

# Planning and Development (Consequential and Transitional Provisions) Bill 2005

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Western Australia

LEGISLATIVE ASSEMBLY

*(As amended in Committee)*

## **Planning and Development (Consequential and Transitional Provisions) Bill 2005**

**A Bill for**

**An Act —**

- **to repeal the following Acts —**  
*Metropolitan Region Town Planning Scheme Act 1959;*  
*Town Planning and Development Act 1928;*  
*Western Australian Planning Commission Act 1985;*
- **to amend certain other Acts; and**
- **for purposes relating to those repeals and amendments and to the enactment of the *Planning and Development Act 2005*.**

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This is the *Planning and Development (Consequential and Transitional Provisions) Act 2005*.

5 **2. Commencement**

- (1) This Act comes into operation on a day to be fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

10 **3. Interpretation**

In this Act —

“**commencement day**” means the day on which this section comes into operation;

15 “**existing Commission**” means the Commission established under the WAPC Act;

“**MRTPS Act**” means the *Metropolitan Region Town Planning Scheme Act 1959*;

“**PD Act**” means the *Planning and Development Act 2005*;

20 “**TPD Act**” means the *Town Planning and Development Act 1928*;

“**WAPC Act**” means the *Western Australian Planning Commission Act 1985*.

## **Part 2 — Repeal and amendment of legislation**

### **Division 1 — Acts repealed**

#### **4. Acts in Schedule 1 repealed**

The Acts mentioned in Schedule 1 are repealed.

#### **5. Division 2 — *Land Administration Act 1997***

#### **5. *Land Administration Act 1997* amended**

The amendments in this Division are to the *Land Administration Act 1997*\*.

[\* Reprinted 22 June 2001.

10       For subsequent amendments see *Western Australian  
Legislation Information Tables for 2004, Table 1, p. 240-1.*]

#### **6. Section 3 amended**

15       Section 3(1) is amended in the definition of “Planning  
Commission” by deleting “by the *Western Australian Planning  
Commission Act 1985*,” and inserting instead —

“ under the *Planning and Development Act 2005*; ”.

#### **7. Section 23 amended**

Section 23(1)(b) is amended by deleting “the *Town Planning  
and Development Act 1928*,” and inserting instead —

20       “ the *Planning and Development Act 2005*, ”.

#### **8. Section 26 amended**

Section 26(2) is amended by deleting “The Minister” and  
inserting instead —

“ Subject to section 26A, the Minister ”.

**9. Section 26A inserted**

After section 26 the following section is inserted —

“

**26A. Names of roads and areas in new subdivisions**

- 5           (1) If a person delivers a diagram or plan of survey of a  
subdivision of land approved by the Planning  
Commission to a local government, and the proposed  
subdivision includes the provision of a road for use by  
the public, that person must also deliver to the local  
10           government the name proposed to be given to the road.
- (2) The local government may require the person so  
subdividing the land —
- (a) to propose a name for the proposed road or, if a  
name has already been proposed, to alter that  
15           name; and
- (b) to propose a name for the area the subject of the  
proposed subdivision, or if a name has already  
been proposed, to alter that name.
- 20           (3) If the local government approves a name proposed  
under subsection (1) or (2), the local government is to  
forward the proposal to the Minister.
- (4) The Minister may —
- (a) approve the proposed name;
- (b) direct the local government to reconsider the  
25           proposed name, having regard to such matters  
as the Minister may mention in the direction; or
- (c) refuse to approve the proposed name.
- (5) A person must not —
- 30           (a) assign a name to the area or road unless the  
name is first approved by the Minister;



- 5                   (b)   alter or change a name that has been so  
                      assigned, whether initially or from time to time,  
                      to the area or road unless the Minister first  
                      approves of the alteration or change of that  
                      name.

Penalty: \$1 000 and a daily penalty of \$100.

”.

**10.     Section 27 amended**

Section 27(5) is repealed.

10   **11.     Section 190 amended**

Section 190(1)(e)(i) is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —

“   the *Planning and Development Act 2005*   ”.

**12.     Section 196 amended**

15           Section 196(9) is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —

“   the *Planning and Development Act 2005*   ”.

