



19 July 2024

Ms Sam Boucher  
WAPC Secretary  
Western Australian Planning Commission  
140 William Street  
PERTH, WA 6000

**Draft Operational Policy 1.13 – Significant Development Pathway Public Interest Considerations**

Thank you for the opportunity to provide feedback on the draft Operational Policy 1.13 (the Policy).

The Urban Development Institute of Australia (UDIWA) WA is the peak body representing the property development industry in WA, with members across both private and public sector organisations. Our Vision is for 'Diverse living options in thriving, connected communities', and we strive to support this in working towards our Purpose of 'Great places + Housing choice = Better lives'.

**Draft Operational Policy 1.13**

We understand the purpose of the Policy as to provide a framework for the preparation of a public interest framework to assess an application and in doing so it provides high-level guidance only. Whilst this is likely beneficial for the state/regionally significant development applications it may apply to, it provides limited certainty in the process.

In addition, Section 4.3 places the onus on the applicant to demonstrate that an application is capable of a decision under public interest considerations. This should be a decision from the Commission rather than placing the onus on the applicant. Whilst it is likely that an application of quality would put forward this reasoning anyway, it would make sense for the Commission to direct an application down this path if it is suited to do so.

**Appendix 1 – WAPC assessment criteria**

The importance of pre-lodgement consultation is emphasised within Appendix 1, this is important for both WAPC and applicants in gaining certainty over the process given the grey area that public interest assessment sits within. However, it would be useful for the assessment criteria within Appendix 1 to include a pre-lodgement section to detail the requirements up-front to ensure the following sections can then be agreed to prior to progression.

In addition, Key Consideration C references consideration of non-planning matters affecting the 'public interest' where these are of relevance to the proposal. We do not agree with the inclusion of non-planning matters as a key consideration requirement within the process as this moves back into introducing potential grey areas without additional guidance as to what may be considered material within scope under this Consideration and in assessment of the application. This approach would not align with the stated intent of the public interest principles to maintain public confidence in planning instruments and the system more broadly.





## Appendix 2 – case law and references

Appendix 2 provides a range of case law that we understand has assisted in the preparation of Appendix 1. However, the generic and generally non-planning related case law, does not seem to contribute much to the Policy itself, if anything this inclusion creates more confusion in interpretation. We would recommend that it is reconsidered whether the inclusion of this Appendix is necessary for the purposes of the Policy.

### Additional Suggestions

We suggest it may be beneficial for additional guidance be included within the document regarding the layers of who could be considered as ‘the public’. There are references to individuals, entities, public-at-large, general public, wider community, community as a whole throughout the document. The policy is somewhat clear on what cannot be considered, but it is less clear on who the applicable public is. This means there is potential for misinterpretation between applicants, the Commission and the public as to how broad the respective terms are when put into practice.

Should you require further information or wish to discuss this please contact Isaac George, Policy Officer at [igeorge@udiawa.com.au](mailto:igeorge@udiawa.com.au) or 9215 3409. Thank you again for the opportunity to provide feedback.

Yours sincerely

A handwritten signature in black ink that reads 'sarah macaulay' in a cursive, lowercase script.

Sarah Macaulay  
**Executive Director – Strategy and Policy**