instruments are:

- State and local government policy and assessment requirements are clear;
- the policy framework is less complex, focused on critical issues and only changes through a consultative process;
- local planning schemes are updated on their 5 year timeframes and are more consistent especially in process matters;
- region schemes are standardised and simplified; and
- there is scope to initiate local planning scheme amendments, particularly to achieve strategic outcomes.

Actions currently underway

2.1 Rewrite the Model Scheme Text based on Development Assessment Forum principles

The current review of the Model Scheme Text (MST) will simplify provisions, improve consistency and support reduced timeframes for local planning scheme reviews. The MST review is likely to incorporate planning procedures in regulations and extend the range of exempt developments. The effectiveness of the new MST will rely on the WAPC and Minister for Planning enforcing standard provisions to ensure consistent process and definitional requirements, and local governments agreement to forgo some flexibility to achieve a greater level of consistency and efficiency.

A staged review and update of Schemes to a new Model Scheme Text format and content, and transitional provisions to deal with any matters included in regulations, will be necessary.

2.2 WAPC to gazette schemes and amendments at final approval

Prior to the *Planning and Development Act 2005* the gazettal of local planning schemes and amendments after final approval by the Minister for Planning, was undertaken by the WAPC. Under the new 2005 Act gazettal is to be undertaken by local government. There have been delays impacting on landowners as the effective date of an amendment or scheme is the gazettal date.

Gazettal is also an administrative burden on local government. This initiative would require a minor legislative change and has the added benefit of addressing a current inconsistency between the Act and the planning regulations.

2.3 Regulatory gateway process for new planning legislation, including regulatory impact assessment statements

As part of a wider government regulatory reform process, regulatory impact statements are to be required for all new government legislation and regulation. This will ensure that the impact on the business and wider community is taken into account in the development and delivery of new planning and associated land use legislation.

2.4 Restrict pre-selling of lots

Through 2005 to 2007 when lot shortages emerged, there were a significant number of cases of lots being sold 'off the plan' in advance of application for subdivision approval. Due to lots being sold so early in the development process, and approval and construction delays, contracts of sale were lapsing, leaving some consumers without a secured lot at a time of rising prices. This outcome resulted in a number of disadvantaged consumers and complaints to the Department of Consumer and Employment Protection.

In addition, some developers sold lots that were subsequently modified in size or not approved. To provide more certainty to consumers it is proposed to amend section 140 of the *Planning and Development Act 2005* to stop the pre-selling of more than two lots prior to the issue of conditional subdivision approval.



Recommended priority actions

2.5 Integrate State planning and environmental approvals and appeals processes

There is significant overlap and duplication between planning and environmental legislation (and also between Commonwealth and State environmental legislation). The legislative amendments introduced to the *Environment Protection Act 1986 (EP Act)* in 1996 are not considered to have succeeded in integrating approvals nor in providing certainty. The EP Act is considered to be more powerful than the planning legislation and, as a result, environmental considerations tend to predominate in determining planning outcomes. The State government has announced a high level Ministerial Taskforce to review all environmental legislation and approvals processes, and it is desirable that this Taskforce also review the relationship of the EP Act to the *Planning and Development Act 2005*. Legislative reform may also consider integrating environmental appeals with the State Administrative Tribunal.

2.6 Reduce policy complexity

Policies are an integral part of the planning system. However, the current policy environment that relates to approvals is complex, overlapping and in places conflicting. There are cases of inconsistencies between policies of the WAPC and local governments and also between policies of the WAPC and other State government agencies. A number of WAPC policies are out of date and require review, particularly in relation to subdivision and structure planning. Local government planning policies may also have wide ranging and significant impacts on approvals processes and housing affordability, and may undermine State Planning Policies.

There is a need for guidelines for State government agencies on the procedures for making and amending policies that impact on land use decisions, including mandatory consultation. All policies relating to land use and housing need to meet the legal tests set by the State Administrative Tribunal – that is: be reasonable, based on sound planning principles, clear and precise, realistic and able to be implemented.

The Model Scheme Text review should also consider limits to the scope of local planning policies that unreasonably impact on land and housing affordability.

2.7 Extend the scope of minor amendments under the region schemes

The minor amendment process is significantly quicker than the legally prescribed major amendment process. There have been complaints from the development industry about the long timeframes and complexity of the major amendment process. Consideration is being given to the WAPC reviewing its policies on criteria to differentiate between minor and major amendments. In particular, there is a need to differentiate where the amendment is based on a plan or policy of the WAPC that has already been through a lengthy adoption process, including extensive public consultation.

It is important to note that minor region scheme amendments require only Ministerial approval and are not tabled in Parliament for debate, unlike major amendments. While this change would represent another reduction in approval time, it would be at the cost of less Parliamentary (and therefore) public scrutiny.

To reduce region scheme amendment timeframes, consideration is to be given to removing the opportunity for hearings for minor region scheme amendments, as hearings can add several months to processing times.

2.8 Model Scheme Text for region schemes

A Model Scheme Text for region schemes is considered to be desirable, especially as the number of region schemes is proposed to increase. Standardisation is desirable for ease of approval and administration. The Metropolitan Region Scheme Text requires review, as its approach differs from the Peel and Bunbury Region Schemes in the way matters are delegated and some simplification is desirable.



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

The framework for local planning schemes is the Local Planning Strategy. Strategies are taking long periods to prepare and approve and are becoming overly complex and descriptive. Greater support from DPI for local governments preparing strategies, particularly in the regions, would assist, both via staff assistance and provision of standard mapping and information (such as demographic) packages. The Local Planning Schemes Manual is also overdue for updating.