**13.     Section 274 amended**

20           Section 274(6) is amended by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —

“   the *Planning and Development Act 2005*   ”.

**Division 3 — Local Government (Miscellaneous Provisions)  
Act 1960**

**14. Local Government (Miscellaneous Provisions) Act 1960  
amended and transitional**

- 5 (1) The amendment in this section is to the *Local Government  
(Miscellaneous Provisions) Act 1960*\*.

[\* Reprinted 28 July 1999.

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2004, Table 1, p. 265.]*

- 10 (2) Section 295 is repealed.

- (3) Despite the repeal of section 295 of the *Local Government  
(Miscellaneous Provisions) Act 1960*, section 295(4) and (4a) of  
that Act continue to apply in relation to the disposal of land  
where the subdivision of the land was approved before the  
15 coming into operation of this section.

- (4) Until minimum standards of construction and drainage are fixed  
under section 169 of the *Planning and Development Act 2005*,  
the minimum standards fixed under section 295(3a) of the *Local  
Government (Miscellaneous Provisions) Act 1960* apply for the  
20 purposes of the *Planning and Development Act 2005* as if they  
had been fixed under that Act.

**Division 4 — Miscellaneous amendments**

**15. Acts in Schedule 2 amended**

- 25 The Acts mentioned in Schedule 2 are amended as set out in  
that Schedule.

**16. Power to amend regulations**

- (1) The Governor, on the recommendation of the Minister, may  
make subsidiary legislation amending subsidiary legislation  
made under any Act.

- (2) The Minister may make a recommendation under subsection (1) only if the Minister considers that each amendment proposed to be made by the regulations is necessary or desirable as a consequence of the enactment of the PD Act or this Act.
- 5 (3) Nothing in this section prevents subsidiary legislation from being amended in accordance with the Act under which it was made.

## **Part 3 — Transitional and saving provisions**

### **Division 1 — Preliminary**

#### **17. Application of *Interpretation Act 1984***

- 5 (1) The provisions of the *Interpretation Act 1984* (for example, sections 16(1), 36 and 38) about the repeal of written laws and the substitution of other written laws for those so repealed apply to the repeal of an Act mentioned in Schedule 1 as if that Act were repealed and re-enacted by the PD Act.
- 10 (2) The other provisions of this Act are additional to the provisions applied by subsection (1) and except in the case of section 14(3) and (4) do not affect the operation of the provisions applied by subsection (1).

#### **18. Transitional regulations**

- 15 (1) If there is no sufficient provision in this Act for dealing with a transitional matter, regulations under this Act may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with the matter.
- (2) In subsection (1) —
- 20 **“transitional matter”** means a matter that needs to be dealt with for the purpose of —
- (a) effecting the transition from the provisions of the Acts repealed by this Act to the provisions of the PD Act; or
- 25 (b) effecting the transition from the provisions of an Act amended by a provision of this Act (the **“amending provision”**) as in force before this Act comes into operation to the provisions of that Act as in force after the amending provision comes into operation.

- (3) Regulations made under subsection (1) may provide that specified provisions of the PD Act as in force on or after the commencement of that Act, or of subsidiary legislation made under that Act, or of an Act amended by this Act —
- 5           (a) do not apply; or
- (b) apply with specified modifications,
- to or in relation to any matter.
- (4) If regulations under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed,
- 10           on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.
- (5) In subsections (3) and (4) —
- 15           **“specified”** means specified or described in the regulations.
- (6) If regulations contain a provision referred to in subsection (4), the provision does not operate so as —
- (a) to affect in a manner prejudicial to any person (other than the State, an authority of the State or a local government), the rights of that person existing before
- 20           the day of publication of those regulations; or
- (b) impose liabilities on any person (other than the State, an authority of the State or a local government) in respect of anything done or omitted to be done before the day of
- 25           publication of those regulations.

## **19. Construction of references in written laws**

- (1) Unless the context otherwise requires, a reference in a written law to an enactment repealed by this Act includes a reference to the corresponding provision, if any, of the PD Act.

