



A Co-operative venture of the municipalities of:
Cockburn, East Fremantle, Fremantle, Kwinana, Melville & Rockingham

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Contact: Mick McCarthy (08) 9364 0631
Reference: SWG Submission – Planning Reform Phase Two

Director General
Department of Planning
Locked Bag 2506
PERTH WA 6001

Dear Sir

**SOUTH WEST GROUP SUBMISSION – PLANNING REFORM PHASE TWO
DISCUSSION PAPER**

The South West Group welcomes the opportunity to lodge this submission on the proposals put forward in the Planning Reform Phase Two Discussions paper and commends the Western Australian Planning Commission (WAPC) and Department of Planning in its efforts to reform and streamline the planning process in WA.

The South West Group, formed in November 1983, is a Voluntary Regional Organisation of Councils (VROC). It comprises the Cities of Cockburn, Fremantle, Kwinana, Melville, and Rockingham, and the Town of East Fremantle. The South West Group is managed by a Board consisting of the Mayors and CEOs of its member local governments.

The South West Group seeks to work with these six local governments and through cooperation with industry, community and the other spheres of government to capture a wide range of opportunities to enhance economic growth as well as supporting a diversity of quality lifestyles whilst servicing and sustaining cohesive, productive communities in an enviable environmental setting.

The comments provided below have been provided in response to the various proposals under the key headings as outlined in the Discussion Paper. The responses have been considered by the South West Group Board and draw from feedback provided by the Planning and Infrastructure Committee and Technical Directors Committee, which provide strategic and technical advice on planning matters to the Board.

STATUTORY PLANNING INITIATIVES

3.1 Review of MRS

Proposal: It is proposed to review the MRS to be in line with the Peel Regional Planning scheme and Greater Bunbury Region Schemes

Response: *Proposal supported*

Proposal: To amend the MRS so that development will not require approval unless it is of a class expressly specified in the MRS or by a resolution of the WAPC.

Response: *Proposal supported*

Proposal: A review is proposed of the WAPC delegations to local government of development approval under the MRS, with the intent of examining appropriate delegations for development on both zoned and reserved land.

Response: *Proposal supported, subject to consultation with the Local Government sector on extent of delegation.*

Proposal: It is proposed to introduce an Industrial Deferred zone to identify potential future industrial land, such as those sites proposed in the WAPC's *Economic and Employment Lands Strategy*.

Response: *Although the concept of introducing an "Industry Deferred" zoning is supported, the process of using the sites outlined in the WAPC's Economic and Employment Lands Strategy as the basis for identifying Industry Deferred sites is not supported.*

The identification of Industrial Deferred zones needs to be based on appropriate technical and planning assessment, with suitably located sites being capable of supporting industrial uses and are able to be adequately serviced by required infrastructure.

3.2 Improve amendment process for region planning schemes

Proposal: It is proposed to restructure the provisions setting out the procedures for amending region planning schemes to effectively reverse the default position.

Response: *Proposal is supported, however if the Local Government considers the amendments as a "substantial alteration" to the region scheme (i.e. major amendment) where the WAPC has determined it a minor amendment, then provision needs to include a process for gaining consensus.*

Proposal: No requirement to refer proposed amendments to the EPA with no relevant environmental considerations with a view of identifying types of exempt amendments and fast tracking amendments (i.e. referrals done concurrently with public advertising)

Response: *Proposal supported, subject to consultation with the Local Government sector on types of exempt amendments.*

Proposal: Reduce public advertising periods for amendments and allowing electronic lodgement of public submissions.

Response: *Proposal is supported.*

3.3 Sub-regional structure plans to amend region planning schemes

Proposal: It is proposed that consideration be given to the feasibility of introducing amendments to the *Planning and Development Act 2005* to enable an automatic or concurrent amendment to a region planning scheme to reflect the relevant zonings and reservations of a sub-regional structure plan, once the structure plan is given final approval by the WAPC and/or the Minister for Planning.

Response: *Proposal is not supported. Sub-regional Structure Plans will not have sufficient level of detail to clearly define boundaries for zoning lots, reserves and road reserves. This is particularly relevant to the significant scope and land coverage of the South Metropolitan and Peel Sub-regional Structure Plan, which will be the largest and most complex of all sub-regional structure plans in the metropolitan area.*

The required level of detail to enable concurrent amendments of the MRS will only become apparent at the District Structure Plan level and subsequent Local Structure Plan level.

3.4 Concurrent amendment of region planning schemes and local planning schemes

Proposal: To further extend provisions to allow concurrent amendments for all classes of amendment to region planning schemes. For example, the region scheme and local scheme could be concurrently rezoned for Industrial purposes, with the region scheme amendment identifying the specific zoning that would apply under the local planning scheme (e.g. General Industrial, Light Industry).

