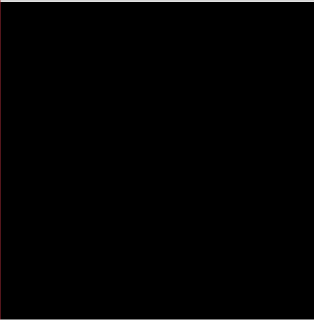
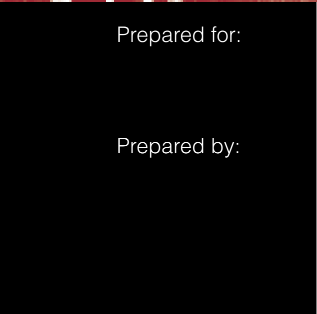


Planning Processes Review (PPR) Study

Industry Report

Prepared for: **Property Council of Australia and Urban Development Institute of Australia**

Prepared by: BSD CONSULTANTS PTY LTD



March 2004

ABOUT THE PROPERTY COUNCIL OF AUSTRALIA

The Property Council of Australia is the peak organisation representing the interests of the property industry in Australia.

Property Council members include property owners, investors, superannuation funds, managers, developers, real estate agents, shopping centres, planners, banks, cleaners, architects, lawyers, accountants, and many other property industry practitioners.

It is the leading advocate for the property industry and represents the industry on many Government bodies and in numerous forums around the nation.

Members of the Property Council are provided with the latest research and industry trends, through seminars, publications, forums and education courses to keep them at the forefront of the property industry.

In WA alone, the Property Council has 10 committees with around 100 volunteers, 5 full time and one part time staff. Australia wide there are 75 staff.

To obtain the latest information on the Property Council of Australia, visit our website, www.propertyoz.com.au.

ABOUT UDIA IN WESTERN AUSTRALIA

OUR ROLE

The UDIA is the peak body representing all segments of the development industry. The Institute has been representing participants in the urban development industry for more than 30 years in the State of Western Australia.

OUR COMMITMENT

The UDIA is an exciting, progressive and rapidly growing organisation with a key focus on urban development. It is a well-coordinated and cohesive body, driven by its members.

OUR ACTIVITIES INCLUDE:

- Lobbying government to achieve positive outcomes for the industry.
- Keeping members up to date on critical industry issues.
- Representing the industry on government working groups and committees.
- Organising conferences, luncheons, seminars and other events featuring key experts and industry leaders.
- Providing opportunities for business and social networking.
- Encouraging excellence in development through State and National Awards.
- Promoting a Code of Ethics for all members.
- Collaborating with other industry bodies to deliver the optimum results to our members.

UDIA was pleased to join with the Property Council of Australia in commissioning and funding this important study into the planning approvals processes in this State. The Report highlights a number of significant improvements that can be made to the planning approvals system in Western Australia with gains for both the short and medium to long term. We look forward to working with Government to streamline the approvals process. Marion Fulker, Executive Director.

ACKNOWLEDGEMENT

PCA & UDIA acknowledge the assistance and support of the Department of Planning and Infrastructure and its officers and the Western Australian Local Government Association and its members in the preparation of this Report.

EXECUTIVE SUMMARY

Approvals reform is a key priority for the property industry in all sectors and is also an objective of responsible Government. It has the potential to significantly impact on the cost and realization of development projects and thus, ultimately, on where and how Western Australians live, work and play.

Over the last 6 months the WA State offices of the Property Council of Australia (PCA) and Urban Development Institute of Australia (UDIA) have been working with the Department of Planning and Infrastructure (DPI) and the WA Local Government Association (WALGA) to identify opportunities for improvement in the interests of an efficient and effective system.

Notwithstanding recent efforts and a focus on implementing improvements by DPI, planning approval processes within Western Australia do not currently meet the needs of industry nor the community nor, in many instances, the approval agencies themselves. There remains widespread dissatisfaction with the complexity, inefficiency and lack of transparency and accountability inherent in the current system. These issues are documented in the report.

There is no need, and indeed no time, to delay essential key reforms pending comprehensive reviews of the legislation. Substantial improvements are available via the introduction of relatively simple changes to process and regulations, and through leadership by the peak agencies.

In the following study, over 70 recommendations for improvement have been identified. There are common themes to many of the problems identified. The more critical areas needing urgent reform can be grouped as follows:

ATTACHING TIME FRAMES TO KEY ACTIONS

Several important components of the approvals process are not currently subject to statutory timeframes and ought to be. These include:

- Formal reconsideration of conditions of subdivision approval.
- The initiation and various steps involved in the processing of Outline Development Plans and similar structure planning documents.
- Processing of applications to amend the MRS and Local Town Planning Schemes.
- Approval of construction plans for subdivisions.
- Building licenses.

Where timeframes do exist, they are rarely enforced. Along with the introduction of more statutory timeframes for assessment of applications, the concept of ‘deemed endorsement’ should be introduced to place pressure on those referral agencies that do not respond to applications within defined periods.

COMMUNICATION AND ISSUE RESOLUTION

The greater the feedback during the approvals process, the better the chance there is for early resolution of problems. This initial feedback means less disputes and less wastage of resources in addressing matters that would otherwise be consumed later on in appeals process.

Anecdotal evidence obtained through BSD’s research suggested that formal requests for reconsideration are being lodged in response to up to 70% of all subdivision approvals issued. This is an alarming trend, representing significant allocation of resources and a distraction from the primary planning approval tasks.

Consequently, the report recommends that it be mandatory for referral agencies to concurrently advise proponents of issues arising in response to applications when responding to Local Governments and/or the DPI. There needs to be an approval culture which encourages dialogue between approval agencies and applicants (their ‘customers’) in order to try and negotiate solutions early in the process.

EXECUTIVE SUMMARY CONTINUED

BALANCING DECISIONS

The recent decision by the Supreme Court clarifying the powers of Department of Environment to prevent or inhibit otherwise approved development (no matter what stage the project has proceeded to) is of major concern to industry. It should also be of concern to approval agencies and to other sectors of Government.

Industry is expressing a strong desire for leadership and decisiveness by the key decision makers to redress this issue, which is causing widespread uncertainty in the approvals process.

Industry needs definitive and all-encompassing decisions from Government as to the acceptability or otherwise of a project proposal.

There is strong support within industry for the reintroduction of proponent assistance (trouble shooter) resources at a senior level within DPI and for the introduction of this role within Local Governments situated within major growth areas. This role is not only to assist industry, but also to provide a mentor role within the agencies to foster a better understanding of the importance of the development industry within Government and of achieving ‘win win’ outcomes.

STREAMLINING THE PROCESS

The opportunity or requirement for proponents to refer projects to stakeholder agencies, and to neighbours in the case of development applications, prior to or during the formal application procedure is strongly supported by industry.

The insistence by Local Government that planning procedures be sequential and not concurrent is unacceptable. Integrated approvals of combined Town Planning Scheme Amendment/Outline Development Plan/Subdivision Applications are legally possible and have the potential to reduce approval periods by at least 12 months and up to 3 years, with a consequent reduction in resource cost to approval agencies and time/development cost savings ultimately passed on to the consumer.

The basic right to appeal a decision (or a non decision) by Local Government ought to be consistent across the State, with the differences in Appeal provisions between Local Governments being rectified by Regulation. The ability for Councils to reconsider decisions and extend approvals without requiring new applications would also assist industry and Local Government alike.

SUMMARY

The recommendations arising from this study would not necessarily create new tasks or responsibilities for approval agencies, but aim to simplify and modernise what has become a complex and often archaic planning system. The opportunity exists for approval agencies to get decisions right and to make those decisions in a manner more responsive to community and industry needs. The study demonstrates that this can be done now via leadership and a series of refinements and minor innovations, rather than waiting for comprehensive changes to legislation and all that this would entail.

During the course of the study, DPI initiated or proposed a number of reforms which represent a positive step in the reform process. Where possible, the recommendations contained in this report have been structured into an Implementation Strategy to be incorporated into DPI’s ongoing reform initiative. However, there is a need for ongoing review of reforms initiatives, including obtaining industry feedback and in terms of Local Government reforms, to ensure the impetus gained through undertaking the Planning Processes Review is maintained during the critical phase of implementation.

The inputs from across industry and State and Local Governments have been considered in the *‘Agenda for Reform’* to which all recommendations and implementation strategies outlined in the report are linked.

THE AGENDA FOR REFORM
(OF THE PLANNING SYSTEM IN WESTERN AUSTRALIA)

1. Pre-lodgement	• Give status to the pre-lodgement process.
	• All Planning Schemes and Policies to be made available on the Net.
	• Greater use/standardization of Local Government Minutes/Agendas on the Net.
	• Ensure proponent is advised of outcome of initial assessment of proposal.
	• Specify timeframe to determination of proposal based on initial assessment of complexity.
	• Introduce a Fast Track system for specified minor developments and minor subdivisions of, say, 5 lots or less.
	• Allow applicants to undertake Self Referrals.
	• Assume 'deemed endorsement' of proposal by referral agency if no reply at conclusion of referral process.
	• Resource referral agencies to be able to respond to referrals.
	• More limited/defined consultation.
	• Enforce statutory response deadlines for DoE/EPA.
	• Compulsory copy of referral responses to proponent.
	• Agencies to provide standard conditions for minor matters to obviate need for referrals.
2. Discussion/Negotiation	• Create statutory requirement to advise proponent of issues arising after assessment, and to provide opportunity to respond/revise proposal.
	• Insert 'stop the clock' provisions in planning schemes or regulations for development applications.
3. Determination	• Transparency in DPI/WAPC reporting and decision making processes for all matters - public agendas.
	• Enforce upfront assessment (or non assessment) by DoE/EPA.
	• Negate environmental conditions that defer assessment.
	• Greater standardization of Delegated Authority across Local Government.
	• Create a dispute resolution/arbitration body (in lieu of Tribunal) for subdivision clearances.
	• Introduce a statutory timeframe for all aspects of Scheme Amendments and for determining MRS Development Applications.
	• Review the 90 day determination period for subdivisions.
	• Create statutory power to extend subdivision approvals beyond 3 years, industry prefers 5 years.
	• Review standard conditions to specify the action required, by whom, by when.
	• Introduce a provision for a WAPC decision to prevail over a local Scheme decision where the two decisions on the same applications under the MRS are contradictory or contain conflicting conditions.
	• Review and cull the number of WAPC policies and ensure they are applied as policies, not rules.

