



Western Australia

Planning and Development Act 2005

**Planning and Development (Development  
Assessment Panels) Amendment Regulations  
2024**



# Planning and Development (Development Assessment Panels) Amendment Regulations 2024

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# **Planning and Development (Development Assessment Panels) Amendment Regulations 2024**

Made by the Governor in Executive Council.

## **1. Citation**

These regulations are the *Planning and Development (Development Assessment Panels) Amendment Regulations 2024*.

## **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on 1 March 2024.

## **3. Regulations amended**

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

## **4. Regulation 3 amended**

- (1) In regulation 3(1) delete the definitions of:

*administrative officer*

*alternate member*

*DAP application*

*DAP member*

*local government member*

*local government register*

*R-Codes*

*specialist member*

*warehouse*

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

*accepted for assessment* has a meaning affected by subregulation (3);

*accreditation body*, for an area of expertise, means a body that accredits qualifications for the area of expertise;

*accredited*, in relation to a tertiary qualification for an area of expertise, means accredited by an accreditation body for the area of expertise;

*approved form* means a form approved by the DAP executive director under regulation 54A;

*community housing* means housing for people on a very low, low or moderate income, or for people with additional needs, that is provided by a person other than an occupant of the housing;

*community housing provider* means a body corporate or organisation that has as one of its objectives the provision of community housing;

*DAP application* means a development application of a class or kind prescribed under regulation 6 in respect of which the applicant has made an election under regulation 7;

*DAP executive director* means the DAP executive director designated under regulation 49;

*DAP member* means —

- (a) a local government DAP member; or
- (b) a specialist DAP member;

**local government DAP member** means a person designated as a local government DAP member or an alternate local government DAP member under regulation 25(2);

**R-codes** means the planning codes entitled Residential Design Codes prepared by the Commission under Part 3A of the Act, as amended from time to time;

**registered community housing provider** means a community housing provider that is included on the register under regulation 50;

**regular specialist DAP member** means a person who holds the office of regular specialist DAP member under regulation 27(1);

**relevant planning instrument**, in relation to a development application, means the planning instrument under which the application is made;

**sessional specialist DAP member** means a person who holds the office of sessional specialist DAP member under regulation 27(3);

**specialist DAP member** means a regular specialist DAP member or a sessional specialist DAP member.

(3) In regulation 3(1) in the definition of **deputy presiding member**:

(a) delete “appointed” and insert:

designated

(b) delete “regulation 27(1);” and insert:

regulation 24(1);

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- (4) In regulation 3(1) in the definition of *excluded development application*:
- (a) delete paragraph (a) and insert:
    - (a) construction of a single house and any associated carport, patio, outbuilding and incidental development; or
  - (b) delete paragraphs (c) and (d) and insert:
    - (c) a public work; or
    - (d) development wholly within an area identified as a regional reserve under a region planning scheme;
- (5) In regulation 3(1) in the definition of *presiding member*:
- (a) after “relation to a” insert:

meeting of a
  - (b) delete “appointed as presiding member of the DAP under regulation 27(1);” and insert:

presiding under regulation 24;
- (6) In regulation 3 in the note:
- (a) delete “DAP, JDAP, LDAP” and insert:

DAP

(b) after “meanings” insert:

in these regulations

**5. Part 2 Division 1 heading inserted**

At the beginning of Part 2 insert:

**Division 1 — DAP applications**

**6. Regulations 4A, 5 and 6 replaced**

Delete regulations 4A, 5 and 6 and insert:

**6. DAP applications**

- (1) A development application for approval of development is prescribed for the purposes of section 171A(2)(ba) of the Act if the development is within a district for which a DAP is established and the development —
  - (a) has an estimated cost of \$2 million or more; or
  - (b) is or includes community housing that is to be provided by a registered community housing provider.
- (2) This regulation does not apply to —
  - (a) an excluded development application; or
  - (b) a development application in respect of which the responsible authority has under regulation 19 delegated the power of determination; or

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- (c) a development application made under Part 11B or 17 of the Act.

Note for this regulation:

Section 171A(2A) of the Act provides that a development application that relates to land in the Swan Valley cannot be a prescribed development application.

**7. Regulation 7 amended**

- (1) In regulation 7(1) after “application of a” insert:

class or

- (2) Delete regulation 7(2)(a) and insert:

- (a) completing a notice of election in the approved form; and

**8. Regulation 8 amended**

- (1) In regulation 8(1) delete “any” (2<sup>nd</sup> occurrence) and insert:

a

- (2) Delete regulation 8(2) and insert:

- (2) If a DAP application is for approval of development in more than 1 district and there is more than 1 DAP established for some or all of those districts, the application is to be determined by the DAP in whose area of jurisdiction the greatest area of land to which the application relates is situated.

