

# The Application of Discretion

## A Development Assessment Panel Perspective

Karen Hyde

Presiding Member  
Metro North West JDAP

Senior Associate  
Taylor Burrell Barnett

**Taylor  
Burrell  
Barnett**  
Town Planning & Design



# Background



- Appointed to the Metro North-West JDAP in 2011 as the Presiding Member (Stirling, Joondalup, Wanneroo)
- Panels are appointed by the Minister for Planning based on their level and diversity of experience.
- Plethora of reasons put forward for their introduction – but their primary purpose was **to provide transparency and balance** to the determination process which was often derailed by local politics.

# Development Assessment Panel Overview



Aurelia by Finbar, 96 Mill Point Road South Perth  
(118 Apartments and 2,300m<sup>2</sup> commercial space)

- Since their introduction in 2011 the system has determined **in excess of \$26 Billion** in development across the State via ~830 applications.
- Applications range from the relatively innocuous and uncomplicated proposals to highly complex and controversial proposals.
- Attempt to make the process **as efficient and effective as possible** and provide fair and balanced decision making in accordance with the planning framework and objectives.

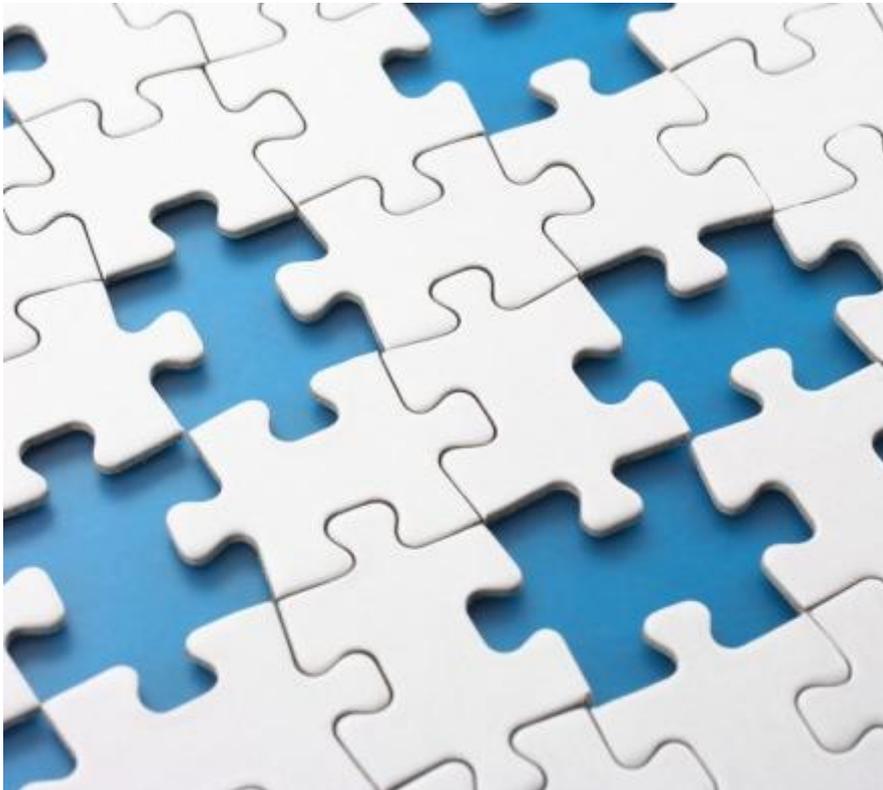
# Staying Focused



Residents objecting to a proposed two storey McDonalds on Reynolds Road in Applecross which was refused by the Metro Central JDAP but approved on review by the State Administrative Tribunal

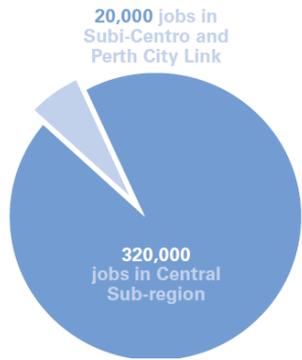
- Established to **determine development approvals** – rather than subdivision, structure planning, strategic planning, schemes, etc.
- Key focus is on **accommodating and facilitating growth** via the planning framework of the local government and the WAPC.
- Need to **balance the diverse views** of the whole community – including local residents/owners, applicants, government agencies, the property industry, the broader economy, etc.

