



# DAF PRINCIPLES

## AGREED PRINCIPLES OF LEADING PRACTICE IN DEVELOPMENT ASSESSMENT PROCESSES

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### FOREWORD

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In March 1997, the Prime Minister made a statement in Parliament titled 'More Time For Business', in response to the Small Business Deregulation Task Force Report, 'Time for Business', (the Bell Report). In his statement, the Prime Minister gave the National Office of Local Government responsibility for implementing Recommendation 29 of the Bell Report.

Recommendation 29 referred to the need for the reform of referral and concurrence in development assessment processes and for ensuring the delegation of decision making to the lowest practicable, but appropriate, level. The Prime Minister also agreed that these reforms should be augmented by reform of development and building approvals processes.

The building and development industry and related professional bodies responded positively to this new direction and supported the call for reform in its submission 'Unfinished business- prospects for an inter-governmental agreement on development assessment'.

A meeting, which brought together representatives from key industry and professional groups and the three levels of government, was convened in Adelaide in June 1998. That meeting proceeded to endorse the need for a national approach to streamline and harmonise development assessment procedures in Australia.

Following on from that meeting, the Development Assessment Forum and its Working Group were established. This Report results from the efforts of these representatives, working through the Development Assessment Forum (DAF), to identify 'leading practice' in development approvals systems.

The elements of 'leading practice' identified within this Report, are not necessarily complete, nor have they been discussed with, or evaluated by, the full range of stakeholders across the different levels of government, the community and the development sector. This is the next step.

The notion of 'leading practice' implies continual review. The Development Assessment Forum will review the model of 'leading practice' outlined in this report in the context of feedback which the participants receive over the next twelve months. In the interim, planning jurisdictions will have the opportunity to review the workings of their own development approvals system against criteria identified in this document.

A 'State of Play' document summarising planning systems in each State and Territory has been compiled and is available on the following web site, <http://www.nolg.gov.au>

## 1. INTRODUCTION

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At the inaugural meeting of the Development Assessment Forum in June 1998, a definition of 'leading practice' in development assessment was agreed. At the DAF meeting in May 1999, it was resolved to amend these 'Points of Agreement'.

This Paper sets out currently agreed definitions and principles. The DAF recommends that these principles be considered by jurisdictions for adoption and/or adaptation when reviewing existing planning and development assessment systems.

DAF recognises that the definition of what constitutes leading practice will vary over time as new ways of working and new examples of continuous and substantial improvement in practice are identified.

## 2. CONTEXT

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Planning is essentially about the quality of life and the environment in which we live, work, and play. Planning is about deciding, or helping elected representatives make decisions on the best use of all resources, including land, to maximise amenity for all people. It is also about protecting, and where possible, enhancing the biophysical environment. This broad-based planning is strategic or strategy planning. Planning which sets out development controls over specific parcels of land or places, and provides the framework for, and the process by which, development proposals are assessed, is statutory planning. In the course of making such assessments, development rights are affected. Statutory planning, which encompasses development assessment systems, therefore requires legislative force.

The Development Assessment Forum (DAF) acknowledges that there is no one absolute development assessment system that delivers the best outcomes all the time. It also acknowledges that no one system can be applicable in every jurisdiction.

However, in working to achieve leading practice in development assessment, DAF recognises there is the potential to encourage sustainable development, transparency and consistency in decision making. There is also the potential to make those responsible for making decisions more accountable for those decisions. In assessing the elements that constitute leading practice, effectiveness and efficiency are also important measures.

### 3. LEADING PRACTICE ELEMENTS OF DEVELOPMENT ASSESSMENT SYSTEMS

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The amended Points of Agreement from the DAF meeting on May 6th, 1999, are as follows:

#### **Leading Practice**

- focuses on achieving high quality sustainable outcomes
- is cost effective
- encourages appropriate performance based approach to regulation
- encourages standard definitions and terminology
- encourages innovation and variety in development
- is streamlined, simple and accessible
- integrates all legislation, policies and assessments applying to a given site
- promotes transparency and accountability in administration
- provides clear information about system operation
- incorporates performance measurement and evaluation
- promotes continuous improvement
- promotes the sharing of leading or best practice information.

# AGREED CHARACTERISTICS AND COMPONENTS OF DEVELOPMENT ASSESSMENT SYSTEMS

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## 4.1 ELEMENTS OF THE DEVELOPMENT ASSESSMENT PROCESS.

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The DAF agrees that the development assessment process contains the following elements:

### 4.1.1 Pre-application

A time for seeking and providing maximum guidance and information for prospective applicants.

#### **Lodgement**

- The process of lodging an application with all relevant information including fees.
- The initial assessment of the proposal to decide if further information is necessary.

#### **Notification / Consultation**

- Process of identifying parties to be consulted (including referral authorities) and of carrying out that consultation process.

#### **Assessment**

- The process of bringing together all relevant information (including issues raised by objectors) for assessment against the controls and strategic land use planning objectives. The process may include mediation and alternative dispute resolution processes.

#### **Decision Making**

- The formal process of decision making, including issues of delegation and advice to the applicant and other parties.

#### **Appeals**

- The process of preparing for, hearing, and making determinations on appeals against decisions. This may also include a mediation and alternative dispute resolution component.

#### **Enforcement / Compliance**

- Ensuring that decisions/rules achieve compliance.

## 4.2 CATEGORIES OF DEVELOPMENT ASSESSMENT.

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The DAF acknowledges that there are categories of development assessment which may include: exempt - not covered by the Planning Scheme, and no permit required.