- (3) In subregulation (2) —  
*area of jurisdiction*, for a DAP, means the district or districts for which the DAP is established.

Note: The heading to amended regulation 8 is to read:

**DAP applications to be determined by DAPs**

**9. Regulation 9 amended**

- (1) In regulation 9 delete “These regulations” and insert:

(1) These regulations

- (2) At the end of regulation 9 insert:

(2) For the purposes of these regulations, a development application is made to the Commission even though it is lodged with or given to a local government if, under the planning instrument under which the application is made, the application would be determined by the Commission but for regulation 8 or a delegation under regulation 19.

Note: The heading to amended regulation 9 is to read:

**Making DAP application: initial procedures**

**10. Part 2 Division 2 heading inserted**

After regulation 9 insert:

**Division 2 — Dealing with DAP applications**

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**11. Regulation 10 amended**

- (1) In regulation 10(1):
- (a) in paragraph (a) delete “a completed notice in the form of Form 1 in Schedule 3; and” and insert:
- the completed notice of election referred to in regulation 7(2)(a); and
- (b) in paragraph (b) delete “Schedule 1.” and insert:
- Schedule 1 item 1.
- (2) In regulation 10(2) delete “form” (1<sup>st</sup> occurrence) and insert:

notice

Note: The heading to amended regulation 10 is to read:

**Making DAP applications: notice and fees**

**12. Regulation 11 amended**

- (1) In regulation 11(1):
- (a) delete “administrative officer (the *relevant administrative officer*) of the DAP that will determine the application” and insert:
- DAP executive director

- (b) in paragraph (d) delete “planning instrument (the *relevant planning instrument*) under which the application was made;” and insert:

relevant planning instrument;

- (2) After regulation 11(1) insert:

- (1A) On receipt of a DAP application and notice under subregulation (1)(a) and (b) by the DAP executive director, the DAP that will determine the application is, for the purposes of these regulations, taken to have been notified of the application.

- (3) In regulation 11(2):

- (a) delete “a local government” and insert:

the local government

- (b) in paragraphs (a) and (b) delete “relevant administrative officer —” and insert:

DAP executive director —

- (4) In regulation 11(3) delete “relevant administrative officer” and insert:

DAP executive director

**13. Regulation 12 amended**

- (1) Delete regulation 12(1) to (3) and insert:
  - (2) A responsible authority to which a DAP application is made must give the DAP executive director a report on the application in the approved form.
  - (3) The report must be given at least 12 days before the day on which the application would be taken to be refused under the relevant planning instrument.
  
- (2) In regulation 12(4A) delete “a DAP application” and insert:

the application
  
- (3) In regulation 12(4B) delete “DAP”.
  
- (4) In regulation 12(4):
  - (a) delete “presiding member of the DAP” and insert:

DAP executive director
  
  - (b) delete “a DAP” and insert:

the
  
- (5) In regulation 12(5) delete “DAP” (2<sup>nd</sup> occurrence).
  
- (6) Delete regulation 12(6) and (7) and insert:
  - (6) A DAP, in determining a DAP application, must have regard to, but is not bound to give effect to, the recommendations in a report under subregulation (2).

- (7) A DAP may determine a DAP application in the absence of a report under subregulation (2) if a report is not given in accordance with this regulation.

**14. Regulation 13 amended**

- (1) In regulation 13(1):
- (a) delete “presiding member of a DAP may, at any time after the” and insert:
- DAP executive director may, at any time after a
- (b) delete “give to the DAP” and insert:
- provide
- (2) After regulation 13(3) insert:
- (4) A DAP may determine a DAP application in the absence of a service required under this regulation if the service is not provided in accordance with this regulation.

**15. Regulation 15 amended**

- In regulation 15:
- (a) delete “administrative officer of a DAP” and insert:
- DAP executive director

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- (b) in paragraph (a) delete “DAP;” and insert:

DAP executive director;

- (c) in paragraph (b) after “DAP” insert:

executive director

- (d) delete paragraph (c) and insert:

- (c) the date on which the DAP that will determine  
the application will meet to consider it.

