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Submitted to Feedback Form –Development Assessment Panel System Reforms
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Feedback

1 Submitter's Name

Name:

Email:

3 Organisation name (if applicable)

Organisation:
Wildflower Society of Western Australia

4 Submitter/ Organisation type

Community group

5 Submissions may be published as part of the consultation process. Do you give permission for your name and your company's name (if applicable) to be published?

Yes, please publish my details

PART A – GENERAL PROCESS AND ADMINISTRATIVE REFORMS

6 Do you support the clarifications regarding the functions of the local government?

Do not support

7 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

Referral of a DAP report should be the decision of the elected members of a Local Government Authority and not be carried out by the CEO or his staff as the CEO has not been elected or appointed by the community they serve. Consideration of the referral of a DAP by the elected members should only occur following the completion of a community consultation program by the LGA and reported to the elected members by the staff.

PART A – GENERAL PROCESS AND ADMINISTRATIVE REFORMS

8 Do you support the proposed additional excluded developments?

No position

9 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

No position

PART A – GENERAL PROCESS AND ADMINISTRATIVE REFORMS

10 Do you support the option for virtual attendance and recordings of meetings being made available online?

Yes, it is still necessary

11 Do you think it is still necessary to hold meetings outside of core business hours given that meetings will be available online?

Yes, it is still necessary

12 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

The flexibility of meeting arrangements is necessary to allow all interested parties to be engaged and heard at meetings where items of interest to them are discussed. This is critical to the maintenance of open, accountable, and transparent decision-making. Without such decision-making, the community loses trust in the DAP process, as is the current status, because they are not being heard.

PART A – GENERAL PROCESS AND ADMINISTRATIVE REFORMS

13 Do you support the proposed fee changes?

Yes, it is still necessary

14 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

The cost of processing a District DAP or Special Matters DAP should be borne by the proponent, not the LGA or the State. The taxpayer should not be responsible for bearing the cost of a proponent selecting the DAP process as their preferred avenue of approval for a project from which they, the developer, not the general public, will prosper.

PART B - DISTRICT DAPS

15 Do you support the proposed configuration of the District DAPs?

Do not support

16 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

The proposed number and configuration of the District DAPs is poorly founded. The Regional DAP should be subdivided as closely as possible to reflect the bioregional areas and the biological and socio-economic environments within them. A specific DAP should be formed in the Greater Bunbury and South-West Capes region to address the issues arising from the transition from rural to urban environments occurring in the region. The issues in this area are similar to the Outer Metro JDAP area but are in an environment that is distinct from the outer Metro area. The Outer Metro JDAP should be extended to the north to include the Shires of Chittering and Gingin where the transition from rural to urban environments are also occurring. There is also a case to separate the LGAs on the Darling escarpment (Chittering, Swan, Mundaring, Kalamunda, Armadale, Serpentine-Jarrahdale, and Murray) from the Outer Metro JDAP LGAs that lie on the Swan Coastal Plain.

Thus, the WSWA contends that the reduction of JDAPs from 5 to 3 is not supported and there is an argument to increase the number of JDAPs beyond the current number of 5.

PART B – DISTRICT DAPS

17 Do you support the District DAPs being opt-in only?

Do not support

18 Do you support the opt-in threshold of \$2m?

Do not support

19 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

The WSWA suggests the option for developers to use the District DAP process instead of the formal planning process allows developers too much flexibility when approaching planning approvals and results in too many opportunities to negotiate trade-offs when selecting their planned approval process. WSWA believes the selected approval route should be declared upfront by the developer in their first approach to the planning authority, rather than having the opportunity to fence-sit until the easiest route becomes apparent. This will avoid the current case where developers bargain with the LGA to identify what concessions are available from the LGA by going through the formal planning route then weighing up their options to expedite their project by increasing those concessions when negotiating an approval through the District DAP.

The opt-in threshold is currently too low as it allows almost all projects to go to a District DAP. WSWA contends this threshold should be raised to \$20m.

PART B – DISTRICT DAPS

20 Do you support appointing presiding and deputy members for 3 to 5-year terms?

Support

21 Do you support the required experience and qualifications for members?

Conditional support

22 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

WSWA suggests that the members of the DAP should be selected from a broad base of professionals rather than those just focused on urban and regional planning. Given the DAP membership is likely required to be restricted in numbers, WSWA sees the need for representation from other professions, such as environmental and social scientists, architects, landscape planners, and engineers, the Local Government Elected Members Association, and local communities, is required to broaden the assessment skills within each DAP. Therefore, we would contend only one permanent member is a planner and the other is a more broadly based professional.

WSWA contends that permanent members of a DAP should not have links to the proponents in the development industry, either in Western Australia or elsewhere, to avoid conflicts of interest or collusion occurring, and they are perceived to be totally independent. We would suggest the current perception is otherwise (see Game of Mates, 2017).

PART B - DISTRICT DAPS

23 Do you support the third specialist member being drawn from a pool?

Conditional support

24 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

WSWA contends that the current arrangement is dysfunctional as it fails to engage experts that are truly independent. Most of the experts engaged have links to the planning profession and the development industry. WSWA considers that most specialists working in the consulting industry and for developers and development agencies are conflicted in their interests and are not inclined to provide advice that would not be supported by their client base. This includes specialists working for government agencies and regulatory authorities.

Therefore, WSWA would propose the selection of members of the specialist pool should be subject to an "independence" test before selection so their impartiality can be determined by a panel that is independent of any other DAP members, DPLH, or other industry body or agency.