2.10 Initiation of local planning scheme amendments

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 (SAT), the WAPC or the Minister for Planning. This outcome would not be an issue if schemes were reviewed promptly every five years as required, as both the Minister and the WAPC have the opportunity to indicate and direct areas that require review, including to address the implementation of State strategic objectives. However, delays with scheme reviews are resulting in lags in addressing growth and change. There have been suggestions from the development industry that there needs to be a right of appeal to the SAT on refused amendment requests. In other States, there is the power to amend local schemes to ensure compliance with State strategic policies (eg New South Wales). The preference would be for Schemes to be reviewed comprehensively every five years, rather than allow for iterative change via the SAT, especially to implement State strategic policies (see Section 2.11).

The standardisation of Schemes via the Model Scheme Text review (refer 1.8) seeks to support more timely Scheme reviews. Consideration is also being given to a requirement for local government to report refused amendment requests to the WAPC for reporting to the Minister.

2.11 Consider reducing amendment consultation timeframes

To reduce amendment timeframes, consideration could be given to reducing the public advertising periods for amendments to region schemes from three to two months, and for local planning schemes from 42 to 30 days.

2.12 Provide mechanisms for the statutory implementation of strategic policies

There are few mechanisms available to the WAPC to implement strategic policies. Implementation opportunities include a review of local planning schemes or the establishment of Planning Control Areas. However, the delivery of long standing WAPC policies has been incremental and scattered. The NSW planning system allows for the delivery of strategic policies to be implemented through local planning instruments. There may be opportunities for State Planning Policies to be more specific and place based, with automatic inclusion in local planning schemes to ensure that state strategic objectives are delivered (see Section 4.7).



3 **Prioritise Major Projects**

The approval process has tended to focus on process issues rather than outcomes. Projects of State and regional significance have not been prioritised and managed through the relevant approvals. The WA planning system currently has limited legislative capacity to escalate major projects of either State or regional significance for prioritized consideration and determination by the State government.

The proposed reforms are to identify and prioritise major projects, avoid dual approvals, and ensure appropriate consultation for projects of regional and State significance.

Actions currently underway

3.1 Establishment of an industry advisory group on the approvals processes for major resource development projects. Transfer of the Office of Development Approvals Coordination to the Department of State Development.

The industry advisory group is made up of twelve expert members and is due to report in April 2009 on a number of measures to improve the approvals processes in the resource sector. The Office of Development Approvals Coordination was established in 2004 to implement the Keating Report reforms for major resource projects.

Recommended priority actions

3.2 Call in powers for major land and housing projects of State and regional significance

In most other States the Minister for Planning has the capacity to 'call in' major land and housing supply projects or those of State (and in some cases) regional significance. This reform has been seen nationally as critical for the delivery of projects that are essential contributors to State economic and community outcomes.

In Western Australia, the Minister only has the power to call in, and determine, an application

where there has been an application to the SAT for review (Section 246 *Planning and Development Act 2005*) and where the Minister is of the view that the application raises such issues of State or regional importance that his/her determination would be appropriate.

In areas where there are region schemes (currently Perth, Peel and Bunbury) there are provisions under the respective delegation notices for the WAPC to request in writing that local government 'returns' matters of State or regional importance, or those in the public interest, for determination under that region scheme (that is the delegation to local government under the region scheme is withdrawn). This approach has two drawbacks – first, the WAPC needs to be aware of the project to enable it to request such an application be returned for approval and, second, an approval is still required under the local planning scheme.

Call-in powers would have to give the relevant decision-maker approval powers under the local planning scheme, or otherwise remove the need for approval.

Greater clarity as to matters constituting regional and State significance would be necessary, and projects could be identified by location, cost or land use type. Projects may include both public works (for example, infrastructure projects such as region serving waste water and water infrastructure, and private works such as major district and regional centre expansions and major housing projects), and developments generating significant employment.

3.3 Consider options for the management of major land and housing projects across Western Australia

There is a need for major land and housing developments to be given a priority application path while still meeting legislative and approval requirements. Within DPI's statutory approval teams there are officers assigned to focus on larger projects, especially those that deliver residential and industrial land. However, a wider framework for management, coordination and approvals delivery for major projects is currently being considered by the Department of Premier and Cabinet as part of the broader approvals reform agenda (discussed in Section 3.1 and 3.2).



4 Integrated Coordination of Infrastructure and Land Use Planning

Building a Better Planning System aims to deliver an integrated and systematic approach to infrastructure provision and land use planning, especially economic infrastructure, to support job creation and make the most of opportunities that emerge in the next economic upswing.

Under the current planning system:

- there is no capacity for the staging of infrastructure priorities within the State budget processes. The lack of this inherent ability means that the prioritisation of infrastructure expenditure cannot be staged in any systematic way, but is instead considered on a project by project basis;
- through the Metropolitan Development Program, infrastructure service providers have an unreliable source of land information and capacity for site location and management; this lack of capacity results in a duplication of effort and less than best choice for site locations. The proposed reforms are focused on developing a far more effective framework for infrastructure coordination and integration within the State budget processes;
- at the local government level it has long been recognised that there needs to be a more equitable distribution of the cost of the provision of social and community infrastructure between developers and local governments and State and local governments; and
- adapting to climate change also provides longer term challenges for infrastructure provision in terms of locality, durability and suitability. For example, the consequences of climate change include rising sea levels affecting coastal communities, weather extremes, potential population and industry location.

Actions currently underway

4.1 The development of a State Infrastructure Strategy to identify and coordinate government infrastructure expenditure priorities

Currently, Western Australia does not have a longer term and integrated approach to the provision of infrastructure. The intention is for the State Infrastructure Strategy to identify and plan for both social and economic infrastructure. In doing so, the Strategy will provide for an appropriate role for the State government, private companies and local government.

4.2 An effective process to ensure that the State is able to maximize its share of major infrastructure projects that attract Commonwealth funding

The State government has established an inter-agency group to identify and coordinate the State's submissions to the Commonwealth government for infrastructure funding. In November 2008 the State made a formal submission and has five projects short-listed for Commonwealth funding through the Building Australia Fund announced in December 2008.

