

**STANDING COMMITTEE ON
UNIFORM LEGISLATION AND STATUTES REVIEW**

**PLANNING AND DEVELOPMENT
(DEVELOPMENT ASSESSMENT PANELS) REGULATIONS 2011**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 17 NOVEMBER 2014**

SESSION TWO

Members

**Hon Kate Doust (Chair)
Hon Brian Ellis (Deputy Chair)
Hon Mark Lewis
Hon Amber-Jade Sanderson**

Hearing commenced at 2.16 pm**Ms ALLISON HAILES****Executive Manager, Planning and Community Development, Western Australian Local Government Association, sworn and examined:****Ms VANESSA JACKSON****Policy Manager, Planning and Improvement, Western Australian Local Government Association, sworn and examined:**

The CHAIR: Welcome; thanks for coming in this afternoon. I will just introduce people before we start. We have Hon Brian Ellis; Hon Amber-Jade Sanderson; I am Kate Doust, the Chair; and Hon Mark Lewis; and we have Alex, our clerk. We have just got a few formalities to go through before we kick everything off, so bear with us if you will.

On behalf of the committee, I formally welcome you, and we certainly appreciate you giving your time to come and speak to us today. I have to ask you first to take either the oath or the affirmation.

[Witnesses took the oath or affirmation.]

The CHAIR: You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

The Witnesses: Yes.

The CHAIR: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document that you refer to during the course of the hearing, for the record, and please be aware of the microphones and try and talk into them; ensure that you do not cover them with papers or make noise near them. Even though this is a private hearing, you should note that the committee may make some or all of your evidence public when it reports to the Legislative Council. If the committee does decide to make your evidence public, we will endeavour to first inform you of this decision. The Legislative Council may also authorise publication. Please note that you should not publish or disclose any private evidence to any other person at any time unless the committee or the Legislative Council has already publicly released the evidence.

We have now done the formalities. Today is our first day of starting to look at the DAPs process and the regulations, and we have a reporting date in May of next year. So we are very interested to hear WALGA’s views about how the process has been working; what concerns, if any, you may have, and perhaps any suggestions for change; and any complaints that may have been made to you. We will take it from there, I think. Would you like to start by making a statement?

[2.20 pm]

Ms Hailes: Thanks for the opportunity to come and talk to you today and hopefully inform your review of development assessment panels. The association is particularly pleased that an independent review of the legislation and DAPs is being conducted after three years of operation. As we understand it, the committee has been asked to carry out a review of the operation and effectiveness of the regulations made under the part of the legislation that is relevant to DAPs. In order to do that, we firstly went back to considering what the legislation was intended to do when it was introduced and looked back at the Minister for Planning’s statement in Parliament, which was that the purpose of the bill is to amend the Planning and Development Act 2005 in order to streamline and improve the planning approvals process.

In order to understand what that meant in more detail, we went back to the objectives of the proposed DAP model as was outlined by the state government in the discussion paper “Implementing Development Assessment Panels in Western Australia” of September 2009. The objectives as outlined in that paper were to streamline the determination process for particular types of development applications, by eliminating the requirement for dual approval under both the local and region schemes; involve independent technical experts in the determination process; encourage an appropriate balance between independent professional advice and local representation in decision-making for significant projects; reduce the number of complex development applications being determined by local governments to allow local governments to focus their resources on strategic planning; and to increase transparency, reliability and consistency.

In doing that, the association has set out some comments in a paper that we have provided copies of for you today, and we are very happy to table that and leave those initial thoughts with you. Certainly the association will be happy to provide a fuller submission as the inquiry progresses, and I would be happy to organise for any consultation processes with local governments themselves if the committee so wishes.

In terms of the objectives of the act, and therefore the review being conducted by this committee, it is based on the operation of DAPs and then the effectiveness of DAPs. In terms of the operation of DAPs, we have looked at administration, timelines for assessment and meetings, and dual meetings. In terms of the effectiveness of DAPs, we have identified dealing with significant applications; streamlining the system; timeliness in decision-making; technical expertise; costs to developers and/or industry, and the oncost, therefore, to the public; and appeals to the State Administrative Tribunal.