Funded by the Property Council of Australia (WA) and Urban Development Institute of Australia (WA)

THE AGENDA FOR REFORM CONTINUED
(OF THE PLANNING SYSTEM IN WESTERN AUSTRALIA)

4. Reconsideration	• Create a statutory right for reconsideration of development matters.
	• Specify a statutory time frame for determination of subdivision reconsiderations.
5. Construction Approvals	• Introduce statutory time frame for determination of building licenses.
	• Clarify and simplify process/responsibilities/appeals for subdivision construction plans in Act/Regulations.
	• Private certification of subdivision construction plans.
	• Introduce statutory timeframe for determination of subdivision construction plans.
6. Occupation Licenses	• Introduce statutory timeframe for issuing occupation licences.
7. Subdivision Clearances	• Introduce statutory timeframe for issuing subdivision clearances.
8. General	• Mandatory Councillor training on planning matters.
	• Introduce statutory timeframe for processing ODP's and Structure Plans.
	• Introduce standard appeal provisions for ODP's and Structure Plans.
	• Address lack of experienced planners with Universities.
	• Greater consistency of fundamental development standards across Local Government.
	• Simplify R Codes – fewer categories, less prescription.
	• Create ability to 'package' Scheme Amendment/ODP/Subdivision into single document within a concurrent process.
	• Re-introduce the role of Urban Development Co-ordinator at DPI.
	• Introduce industry forums to consider new policy, legislation and procedural matters.

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1. INTRODUCTION

The residential land development industry in Western Australia is a billion dollar industry. Coupled with non-residential development exceeding $30 billion, the property sector is a major market sector employing some 340,000 people or one third of the state's workforce.

A paramount issue in supporting a robust property market is the ability of regulatory authorities to issue approvals in a timely manner and this is exacerbated during a buoyant residential property market such as that currently being experienced across WA.

For some time, the key institutions representing the development industry in the state, namely the Property Council of Australia (PCA) and the Urban Development Institute of Australia (UDIA) have been concerned at the increasing delays and frustrations being faced by their member companies in securing approvals for all spheres of development projects. These range from individual building licenses to subdivision approvals for new major residential estates.

The push by industry to review and reform the approvals process is neither a new initiative nor one which will ever be finite. However, the sustained property boom juxtaposed with increasing delays in the ability to secure approvals resulted in the PCA and UDIA combining in June, 2003, to commission BSD Consultants to undertake an urgent review of planning processes in Western Australia with a particular focus on addressing the declining timeliness of planning approvals.

At the same time, the Department for Planning and Infrastructure (DPI) was in the process of reviewing its internal processes and structure. Communication between the UDIA, PCA and DPI established that a collaborative solution focussed study would result in quicker and more effective resolution of those issues causing dissatisfaction with the planning approvals process.

The Planning Processes Review Study or PPR Study thus progressed through a collaborative process involving the DPI and the development industry in Western Australia with the DPI's internal review proceeding concurrently. Progress of the Study was monitored by a Steering Committee, including representatives of the Western Australian Local Government Association (WALGA), comprising:

• Greg Martin – DPI (supported by Robyn Barrow)	• Ricky Burges – WALGA (supported by Allison Hailes)
• Marion Fulker – UDIA	• Joe Lenzo - PCA

The Study's focus was on the planning approvals processes and had the following objectives:

1. Identify the principal causes of delay in securing approvals in WA for Metropolitan Region Scheme and Local Scheme Amendments, Structure Plans, and Subdivision and Development Applications.
2. Document potential solutions including reference to previous studies, current initiatives and interstate experiences.
3. Recommend best practice administrative and legislative reforms to reduce delays.
4. Produce a solution driven report taking into account the timeliness and practicality of any recommended changes.
5. Work with government agencies to achieve the reform agenda.
6. Keep all stakeholders informed as to progress and outcomes.

This report documents the recommended solutions following reviews of previous studies, evaluations of interstate experiences and stakeholder feedback through focus group meetings, and industry and local government surveys. It includes a review of current proposed changes to key planning legislation and also suggests further legislative changes which are required to achieve a number of major reform initiatives.

There is also a comprehensive Appendices Report which contains copies of the surveys, a summary of the literature review, and results of focus group meetings, surveys and the like. It was considered important that this main report focus only on the major issues and recommended solutions rather than dwell on the existing issues which are known and accepted throughout industry and approvals agencies alike.

2. BACKGROUND RESEARCH

2.1 PREVIOUS STUDIES

As part of the study, a review of previous studies was undertaken. What is relevant to note is that a number of previous and on-going reviews of approvals reform have been undertaken, or are underway, which have been initiated at either the State or Federal Government level. However, in WA, implementation of major reforms has generally not occurred despite DPI having been the authors or champions of most such reviews. One such example is the Subdivision Control Study undertaken by BSD in 1997, the key recommendations included delegated approval to local Councils for minor subdivision applications and the contracting out of specific procedural aspects of non-delegated decisions including certification of referrals.

This has lead to industry scepticism that reforms will be undertaken (rather than simply further reviewed) highlighting the importance of the current joint DPI/Industry review.

The *Local Approvals Review Program (LARP)*, a Federal Government initiative of the early 1990's sought to reform approvals but had its focus on piloting reforms in selected local authorities. Whilst there was some improvement in the individual Councils who participated in the review, many of the best practice suggestions (summarised in a toolkit released nationally) have long since been forgotten or remain issues yet to be addressed.

2.2 NATIONWIDE INITIATIVES

Early in 2003, the Royal Australian Institute of Architects (RAIA) carried out a national survey titled *Planning In Crisis*. A fuller summary of the findings and recommendations is contained within the Appendices Report however 69% of respondents rated the planning process in WA as poor. The survey also found that, in the last 3 years, average approval times for developments have increased by a month and it was estimated that 65% more information was required to lodge applications than was required in the year 2000, with 20% of all decisions now appealed.

Also during 2003, the Planning Institute of Australia (PIA) instituted a National Education and Employment Strategy aimed at attracting more people into the planning profession as recognition of the lack of ongoing supply issues. The Strategy aims to examine the current education of planners by recognising that many planners are not equipped to deal with increasingly complex approvals systems and development issues.

The University of Canberra is currently undertaking a national review of the Development Application (DA) assessment process. This review is being funded by the Development Assessment Forum (DAF) and seeks to streamline development assessment across the country. The DAF process is strongly supported by industry as the next major process for vital reforms to the planning system.

In NSW, the State Government recently announced a review of the development assessment process with the objective of introducing a faster, simpler and more efficient process as the next step in its reforms to the NSW planning and approvals system. This was partly in response to an industry survey which showed the turnaround times for Development Applications had increased from 57 days in 2001 to 84 days in 2003.

Initiatives under consideration included a no approval requirement for pergolas and garages and a 7 day turnaround time for simple applications. The review is to consider a range of matters including whether or not the current assessment system is delivering quality outcomes, how Councils process applications and what processes can be commonly applied to all Councils, how a new software package introduced into NSW recently (BASIXS) can interact with the approvals system, the impact referral agencies have on the process, and what views stakeholders have on the current process. It will also look at best practices in Local Government and see how they can be transferred between Councils.

These initiatives support the fact that there is nationwide concern at both the increasing complexity of planning approvals and the inversely declining ability to adequately resource approvals areas.

2. BACKGROUND RESEARCH CONTINUED

2.3 APPROVALS SYSTEMS ELSEWHERE

Initiatives being undertaken in all states were also examined with a focus on current 'best practices'. A summary of some of the more relevant practices is provided in the following table:

STATE/TERRITORY	POSITIVE APPROVALS PRACTICE
ACT	• Pre-lodgement meetings are strongly encouraged by the Territory Government. In some instances, such meetings are mandatory. • Referral agencies only have 14 days to respond to referrals. • Applicants have 28 days to ask for a review of decisions.
VICTORIA	• All Council Planning Schemes are available free of charge on the net. • Many Councils offer the choice of applicants using a pre-lodgement certification process to ensure applications are complete at the time of lodgement. • Referral agencies only have 14 days to respond to referrals. • Applicants have 28 days to ask for a review of decisions. • Objections to a proposal can be withdrawn after negotiation between an objector and an applicant.
SOUTH AUSTRALIA	• Subdivisions are lodged with a Development Assessment Panel (DAC). The role of the DAC is to co-ordinate Government agency responses, maintain a data base of applications to monitor lot creation and ensure land supply and associated infrastructure is maintained. • Referral agencies have to respond within 28 days. • The DAC must advise the local Council within 2 months of its requirements and those of any referral agency and the Council must issue its determination within 3 months. • Over half the subdivision applications are fast-tracked by the DAC who respond to the Councils within a week of receipt. It is common for such applications to be approved by Councils within 3-6 weeks of lodgement (as the DAC determines which referral agency needs to be consulted and doesn't refer minor applications out where it is deemed unnecessary). • In terms of DA's, any referrals must be responded to in 28 days. • Staged developments and approvals are possible. • If applications are advertised, the Council must forward a copy of all submissions to the applicant and allow the applicant the right to respond to the contents of the submission.

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2. BACKGROUND RESEARCH CONTINUED

NSW	• Environmental and planning approvals are integrated. Whilst this can lead to delays in gaining planning approval, it means that such an approval cannot be rendered redundant because environmental approvals can't be obtained, thus giving more certainty to the approvals process. • Development approvals are valid for longer periods, and both Development and Subdivision Approvals can be extended. • Complying development is defined and can be exempted from development approval requirements by either an accredited certifier or the Council. • An applicant has 12 months to lodge an appeal against a Council's decision.
Queensland	• The 1997 Integrated Development Act (IDA) removed duplication, confusion and conflict arising from overlapping regulatory jurisdictions. It integrated planning, building and environmental legislation. • The Integrated Development Assessment System (IDAS) provides a common regulatory system for making, assessing and determining DA's and subdivisions regardless of the nature or location of a development. • Developments are categorised as Exempt from assessment, Self Assessable and Assessable. • Referral agencies are categorised as either Concurrence Agency or Advice Agency. An Advice Agency can only provide advice. • IDAS encourages performance based planning and doesn't preclude the use of zones in local Planning Schemes but neither does it require them.
Tasmania	• Permitted developments must be approved within 42 days of lodgement otherwise there is a deemed approval. A Council must also determine a DA for a discretionary use within 42 days, unless referral to an environmental agency is required, even where there is a mandatory neighbour consultation element. • There is no obligation to refer a DA to external agencies. • There are no third party appeal rights for permitted development.

Whilst the scope did not require a review of overseas initiatives, it is relevant to note that a Green Paper produced in England in 1991 outlining proposed changes to the planning system which was described as *"complex, remote, hard to understand and difficult to access"*.

It further went on to state:

"Not only is the speed of processing planning applications often very slow, it is also highly variable between local authorities with a particular impact on business…the slow pace of decision-making shows insufficient appreciation of the impact of both the timing and nature of planning decisions on investment decisions".

Some of the initiatives put forward included:

- Tightening of targets for determining planning applications and dealing with the delays caused by statutory consultees.
- Introduction of new 'business zones' where no planning permission is required for certain forms of development.

2. BACKGROUND RESEARCH CONTINUED

Delivery contracts were proposed to ensure that larger applications outcomes are delivered to clearly agreed timetables. English business is of the view that it would be prepared to waive any appeal rights against non-determination of an application if, in exchange, it had greater predictability about when a decision would be made and were kept informed about its progress. The Paper proposed, for bigger applications, local authorities and developers should agree, by contract or undertaking, a timetable for delivering a decision. The mechanism for dealing with non-performance would be that the application would be passed to the Planning Directorate (National Government) and handled on a fast-track basis.

