

DAF Benchmarking Key Indicators – Decision Bodies & Delegation (Land Use)

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.	In regards to merit applications, which of the following bodies are responsible for development assessment in your jurisdiction: a) Local Government? b) Regional Body? c) Private Planning certifier? d) A State Committee? e) The Minister? f) Other?	The Development Act enables the following bodies to be responsible for development assessment: a) Local Government, which has prime responsibility. b) A regional body formed by a group of councils with the agreement of the Minister c) No private certification d) The Development Assessment commission in specified circumstances e) No role for the minister in determining private sector applications.	The <i>Planning and Development Act 2005</i> provides for the following bodies to be responsible for decision-making in relation to land use/development applications. a) Local Government under a local planning scheme or local interim development order. b) N/A. c) N/A. d) The Western Australian Planning Commission or one of its delegates (e.g. senior officer of the Department for Planning and Infrastructure; or specialist planning committee such as the Western Australian Planning Commission's Statutory Planning Committee, Statutory Planning Committee meeting as the Metropolitan Region Planning Committee, Central	a) Local Government b) No regional bodies c) No private certification d) No State committees e) Usually no role for the minister in determining private sector applications however Minister is responsible authority for a small number of planning scheme or parts of them. Applications can also be 'called in' for his determination however this is rare.	Development Assessment of merit applications is undertaken by the ACT Planning and Land Authority. In certain circumstances the Minister can "call-in" and determine an application.		The <i>Integrated Planning Act 1997</i> (IPA) outlines the bodies that are responsible for development assessment. Relevant assessment managers (according to application) are detailed in Schedule 8A of the Act. a) Local Government has the majority of responsibility. b) The Office of Urban Management (OUM) acts as a concurrence agency for certain applications in SEQ region. c) No private planning certification. d) No state committees exist for development assessment. e) If the Minister uses

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			Perth Planning Committee, Peel Region Planning Committee; or local government) under a region planning scheme or regional interim development order. 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. f) The State Administrative Tribunal in the case of applications for review (i.e. appeals).				their call in powers, they then act as the assessment manager. f) Other assessment managers are stated in schedule 8A of the IPA.
2.	In regard to merit applications, is the body that is responsible for assessing development applications the same body that makes the final decision and issues a permit/consent?	Yes.	Yes.	Yes.	Yes.		For most applications, yes. Some applications require assessment by concurrence agencies, but permit is issued by the assessment manager.
3.	Which body(s) is responsible for applications that are for locations outside of council areas in regard to: <ul style="list-style-type: none"> Land areas outside of councils Coastal waters outside of councils 	The Development Assessment Commission assesses applications outside of council areas.	a) In the limited circumstances where this might occur, this would involve either the State Government (i.e. Crown land) or a specialist management body established by the State Government (e.g. Rottnest Island Authority for Rottnest Island off the coast of Perth). b) Depending on the location either the State Government, or one of a number of port authorities.	The Minister, unless the planning scheme specifies any other person as the responsible authority.	The National Capital Authority is responsible for approvals on National Land.		a) This depends on the work that is to be carried out. Schedule 8A lists the relevant assessment manager according to application. b) This also depends on the application type. This assessment manager could vary from the port authority to the chief executive administering the <i>Coastal Protection and Management Act 1995</i> or the chief executive of the <i>Fisheries Act 1994</i> .

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4.	What are the figures for your jurisdiction in regarding: a) The number of councils? b) State population? c) Total number of development applications per annum?	a) 68 b) 1.68 Million c) 56,000	a) 144 b) 1.96 million. c) Unknown.	a) 79 b) 5 Million c) 50 – 55,000	a) Nil 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 Statistics (ABS), the population at the time of the December quarter 2006 was approximately 4.13 million. c) Information not available.
5.	What is the name of any State Committee which has some form of merit planning consent/permit decision making?	Development Assessment Commission (DAC)	The Western Australian Planning Commission. The Western Australian Planning Commission delegates land use/development determinations to senior officers of the Department for Planning and Infrastructure and specialist planning committees such as the Western Australian Planning Commission's Statutory Planning Committee, the Statutory Planning Committee meeting as the Metropolitan Region Planning Committee, the Central Perth Planning Committee, the Peel Region Planning Committee; or local government.	None	N/A.		There are no established state committee to assess development applications.

	Procedures	SA	WA	VIC	ACT	NSW	QLD
1.	What percentages of applications are determined	This ranges between 98% and 41% of applications	Unknown.	Some surveys have suggested 96% of all	100%.		Information not available.

