

2.6: NOMINATIONS REQUIRED FOR CITY OF ALBANY COUNCILLORS TO THE DEVELOPMENT ASSESSMENT PANEL (DAP)

Land Description	: N/A
Proponent	: City of Albany
Attachments	: Letter from the Director General, Department of Planning advising expiry of existing terms and requesting nomination of new Council members.
Responsible Officer	: Executive Director Planning & Development Services (Dale Putland)

IN BRIEF

- The City of Albany has received correspondence from the Department of Planning that the current membership to the Great Southern Joint Development Assessment Panel (JDAP) expires on the 26th April 2013.
- The Department of Planning has requested that Council nominate four Council representatives, comprising two members and two alternative members, to be the City of Albany representatives on the JDAP.
- Councillors who are currently nominated as members or alternative members of the JDAP may be renominated.
- The Department of Planning has requested that nominations are received by the 28th February 2013.
- The recommendation is to nominate representatives for appointment by the Minister onto the Great Southern Joint DAP.

**ITEM 2.6: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT Council:

1. **Nominates Councillors and as the City of Albany representatives on the Great Southern Joint Development Assessment Panel, and Councillors and as alternate members; and;**
2. **Advises the Minister for Planning of such nominations.**

BACKGROUND

Development Assessment Panels (DAPs) became operational on 1 July 2011. Their function is to determine development applications that meet a certain threshold value. Each JDAP consists of five members; comprising three specialist members, one of which is the presiding member, and two local government members.

1. The City of Albany is part of the Great Southern Joint Development Assessment Panel which consists of the following local governments:
 - City of Albany
 - Shire of Broomehill-Tambellup
 - Shire of Cranbrook
 - Shire of Denmark
 - Shire of Gnowangerup
 - Shire of Jerramungup
 - Shire of Katanning
 - Shire of Kent
 - Shire of Kojonup
 - Shire of Plantagenet
 - Shire of Woodanilling

The City has previously nominated Councillors Dufty and Wolfe as members, and Councillors Holden and Wellington as alternative members. Councillor Attwell replaced Councillor Wolfe as a member of the JDAP in November 2011.

DISCUSSION

2. There are essentially three types of applications under *Planning and Development (Development Assessment Panels) Regulations 2011*:

Type	Threshold Value
Mandatory DAP Applications (i.e. not an excluded development application)	\$7 million or more
Optional DAP Applications (i.e. not an excluded development application; or that has not been delegated by a local government to a DAP)	Between \$3 - \$7 million
Election to DAP (an applicant can elect to refer a development application in the Optional type above to a DAP for determination)	Between \$3 - \$7 million

3. The regulations define an excluded development application (i.e. not required to be referred to a DAP for determination) as follows:
Means a development application for approval of:
 - (a) *Construction of:*
 - (i) *A single house and any associated carport, patio, outbuilding and incidental development;*
 - (ii) *Less than 10 grouped dwellings and any associated carport, patio, outbuilding and incidental development;*
 - (iii) *Less than 10 multiple dwellings and any associated carport, patio, outbuilding and incidental development; or*
 - (b) *Development in an improvement scheme area; or*
 - (c) *Development by a local government or the Commission; or*
 - (d) *Development in a district for which:*
 - (i) *A DAP is not established at the time the application is made; or*
 - (ii) *A DAP has been established for less than 60 days at the time the application is made;*
4. Where a DAP is established in a district, any DAP application must be determined by the DAP as if they are the responsible authority; and cannot be determined by the local government or WA Planning Commission. All applications with a value of \$7m or more are subject to mandatory referral to the DAP.
5. All applications are to be lodged with the local government including payment of application fees. The applications will attract an additional fee (contained in the regulations) to the existing local government planning application fee.
6. The local government then advises the DAP secretariat (i.e. WA Planning Commission) and completes any advertising, referral, report writing and recommendation on how the application should be determined (i.e. approve/refuse, conditions etc.)-similar to what the City would do in preparing a Council Report.
7. The DAP then make its determination and advise the local government and applicant accordingly. The owner may apply to the DAP to have the determination amended or cancelled. In addition, the person who made the DAP application may apply to the State Administrative Tribunal for a review of the DAP decision.
8. *Part 3 Delegation to DAPs*
This part enables local government to delegate to a DAP an application(s) for determination as set out in the delegation.
9. *Part 4 Development Assessment Panels*
This part sets out the requirements for DAP membership (both local government and specialist members) and their appointment by the Minister etc. It also contains details on meetings, member's fees/allowances and DAP member conduct/powers etc.