4.3 The development of a more comprehensive and reliable information land management program through the replacement of the Metropolitan Development Program with the Urban Development Program

Through the Infrastructure Coordinating Committee of the WAPC, a review of the Metropolitan Development Program has been completed and has identified the way forward in developing the Urban Development Program. The new program will provide more accurate and comprehensive information on land use and will allow for the coordination of infrastructure provision.



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

A formal developer contributions policy in which local government can share the cost of providing community infrastructure has long been recognized as a necessary requirement for consistency and transparency in the introduction and application of developer charges.

The policy is under development following a joint study by the Urban Development Institute of Australia, the Western Australia Local Government Association and the Department for Planning and Infrastructure.

Recommended priority actions

4.5 Preparation of a State Development Plan to give a spatial context to the State Infrastructure Strategy and prioritize regional planning needs

A whole of State development plan will not only provide the community with a vision for the future but will also allow for the identification of needs and priorities that can be linked to the State budget processes.

4.6 Provision of adequate and reliable funding sources for strategic land acquisitions in regional schemes to enable future infrastructure development

In the Perth metropolitan region, the Metropolitan Region Improvement Tax is used to purchase land for the provision of transport corridors, public open space and infrastructure needs. Land acquisitions have become an issue of high strategic importance, with the establishment of two regional planning schemes under the *Planning and Development Act 2005*. The Peel Region Scheme came into effect in March 2003 and the Greater Bunbury Region Scheme in November 2007. Both region schemes include reservations over land required for regional open space and infrastructure, such as regional roads, railways, education and public utilities.

The effective implementation of these regional schemes, enabling orderly planning for rapid growth, requires an effective funding arrangement to be put in place for the acquisition of open space and strategic land.

4.7 Review the development and processes of State Planning Policies and operational policies to determine their effectiveness in delivering and supporting the government's strategic priorities

There is a large number of planning policies and planning bulletins issued by the WAPC, many of which are no longer relevant or of strategic importance. As part of the planning reform process it is proposed to review all of these policies (and associated bulletins), with the intention of improving the strategic capacity of the planning system by making it more streamlined and relevant (see also 2.10).

4.8 Develop a strategic response to climate change as part of the State Infrastructure Strategy

Climate change will have a major impact on the location of people, industries and communities. The planning system needs to have the strategic capability to respond to climate change. Issues include the location of coastal communities, the suitability and location of infrastructure and industries and improved sustainability in planning codes and practices.

It is proposed that climate change issues be an important consideration in the development of a better planning system.



5 A Comprehensive Regional Planning Framework

The principal governing legislation – the *Planning and Development Act 2005* – provides for the creation of a regional planning framework through regional schemes. So far, there have been only three regional schemes – the Metropolitan, Peel and Greater Bunbury Region Schemes. These schemes are a highly effective way of focusing on regional development and regional issues. However, strategic planning in metropolitan Perth and Peel and in many of the regions has fallen behind the pace of development.

The basis of improvements to ensure a comprehensive regional planning framework is to focus on the development of the regional planning framework through the establishment of regional planning committees in areas of the State under pressure either due to (past or present) growth pressures or conflicts in land use. Regional planning committees have within their charters to determine if a region planning scheme is required.

Actions currently underway

5.1 Develop regional planning in high growth regions or regions of State importance

There is some argument that there has been too heavy a focus on planning for metropolitan Perth and that planning for regional Western Australia has been neglected. Particularly in areas of the State that are resource rich or where there are competing land use demands.

In December 2008 the WAPC resolved to establish regional planning committees for the Kimberley, Pilbara and mid-West regions. The committees are established under the *Planning and Development Act 2005*, and provide for both local and State representation. The role of the regional planning committee is to advise the WAPC on planning for or part of the relevant region, and on the need for, and extent and content of, region planning schemes. The committees may also perform some functions of the WAPC.

The committees may seek through a region scheme to reserve land for long term public infrastructure and if this was to occur, a funding source would be required (see also Section 4.6).

Recommended priority actions

5.2 Prepare and regularly review growth management strategies for the metropolitan growth corridors and Peel Region

Growth management plans for the major metropolitan growth corridors and regional centres should be prepared and reviewed every five years. Growth management plans should be accompanied by infrastructure strategies that provide clarity on the timing and nature of infrastructure provision. The lag in resolution of strategic planning issues exacerbated delays in land release during the housing boom years. It is critical that strategic plans are delivered to timelines, and reviewed by the WAPC regularly, ideally every five years.

5.3 Develop a strategic vision and plan for Perth

Western Australia's future growth and prosperity is dependent on Perth as a capital city being globally attractive as a place to visit and live. An inspirational vision is needed to give Perth a global identity. The existing Network City policy needs to be recast to deal with the current economic environment, to set a clear vision for the broader metropolitan area, and to be delivered by a focused implementation strategy. Revision to the WAPC's Metropolitan Centres Policy is being undertaken as an urgent priority.

5.4 Target smaller regional centres under pressure

There are cases where smaller regional centres require focused attention to deal with issues of growth and land use conflict. Port Hedland is an area that has required extensive coordination of public and private infrastructure delivery and a cross government approach to delivering development across a range of regulatory (native title, planning and environmental) constraints.



DPI's capacity to target and assist local centres is limited, given its wider obligations to assist in the preparation of Local Planning Strategies for the 139 local governments. A specific and separately funded Local Government Assistance Fund may be warranted. This Fund would continue the work of the Local Government Assistance program, funded for 2007/2008 only, and supplement the federal government's Housing Affordability Funding.

5.5 Develop a strategic vision and plan for the State

The State Planning Strategy is overdue for review and update to provide a strategic framework for the development of the State's urban and regional areas.



6 Strengthen Governance and Institutional Arrangements

An effective planning framework is built on sound partnerships and effective governance. The intention of *Building a Better Planning System* is to strengthen the partnership and governance arrangements by removing any ambiguities and overlaps and assign clear responsibilities.

