

DAF Reform Implementation Report Card



A review of the performance of
states and territories in implementing
the Leading Practice Principles



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Executive Summary

Efficient, fair and consistent planning and development assessment systems are fundamental to operating a healthy property market and the economic wellbeing of the nation.

But policies and processes to manage development and growth have struggled to keep pace with the dramatic, financial, demographic and other social changes that have occurred over the past three decades.

State, territory and local government reform efforts have been patchy and often uncoordinated, leaving all stakeholders frustrated by delays and disappointed by outcomes.

In 1998, the Development Assessment Forum (DAF) was established with the aim of improving, and where practical, harmonising planning and development assessment systems. Comprised of representatives of the three tiers of government, the property development industry, and professional groups, 10 leading practice principles were developed which set the framework for how systems should be developed and operate.

Implementation of these principles has been slow and patchy.

The Residential Development Council (RDC), a division of the Property Council of Australia (PCA), engaged a consultant to undertake an independent evaluation of the progress in each state and territory in implementing planning reforms.

The study also identified, on a state by state basis, the key issues, milestones and benchmarks necessary to implement the DAF Principles and to improve the functioning of individual planning systems.

The economic and property boom of the first part of the decade put enormous pressure on development assessment systems and exposed flaws and shortcomings of systems.

The research indicates that even where reforms have been implemented there still exist areas for improvement. For example, the length of time taken to process simple applications varies considerably between jurisdictions.

Despite the reforms that have occurred, in many cases systems are still not fully effective for a variety of reasons including:

- overly complicated codes or assessment processes;
- local political imperatives to retain control over development assessment;
- a lack of measures to identify performance; and
- cultural and administrative constraints.

Results

The results of the study scored the states and territories out of 10 as follows:

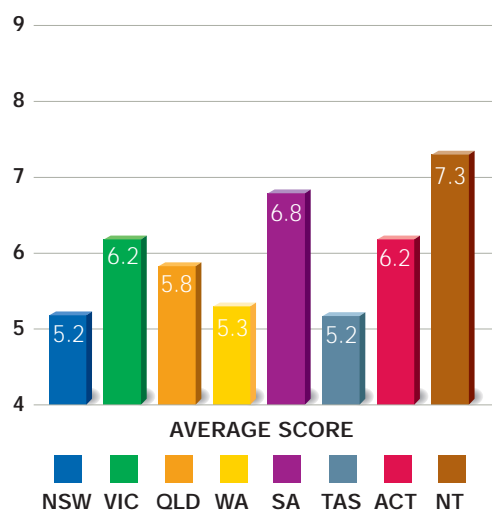


Figure 1: Average scores - current performance

The **Northern Territory** and **Australian Capital Territory** score highly through a combination of the reforms they have developed and the fact that they provide a single level of planning control. They, therefore, do not face the difficulties of the states in requiring reform at a local government level. The Northern Territory scored higher than all other jurisdictions.

Of the states, **South Australia** has made the most advances. While it has some way to go to be consistent with DAF Principles, it is delivering on setting policies and strategies, and providing planning direction to local government. Its Development Assessment Panels have created a model for other states.

Victoria leads all states in the establishment of policies and frameworks for planning but fails to create workable assessment systems, particularly as it allows widespread involvement in both major and minor application matters, including extensive third party appeal rights. This has led to uncertainty, delays and cost imposts.

Queensland, Western Australia and Tasmania are at early stages of their reform agenda compared to other states and territories, having identified problems, and the legislative and other means to address these. It is not clear at this stage how consistent future reforms may be with the DAF Principles.

New South Wales scored equal lowest in the country, notwithstanding the welcome major reforms being put in place by the state government. The volume of applications, the number of councils, and the extent to which the system, particularly at a local government level, has traditionally had the greatest number of difficulties has made the task of reform the most difficult of all jurisdictions.

Opportunities

One common theme arising from the study is that each state and territory has either made changes or is in the process of making changes to improve their planning and development assessment systems.

Some are further advanced, having made significant changes, while others have either commenced reviews or are reasonably advanced in implementing legislative or procedural reforms.

The study rescored each jurisdiction on their potential should reforms announced be fully implemented. On this basis the following potential scores are:

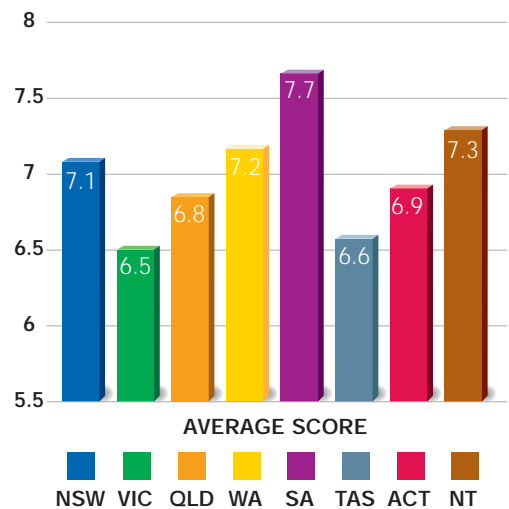


Figure 2: Average scores - potential

New South Wales clearly has the most potential, as reforms underway could improve its score by nearly 30 percent and create one of the most effective systems in the country.

Other states also have the potential to improve their systems significantly if the changes they have announced are delivered.

Through a series of workshops with stakeholders, it was revealed that:

- there is a strong need for development assessment benchmarks to measure efficiency and consistency between councils and between jurisdictions;
- more attention should be given to reduce processing times, which delay projects and add significant costs to developers and consumers;

- planning schemes and codes should allow for the broadest range of development applications to be exempt from assessment, self-assessable or code assessable in order to reduce pressure on existing systems; and
- private certification should be introduced across the board to free up council staff for strategic planning.

To this end, local government must drive reforms that update planning schemes and documents to be consistent with the track-based systems proposed by DAF.

State and territory governments can assist by developing model schemes and model codes for residential, multi residential, commercial and industrial activities.

A well developed monitoring framework is fundamental to measuring and maintaining progress in the reform of development assessment. A common system and national register would be the best way to achieve this.

Four actions will have the greatest impact on reform agendas in the shortest period of time.

These four actions represent the first stage of reforms for development assessment processes nationally and have been supported by announcements made by the Council of Australian Governments (COAG) in 2009.

Early implementation is now paramount, as is the next wave of reform.

Recommendation 1

Establish a common system and create a national registry to collect and monitor data on progress with planning and development assessment performance and reform at local, state, and territory level.

Recommendation 2

By June 2011, at least 50 percent of all applications lodged in each local government area should fall within the development assessment tracks of 'exempt', 'self assessable', or 'code assessable' as outlined under principle 4 of the DAF leading practice model.