We have also done a lot of research. We have had an officer go through every single DAP application that has been made in the last three years, and we have developed a very comprehensive data analysis so that we can see what the actual determinations that have been made by DAPs have resulted in as compared to what might have been the case had those applications been dealt with by the local government. We have put a range of topics, if you like, under those different headings and we would be more than happy to talk on them.

The CHAIR: Thank you. That all sounds good. Do members have any questions?

Hon AMBER-JADE SANDERSON: We have had some evidence in the review that the department did, talking about difficulties in getting a quorum, and that is largely brought about by local government members abstaining from controversial decisions. Is that something that you and your members are aware of, and can you talk a bit about that?

Ms Hailes: I believe there have been very few instances where a local government DAP representative or member has actually abstained from participating in an assessment or a ruling. I understand that in the few cases where that has been the case, that is because the local government has actually considered that application in some form, either at committee or at a full council meeting, prior to the DAP sitting, and the DAP member has felt that they have to uphold the decision of the council in that DAP meeting. We do understand that the local government DAP members are there to participate in their own right. They are not there necessarily to represent a particular position of a council. But certainly I think that one of the reasons local government elected members sit on DAPs is to ensure that local community views are brought to the table and can be considered, particularly when there is a significant impact on the surrounding locality or a residence. We believe that the DAP system should be not just about enabling independent or technical consideration of applications, but it should also be about—particularly where there is significant discretion in the determination of a decision—the community views about that application. But our understanding of the regulations is that DAP members are required to participate in the decision-making and, if they abstain, then it is the balance of the members who would make the final decision.

Hon BRIAN ELLIS: I suppose it could be the other way, too—that in the DAP process the particular councillor may be better informed and then may change their view.

Ms Hailes: That is correct. I think that local elected members usually bring to the table a lot of local history and understanding of previous decision-making that a council may have made. The value of the elected member sitting on the DAPs and representing those local communities, and certainly the strategic planning for those areas, should not be underestimated. We have actually, in the assessment that we have done in looking at the decisions of the DAPs, found that on average 95 per cent of the DAP decisions that go through are consistent with the responsible officer's report that is actually sent to them initially; therefore, we would have to question the actual value delivered by the DAP system.

Prior to the DAP system being introduced, WALGA articulated some serious concerns about whether the system as it was being established would achieve any of the objectives set out for it. We believed that it could not. It just adds another layer. The statistics we have show that there is no improvement in the timeliness or streamlining of decision-making. It is just another body that, for the most part, will make the same decisions that a council or, indeed, in many circumstances, a planning officer would have made under delegated authority. That would have meant that many of the applications that are now going to DAPs and incurring the additional fees and time frames for decision-making would have been determined by an officer of the local government and would never have gone either to a full council meeting or, in this case, to a DAP.

[2.30 pm]

The CHAIR: Do the fees that are paid to participate in a DAP go to the Department of Planning or back to local council?

Ms Hailes: No, they go to the Department of Planning. The local government does get the usual development application fee. For any application that has to go to a DAP, or is eligible to go to a DAP, there is an additional fee, and that goes directly to the Department of Planning. Interestingly, when we were looking through the WAPC's annual reports to understand the cost effectiveness of the system, the WAPC's annual reports are very high level and it is unclear how many staff are actually involved in the administration of the DAP system; therefore, it is difficult to actually cost out from the \$15 million that is generated in additional DAP application fees how much is the cost to government and therefore what is the benefit to the public and to developers that is derived from those additional moneys.

Hon MARK LEWIS: This is just a point of clarification: sure, the department gets the fees, but I understand that it is cost recovery for any work done by the local government for and on behalf of the DAP, and also there will be executive support that is paid for, apparently.

Ms Hailes: No, that is paid for by the local government. The fees that are regulated for the development assessment panels are primarily for the departmental costs and also for the sitting members' fees. Local governments can submit a claim to recoup, for instance, the cost of any catering that is associated with a meeting of a DAP. If, in certain cases, there are travel costs, they can claim those back but they cannot claim anything for the officer's time taken in preparing the report for the DAP. From a local government's perspective, they have got the initial development application fee and an officer would normally be assessing the application on the basis of those fees. There is some additional work that officers of local governments have to do as a consequence of the application going to a DAP as opposed to it going to a council meeting, but local governments are not recompensed for that. It is really specific out-of-pocket expenses that relate to a DAP meeting that they can put a claim in for. That is my understanding.

