

PL302

Planning and Development Act 2005

**Planning and Development (Development  
Assessment Panels) Amendment  
Regulations 2016**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Planning and Development (Development Assessment Panels) Amendment Regulations 2016*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 February 2017.

**3. Regulations amended**

These regulations amend the *Planning and Development (Development Assessment Panels) Regulations 2011*.

**4. Regulation 3 amended**

- (1) In regulation 3(1) in the definition of *specialist member* delete “25(1)(b).” and insert:

25(1)(b);

- (2) In regulation 3(1) insert in alphabetical order:

*warehouse* means a warehouse/storage as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38.

**5. Regulation 4A inserted**

At the beginning of Part 2 insert:

**4A. Development applications to which regulation 5 or 6 do not apply**

- (1) Regulation 5 does not apply to a development application for approval of a development of a warehouse.
- (2) Regulation 6 does not apply to a development application in respect of which the responsible authority has under regulation 19 delegated the power of determination.
- (3) Regulations 5 and 6 do not apply to an excluded development application.

**6. Regulations 5 and 6 replaced**

Delete regulations 5 and 6 and insert:

**5. Mandatory DAP applications (Act s. 171A(2)(a))**

Subject to regulation 4A, a development application is of a class prescribed under section 171A(2)(a) of the Act if it is for the approval of —

- (a) development in the district of the City of Perth that has an estimated cost of \$20 million or more; or
- (b) development in a district outside of the district of the City of Perth that has an estimated cost of \$10 million or more.

**6. Optional DAP applications (Act s. 171A(2)(ba))**

Subject to regulation 4A, a development application is of a class prescribed under section 171A(2)(ba) of the Act if it is for the approval of any of the following —

- (a) development in the district of the City of Perth that has an estimated cost of \$2 million or more and less than \$20 million;
- (b) development in a district outside of the district of the City of Perth that has an estimated cost of \$2 million or more and less than \$10 million;

- (c) development of a warehouse in any district that has an estimated cost of \$2 million or more.

**7. Regulation 12 amended**

In regulation 12(3):

- (a) in paragraph (a) delete “50 days” and insert:

48 days

- (b) in paragraph (b) delete “10 days” and insert:

12 days

- (c) in paragraph (c) delete “80 days” and insert:

78 days

**8. Regulation 16 amended**

- (1) In regulation 16(1) delete “(2A) and (2B),” and insert:

(2B) and (2C),

- (2) Delete regulation 16(2A).

- (3) After regulation 16(2B) insert:

- (2C) A dispute that arises in calculating a period under subregulation (2B)(a) as to whether, or when, an applicant complied with a notice given under regulation 11A is to be determined by the presiding member of the DAP to which the DAP application was given under regulation 11, whose decision is final.

**9. Regulation 17 amended**

- (1) In regulation 17(5) delete “applicant, the relevant responsible authority and the administrative officer of the DAP” and insert:

applicant and the relevant responsible authority

- (2) Delete regulation 17(7).

Note: The heading to amended regulation 17 is to read:

**Amendment or cancellation of development approval by DAP**

**10. Regulation 17A inserted**

After regulation 17 insert:

**17A. Amendment or cancellation of development approval by responsible authority**

- (1) An owner of land in respect of which a development approval has been granted by a DAP pursuant to a DAP application may apply, under the relevant planning instrument, for the responsible authority under that instrument to amend or cancel the development approval (an *application*).
- (2) For the purposes of subregulation (1), the provisions of the Act, the *Planning and Development (Local Planning Schemes) Regulations 2015*, the *Planning and Development Regulations 2009* and the relevant planning instrument apply to the making and determination of, and the review of a decision on, an application as if the development approval —
  - (a) had not been granted pursuant to a DAP application; and
  - (b) had been granted by the responsible authority.
- (3) As soon as practicable after an application is determined, the responsible authority must give the administrative officer of the DAP that granted the development approval written notification of the determination which must include the following —
  - (a) the date of the determination;
  - (b) the determination;
  - (c) the terms of any condition to which the approval of the application is subject;
  - (d) reasons for any refusal of the application.

**11. Regulation 24 amended**

- (1) Delete regulation 24(2) and insert:
- (2) If, within 40 days after the date on which the Minister makes a request to a local government under subregulation (1) or such longer period as the Minister may allow, the local government fails to nominate a person for appointment in accordance with the request, the Minister may appoint under regulation 23(1)(a) a person who is an eligible voter of the district for which the LDAP is established.

- (2) In regulation 24(3) delete “(2)(a)” and insert:

(2)

**12. Regulation 25 amended**

In regulation 25(1)(a) delete “as representatives of” and insert:

for

**13. Regulation 26 amended**

- (1) Delete regulation 26(2) and insert:

(2) Subject to subregulation (4), the register must include, for each local government of a district for which a JDAP is established, the names of 2 members of the council of the local government.