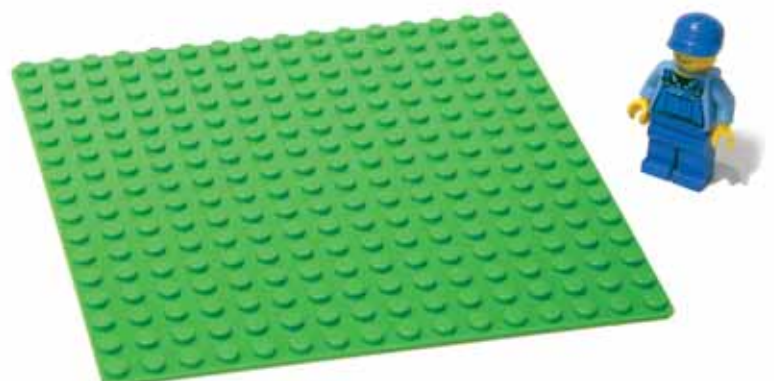
Recommendation 3

A model template for track-based assessment should be adopted nationally by 2012, in consultation with all jurisdictions and industry.

Recommendation 4

Each state and territory should develop stand-alone codes for:

- single dwelling residential developments by June 2010;
- multi-unit residential developments by June 2011;
- industrial developments by June 2011; and
- commercial developments by June 2012.



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Background

The need for reform

Over the last three decades the complexity of planning controls and delays in development assessment processes have increased dramatically.

Thirty years ago a development application for a house was assessed on simple set-back, bulk and location controls.

The same application today will be assessed on highly complex formulas covering every aspect of the size, impact, orientation, expected environmental performance, design, appearance and materials of the building.

The result has been less certainty, as individual jurisdictions seek to implement an increasingly complex and diverse set of planning rules and requirements.

This is further complicated by assessment processes that are often subjective, due to the ambiguity of planning schemes, uncertainty of strategic priorities, and intervention by elected officials.

Development assessment has become more dysfunctional through a shortage of planners at local and state government level who are sufficiently skilled to manage these increasingly byzantine systems. As complexity has increased, the private sector has had to engage a significant proportion of experienced planners to interpret the rules and help developers manage the application process.

The assessment process has become even more politicised in recent times with cash-strapped councils looking to the development assessment process as a convenient source of additional revenue.

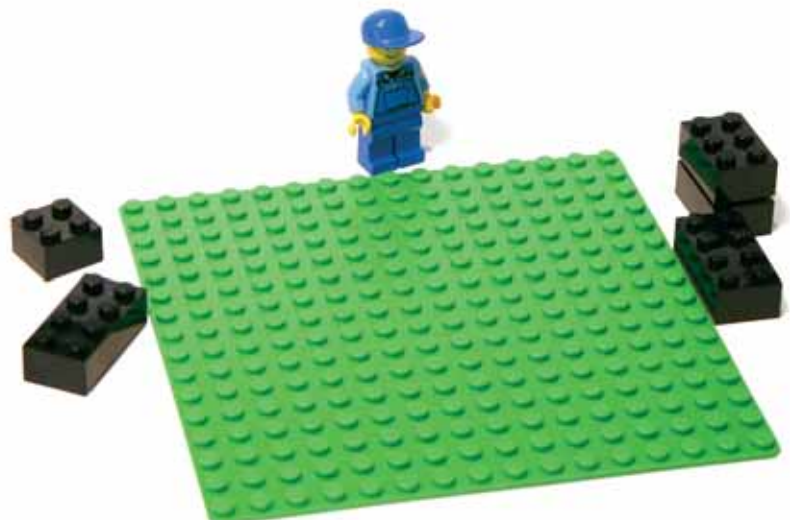
With no standard document listing the fees and charges in each area, some councils have been able to hold the planning approval system hostage to obtain the best deal for the community and raise the most revenue, choosing to 'negotiate' with applicants over development fees, charges and, ultimately, consent conditions.

Undue influence by external parties, particularly those who may be politically active within the community, has led on many occasions to further subversion of decision-making processes.

Delays caused by these inefficiencies lead to significant costs for applicants, including holding costs, rent (for individual homeowners awaiting approval), lost revenue (for landlords), interest costs, inflation costs on products and labour, penalties, etc. The end result has been:

1. the evolution of a plethora of complex planning schemes;
2. little consistency between councils;
3. assessment processes that are slow, uncertain and expensive; and
4. overtly politicised decision-making at a local government level.

The goal of any reform program should seek to simplify and depoliticise the system, minimise delays and reduce costs for stakeholders.



DAF reform agenda

The Development Assessment Forum (DAF) has identified a 'road map' of 10 Leading Practice Principles that have formed the basis of reform programs being planned or implemented in individual states and territories (attached as Appendix 1).

These Principles aim to provide a greater degree of certainty for applicants and the community, while delivering greater national and state-wide consistency.

They outline the key features of a planning system that balances individual and community interests in development outcomes, delivers clear and objective rules, and simplifies the assessment and appeals process.

The DAF Principles also seek to streamline development approval to ensure that simple applications, such as minor additions and alterations, or straight-forward detached housing projects, can be processed quickly and not add unduly to the workload of planning officers.

While the DAF Leading Practice Model is strongly supported by the development industry, its implementation at state and territory level has been inconsistent.

The study

The Residential Development Council, a division of the Property Council of Australia, engaged Black Swan Consultants to undertake an independent assessment of the reform of the nation's development assessment systems.

The study identified the key issues, milestones and benchmarks necessary to implement the DAF Principles and to improve the functioning of individual planning systems.

A series of workshops were held in each state and territory to gather feedback on the operation of the assessment process. Invitations were sent to various stakeholder groups of the planning system, including developers, planning consultants and local government representatives.

Workshops were conducted in each capital over a three week period in May 2009, with participants invited to:

- evaluate the extent to which their state or territory had implemented the 10 Leading Practice Principles;
- quantify the level of implementation; and
- provide anecdotal input on key actions, milestones and benchmarks they considered essential to effective reform.

*The research was conducted by Bruce Harper of Black Swan Consultants. Bruce is a qualified planner with comprehensive planning experience within state and local government and with extensive private and public sector property development industry experience. His roles have included CEO of the South Australian Government's Land Management Corporation, executive general manager (NSW) of AV Jennings Pty Ltd and CEO of the Queensland based property developer Petrac Pty Ltd.

Following each workshop, representatives of each state government responsible for development assessment were consulted to ensure a balanced response.

A scoring system measuring implementation on a scale of zero (no implementation) to 10 (fully implemented) was introduced.