**16. Regulation 16 replaced**

Delete regulation 16 and insert:

**16. Determination by DAP**

- (1) Except as provided in subregulations (2) and (3), the provisions of the Act and the planning instrument under which a DAP application is made apply to the making and notification of the DAP’s determination of the application as if the DAP were the responsible authority in relation to the planning instrument.
- (2) Subregulation (3) applies if the planning instrument provides that an application is taken to be refused if not determined within a specified period after the application is accepted for assessment.
- (3) In calculating, under the planning instrument, the period between when the application is accepted for assessment and when the application is determined, any excluded day or period as defined in

regulation 12(4B) must be excluded, in addition to any period of extension under regulation 12(4).

- (4) A dispute that arises in determining whether a day or period is excluded under the planning instrument or subregulation (3) is to be determined by the DAP executive director.
- (5) The DAP executive director must give the following a copy of any written notice of a determination of a DAP application, together with approved plans and other ancillary documents, given under subregulation (1) to the applicant —
  - (a) the local government of each district in which land to which the application relates is situated;
  - (b) if the Commission is the responsible authority — the Commission.

**17. Regulation 16A amended**

Delete regulation 16A(2) and (3) and insert:

- (2) If development approval is granted by a DAP, the development must be substantially commenced —
  - (a) within the period specified in the approval; or
  - (b) if no period is specified in the approval — within the period of 4 years beginning on the day on which the approval is granted.

Note for this subregulation:

The period can be extended by an amendment of the approval under regulation 17(1)(a) or the provisions applied by regulation 17A.

- (3) The approval lapses if the development has not substantially commenced within the period referred to in subregulation (2).

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- (4) Subregulations (2) and (3) apply despite any provision of the planning instrument under which the DAP application is made.

**18. Regulation 17 amended**

- (1) Before regulation 17(1) insert:
  - (1A) In subregulation (1) —  
*relevant DAP*, in relation to a development approval, means —
    - (a) the DAP established for the district in which the land to which the development approval relates is situated; or
    - (b) if there is more than 1 such district — the DAP established for the district in which the greatest area of land to which the development approval relates is situated.
- (2) In regulation 17(1) after “may apply for the” insert:  
  
relevant
- (3) In regulation 17(2):
  - (a) in paragraph (b) delete “the form of Form 2 in Schedule 3; and” and insert:  
  
the approved form; and

- (b) in paragraph (c) delete “relevant fee set out in Schedule 1; and” and insert:

fee in Schedule 1 item 2; and

- (4) In regulation 17(4) delete “DAP may determine an” and insert:

relevant DAP may determine the

- (5) In regulation 17(5) delete “presiding member” and insert:

DAP executive director

- (6) In regulation 17(6) delete “administrative officer of the DAP” and insert:

DAP executive director

**19. Regulation 17A amended**

In regulation 17A(3) delete “administrative officer of the DAP that granted the development approval” and insert:

DAP executive director

**20. Part 2 Division 3 heading inserted**

After regulation 17A insert:

**Division 3 — Review by State Administrative Tribunal**

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**21. Regulation 18 amended**

In regulation 18(3):

- (a) delete “presiding member of a DAP” and insert:

DAP executive director

- (b) in paragraph (a) delete “application by the DAP” and insert:

application, or an application under regulation 17, by a DAP

**22. Regulation 19 amended**

- (1) Delete regulation 19(1)(a) and (b) and insert:

- (a) the application is for approval for development that —

- (i) has an estimated cost of \$2 million or more; or  
(ii) is or includes community housing that is to be provided by a registered community housing provider;

and

- (b) the application is not an excluded application or made under Part 11B or 17 of the Act.

- (2) Delete regulation 19(5) and (6) and insert:

- (5) If a local government or the Commission delegates under this regulation, the local government or the Commission must notify the DAP executive director in

writing of the delegation and must publish a copy of it on a website of the local government or Commission.

**23. Regulation 20 amended**

In regulation 20(2) delete “Director General.” and insert:

DAP executive director.

**24. Regulation 21 amended**

(1) In regulation 21(2):

(a) delete “has delegated” and insert:

delegates

(b) in paragraph (a) delete “lodged a notice in the form of Form 1 in Schedule 3; and” and insert:

lodged notice, in an approved form, that the application is to be determined by a DAP; and

(c) in paragraph (b) delete “16” and insert:

16A

(2) In regulation 21(3):

(a) delete “has delegated” and insert:

delegates

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- (b) in paragraph (a) delete “lodged an application in the form of Form 2 in Schedule 3; and” and insert:

lodged notice, in an approved form, that the application is to be determined by a DAP; and

- (c) in paragraph (b) delete “16” and insert:

16A

**25. Regulation 22 amended**

- (1) In regulation 22(1) delete “regulation 10 by the applicant if the application were made under that regulation.” and insert:

regulation 10(1)(b) by the applicant if regulation 10 were applicable to the application.

