

**M21/5878 – LATE ITEM - DEVELOPMENT ASSESSMENT PANELS CITY OF MELVILLE
NOMINATIONS (REC)**

| | | |
|----------------------------|---|---|
| Ward | : | All |
| Category | : | Operational |
| Subject Index | : | Development Assessment Panels |
| Customer Index | : | Development Assessment Panels |
| Disclosure of any Interest | : | No Officer involved in the preparation of this report has a declarable interest in this matter. |
| Previous Items | : | M18/5637 – City of Melville Local Government Members for Development Assessment Panels – Extension of Terms - Ordinary Meeting of Council 21 August 2018. M19/5713 - City of Melville Local Government Members for Development Assessment Panels – Ordinary Meeting of Council held 19 November 2019 |
| Works Programme | : | Not Applicable |
| Funding | : | Not Applicable |
| Responsible Officer | : | Bruce Taylor Manager Governance and Property |

AUTHORITY / DISCRETION

DEFINITION

| | | |
|-------------------------------------|------------------|---|
| <input type="checkbox"/> | Advocacy | <i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i> |
| <input checked="" type="checkbox"/> | Executive | <i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i> |
| <input type="checkbox"/> | Legislative | <i>Includes adopting local laws, town planning schemes & policies.</i> |
| <input type="checkbox"/> | Review | <i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i> |
| <input type="checkbox"/> | Quasi-Judicial | <i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i> |
| <input type="checkbox"/> | Information | <i>For the Council/Committee to note.</i> |

**M21/5878 – LATE ITEM - DEVELOPMENT ASSESSMENT PANELS CITY OF MELVILLE
NOMINATIONS (REC)****KEY ISSUES / SUMMARY**

- Development Assessment Panels (DAPs), also known as Joint Development Assessment Panels (JDAPs) and Local Development Assessment Panels (LDAPs) commenced on 1 July 2011.
- Since 26 January 2019 the City has been represented by Cr Pazolli and Cr Woodall, with former Cr Kepert and Cr Wheatland as the Alternate Members.
- Following the Local Government Elections, Cr Pazolli, Cr Woodall and CR Wheatland are the remaining representatives for the City of Melville, with their terms expiring 26 January 2022.
- Notification has been received from the Director General, Department of Planning, Lands and Heritage requesting nominations for the DAP Local Government Memberships for the 27 January 2022 to 26 January 2024 term.

BACKGROUND

At the Ordinary Meeting of Council held 19 November 2019, the Council resolved to nominate Cr Pazolli and Cr Woodall as members of the City of Melville Development Assessment Panel Members for the term expiring on the 26 January 2022. Cr Kepert and Cr Wheatland were nominated as the Alternate Members one and two respectively, for the term expiring on the 26 January 2022.

Following the 2021 Local Government Elections, Cr Pazolli, Cr Woodall and Cr Wheatland are the City's remaining representatives to the Development Assessment Panel, with terms ending 26 January 2022. Prior to this expiry date, the Council will need to nominate four (4) DAP members for appointment by the Minister for Planning.

DETAIL

Correspondence has been received from the Department of Planning, Lands and Heritage requesting the City provide nominations for two members and two alternates to the Development Assessment Panel (DAP) for terms expiring 26 January 2024. The nominations are required by Friday 19 November 2021, to ensure local interests are represented in future DAP determinations. Once nominations are received, the Minister will appoint local government DAP members for the term ending 26 January 2024

Each DAP consists of five panel members, three being specialist members and two local government elected members. Under the DAP regulations, each DAP will determine development applications that meet set type and value thresholds as if it were the responsible authority under the relevant planning instrument, such as the local planning scheme or region planning scheme. The DAP regulations state that DAP applications cannot be determined by local government or the Western Australian Planning Commission (WAPC).

The Minister makes the formal appointment of nominations to the DAP and DAP members are required to undertake training prior to being able to perform their role on a DAP. The Department encourages existing members to attend refresher training, if appointed again.