The current role of the WAPC in the governing legislation – the *Planning and Development Act 2005* – needs to be clarified with the role of its service agency to ensure that the WAPC deals with matters of high strategic importance rather than focus on what can be considered operational matters. The lack of boundaries and focus has resulted at times in ad-hoc strategic policy development and operational dysfunction. For example, there has emerged a deficiency in the integration of land use planning and the coordination of infrastructure service provision that corresponds with an ineffective governance arrangement through reliance on an informal committee approach and a survey of developer intentions that does not provide sufficient information for reliable forward planning.

The governing legislation also provides for a number of statutory committees. There is a need to review the effectiveness of these committees, which are:

- a) the Infrastructure Coordinating Committee;
- b) Coastal Planning and Coordination Council;
- c) Sustainable Transport Committee;
- d) Statutory Planning Committee;
- e) Executive, Finance and Property Committee;
- f) regional planning committees; and
- g) district planning committees.

The role for local government in the planning process also needs to become more focused and consistent. For example, there are variations in town planning and civil engineering requirements which result in higher costs. Local governments have also found it difficult to meet the demands of an increasingly complex planning environment. There may be resistance to significant local

change by refusal to initiate local planning scheme amendments that deliver State government strategic objectives.

There is an emerging need for the education of local government councillors and staff to help them keep abreast of the changing planning environment.

The development of regional Western Australia calls for a new governance model to ensure that regional communities are partners in regional development and the planning system. This need is made clear in the problems that have merged in the provision of housing and economic infrastructure in regions experiencing strong economic and population growth.

An effective disputes resolution mechanism is an important part any governance arrangement, as it not only supports the principle of fairness but provides an important measure of the effectiveness of the planning processes.

Actions currently underway

6.1 Implementation of the Memorandum of Understanding (MOU) between the WAPC and the DPI will clarify the roles of the WAPC and the agency

The MOU has three components:

- Single Planning Program;
- Service Level Agreement; and
- Annual Business Plan.

Through these components, there will be greater consistency in strategic priorities, service levels and expenditure.

6.2 Development and implementation of a new governance framework for the management of regional schemes, including regional planning committees and delegated authority, is underway

As noted in Section 5, the WAPC is in the process of establishing additional regional planning committees.



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

A recent initiative has been to make available decisions made by the WAPC on its website, and to enable 'in person' submissions to the Commission on certain issues.

6.4 Establishment of a joint training program for elected members of local governments in partnership with the Western Australian Local Government Association and local governments on the planning system and processes

Elected members of local government come from diverse backgrounds and training programs in the planning system will improve the system of governance, planning processes and decision-making.

Recommended priority actions

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

As discussed in Section 2, there is significant overlap and duplication between planning and environmental legislation. The State government has announced a high level Ministerial Taskforce to review all environmental legislation and approval processes and it is considered desirable for the Taskforce to review the relationship between the environmental legislation and the planning legislation.

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

There is a perceived need to assess the effectiveness of the dispute resolution mechanism applied by SAT. An alternative would be to have a special planning/environmental appeals process.

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

As discussed in the introduction, the WAPC has seven committee structures and advice and comment is sought as to their structure, operation and effectiveness.

6.8 Institutional change to strengthen and focus the functional approach to planning and infrastructure coordination

There is a need for the community to have confidence in the planning system. An overview of the planning system is provided in the *Appendix* to guide analysis and comment.

6.9 In conjunction with the Department for Environment and Conservation and the Environment Protection Authority, negotiate a path for the integrated assessment of land release areas with the Commonwealth government under the Environment Protection and Biodiversity Conservation Act 1999

The need for environmental approval under Commonwealth legislation can remain an impediment to planning approval and result in delays or refusal. As part of an integrated approach to planning there is a perceived need to integrate State and Commonwealth approval processes



Case Study of Strategic Renewal MDP Review

An example of the need for a structured evaluation of planning instruments and reform for strategic purposes is the recent review of the Metropolitan Development Program (MDP) conducted by the Infrastructure Coordinating Committee of the WAPC.

The MDP was established in 1991 as a mechanism to provide direction and coordination of public and private sector investment in land development, housing and infrastructure. The Program covered the Perth Metropolitan area and was expanded to include the local government areas of Mandurah and Murray in 1993/4.

The MDP operates under the State Planning Strategy and is prepared in terms of the statutory role of the WAPC to advise government on land use planning and the coordination of services and infrastructure provision throughout the State.

The MDP is endorsed by the WAPC's Infrastructure Coordinating Committee (ICC), comprising representatives of local government and infrastructure agencies and has three main roles:

- identify and monitor past, current and projected residential development activity and the provision of associated essential services and community infrastructure within a five-year time horizon;
- monitor residential growth and infrastructure development trends to inform urban growth management policy; and
- provide data about the likely future development of Perth/Peel, as a reference for infrastructure agencies to plan their networks and capital works.

A 12 month review of the MDP by an inter-agency group of infrastructure service providers was completed in August 2008. The review was commissioned and its findings and recommendations endorsed by the ICC. The Report recommends the development of a new State-wide, integrated strategic land and infrastructure framework that:

- provides for a comprehensive land information and management program;
- provides for the necessary processes to secure and record information on all stages of the land development process, including MRS amendments, structure plans and rezoning, including systematic GIS capture;
- gives a spatial dimension to State infrastructure expenditure in the budget process and provides for a priority ranking of expenditure;
- considers the integration of the MDP, Country Land Development Program and Industrial Land Development Program;
- enables and supports existing planning and infrastructure policies by giving a spatial context to land development in accordance with those policies;
- reviews and aligns existing programs and policies; and
- strengthens and makes more effective the governance framework and applies best practice strategic planning.

These recommendations are in the process of being implemented through a new strategic program to be called the Urban Development Program or UDP which is to have a State-wide focus.