- (2) A reference in a written law to a town planning scheme may, where the context so requires, be read as if it had been amended to include or be a reference to a local planning scheme under the PD Act.
- 5 (3) A reference in a written law to a regional planning scheme under the WAPC Act may, where the context so requires, be read as if it had been amended to include or be a reference to a region planning scheme under the PD Act.
- 10 (4) A reference in a written law to a statement of planning policy may, where the context so requires, be read as if it had been amended to include or be a reference to a State planning policy under the PD Act.

**Division 2 — Continuation of various bodies, memberships and appointments**

15 **20. WAPC continues**

- (1) The Western Australian Planning Commission established under the PD Act is a continuation of and the same legal entity as the Western Australian Planning Commission established under the WAPC Act, with the same rights and obligations as the existing Commission.
- 20 (2) If in a written law or other document or instrument there is —
- (a) a reference to the existing Commission; or
- (b) a reference that is read and construed as a reference to the existing Commission,
- 25 the reference may, where the context so requires, be read as if it had been amended to be a reference to the Commission established under the PD Act.

**21. Membership of Commission**

- 30 (1) The persons who were members and deputy members of the existing Commission (including the chairperson and deputy

chairperson) immediately before the commencement of the PD Act continue in office, under and subject to that Act, as the chairperson, deputy chairperson, members and deputy members of the board of the Commission established under the PD Act.

- 5       (2) A person to whom subsection (1) applies is to be regarded as having been appointed under the PD Act.
- (3) If in a written law or other document or instrument there is —
- (a) a reference to the chairperson or a member of the existing Commission; or
- 10       (b) a reference that is read and construed as a reference to the chairperson or a member of the existing Commission,

the reference may, where the context so requires, be read as if it had been amended to be a reference to the chairperson or a member of the board of the Commission established under the PD Act.

15

## **22. Staff**

- (1) People who were engaged by the existing Commission immediately before the commencement of the PD Act continue, under and subject to that Act, as officers of the Commission.
- 20
- (2) A person mentioned in subsection (1) is to be regarded as having been engaged under the PD Act.
- (3) Except as otherwise agreed by the officer of the Commission, the remuneration, existing or accrued rights, rights under a superannuation scheme or continuity of service of an officer of the existing Commission are not affected, prejudiced or interrupted by the operation of subsection (1) or the repeal of the WAPC Act.
- 25
- (4) The rights under a superannuation scheme of a person who was an officer of the existing Commission are not affected, prejudiced or interrupted by the repeal of the WAPC Act.
- 30

**23. Committees**

(1) In this section —

**“existing committee”** means —

- 5 (a) the Executive, Finance and Property Committee  
established under the WAPC Act;
  - (b) the Statutory Planning Committee established under  
the WAPC Act;
  - (c) the Infrastructure Coordinating Committee  
established under the WAPC Act;
  - 10 (d) the Coastal Planning and Coordination Council  
established under the WAPC Act;
  - (e) any regional planning committee established under  
the WAPC Act; and
  - 15 (f) any District Planning Committee established under  
the MRTPS Act.
- (2) A committee established under the PD Act is a continuation of  
and the same legal entity as the existing committee of the same  
name established under the WAPC or MRTPS Act with the  
same rights and obligations as the existing committee.
- 20 (3) The Sustainable Transport Committee established under the  
PD Act is a continuation of and the same legal entity as the  
Transport Committee established under the WAPC Act with the  
same rights and obligations as the existing committee.
- 25 (4) If in a written law or other document or instrument there is a  
reference to an existing committee, the reference may, where  
the context so requires, be read as if it had been amended to be a  
reference to the committee of the same name established under  
the PD Act.



- 5 (5) If in a written law or other document or instrument there is a reference to the Transport Committee, the reference may, where the context so requires, be read as if it had been amended to be a reference to the Sustainable Transport Committee established under the PD Act.
- (6) The persons who were members of an existing committee immediately before the commencement of the PD Act continue in office, under and subject to that Act, as the members of the committee of the same name established under the PD Act.
- 10 (7) The persons who were members of the Transport Committee immediately before the commencement of the PD Act continue in office, under and subject to that Act, as the members of the Sustainable Transport Committee established under the PD Act.