10. The Joint DAP will consist of five members with one presiding member, two specialist members and two local government members. The local government's membership will depend on the location of the development applications being determined at the time.
11. Local government members will be rotated on and off the panel to ensure that local knowledge that is relevant to the application is on each panel. Only two representatives from local government can be on the panel.
12. If the Council fails to nominate two representatives, the Minister has the power to appoint two members to the DAP to represent the interests of the local community. These alternative representatives must be eligible to vote in elections for that local area and have relevant knowledge or experience that, in the opinion of the Minister, will enable them to represent the interests of their local community.
13. The period of appointment for DAP members is two years. At the expiration of two years, the Council will be required to nominate two local government members as well as two alternate members. The same individuals may be renominated for the position.
14. Following appointment, all DAP members will be required to undertake training on the Western Australian DAP legal framework and planning decision-making. DAP members cannot sit on a DAP and determine applications until they have attended training. It is understood that a DAP training manual will be provided, which will include the DAP regulations, the Standing Orders, Code of Conduct and DAP member procedures manual. The timing and location of this training for local government members of the DAP has not yet been established but is expected to commence shortly and will be first made available to those with a high-volume of applications.
15. In regards to annual Council elections, should within the two year term, a local government DAP member is not re-elected, they cannot hold the position of local DAP member. Should this occur, advice from the Department of Planning is that the alternate DAP member will take the place of the former DAP member. If both former and alternate members are not re-elected, the local government will need to renominate other Councillors for the Minister to appoint. The Department advises the Council should consider the above in selecting nominees as local DAP members.
16. The Minister will utilise a working group to assist in selecting the specialist DAP members. Once the specialist members have been appointed by the Minister, each local government will be advised.
17. Only the presiding member can comment on the actions or determination of a DAP.
18. *Part 5 Administration*
This part sets out the administrative process for DAPs including support of DAPs, enforcement provisions, powers of the Minister and reporting requirements for the Department of Planning.

19. *Part 6 Miscellaneous*

This part contains the transitional arrangements and Department for Planning review of fees and regulations (required after two years of operation).

20. The frequency of meetings would be determined by the number of applications being referred. City of Albany representatives would only need to attend meetings when an application is being considered from the City. In the advertising for specialist members it was identified that they may be required to travel on short notice and it is likely that this would also apply to local government members. At this stage the agenda for a DAP meeting is to be made public at least five days before the meeting.
21. Applications to a DAP incurs an additional fee above the fee currently charged by the City for a development application. This fee is used to cover the costs of administering the DAP process and is forwarded to the WA Planning Commission accordingly. If the City elects to refer an application to a DAP, then the City will be responsible to pay the fee.
22. All DAP meetings will be open to the Public.
23. The City is responsible to “host” the DAP meetings relevant to the City of Albany and provide administrative assistance. The City invoices the DAP Secretariat for costs incurred in hosting a DAP meeting including for the minute taker, light refreshments and security (where necessary).
24. Members of the DAP receive sitting and training fees in accordance with the fees prescribed in the Regulations. The current amount prescribed for members (not the Presiding member) is \$400 per meeting. A Fee of \$400 will also be paid for attending and completing training.
25. A member of the DAP is also entitled to be reimbursed for motor vehicle and travel expenses at the rate decided by the Public Sector Commissioner for members of Government boards and committees.
26. A member of DAP cannot be paid (unless the Minister has given written consent to the payment) if that member is also;
- a. an employee as defined in the Public Sector Management Act 1994; or
 - b. an employee of a department or other agency of the Commonwealth; or
 - c. a local government employee; or
 - d. a judicial officer or retired judicial officer; or
 - e. an employee of a public academic institution.

GOVERNMENT CONSULTATION

27. No consultation with government is required to be undertaken in relation to this item.

PUBLIC CONSULTATION / ENGAGEMENT

28. No consultation with the public is required to be undertaken in relation to this item.

STATUTORY IMPLICATIONS

29. The statutory implications associated with this item are:
- *Planning and Development Act 2005 and associated Regulations*
 - *Planning and Development (Development Assessment Panels) Regulations 2011*
 - *Local Planning Scheme No's 1A,2, 3, 3.2B & 7*
 - *Local Government Act 1995 and associated Regulations*

STRATEGIC IMPLICATIONS

30. There are no known strategic implications arising from the recommendations of this report.

POLICY IMPLICATIONS

31. There are no known policy implications arising from the recommendations of this report.

FINANCIAL IMPLICATIONS

32. There are no known policy implications arising from the recommendations of this report

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

33. Council has the following options in relation to this information:

Option A

To note the information and nominate member and alternates for appointment as City representatives on the Joint Great Southern DAP.

Option B

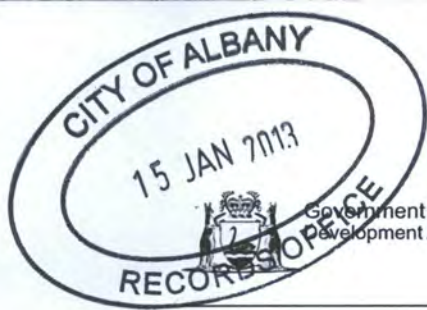
To note the information and decline to nominate member and alternates for appointment as City representatives on the Joint Great Southern DAP.

34. It is recommended that Option A be pursued to ensure that the City is represented at any DAP meeting. The alternative at Option B, to decline to nominate members, may see the Minister appoint replacements from eligible voters in the City, rather than Councillors which would effectively totally remove the City from the decision-making process.