APPENDIX
The Western Australian
Planning Framework





Overview of the WA Planning Framework

1. Current planning framework

The current planning system in Western Australia consists of the:

- **State planning framework** which sets out the general principles for planning and development and brings together existing State and regional policies, strategies and guidelines into a central, comprehensive framework.
- **Regional planning framework** comprising regional strategies (which provide the broad framework for planning at the regional level and the strategic context for local planning schemes) and region schemes (which provide the statutory mechanism to implement regional strategies, coordinate the provision of major infrastructure and set aside areas for regional open space and other community purposes).
- **Local planning framework** comprising local planning strategies which set out the general aims and directions of local governments for planning in their areas. Strategies are particularly important in interpreting State and regional policies at the local level and providing the rationale for the zones, reservations and planning controls in the local scheme. Local planning schemes provide the statutory mechanisms for local governments to implement local planning strategies through zonings, reservations and planning controls.

This system of planning is underpinned by planning legislation. The *Planning and Development Act 2005* (PD Act) sets out the functions of the Minister, the Western Australian Planning Commission (WAPC) and local governments as well as, the statutory powers for the adoption of planning instruments and the approval processes which implement the plans and policies.

2. The WA Planning Model

The 'WA model' is the Minister for Planning, Department for Planning and Infrastructure (DPI) and the WAPC working together on planning issues where the WAPC's functions and resources are employed in accordance with government and WAPC policy, and where the DPI provides both the professional planning and the administrative support to achieve the government's and/or the WAPC's desired outcomes.

Specifically, the WA planning system is regulated on three levels:

- Minister for Planning;
- WAPC; and
- local government.

2.1 Minister for Planning

The Minister for Planning is the State government's elected representative and has the ultimate authority for planning in Western Australia. The Minister is responsible for:

- overseeing the administration of planning agencies;
- maintaining and reviewing planning legislation;
- directing statutory and strategic planning matters;
- approving regional planning schemes and local planning schemes; and
- approving some planning policies.

2.2 Western Australian Planning Commission (WAPC)

The WAPC has 45 years of operation as the custodian of the planning system. It provides advice to the Minister for Planning and is the responsible authority for land use planning and development matters.

The functions of the WAPC include: determining all subdivision applications; administering regional planning schemes like the Perth Metropolitan Region Scheme; and, recommendations to the Minister on local planning schemes. To help in its roles, the WAPC has a number of specialised committees that make decisions on its behalf.



The DPI provides professional advice and administrative services to the WAPC and, where appropriate, implements the WAPC's decisions. The Department for Planning and Infrastructure has a Perth office and regional offices in Bunbury, Albany, Geraldton, Kalgoorlie and Broome.

The WAPC may delegate some of its functions to officers of DPI. This delegated authority includes decisions on some subdivision and development applications, when they comply with the WAPC's policies and practices.

2.3 Local government

There are 139 local governments in Western Australia. Local governments are responsible for planning their local communities by ensuring appropriate planning controls exist for land use and development. They do this by preparing and administering their local planning strategies and schemes.

In the Perth region and in areas subject to regional planning schemes, local governments are required to ensure their local planning schemes and policies are consistent with State and regional planning objectives and requirements.

Essentially, local governments are responsible for establishing planning controls for matters such as appropriate land uses and residential densities. Local governments must base their planning decisions on the provisions and controls in their local planning scheme(s), which must be reviewed every five years.

The WAPC has delegated to local government the quasi-judicial power to determine some development applications under the Metropolitan Region Scheme. Local governments are also invited by the WAPC to comment on subdivision proposals and planning policies that guide decisions on subdivision or development matters.

3 Principal Acts

There are a number of Acts that give effect to and enable the operation of the planning system.

3.1 Planning and Development Act 2005

The *Planning and Development Act 2005* is the principal town planning legislation in Western Australia and came into operation on 9 April 2006. The Act is an enabling piece of legislation which brings together three former separate Acts, namely the:

- *Western Australian Planning Commission Act 1985*;
- *Metropolitan Region Town Planning Scheme Act 1959*; and
- *Town Planning and Development Act 1928*.

This consolidation has streamlined the WA planning legislation, making it more accessible to users and providing greater consistency and certainty when making decisions on sustainable land use and development. It introduces new definitions and removes redundant definitions and processes for greater understanding and consistency.

There are also a number of improvements to key planning processes for making or amending a planning scheme. It extends consultation requirements and rights of review for greater transparency, fairness and equity.

For more information on the *Planning and Development Act 2005*, refer to the WAPC's Planning Bulletins 76, 78 and 81.

3.2 Town Planning Regulations 1967

These town planning regulations prescribe the procedures for initiating, preparing, advertising and approving local planning schemes and scheme amendments. The Model Scheme Text provisions are an appendix to these regulations. As part of the Model Scheme Text review these regulations are being revised.

3.3 Town Planning and Development (Subdivision) Regulations 2000

Town Planning and Development (Subdivision) Regulations 2000 relate to the subdivision (including survey-strata subdivision) of land process provided for under the *Town Planning and Development Act 2005*. These regulations have been updated and consolidated and will soon be forwarded for promulgation.



4. Strategic Planning Framework

- ◆ The *State Planning Strategy 1997* is a land use planning strategy to 2029. The Strategy is not a fixed blueprint, but provides a framework for strategic planning based on five core principles:
 - i) environmental principle;
 - i) community principle;
 - i) economic principles;
 - i) infrastructure principle; and
 - i) regional development principle.
- ◆ State Planning Policy No 1 – further defines the five key principles of the State Planning Strategy.
- ◆ *State Planning Policy Urban Growth and Settlement 2006* aims to facilitate sustainable patterns of urban growth and settlement by setting out the requirements of sustainable settlements and communities and broad policies to accommodate growth and change. The framework relies heavily on local government planning strategies and local government planning schemes.
- ◆ *Network City 2005*, an aspirational development plan for the metropolitan Perth and Peel region, is designed to realise the integration of land use and transport networks within established and new areas. Network City aims to achieve this focusing on three strategic objectives:
 - development of activity centres;
 - development of activity corridors; and
 - transport-oriented development.

