

Legislation, Uniform

From: Andrew Rigg
Sent: Monday, 15 December 2014 2:59 PM
To: Legislation, Uniform
Subject: Planning and Development (Development Assessment Panels) Regulations 2011

Dear Chairperson and Members,

I write in relation to the Development Assessment Panel process and offer my view on the misapplication of this process which is leading to an unsustainable growth in medium to high density housing, unsupported by the local councils, residents and critically, the existing and immediate infrastructure. The decisions that have been made by the DAPs in recent months are inconsistent with the State government's planning strategy as documented in Directions 2031, as well as the Community Planning Schemes.

I refer in particular to the development at 94 Kitchener Road, (JDAP Meeting #53) as this is the example about which I am most familiar. The concerns raised, however, appear to apply to numerous other decisions and hence can be assumed to relate to application of the process.

The primary concern is that these panels (which consist of two representatives of the electorate and three appointed members) appear to be accountable to no-one.

In the response to the tabling of the petition #35 by the Member for Bateman, Matthew Taylor, Minister for Planning stated that he had no available means to intervene in DAP decisions. If the Minister can not intervene in these cases, then how is consistency and diligent process maintained?

Furthermore, and to heighten my concerns, I have outlined below a number of areas in which the the DAPs are operating outside of their published Procedures Manual and Standing Orders (<http://daps.planning.wa.gov.au/data/Publications/Procedures%20Manual/DAP%20Procedures%20Manual.pdf>), (<http://daps.planning.wa.gov.au/data/Publications/Guidances%20Notes%20-%20Code%20of%20Conduct%20-%20Standing%20Orders/Standing%20Orders.pdf>).

It is simply not acceptable, nor healthy for this level of "free reign" to be given to a majority unelected panel in an allegedly democratic process allowing them to make decisions with significant impact on our communities, with no mechanism for recourse for these non-compliances nor any monitoring of due process.

My specific concerns include the following:

- The levels of discretionary power given to the DAPs to approve applications which are clearly "orders of magnitude" outside the Residential Design Guidelines and Community Planning scheme requirements.
- the lack of clarity regarding the roles of the two elected representatives on the Panel. According to the Regulations these elected members are intended to represent the views of the local community, however, they were clearly and specifically instructed during meeting #53 that they are not on the Panel to represent the interests of the community?
- The Alternative Amending Motion tabled at Metro Central JDAP Meeting #53 as moved by Mr Hocking, had been prepared in advance by City of Melville Officers, as requested by the Presiding member, Mr Johnson. Despite this obviously having been pre-planned, no mention of this amending alternative motion is made on the published agenda for meeting #53 (refer Standing Order 3.1.2).
- DAP Standing Order 5.9.3 states that "An amending motion must be relevant to the primary motion it proposes to amend and must **not have the effect of negating that primary motion.**" Clearly, the Alternative Motion tabled at Meeting number MCJDAP53 and recorded as Item 10.1 in the minutes negates the primary motion as was tabled?
- It was inferred that DAP members had conducted a site visit to the lot in question on Kitchener Road, yet no records of the site visit are available in the agenda or minutes of the decision, nor on the DAP web site.
- The DAP website states that all SAT decisions will be published on the site, yet this is clearly not being applied. "Should a State Administrative Tribunal (SAT) review be undertaken for a Development Assessment Panel (DAP) decision, links to the relevant SAT decision will be provided here." (<http://daps.planning.wa.gov.au/5890.asp>)

Whilst in their own right each of these concerns may be of a moderate nature, when considered together they indicate a public process that is not being diligently applied, clearly has inherent flaws, and is not serving to protect all of the parties affected by its outcomes.

I urge you in your capacity to review this process and its application and to consider the effects that this uncontrolled and unaudited process will have on the future amenity of our city as we strive to accommodate a growing population. If this growth is not properly controlled we may find ourselves looking back in grave regret at unfettered and unencumbered pandering to the high density developers.

I would strongly recommend that, as a minimum the discretionary powers of the DAP's are limited so as to prevent massive "blips" on the landscapes of our communities, and further that a review and appeal process is made available to all parties affected by these decisions, not just available to the developer.

Yours Faithfully,

Andrew Rigg