Response: *Proposal is supported in part, noting that Section 126 of the Planning and Development Act must also be amended to enable local planning scheme text amendments to be made to a local planning scheme.*

3.5 Improve local planning scheme review process

Proposal: Improvements to the local planning scheme preparation process are being introduced in the new Model Scheme Text

- regulations providing a set of standard provisions that will apply automatically to all local government schemes
- reviewing what proposals may be exempt from requiring planning approval
- improving administrative provisions, definitions, language and the general user friendliness of schemes
- regulations clearly setting out the steps required in the scheme preparation and scheme amendment process

Response: *The proposed improvements are generally supported, however further consultation with the Local Government sector is required to deal with the details.*

Proposal: Streamlining the number and content of local strategies required as part of a scheme review

Response: *The proposed improvements are generally supported, however the number and content stipulated should be considered minimum standards and Local Governments should be able to choose the number and content of strategies to satisfy the requirements of the local planning scheme review. It is also noted that Local Governments can prepare local strategies and local policies, at any time and as required, to support their local planning scheme.*

Proposal: Requiring major local planning schemes reviews every 10 years, with minor reviews occurring every five years or less.

Response:

The current process for reviewing local planning schemes every five years is time consuming and inefficient, with lengthy delays in the process experienced for approval of draft schemes by the WAPC.

Consideration should be given to local planning scheme major reviews every 20 years, with minor reviews every 5 years. Adequate flexibility to adjust to changes in density and built form will need to be provided in these longer term reviews.

3.6 Improve local planning scheme amendment process

Proposal: It is proposed to consider modifying the process for referral of proposed amendments to the EPA, such that certain amendments with no relevant environmental considerations are not required to be referred to the EPA.

Response: *Proposal is supported.*

Proposal: Introducing a 'minor local scheme amendment' which sets out a shorter local planning amendment process

Response: *Proposal supporting. Local Government will make recommendations to the WAPC regarding amendments that are considered 'minor'.*

3.7 Streamline structure plan process

Proposal: As a part of the Model Scheme Text review, model local scheme provisions will be drafted to guide the preparation of structure plans

Response: *This proposal requires further investigation and consultation. It is recommended that briefing sessions and feedback involving Local Government, Planning consultants and the urban development industry be undertaken to determine the need for model scheme provisions.*

Proposal: It is also proposed that the Model Scheme Text provisions include the WAPC as the single point of determination for all structure plans.

Response: *This proposal is not supported. Local Governments should be the main point of contact during the development of the Structure Plan. WAPC approval should be required by exception, rather than default, with Council approval of Structure Plans retained by the Local Governments through local planning schemes.*

3.8 Develop a track-based (risk assessment) development assessment model

Proposal: The WAPC could establish the number and types of tracks to be used in the Western Australian system, set out the process of assessment for each track and provide a model schedule of types of development suited to each track based on a modified DAF model suited to WA needs.

Response: *Proposal to streamline approvals are supported, however the use of the DAF model is not required and not supported as the Model Scheme Text provide effective guidance and adequate approvals pathways. In addition, most Local Governments have established internal and/or publically available development approvals tracking systems where proponents can monitor the progress of applications.*

3.9 Private certification of development applications

Proposal: Whether a private sector assessment and/or approval system would be of benefit to the Western Australian planning system.

Response: *This proposal has merit, however more work and further consultation with Local Government is required to define the scope and extent of delegation for the types of development approvals that private certification would apply to.*

3.10 Standardise delegations of local government development decisions

Proposal: That a Model Delegation Schedule be prepared, setting out the types of development applications and planning decisions that are appropriate to be determined by planning staff, and what may be more appropriate for council to determine.

Response: *This proposal is generally supported as a guide only and needs to be flexible to take into account the variation in delegation levels operating in Local Governments across WA and therefore need not be mandatory.*

3.11 Electronic application system

Proposal: The Department of Planning is developing a single interactive online portal for the lodgement and processing of all applications determined by the WAPC including subdivision, structure plan and development applications.

Response: *This proposal is supported, but needs to be complemented with ready access to WAPC and Department of Planning staff to deal with issues not able to be managed appropriately through the online service.*

3.12 Refining the role of Development Assessment Panels

Proposal: Comment is sought on the appropriateness of the current optional and mandatory thresholds applicable to DAPs and any need for modifications.

Response: The current mandatory thresholds should be abolished in favour of opt-in only thresholds as the current mandatory thresholds result in many referrals going to DAP that are better dealt with by the Local Government. This is particularly relevant to those planning and development applications that are straight forward, consistent with Local Planning Scheme requirements and there is a preference from the proponent to have the matter dealt with by the Local Government.

