

## DAF Benchmarking Key Indicators – Decision Bodies (Land Division)

### STAGE 3 OF THE PLANNING LIFECYCLE: DETERMINATION

*Decisions should be clearly made at the most effective level against specific assessment criteria.*

#### Leading Practice Eight: Professional Determination for Most Applications

Most development application should be assessed and determined by professional staff or private sector experts. For those that are not, either:

Option A – Local government may delegate DA determination power while retaining the ability to call-in any application for determination by council.

Option B – An expert panel determined the application.

Ministers may have call-in powers for application of state or territory significance provided criteria are documented and known in advance.

#### QUALITATIVE DATA:

	Context	SA	WA	VIC	ACT	NSW	QLD
1.	Are land division applications (freehold/community title/etc) subject to some form of planning/development approval under the same Act as land uses?	Land division (including Torrens title, and community title) is a form of Development requiring approval under the Development Act.	Land division, which is referred to as subdivision in Western Australia, requires approval under either the <i>Planning and Development Act 2005</i> (freehold subdivision and survey strata subdivision) or <i>Strata Titles Act 1985</i> (built strata subdivision).	Land divisions are the subject of two Acts the <i>Planning and Environment Act 1987</i> and the <i>Subdivisions Act 1988</i> . Planning schemes specify that subdivision requires a planning permit in a variety of circumstances. The <i>Subdivisions Act 1988</i> sets out the procedures for the subdivision and consolidation of land such as the formal procedures of title preparation and provisions of services.	Yes, land subdivision is a form of development requiring approval under the Planning & Development Act 2007.		Land division also known as reconfiguration of a lot, is a form of development requiring approval under the <i>Integrated Planning Act 1997</i> (IPA).
2.	Are land division applications submitted to: a) The relevant council? b) A centralised body uniform	All land division applications are lodged centrally with the State Development	Freehold subdivision, survey strata subdivision, and built strata subdivision applications are lodged	The relevant Council	All land sub division applications are submitted to the		In most cases, the application for reconfiguration of a lot is submitted to the

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	for all such applications within the State? c) Other?	Assessment Commission (DAC) and distributed to councils for a decision once referral agency advice has been sought.	centrally with the Western Australian Planning Commission.  Built strata subdivision applications involving no more than five residential dwellings on a parcel of land no greater in area than 2500 square metres are lodged directly with the relevant local government.		ACT Planning & Land Authority.		relevant council. See Schedule 8A of the IPA for the relevant assessment manager.
3.	Can a private planning certifier specify that a particular application contains all of the information necessary for the planning authority to make a private sector land division merit application decision?	This is the same as for land use/development applications.	N/A.  Note: Private certification is not provided for in the planning system of Western Australia.	No, however some types of subdivisions are exempt from requiring a planning permit. These still require approval of a certified plan which is prepared by private surveyors.	No.		N/A
4.	What is the name of any State Committee which has some form of decision making for land division applications?	This is the same as for land use/development applications.  Development Assessment Commission (DAC)	The Western Australian Planning Commission.  The Western Australian Planning Commission delegates subdivision determinations to its Statutory Planning Committee, South West Region Planning Committee (for the south-west of Western Australia), and senior officers of the Department for Planning and Infrastructure.	N/A	N/A.		There are no established State committees to assess reconfiguration of a lot applications.

	Procedures	SA	WA	VIC	ACT	NSW	QLD
1.	In regards to merit applications, which of	The Development Act enables the following	Subdivision assessment is carried out by:	Local government	The ACT Planning & Land Authority is responsible for		Applications for reconfiguration of a lot

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	<p>the following bodies are responsible for land division <i>assessment</i> in your jurisdiction:</p> <p>a) Local Government?</p> <p>b) Regional Body?</p> <p>c) Private planning certifier?</p> <p>d) A State committee?</p> <p>e) The Minister?</p> <p>f) Other?</p> <p>Is this the same as for development/land use assessment?</p>	<p>bodies to be responsible for development assessment:</p> <p>a) Local Government, which has prime responsibility.</p> <p>b) A regional body formed by a group of councils with the agreement of the Minister</p> <p>c) No private certification</p> <p>d) The Development Assessment commission in specified circumstances</p> <p>e) No role for the Minister in determining private sector applications.</p> <p>f) N/A</p>	<p>a) The relevant local government (in the limited circumstances set out in 2 above).</p> <p>b) N/A.</p> <p>c) N/A.</p> <p>d) The Western Australian Planning Commission or one of its delegates (e.g. senior officer in the Department for Planning and Infrastructure or district or regional planning committee).</p> <p>e) The Minister in the event that an application for review made to the State Administrative Tribunal is called in for determination by the Minister on the basis that it is of State or regional importance.</p> <p>f) The State Administrative Tribunal in the case of applications for review (i.e. appeals).</p> <p>This is the same as for development/land use assessment except that local government involvement in respect of development/land use assessment is not limited in the same manner as it is for subdivision.</p>	<p>Yes. Same as for Land Use</p>	<p>development assessment of land sub division applications, which require a development application under the Planning &amp; Development Act 2007.</p>		<p>follow the same processes as development applications. Relevant assessment managers are detailed in schedule 8A of the IPA.</p> <p>a) Local government has the majority of responsibility</p> <p>b) The Office of Urban Management (OUM) acts as a concurrence agency for certain applications in SEQ region.</p> <p>c) No private planning certification</p> <p>d) If the Minister uses their call in powers, they then act as the assessment manager.</p> <p>e) N/A</p>
2.	<p>In regard to merit applications, is the body that is responsible for assessing land division applications</p>	<p>Yes.</p>	<p>Yes.</p>	<p>Yes other than any appeals of against a decision</p>	<p>Yes.</p>		<p>For most applications, yes. Some applications require assessment by concurrence agencies, but permit is issued by the assessment</p>