- (2) Delete regulation 26(4) and insert:

(4) If, within 40 days after the date on which the Minister makes a request under subregulation (3) or such longer period as the Minister may allow, the local government fails to nominate a person for inclusion on the local government register in accordance with the request, the Minister may instead include on the register a person who is an eligible voter of the district of the local government.

- (3) In regulation 26(5) delete “(4)(a)” and insert:

(4)

**14. Regulation 29 amended**

In regulation 29(2) delete “2 years.” and insert:

3 years.



**15. Regulation 30 amended**

Delete regulation 30(2) and insert:

- (2) Subject to subregulation (3), a DAP member who satisfactorily completes —
  - (a) the training for DAP members referred to in subregulation (1) is entitled to be paid the amount specified in Schedule 2 item 7; and
  - (b) a course of re-training for DAP members is entitled to be paid the amount specified in Schedule 2 item 8.

**16. Regulation 31 amended**

After regulation 31(3) insert:

- (3B) Subject to subregulation (6), the presiding member of a DAP who determines a dispute under regulation 16(2C) is entitled to be paid the fee set out in Schedule 2 item 9.

**17. Regulation 32 amended**

- (1) In regulation 32(3):
  - (a) in paragraph (d) delete “notice.” and insert:  
  
notice; or
  - (b) after paragraph (d) insert:  
  
    - (e) unreasonable failure to undertake the training for DAP members referred to in regulation 30(1).
- (2) After regulation 32(5A) insert:  
  
  - (5B) A person included on the local government register on the nomination of a local government under regulation 26(3)(a) ceases to be included on the register if the person ceases to be a member of the council of the local government.

**18. Regulation 39 amended**

- (1) In regulation 39(1) delete “5 days before the meeting —” and insert:

7 days before the day of the meeting —

- (2) After regulation 39(1) insert:

(1A) The local government must, at least 7 days before the day of the DAP meeting, give written notice of the time, date and location of the DAP meeting, and the agenda for the meeting, to each person who made a written submission to the local government in relation to a DAP application to be considered at the meeting.

(1B) However, the local government is not required to give a notice under subregulation (1A) if —

- (a) the submission was received after the period for receipt of submissions specified in the notice advertising the DAP application; or
- (b) it is not reasonably practicable to do so; or
- (c) the DAP application was not advertised.

(1C) Notice under subregulation (1A) may be given by email or post.

- (3) In regulation 39(2) delete “subregulation (1)(b).” and insert:

subregulations (1)(b) and (1A).

**19. Regulation 40 amended**

- (1) In regulation 40(2) after “application” insert:

or, unless otherwise directed under subregulation (4), an application under regulation 17

- (2) In regulation 40(4) delete “Unless the presiding member otherwise directs,” and insert:

The presiding member may direct that

**20. Regulation 44 amended**

After regulation 44(1) insert:

- (1A) For each determination of a development application, or application under regulation 17, by a DAP the minutes must include a record of —
- (a) the determination; and
  - (b) reasons for the determination.

**21. Schedule 1 replaced**

Delete Schedule 1 and insert:

**Schedule 1 — Fees for applications**

[r. 10 and 17]

<b>Item</b>	<b>Application</b>	<b>Fee</b>
1.	A DAP application where the estimated cost of the development is —	
	(a) not less than \$2 million and less than \$7 million	\$3 609
	(b) not less than \$7 million and less than \$10 million	\$5 572
	(c) not less than \$10 million and less than \$12.5 million	\$6 062
	(d) not less than \$12.5 million and less than \$15 million	\$6 235
	(e) not less than \$15 million and less than \$17.5 million	\$6 408
	(f) not less than \$17.5 million and less than \$20 million	\$6 582
	(g) \$20 million or more	\$6 754
2.	An application under r. 17	\$155

**22. Schedule 2 replaced**

Delete Schedule 2 and insert:

**Schedule 2 — Fees for DAP members**

[r. 30 and 31]

- |    |  |       |
|----|--|-------|
| 1. | Fee for presiding member per meeting to determine development applications | \$700 |
|----|--|-------|



2. Fee for any other member per meeting to determine development applications \$425
3. Fee per meeting for presiding member to determine applications to amend or cancel determination \$200
4. Fee per meeting for any other member to determine applications to amend or cancel determination \$100
5. Fee for presiding member attending proceeding in State Administrative Tribunal \$700
6. Fee for any other member attending proceeding in State Administrative Tribunal \$425
7. Fee for training for DAP members \$400
8. Fee for re-training for DAP members \$200
9. Fee for presiding member to determine dispute as to compliance with notice \$200

## 23. Schedule 3 replaced

Delete Schedule 3 and insert:

### Schedule 3 — Forms

[r. 7, 10, 17 and 21]

#### 1. Notice of development application to be determined by DAP (r. 7, 10 and 21)

*Planning and Development Act 2005*

*Planning and Development (Development Assessment Panels)  
Regulations 2011*

#### Notice of development application to be determined by a Development Assessment Panel (r. 7, 10 and 21)

##### Application details

To:	[Name of local government and/or Western Australian Planning Commission]
Planning scheme(s):	[Name of planning scheme(s) that applies to the land described below]
Land:	[Lot number, street name, town/suburb]

Certificate of Title: (provide copy)	Volume Number:	Folio:
	Location Number:	Plan/Diagram Number:
Details of development application made to responsible authority:	[Summary of proposal]	
Development use:	[Residential/Commercial/Industrial/Rural/Mixed Use/Other]	
Estimated cost of development (GST included):	[\$]	

#### Part A: Acknowledgment by Applicant and Landowner

Mandatory application:	<input type="checkbox"/> I give notice that I understand that this is a mandatory Development Assessment Panel application (regulation 5)
Optional application:	<input type="checkbox"/> I give notice that I have elected to have the development application that accompanies this form determined by a Development Assessment Panel (regulation 6)
Delegated application:	<input type="checkbox"/> I give notice that I understand that this is an application of a class delegated to a Development Assessment Panel for determination (regulation 19)

#### Applicant details (to be completed and signed by applicant)

By completing this notice, I declare that all the information provided in this application is true and correct. I understand that the information provided in this notice, and attached forming part of the development application, will be made available to the public on the Development Assessment Panel and local government websites.

Name:			
Company:			
Address:			
Contact details:	Email:	Telephone:	
Signature:			Date:

#### Landowner details (to be completed and signed if landowner is different from applicant)

By completing this notice, I give consent to the making of this application by an authorised applicant on my behalf.

Name:			
Company (if applicable):			
Address:			
Contact details:	Email:	Telephone:	
Signature:			Date:

**Part B: Acknowledgment by Local Government**

Responsible authority:	<input type="checkbox"/> Local government <input type="checkbox"/> Western Australian Planning Commission <input type="checkbox"/> Dual — Local government and Western Australian Planning Commission <input type="checkbox"/> Building Management and Works (Department of Finance) — Public School Applications		
Fees for application: (Schedule 1)	[\$] Amount that has been paid by the applicant. [\$] Amount to be paid by local government (delegated applications only — regulation 22)		
Statutory timeframe: (regulation 12)	<input type="checkbox"/> 60 days (advertising not required) <input type="checkbox"/> 90 days (advertising required or other scheme provisions)		
LG Reference number (if known):			
Name of planning officer (report writer):			
Position and title:			
Contact details:	Email:	Telephone:	
Planning officer's signature:			Date:
<b>Please refer to the Development Assessment Panel's "Guidance Note: Lodging a DAP Application" for further information.</b>			

**2. Application for amendment or cancellation of development approval (r. 17 and 21)**

*Planning and Development Act 2005*

*Planning and Development (Development Assessment Panels) Regulations 2011*

**Application for amendment or cancellation of a DAP determination (r. 17 and 21)**

**Part A: Development application previously determined**

Estimated cost of development (GST included):	\$
Description of development:	
Lot number:	
Street number and name:	
Town/suburb:	
Existing use:	
Proposed amendments:	
DAP file number (DoP reference):	
Original DAP determination date:	

**Part B: Applicant details**

Name:			
Address:			
Company (if applicable)			
Contact details:	Email:	Telephone:	
Signature:			Date:
<b>Please note: unless otherwise requested, DAP secretariat will contact you via your nominated email address.</b>			

**Part C: Landowner details**

Name:			
Address:			
Contact details:	Email:	Telephone:	
Signature:			Date:
OR	<input type="checkbox"/> Letter of consent attached		

**Part D: Amendment requested**

Please specify the amendments/modifications required to the original determination.

Please tick one of the following:

- ☐ to amend the approval so as to extend the period within which any development approved must be substantially commenced;
- ☐ to amend or delete any condition to which the approval is subject;
- ☐ to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
- ☐ to cancel the approval.

**Part E: Acknowledgment by local government**

(To be completed and signed by a local government planning officer)

Development Assessment Panel fee:	Development Assessment Panel fee that has been paid by the applicant \$155 (Schedule 1)		
Planning scheme:	<i>[Name of planning scheme, or schemes, that apply to the prescribed land]</i>		
LG Reference number (if known):			
Name of planning officer:			
Position and title:			
Contact details:	Telephone:	Email:	
Planning officer's signature:			Date:
<b>Please refer to the Development Assessment Panel's "Guidance Note: Lodging a DAP Application" for further information.</b>			

K. H. ANDREWS, Clerk of the Executive Council.

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