As in Australia, the Paper noted a concern with the lack of skilled planners and included an undertaking to work with the RTPI and the Local Government Association to deliver major improvements in the recruitment, retention and training of planners in local authorities. In the context of education, the Paper suggested that Councillors should undergo training before they sit on planning committees and take decisions affecting development in their areas.

The paper proposed the introduction of a system whereby the performance of authorities' planning functions were measurable and accountable. To speed up decision-making, authorities should delegate decisions to officers as far as practicable – a target of 90% was set for 2002/2003.

The English Green Papers confirms that approvals reform is not only an issue in WA and nationally but also internationally. As much of Australian planning law is based on English legislation, the review of English initiatives in this area gives some insight into potential areas for future reform.

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3. SUMMARY OF ISSUES

3.1 COLLECTING THE DATA

To determine the extent of current concern with the approvals process, stakeholder consultation included the following:

- Meetings with UDIA and PCA representatives.
- Surveys of Local Government practitioners.
- Surveys with industry.
- Focus group meetings with representatives from industry, approvals agencies and referral agencies.

The specific feedback and major findings from each of the meetings, surveys and focus group meetings held during the course of the study is contained in the Appendices Report. The following provides a summary of the key issues that emerged.

3.2 INDUSTRY FEEDBACK

3.2.1 Issues Related to State Government

The focus of industry feedback with regard to the State Government's role in the approvals process was the role of DPI/WAPC in terms of approvals for subdivisions, MRS amendments and approvals, and the role played by the Government in the Local Scheme Amendment process. The following 3 key areas for improvement emerged from the research:

1. Timeliness of Approvals

- Turnaround times are too slow and are getting worse.
- There is no separation between the more simple and the more complex applications.
- DPI needs to get back to the basics of approvals as a priority – there are so many policy initiatives and other priorities afflicting the agency but they can't all have higher priority than approvals.

2. Quality of Decision Making

- The former role of Co-ordinator, Planning at DPI had merit and gave industry somewhere to go to get major issues resolved. Currently there is no formal liaision point.
- Applications aren't treated on merit – too many policies are dictating decisions and making it difficult for staff to make decisions – a form of 'paralysis by policy'.
- Resolving minor issues takes too long – DPI gets involved in issues of detail that should be resolved with the local Council (eg road reserve widths) but at the same time are not proactive in resolving issues or sorting out referral agencies or their responses.
- Variable consistency in decisions and nature of conditions.

3. Resourcing

- DPI is not adequately resourced in the approvals area. Processing staff are often inexperienced and lack mentorship.
- There appears to be low staff morale and a 'work to rule' mentality – resulting in a difficulty in getting or retaining good staff. Industry perceives that there is disillusionment amongst staff – who talk openly about their inability to do their job and their own frustrations. Those that are motivated are efficient but they often leave due to job dissatisfaction, or are poached by industry or Local Government authorities.
- DPI officers don't see applicants as customers, nor do referral agencies – for example it is often left to applicants to chase referral agencies or to push for decisions and adherence to referral response times.

3. SUMMARY OF ISSUES CONTINUED

Feedback from the industry surveys indicated that the two elements of the approval process of most importance to industry were 1) the timelines in processing and 2) the ability to resolve issues. Of next greatest importance is the level of access to decision makers to resolve issues. In respect of the MRS amendment process, the predominant response was that it takes far too long.

Referral agencies needing to improve their dealings with industry are generally those with environmental responsibilities. The Water and Rivers Commission (WRC) create the most issues for industry; whilst the practices of the DoE, EPA and SRT also cause concern for industry.

Industry believes that, compared to 6 years ago when industry was last surveyed on approvals reform, there has been some improvement in the accessibility of DPI staff to discuss issues and in the amount of information passed to referral agencies. However, in the main, industry concerns have intensified over the years, particularly in terms of the long time period for processing applications, the inexperience of DPI personnel, and the adoption of referral agencies conditions without questioning their relevance. Concern was also expressed in terms of increased bureaucracy and complexity with Government approvals generally, eroded industry/DPI trust and respect, and the effect of delays on end consumer prices for housing and land.

On a positive note, industry believes the current State Government approval system is well-defined, relatively transparent and centralised, in terms of subdivision approvals. Industry also appreciates the reconsideration/ appeal rights available whilst the practice of issuing draft conditions of subdivision approvals was seen as a positive initiative that benefited all parties.

There were numerous suggestions for improvement to the current system received from industry, most targeted at reducing approval delays. These included:

- Industry paying extra fees if it meant better service.
- Simple matters being delegated to local Councils.
- Introduce two different assessment procedures 1) for complex applications and 2) for simple applications.
- Re-introducing the industry forums to re-establish a good relationship between industry and the agency - exposing staff to the industry and vice versa.
- Re-introducing the position of Co-ordinator, Planning to liaise with industry and give industry a person within DPI that understands the industrys' issues and can address them internally.
- As staff no longer have to do as many appeals, reallocate these resources into priority approvals areas.
- Better DPI staff resourcing (in terms of both number and experience).
- Enforce statutory referral response times, and don't meekly defer to referral agencies on matters requiring discussion/negotiation.
- Maintain the practice of issuing draft conditions - this is a positive initiative which minimises likelihood of appeals and requests for reconsiderations.
- Extend the subdivision approvals period to 5 years.
- Industry introduction of an award for staff that have been helpful or demonstrate a high customer service ethos against defined criteria.
- Restructure management to align with the 7 sectors in the MDP which would encourage internal 'promotion' and improve job satisfaction as well as give industry direction on who best to approach for specific approvals.
- Establish an Industry Liaison Committee focused on industry concerns and which gives industry feedback on DPI initiatives - LDLC does not currently perform this role.
- Publish the results of the customer survey feedback to ascertain what issues do exist with DPI and advise on how it is intended to address the issues raised.
- At the Executive level, participate more in industry functions and permeate an approvals culture from the top down.

Many of these suggestions were repeated during the review and are canvassed more fully in the Recommendations section of the report.

3. SUMMARY OF ISSUES CONTINUED

3.2.2 Issues Related to Local Government

Major industry concerns with the approvals process at the Local Government level were as follows:

- The quality, resourcing and morale of staff within Council approval areas varies substantially between Councils however across the board there is a shortage of planners.
- There is a lack of knowledge by elected members of the planning system and better training is required – more use should be made of elected representatives to support development proposals.
- The advertising requirements for applications is not always clearly articulated and varies between Councils. Councils are providing neighbours and objectors with a power of veto.
- Town Planning Schemes take too long to amend and many are outdated.
- Referral agencies take too long to respond.
- There is a need for more frequent meetings to make decisions.

Some suggestions for improvement included:

- More frequent meetings.
- Earlier involvement of elected members on major projects.
- If Council staff don't have the expertise to deal with applications there should be consideration of setting up specialist advisory committees.
- Shortening the Scheme Amendment process - automatic Scheme Amendments triggered once MRS amended, etc.
- Make rezonings appellable.

Industry was asked in the surveys to nominate 3 examples of best practice/individual Councils providing good service. Whilst the examples of best practice vary, industry values accessibility, a 'can do' approach, and timely decisions as 'good service'. The Cities of Cockburn, Perth, Rockingham and Mandurah were identified as Councils that industry appreciates working with.

What was evident was that, not surprisingly, unlike the processes at DPI, there were no uniform concerns across all Local Governments other than the need for Councils to be adequately resourced and for turnaround times for all approvals to be minimised where possible.

3.3 LOCAL GOVERNMENT FEEDBACK

A survey was distributed to all local governments in Western Australia through WALGA and 46 were returned. A copy of the survey and the tabulated results are contained within the Appendices Report.

The key results of the survey may be summarised as follows:

1. One of the biggest cause of delays in Councils not assessing applications sooner (particularly DA's) is due to the lack of information provided by the applicant in the first place;
2. Another major cause of delay is lack of experienced staff and resourcing issues;
3. Many Councils indicated concerns at the length of time the DPI takes in responding to Scheme Amendment proposals after the Council has initiated the process;
4. Most Councils rate customer service as a high priority;
5. A number of Councils have recently improved turnaround times by introducing checklists and extending the degree of delegated authority available to officers;
6. Councils recognise the importance of allowing applicants to meet with Planning staff when lodging proposals; and
7. Many applicants do not realise that each Council is different and unique, and operates under a different Scheme to other Councils. Too often applicants compare Councils without understanding these differences.

The feedback from Local Government was considered in the context of the industry's reform agenda and the concerns in some cases were also reflective of issues raised by industry.

3. SUMMARY OF ISSUES CONTINUED

3.4 SUMMARY OF MAJOR ISSUES

Arising from the research, it was evident that current planning approvals processes within Western Australia do not meet the needs of industry or the community or, in many instances, the approval agencies themselves. There is widespread dissatisfaction with the complexity, inefficiency and lack of transparency and accountability inherent in the current system.

It is considered critically important not to delay essential key reforms pending comprehensive reviews of the legislation. Substantial improvements are available without legislative changes but with improvements to process and through leadership by the peak agencies.

The main areas requiring improvement have been summarized into 4 key themes. These are:

1. Attaching timeframes to key actions.
2. Improved communication and issues resolution.
3. Balancing decisions – ie ensuring only appropriate agencies are involved in decision making, that a whole of Government decision is given to proponents and that senior resources at DPI are available to assist industry in the approvals area.
4. Streamlining procedures.

The improvements identified by industry to address the issues raised under these 4 key themes are as follows:

1. Attaching Time Frames To Key Actions

Several important components of the approvals process are not currently subject to statutory timeframes and ought to be. These include:

- Formal reconsideration of conditions of subdivision approval.
- The initiation and various steps involved in the processing of Outline Development Plans and similar structure planning documents.
- Processing of applications to amend the MRS and Local Town Planning Schemes.
- Approval of construction plans for subdivisions.
- Building licenses.

Where timeframes do exist, they are rarely enforced. By way of example, the legislative 30-day time limit imposed on the Department of Environment (“DoE”) within the Scheme Amendment process is not enforced and there is a propensity for the DoE to defer matters for later approvals or consideration which adds uncertainty to the planning process. Certainty, alongside timeliness, are of paramount importance to the development sector.

Along with the introduction of more statutory timeframes for assessment of applications, the concept of ‘deemed endorsement’ should be introduced to place pressure on those referral agencies that do not respond to applications within defined periods.

2. Improved Communication and Issue Resolution

The greater the feedback during the approvals process, the better the chance there is for early resolution of problems, less disputes and less wastage of resources in addressing matters later or in appeals.

Anecdotal evidence through the research conducted suggests that formal requests for reconsideration are being lodged with respect to 50-70% of all subdivision approvals issued. This is an alarming trend, representing significant allocation of resources and a distraction from the primary planning approval tasks.