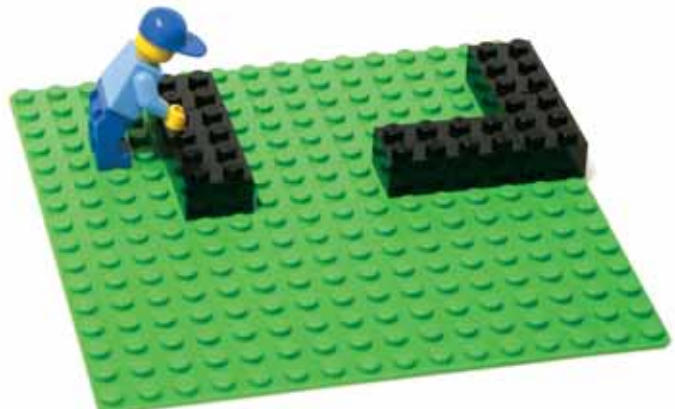
Scoring was calibrated to take into account the effectiveness of reforms against relevant DAF Principles. For example, a state that might have fully implemented a track-based assessment system, but where the majority of applications were still considered as merit assessments, could not be said to have met the leading practice principle with 100 percent success.

While this assessment noted the intent of some jurisdictions to make further legislative and procedural changes, it focused primarily on a fixed point in time. As such, some jurisdictions may have received low scores where legislation has been developed or proposed but not yet enacted, or where procedures have not been implemented.

To identify and acknowledge the progress of each jurisdiction, reforms that have been announced, or are in the process of being delivered, were identified and their potential effectiveness separately scored.

This study is not intended to be a detailed, definitive review and description of each state and territory planning and assessment system. It instead provides a subjective snapshot perspective from key stakeholders involved in the development process.

It is the intention of the Residential Development Council and the Property Council of Australia that this report will be updated annually.



State and Territory Comparisons

The most encouraging aspect of this review has been the extent to which each state and territory has:

- acknowledged the need for planning reform;
- adopted (or adapted) the DAF model to their jurisdiction; and
- either made changes or is in the process of making changes to improve their systems.

Some jurisdictions are reasonably well advanced, having made significant changes while others have either commenced reviews or are in the process of implementing legislative or procedural reforms.

However, even where reforms have been implemented, there still exist areas for improvement and performance.

For example the length of time taken to process simple applications varies considerably between jurisdictions. The economic and property boom of the first part of the decade has placed enormous pressure on development assessment systems and exposed their flaws and shortcomings.

Those systems most impacted have made the greatest structural changes. However, in many cases they are still not fully effective, because of:

- overly complicated codes or assessment processes;
- local political imperatives to retain control over development assessment;
- a lack of measures to identify performance; and
- cultural and administrative constraints.

Table 1- 10 Leading Practice Principles: Summary of performance by jurisdiction against the DAF principles

	1	2	3	4	5	6	7	8	9	10	TOTAL
NSW	5	3	2	5	2	7	5	6	8	9	52
VIC	6	7	8	7	5	6	4	7	7	5	62
QLD	5	5	2	8	4	8	4	7	9	6	58
WA	4	7	3	5	4	4	2	6	8	10	53
SA	5	5	6	6	7	8	4	9	9	9	68
TAS	4	3	4	7	7	7	3	3	8	6	52
ACT	5	6	7	7	4	6	6	6	8	7	62
NT	5	7	8	8	8	7	5	7	9	9	73

The numbers 1 through 10 (above and in Table 2) represent each of the 10 Leading Practice Principles.

The table above reflects the 'raw' scores measuring the performance of each jurisdiction at a point of time. This performance is measured against the Leading Practice Principles created by the Development Assessment Forum, namely:

1. Effective policy development
2. Objective rules and tests
3. Built-in improvement mechanisms
4. Track-based assessment
5. A single point of assessment
6. Notification
7. Private sector involvement
8. Professional determination for most applications
 - Option A - local government may delegate DA determination power
 - Option B - an expert panel determines the application
9. Applicant appeals
10. Third-party appeals

The scores in Table 1 do not take into account those reforms that have been announced or that are in the process of being delivered but which are not yet fully implemented.

Table 2 acknowledges reforms in progress and ‘scores’ each state and territory on the assumption that all matters that have been announced or that are in the process of being delivered have been implemented and are operational. As such it provides a target to measure overall progress.

Table 2- 10 Leading Practice Principles: Performance by jurisdiction against the DAF principles incorporating actions announced but not implemented

	1	2	3	4	5	6	7	8	9	10	TOTAL
NSW	7	5	6	8	5	7	8	8	8	9	71
VIC	7	7	8	7	6	6	4	8	7	5	65
QLD	7	7	6	8	6	8	4	7	9	6	68
WA	7	7	7	7	6	7	4	9	8	10	72
SA	8	7	8	8	7	8	4	9	9	9	77
TAS	7	7	7	7	7	7	4	6	8	6	66
ACT	7	7	7	7	7	6	6	7	8	7	69
NT	5	7	8	8	8	7	5	7	9	9	73

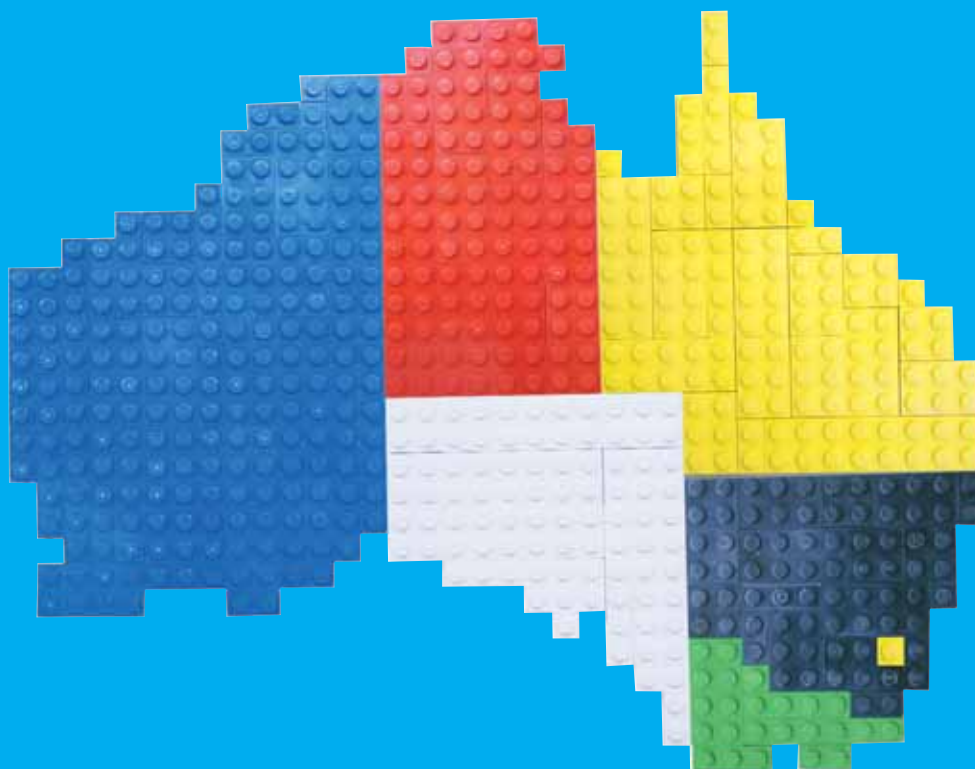
New South Wales has announced, and is in the process of delivering, a raft of reforms and has the potential to improve its ‘score’ by nearly 30 percent.