- (2) In regulation 22(2) delete “regulation 17 by the applicant if the application were made under that regulation.” and insert:

regulation 17(2)(c) by the applicant if regulation 17 were applicable to the application.

**26. Part 4 Division 1 Subdivision 1 heading inserted**

At the beginning of Part 4 Division 1 insert:

**Subdivision 1 — Constitution of DAPs**

**27. Regulations 23 to 29 replaced**

Delete regulations 23 to 29 and insert:

**23. Constitution of DAPs**

- (1) Subject to subregulation (4), a DAP, at any meeting of the DAP to determine or otherwise deal with a development application or an application to amend or cancel a development approval, is constituted by —
  - (a) the 2 local government DAP members, designated under regulation 25(2)(a), for the relevant local government in relation to the application; and
  - (b) 3 specialist DAP members appointed by the DAP executive director.
- (2) In subregulation (1)(a) —  
*relevant local government*, in relation to an application, means the local government of the district in which the land to which the application relates is situated.
- (3) At least 1 of the specialist DAP members appointed under subregulation (1)(b) must be a regular specialist DAP member.
- (4) If the application is for approval of development, or to amend or cancel a development approval for development, in more than 1 district and the development is subject to approval under a region planning scheme or a regional interim development order, the DAP is constituted by —
  - (a) 2 local government DAP members appointed by the DAP executive director; and

- (b) 3 specialist DAP members appointed by the DAP executive director.
- (5) The DAP executive director must not appoint, under subregulation (1)(b) or (4)(b), a specialist DAP member who is —
  - (a) employed under the *Local Government Act 1995* section 5.36 by the local government of a district for which the DAP is established; or
  - (b) a member of the council of the local government of a district for which the DAP is established.

**24. Presiding DAP members**

- (1) The DAP executive director must, for a DAP constituted under regulation 23 for the purposes of dealing with an application, designate a specialist DAP member as the presiding member, and a specialist DAP member as the deputy presiding member, for each meeting of the DAP at which the DAP deals with the application.
- (2) If the DAP member designated as the presiding member is unable to preside by reason of illness, absence or other cause, the deputy is to preside.

**Subdivision 2 — Local government DAP members**

**25. Register of local government DAP members**

- (1) The DAP executive director must maintain a register of local government DAP members.

- (2) Subject to subregulation (4), the register must include, for each local government of a district for which a DAP is established, the names of 4 members of the council of the local government —
  - (a) 2 of whom must be designated as the local government DAP members for the local government; and
  - (b) 2 of whom must be designated as the alternate local government DAP members for the local government.
- (3) Whenever it is necessary to include a member of a council of a local government on the register, the Minister must —
  - (a) in writing, request the local government to nominate a member of the council of the local government for inclusion on the register; and
  - (b) unless subregulation (4) applies, include on the register the name of the person nominated.
- (4) If, within 40 days after the day 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 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.
- (5) For the purposes of subregulation (4) a person is an eligible voter of a district if that person is eligible under the *Local Government Act 1995* section 4.29 or 4.30 to be enrolled to vote at elections for the district.

**26. Alternate local government DAP members**

- (1) If a local government DAP member designated under regulation 25(2)(a) for a local government is unable to perform the functions of a DAP member by reason of illness, absence or other cause, the DAP executive director may appoint an alternate local government DAP member for the local government to act in their place.
- (2) An alternate member acting in the place of a DAP member may, despite anything in these regulations, continue to act, after the occasion for so acting has ceased, for the purpose of completing a determination of an application.
- (3) An alternate member, while acting in the place of a DAP member, has the same functions and protection from liability as a DAP member.
- (4) No act or omission of an alternate member acting in the place of a DAP member is to be questioned on the ground that the occasion for so acting had not arisen or had ceased.

**Subdivision 3 — Specialist DAP members**

**27. Appointment of specialist DAP members**

- (1) The Minister may appoint a person to the office of regular specialist DAP member if satisfied that the person has experience in and an accredited tertiary qualification in urban and regional planning.
- (2) A regular specialist DAP member holds office on a full-time or part-time basis and cannot engage in any

other paid employment without the written approval of the Minister.