In addition, the opt-in threshold should be amended so that there is no upper threshold limit and only a lower threshold limit which should remain at \$3M. This would also assist in reducing the number of proposals unnecessarily assessed by DAPs.

There is also a need to introduce a process for determining incomplete DAP applications and the process for time extensions or “stopping the clock” when seeking further information from the applicant to enable proper assessment.

Proposal: It is proposed that Local Governments and applicants for BRM proposals or other regionally significant proposals (which could either be at the applicant’s discretion or defined in the DAPs Regulations) may choose to opt-in to the DAPs process if the development application does not meet the minimum threshold value.

Response: Further information and consultation with Local Government is required regarding the types of discretionary proposals and those proposed to be defined in the DAP Regulations within or outside the opt-in range.

Proposal: Comment is sought on any other land use or development types that are clearly not significant enough to warrant DAP determination and should be included on the exclusions list.

Response: Proposal supported, however additional examples of types of applications that the exclusion could apply to (other than storage and warehouse as identified in the paper) should be determined in consultation with Local Government.

Proposal: Review the number and grouping of local governments within the panels was reviewed as part of the DAPs Review. The City of Mandurah and Shire of Murray would also be moved from the regional DAPs to the Metropolitan South-West JDAP.

Response: The inclusion of the City of Mandurah and Shire of Murray will significantly increase demands on the South-West JDAP and, combined with the proposal to reduce quorum requirements and change presiding Member arrangements, is not supported and will result in potential loss of Local Government representation in the decision making process.

Proposal: DAPs Regulations should clarify the information required to be submitted as part of a DAPs application, and what constitutes a ‘complete application’ for the purposes of formally receiving the application and commencing the determination time period.

Response: *Proposal supported.*

Proposal: Greater flexibility in terms of what constitutes a quorum is required to ensure panels proceed to meet and deal with applications in a timely way. It is proposed that three members of a panel, regardless of their membership type, constitute a quorum. One of these members would need to meet the requirements to act as a presiding member. It is proposed that another specialist member, who has experience and a tertiary qualification in planning, may act as presiding member.

Response: *Proposal not supported as this will result in potential loss of Local Government representation in the decision making process. The existing quorum arrangements for DAPs should remain.*

Other matters

Issue: Ambiguity associated with the legal status of Responsible Authority Reports (RAR) accompanying DAP applications.

Response: *Clarification on the ability for RAR reports to be provided at an officer level or called in by Council to make a formal resolution is required, as it is unclear based on the current legislation.*

GOVERNANCE AND ADMINISTRATIVE REFORM

4.1 Design and Development

Proposal: The development of a State Planning Policy, design manual or scheme provisions enshrining the importance of, and principles for, quality design, including architectural, urban, landscape and environmentally sensitive design;

Response: *Proposal supported.*

Proposal: For local governments to establish design advisory panels and/or 'city architects' positions (for larger/urban local governments);

Response: *Proposal not supported. Most Local Governments have well established committees to oversee planning and development applications and have access to suitably qualified staff or consultants to advise on design and built form related matters. A design advisory panel is not required. Local Governments also the ability to engage the services of specialist consultants for services not required in-house and therefore it is not required to establish architect positions.*

Proposal: For development applications over certain thresholds (e.g. multi storey office or apartment developments) to be assessed by a design review panel prior to determination by a Development Assessment Panel; and

Response: *Proposal not supported. Refer to response above.*

Proposal: To amend the Multi-Unit Housing R-Codes provisions to require multi-unit housing to be designed by a qualified, registered architect.

Response: This proposal has merit and has the potential to improve build form design responses that can be accommodating in areas with higher density R codes. However many multi-unit developments are not of sufficient scale to require architectural design.

There is a need to qualify this proposal based on the size/number of dwellings before mandating the requirement for architectural design. Further consultation with Local Government, the property development industry and urban development industry is required to progress this proposal.

4.2 Role of WAPC

Proposal: Scope of WAPC Review to:

- clarify role of WAPC
- consider establishment of WAPC as a separate Board to the Department of Planning
- develop induction manual and code of conduct
- review structure and membership to include a broad range of expertise, including expertise in strategic planning, finance, infrastructure, housing, design and the environment.

Response: Proposal is supported. The WAPC should take a more strategic focus towards planning and development, however some of the planning reforms appear to take on an operational role with proposals such as the centralisation of Structure Plan approvals. Greater transparency is also required for WAPC decision making, including making agendas and minutes available to the public as undertaken by Local Governments.