Hon MARK LEWIS: There is a little bit of incongruence between what you just said and the explanatory memorandum from 2011.

The CHAIR: On the WALGA website there are some comments that state —

... Local Government has encouraged the State Government to conduct a cost benefit analysis of the DAPs system to provide clarity on the quantifiable benefits on the new regime. The Association has written to the Parliamentary Review Committee to seek clarity when the independent review of DAPs will be initiated, as empowered and required in the current legislation.

Are you able to provide a copy of that correspondence that you sent to the minister?

Ms Hailes: Yes, we are. The association has been advocating for some time for an independent review and a full cost-benefit assessment to be done. We wrote to the minister requesting that a review be undertaken in accordance with the legislation. The minister wrote back to us advising that it was this committee that was responsible, and subsequently we wrote to the committee. We were very pleased when you advised —

The CHAIR: When did you write to the minister about this?

Ms Hailes: Was it the beginning of the year?

Ms Jackson: About July.

Ms Hailes: Certainly we can provide copies of both sets of correspondence to you.

The CHAIR: That would be very good, if you are able to provide that.

Ms Hailes: We initiated that in April because we were aware that the Department of Planning was undertaking a review for the minister, and that commenced last year. The association made a comprehensive submission to that. It was some time before there was any information released as a result of that review.

The CHAIR: You have obviously done some very good work on your data. At some point we would probably be interested in seeing that. I am wondering if you are able to provide to us today some examples of the types of matters related to the regulations that have been raised by your members to WALGA, such as, “This doesn’t work well; this could be done differently; we’ve got a real problem with X.” Do you have some specific examples that you can talk to us about today?

Ms Hailes: I might just start with the issue of dealing with significant applications. Based on the research that we have done and the feedback we have had from members, over half of the DAP applications that have been considered were valued at less than \$15 million and only 16 per cent are valued at more than \$50 million. When the proposed legislation was being discussed back in 2009, it was the association’s view that DAPs, if introduced, should focus on matters of regional or state significance, particularly those that go across local government boundaries. But the feedback that we are getting from our members is that a lot of the applications that are going through the DAPs are actually really straightforward, in some cases residential or commercial or mixed-use applications that are fairly straightforward and can be dealt with under the scheme very readily by an officer, but it is only because of the dollar value of the application that it has triggered going to a DAP. So, the application itself is quite simple and straightforward and is dealt with by the scheme, it just happens to have a development value of \$9 million, for instance, which in many cases today, if you are doing a commercial development, \$9 million is not much; certainly, it does not make it a particular development.

Hon AMBER-JADE SANDERSON: Would that be because people are opting in or because the threshold is perceived as being too low?

[2.40 pm]

Ms Hailes: There is a mandated threshold and the association’s view is that, firstly, the threshold is too low to ensure that it is matters of significance or complexity that the DAPs are dealing with. We have also advocated that the DAP system should be an opt-in. Therefore, if a developer has an application that is over the threshold but has been dealing with a local government over a couple of

months previous to the application being submitted and has been having conversations with officers in the local government and they have come to an agreement about what the application is going to contain and it is in accordance with council policies, then a proponent should not have to have their application considered by a DAP; it is just an additional cost for the proponent. Then, they are having independent people who participate on the DAP who have had no contact with the proponent during the development of the application, giving it consideration, when in fact there is quite a lot of intellectual property relating to that application that sits within the local government itself.

Ms Jackson: What we found during the research is that when we have gone through the applications themselves, we actually found a lot of them would have been dealt with by the officers directly and would not have needed to actually submit a full report up to a council meeting, because you would have had a lot of them just dealt with in-house. The stats that we found from the time frames for assessment are way over what the statutory period is. At the moment, it is 60 days for non-advertised and 90 days for ones that are advertised. In the three years the DAPs have been operating, they run at 105 days, so there is no timeliness associated with these decisions. After the decision is made, too, there is a 10-day lag time before the minutes are out and the decision can actually be issued, so the 105 days does not take into account the administration side that is on top of that as well. We have found that there has been quite a bit of inconsistency with the types of applications that go up that really could have been dealt with in-house by local government officers.