# The Application of Discretion



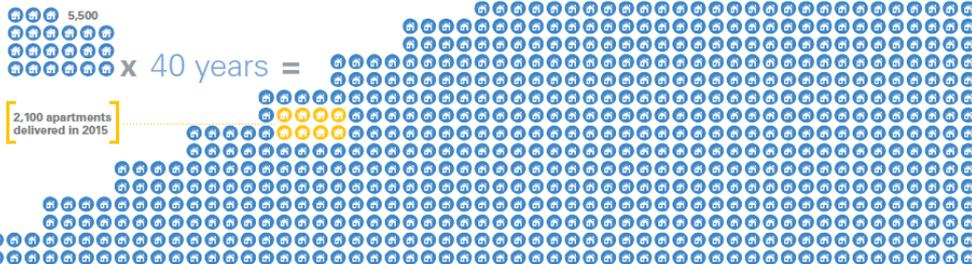
- In determining applications **we take the place of** the normal determining authority.
- We must determine applications **in accordance with the planning framework** and with due regard to the officers recommendations.
- This is often difficult due to **inconsistencies with the planning framework** – particularly between the WAPC and local government policy/strategy and schemes.

# The Application of Discretion



- 800,000 new jobs overall
- In the Central Sub-region alone we are looking at 320,000 jobs = 5-7million m<sup>2</sup> of retail/commercial space
- Subi-Centro and Perth City Link combined has delivered about 500,000m<sup>2</sup> (20,000 jobs)

- Around 380,000 infill dwellings
- Central Sub-region – 215,000 infill dwellings
- **Or 5,500 apartments per year for the next 40 years**
- 2,100 apartments delivered in 2015



- We give **appropriate weight** to community submissions and deputations – but are not bound to accept or act upon them.
- To achieve the ambitious infill targets established by the State Government **we must accept redevelopment in appropriate locations** (established centres and activity corridors).
- Where antiquated policies or requirements unreasonably restrict appropriate development, **it is often necessary to compromise.**

# The Application of Discretion



- One of the key benefits of the DAP system is the ability to **negotiate and compromise** through the use of discretion.
- As independent authorities we are able to take in a broader range of considerations and find an appropriate balance in determination.
- **This is beneficial to all stakeholders** – considered that the process is substantially more efficient and provides better outcomes than the previous determination process.

# Recommendations: Local Government

## 1. Embrace the ambitious Strategic Planning Framework

- Infill development is not easy – and needs collaboration and cooperation between developers and government agencies.
- Embrace the challenge and plan accordingly – it isn't going to go away.
- Review your strategic and statutory planning to facilitate development in the right locations – and focus investment and resources in those areas.
- **Start now!** The State Government and the development industry will not wait for local governments dragging their feet.

	<b>NORTH-WEST</b>		
	 <b>people</b>	2011	2050
	 <b>jobs</b>	322,486	740,318
	 <b>homes</b>	80,566	229,089
		114,923	283,716
	<b>NORTH-EAST</b>		
	 <b>people</b>	209,156	450,590
	 <b>jobs</b>	82,379	187,986
	 <b>homes</b>	76,547	179,101
	<b>CENTRAL</b>		
	 <b>people</b>	782,974	1.2 m
	 <b>jobs</b>	540,000	780,000
	 <b>homes</b>	2050 infill target of 215,000 homes	
	<b>SOUTH METROPOLITAN PEEL</b>		
	 <b>people</b>	523,406	1.26 m
	 <b>jobs</b>	143,971	437,725
	 <b>homes</b>	205,493	507,670

# Recommendations: Local Government

## 2. Identify Priority Infill Areas

- Don't let antiquated R-Coding dictate growth areas – these should be focused on identified centres and corridors with existing infrastructure and amenity.
- Ensure that planning goes beyond simple zonings – local governments must plan for the costs of urban infill – including full and comprehensive planning for drainage, utilities, transport, public realm, public institutions and **funding sources**.
- This planning must be integrated – start with proper strategic plans and work your way down to the statutory requirements and design guidance.