There are 14 specific Network City spatial plans and strategies which relate to infrastructure provision and spatial planning. These include:

- Priority Strategy 1–1: foster land use and transport integration;
 - Priority Strategy 1–2: provide 60 per cent of dwellings in required urban areas and 40 per cent in new growth areas; and
 - Priority strategy 1–3: manage urban growth to limit urban sprawl through staging of development.
- ◆ The Metropolitan Development Program, an information database to enable land and residential development.

- ◆ The Country Land Development Program (CLDP), similar to the MDP for country regions.
- ◆ The Industrial Land Development Program (ILDP) to enable the development of industrial land in the Perth/Peel region.

5. Integrated Project Approvals System

In 2003, the State government endorsed the Independent Review Committee's Review of the Project Development Approvals System recommendations, known as the Keating Reforms. The centrepiece of these reforms is the Integrated Project Approvals System (IPAS).

Projects under the State Development portfolio are the prime focus of IPAS, mainly major mining and petroleum projects. Projects not intended to be included under IPAS are large urban subdivisions, shopping centre developments and urban infrastructure, which will all continue to be dealt with under the current planning system.

The IPAS is designed to enhance the State's project approval system by introducing new processes like project screening and scoping, together with a stronger focus on regional planning, local government engagement and improved governance arrangements. The project screening and scoping phases of the IPAS ensures issues are identified and dealt with promptly.

6. Structure plans

Structure plans are an integral part of the planning process. Although not always a statutory requirement, they provide a framework for the coordinated provision of services, infrastructure, land use and development. They are also used by the WAPC and local governments to help make decisions about the subdivision and development of land.

Structure plans are being used increasingly by planners to help coordinate land use and development. They help planners consider rezoning, subdivision and development applications. The WAPC has adopted structure plans for various parts of the State. They highlight the opportunities and constraints in the area of the plan and can provide the basis for amendments to local planning schemes.



Regional structure plans set out the long term spatial framework for land development. The plans identify land for public, conservation, infrastructure and development purposes and provide a level of certainty for both the development industry and decision-makers. Regional structure plans require constant review to ensure that government decisions, such as the expansion of road and rail networks, new health and education services and water and land conservation measures, are accounted for and suitable sites are identified and protected. Regional structure plans also need to reflect changing community needs in response to changes in demography, population growth and industry composition.

District structure plans show in more detail the general pattern of land use in part of a region. They provide guidelines for comprehensive planning and the development of a region, including: information on opportunities and constraints on development; location and density of residential areas, location of industrial and commercial areas, details of retail strategies and a hierarchy of commercial centres; and the location of community facilities, school sites, open spaces and details of transport networks. District structure plans are generally prepared by local governments in consultation with the DPI.

7. Planning Schemes

Major region scheme amendments are initiated by resolution of the WAPC and are based on a highly prescribed consultative process, including a requirement for referral to the Environmental Protection Authority for consideration of the need for an environmental assessment. Major region scheme amendments must be put before Parliament and may be subject to disallowance approval by the Governor. Major region scheme amendments typically take up to 18 months to complete. Where formal environmental review is required, the time taken is much longer (at least three years). Region scheme amendments are subject to comment from affected land owners and infrastructure providers. Region schemes are initiated at the instigation of land owners, local government councils and by the State government to ensure long term land supply and the reservation of land for public purposes or in response to

development pressure.

Local planning schemes are initiated by local government and are subject to a process of public consultation before submission to the WAPC for approval. DPI officers working under delegated powers of the WAPC provide advice to the Minister, who may approve or disapprove schemes and amendments to them. Amendments to local planning schemes relate to appropriate zoning to support the proposed development. There may also be the need for an environmental assessment. Local planning scheme amendments are not subject to statutory timeframes; however, there is a target of 90 days for the approval process within DPI.

Subsequent to the approval of a local planning scheme amendment, an approved **local structure plan** is often required. Local structure plans are generally required for new urban developments or for existing urban land where there is a need to coordinate planning and development between separate landowners. Local structure plans require a higher degree of spatial detail compared to regional and local planning schemes. There is no requirement for Ministerial approval of local structure plans; however, decisions made by the WAPC and local government can be subject to an appeal to the State Administrative Tribunal. Due to the broad scope of interests in the land use planning system, there is potential for conflicting requirements between different planning policies and plans. This is addressed to some extent through the extensive use of discretionary powers, rather than through prescriptive criteria.

8. Inclusions

A summary of the metropolitan planning process is presented in Chart 1

A summary of the infrastructure planning coordination hierarchy within the State government is presented in Chart 2.

A general glossary of planning terms is attached as Table 1.