Queensland, Tasmania and Western Australia have also announced significant reforms and which may dramatically improve their systems, although this is expected to take somewhat longer.

These scores are important in that they demonstrate progress being made and the commitments across the jurisdictions to a reform agenda.

There remains hope that significant improvements can be made to the development assessment systems across all states and territories in the foreseeable future.

Summary of Key Issues and Key Actions Required



New South Wales



New South Wales is currently ranked as equal lowest in the country.

However, this should not be interpreted as a lack of reform effort, as several key policies are currently being implemented to improve the planning and assessment system across the state.

The volume of applications, the number of councils and the extent to which the system has traditionally had the greatest number of difficulties has made the task of reform the most difficult of all jurisdictions.

The planning system in New South Wales is perceived to be the most difficult to work with and subsequently drew the most complaints, with the greatest level of concern being linked to the areas of policy formulation, scheme reviews and application assessment.

The majority of these concerns related to the assessment process and its handling by local government, although the interaction of state agencies with this process was also of concern.

New South Wales scored similarly to other well performing states in respect to half of the leading practice principles but was dragged down by the failure by local government to review planning policies and reform their development assessment processes.

Compared to other jurisdictions, New South Wales has some way to go to deliver strategic outcomes and policy reform at a local government level.

A model Stage 1 Residential Complying Code has been introduced, but the government's target of 50 percent of all matters being code-assessable will be highly contingent on additional codes, covering smaller lots, medium density housing and commercial development being rolled out.

New South Wales has a well developed monitoring framework which provides a powerful tool for measuring and promoting development assessment reform.

Joint Regional Planning Panels were introduced from 1 July 2009, as the consent authorities for all projects of between \$10 million and \$100 million in value.

The state has made considerable progress in other areas, including: introducing processes for streamlining Local Environmental Plans (LEPs), monitoring development approval at council level, expanding the role of private certifiers, and creating an independent Planning Assessment Commission to determine some state significant projects.

The state has also committed to expanding the scope of residential, commercial and industrial codes and to reform state agency approval processes following the Jobs Summit.

The key focus on reform now needs to be directed at creating effective planning schemes.

Key actions

1. Revise the Metro Strategy housing and employment targets and ensure these are reflected in local planning instruments. (Principle 1)
2. Introduce a feasibility analysis of each new local environmental plan to ensure required housing and employment targets can be achieved. (Principle 1)
3. Bring forward priority release areas and the renewal of priority centres. (Principle 1)
4. Ensure the successful operation of the new Joint Regional Planning Panels. (Principle 8)
5. Complete, implement and mandate Complying Codes for smaller lots, multi unit residential, commercial and industrial development and ensure the government's target of 50 percent of matters to be dealt with under the codes are met. (Principles 2 and 4)
6. Implement the LEP Gateway process and rapid rezoning for priority growth areas. (Principle 4)
7. Reform state agency concurrences further to remove unnecessary concurrences, integrate decision making, and more efficiently manage agency assessment. (Principle 5)





Victoria has a well developed framework with a suite of state policies and objectives. It has also developed long term planning strategies on a range of development issues, including land supply.

However, there continues to be some disconnect between state and local government policies and objectives. Specifically, the sheer number of state objectives has made it difficult for local councils to implement them consistently and without subjectivity.

The development of a hierarchy of state objectives would facilitate their more uniform implementation in local government planning schemes and processes.

The state's current focus is on strengthening control at activity centre level with the development of precinct structure plans by the government across these centres. The government has also recently provided further funding to expand their Electronic Development Assessment (eDA) planning processes, in order to improve approval times and performance monitoring.

A system of code assessment is in use, with several minor and some larger matters now either exempt from development assessment or not requiring approval where they meet clear objective measures.

The state actively intervenes in some large projects to hasten or depoliticise assessment. The Minister takes an active role in both the reform process and the determination of projects.

The passing of legislation to introduce Development Assessment Committees is an important milestone in progressing reform.

The review of the *Planning and Environment Act* has also recommended important reforms, such as the adoption of the impact assessment track for projects with considerable impacts and the more appropriate definition of 'state significant' projects. These reforms will improve performance substantially.

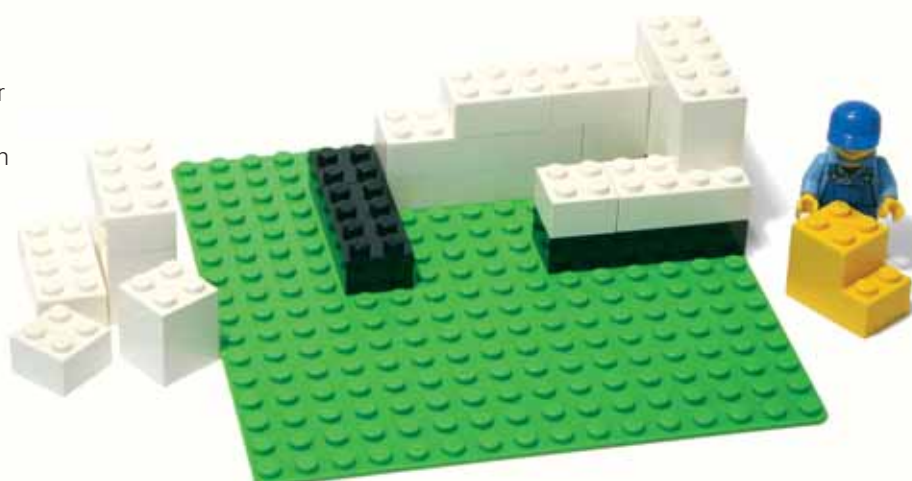
While much of the 'front end' of reform is underway, problems still exist at the assessment end of the process.

These problems are specifically profound with referrals, where agencies don't meet deadlines. At the post approval stage there is no statutory requirement for agencies to resolve issues.

Although the framework for planning appeals is appropriate, the system is 'clogged-up' with significant delays. This is largely due to third-party appeals being available for all objectors, and the legal fraternity is heavily criticised for having hijacked the appeals process using 'natural justice' and a 'human rights charter' as justification.