**24. Board of Valuers**

- 15 (1) In this section —  
“**existing Board**” means the Board of Valuers established under the MRTPS Act.
- (2) The Board of Valuers established under the PD Act is a continuation of and the same legal entity as the existing Board with the same rights and obligations as the existing Board.
- 20 (3) If in a written law or other document or instrument there is a reference to the existing Board, the reference may, where the context so requires, be read as if it had been amended to be a reference to the Board of Valuers established under the PD Act.
- 25 (4) The persons who were members of the existing Board immediately before the commencement of the PD Act continue in office, under and subject to that Act, as the members of the Board of Valuers established under the PD Act.

**Division 3 — Transitional provisions**

**25. Subsidiary legislation and fees**

(1) Regulations made under —

- 5 (a) section 8 of the TPD Act or section 26 of the  
MRTPS Act continue in force as if they were made  
under section 256 of the PD Act;
- (b) section 9(1) of the TPD Act continue in force as if they  
were made under section 258 of the PD Act;
- 10 (c) section 9(2b) of the TPD Act continue in force as if they  
were made under section 259 of the PD Act;
- (d) section 33B of the TPD Act continue in force as if they  
were made under section 261 of the PD Act;
- 15 (e) section 44 of the MRTPS Act, section 58 of the WAPC  
Act or section 27A(5) or 34 of the TPD Act continue in  
force as if they were made under section 263 of the PD  
Act,

and may be amended or repealed accordingly.

- 20 (2) Local laws made under section 31 of the TPD Act continue in  
force as if they were made under section 262 of the PD Act and  
may be amended or repealed accordingly.
- (3) Fees prescribed under section 29 of the TPD Act continue, until  
fees are set under section 20 of the PD Act, to be chargeable and  
payable as if the fees were set under section 20 of the PD Act.

**26. Planning schemes in course of preparation**

- 25 Any planning scheme that, on the commencement day, is being  
prepared under the TPD Act or the WAPC Act may continue to  
be prepared as if the steps taken under that Act were taken  
under the PD Act.

**27. Caveats**

- 5 (1) A caveat lodged under section 36 of the MRTPS Act or section 35 or 36 of the WAPC Act but not registered before the commencement day may be registered under section 180 or 181 of the PD Act, as the case requires, as if it were a notification under that section of the PD Act.
- (2) A caveat —
- 10 (a) registered under section 36 of the MRTPS Act or section 35 or 36 of the WAPC Act; and
- (b) subsisting immediately before the commencement day,
- is taken to be a notification registered under section 180 or 181 of the PD Act, as the case requires.

**Division 4 — Other savings**

**28. Section 9(4) and (5) TPD Act**

15 The repeal of section 9(4) and (5) of the TPD Act does not affect the validity of any town planning scheme, amendment to a town planning scheme, act or thing referred to in section 9(4) of the TPD Act, and those subsections continue to apply in relation to those schemes, amendments, acts and things as if the subsections had not been repealed.

20

**29. Section 28A(5) TPD Act**

Section 28A(5) of the TPD Act continues to apply in relation to liability and matters referred to in that subsection as if section 28A had not been repealed.

25 **30. Section 37A(4a) MRTPS Act**

The repeal of section 37A(4a) of the MRTPS Act does not affect the validity of any agreement, act, matter or thing referred to in that subsection, and that subsection continues to apply in relation to those agreements, acts, matters and things as if the subsection had not been repealed.

30

## **Part 4 — Validation provision**

### **31. Validation of certain endorsed approvals**

5 Any approval of the Commission endorsed on a diagram or plan  
of survey of a stage of a subdivision under the *Town Planning  
and Development Act 1928* before the coming into operation of  
this section is taken to be, and always to have been, as valid and  
effective as it would have been if section 145 of the *Planning  
and Development Act 2005* had been in operation at the time of  
the endorsement and the approval had been endorsed under that  
10 section.