Chart 1 – Metropolitan Planning Process

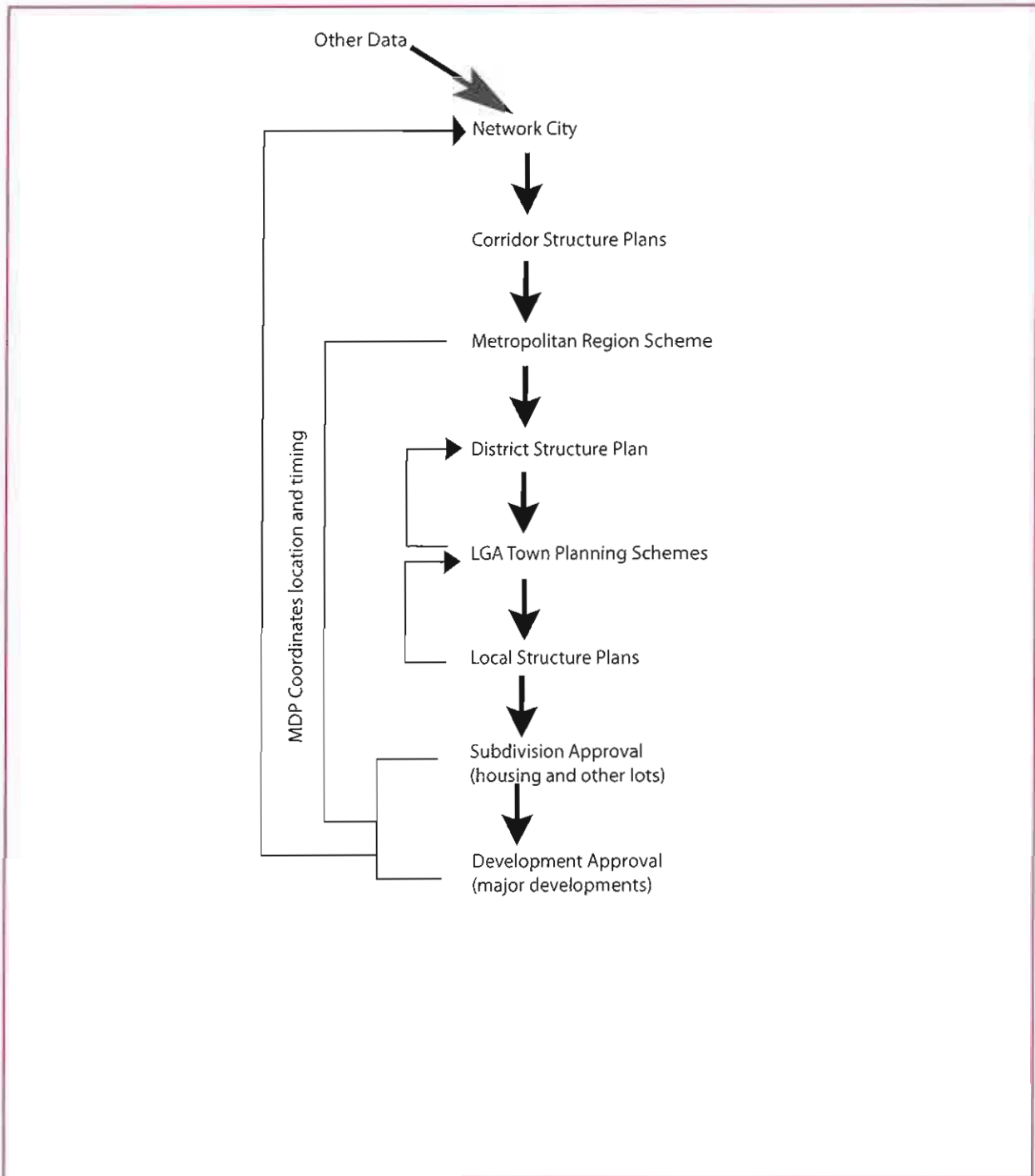
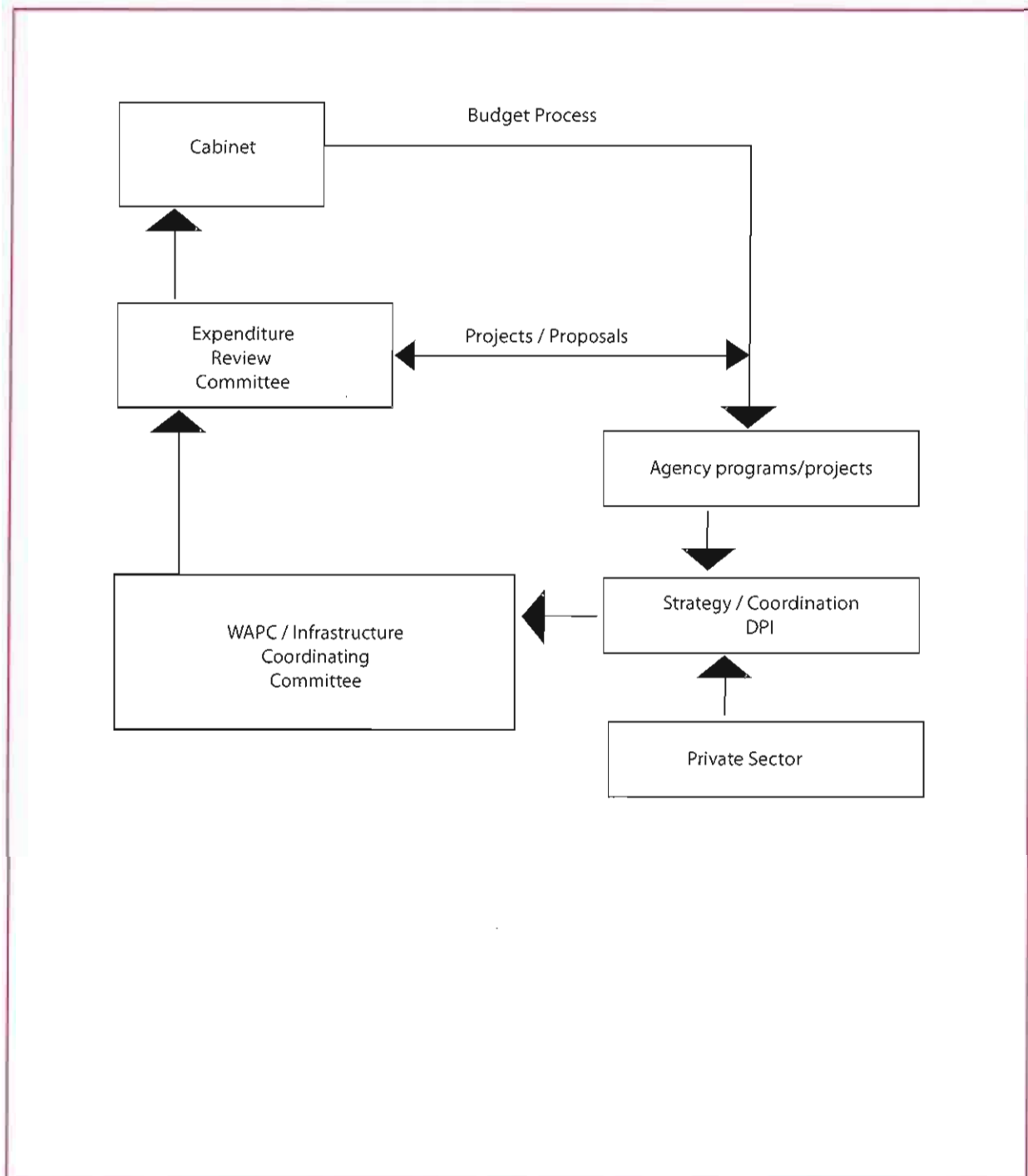