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	by delegated staff?	depending on the council area concerned.		applications.			
2.	Can regional development assessment committees/panels be established to assess applications?	Yes, RDAPs are recognised by the Act. Three RDAPs are currently being formed.	Yes, as a delegate of the Western Australian Planning Commission (e.g. Statutory Planning Committee meeting as the Metropolitan Region Planning Committee).	Yes however none exist	N/A.		Yes, OUM is a concurrence agency to certain applications in the SEQ Regional Plan area.
3.	Can a private planning certifier specify that a particular application contains all of the information necessary for the planning authority to make a merit application decision?	No.	N/A. Note: Private certification is not provided for in the planning system of Western Australia.	Yes however has no statutory basis and is not commonly used. One council has established a procedure implementing certification to speed up processing of applications.	No.		N/A
4.	If there is a Ministerial decision making power, is there an appeal right against the Minister's decision on merit applications?	N/A	No, other than to the Supreme Court of Western Australia on a matter of law.	Yes	No.		No. Section 3.6.7 (1) (e) states that the Minister's decision is taken to be the original assessment manager's decision but a person may not appeal against the Ministers decision.
5.	What statutory procedures are set in place to ensure that council and State development assessment bodies are operating effectively?	All council and State development assessment bodies provide quarterly data into the System Indicator database. The Development Act enables the Minister to appoint an independent investigator if there are ongoing problems with development assessment.	Requirement for performance to be reported annually in annual reports. In the event of a local government failing to operate effectively in the administration of its responsibilities under the <i>Planning and Development Act 2005</i> (e.g. failing to enforce the observance of its local planning scheme) the Minister may (1) give orders to a local government (Section 211); and (2) assume the powers of a local government (Section 212).	Planning permit activity reporting has been operating for four years. The reports capture a variety of information on planning permit applications. An electronic system is being introduced to allow faster and more comprehensive monitoring of performance.	Performance targets are reported within the Annual Report.		The Integrated Development Assessment System (IDAS) is the system for integrating State and local government assessment and approval process for development. The process is listed under Chapter 3 of the IPA.

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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?	The Development Regulations specify time limits for all decisions. Automatic applicant appeal rights exist if a decision is not made on time.	Yes. The time limits are specified in the individual planning instruments which, in the case of local planning schemes, are set out in the Model Scheme Text (Appendix B of the Planning Regulations 1967) on which local planning schemes in this State are based.	Yes	The Development Regulations specify time limits for all decisions. Automatic applicant appeal rights exist if a decision is not made on time.		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).
	What is the time limit for merit land uses applications?	All merit applications with no statutory referral agency requirements have a time period of 8 weeks. Merit requirements with mandatory referrals is 8+6 weeks.	Local planning scheme (no advertising) 60 days then deemed refusal if extension of time not agreed between parties. Local planning scheme (advertising) 90 days then deemed refusal if extension of time not agreed between parties. Metropolitan Region Scheme 60 days then deemed refusal if extension of time not agreed between parties. Peel Region Scheme (no advertising) 60 days then deemed refusal if extension of time not agreed between parties. Peel Region Scheme (advertising) 90 days then deemed refusal if extension of time not agreed between parties.	60 days however 'the clock stops' for designated actions such as requests for further information or notification.	30 working days if no submissions received. 45 working days if submissions received.		Applications do not lapse if the applicant meets statutory timeframes in taking action to progress the application.

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2.	Are there time limits within which a decision by the decision making body/ delegated staff must be conveyed to the applicant and objectors?	Yes. All decisions are to be posted within 5 days of the decision.	No, but decisions are required to be conveyed to the applicant "as soon as practicable".	No	No.		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 merit applications, what is the <i>percentage</i> of decisions made by each of the following bodies: f) Local Government? g) Regional Body? h) Private planning certifier? i) A State Committee? j) The Minister? k) Other?	d) Local Government 98% of applications e) None at this stage f) N/A g) DAC 2% of applications h) N/A f) N/A	Percentages unknown. a) Local governments handle all applications under local planning schemes and local interim development orders and an unknown number under the two region planning schemes operating in Western Australia (e.g. Metropolitan Region Scheme and Peel Region Scheme). Note: In the case of the Metropolitan Region Scheme an approval under a local planning scheme is deemed to be the determination under the Metropolitan Region Scheme (refer Clause 26). On this basis local government is responsible for the majority of land use/development decisions in Western Australia. b) N/A. c) N/A. d) 474 applications handled by the Western Australian Planning Commission in 2005-06 under the Metropolitan	a) Local Government 99.85% of applications b) None c) N/A d) N/A e) As responsible authority - 0.14%. Called in - 0.01% f) N/A	The use of "call-in" powers by the Minister is rare. Therefore, 100% (most years) of applications are determined by the ACT Planning and Land Authority.		Information not available.

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			Region Scheme and the Peel Region Scheme. e) Nil in 2005-06. f) 220 applications for review handled by the State Administrative Tribunal in 2005-06.				
2.	How many applications a year are assessed by this committee or delegated staff of the committee?	The DAC handles 700 applications per annum out of a total of 56,000 applications in the State.	In 2005-06 28 of 474 land use/development applications (6%) were determined by the various specialist planning committees, and the remaining 446 land use/development applications (96%) were determined by delegated staff under the Metropolitan Region Scheme and Peel Region Scheme. Note: The figures above do not recognise the case of the Metropolitan Region Scheme where an approval under a local planning scheme is deemed to be the determination under the Metropolitan Region Scheme (refer Clause 26)	N/A	N/A.		N/A
3.	If there is a Ministerial decision making power, how many applications are decided by the Minister per annum?	N/A	Nil in 2005-06.	Approximately 70 applications.	Varies, but use of powers is rare – Nil last financial year.		This information is not publicly available.