Key actions

1. Finalise the definition of 'state significant' projects. (Principle 1)
2. Regulate amendments to limit third-party appeal rights. (Principle 10)
3. Ensure local scheme reviews are finalised and provide a template as required. (Principle 3)
4. Complete regional strategies and ensure their spatial implications are identified. (Principle 1)
5. Establish Development Assessment Committees, now that legislation underpinning such bodies has been passed. (Principle 8)
6. Introduce a 'deemed no comment' if a response is not received from referral agencies within a defined period. (Principle 5)
7. Introduce statutory timelines for referral agencies to finalise approvals/conditions post development approval. (Principle 5)
8. Provide further resources to 'free up' appeals system. (Principle 10)



Queensland



Queensland has for a number of years operated under an *Integrated Planning Act* that in theory should have created an effective performance based assessment system.

In 2007, as a result of a review of the system, a number of shortcomings were identified and a comprehensive list of actions proposed. To date, many have not been implemented, although the government has announced legislative change through the *Sustainable Planning Act 2009*. The Act is set to, among other things, fast track proposals, provide a new assessment category (compliance assessment), include some deemed approvals and offer a simplification of some appeals.

Several regional and state strategy plans are under development. However, key issues and concerns about the Queensland system relate to the need for strategies that are supported by research and aligned with key infrastructure, transport and economic priorities. This will deliver greater certainty.

A fundamental shift in regional, sub-regional and local planning is the proposal to provide for 'strategic intent', but this has not yet been implemented. If it proceeds, it will go some way to establish a more rational planning and assessment framework at both state and local level, placing more focus on outcomes than on development assessment.

Outside of Brisbane and several of the larger council areas, which have comprehensive planning systems with development assessment frameworks and plans, there is little strategic direction in many local plans and little consistency in formats, codes or performance.

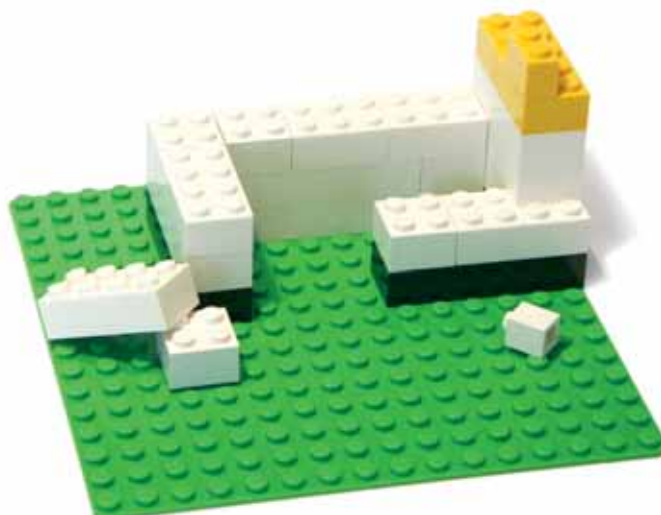
With some exceptions, most local government planning schemes are outdated and are in need of review. The recent amalgamation of councils regrettably failed to provide for such revision.

The development and roll out of template planning schemes and model codes under the *Sustainable Planning Act*, would go a long way to improving the system.

The state has lagged behind some others in reforming development assessment, despite having introduced an advanced integrated system some time ago. Over the next two years the creation of common plans and codes should greatly reform the way plans are made and applications are assessed.

Key actions

1. Complete strategies and ensure regional, sub-regional and local plans are based on strategic intent. (Principle 1)
2. Complete Regional Plans. (Principle 1)
3. Develop and mandate template schemes, model codes and a timetable for their implementation. (Principle 3)
4. Implement proposed legislative changes within a defined time period. (Various Principles)
5. Introduce certification for operational works. (Principle 7)
6. Enforce periodic review of local planning schemes and set timetable for reviews to be completed. (Principle 3)
7. Simplify codes to ensure greater percentage of applications are permitted, self assessable or code assessable. (Principle 4)
8. Introduce 'deemed no comment' if a response is not received from referral agencies within a defined period. (Principle 5)





The economic and property boom of the early part of the decade exposed problems with the Western Australian planning system that until then seemed effective and had strong features, such as the role of the Western Australian Planning Commission.

The legislative framework is fundamentally sound, with the *Planning and Development Act (2005)* streamlining procedures for preparing and amending regional and local schemes. At a state level strategic planning and its integration with infrastructure and transport planning has fallen behind.

The state planning strategy is out-of-date, and many regional and local plans are now inconsistent with state objectives. However the state government has recently released *Directions 2031*, an updated metropolitan development strategy, together with a commitment to update the metropolitan growth areas strategy. The first strategy for South Metro and Peel was released at the same time.

The system is described by stakeholders as complex and inconsistent, which is exacerbated by overlaps in agency responsibilities. Applications are often assessed slowly through local councils.

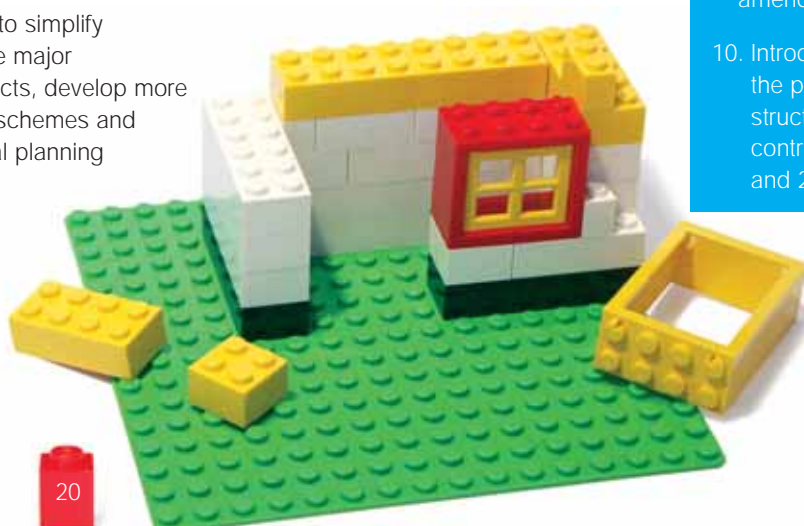
Reform is needed to simplify approvals, facilitate major development projects, develop more effective planning schemes and update the regional planning framework.

The state government has recently developed and released a comprehensive 'warts and all' appraisal of its planning system and a roadmap for reform:

- legislative amendments are required to develop statewide regulations on development assessment and amendments to the *Environmental Protection Act* have been suggested to avoid overlaps and confusion;
- Western Australia has uniform residential codes that apply state wide and detached housing is normally exempt from approval. The development of uniform codes for other developments is now also required;
- there is centralised control of subdivision through the Western Australian Planning Commission.

Despite the fact that reform lags many other states, there is less criticism by developers of the existing system than occurs in some other jurisdictions.

This suggests the current planning base, while not without its problems, is not fundamentally flawed. It might also reflect the informal nature of less populated jurisdictions, where it is easier to get parties together to resolve issues.