Ms Hailes: Just adding in terms of the stats, of the 519 DAP applications processed over the first three years, 493 would have possibly had the same outcome if the DAP system had never been introduced. So, only five per cent of DAP determinations have been contrary to the recommendations. We understand that in some cases the DAP members may modify the conditions that a planning officer in a local government recommends. It does not substantially change whether an application is approved or refused. But what has been concerning to us is if DAP either changes the conditions or makes a decision that is contrary to that recommended by the planning officer in the report, the DAP does not have to give an explanation or the reasons for amending the officer's recommendation or making a decision contrary to the officer's recommendation, which is what local governments have to do. So, if a planning report went to a local government council meeting and the council wanted to make a decision that was contrary or different to the officer's recommendation, the minutes would include an explanation of why the council was making that decision, but the DAPs do not have to do that; there is no requirement for them to do that. As a consequence, it is very difficult then to get any traction, if you like, either further meetings of that DAP or the reporting and feedback to the local government itself, so that thinking can be incorporated into the local government's broader policy or practices or, indeed, to transfer to others.

The CHAIR: That is a fairly obvious take-up for a change, then, is it not, to deal with the minutes issue?

Hon AMBER-JADE SANDERSON: On the analysis that you have done on decisions that would have been the same, does that assume that councillors accept the officer's recommendation, because that is not always the case—is it?

Ms Hailes: Yes, that would be the case. There are instances where a council would reject an officer's recommendation. I accept that it does happen from time to time, but where they do reject, then they have to explain why they are rejecting and therefore the planning basis —

Hon AMBER-JADE SANDERSON: There is more transparency at least.

Ms Hailes: Correct.

Hon BRIAN ELLIS: You say, though, in your study, DAP does not have to explain why it rejects an officer's advice. In most cases, I would have thought it would be in DAP's interest to explain.

You say they do not have to, but did you find in most of the applications that they gave a reason, or not?

Ms Jackson: No. We have looked through every single application and every single report and minutes, and in none of those where the change has occurred has there been any rationale. It just goes, “Officer’s recommendation, approval, approval” all the way down, and then all of a sudden, “DAP recommendation, refusal.” There is nothing in between.

The CHAIR: You have obviously canvassed this issue with the Department of Planning.

Ms Jackson: Yes.

The CHAIR: What is their response?

Ms Hailes: Sorry, do you mean in terms of the DAP?

The CHAIR: Yes.

Ms Hailes: In terms of the DAP reporting, in the initial stages of the development of the model, the association did put forward that DAP should be held as accountable as a council and that the same reporting requirements should apply and minutes be made publicly available et cetera. Some of our requests were included and others were not. We have just been monitoring the situation whilst the department has been undertaking its review. We did raise it in our submission to the review that the department has been conducting, but we are not aware of the outcome of that yet.

Hon BRIAN ELLIS: I have just another quick one. In your review did you find in these decisions there were more appeals to SAT since DAP has been operating?

Ms Jackson: So we have gone through all of the last three years of stats—the 60 applications that actually were appealed to the State Administrative Tribunal in that time, which is about 11.5 per cent of all DAP applications. The recent report from the State Administrative Tribunal said that DAPs now consume about 12 per cent of their workload, which is on their website. I think they have got that information; I did not bring that today, though. What we actually found, though, when we did a comparison for our council determinations, given that it was the same decision-making approval process, we checked to see how many full council determinations then went to a SAT: so not officer ones, not conditions; we just did what was the decision of council. There were only 16 that were from a full council meeting to then a State Administrative Tribunal application.

Ms Hailes: So in the same period, the DAPs had 60 applications to SAT, and there were 16 applications for every view of council.

Hon BRIAN ELLIS: What sort of percentage did SAT overturn DAP’s decision?

Ms Jackson: We would have to look into that one; I am not sure that we have actually gone to that level of detail. We have had a couple of weeks to try to pull this one together.

The CHAIR: Some of that information is available in one of the documents you have got there—I am sure you will find that—up until last year; it does not include this year’s detail.