Industry considers that is should be mandatory for referral agencies to concurrently advise proponents of issues arising in response to applications when responding to Local Governments and/or the DPI.

3. SUMMARY OF ISSUES CONTINUED

Approval agencies should formally advise proponents of the outcome of referral and consultation procedures prior to submitting a recommendation to decision makers, and there should be a statutory requirement imposing time frames on proponents to respond to the consultation/referral report. Furthermore there needs to be an approval culture which encourages dialogue between approval agencies and applicants (their 'customers') in order to try and negotiate solutions early in the process.

3. Balancing Decisions

The recent decision by the Supreme Court clarifying the powers of Department of Environment to prevent or inhibit otherwise approved development (no matter what stage the project has proceeded to) is of major concern to industry. It should also be of concern to other approval agencies and to the Government.

Industry is expressing a strong desire for leadership and decisiveness by the key decision makers to redress this issue which is causing widespread uncertainty in the approvals process.

Industry needs a definitive and all-encompassing decision from Government as to the acceptability or otherwise of a project. Accordingly, the Minister for Planning and Infrastructure, the WAPC and Local Governments must be provided with the power to balance out the competing and often conflicting inputs of referral agencies and other stakeholders in reaching an overall and final decision to approve or refuse new projects.

There is strong support within industry for the reintroduction of proponent assistance (trouble shooter) resources at a senior level within DPI and for the introduction of this role within Local Governments situated within major growth areas. This role is not only to assist industry but to provide a mentor role within the agencies to foster a better understanding of the importance of the development industry and of achieving 'win win' outcomes.

The Town Planning Appeals Tribunal should not be involved in minor matters. A Committee of the WAPC should be appointed to arbitrate disputes that arise in relation to the approval of construction plans for subdivision, the obtaining of clearances, disputes with referral agencies and similar matters.

4. Streamlining Procedures

The opportunity or requirement for proponents to refer projects to stakeholder agencies, and to neighbours in the case of development applications, prior to or during the formal application procedure is strongly supported by industry.

The insistence by Local Government that planning procedures be sequential and not concurrent is unacceptable. Integrated approvals of combined Town Planning Scheme Amendment/Outline Development Plan/Subdivision Applications are legally possible and have the potential to reduce approval periods by at least 12 months and up to 3 years, with a consequent reduction in resource cost to approval agencies and time/development cost savings ultimately passed on to the consumer.

The current inability to simply extend a subdivision approval beyond the initial 3 year approval period must be addressed.

The dual approval process for MRS matters, wherein a proponent can receive conflicting approvals issued by a Local Government and the WAPC, should be abolished in favour of the WAPC only being involved in projects of regional significance - in which cases it should have the final say.

Inconsistent standards applied between Local Governments are a major headache for the development industry and the lack of consistency needs to be addressed by regulation and supplemented by a program of best practice, education and audits.

The basic right to appeal a decision (or a non decision) by Local Government ought to be consistent across the State, with the differences in Appeal provisions between Local Governments being rectified by Regulation. The ability for Councils to reconsider decisions without requiring new applications would also assist industry and Local Government alike.

The recommendations arising from the study address these key areas identified for improvement by industry, as well as encompassing changes sought by other stakeholders in the approval process.

4. LEGISLATION REVIEW

Major reform initiatives invariably include the requirement for legislative change although a number of recommendations for improvement could proceed without it. The existence of 3 planning related Acts with numerous modifications and dating back to 1928 has created a complex and confusing legal framework in which decision making occurs. Ideally this legislation should be consolidated into one Planning Act which also better controls and directs the role of environmental assessment in the planning approvals process. Industry urges the current Government to contemplate changes of such significance , there are changes to the existing legislation which would assist in improvements to the current process.

Prior to considering these recommended changes in the following section, it is worth first noting that various amendments to the planning legislation are already substantially advanced by DPI which will result in improvements to the planning process.

A full copy of all proposed changes to the current planning legislation has been provided by DPI's Statutory Services Division and is included within the Appendices Report. These total some 39 amendments. Of particular interest to industry will be the following proposed changes to current planning legislation. Comments on certain changes are in normal font:

Positive Legislative Changes

1. *In the area of MRS amendments to limit the time in Parliament in which disallowance motions can be effected, permit part of an MRS Omnibus Amendment to be severed from the Omnibus so that the rest can process and the whole Amendment is not jeopardised.*
2. *Require affected landowners to be notified when an MRS Amendment affects their land.*
3. *Enable the Minister to direct a local government to proceed with a local Scheme amendment to enable concurrent processing of this amendment with the MRS amendment to ensure consistency when the MRS is amended.* Rather than the Minister being able to direct a local government, it would be preferable if the legislation simply required the local government to proceed with a local Scheme Amendment within a specified period of time that the MRS Amendment commences.
4. *Where the MRS is amended to reserve land, the local Scheme is automatically amended to reserve the land, without the need for a local Scheme Amendment. This is effected by a notice in the Government Gazette.* The legislation should also allow a similar process where a reserve is changed to zoned land under the MRS (ie an appropriate Local Scheme zoning is effected automatically).
5. *Where the MRS is amended to zone land Urban, the local Scheme may be automatically amended to a Development zone if the Scheme has incorporated the relevant model provisions and provided the Council and the WAPC agree to this automatic amendment which is effected by a notice in the Government Gazette.* To progress this initiative, DPI should ensure that all new Local Schemes that are prepared, which contain existing or potential Urban zoned land in the MRS, incorporate the required provisions.
6. *Continuation of existing local Schemes where no changes are proposed but the Scheme is up for review, by publication of a notice in the Government Gazette rather than having to advertise and publish the existing Scheme as currently occurs.*
7. *Allow the WAPC to approve subdivisions at variance with a local Scheme where the local Scheme is more than 5 years old, the subdivision is consistent with SPP1, a minor variation to the Scheme requirement is sought, the subdivision is consistent with the intent of the Scheme, the Scheme allows the variation, or the subdivision is supported by the Council.* This power already exists and the proposal appears to be a reduction in the power of the WAPC.
8. *Exempt all subdivision works from requiring development approval under any scheme.* This is a major initiative and will overcome issues such as retaining walls required to create lots approved in a subdivision having to be the subject of a planning approval even though the Council's approval is already required for engineering drawings showing the same walls.
9. *Remove the requirement for WAPC approval to leases and licences.*
10. *Introduce a statutory time period of 30 days for the WAPC to endorse a deposited plan.*
11. *If a referral agency does not provide comments within 42 days then it is taken to have no objections or recommendations on the subdivision.*
12. *Valuations for cash-in-lieu of Public Open Space (POS) are to be determined on a specified date following a request from the subdivider with payment then due within 90 days unless otherwise agreed by the local government. If payment is not made within the 90 days, the local government is entitled to ask for an updated valuation.*

4. LEGISLATION REVIEW CONTINUED

13. Cash-in-lieu funds can be used to re-imburse owners who have ceded excess POS under a joint subdivision agreement between landowners. The initiative should not be reliant on private agreements between landowners.
14. Extend subdivision approvals from 3 to 5 years where the application amounts to more than 30 lots. There does not need to be an arbitrary limit on the size of the subdivision, and the proposal should be expanded to provide a power to extend approvals in cases where substantial commencement has occurred.
15. Provide the Minister for Planning and Infrastructure with a general power of delegation.
16. Consolidate the compensation provisions of the various planning acts into a common set of uniform provisions. The legislative amendments should go even further and remove any time limit on the payment of compensation for private land reserved under a local Scheme.
17. *Provide a right of appeal against the decision of a local government on the characterisation of a landuse not listed in the scheme.* It is queried however, why the change should be restricted to uses not listed in a Scheme. The right of appeal should extend to any use class. The use designated by a Council can make the proposed development move from being permissible to being precluded. There is currently no right of appeal if, for example, a Council categorises a restaurant as a funeral parlour even if both uses are listed in the Scheme – a Council doesn't have to give a reason for its determination of the most appropriate categorisation and this use of discretionary power should be appellable.

Legislative Changes of Possible Concern

Some possible areas of concern in the legislative changes which should be monitored carefully by industry, as they could potentially have negative implications, include:

1. *To provide for Statements of Planning Policy (SPP) having a policy content as well as statutory content. Furthermore the statutory content may automatically amend local Schemes and require automatic referral of certain applications to the WAPC for determination.* The potential concern is with regard to changes to policy content of SPP's without prior industry consultation. Policy statements are comparatively vague and will reduce certainty in the statutory process. There is also a need to clarify whether duplication will remain in the approvals area in that Local Council approval is still required thus potentially causing delays and contradictions in determining applications.
2. *Grant any person who lodges a submission on a major amendment to a region scheme a right to be heard by a hearings committee.* The only concern here is to ensure that such hearings are not unduly protracted. There should be at least some power to prevent unnecessary hearings and/or misuse of the system.
3. *Prior to the commencement of the 5 year review of a local Scheme required by the Act, provide the opportunity for public submissions on the effectiveness of the existing Scheme and the form the review should take, prior to commencing the Scheme review process.* This proposal will add both to the timing and cost of undertaking a Scheme review and is considered unnecessary. The public tend to only be interested when change is proposed and if they prefer what they already have or want something else they can always make a submission when the draft Scheme is advertised, along these lines.
4. *Validate ambulatory conditions of subdivision*. This change would be totally contrary to best practice and the reform agenda. Ambulatory conditions are those which require certain actions to be undertaken 'to the satisfaction of someone'. This creates uncertainty and technically means if an individual doesn't like something they don't need to clear the condition. A condition needs to be definitive so all parties know exactly what is required. Ambulatory conditions are poor practice, criticised by the focus groups.
5. *Broaden the specified purpose for which land may be ceded free of cost on subdivision being for any public purpose related to the subdivision.* Industry would need to ensure that such uses were in fact generated by the subdivision and this was not a mechanism to avoid payment of compensation for reserved land or, by way of another example, to require developers to cede land for community facilities in addition to POS provision. The purpose should be a consequence of subdivision – not just related to it.