4.3 Improve the function of the ICC

Proposal: Review the role and function of the Infrastructure Coordinating Committee (ICC); clarify the type of matters with which the ICC should be involved; develop guiding principles and terms of reference; and develop a 12-month work program.

Response: Proposal is supported. The ICC should be more focussed on the coordination and delivery of major metropolitan projects and activity centre precincts. There needs to be more transparency in the business matters dealt with by the ICC and strategies to optimise existing and new infrastructure need to be determined, including responsibilities and accountabilities for delivery

The 12 month work program should be published and progress monitored and reported on so that stakeholders can determine the status of projects/precincts.

ICC reports and minutes are currently confidential, but should be made publically available to ensure accountability and transparency.

The ICC terms of Reference should be reviewed to provide a clear focus and responsibilities for the efficient delivery of infrastructure to support development and major projects. Improved links between the ICC and infrastructure provision consistent with Sub-regional Structure Plans, District Structure Plans and Local Structure Plans is required, particularly in growth areas where significant delays in infrastructure provision is a major constraint to accommodating population growth.

Proposal: Review the membership of the ICC to ensure it has a high level strategic focus, including representatives from the departments of Premier and Cabinet, Treasury, State Development, Regional Development, Planning, Transport and Housing. Non-government expert membership could also be included.

Response: *Supported. Consideration should be given to the establishment of a “Major Projects” Directorate with its own Minister and direct reporting responsibility to the Premier.*

4.4 Local government planning accreditation

Proposal: Consideration is being given to the establishment of a planning accreditation system for local governments to formalise induction, training and professional development.

Response: *Proposal is not supported. Local Governments have the required planning expertise, qualifications and experience where formal induction, training and professional development is undertaken. There is no incentive for Local Government planning accreditation as this proposal would increase work load, require annual audits and would be unlikely to improve decision making and planning outcomes.*

Proposal: The accreditation system would include options for training and development of local government councillors and officers and be based on factors such as alignment with State planning objectives, currency of local planning scheme, adoption of best practice and planning reform initiatives, qualifications and experience of planning staff, training of councillors on statutory planning decision making, delegation levels, public accessibility of information and annual audit results

Response: *Although the accreditation system is not supported, there is merit in skills development for Local Government and State Government planners in a range of emerging areas of planning speciality such as:*

- *large scale commercial and retail developments (e.g. shopping centre redevelopment)*
- *activity centre development and establishment*
- *integrated transport and land use planning (including freight)*
- *industrial area development*
- *major coastal and maritime developments (ports, harbours, marinas etc)*
- *hospitality and entertainment (small spaces, small bars, multi-use premises)*

The Planning Institute of Australia (WA Branch) is actively involved in best practice planning initiatives and may be best placed to coordinate forums and information sessions covering these and other topics.

4.5 Funding of regional planning schemes and initiatives

Proposal: It is proposed to consider options for funding of other region planning schemes and improvement schemes in areas of the State outside the Perth metropolitan area. One option to achieve this is to legislate to expand the application of

a Region Improvement Tax to other parts of the State and establish separate region improvement funds for different regions.

Response: Proposal is generally supported.

4.6 Administrative review of the Planning and Development Act 2005

Proposal: To undertake a strategic review of the Planning and Development Act 2005 based on the following objectives:

- Identify the specific provisions that do not operate satisfactorily and the reasons for such deficiencies
- Identify and recommend measures to ameliorate ambiguities in drafting or resulting from judicial interpretation
- Recommend amendments that would improve the efficiency and effectiveness in the operation of the Act
- Consider other key matters and issues relevant to the operation and effectiveness of the Act, including, but not limited to, those matters identified in this Discussion Paper.

Response: Proposal to undertake a review of the planning and Development Act 2005 is supported. There are a number of proposals identified in the review that are not supported as outlined below:

Section 4.3 – Retain the retention of trust account arrangements for Cash-in-Lieu funds as they are more secure. Reserve funds can be changed by Local Government via Absolute Majority vote or through the budget process.

Section 5.5 – There is no need to change the definition of development as there have been legal precedents that have established the meaning of the term.


Section 6.1 – The rolling over of subdivision approval is not supported as they should still be subject of planning assessment and referral to Local Government and State Government as policies and planning schemes change over time.

Section 7 – The pre-selling of lots should not be undertaken unless the purchase of land is based upon a Subdivision Approval by the WAPC.

I trust that consideration will be given to the feedback provided in this submission.

If you have any queries regarding this correspondence, please contact the Director South West Group (Mick McCarthy) by email director@southwestgroup.com.au, phone on 9364 0631 or mob 0478 325 469.

Yours sincerely



Barry Sammels
Chair South West Group