Traffic and  
Access



Retail  
Sustainability



Public  
Realm



Commercial  
Feasibility



Service  
Infrastructure

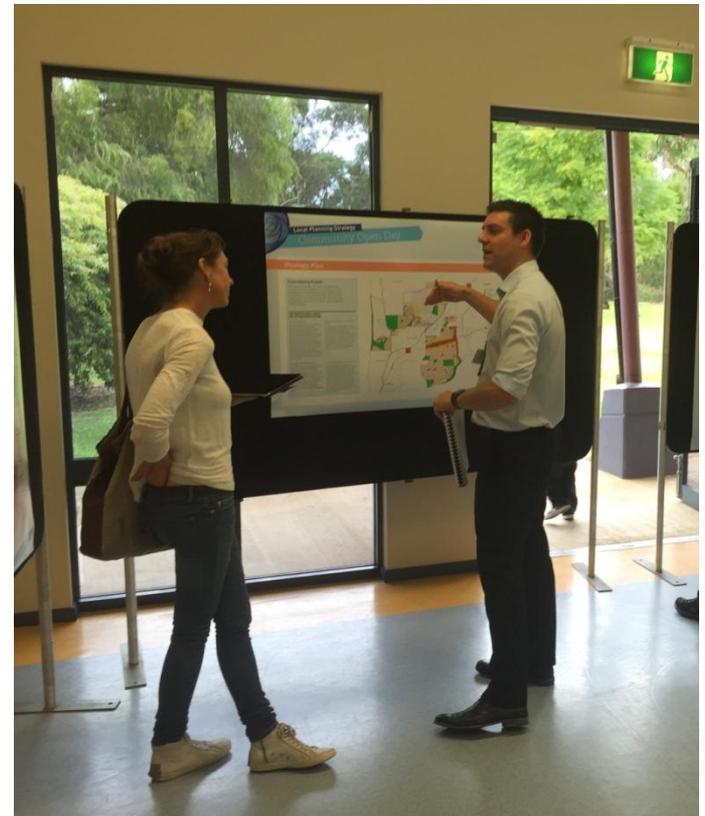


Infrastructure  
Funding

# Recommendations: Local Government

## 3. Engage with your Community

- Not a letter advising of a rezoning or development proposal!
- Engage with your community from the start – **establish a vision** for redevelopment areas with the local community and get them to embrace it.
- Get them to understand the benefits of growth and evolution within areas – more services, local jobs, retention of character precincts, improved transportation.



Community Open Day for the City of Nedlands new  
Local Planning Strategy

# Recommendations: Local Government

## 4. Facilitate Pre-Lodgement Assessment

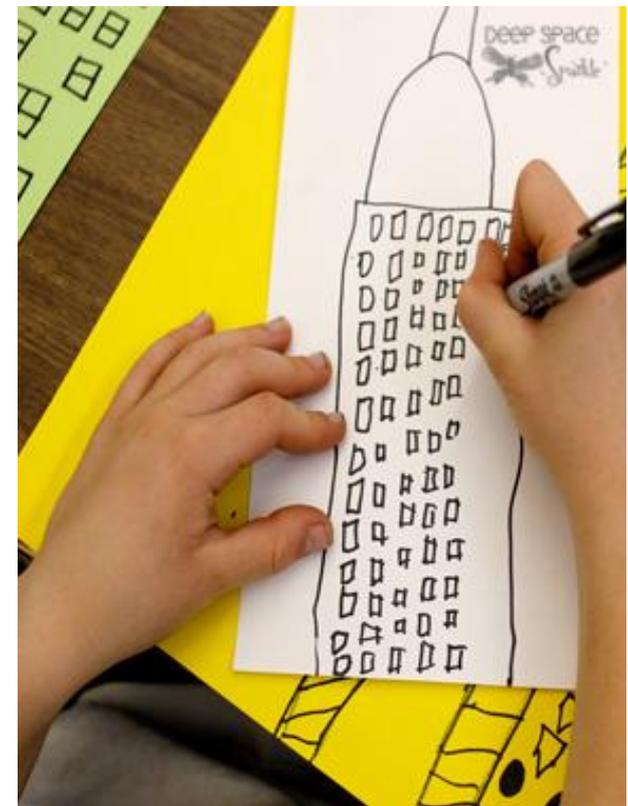
- Assist applicants to get it right the first time.
- Establish an efficient and effective way to seek initial feedback and input prior to substantial investment into a design that may be sub-par.
- Be open to meeting with applicants and work with them to create better designs and improved outcomes for all stakeholders.



# Recommendations: Development Industry

## 1. Improve the quality of your applications

- Too often we receive poorly considered, inconsistent and sloppy applications – insufficient for assessment or determination.
- This results in wasting the time of the local government officers and the panel members – and often a deferral.
- It also often leads to the late submission of information which is unreasonable and unhelpful.
- Improve the quality of your spatial plans, improve the consistency and comprehensiveness of your justification, address technical considerations from the beginning.



# Recommendations: Development Industry

## 2. Meet with the agencies and address their concerns

- Meet with the local government officers (and relevant State government officers) prior to lodging your application!
- Take their advice seriously and respond to their suggestions and feedback.
- Don't wait until you have submitted the application to seek feedback, as this only slows the process.



# Recommendations: Development Industry

## 3. Engage with the local community

- Your development becomes part of the community – **engage with the local people.**
- Send them a letter, wander the neighbourhood, understand the context your site sits within.
- Encourage locals to contact you to discuss the project and understand your proposal.
- Listen and respond to their concerns – get them on side.



Thank you