4. LEGISLATION REVIEW CONTINUED

6. *Provide that the WAPC may lawfully impose a condition on an approval to subdivide or develop land which requires MRS reserved land to be ceded free of cost without compensation, providing the condition is for a genuine planning purpose, and fairly and reasonably relates to the subdivision or development to be approved. This requirement is also to be imposed retrospectively of previously approved applications and provides that compensation that may have been paid because land is reserved can be retrospectively paid back to the WAPC when a condition of this nature is subsequently imposed. Industry* should continue to take the view that land reserved under the MRS is reserved for a regional public good not generated by a local subdivision or development simply because the reserved land may comprise part of a site of a local development. Accordingly, it should be acquired and compensation paid rather than being a burden on the affected landowner. Proof that it "fairly and reasonably relates to the subdivision or development" will be a highly subjective argument and likely to result in a high degree of litigation. Retrospective imposition of conditions and requiring moneys to be paid back as a consequence of changes to legislation are likely to both be strongly opposed by the development sector and individual landowners.
7. *Enable the WAPC to require the payment of cash-in-lieu of POS rather than the current arrangement where the payment is subject to agreement between the subdivider, the Council and the WAPC.*
8. *The WAPC may impose a condition for lots under 350m² requiring development to be integrated with subdivision.* This would remove the ability to create and sell vacant small lots with approved house designs but which enables future purchasers to vary the design of the house. It would also require the developers of small lots to also be builders or have a relationship with a builder as all small lot developments would then become house and land packages.
9. *Delete local government as a field of experience upon which a community representative may be appointed to the WAPC as local government is already represented and instead introduce other criteria such as urban design, environmental conservation, etc. Allow for up to 3 community representatives (currently only 2).* There would be a concern if the WAPC did not have facilitating development and land supply as a primary focus which is unlikely to be the objective or priority of many "community" representatives.
10. *Allow a third party a right of appeal in relation to the landuse categorisation applied by a local Council limited to those persons who objected to a proposal during advertising.* Industry strongly opposes the introduction of any third party appeal rights into planning legislation. In addition, in this instance it is likely to result in more applications being advertised to enable the third party appeal right to be available further causing delays to the applicant, as the requirement to advertise development is very often discretionary in local Schemes. It would appear that this change assumes that the landuse categorisation applies only to uses not listed but in reality it is an issue as to what category Councils place uses into even when the choices are defined in the Scheme.

Other proposed modifications which may or may not be of concern to industry include:

1. *Restrictive covenants to replace 0.1m PAW's to control access to major roads.*
2. *A 12 month time limit for the lodgement of deposited plans with the Registrar of Titles following endorsement of the Deposited Plan by the WAPC.*
3. *Enforcement provisions in respect of subdivision works carried out without subdivision approval or in contravention of an approval, including offence provisions.*
4. *Include the Director Generals of Housing and Works, and Industry and Resources, as members of the WAPC.*
5. *Consolidate the enforcement provisions of the various planning acts into a common set of uniform provisions and extend the injunction provisions available to the WAPC under the MRS to local governments for breaches of local Planning Schemes.*

4. LEGISLATION REVIEW CONTINUED

Industry supports many of the changes mooted by DPI, but several are of significant concern. There is however, an expectation that legislative improvements which benefit all parties are given high priority within DPI and Government. To this extent, DPI needs to not only have ownership in promoting the Consolidation Bill and pursuing legislative improvements where they are identified but also to ensure that the resultant modifications are effective to the parties most directly affected by the changes. In this regard, there needs to be an on-going and meaningful dialogue between industry and DPI on any proposed changes before they are effected, so that they can be understood and supported.

This requirement extends beyond consolidation of the legislation. Other legislative and policy initiatives currently being considered by the DPI include Self-reporting on Subdivisions, review of the Model Scheme Text and review of the MRS (the legislation not the plan). Whilst industry to date has given support to the initiative of Self-reporting, a trial period and guidelines are considered essential if the process is not simply going to involve a transfer of costs from DPI to industry/applicants without any discernible benefits in terms of improved turnaround times and/or quality of decision making. DPI therefore needs to work with industry representatives to formulate and institute the trialling of the proposal.

The initiative to update the Model Scheme Text is supported in that it seeks to make local Town Planning Schemes (TPS's) more consistent across the board, and user friendly.

The review of the MRS is also supported particularly to address anomalies such as inconsistencies between approvals issued under the MRS and local TPS for the same development (the MRS should prevail in such instances). The legislative framework of the MRS has not been substantively reviewed since its gazettal in 1963 and a review is overdue. The process of updating the MRS is also outdated and should be examined concurrently.

5. CHANGES AT DPI

Whilst the PPR Study was being undertaken by industry, the Department for Planning and Infrastructure (DPI) undertook an internal review of its Statutory Planning Division (SPD), focussed on improving the processing of statutory planning applications and associated planning work.

The Director General for the Department established a dedicated internal Taskforce to implement changes for the better as they were being identified by both the PPR review and the internal review. The Statutory Planning Improvements Taskforce produced a draft report in November 2003 titled *Statutory Planning Internal Improvements Review (SPIIR),* a copy of which is contained in the Appendices of this report.

It is interesting however, to reflect on some of the key findings in the SPIIR. Through research and internal interviews, it was identified that there were a number of issues affecting the Statutory Planning Division. Some of the more significant of these from an industry perspective were as follows:

1. The Division is in a position of having to cater for increased demand without a corresponding increase in resources.
2. Other than subdivision applications, there is poor or no tracking of other work required to be completed such as requests for reconsiderations, responses to appeals, amended plans, structure plans, clearance of conditions, leases, responses to Ministerials, and general correspondence.
3. Lack of targeted management and prioritisation of workload due to inadequate management reporting provided by the system.
4. A backlog of statutory workload, with a lack of management intelligence as to the nature or extent of the backlog. This backlog extends across all work areas. For example, the Taskforce identified that 89% of Scheme Amendments were over the benchmark processing time of 90 days with 44% of Amendments more than a year over the 90 day limit.
5. Lack of tracking, co-ordination and management of projects, particularly projects with strong interdependencies.
6. Inconsistency in approaches to planning approvals across different teams in the Division.
7. Inappropriate workload allocation to junior/inexperienced staff.
8. Lack of prioritisation across the entire workload of the Division with priority weighted towards processing of subdivision approvals given they were tracked and performance measured.

None of these issues would be of any surprise to those involved in the land development industry in WA and re-inforced many of the same concerns raised by industry and, to a lesser extent, by Local Government. The review also identified a number of issues relating to internal budgeting, management and operational concerns which were contributing to the inefficiency of the Division.

In response to the issues identified, in September, 2003 the Taskforce developed the Statutory Planning Workload Strategy aimed specifically at clearing the backlog of applications. The strategy included an interim restructure of the Division which effectively created a 'backlogs' team, a 'current applications' team and an 'amendments' team. Appointment of additional officers on a short term basis was also approved by the Commission.

More enduring improvements were seen to best be achieved by focusing on 2 project streams. The first focuses on Planning Approvals Administrative Processes – namely improvements and enhancements to interfaces between the SPD and other stakeholders in the process and the administrative and procedural frameworks that relate to the Division's core business area. The second stream is focused on Management – namely improvements to the business, administrative and corporate framework that supports SPD in the delivery of its service which was identified as being a key deficiency of the Division. Major improvements identified under these two areas, which would be of most interest to industry comprised:

1. Transparent and consistent operational practices that are fully documented.
2. Clear and consistent planning application guidelines.
3. Improved reporting mechanisms.
4. Filtering of applications by complexity upon receival so that simple applications can be fast-tracked with deployment of appropriate resources to complex applications.
5. Expanded planning support officers roles to assist planners in processing applications.

5. CHANGES AT DPI CONTINUED

6. Mechanisms and forums for proactively engaging with stakeholders to share information and work collaboratively.
7. More efficient working relationship between offices and the Records Department.
8. A streamlined referrals process with a focus on expediting complying applications.
9. Increased transparency for and collaboration with proponents of major developments in the assessment process.
10. Improved automation in the process.
11. Alleviating work bottlenecks through restructuring.
12. More detailed and accessible decision making and project documentation.
13. Adoption of a Divisional Business Plan which incorporates management benchmarks and allocates resources to work priority areas.
14. An appropriately resourced Divisional structure.
15. Introduction of improved staff retention mechanisms.
16. More effective cost recovery for the processing of applications through the development of fees and charges that reflect the resources required.

A total of 19 sub-projects were identified which need to be completed by DPI to progress implementation of the improvements areas identified. These sub-projects range from the Management Benchmark Development Sub-Project to the Stakeholder Engagement Sub-Project, with the majority proposed to be funded out of the existing SPD budget and all involving substantial consultation with DPI staff and targeted consultation with external stakeholders. Project Stream Managers are to be appointed for each stream and are to report to the Taskforce.

Industry supports the reviews and reforms being undertaken by DPI. The PPR study arose out of industry concern at delays being experienced with obtaining planning related approvals; a significant proportion of which are processed by DPI. Industries concerns have largely been reflected by DPI's own internal review and for this reason both PCA and UDIA are committed to working with DPI where possible to achieve the warranted reforms which will benefit not only industry and DPI but other stakeholders in the approvals area including Local Government and referral agencies.

Therefore, to assist DPI with the implementation of the review and recommendations of their Statutory Planning Internal Review, the recommendations of the PPR study include cross references to the DPI sub-project in which the recommendation/s should be taken on board. It is understood that the recommendations arising from this report will be incorporated into the DPI's review. Consequently, PCA and UDIA will take an active and ongoing interest in the implementation of the reforms and will continue to monitor feedback from members as to the effectiveness of the identified reforms in streamlining the State Government's role in the approvals process.

Attachment 1 is a table containing a summary of the recommendations for improvement arising out of the PPR study. These recommendations are outlined in detail and built into the following Implementation Strategy directly linked to the Agenda for Reform.

The recommendations were derived from the following sources:

- Input at Focus Group meetings.
- Survey responses from Local Government and Industry.
- The internal review of DPI.
- A review of proposed legislative amendments.
- Examination of best practices from elsewhere.
- The findings of previous studies.

Where possible, recommendations are grouped into the various stages of the approvals process. Reference to the applicable DPI sub-project is made where relevant to ensure the recommendations of industry are incorporated into the DPI improvement process. The recommendations are preceded by an outline of the issue as perceived by industry which requires redressing.

6. IMPLEMENTATION STRATEGY

6.1 PRE-LODGEMENT

Reform Agenda

- **Give the pre-lodgement process status.**
- **All Planning Schemes and Policies to be made available on the Net.**
- **Greater use/standardization of Local Government Minutes/Agendas on the Net.**

Issue

The availability of information and provision of advice from regulators early in the planning approval process creates the best opportunity for early resolution of problems, less disputes and less wastage of resources in addressing matters later and a clear understanding of likely timeframe and process. There are varying degrees of commitment to pre-lodgment discussions, with Local Government and proponents generally supportive of such practices but DPI less so. It is a critical, yet informal, step in the process that warrants attention and recognition in a manner which does not result in yet another compulsory step of the process resulting in further delays to the timeframe for approvals.

Recommendation 1

That DPI's ***Planning Applications Conformance Standards Sub-Project*** *be expanded to include identification and implementation of best practice pre-lodgment advice and processes by DPI and Local Government, including recognition of any pre-lodgment discussions/negotiations within checklists.*

Issue

The ability for proponents to self refer applications to the variety of stakeholder government agencies and/or to neighbours of a development site has long been supported by industry as a means of identifying and resolving issues early whilst streamlining and reducing timeframes associated with the formal application process.

Recommendation 2

That the DPI's Planning Applications Conformance Standards Sub-Project, Application Streamlining Sub-Project and Application Referral Sub-Project include consideration of the opportunity for self referral; by proponents to Government Agencies prior to the lodgment of formal subdivision applications, and to neighbors where required on development applications. Where this occurs, it should result in a reduced turnaround time for decisions from the regulatory authority concerned.