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	the same body that makes the final decision and issues a permit/consent?						manager.
3.	How is a relevant decision body(s) determined, regarding land division applications, out of the bodies mentioned above?	The Development Act specifies that all applications be submitted to the State Development Assessment Commission (DAC). Applications are receipted with DAC and passed on to the relevant council for assessment unless the Regulations specify that DAC or an RDAP is responsible.	The relevant decision body is specified in the legislation referred to in 1 above.	Planning schemes specify the responsible authority	The Planning & Development Act 2007 provides that the ACT Planning & Land Authority is the decision maker.		The assessment manager varies depending on the application type. The relevant assessment manager is listed in schedule 8A of the IPA.
4.	In regard to private land division applications are most decisions made by the body concerned or delegated staff of that body?	Majority of decisions are made under delegation by staff. This varies from 98% in some council areas to 41% in others.	a) Local government. Unknown. b) N/A. c) N/A. d) Western Australian Planning Commission. 97% of subdivision applications in 2005-06 were determined by delegated staff, with the remaining 3% decided by the Western Australian Planning Commission or one of its specialist committees (e.g. Statutory Planning Committee, South West Region Planning Committee). e) N/A. f) N/A.	Majority of decisions are made under delegation by staff.	All decisions are made under delegation by staff.		Local government makes development application decisions.  It not known specifically who within local government would make the majority of the decisions. However, decisions can be made by a sub-committee of council or delegated staff members.
5.	What body is responsible for applications that are for locations outside	The Development Assessment Commission assesses land division	The nature of the application determines the decision-maker in Western Australia, not the	The state government as the owner of Crown land.	N/A.		N/A

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	Procedures	SA	WA	VIC	ACT	NSW	QLD
	of council areas in regard to: a) Land areas outside of councils? b) Coastal waters outside of councils?	applications outside of council areas.	geographical location that the application relates to. Having regard to 3 above, the responsible body would be:  a) The Western Australian Planning Commission or one of its delegates (e.g. individual officer or district or regional planning committee).  b) The Minister in the event that an application for review made to the State Administrative Tribunal is called in for determination by the Minister on the basis that it is of State or regional importance.  c) The State Administrative Tribunal in the case of applications for review (i.e. appeals).				
6.	Is there a statutory requirement for members of councils or committees/panels making consent/permit decisions to have undertaken training?	Joint Planning SA/LGA training courses are provided.  Regulation making power will mandate such training requirements in the future.	No.	No	No.		The IPA does not list a statutory requirement.
7.	Is the nature of delegations made public or made public on an application by application basis?	The level of delegation is set out in writing and must be made public.	Unknown.	The level of delegation is set out in writing and publicised top varying degrees.	There is no requirement to make delegation public, however, each decision identifies that the decision maker is a delegate of the Planning & Land Authority.		Yes, applications are made public.

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8.	Can regional development assessment committees/panels be established to assess applications?	This is the same as for land use/development applications.  RDAPs are recognised by the Act. Three RDAPs are currently being formed.	Yes, as a delegate of the Western Australian Planning Commission (e.g. South West Region Planning Committee).	The <i>Planning and Environment Act 1987</i> allows the planning scheme to specify any person as a responsible authority. However this provision is not widely used and the earlier provision specifying the local Council or Minister as the responsible authority predominates.	N/A.		Yes, OUM is a concurrence agency to certain applications in the SEQ Regional Plan area.
9.	Can a council request that the State Committee rather than the council deal with a particular application for land division applications?	Council can request the DAC to deal with an application if the council can demonstrate that it has a conflict of interest.	No.	N/A	N/A		N/A
10.	Can an applicant request that the State Committee deal with an application rather than the council?	No.	No.	N/A	N/A		N/A
11.	Are land division decisions by the decision making body available to the public?  Is this the same as for development/land use applications?	Yes. CDAP/RDAP/DAC minutes are posted on the website once ratified. All decisions, including those by delegated staff are recorded on the application register.  This is the same as for development/land use applications.	No.  Yes.	Yes a public register is required to be available for inspection.  Yes	Yes.  Yes.		Yes, decision notices must be held for public inspection.