## **Schedule 1 — Acts repealed**

[s. 4]

*Metropolitan Region Town Planning Scheme Act 1959*

*Town Planning and Development Act 1928*

5    *Western Australian Planning Commission Act 1985*

## Schedule 2 — Consequential amendments

[s. 15]

### 1. *Agricultural Practices (Disputes) Act 1995*

5      Section 3 is amended in the definition of “rural land” by deleting “a town planning scheme prepared or adopted under the *Town Planning and Development Act 1928*” and inserting instead —

“  
10                      a local planning scheme as that term is defined the *Planning and Development Act 2005*  
”.

### 2. *Anzac Day Act 1960*

(1) Section 5(1)(b) is amended by deleting “area” in both places where it occurs and inserting instead —

“ region ”.

15      (2) Section 5(3) is repealed and the following subsection is inserted instead —

“  
(3) In this section —  
20                      “**metropolitan region**” has the meaning given to that term in the *Planning and Development Act 2005* section 4.  
”.

### 3. *Armada Redevelopment Act 2001*

(1) Section 3 is amended as follows:

25      (a) in the definition of “development” by deleting “Town Planning Act” and inserting instead —

“ *Planning and Development Act 2005* ”;

- (b) by deleting the definition of “Metropolitan Region Scheme” and inserting instead —

“

“**Metropolitan Region Scheme**” has the meaning  
given to that term in the *Planning and  
Development Act 2005* section 4;

”;

- (c) by deleting the definitions of “Metropolitan Scheme Act” and “Town Planning Act”;

- (d) in the definition of “Planning Commission” by deleting “section 4 of the *Western Australian Planning Commission Act 1985*” and inserting instead —

“

section 7 of the *Planning and Development  
Act 2005*

”;

- (e) by deleting the semicolon at the end of the definition of “staff member” and inserting a full stop.

- (2) Section 5(4)(a) is amended by deleting “town” and inserting instead —

“ local ”.

- (3) Section 17(8) is amended as follows:

- (a) by deleting “section 20 of the Town Planning Act” and inserting instead —

“

sections 135 and 136 of the *Planning and Development  
Act 2005*

”;

- (b) in paragraph (c) by deleting “section 21 of the Town Planning Act” and inserting instead —

“

section 147 of the *Planning and Development  
Act 2005*

”.

**cl. 3**

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- (4) Section 29 is amended by deleting “a town planning scheme under the Town Planning Act.” and inserting instead —

“

a local planning scheme under the *Planning and  
Development Act 2005*.

”.

- (5) Section 43(1) is amended in the definition of “planning scheme” as follows:

- (a) by deleting “Town Planning Act” and inserting instead —

“ *Town Planning and Development Act 1928* ”;

- (b) by deleting “and” after paragraph (a);

- (c) by inserting after paragraph (a) —

“

(aa) any local planning scheme under the  
*Planning and Development Act 2005* that is  
in operation in the redevelopment area  
immediately before the appointed day; and

”.

- (6) Section 50 is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

- (7) Section 52(2) is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

- (8) Section 54(1) and (2) are repealed and the following subsection is inserted instead —

“

- (1) Part 11 Divisions 1 and 2 of the *Planning and  
Development Act 2005*, and sections 184(3) and (4),  
187 and 188 of that Act, apply with all necessary  
changes to land in the redevelopment area as if —

- (a) the redevelopment scheme were a planning  
scheme under that Act;



- (b) the Authority were a responsible authority under that Act; and
- (c) in the case of land reserved, zoned or classified under the redevelopment scheme for a public purpose, the land were reserved for a public purpose under a planning scheme.
- ”.
- (9) Section 54(3) is amended by deleting “an Act as applied by subsection (1) or (2)” and inserting instead —
- “
- the *Planning and Development Act 2005* as applied by subsection (1)
- ”.
- (10) Section 64 is amended as follows:
- (a) by deleting “Section 33 of the Town Planning Act” and inserting instead —
- “
- Section 132 of the *Planning and Development Act 2005*
- ”;
- (b) in paragraph (a) by deleting “an approved scheme” and inserting instead —
- “ a planning scheme ”.
- 4.      *Bail Act 1982***
- Section 16A(4) is amended in the definition of “urban area” by deleting paragraph (a) and “and” after it and inserting instead —
- “
- (a) the metropolitan region as defined in the *Planning and Development Act 2005* and any prescribed area that adjoins that region; and
- ”.