- (3) The Minister may appoint a person to the office of sessional specialist DAP member if satisfied that the person —
- (a) has experience in 1 or more of the following areas of expertise —
    - (i) urban and regional planning;
    - (ii) architecture;
    - (iii) urban design;
    - (iv) civil or structural engineering;
    - (v) landscape architecture;
    - (vi) environmental impact assessment;and
  - (b) has —
    - (i) an accredited tertiary qualification in their area of expertise that is, in the opinion of the Minister, sufficient to allow them to perform the duties of a specialist DAP member; or
    - (ii) extensive experience in their area of expertise that is, in the opinion of the Minister, sufficient to allow them to perform the duties of a specialist DAP member.
- (4) The following are not eligible to hold the office of specialist DAP member —
- (a) an officer of the department;

- (b) a member of a parliament as defined in the *Local Government Act 1995* section 2.20(2).

**28. Terms and conditions of appointment of specialist DAP members**

- (1) The terms and conditions of appointment of a specialist DAP member, including about remuneration, are to be determined by the Minister on the recommendation of the Public Sector Commissioner.
- (2) A specialist DAP member holds office for the term specified in their instrument of appointment, which cannot exceed 5 years.
- (3) A person may be appointed to the office of specialist DAP member more than once.
- (4) However, the Minister must ensure that if a person is appointed for 2 consecutive terms, a period of at least 3 years follows during which the person does not hold office as a specialist DAP member.
- (5) A failure to comply with subregulation (4) does not give rise to any invalidity.

**28. Part 4 Division 1 Subdivision 4 heading inserted**

Before regulation 30 insert:

**Subdivision 4 — General provisions**

**29. Regulation 30 amended**

- (1) In regulation 30(1) delete “is appointed as a DAP member cannot perform any functions as a member of that DAP until the Director General” and insert:

becomes a DAP member cannot perform the functions of a DAP member until the DAP executive director

- (2) In regulation 30(2):

- (a) after “subregulation (3), a” insert:

local government

- (b) in paragraph (a) delete “specified in Schedule 2 item 7; and” and insert:

in Schedule 2 item 4; and

- (c) in paragraph (b) delete “specified in Schedule 2 item 8.” and insert:

in Schedule 2 item 5.

**30. Regulation 31 amended**

- (1) Delete regulation 31(1), (2) and (3A) and insert:

- (1) A local government DAP member who attends a meeting of a DAP is entitled to be paid —
- (a) if paragraph (b) does not apply — the fee in Schedule 2 item 1; or

- (b) if the sole purpose of their attendance at the meeting is to amend or cancel a development approval — the fee in Schedule 2 item 2.
- (2) If a meeting of a DAP is cancelled after the agenda for the meeting is published under regulation 39(1), each local government DAP member who was to attend the meeting may, if the DAP executive director approves in writing, be paid 50% of the fee to which the member would have been entitled under subregulation (1).
- (2) In regulation 31(3):
  - (a) delete “Subject to subregulation (6), a” and insert:

A local government
  - (b) delete “set out in Schedule 2 item 5 or 6, as the case requires.” and insert:

in Schedule 2 item 3.
- (3) Delete regulation 31(3B).
- (4) In regulation 31(4) before “DAP member” insert:

local government
- (5) In regulation 31(5) before “DAP members” insert:

local government

- (6) After regulation 31(5) insert:
- (5A) Subregulations (1) to (4) have effect subject to subregulation (6).
- (7) In regulation 31(6):
- (a) after “fees” insert:
- and allowances
- (b) before “DAP member” insert:
- local government

Note: The heading to amended regulation 31 is to read:

**Fees and allowances for local government DAP members**

**31. Regulation 32 amended**

- (1) In regulation 32(3)(d) delete “the DAP” and insert:
- a DAP
- (2) In regulation 32(4) delete “46(2) or (3),” and insert:
- 46(2), (2A), (3) or (3A),

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- (3) Delete regulation 32(5A) and (5B) and insert:
- (5A) If the office of a local government DAP member becomes vacant, or the member resigns or is removed from office, the person ceases to be included on the register under regulation 25.
  - (5B) A local government DAP member for a local government ceases to be included on the register under regulation 25 if —
    - (a) the person ceases to be a member of the council of the local government; or
    - (b) in the case of a local government DAP member included on the register under regulation 25(4) — another person is included on the register for the local government under regulation 25.
- (4) In regulation 32(5):
- (a) delete “Except in the circumstances referred to in subregulation (5A), the” and insert:  
  
The
  - (b) after “remove a” insert:  
  
specialist
  - (c) delete “position or”.