Key actions

1. Review the state Planning Strategy and integrate it with other state and regional strategies. (Principle 1)
2. Develop statewide regulations on development assessment and implement the DAF 'tracks'. (Principle 4)
3. Ensure regular review of template scheme and establish a timetable for councils to amend their local planning schemes. (Principle 3)
4. Develop model schemes and a timetable for the update of local plans. (Principle 3)
5. Extend Residential Codes to other uses. (Principle 4)
6. Prioritise major projects. (Principle 4)
7. Introduce a 'deemed no comment' if a response is not received from referral agencies within defined period. (Principle 5)
8. Implement other policy and procedural reforms, as identified in the Planning Review document, within a defined time period. (Principle 3)
9. Establish applicant appeals on rezoning or a Ministerial power to amend schemes. (Principle 9)
10. Introduce common provisions for the preparation and approval of structure plans and developer contribution plans. (Principles 1 and 2)

South Australia



South Australia has made significant steps in the past few years to reform its planning and development assessment system. As a result of a comprehensive review, several detailed, high-level recommendations have been adopted by the state. Some of these have been implemented and others are still in process.

Some state strategic policies and objectives are still being reviewed and integrated with land use planning strategies. Matters such as land release strategies through the Metropolitan Development Program need to be revamped. Best practice modules exist but are not fully implemented.

While some local authorities have reviewed and updated their planning schemes, others are lagging. Reform has been concentrated at the delivery end of the process with further work required at the 'front end'.

The state has developed a simple and objective Residential Code to provide consistency and to permit minor and small scale development. At present this is mandatory on councils only for minor additions and alterations but with opt-out clauses for larger scale (but still simple) residential applications.

Until the Residential Codes are mandated across all councils (but flexibility for some local characteristics) the balance between exempt and merit applications is skewed with too many applications still subject to discretionary assessment.

There is a low level of complaints by developers whose main business is focused in growth area councils, as these councils have up-to-date schemes and provide rapid assessment turnarounds.

South Australia has led all other jurisdictions in establishing Development Assessment Panels and has high levels of delegation. The panels have improved the separation of powers between council policy making and development assessment, and provide a model for other states. Allowing the Minister power of veto over independent member appointments would ensure that this separation of policy and administration functions was not abused.

There is some need for a review of the responsiveness of referral authorities and the integration of their advice with the assessment authority.

The appeals system is operating effectively with easy access and no significant delays. Third-party appeals are available, but limited.

The state has already partly implemented a clear blueprint for its development assessment reform.

Key actions

1. Complete state and regional policies and Strategic Planning documents. (Principle 1)
2. Finalise and release the Residential Code and mandate its implementation. (Principle 2)
3. Develop rules for defining matters of state significance. (Principle 4)
4. Implement recommendations arising from a review of the overall system within a defined time period. (Various Principles)
5. Create and monitor a data base on performance in processing development applications. (Principle 3)
6. Review the extent of referrals and measure the responsiveness of agencies. (Principle 5)





Reform of the Tasmanian planning system is lagging behind most of the other states. Conversely, however, most developers and planning practitioners were generally happy with how the system currently works, while still acknowledging reforms would be beneficial.

A major reason for this is the small number of applications lodged. If there were a significant increase in these numbers the system would be unable to cope and would face many of the problems previously or currently being experienced in other states.

Notwithstanding this lag, the Tasmanian Government has now developed a framework for legislative and procedural reform but appears to have very few resources to develop and implement the DAF reforms.

At the present time the system is reasonably robust but characterised by an absence of articulated state and regional strategies and highly individualised out-of-date local plans. The system is antiquated and cumbersome but seems to work because it is a smaller sized jurisdiction and has fewer development pressures than some of the larger states.

The state government has now developed some elements of a reform package that will closely mirror the DAF Principles, which it is ready to enact and implement. The preparation and roll out of template planning schemes and model codes will achieve consistency and ensure that such codes permit minor matters to be determined under code or self assessment.

The current appeals system appears to function effectively but third-party appeals are too readily available and have the capacity to clog up the system.

The state is lagging behind on its front-end policies, with the development of state strategies and state-wide objectives yet to be undertaken. This includes the development of a metropolitan strategy linked to land use planning and transport.

Key actions

1. Enact proposed legislation within a defined period. (Principle 1)
2. Complete regional plans, infrastructure plans and other strategic land use policies and overlays. (Principle 1)
3. Ensure regular review of template scheme and establish a timetable for councils to amend their local planning schemes. (Principles 2 and 3)
4. Develop and implement model codes. (Principle 4)
5. Review the state's notification policy to reduce or eliminate notification for minor matters. (Principle 6)
6. Reduce the number of matters that can be appealed by third parties. (Principle 10)



Australian Capital Territory



The Territory Plan (March 2008) consolidated over 80 policies into a single planning scheme, which went through an extensive public consultation process.

Criticisms of the strategic framework have been leveled at the lack of robust technical analysis and the generalised nature of the strategies contained within the Plan. Continual changes have occurred over the last 12 months as the government has moved to amend the plan and correct errors.

The ACT system has, through the formulation of objective rules for minor matters, enabled the assessment and approval of small additions and simple house applications. It has not, however, been able to carry this over to those applications assessed through merit assessment. These rules have been identified as complicated and unevenly applied.

The track-based assessment system has adopted many aspects of the DAF model and is being extended beyond single storey residential codes to cover other uses.

In most respects, and more than other jurisdictions, the ACT model aligns with the DAF model. Given this, and having a predominant planning authority (noting the role also played by the National Capital Authority) and a well developed legislative framework, it could be expected to be the most effective and efficient system in Australia.

Yet it is criticised by users as overly bureaucratic, with language impenetrable to the average user and an administration both bureaucratic and highly political. Stakeholders complain about inconsistent assessment decisions, delays caused by reviews and a shortage of experienced planners available to assess applications.

The planning framework and system is relatively new and this is causing some problems with administration of the Territory Plan that will hopefully improve as parties come to terms with it. However, development assessment processes could improve significantly if modifications were made to simplify the criteria for discretionary uses.

While the appeals system is generally working well there is some criticism of the number of frivolous and vexatious third-party appeals, which serve to slow down the application process.

Key actions

1. Review and simplify assessment/administration procedures. (Principle 4)
2. Simplify codes to allow a greater percentage of applications to be permitted, self or code assessable. (Principle 4)
3. Review the referral system to provide clearer rules and processes. (Principle 5)
4. Simplify assessment criteria, where possible. (Principle 4)
5. Strengthen the strategic base of the Territory Plan by undertaking analysis to support strategies. (Principle 1)
6. Review the appeals process to discourage frivolous and vexatious third-party appeals. (Principle 10)



Northern Territory



An early start to the reform process and a single authority rather than local government level planning has ensured that many of the DAF Principles have been implemented and development assessment procedures are working effectively.

A key to reform has been the collation of the numerous and varied plans and policies into a single planning document in 2007.