PART C – SPECIAL MATTERS

25 Do you support the above project criteria?

Do not support

26 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

WSWA does not support the concept of a Special Matters DAP, as it does not support the concept of State Significant proposals and the process of leading proponents through the regulatory processes. Experience shows us that many regulatory processes are ridden roughshod over to achieve unrealistic project timelines and the political mantra of "jobs and growth" through the implementation of these processes.

These processes have worked well for the resources sector because the Mining Act 1978 holds precedence over many other Acts. It has also worked well because of the remoteness of resource developments and their localised nature. To apply those same processes to the DAP process is like putting a square bolt on a round nut because DAPs are focused primarily on the more closely populated areas and involve whole communities.

Members of WSWA have seen the "Game of Mates" play out time and again through the State Significant classification of projects and the Special Matters DAP is seen as another tool devised to cut "red tape" and avoid "green tape" to expedite projects for the benefit of a few to the detriment of many.

WSWA is not opposed to development, but it is opposed to the avoidance of due process and the watering down of regulations that were put in place for the purpose of making sure proponents took all issues into account and avoided their effect on our environment and society in their development. Our past experience with the DAP process has highlighted the disjunct between wildflower conservation and the planning system, particularly in the South-West (including the Swan Coast Plain and South-West Capes), where planning decisions have resulted in the classification of major plant communities being threatened and endangered and specific species extinct. We have also seen major planning studies shelved because they did not suit the Mates (the Perth Peel Region Strategic Assessment). But all the while the Mates have continued their development unabated - COVID did not deter them or any of the major infrastructure projects that have continued to be lost in the interim nor did the planning system put them on hold until the Government could consider the PPRSA.

The values applied to SMDAPs are too low and should be \$250m for those in the Perth Peel Region and \$100m for those outside that area, if at all.

PART C - SPECIAL MATTERS

27 Do you support the proposed precincts and development criteria outlined above?

No position

28 Please outline any suggested improvements or comments below. This may include a different precinct or development type within one of the precincts listed above:

Insert improvements or comments here:

No response

PART C - SPECIAL MATTERS

29 Do you support Special Matters DAP applications being mandatory?

Do not support

30 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

Do not support the proposal for a Special Matters DAP, mandatory or not.

PART C - SPECIAL MATTERS

31 Do you support the proposed membership structure for the Special Matters DAP?

Do not support

32 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

The proposed membership appears to be a mix of professional bodies and agency representatives. WSWA believes that all members should be appointed from professional or representative bodies not from government agencies, as the agency members are compromised by their employment.

The professional representatives should be truly independent with no direct or indirect ties to the development industry, as a consultant, direct or indirect employee, or employee of a regulatory or advisory agency.

The local government representative should be a representative of the Local Government Elected Members Association, not WALGA (who are only representing employees of Local Government).

The environmental specialist should be a Certified Environmental Professional member nominated by the Environment Institute of Australia and New Zealand. The transport specialist should be a certified Professional Engineer nominated by Engineers Australia. The seventh member should be a certified social impact scientist nominated by the International Association for Public Participation.

There should be no person with interests in finance, commerce, or economics associated with the SMDAP as these are issues of risk for the proponent and the State, which should have been determined before the project reaches the DAP for assessment.

PART C - SPECIAL MATTERS

33 Do you support the above process for the Special Matters DAP?

Do not support

34 Please outline any suggested improvements or comments below:

Insert improvements or comments here:

Please outline any suggested improvements or comments below: The statutory timeframe for assessment is too short. It does not allow adequate time for Local Government to consult the community nor provide for a process where the community can respond in writing. WSWA would propose that a period of 120 working days for processing is more realistic and 60 working days for Local Government comments would allow time for elected members to receive officer comments and respond to the proposal with due consideration.

WSWA also questions where consideration of proposals under consideration fits within the EPA assessment process as even 120 working days is insufficient time for formal consideration and public review and appeal of such assessments.

WSWA believes the proposal for local government to be responsible for clearance and compliance of conditions is not equitable as the conditions were determined by WAPC and, as such, WAPC should be responsible for their clearance and compliance, and the costs associated with those actions.

PART D - GENERAL FEEDBACK

35 What do you believe is an appropriate time for implementation of these reforms? Please outline this, and your reasoning, below:

Insert improvements or comments here:

Please outline this, and your reasoning, below: WSWA believes the reforms proposed require review and further consultation prior to implementation as the current proposal has a number of shortcomings. The review should consider the removal of the proposed Special Matters DAP.

PART D - GENERAL FEEDBACK

36 Please outline any suggested improvements or comments below. This may include additional or alternative transitional arrangements:

Insert improvements or comments here:

Consideration of the Special Matters DAP should be deferred until it has been reviewed and developed to be more functional.

A review of areas covered by JDAP should be considered prior to implementation of any transitional arrangements.

PART D - GENERAL FEEDBACK

37 Do you have any further comments? Please outline any other suggested improvements or comments below:

Insert improvements or comments here:

The DAP process needs to give primacy to the natural values and features upon which our existence as humans depends. It also needs to identify when the proposals it is assessing are pushing these values and features beyond their carrying capacity and resilience. At present this is missing from the planning processes. But it is reflected in the health of our society.

The DAP process should broaden its engagement with the community and not be so focused on justifying the approval of projects before it. Preserving our way of life must be focused on preserving the basic essentials to live. Over the last 75 years, we have been diligently eroding those basic essentials. "Jobs and Growth" is not sustainable and the planning process has a role in addressing the way forward to provide the basic essentials to live in Western Australia in a sustainable manner, economically, socially and environmentally.

What is proposed currently will not deliver those outcomes!!!