Issue

Town Planning Scheme texts, mapping and polices are not always readily available on the Net. Furthermore the availability of Council minutes and agendas through the Net is highly variable. Proponents and their consultants are frequently forced to contact DPI and Local Government to obtain the most basic information. This distracts resources from the Statutory Approvals Process. Reasons given by those Councils not utilising the Net to provide this information relate primarily to issues of liability and are not valid provided the information is issued under appropriate qualification. Many Local Governments simply do not have the resources or expertise to upgrade systems to embrace technology. This also reduces the opportunity to introduce consistence procedures for lodging or tracking development applications electronically. Whilst the DPI system allows some limited electronic tracking of applications, they cannot be lodged electronically.

6. IMPLEMENTATION STRATEGY CONTINUED

Recommendation 3

*That DPI's **Geographic Systems and Data Sub-Project** be enlarged to examine means by which DPI can sponsor or facilitate the availability of all Town Planning Schemes and associated approvals documents on the Net and expand its own system to facilitate improved electronic tracking and enable electronic lodgement of applications.*

Recommendation 4

That WALGA work with Local Government in identifying funding opportunities from the State and Federal Governments to achieve greater use of the Net by Local Government to provide accessibility to Town Planning Schemes and Local Government minutes/agendas as well as to introduce electronic development application tracking and lodgement capabilities.

Issue

Developers are prepared to pay an additional fee for expedited service recognising that, whilst timeliness of approvals is always an issue, on occasions obtaining approvals is required as a matter of particular urgency. Local Government can generally be flexible in accommodating urgent applications but no such facility exists with DPI applications. However, any application fees (whether charged for expedited assessment or not) must be linked to achievement of performance targets.

Recommendation 5

That the DPI's Application Referral Sub-Project and Fees and Charges Review Sub-Project include consideration of the option of an expedited fee being payable for an expedited assessment and decision for DPI applications, with the linkage of any assessment fees to performance requirements.

Issue

Self assessment of applications submitted to both DPI and Local Governments should be encouraged. Where undertaken, self assessment should ensure that duplication of the assessment process does not occur and the turnaround time for the application is reduced relative to applications where self assessment and compliance is not demonstrated or undertaken by the applicant.

Recommendation 6

*That the DPI's **Planning Applications Conformance Standards Sub-Project, Self Reporting on Major Subdivisions Sub-Project, Application Assessment Procedures and Business Rules Sub-Project and Application Streamlining Sub-Project** investigate the opportunity for accredited self assessment of applications and that this model, when developed, be reviewed by WALGA for possible extension to Local Government approvals processes.*

6. IMPLEMENTATION STRATEGY CONTINUED

6.2 INITIAL ASSESSMENT

Reform Agenda

- **Ensure proponent is advised of outcome of initial assessment of proposal.**
- **Specify timeframe to determination of proposal based on initial assessment of complexity.**
- **Introduce a Fast Track system for specified minor developments and minor subdivisions of, say, 5 lots or less.**

Issue

To assist in streamlining the approvals process and remove unnecessary delays in assessment and decision, initial assessment of all applications should be undertaken within a target timeframe. Such assessment should ensure adequacy of documentation and likely compliance with DPI/LGA requirements which then determines the likely process for decisions. Applicants should be provided with advice as to the outcome of this assessment and an estimate provided of the timeframe in which the application will be determined. At this phase, applications of a minor nature, such as building extensions, change of use or limited lot subdivisions should be set aside and processed through a fast track system. This should include the ability for Local Councils to accept delegation to approve minor subdivisions where such delegation is supported by the applicant.

Recommendation 7

That the DPI's ***Planning Applications Conformance Standards Sub-Project, Application Assessment Procedures and Business Rules Sub-Project and Application Streamlining Sub-Project*** *examine the introduction of a procedure for an initial assessment of applications with target assessment timeframes and a reporting back mechanism to applicants specifying initial assessment findings and likely timeframe and process for assessment.*

This phase of the assessment process is to determine which applications are minor and can therefore be considered for fast track assessment. Further that these sub-projects examine delegation opportunities to Local Government.

Recommendation 8

That WALGA work with Local Government to develop a Best Practice Guide which encourages an initial assessment phase for all applications, formalized reporting back of this phase to applicants and a fast track system for minor complying applications, including subdivision applications which may be delegated for approval.

6.3 CONSULTATION/REFERRALS

Reform Agenda

- **Allow applicants to undertake Self Referrals.**
- **Assume deemed endorsement of proposal by referral agency if no reply at conclusion of referral process.**
- **Resource referral agencies to be able to respond to referrals.**
- **More limited/defined consultation.**
- **Enforce statutory response deadlines for DoE/EPA.**
- **Compulsory copy of referral responses to proponent.**
- **Agencies to provide standard conditions for minor matters to obviate need for referrals.**

6. IMPLEMENTATION STRATEGY CONTINUED

Issue

The need for Local Councils and DPI to refer various applications to other agencies for comments or concurrence creates delays and uncertainty in the planning process. Other than for subdivision referrals, and referrals to the EPA, there are no statutory timeframes in which agencies must respond and even where there are such timeframes they are rarely adhered to without any adverse consequence for the agency concerned. This results in costly delays and frustration for the applicant. Many agencies provide comments beyond their jurisdiction, there are often no clear guidelines for many referral agencies as to what applications should be referred to them, and many agencies do not have the resources to respond in a timely manner to the increasing number of referrals. Currently it is the responsibility of the regulating authority to determine the extent of referrals and follow through on responses. However it is frequently applicants who chase responses out of frustration at the delays being caused to approvals due to lack of referral agency responses. It is also often applicants who have to resolve issues raised by agencies, which sometimes conflict. In the interests of efficiency and accountability, the referral system needs complete review and improvement.

Recommendation 9

*That the **DPI's Application Referral Sub-Project**, in conjunction with the **Application Streamlining Sub-Project and Self Reporting on Major Subdivisions Sub-Project**, and in consultation with WALGA, involve a thorough review of the entire referrals process (as is proposed) to include, inter alia:*

- *Requirement for referral agencies to clearly define applications requiring referral, the areas of expertise which responses will cover and the timeframe for responding. This review by agencies themselves is to include documenting standard provisions which can be imposed, and potential delegation powers, removing the need for referral of minor or complying applications.*
- *Applicants undertaking the referrals, including neighbour consultation where required under Planning Schemes (as previously recommended). Where applicants do undertake the referrals, there should be associated reduced turnaround times for decision lodgement.*
- *Establishing and enforcing mandatory referral agency response times with no response in such timeframes being deemed to be no comment.*
- *The resourcing requirements of referral agencies be determined and funded.*
- *Applicants being provided with copies of referral agency responses as and when they are received so that issues can be addressed immediately and prior to determination of applications.*
- *Greater scrutiny of the merits of referral agency responses by the referring agencies having regard to the basis on which the application was referred.*
- *Consideration of charging a nominal fee for submissions lodged during the advertising of proposals (including development applications and EPA notices) to reduce the number of vexatious or pro-forma submissions and to offset the costs of assessing the submissions received.*
- *Improve the use of electronic media - to expedite the original referral, simultaneously provide responses to referral agency and applicant, and better confer the nature of responses received (eg acknowledgement only not recorded as an agency response to a referral on DPI tracking system).*

6. IMPLEMENTATION STRATEGY CONTINUED

6.4 DISCUSSIONS/NEGOTIATIONS

Reform Agenda

- **Create statutory requirement to advise proponent of issues arising after assessment, and to provide opportunity for proponent to respond/revise proposal.**
- **Insert 'stop the clock' provisions in Planning Schemes or Regulations for development applications.**

Issue

There appears to be a general reluctance to discuss or negotiate the resolution of issues with applicants common between DPI and Local Government but particularly prevalent in DPI. This can lead to unnecessary refusals (whereby such issues may well then be resolved through appeals at mediation), conditions which are inappropriate or can not be complied with, and/or the necessity to lodge new applications, in the case of Development Applications, as there is no ability to modify development approvals or approved plans after a decision has been made, other than by costly and time consuming appeal processes.

In the case of subdivision approvals there is at least a formal avenue for the Commission to reconsider its decision but it involves the applicant paying for and having to lodge formal requests for reconsideration, and duplication of assessment processes, when the issues of concern could well have been resolved to the satisfaction of both parties with early and facilitative dialogue between the regulating authority and the applicant during the assessment phase. There is also an anomaly in that where additional information is required to address issues that arise, 'stop the clock' provisions can be applied to the processing of subdivision applications but not technically to the processing of development applications. This should be rectified through insertion of an appropriate provision in the Model Scheme Text and introduced into all planning schemes over time.

Recommendation 10

That the DPI's ***Application Assessment Procedures and Business Rules Sub-Project and Stakeholder Engagement Sub-Project*** *include an emphasis on negotiating solutions with applicants and other stakeholders prior to issuing decisions which are untenable to applicants and which will likely result in either requests for reconsideration or an appeal being lodged which only adds time and cost to the process of resolving issues. Furthermore, the Planning Applications Conformance Standards Sub-Project be expanded to insert into the Model Scheme Text provisions enabling Local Councils to:*

1. *Reconsider decisions on Development Applications;*
2. *Accept revised plans as substitute plans for approvals without the necessity for a new application to be lodged and processed; and*
3. *'Stop the clock' in determining applications where applicants have requested this in order to provide additional information and/or resolve issues.*

Recommendation 11

That WALGA work with Local Government to develop a Best Practice Guide which encourages mediation and negotiation with applicants and Town Planning Schemes which allows Councils to reconsider decisions on applications without the need for new applications or an appeal.

6. IMPLEMENTATION STRATEGY CONTINUED

6.5 DETERMINATION

Reform Agenda

- **Transparency in DPI/WAPC reporting and decision making processes for all matters - public agendas.**
- **Enforce upfront assessment (or non assessment) by DoE/EPA.**
- **Negate environmental conditions that defer assessment.**
- **Greater standardization of Delegated Authority across Local Government.**
- **Create a dispute resolution/arbitration body (in lieu of Tribunal) for subdivision clearances.**
- **Introduce a statutory timeframe for all aspects of Scheme Amendments and for determining MRS Development Applications.**
- **Review the 90 day determination period for subdivisions.**
- **Create statutory power to extend subdivision approvals beyond 3 years, preferably to 5.**
- **Review standard conditions to specify the action required, by whom, by when.**
- **Introduce a provision for a WAPC decision to prevail over a local Scheme decision where the two decisions on the same applications under the MRS are contradictory or contain conflicting conditions.**
- **Review and cull the number of WAPC policies and ensure they are applied as policies, not rules.**

Issue

Industry and Local Government have both raised concerns that the DPI/WAPC assessment and determination process is not transparent or accountable relative to the assessment process for Council approvals. In particular, reports to the Statutory Planning Committee (SPC) and the WAPC are not available to third parties (including applicants) so their accuracy and conclusions cannot be disputed. Furthermore there is limited, if any, access to the Committee, or its deliberations and members. Whist industry would oppose the cost and delays associated with full public conduct of such meetings and decisions, it is considered reasonable that applicants can access reports dealing with their applications and members of the Committee are amenable to discussing any concerns prior to determination.