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### QUANTATIVE DATA:

	Timelines	SA	WA	VIC	ACT	NSW	QLD
1.	Are there statutory time limits within which decisions must be made?	Yes. The Development Regulations specify the time limits within which a decision is to be made. If a decision is not made then the applicant has an automatic appeal right.	Yes. The <i>Planning and Development Act 2005</i> specifies time limits for approval of subdivisions by the Western Australian Planning Commission.  The <i>Strata Titles Act 1985</i> specifies time limits for approval of strata subdivisions by both the Western Australian Planning Commission and local governments.	Yes the same time limits apply that apply to all planning permit applications. If a decision is not made then the applicant has an appeal right that they can exercise.	Yes, as per other types of applications.		Section 3.5.7 of the IPA sets out the general decision making period. Subsection (1) states that the assessment manager must decide the application within 20 business days after the day the decision stage starts (the decision making period).
2.	What is the time limit for merit land division applications?	Merit land division applications with referrals are 12 + 6 weeks. Pursuant to Section 41 (d) (ii) of the Regulations.  Merit land division without referrals is 12 weeks.  (Note: no land division applications are subject to public notification)	Section 143(2) of the <i>Planning and Development Act 2005</i> states that the Western Australian Planning Commission is to try to deal with a subdivision application within 90 days of receipt of the application, or such longer period as may be agreed in writing between the Commission and the applicant for approval.  Sections 26(6) and 27(4) of the <i>Strata Titles Act 1985</i> provide that if a local Government or the Western Australian Planning Commission, respectively, fails to notify its approval of a strata application to the applicant within 40 days of receiving the application; it is taken to have refused the	60 days	30 working days; or 45 working days where a representation has been received.		Applications do not lapse if the applicant meets statutory timeframes in taking action to progress the application.

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			application at the end of that period.				
3.	Are there time limits within which a decision by the decision making body/ delegated staff must be conveyed to the applicant and objectors for land division applications?  Is this the same as for development/land use applications?	Yes. All decisions are to be posted within 5 days of the decision.  This is the same as for development/land use applications.	No.	No  Yes	No. - check  Yes.		This is the same as for development/land use applications.  The decision notice must be provided to the applicant within 5 business days after the decision is made (section 3.5.15 (2)).

	Indicators	SA	WA	VIC	ACT	NSW	QLD
1.	In regard to land division applications, what is the percentage of decisions made by each of the following bodies: a) Local Government? b) Regional Body? c) Private planning certifier? d) A State Committee? e) The Minister? f) Other?	a) Local Government 98% of applications b) None at this stage c) N/A d) DAC 2% of applications e) N/A f) N/A	Percentages unknown. a) Local government unknown. b) N/A. c) N/A. d) 4,467 applications handled by the Western Australian Planning Commission in 2005-06. e) Nil in 2005-06. f) 94 applications for review handled by the State Administrative Tribunal in 2005-06.	Local government approx 99.99% (three schemes and the portions of another three planning schemes have the Minister as responsible authority)	100% by ACT Planning & Land Authority		Information not available.  Whilst percentages are not known, most are made by local government.
2.	What percentages of applications are determined by delegated staff?	This ranges between 98% and 41% of applications depending on the council area concerned.	Unknown.	96% are delegated decisions. This figure varies greatly Councils.	100%.		Information not available.
3.	In your jurisdiction what are the figures regarding: a) The number of Councils? b) State population? a) Total number of	g) 68 h) 1.68 Million i) 56,000	a) 144 b) 1.96 million. c) Unknown.	a) 79 b) 5 Million c) 50 – 55,000	a) N/A b) 330,000 c) 5,000		a) 157. However, the local government reform will result in the reduction to 73 councils. b) According to the Australian Bureau of



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	development applications per annum?						Statistics (ABS), the population at the time of the December quarter 2006 was approximately 4.13 million. c) Information not available.
4.	What percentage of land division applications does the State committee assess?	DAC or staff assesses 2.5% of land division applications within the State per annum.	In 2005-06 3% of subdivision applications were determined by the Statutory Planning Committee and South West Region Planning Committee with delegated powers from the Western Australian Planning Commission with the remaining 97% of applications determined by delegated staff.	N/A	N/A		N/A