SUMMARY CONCLUSION

35. The City should proceed to nominate 2 Councillors as members and 2 Councillors as alternate members for appointment onto the Great Southern DAP.

Consulted References	Planning and Development (Development Assessment Panels) Regulations 2011
File Number (Name of Ward)	GR.STL.25 (All Wards)
Previous Reference	OCM 17/05/2011 – Item 2.1



Ms Linda Hill
Acting Chief Executive Officer
City of Albany
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ALBANY WA 6331

Doc No: City of Albany Records
ICR1386772
File: GR STL 25
Date: 15 JAN 2013
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ur Ref: DP/12/00609
nquiries: Karen Newman
elephone: 6551 9604

Dear Ms Hill

DEVELOPMENT ASSESSMENT PANELS: LOCAL GOVERNMENT NOMINATIONS

You would be aware that on 1 July 2011 fifteen Development Assessment Panels (DAP) came into operation in order to determine development applications that meet a certain threshold value. Each DAP comprises five members: three specialist members, one of which is the presiding member, and two local government members.

Appointments of all local government DAP members expire on 26 April, 2013. Members whose term has expired will be eligible for re-consideration at this time.

An Expression of Interest for Development Assessment Panel specialist members was advertised in the West Australian on 8 and 12 December, 2012 and in regional newspapers in the week commencing 10 December, 2012. Nominations for specialist members will close on Friday, 25 January, 2013.

Under regulation 26 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, your local council is requested to nominate four elected members of the Council, comprising two local members and two alternate local members to sit on your local DAP as required.

Using the attached form, please provide names, address, email, mobile and land line telephone numbers, date of birth, employer(s), position(s) and include curriculum vitae details of your four local government DAP nominees.

Nominations are required to be received no later than Friday 15 February, 2013.

Following receipt of all local government nominations, the Minister for Planning will consider and appoint all nominees for up to a two-year term, expiring on 26 April 2015. All appointed local members will be placed on the local government member register and advised of DAP training dates and times. It is a mandatory requirement, pursuant to the DAP regulations, that all DAP members attend training before they can sit on a DAP and determine applications. Local government representatives who have previously been appointed to a DAP and have received training are not required to attend further training.

Local government elections may result in a change to local DAP membership if current councillors, who are DAP members, are not re-elected. In this instance, the deputy local DAP members will take the place of the former local DAP members. If both local and alternate (deputy) local members are not re-elected, the local government will need to re-nominate for the Minister's consideration of appointment.

The Council should consider the above matters in selecting nominees as local DAP members.

Local DAP members are entitled to be paid for their attendance at DAP training and at DAP meetings, unless they fall within a class of persons excluded from payment.

Members who are not entitled to payment of sitting, training and State Administrative Tribunal attendance fees include Federal, State and local government employees, active or retired judicial officers and employees of public institutions. These DAP members are not entitled to be paid without the Minister's consent, and such consent can only be given with the prior approval of Cabinet. This position is in accordance with *Premier's circular – State Government Boards and Committees Circular (2010/02)*.

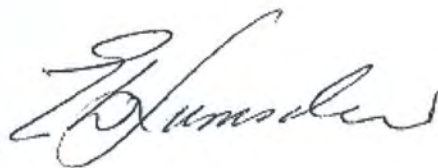
Further information, including DAP location maps and the Premier's Circular, is available online at <http://daps.planning.wa.gov.au>.

Local representation is vital to DAPs. If no nominations are received by 28 March, 2013, or if I have not allowed the local government a longer nomination period, regulation 26 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, enables me to include on the local government register a person who is an eligible voter of your local government district and who has relevant knowledge or experience that will enable that person to represent the interest of the local community of your district.

An Expression of Interest for specialist members was advertised in December 2012, with applications closing on 25 January, 2013. You will be advised of the new specialist members once they have been appointed by the Minister.

If you have any queries regarding this request for nominations, please contact Karen Newman at the DAPs secretariat – phone 6551 9604 or email Karen.newman@planning.wa.gov.au.

Yours sincerely



Eric Lumsden PSM
Director General

DEVELOPMENT ASSESSMENT PANEL NOMINATION FORM

Local Government:	DAP Name:
Nominated Local DAP Member 1	Nominated Alternate Local Member 1
Name: Address: Phone: Mobile: Email: Date of Birth: Employer name(s): Position(s):	Name: Address: Phone: Mobile: Email: Date of Birth: Employer name(s): Position(s):
Nominated Local DAP Member 2	Nominated Alternate Local Member 2
Name: Address: Phone: Mobile: Email: Date of Birth: Employer name(s): Position(s):	Name: Address: Phone: Mobile: Email: Date of Birth: Employer name(s): Position(s):

Note: Employer name and position details are required for Cabinet submission and to determine if the nominee is entitled to be paid fees in accordance with the Premiers Circular 2010/02.

Name and contact details of local government minute taker and/or DAP meeting contact (if known):

Name: _____ Phone: _____ Email: _____

DAP Secretariat Use

Date received: _____ Officer Name: _____ Date Registered: _____