Recommendation 12

*That the DPI's **Planning Applications Conformance Standards Sub-Project, Application Assessment Procedures and Business Rules Sub-Project**, **Stakeholder Engagement Sub-Project,** and WAPC Services Sub-project involve an assessment of various models to make the decision making process more transparent and accessible to stakeholders, including providing access to reports, meetings and members of the SPC and WAPC.*

Issue

There is increasing concern that the EPA and associated environmental agencies have become the more powerful determinant of the acceptability of development approvals in WA than the WAPC in terms of major new developments, rezonings and subdivisions. The current legislative arrangements enable the EPA to preclude a development notwithstanding it may have received planning approval. Furthermore, there is a lack of certainty as to the security offered by an EPA assessment which can be revisited through semantics, loopholes and unclear legislative procedures and provisions. Industry requires early and unequivocal confirmation as to the acceptability of a project by Government (and all divisions thereof) which cannot be subsequently over-ridden by environmental legislation. Previous attempts to more closely "integrate" the planning and environmental legislation has only added additional time to the process without necessarily adding certainty.

6. IMPLEMENTATION STRATEGY CONTINUED

Recommendation 13

That the DPI's ***Planning Applications Conformance Standards Sub-Project, and Application Referral Sub-Project*** *involve a review of current referral processes with the EPA/DoE and that WAPC work with the EPA on legislative and administrative processes with a focus on certainty in the approvals process. This includes halting the current practice by the EPA of issuing 'interim' approvals with riders allowing the proposal to be revisited at later stages of the process and thus deferring the conferring of an environmental approval to a project.*

Issue

Industry is concerned at the lack of alternative dispute resolutions for clearances of subdivision conditions. Presently, disputes over conditions of subdivision which require clearance can only be resolved in an appeal situation, if the issues don't arise until the clearance stage. There is thought to be considerable merit in the introduction of an alternate mediation body to resolve clearance issues ahead of the matter proceeding to appeal. It would also assist if the wording of conditions were such that there was no ambiguity in terms of the action required and how any non-standard conditions are to be cleared.

Recommendation 14

That the DPI's ***Planning Applications Conformance Standards Sub-Project, and Application Streamlining Sub-Project*** *consider opportunities to establish a dispute resolution mechanism for condition clearances which obviates the need to proceed to an appeal to resolve disputes and also involve a review of the wording of conditions to minimise the likelihood of disputes arising at the clearance stage.*

Issue

It is considered timely to review statutory timeframes for determination of applications and in particular to introduce timeframes over more elements of the approvals process. There are currently only limited statutory timeframes imposed by legislation and even these are not rigorously adhered to. Many critical approvals have no timeframe limitations, such as MRS and Local Scheme Amendments, MRS Development Applications, and the processing of ODP's and Structure Plans, whilst other timeframes that do exist need to be reviewed. There also needs to be more accountability in meeting timeframes established, both in terms of referral agencies but also as part of the internal work practices and culture of DPI.

Recommendation 15

That the DPI's ***Planning Applications Conformance Standards Sub-Project, Application Referral Sub-Project, Divisional Structure Sub-Project, Workload Management Sub-Project and Business Planning and Development Sub-Project*** *involve a review of statutory timeframes to ascertain the opportunity to reduce and better enforce those timeframes that do exist and to introduce new timeframes for approvals where no timeframes currently exist (Scheme amendments, ODP's, Structure Plans etc.).*

Issue

There are a number of current minor legislative impediments which, if amended, could assist with streamlining the approvals process. Examples of these include extending the validity of subdivision approvals beyond 3 years and providing that MRS Development Approvals prevail over Local Scheme approvals for the same development.

6. IMPLEMENTATION STRATEGY CONTINUED

Recommendation 16

*That the DPI's **Planning Applications Conformance Standards Sub-Project** include a thorough investigation of minor legislative changes that could be introduced to streamline the process and remove inconsistencies. Examples include extending the life of subdivision approvals and removing inconsistent decision making between Local Government and the WAPC for the same development.*

Issue

Industry has a major concern with the extent and relevancy of a number of DPI/WAPC policies, many of which are then legislated under section 5AA of the Town Planning and Development Act. DPI staff then tend to treat 'policies' as laws where variations are rarely considered, explored or supported. Variations should be acceptable where justified and should be used by assessing staff and the SPC as guidelines only.

Recommendation 17

*That the DPI's **Planning Applications Conformance Standards Sub-Project and Application Assessment Procedures and Business Rules Sub-Project** involve a thorough review and culling of WAPC/DPI approvals related policies, with restrictions on which policies are legislated and with training for staff to ensure that all policies are guides only and should not be rigidly applied, but rather varied where warranted.*

Issue

As well as streamlining opportunities at the DPI/WAPC level, there is a need to explore opportunities for improving the Local Government approvals process. Of most interest to industry is consistency. Whilst it is recognised that there will always be some variation in terms of the content of Local Schemes, there should be a consistent approach to common development standards (such as car parking dimensions and aisle widths). There should also be a higher degree of commonality in the level of delegation Councils give to officers and the timing and nature of their Committee and Council meetings. Industry favours maximising the extent of delegation as well as the number of Council meetings held in a year. Some Councils have removed the Committee system thus enabling an increased number of Council meetings which stops duplication of the decision making process (ie Committee and Council considering the same application). However, where Committees are disbanded, they need to be replaced with briefings to and/or deputations with Councillors given the limited time available at Council meetings for discussion on development related matters.

Recommendation 18

That WALGA include within a Best Practice Manual a model set of development standards and delegations for adoption by Councils and encourage a Council decision making mechanism which would see traditional Committee and Council meetings replaced with more frequent Council meetings and opportunities for more informal deputations/briefings by applicants.

DPI review the extent of variations to fundamental development standards (for example carpark dimensions, aisle widths, road widths and pavement thicknesses etc) across the state with a view to influencing greater consistency, by changes to the Model Scheme Text, an SPP or Regulation if necessary.

6.6 RECONSIDERATION

Reform Agenda

- **Create a statutory right for reconsideration of development matters.**
- **Specify a statutory time frame for determination of subdivision reconsiderations.**

Issue

The opportunity to request reconsideration of a decision on a subdivision application, including conditions imposed, is seen to be a positive element of the existing process. However, there is no statutory timeframe in which such requests have to be determined and the opportunity for such requests does not extend to development approvals. These are two improvements to the reconsideration process that are considered to have merit.

6. IMPLEMENTATION STRATEGY CONTINUED

Recommendation 19

That the DPI's Planning Applications Conformance Standards Sub-Project, Application Streamlining Sub-Project and Business Planning and Development Sub-Project include addressing timeframes in which requests for reconsideration are determined and the extension of such a mechanism to the development approvals processes at both WAPC and Local Government level.

6.7 CONSTRUCTION APPROVALS, OCCUPATION AND CLEARANCES

Reform Agenda

- **Introduce statutory time frame for determination of building licenses.**
- **Clarify and simplify process/responsibilities/appeals for subdivision construction plans in Act/Regulations.**
- **Private certification of subdivision construction plans.**
- **Introduce statutory timeframe for determination of subdivision construction plans.**
- **Introduce Statutory timeframes for issuing occupation licences.**
- **Introduce statutory timeframes for issuing subdivision clearances.**

Issue

A number of issues arise post approvals which also require redress. One major issue is the lack of a statutory timeframe for matters such as:

1. determination of a building license;
2. determination of subdivision construction plans;
3. issuing of occupation licenses; and
4. issuing of subdivision clearances.

These concerns could be addressed by introducing statutory timeframes for such matters with 'deemed approvals' or 'deemed cleared' where timeframes are not met. Timelines could be assisted by allowing self certification of subdivision construction plans and other initiatives could include combining DA/building license approvals for minor developments.

There also needs to be legislative clarification in terms of responsibilities and the appeals processes for subdivision construction plans and dispute resolution or arbitration mechanisms introduced for post approval grey areas such as occupation licenses and subdivision clearances (as previously indicated).

Recommendation 20

That the DPI's ***Planning Applications Conformance Standards Sub-Project, Application Streamlining Sub-Project and Business Planning and Development Sub-Project*** *include addressing the post approvals phase with introduction of processing timeframes, initiatives to expedite the process, and less formal/time-consuming mechanisms for dispute resolution.*

6.8 GENERAL AND MISCELLANEOUS IMPROVEMENTS

Aside from the improvements recommended in this report which are linked to the various stages of the approvals process, the study identified a range of further opportunities to improve current systems. These ranged from lobbying to obtain additional qualified planners in the workforce to re-introduction of the Urban Development Co-ordinator position at DPI. A number of issues not adequately covered under the stages of the approval process outlined above, are dealt with in the following recommendations:

6. IMPLEMENTATION STRATEGY CONTINUED

Reform Agenda

- **Mandatory Councillor training on planning matters.**
- **Introduce statutory timeframe for processing ODP's and Structure Plans.**
- **Introduce standard appeal provisions for ODP's and Structure Plans.**
- **Address lack of experienced planners with Universities.**
- **Greater consistency of fundamental development standards across Local Government.**
- **Simplify R Codes – fewer categories, less prescription.**
- **Create ability to 'package' Scheme Amendment/ODP/Subdivision into single document and concurrent process.**
- **Re-introduce the role of Urban Development Co-ordinator at DPI.**
- **Introduce industry forums to consider new policy, legislation and procedural matters.**

6.8.1 ODP's and Structure Plans

Issue

There is currently no consistent approach to the way ODP's and Structure Plans are assessed. The issue of the need to introduce statutory timeframes for processing such plans has already been canvassed but there is also the need for standard appeal provisions to apply in terms of Local Schemes, and a streamlined process for approving amendments to these plans.

Recommendation 21

That the DPI's ***Planning Applications Conformance Standards Sub-Project, Application Streamlining Sub-Project and Business Planning and Development Sub-Project*** *include standardising provisions and timeframes for ODP assessment, modification and endorsement. This should include encouraging Local Government to adopt model and standardised appeal provisions.*

6.8.2 Integrated Approvals

Issue

Industry continues to lobby for more integrated approvals with more elements of the process being undertaken concurrently rather than sequentially. There should for example be the ability to package rezoning, structure plan, subdivision plan and development approval (where required) into one application and one process.

Recommendation 22

That the DPI's ***Planning Applications Conformance Standards Sub-Project and Application Streamlining Sub-Project*** *include reviewing legislative and policy impediments to processing applicants to encourage less duplication, more concurrent assessment and packaging of the various stages of the process where sought by applicants.*

6.8.3 Training

Issue

There is an acknowledged deficiency in the lack of suitably qualified planning staff in all aspects of the workforce and this needs to be addressed. There is also a noticeable lack of understanding of the planning process by the elected members of Local Government which exacerbates the quality of local decision making.