Ms Jackson: So we were assuming because of the way that the DAP process is set up that the developers have less of an opportunity to talk to the officers and elected members about their applications that they are presenting because they have to just submit their details, turn up at the DAP meeting. There is no discussion; it is a very close kind of system. If there is anything that the DAP recommends and says this is what we would prefer instead, they have to go back through the process and submit a whole new application if they are wanting to do changes to their individual applications. So we also have some details in our report on the form 2 applications—that is where it is an amended process. It is quite a convoluted way of doing an amendment to an existing approval. We have found that is a very overly administrative system, whereas before if you have got an approval from the council to say this is your planning approval, if you want to get an amendment, you just come back in and say, “Look, we need to change a couple of things.” You either get it

approved under the same planning approval or you get a slight amendment. It is not a very complicated process; it might take a couple of weeks. With this process, if you want to vary a DAP decision, you then have to go back to a full DAP meeting and you have to go through the whole process again and go through a full meeting process. We have got a couple of examples where one meeting was just held for one form 2 application, so that it was just an amendment to an existing approval and they had a whole full DAP meeting just on that. Another example is where they had a meeting in, I think it was in Cannington, or Canning, had the meeting there, and then in the afternoon the same DAP people all went across to Melville to then do another application over in Melville; so it was quite an overly administrative process just for two applications.

[2.50 pm]

The CHAIR: They could not have dealt with them in the same place?

Ms Jackson: It are quite a few issues with the—we do not actually get many details about how they run the administration in to line up the meetings and things like that, because council meetings are obviously set every two weeks or every four weeks. DAP meetings are as required and on call, so they have to line up five people all at once, and I think there were a couple of instances with that application they could not line up the people to all be in the same room at the same time.

Ms Hailes: I think that in terms of the administration and the operation of DAPs, if you look at the number of development applications that have gone to DAP—so 519 over the last three years—and it took 383 DAP meetings to consider those applications, and that equates to 1.36 DAs per meeting. It is quite a costly system to be running, particularly when 95 per cent of the applications that the DAPs consider—and the determinations made are consistent with what could have been determined elsewhere. Certainly something that may be of interest to this committee is the association has acknowledged that there can be circumstances whereby a council is not delegating enough of the planning decisions to officers, and in most cases councils have about 90 per cent of their planning issues determined under delegation by professional officers, and it is usually in extraordinary circumstances or because there has been significant community concern about a particular application that the matter would go before a council. But in order to try to improve the level of delegation to officers, the association, as part of its planning improvement program, earlier this year started the development of a planning delegation's guide for councils, so it is the best practice model for local governments, and our president has been advocating to the minister that the state could consider ways in which to address or improve the level of planning delegation. That is now one of the initiatives that is being discussed in the state government's planning reform phase 2 program, and the association has just recently met with the minister and with the Department of Planning and provided the best practice model on planning delegations that we have developed so that we can ensure that there is an appropriate amount of delegation in place in local government.

Hon MARK LEWIS: I am just wanting to go back. Your view is that we really should just go to an opt-in system. How many go to an opt-in system now, and why?

Ms Hailes: There is not an opt-in system now; there is just mandatory thresholds.

Hon AMBER-JADE SANDERSON: There is an opt-in —

Ms Hailes: Sorry, between—yes, so there is a minimum. I could not tell you off the top of my head how many of the opt in within that range actually utilise that. I think that we could certainly analyse some data and try to work that out. Our position has been that there should be a much higher threshold and that the opt-in would kick in after you have reached that threshold and that local governments can also opt in to have a matter referred or considered by a DAP if they thought that there was a need for that technical independence to determine an application. But our view is that if the system was opt in for all applications over a certain value, then we would actually be able to test whether there is real value in the system or whether the applications predominantly relate to

particular developers or local government areas that have got some issues that could be more effectively addressed rather than a broad-brush system that goes across the whole sector.

The CHAIR: The DAP process does not allow the third parties to engage, does it?

Ms Hailes: No; the WA planning system does not have third party appeals, so that is the same with the DAPs.

Ms Jackson: The public can attend. They do, the same as at all council meetings, they can attend a full council meeting and ask questions before a decision is made. The DAP process does have some conditions where you have got to give 72 hours' notice before you want to attend. It has been a little bit difficult sometimes to find on the website when the meetings are being held. It is also an issue lately about some of the meetings are being held in Perth, not regionally, so if you were a regional member who was interested in finding out what is happening at a DAP application and it is being held in Perth it may be very difficult to do a teleconference or to come up to Perth for the meeting.