**32. Regulation 32A inserted**

After regulation 32 insert:

**32A. Suspension**

- (1) The Minister may, by notice in writing given to the member, suspend a DAP member from office —
  - (a) for a specified period; or
  - (b) if the Minister proposes to remove the member from office under regulation 32(3) or (5) — until the Minister either removes the member from office or decides not to do so.
- (2) A notice given under subregulation (1) must specify the ground for suspension.
- (3) The suspension takes effect on the day on which the member is given the notice or on a later day specified in the notice.

**33. Part 4 Division 2 deleted**

Delete Part 4 Division 2.

**34. Regulation 39 amended**

- (1) In regulation 39(1)(b)(ii) delete “Director General.” and insert:

DAP executive director.

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- (2) In regulation 39(2) delete “administrative officer of the DAP” and insert:

DAP executive director

**35. Regulation 40 amended**

- (1) In regulation 40(1)(b) delete “under regulation 17.” and insert:

to amend or cancel development approvals.

- (2) Delete regulation 40(2) and insert:

(2) Subject to subregulations (2B) and (4), a DAP meeting to determine a development application or to amend or cancel a development approval must be open to the public.

(2A) The requirement in subregulation (2) is satisfied if members of the public can observe the meeting using audiovisual communication.

(2B) Subregulation (2) does not apply to a meeting or a part of a meeting of a DAP that deals with 1 of the following matters —

(a) legal advice obtained, or which may be obtained, for the purpose of advising the DAP in relation to a matter to be considered or determined at the meeting;

(b) a matter that, if disclosed, would reveal any of the following —

(i) a trade secret;

- (ii) information that has a commercial value to a person;
    - (iii) information about the business, professional, commercial or financial affairs of a person;
  - (c) a matter that, if disclosed, could reasonably be expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
    - (ii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.
- (3) In regulation 40(4) delete the passage that begins with “under regulation 17 —” and continues to the end of the subregulation and insert:

to amend or cancel a development approval is not open to the public.

- (4) In regulation 40(5) delete “Director General” and insert:

DAP executive director

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**36. Regulation 41 amended**

In regulation 41 delete “members of the DAP,” and insert:

DAP members,

**37. Regulation 42 amended**

In regulation 42(2) delete “of a” and insert:

of the

**38. Regulation 43 amended**

In regulation 43 delete “If the presiding member of a DAP consents, the presence of a person at a meeting of the DAP” and insert:

The presence of a person at a DAP meeting

**39. Regulation 44 amended**

(1) Delete regulation 44(1) and insert:

(1) Accurate minutes of the meetings of a DAP must be kept, in a form approved by the DAP executive director, by a person approved by the DAP executive director.

- (2) In regulation 44(1A) delete “under regulation 17,” and insert:

to amend or cancel a development approval,

- (3) Delete regulation 44(2) and insert:

- (2) The person who takes the minutes must give the DAP executive director a copy of the minutes of the meeting within 5 days after the date of the meeting.

- (4) Delete regulation 44(5).

- (5) In regulation 44(6) delete “administrative officer of the DAP must give the” and insert:

DAP executive director must give each relevant

- (6) Delete regulation 44(7) and insert:

- (7) Each relevant local government must provide a link on its website to the signed minutes on the DAP website.

**40. Regulation 46 amended**

- (1) In regulation 46(1) insert in alphabetical order:

*member’s district*, in relation to a local government DAP member, means the district of the local government of which they are a member;

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- (2) In regulation 46(1) in the definition of *gift* delete “section 5.82(4)” and insert:

section 5.57

- (3) Delete regulation 46(2) and (3) and insert:

- (2) A person who is a specialist DAP member must not accept a prohibited gift from a person who —
- (a) is undertaking development approved by a DAP; or
  - (b) is seeking to undertake development of a kind that could be approved by a DAP; or
  - (c) it is reasonable to believe, is intending to or is likely to undertake development of a kind that could be approved by a DAP.
- (2A) A person who is a local government DAP member must not accept a prohibited gift from a person who —
- (a) is undertaking, in the member’s district, development approved by a DAP established for the district; or
  - (b) is seeking to undertake, in the member’s district, development of a kind that could be approved by a DAP established for the district; or
  - (c) it is reasonable to believe, is intending to or is likely to undertake, in the member’s district, development of a kind that could be approved by a DAP established for the district.
- (3) A person who is a specialist DAP member and who accepts a notifiable gift from 1 of the following persons

must, as soon as practicable, notify the DAP executive director of the acceptance of the gift —

- (a) a person who is undertaking development approved by a DAP;
  - (b) a person who is seeking to undertake development of a kind that could be approved by a DAP;
  - (c) a person who, it is reasonable to believe, is intending to or likely to undertake development of a kind that could be approved by a DAP.
- (3A) A person who is a local government DAP member and who accepts a notifiable gift from 1 of the following persons must, as soon as practicable, notify the DAP executive director of the acceptance of the gift —
- (a) a person who is undertaking, in the member's district, development approved by a DAP established for the district;
  - (b) a person who is seeking to undertake, in the member's district, development of a kind that could be approved by a DAP established for the district;
  - (c) a person who, it is reasonable to believe, is intending to or is likely to undertake, in the member's district, development of a kind that could be approved by a DAP established for the district.