4.2.2 self-assessable- no permit; compliance with standards required

4.2.3 code assessment- permit required; role of certifiers.

4.2.4 impact assessment- discretion to be exercised, performance based.

4.2.5 prohibited/undesirable- not permitted or not complying.

## 4.3 THE NATURE OF DECISIONS

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DAF acknowledges the differing levels of decisions: -

- Where the decision is one that merely requires the measurement of a proposal against a set development standard the standard is either met, or it is not. A merit appeal should not be required.
- Where performance criteria are involved and there is limited discretion to be exercised within the terms of those criteria, the decision usually enables an appeal on merit.
- Where the decision is to change the criteria or the standard, the decision is legislative and exercised by elected policy makers, although there may be a hearing process involved.
- Where there is clear professional incompetence, an appeal on probity grounds should be available to be exercised.

# THE APPLICATION OF LEADING PRACTICE PRINCIPLES IN DEVELOPMENT ASSESSMENT SYSTEMS

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## 5.1 RELATIONSHIP OF DEVELOPMENT CONTROLS TO STRATEGIC PLANNING

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The DAF acknowledges :

- That development controls are a significant implementation means for achieving strategic planning objectives. As such, they must be developed within the context of the strategic planning process.
- That both the linkages and distinctions between strategic plans and development controls should be clear.
- That development controls should be clear, easily understood and contain only relevant information.
- That where development controls are prepared on a place/precincts basis grouped within relevant catchment areas, the statements of desired outcomes should be taken from strategic plan objectives for the areas/catchment.

## 5.2 DISCRETIONARY DECISIONS

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The nature of decision making will generally depend on the extent of discretion being exercised.

DAF acknowledges that depending on the level of community consultation, the level of 'openness' of the decision making process can compromise the objective of streamlining approval processes, and in considering these potentially competing objectives, an appropriate balance should be struck.

The DAF, however, further acknowledges:

5.2.1 That some of the following attributes could be considered in a discretionary decision making process:

- the right to make submissions and to be heard
- the right to know the issues to be decided
- the right to obtain full information about what is proposed
- the right to know the decision making process
- the right to seek information from other parties
- the right to an unbiased decision
- the decision to be taken within a transparent policy framework and on the evidence before the hearing
- written reasons to be given.
- that in terms of transparency , accountability and effectiveness, processes will be enhanced if there is a separation of, but linkages between:-
- policy making (legislative/executive role);
- managing to achieve an outcome (executive role);
- managing the process and assessment of an application (professional/technical/administrative role);
- mediating (an independent facilitating role); and
- making a determination (discretionary role).
- reviewing decisions (review role).

5.2.3 DAF also encourages maximum use of decision making delegations to consent authority staff.

### 5.3 INTEGRATED DEVELOPMENT ASSESSMENT SYSTEMS

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Most jurisdictions have adopted or have indicated support for the integration of development assessment procedures involving a range of approvals and/or progressive levels of detail.

The DAF acknowledges that integration can be facilitated in several ways and that there is no absolute mechanism for achieving this objective. However, an integrated development assessment system incorporating principles of leading practice could:

Allow a layered approval process commencing within an overall concept approval or preliminary approval.

Allow subsequent specific approvals or stages to be considered without third party involvement, if consistent with the overall concept or preliminary approval.

Provide for third party involvement if the original concept or preliminary approval is amended in a major or material way.

5.3.4 Allow commencement of development when all necessary approvals relevant to a particular area or stage of development (land use, building, engineering, subdivisions and operational works) have been obtained.

### 5.4 CONCURRENCE & REFERRALS

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The DAF acknowledges there is scope to reduce significantly the number of referrals between agencies. A development assessment process incorporating the principles of leading practice should:-

- require agencies to develop strategic plans and objectives, policies and codes, and where possible, prescribe development controls that can be applied directly by the assessment body;
- minimise the number of referrals to other agencies;
- establish 'one-stop shops' to deal with the development assessment processes;
- where practicable, delegate decision making to the lowest level of government;
- incorporate the maximum use of electronic data exchange, thereby expediting the process, such as digital land information systems;
- facilitate maximum use of simultaneous, rather than sequential, referrals and assessment.



## 5.5 DATA ACCESS

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The DAF acknowledges that a development assessment system incorporating leading practice would operate as follows:

Customers to government obtain speedy access to information about property information, controls, and other matters impacting on use and development of any parcel of land in question. This should be organised into an electronic format for efficient access (refer to LIS below).

5.5.2 Governments aspire to provide to customers speedy access to, and clear information about planning decisions, eg permits for flow on decisions.

## 5.6 LAND INFORMATION SYSTEMS

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The DAF agrees that a better practice development assessment system would incorporate:

- the development of an integrated land information system with all cadastral information
- referenced to a unique identifier for each parcel of land.
- access to information including all relevant rights, restrictions, responsibilities and obligations under development assessment systems, as well as other information useful for assessing the value of land.
- a clear indication as to the reliability of the information.

## 5.7 DEFINITIONS

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The DAF acknowledges that the adoption of pertinent common development assessment definitions would be of benefit to all stakeholders and should be pursued.

### 5.8 Government Developments

The DAF agrees that Government projects should be required to go through an equally transparent, independent and accountable process as private sector developments. This applies to semi government and corporatised entities.

### 5.9 Continuous Improvement

The DAF agrees to meet regularly to ensure the exchange of leading practice principles in development assessment procedures.