The CHAIR: If it is a regional issue, why would it be held in Perth?

Ms Hailes: We understand, but we are not the administrators of the system, that in order to be able to get a quorum together sometimes it is necessary to have the meetings held in Perth because of members' availability or, indeed, to have meetings by teleconference as opposed to a meeting in person.

Hon AMBER-JADE SANDERSON: Is that a problem, do you think?

Ms Hailes: We certainly do not agree with meetings being held outside of the region or outside of the local government area that an application is being considered for. We have a democratic system, and if you have meetings in alternative places, then it does not afford that the community, and in some cases the proponents themselves, the opportunity to attend, either to hear the debate and discussions or to actually make a presentation.

Hon BRIAN ELLIS: Are there any other differences—we have just spoken about a couple—between the process of city and regional DAP hearings? Obviously, it is a big state, and I would imagine there are quite a few issues. Have you got any others that you can fill us in on?

Ms Hailes: I believe just from the statistics, we know that the DAP for the Pilbara region has been very busy and is getting busier. Certainly, the review by the Department of Planning, as I understand it, has found that some DAPs are meeting very frequently and others not so much, and that is why they are looking to rationalise some of the DAPs. If you have a meeting in a regional area and you have potentially at least three, if not five people, plus staff, to get to a venue for that meeting, it can be quite costly. If you are talking up in the north west, getting a number of people to a place for a meeting is several airfares, and it is not just the sitting time that you are paying members for, there is obviously the travel time, and so one meeting, depending on where the meeting is being held, could effectively take three days of people's time to get them there, have the meeting and get home.

Hon BRIAN ELLIS: Of course, that is the whole reason for DAPs—to make it easier, as opposed to the previous decision-making.

Ms Hailes: Yes, our understanding was that the purpose of DAPs was to streamline the planning approvals system, but from our perspective, and certainly the feedback that we have received from members, it is overwhelming that it just adds another layer into the system and does not actually achieve any efficiencies in terms of timeliness, it does not achieve significant difference in terms of decision-making and it is the local community that is often left out of that process.

[3.00 pm]

Hon BRIAN ELLIS: You have obviously formed a fairly strong view. Are there any positives about the DAPs?

Ms Hailes: Certainly, when it comes to matters of state and regional significance. If you have applications that are very controversial within a local community, but perhaps have significant economic benefit to a region or, indeed, to the state, then I think there is merit in independent persons undertaking the decision-making for that application. It can be difficult when elected members are receiving pressure from the public, so where there is significant community pushback or interest that would prohibit a potential development that would have broader public benefit, we can see that there is merit in the DAPs making those decisions.

Ms Jackson: Possibly, one of the other ones that has been quite good, is that every local government has probably been reassessing and reviewing their frameworks. Obviously, they know what is in their framework and they present their things to the council quite often. When they are presenting to an independent group who have no history with their scheme and their policies and how they write their conditions, they do have to justify things a little bit clearer to them. A lot of the councils have gone through and reviewed what they currently have in their scheme, what they have in their policies and how they write their conditions to be able to justify to an independent group what it is that they are doing and why their decision is valid. There has been a lot of discussion from the Department of Planning about how bad the local government's condition setting is. I think it is not how bad their condition setting is, it is just how different it is, and the wording is slightly different. Each local government has a certain way of writing their conditions. They are all still valid and legal conditions—a couple of them have been tweaked. They have had to try and make sure that it is very clear to the proponent what it is that they need to comply with, and that is great. It is probably a side issue that has come up, and we are also looking at doing some work with our members about development conditions and making sure that they frame them correctly and there is a way to actually tick them off.

Ms Hailes: What is interesting, though, just in relation to the conditions is that there are differences not just between councils in terms of how conditions are framed, but also between the DAPs themselves. As soon as you have individuals involved in wordsmithing conditions, you can come up with many ways to say the same thing.