- (4) In regulation 46(5) delete “Director General” and insert:

DAP executive director

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**41. Regulation 48 amended**

In regulation 48(1) delete “member, other than the presiding member,” and insert:

member

**42. Regulations 49 and 50 replaced**

Delete regulations 49 and 50 and insert:

**49. DAP executive director, staff and facilities to be made available**

- (1) In this regulation —  
*departmental officer* means a public service officer employed in the department;  
*employed in the department* includes seconded to perform functions or services for, or duties in the service of, the department;  
*public service officer* has the meaning given in the *Public Sector Management Act 1994* section 3(1).
- (2) The Director General must designate a departmental officer as the DAP executive director.
- (3) The DAP executive director’s functions include assisting the DAPs in the performance of their functions.
- (4) The DAP executive director may, in performing their functions, consult DAP members.

Examples for this subregulation:

1. Consulting about the services to be sought under regulation 13.

2. Consulting as part of preparing practice notes under regulation 40(5).
- (5) The departmental officer designated under subregulation (2) must have experience in and an accredited tertiary qualification in urban and regional planning.
- (6) The Director General may, from time to time, designate a departmental officer as the acting DAP executive director when the DAP executive director is unable, or expected to become unable, to act by reason of illness, absence or other cause or when no departmental officer is designated as the DAP executive director.
- (7) The Director General must make other departmental officers available to assist, under the direction of the DAP executive director, the DAPs and the DAP executive director in the performance of their functions.
- (8) The Director General must make the services and facilities of the Department available for the purposes of the performance of the functions of the DAPs.

**50. Register of community housing providers**

- (1) The Director General must maintain a register of community housing providers.
- (2) The Director General may include a body corporate or other organisation (an *entity*) on the register if —
  - (a) the entity is registered as a community housing provider under a law of another Australian jurisdiction; or
  - (b) the Director General is satisfied that the entity has as one of its objectives the provision of community housing.

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- (3) The Director General must remove an entity from the register if —
  - (a) the entity requests that it be removed; or
  - (b) the entity is under external administration under the *Corporations Act 2001* (Commonwealth).
- (4) The Director General may remove an entity from the register —
  - (a) if an employee of, or a member of the governing body of, the entity is convicted of an offence involving fraud or dishonesty and the Director General is satisfied that the person is in a position of influence in or in relation to the entity; or
  - (b) if the Director General is satisfied that the entity has, by act or omission, compromised the safety or security of tenants of community housing provided by the entity; or
  - (c) for any other good reason.
- (5) The Director General must consult with the chief executive officer of the department of the Public Service principally assisting in the administration of the *Housing Act 1980* before including an entity on the register or removing an entity from the register.
- (6) The Director General must ensure that the register is publicly available on the DAP website.

**43. Regulation 54 amended**

In regulation 54(2) delete “JDAP” (each occurrence) and insert:

DAP

**44. Regulations 54A and 54B inserted**

After regulation 54 insert:

**54A. Approved forms**

- (1) The DAP executive director may approve forms for use under these regulations.
- (2) The DAP executive director must ensure that an approved form is published on the DAP website.
- (3) A failure to comply with subregulation (2) does not give rise to any invalidity.

**54B. Fee waiver, reduction or refund**

The Director General may, on a case by case basis, refund, reduce or waive, in whole or in part, a fee paid or payable by a registered community housing provider under Schedule 1 if the Director General considers it appropriate to do so.

**45. Part 7 heading and Part 7 Division 1 heading inserted**

After regulation 55 insert:

**Part 7 — Transitional Provisions**

**Division 1 — Provision for *Planning Regulations  
Amendment Regulations 2020***

**46. Part 7 Division 2 inserted**

After regulation 56 insert:

**Division 2 — Provisions for *Planning and Development  
(Development Assessment Panels) Amendment  
Regulations 2024***

**57. Terms used**

(1) In this Division —

***commencement day*** means 1 March 2024;

***JDAP*** has the meaning given in section 4(1) of the Act  
as in force immediately before commencement day;

***LDAP*** has the meaning given in section 4(1) of the Act  
as in force immediately before commencement day;

***local government register*** means the register  
maintained under old regulation 26.

(2) In this Division, a reference to an old regulation is a  
reference to that regulation as in force before  
commencement day.