While a significant amount of strategic planning work has already been done, some elements still need to be completed and integrated in the Strategic Planning Framework, in particular the Infrastructure Plan.

The planning scheme contains simple clear rules, as most local variations have been removed to ensure more consistency.

A second review of the Plan has been proposed to make further improvements and increase efficiency.

Development is tracked into streams which are closely aligned to the DAF model and many minor works are exempt from planning approval or are self assessable.

Referrals to other agencies could be improved and a regular forum is being established so that referral agencies and applicants can meet to discuss issues.

The Northern Territory has a simple notification system and a single authority which makes all planning decisions. Additional resources within the authority would assist in dealing with applications.

The appeals system appears to function well with virtually all matters resolved before formal appeal. There are very limited third-party appeal rights.

Key actions

1. Undertake a second phase review of the planning scheme. (Principle 3)
2. Integrate infrastructure and transport plans with the planning scheme. (Principle 1)
3. Develop clearer rules and processes for referral agencies. (Principle 5)
4. Provide further resources to improve efficiency of assessment. (Principle 5)



Benchmarking Assessment Performance

There are several ways to benchmark the performance of state, territory and local governments and their management of development assessment.

Through a workshop with key industry leaders, the following benchmarks for assessing performance across jurisdictions were developed.

During industry forums, participants indicated that the key end goal of reform is to develop planning codes that will allow for the broadest range of applications to be exempt from assessment, self assessable or code assessable.

The overriding benchmark can therefore be measured as a percentage of all applications lodged that fall within these categories. Industry participants held that a practical and achievable goal would have between 50 percent and 75 percent of all applications falling into one of them.

Of the applications that fall into categories that require referrals, notification or merit assessment, industry proposes the following benchmarks.

1. Rezoning new urban settlement areas where consistent with the planning strategy

Benchmark – 75 percent of all proposals to be resolved within two years and 100 percent within three years

Some matters are more complex than others, requiring additional studies and referrals.

This benchmark represents a significant reduction in time for many jurisdictions and can be achieved by better management, including undertaking referrals and impact studies concurrently.

2. Spot rezoning

Benchmark – 100 percent of all proposals to be resolved within one year.

This benchmark reflects the need to prioritise those changes that are minor in nature and have less public impact than major rezoning proposals.

3. Subdivision applications

Benchmark – 75 percent of applications determined within 40 business days and 100 percent within 60 business days.

Most applications to divide land should be able to be determined with reference to the relevant planning scheme or code. The proposed benchmark provides sufficient time to enable referrals, assessment and determination.

4. Multi residential dwelling and commercial building applications

Benchmark – 90 business days

The benchmark takes into account lodgment, notifications and referrals, assessment by design review panels (where required), internal assessment and referral to a decision making body. It recognises that the size and scale of the applications often require external referrals and allows for a number of actions to be taken in parallel rather than sequentially.

5. Industrial buildings and detached dwellings not meeting code requirements.

Benchmark – 40 business days

The proposed standard relates to those applications that are not code compliant but are able to be assessed against criteria and performance objectives in the relevant planning scheme.

In order to measure the performance of assessment authorities successfully there needs to be detailed and reliable data collection.

The data collection system needs to be constructed in such a way to determine the length of time taken for each phase of assessment, that is, from receipt to notification, length of referral period, internal consideration, etc, as well as the absolute time taken from lodgement to determination.

This is necessary to identify where delays and log jams may occur, to assist in overcoming distortions in averaging and preventing the manipulation of statistics, such as through the use of 'stop the clock' provisions or requesting applicants to withdraw and resubmit applications.

Recommendations for Early Actions

This study showed that the level of adoption of the DAF Principles into states and territories planning systems has been varied, as jurisdictions have chosen to interpret each of the principles their own way when introducing reforms.

This has created a significant hurdle for those in government and industry seeking to harmonise planning and development assessment systems and to pursue national reform.

The property and development industries would ideally like to see a harmonised system of development assessment across the country, which would reflect the commercial reality of organisations that operate nationally. This is clearly a long-term goal, so industry has developed a roadmap to help each jurisdiction improve their individual schemes, along the lines of the DAF leading practice model.

Three specific reforms would have the greatest short term impact across all jurisdictions, and these are outlined below.

1. Data collection and reporting (Principle 3)

A key to understanding and improving the performance of planning systems at a national, state, territory and local government level is the development of a comprehensive database on development assessment.

At least three states have, or are developing collection and monitoring systems, but there is no universal measure to compare performance.

While existing data can be useful, it can also produce misleading answers. For example measuring the length of time it takes to assess an application is unlikely to include time lost due to inefficient council practices, which can be used artificially to improve results.

Not only should benchmarking be a priority for all jurisdictions, but any data collected should be collated centrally within a national register, managed by the Federal Government.

As part of this process, it is essential that clear definitions for each data set are developed to allow better comparisons across local councils and states.

A common data gathering and monitoring system would better reveal the progress of state and local governments in reforming their systems, and more accurately measure the development assessment performance of individual councils.

This would not only provide some legitimacy to the information collected, but deliver a useful tool to enable the Commonwealth to encourage greater reform. This would be a significant step towards ensuring the effective implementation of the DAF reforms and would deliver tangible economic benefits.

The development industry has a significant interest in the information that would be collected – for example, the percentage of applications that might be streamed into individual ‘tracks’. As customers of the planning system, industry representatives should be involved in establishing the criteria for the registry.

The Planning Officials Group is currently working on a project to measure performance. However, the expansion of this work to create a national registry necessitates the involvement of industry representatives in identifying relevant information for reporting purposes.

Recommendation 1

Establish a common system and create a national registry to collect and monitor data on progress with planning and development assessment performance and reform at local, state, and territory level.

2. Track-based performance measure (Principle 4)

An early performance benchmark that could be adopted would be the introduction of nationally consistent, track-based development assessment streams.

This would provide a clear and reliable measure of the progress of reform at a state, territory and local government level.

Track-based development assessment allows stakeholders to know upfront how their applications will be assessed and how long they are likely to take before being approved or rejected.

It also would ensure that the majority of simple applications and no/low impact activities can be handled more effectively, freeing up resources to deal with more complex or significant developments.

This should lead to dramatic improvements in approval times, reduced costs to applicants, and economic savings for consent authorities.

Recommendation 2

By June 2011, at least 50 percent of all applications lodged in each local government area should fall within the development assessment tracks of ‘exempt’, ‘self assessable’, or ‘code assessable’ as outlined under Principle 4 of the DAF Leading Practice model.

Recommendation 3

A model template for track-based assessment should be adopted nationally by 2012, in consultation with all jurisdictions and industry.

3. Codes (Principle 2)

The DAF Leading Practice Model calls for planning schemes to be written as objective rules and tests.

This will make it simpler for all stakeholders to know what is required of them when submitting an application.