Chart 2 – Infrastructure Planning Coordination



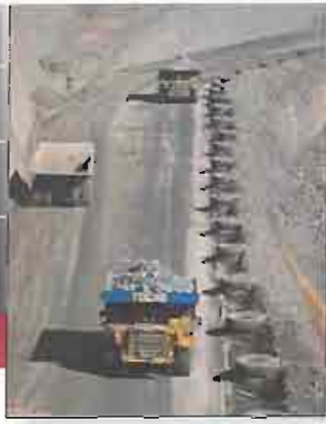


Table 1 – Glossary

Amalgamation

The act of combining two or more lots into one lot on one Certificate of Title.

Application

A formal request made in accordance with regulations for a decision by a responsible authority.

Certificate of Title

A certificate created for registration under the *Transfer of Land Act 1893*.

Crown Grant

A legal document issued in the name of Her Majesty, which transfers a defined portion of Crown land in fee simple, to the person named, after certain conditions are met. It may set out restrictions on how the land is to be used.

Delegation

The power delegated either by the WAPC to various officers in the Department for Planning and Infrastructure and local governments, or by local government councils to staff to determine or advise on statutory planning matters.

Department for Planning and Infrastructure (DPI)

The State Government department responsible for providing advice and planning services to the WAPC and the Minister for Planning.

Development

Any change to land use, including housing; any demolition, erection, construction, alteration of or addition to any building or structure on the land; and, any excavation or other works.

Development Control

Power exercised by a responsible authority for ensuring compliance with planning requirements.

Government Gazette

A publication regularly issued by the State government which includes details of statutory matters, including town planning schemes and amendments.

Green Title Lot

The common term for a lot and so called because it is coloured green on the Certificate of Title.

Interim Development Order

A means of controlling and regulating development outside the metropolitan Perth region while a local planning scheme is being prepared.

Liveable Neighbourhoods

A design and assessment tool published by the WPAC for structure plans and subdivisions.

Local Government

A local government authority established under the *Local Government Act 1995*.

Local Planning Scheme

A set of provisions that identifies the way land in the scheme area is to be used and developed. It may comprise a scheme map(s), a text and (usually) an explanatory report.

Lot

A defined portion of land depicted on a plan or diagram publicly exhibited in the office Landgate for which a separate Crown Grant or Certificate of Title has been or can be issued.

Metropolitan Development Program (MDP)

A five-year rolling program to coordinate State and local government planning in connection with new residential development in the metropolitan Perth region and the Peel sector (Shires of Mandurah and Murray) – known as the MDP.

Metropolitan Region Scheme (MRS)

The regional planning scheme for the metropolitan Perth region – known as the MRS.

Minister

The State government's elected representative, responsible for planning in Western Australia.

Model Scheme Text (MST)

A set of core legal and administrative provisions applied to all local planning schemes, structure plans and other planning instruments. Refer to Appendix B of the Town Planning Regulations, 1967.

Network City

The endorsed metropolitan strategy covering the Perth metropolitan region and shires of Mandurah and Murray in the Peel region.



Region Planning Scheme

A planning scheme prepared for matters of State or regional importance to enable the effective planning and coordination of land use and development – also known as a region scheme.

Regulations

Provisions made pursuant to an Act to prescribe procedures for applications and the determination of planning proposals.

Reserves

Land classified in planning schemes for public purposes.

Residential Design Codes (R Codes)

State Planning Policy 3.1 adopted by the WAPC that contains provisions relating to residential density and development standards.

Responsible Authority

The authority responsible for the administration and enforcement of the *Planning and Development Act 2005* and/or observance of a scheme, or for the execution of any works under a scheme. In the planning system, this may either be the Minister for Planning, the WAPC or a local government.

Schedule of Interpretations

The list included in a scheme text which defines the terms used in a local planning scheme – may be referred to as definitions.

Scheme Map

The map(s) that forms part of the scheme and shows the boundary of the scheme and the reserves and zones that apply to the land.

Scheme Report

The document that provides details and background for the scheme proposals.

Scheme Text

The document that sets out the scheme structure and provides details of planning provisions.

Tribunal

State Administrative Tribunal (SAT), being the independent judicial body that reviews applications related to civil, commercial and personal issues, including planning matters; it is not a court and strict rules of evidence do not apply.

State Planning Policy

A WAPC policy made under the provisions of the *Planning and Development Act 2005*, concerning general or broad planning controls, or matters which may be the subject of a local planning scheme, or which relate to a specific region or area of the State.

Strategic Planning

The provision and coordination of long-term land use planning and development.

Statutory Planning

The legal form of planning where legislation on planning prescribes the procedures for the preparation, adoption and implementation of controls for land use and development.

Strata Subdivision

The creation of lots containing land and/or buildings which are defined either by a survey or cubic space.

Structure Plan

A plan that provides a framework for the coordinated provision of land use, development, infrastructure and the allocation of services at either the regional, district or local level.

Subdivision

The division of land into lots.

WAPC

The Western Australian Planning Commission (WAPC), established on 1 March 1995 and governed by the *Planning and Development Act 2005*. It comprises a chairman and members from State and local government. It is responsible for urban, rural and regional land use planning in Western Australia.

Zones

The classification of land in local planning schemes for land use and development, excluding land in reserves.

Zoning Table

A table included in a local planning scheme that sets out the permissibility of, and uses and classes of, land uses in particular zones in the scheme area. This table is sometimes referred to as a use-class table.

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