Recommendation 23

That PCA and UDIA work with Curtin University and the Planning Institute of Australia to address the lack of experienced planners by encouraging more graduates.

6. IMPLEMENTATION STRATEGY CONTINUED

Recommendation 24

That WALGA consider amendments to the Local Government Act to require compulsory Councillor training on key decision making roles, including the planning process.

6.8.4 INCREASE CONSISTENCY IN APPROVALS PROCESSING

Issue

Whilst improved consistency across the board is desired by industry, specific areas that should be targeted that are not covered already by preceding recommendations include:

- Consistency in the required format for Scheme Amendment reports.
- Greater consistency in the timing and process for Scheme Amendments and Development Applications so they do not vary between Councils and between projects.
- Further modify the R-Codes, or at least their interpretation and implementation, by simplifying their application with less categories and less prescription, and a greater consistency in their application between Councils and for similar developments.

Recommendation 25

That the DPI's ***Planning Applications Conformance Standards Sub-Project and Application Streamlining Sub-Project*** *include reviewing legislative and policy impediments to ensure greater consistency in Scheme Amendment documentation, the provisions of the R-Codes and for the processing of various types of applications.*

6.8.5 Agency/Industry Relations

Issue

There is widespread industry concern at the breakdown in the working relationship between regulators and applicants, and in particular industry and DPI. Further, that sufficient priority isn't given by DPI to the approvals process in terms of the structure and culture of the organisation. There is also concern by Local and State Government agencies that applications are often poorly prepared. There is a need to improve this relationship in the interests of both parties and to work in an ongoing and collaborative manner to improve the relationship and implement reforms sought by industry.

Recommendation 26

That the DPI's ***Stakeholder Engagement Sub-Project*** *focus specifically on improving the relationship between DPI and industry and DPI be structured to re-inforce the importance of the approvals process.*

Recommendation 27

That the PCA and UDIA run education courses on the preparation of planning applications targeted at developers but also involving staff from Local and State Government to achieve more consistency in the requirements of applicants and the quality of required documentation.

6.9 CONCLUSION

Given that the DPI is concurrently undertaking an Internal Review of the functions of the Statutory Planning Division, looking at procedural matters, the recommendations have largely focussed on other areas. This does not mean that initiatives such as contracting out elements of the process to the private sector or local government are not supported, but simply that the findings and recommendations of DPI's own review should be tailored to ensure they also incorporate the industry reforms recommended in this study.

Similarly, a series of recommendations are proposed which target reforms at the Local Government level. These are equally seen by industry as fundamental for an improved state wide approvals system and, as with DPI's review, there would be substantial merit in a thorough reform process co-ordinated by WALGA but undertaken by Local Government itself to build on and implement the recommendations arising from this study.

SUMMARY OF RECOMMENDATIONS FOR IMPROVEMENT

ELEMENT OF PROCESS	FIRST PRIORITY	SECOND PRIORITY	LEGISLATIVE CHANGE?
1. Pre-lodgement	1.1 Pre-lodgement discussions encouraged for major projects (DPI) 1.2 Applicants provided with advice regarding assessment timeframe and process (DPI, LGA) 1.3 Self-referrals by applicants (DPI) 1.4 All Planning Schemes and Policies to be made available on the Net (mandatory). The set up of this data is to be in a consistent format and/or facilitated by DPI (LGA) 1.5 Greater use/standardization of Local Government Minutes/ Agendas on the Net (LGA)	1.6 Standard recording of pre-lodgement advice – giving this process status in consideration, reconsideration and appeal processes (DPI, LGA) 1.7 Option to pay 'expedited determination fee' (DPI, LGA) 1.8 Electronic Lodgement capability (DPI, LGA) 1.9 Compulsory self assessment or compliance applications – perhaps linked to reduced turnaround targets (DPI, LGA)	No legislative changes are considered necessary to implement the range of improvements identified in this phase of the process. However, consideration could be given to the introduction of procedures for self-assessment and self referrals into the Regulations.
2. Initial Assessment	2.1 Advise proponent of outcome after initial assessment (DPI, LGA) 2.2 Specify timeframe based on initial assessment of complexity (DPI, LGA) 2.3 Introduce a Fast Track system for specified minor developments (DPI, LGA) 2.4 Introduce a Fast Track system for specified minor subdivisions of, say, 5 lots or less (DPI)		No legislative changes required unless Fast Track systems involve delegation to Local Councils
3. Consultation/ Referrals	3.1 Allow applicants to undertake Self Referrals (DPI) 3.2 Deemed endorsement of application by referral agency if no reply at conclusion of referral process (DPI, LGA) 3.3 Resource referral agencies to be able to respond to referrals (if necessary, involving part redistribution of fees) (O) 3.4 Neighbour notification/ consultation by proponent (earlier in process, suggest at lodgement) (LGA) 3.5 More limited/defined consultation (LGA) 3.6 Enforce statutory response deadlines for DoE/EPA (DPI, LGA) 3.7 Compulsory copy of referral response to proponent (linked to stop the clock provisions) (DPI, LGA) 3.8 Agencies to provide standard conditions for minor matters to obviate need for referrals (DPI, LGA)	3.9 Undertake Electronic referrals (DPI, LGA) 3.10 Remedy inaccuracies in DPI tracking system – eg. referral agency acknowledgements currently indicated as responses (DPI) 3.11 Charge objectors a nominal fee for lodging objections (LGA)	Various changes to the Regulations would be required for self-referrals, charging objectors and for delegations from referral agencies. Legislative change required in terms of deemed endorsement by referral agencies if no response within specified period

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4. Discussion/ Negotiation	4.1 Statutory requirement to advise proponent of issues arising and to provide opportunity to respond/revise proposal (DPI, LGA) 4.2 'Stop the clock' provisions in Schemes or regulations for development applications (LGA)		Legislative change required
5. Determination	5.1 Transparency in DPI/WAPC reporting and decision making processes for all matters - public agendas (DPI) 5.2 Enforce upfront assessment (or non assessment) by DoE/EPA (O) 5.3 Negate environmental conditions that defer assessment (O) 5.4 Greater standardization of Delegated Authority across Local Government (LGA) 5.5 Create a dispute resolution/ arbitration body (in lieu of Tribunal) for clearances (DPI) 5.6 Introduce a statutory timeframe for all aspects of Scheme Amendments and for determining MRS Development Applications (DPI) 5.7 Review 90 day determination period for subdivisions – based on old technology/processes (DPI) 5.8 Create statutory power to extend subdivision approvals beyond 3 years (DPI) 5.9 Review standard conditions – clearer conditions – specify action, by whom, by when (DPI, LGA) 5.10 Introduce a provision for a WAPC decision to prevail over a local Scheme decision where the two decisions on the same applications under the MRS are contradictory or contain conflicting conditions (DPI) 5.11 Review and cull the number of WAPC policies and ensure they are applied as policies not rules which must be adhered to in all circumstances (DPI)	5.12 Introduce best practice Committee and/or Council processes (eg. minimum of 2 Council meetings/month) (LGA) 5.13 Build all matters (not just subdivisions) into DPI staff EBA (DPI)	Legislative change would only be required to create a dispute resolution body and to introduce new statutory processing timeframes. Change to extend life of a subdivision approval is already underway
6. Reconsideration	6.1 Statutory right for reconsideration of development matters (DPI, LGA) 6.2 Statutory time frame for determination of subdivision reconsiderations (DPI)		Legislative Amendments required

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7. Construction Approvals	7.1 Statutory time frame for determination of building licenses (LGA) 7.2 Clarify process responsibilities/ appeals for subdivision construction plans in Act/ Regulations (DPI) 7.3 Private certification of subdivision construction plans (DPI) 7.4 Statutory timeframe for determination of subdivision construction plans (DPI)	7.5 Option for combined BA/DA for minor matters (eg dwellings, duplexes) (LGA)	Legislative changes required
8. Occupation Licenses	8.1 Statutory timeframes for issuing (LGA)	8.2 "Deemed cleared" provisions if specified timeframe not met (LGA) 8.3 Introduce a dispute resolution or arbitration body (O)	Legislative changes required
9. Subdivision Clearances	9.1 Statutory timeframes for issuing (DPI) 9.2 'Deemed cleared' provisions if specified timeframe not met (DPI)	9.3 Introduce a dispute resolution or arbitration body (O)	Legislative changes required

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10. General	10.1 Mandatory Councillor training on planning matters (LGA) 10.2 Statutory timeframe for processing ODP's and Structure Plans (DPI) 10.3 Standard appeal provisions for ODP's and Structure Plans – ensure that appeals are available in all cases (e.g. Swan) (DPI, LGA) 10.4 Address lack of experienced Planners with the University (Curtin) to produce more graduates – investigate and constraints removed (O) 10.5 Provide reduced turnaround times for proponents taking on self-referral and neighbour notification roles (DPI, LGA) 10.6 Greater consistency of fundamental development standards across Local Government (for e.g. car parking dimensions and aisle widths etc.) (LGA) 10.7 Simplify R Codes – less categories, less prescription (check NSW, QLD & VIC models) (DPI) 10.8 Greater flexibility in ODP's/ Structure Plans – reduced necessity for amendment process for minor matters and/or more positive use of Sect 20(5) by DPI/WAPC to reduce delays and amendment subsequent to approval on a 'matter of course' basis (DPI) 10.9 Ability to 'package' Scheme Amendment/ODP/Subdivision into single document and fully concurrent process with single approval (DPI) 10.10 Introduce a decision review ability on Development Applications similar to DPI's Request for Reconsideration provisions, to minimise necessity for appeals (LGA) 10.11 Re-introduce the role of Urban Development Co-ordinator as a senior position able to assist industry negotiate outcomes on major projects and policy issues (DPI) 10.12 Introduce industry forums at which new policy and procedural matters are discussed with industry and industry has an opportunity to provide feedback on service delivery (DPI)	10.13 Establish an Industry Liaison Committee involving DPI and WALGA to implement 10.12 and to also review implementation of reforms (DPI) 10.14 Support the positive elements of the legislative changes proposed by DPI and work with DPI on those areas of concern or where improvement is required (as outlined in this Paper) (DPI) 10.15 Any planning fee should be linked to achievement of performance targets (DPI, LGA) 10.16 Streamline Scheme Amendment reports – review value and use of NSW model – as a minimum specify standardized report content (DPI) 10.17 Provide greater consistency of process for Scheme Amendments and Development Applications – address in Act/Regulations to implement change (DPI, LGA) 10.18 Provide Councils with the option to accept delegation to approve subdivisions (and receive the fees) – with reserved call-in powers retained by WAPC (DPI, LGA) 10.19 PCA and UDIA conduct training courses with developers on lodging planning applications but to also include participation from Local/State Government officers (O)	Legislative change required for new timeframes and potentially for streamlined Amendment and/or DA processes

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