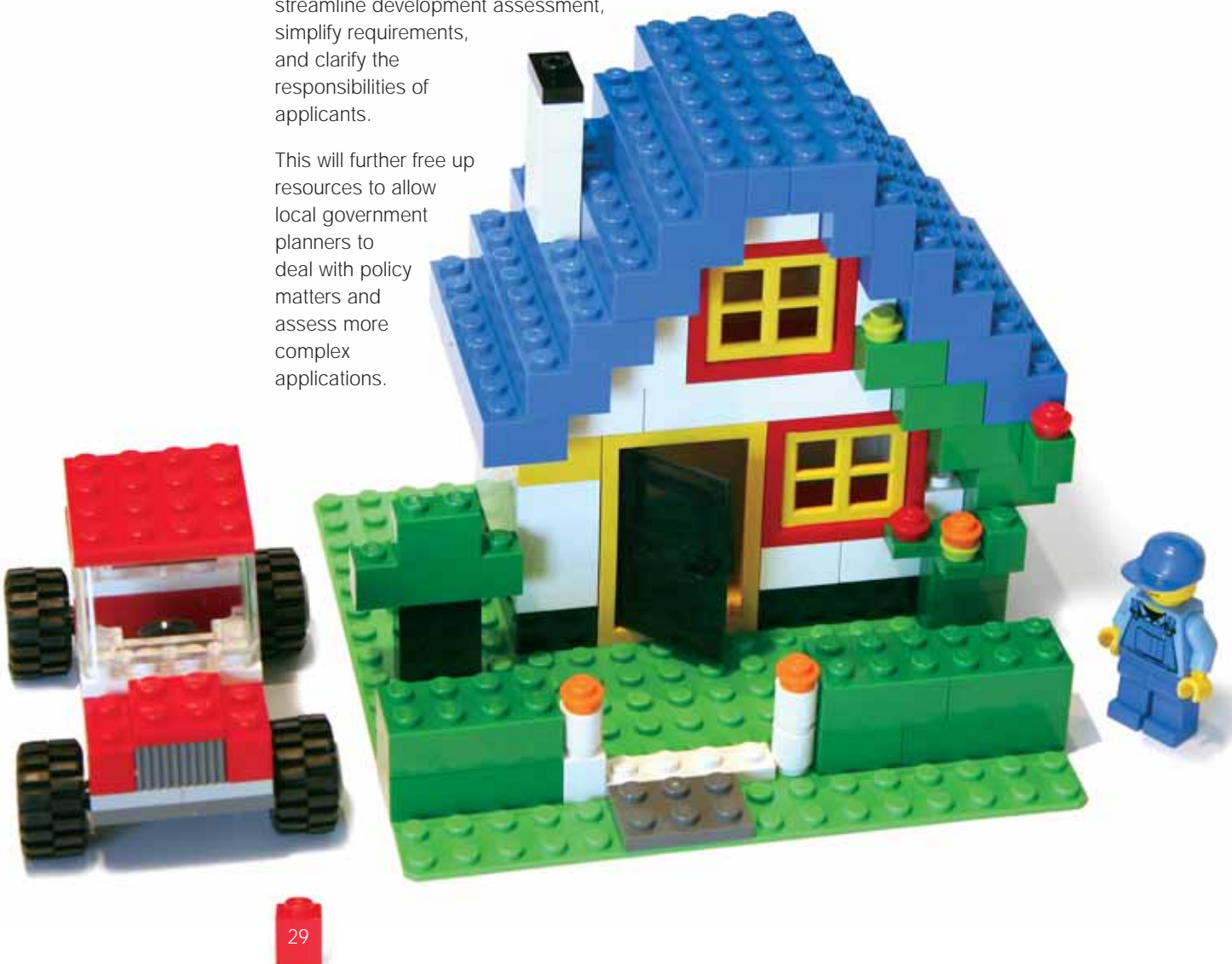
Some states have already begun to develop 'residential codes', which prescribe a standard set of planning rules for residential development. In conjunction with a track-based system, such codes will help to streamline development assessment, simplify requirements, and clarify the responsibilities of applicants.

This will further free up resources to allow local government planners to deal with policy matters and assess more complex applications.

Recommendation 4

Each state and territory should develop stand-alone codes for:

- single dwelling residential developments by June 2010;
- multi-unit residential developments by June 2011;
- industrial developments by June 2011; and
- commercial developments by June 2012.



Appendix: 10 Leading Practice Principles

1. Effective policy development

Elected representatives should be responsible for the development of planning policies. This should be achieved through effective consultation with the community, professional officers and relevant experts.

2. Objective rules and tests

Development assessment requirements and criteria should be written as objective rules and tests that are clearly linked to stated policy intentions. Where such rules and tests are not possible, specific policy objectives and decision guidelines should be provided.

3. Built-in improvement mechanisms

Each jurisdiction should systematically and actively review its policies and objective rules and tests to ensure that they remain relevant, effective, efficiently administered, and consistent across the jurisdiction.

4. Track-based assessment

Development applications should be streamed into an assessment 'track' that corresponds with the level of assessment required to make an appropriately informed decision. The criteria and content for each track is standard.

Adoption of any track is optional in any jurisdiction, but it should remain consistent with the model if used.

These tracks cover the following development types:

- exempt;
- prohibited;
- self assess;
- code assess;
- merit assess;
- impact assess.

The processes used within each assessment track will be predetermined.

5. A single point of assessment

Only one body should assess an application, using consistent policy and objective rules and tests.

Referrals should be limited only to those agencies with a statutory role relevant to the application. Referral should be for advice only. A referral authority should only be able to give direction where this avoids the need for a separate approval process.

Referral agencies should specify their requirements in advance and comply with clear response times.

6. Notification

Where assessment involves evaluating a proposal against competing policy objectives, opportunities for third-party involvement may be provided.

7. Private sector involvement

Private sector experts should have a role in development assessment, particularly in:

- undertaking pre-lodgment certification of applications to improve the quality of applications;
- providing expert advice to applicants and decision makers;
- certifying compliance where the objective rules and tests are clear and essentially technical; and
- making decisions under delegation.

8. Professional determination for most applications

Most development applications should be assessed and determined by professional staff or private sector experts. For those that are not, either:

- Option A – local government may delegate development assessment determination power while retaining the ability to call-in any application for determination by council.
- Option B – an expert panel determines the application.

Ministers may have call-in powers for applications of state or territory significance provided criteria are documented and known in advance.

9. Applicant appeals

An applicant should be able to seek a review of a discretionary decision.

A review of a decision should only be against the same policies and objective rules and tests as the first assessment.

10. Third-party appeals

Opportunities for third-party appeals should not be provided where applications are wholly assessed against objective rules and tests.

Opportunities for third-party appeals may be provided in limited other cases.

Where provided a review of a decision should only be against the same policies and objective rules and tests as the first assessment.