Hon MARK LEWIS: Probably going right back to where I started, I made a note here. It goes back to this issue about the members being there in their own personal capacity. I would think that if they are put in a position for a personal view even outside what might be in the town planning scheme, in my view, that might not be legitimate, because the town planning scheme has a whole heap of consultation sitting behind it, that is sitting there as the guiding document, and I have some issues with someone coming in and making an individual statement or giving a personal view.

Ms Hailes: We raised that initially. Certainly, the Local Government Act says that the purpose of local government and councils is to provide for the good governance of the persons in its district. If a local government has gone through a consultation process and asked its community what it feels about a particular application, and then an individual is having—first of all, the council is not determining the application, but an individual elected member is required to make a determination on that, it does in some ways conflict with the provisions of the Local Government Act.

The CHAIR: We heard from the Department of Planning. I am just wondering what is the engagement with the Department of Local Government on DAPs, if any?

Ms Hailes: The association has not had any involvement or engagement with the Department of Local Government on development assessment panels since their inception. I am not sure what discussions have taken place between the Department of Planning and the Department of Local Government and Communities.

The CHAIR: That is okay; I was just curious. What is the name of the document you would like to table? If you could cite that for us, please?

Ms Hailes: The document is related to the matters that we have outlined today and it is called “Presentation to Standing Committee on Uniform Legislation and Statutes Review: Inquiry into Planning and Development Regulations 2011”. We have provided 13 copies to the office, and we would be very happy to articulate further any of the issues in the document if you require that in the near future. We look forward to making a comprehensive submission in due course.

The CHAIR: I appreciate that, and thank you very much. I think that was very useful information and you were quite frank with it, and we appreciate that. We will be seeking submissions from key stakeholders, so you might be able to provide us with the names of a few that you think that we should perhaps follow-up on.

Ms Hailes: Certainly, we will do that.

The CHAIR: I do not know whether you have any suggestions today or whether you want to contact Alex at some point to provide those.

Ms Hailes: Yes, we would be pleased to contact Alex and provide the names of not just people within local government who it may be valuable for the committee to speak to, but also some individual DAP members who have had experience.

The CHAIR: That would be very helpful. We appreciate that. We will organise ourselves in terms of sending out requests for submissions to particular groups. We will also advertise in due course and given that we have got until May next year, at some point, I would imagine, in the new year we will be having some hearings. I appreciate the have a lot more information and you have certainly got all that data that we would be interested in seeing, so I think it would help us in relation to some of the regulations. I would ask that when you do your submission you can highlight from us where you would identify the need for change in particular regulations, what those changes could be and the benefit of those changes, if you like. It is all very well to talk about the need to make amendments to things, but it is helpful to us to be given guidance as to what the key issues are and particular regulations that need to be looked that for change. So, that is just to give you bit of guidance about where we want to go with that as well. The department has provided this document the review of development assessment panel’s summary of submissions and on page 20 of that document is a summary of the review outcomes and there are about nine proposals mooted for change. Some of those go to thresholds being changed in the areas—optional thresholds be changed, mandatory thresholds to be changed—issues around being able to choose, refer and otherwise exclude a multiple group dwelling proposal to adapt predetermination. I think you canvassed that earlier. There are changes in relation to regional DAPs, stop-the-clock mechanisms, meeting quorums—anyway, you can follow through, but we would be very keen to have your view put on the record in response to each of those proposed changes.

[3.10 pm]

Ms Hailes: Certainly, we will obtain a copy and in our submission or, indeed, if the committee would like it earlier, we could provide feedback on those.

Hon MARK LEWIS: Have you seen the review of the development assessment panels?

Ms Hailes: Yes, we have.

Ms Jackson: We are actually presenting to our state council meeting in December this year a report on the reform process and whether it aligned with our submission or not, and also the DAPs’ regulations on whether they aligned with what our submission was, so we can provide that after our state council has finished on 3 December.

The CHAIR: That would great; it would be very helpful. Again, thank you very much for coming along and providing evidence to a committee today. We very much appreciate it. A transcript of the

hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. That is all pretty straightforward, is it not? Thank you very much. We really appreciated what you had to say today. It is a very good start for us to begin to understand how DAPs have been operating over the last three years and the start of some suggestions or concerns or potential changes.

Hearing concluded at 3.12 pm