**58. Local government DAP members**

(1) The register maintained under regulation 25 is a  
continuation of the local government register.

(2) Subregulation (3) applies to a person whose  
appointment under old regulation 23(1)(a) as a local  
government member of an LDAP established for a  
local government was in effect immediately before  
commencement day.

(3) The name of the person is taken to be included on the  
register under regulation 25 and the person is taken to  
have been designated, on commencement day, under

- regulation 25(2)(a), as a local government DAP member for the local government.
- (4) Subregulation (5) applies to a person included on the local government register for a local government immediately before commencement day.
  - (5) The person is taken to have been designated, on commencement day, under regulation 25(2)(a), as a local government DAP member for the local government.
  - (6) Subregulation (7) applies to a person whose appointment under old regulation 28(1)(b) as an alternate member, for a person appointed under old regulation 23(1)(a) or included on the local government register, for a local government, was in effect immediately before commencement day.
  - (7) The person is taken to have been designated, on commencement day, under regulation 25(2)(b), as an alternate local government DAP member for the local government.
  - (8) The DAP executive director must amend the register to give effect to this regulation.

**59. Specialist DAP members**

- (1) If a person was, immediately before commencement day, included on the register under old regulation 35, they are taken to hold the office of sessional specialist DAP member until the earliest of the following —
  - (a) being appointed to an office under regulation 27;
  - (b) their office being vacated under regulation 32;
  - (c) the end of 31 December 2024.

- (2) The person's terms and conditions of appointment under these regulations as in force immediately before commencement day continue until the earlier of the following —
  - (a) the occurrence of an event described in subregulation (1);
  - (b) the person's terms and conditions of appointment being determined under regulation 28(1).
- (3) For the purposes of subregulation (2), a person's terms and conditions of appointment may be determined under regulation 28(1) even though the person holds office under this regulation rather than under regulation 27.
- (4) Until 1 January 2025 —
  - (a) regulation 23(3) need not be complied with; and
  - (b) the DAP executive director may, under regulation 24(1), designate any of the DAP members as the presiding member.

**60. DAP applications**

- (1) A DAP application, as defined in old regulation 3(1), of which a DAP had been notified under old regulation 11 and which, immediately before commencement day, had not been determined, is taken to be a DAP application.
- (2) This regulation does not prevent the applicant from discontinuing the application.

**61. Previous determinations of LDAPs and JDAPs**

Regulations 17 and 17A apply in relation to a development approval granted before commencement

day by an LDAP or a JDAP as if the references in regulation 17(1) and 17A(1) to a development approval granted by a DAP included a reference to a development approval granted by an LDAP or a JDAP.

**47. Schedules 1 to 3 replaced**

Delete Schedules 1 to 3 and insert:

**Schedule 1 — Fees for applications**

[r. 10 and 17]

<b>Item</b>	<b>Application</b>	<b>Fee</b>
1.	For a DAP application if the estimated cost of the development is —	
(a)	less than \$2 million	\$5 341
(b)	not less than \$2 million and less than \$7 million	\$6 168
(c)	not less than \$7 million and less than \$10 million	\$9 522
(d)	not less than \$10 million and less than \$12.5 million	\$10 361
(e)	not less than \$12.5 million and less than \$15 million	\$10 656
(f)	not less than \$15 million and less than \$17.5 million	\$10 952
(g)	not less than \$17.5 million and less than \$20 million	\$11 249

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<b>Item</b>	<b>Application</b>	<b>Fee</b>
	(h) not less than \$20 million and less than \$50 million	\$11 544
	(i) not less than \$50 million	\$16 680
2.	For an application under regulation 17 to amend or cancel a development approval	\$264

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**Schedule 2 — Fees for local government DAP members**

[r. 30 and 31]

1.	Fee for local government DAP member for attendance at a meeting	\$425
2.	Fee for local government DAP member for attendance at a meeting for the sole purpose of determining an application to amend or cancel a development approval	\$100
3.	Fee for a local government DAP member attending proceedings in the State Administrative Tribunal	\$425
4.	Fee for training for local government DAP members	\$400
5.	Fee for re-training for local government DAP members	\$200

N. HAGLEY, Clerk of the Executive Council