**M21/5878 – LATE ITEM - DEVELOPMENT ASSESSMENT PANELS CITY OF MELVILLE
NOMINATIONS (REC)**

In its correspondence to the City, from the Department of Planning, Lands and Heritage provided the following advice:

“The McGowan Government launched OnBoardWA as part of its commitment to increase the diversity and backgrounds of Government board and committees along with the total number of women appointed.

I encourage you to consider diversity of representation when putting forward your local government nominations in supporting this important election commitment.”

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

Advertising of the Local Government Development Assessment Panel nomination is not required under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

II. OTHER AGENCIES / CONSULTANTS

No other consultation with external agencies is required.

STATUTORY AND LEGAL IMPLICATIONS

DAPs are to make decisions based on the existing planning framework of the local government within which the application site is located.

Where an application to review a decision made by a DAP is lodged with the State Administrative Tribunal (SAT), members of the DAP who made the decision may be called upon to represent the DAP at SAT.

The *Planning and Development (Development Assessment Panels) Regulations 2011* deals with the appointment and terms of office of DAPS members, particularly Regulation 29 as follows:

- (1) *A DAP member holds office for the term specified in the member’s instrument of appointment.*
- (2) *The term of office specified in an instrument of appointment must not exceed 3 years.*
- (3) *A person’s eligibility for reappointment as a DAP member or the term for which a person may be reappointed is not affected by an earlier appointment.*

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NOMINATIONS (REC)****FINANCIAL IMPLICATIONS**

Sitting fees are paid for the local government DAP members when determining applications. DAP members are also paid \$400.00 upon completion of the compulsory training and \$200.00 upon the completion of re-training and \$425.00 for attending proceedings at the State Administrative Tribunal in relation to a DAP decision, in accordance with the *Planning and Development (Development Assessment Panels) Regulations 201*, Schedule 2 – Fees for DAP Members.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The Minister for Planning must remove a DAP member if they cease to hold a position or qualification which made them eligible to sit as a DAP member, this includes non-attendance of compulsory training, before they can sit on a DAP and determine applications.

DAP members are bound by similar requirements regarding behaviour and conflict of interest as Elected Members, such as:

- Declare direct or indirect interest in a matter;
- Not to disclose or make improper use of information acquired as a member;
- Not accepting “prohibited” gifts;
- Comply with the Code of Conduct;
- Not to make any statement regarding the competence or honesty of a local government employee or public sector employee.

The primary risk is that the City does not nominate representatives and does consequently not have a voice on the DAP. There are no other risks associated with this report.

POLICY IMPLICATIONS

There are no policy implications that relate to this matter.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Should the Council not nominate members, the Minister has the ability to appoint community representatives to represent the City of Melville on the DAP. The community representatives would be selected from residents within the local government area who are considered to have relevant knowledge or experience which will enable them to represent the interests of their local community. The implication of this option is that the City of Melville and its interests will not be represented in the determination of the applications by the DAP.

CONCLUSION

Cr Pazolli, Cr Woodall and Cr Wheatland will remain Council members on DAP until the 26 January 2022 and nominations for new members and alternative DAP members are required by Friday 19 November 2021.

**M21/5878 – LATE ITEM - DEVELOPMENT ASSESSMENT PANELS CITY OF MELVILLE
NOMINATIONS (REC)****OFFICER RECOMMENDATION (5878)****APPROVAL****That the Council:**

- 1. Nominates Councillor XXXXX and Councillor XXXXX as the City of Melville Development Assessment Panel Members for the term expiring on the 26 January 2024.**
- 2. Nominates Councillor XXXXX and Councillor XXXXX as the City of Melville Development Assessment Panel Alternate Members for the term expiring on the 26 January 2024.**
- 3. Confirms that Councillor XXXXX is to be the Local Joint Development Assessment Panel Alternative Member one and Councillor XXXXX is the Development Assessment Panel Member two.**
- 4. Directs the Chief Executive Officer to forward the confirmation of the City of Melville nominees for the Development Assessment Panel to the Director General of the Department Planning.**