## 5. *Betting Control Act 1954*

- 
- page 22

**8. Casino (Burswood Island) Agreement Act 1985**

- (1) Section 7(1) is amended by deleting “the *Metropolitan Region Town Planning Scheme Act 1959* or in the Scheme” and inserting instead —

“

5                   the *Planning and Development Act 2005* or in the  
Metropolitan Region Scheme

”.

- (2) Section 7(2)(a) is amended by deleting “or the *Town Planning and Development Act 1928*” and inserting instead —

10                   “ or the *Planning and Development Act 2005* ”.

- (3) Section 7(2)(b) is deleted and the following paragraph is inserted instead —

“

15                   (b) the *Planning and Development Act 2005*, local  
planning schemes prepared under that Act,

”.

- (4) Section 7(2a) is amended by deleting “Scheme” and inserting instead —

“ Metropolitan Region Scheme ”.

- 20                   (5) Section 7(4) is amended by deleting the definition of “Scheme” and inserting instead —

“

25                   **“Metropolitan Region Scheme”** has the meaning  
given to that term in the *Planning and  
Development Act 2005* section 4;

”.

**9. Civil Judgments Enforcement Act 2004**

Section 106 is amended in the definition of “declared areas” by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —

30

“ the *Planning and Development Act 2005* ”.

## 10. *Commercial Tenancy (Retail Shops) Agreements Act 1985*

5 “ the *Planning and Development Act 2005*; ”.

“ section 136 of the *Planning and Development Act 2005* ”

15 (1) Schedule V Part 3 is amended in the item relating to the board of  
valuers by deleting “the *Metropolitan Region Town Planning Scheme  
Act 1959.*” and inserting instead —

(2) Schedule V Part 3 is amended in the item relating to the Western Australian Planning Commission by deleting “the *Western Australian Planning Commission Act 1985*.” and inserting instead —

20 “ the *Planning and Development Act 2005.* ”.

“ section 135 of the *Planning and Development Act 2005* ”

30 “ local ”.

- (2) Section 47(1) is amended by deleting “any town planning scheme has been or is made under the *Town Planning and Development Act 1928*” and inserting instead —

“

5                   any local planning scheme has been or is made under  
                    the *Planning and Development Act 2005*

”.

**15.       *Country Housing Act 1998***

10           Section 3 is amended by deleting the definition of “metropolitan region” and inserting instead —

“

**“metropolitan region”** has the meaning given to that  
  term in the *Planning and Development Act 2005*  
  section 4;

15

”.

**16.       *Disability Services Act 1993***

          Section 3 is amended by deleting the definition of “metropolitan region” and inserting instead —

“

20                   **“metropolitan region”** has the meaning given to that  
  term in the *Planning and Development Act 2005*  
  section 4;

”.

**17.       *Dog Act 1976***

25           (1) Section 3(1) is amended by deleting the definition of “metropolitan region” and inserting instead —

“

**“metropolitan region”** has the meaning given to that  
  term in the *Planning and Development Act 2005*  
30                   section 4;

”.

- (2) Section 52(1) is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —

“   the *Planning and Development Act 2005*   ”.

**cl. 18**

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**18.      *East Perth Redevelopment Act 1991***

(1) Section 3 is amended as follows:

- (a) by deleting the definition of “Metropolitan Region Scheme”  
and inserting instead —

5

“

**“Metropolitan Region Scheme”** has the meaning  
given to that term in the *Planning and  
Development Act 2005* section 4;

”;

10

- (b) by deleting the definitions of “Metropolitan Scheme Act” and  
“Town Planning Act”;

- (c) by deleting the semicolon at the end of the definition of  
“temporary member” and inserting a full stop.

15

(2) Section 5(4)(a) is amended by deleting “town” and inserting  
instead —

“ local ”.

(3) Section 19(8) is amended as follows:

- (a) by deleting “section 20 of the *Town Planning and  
Development Act 1928*” and inserting instead —

20

“

sections 135 and 136 of the *Planning and Development  
Act 2005*

”;

25

- (b) in paragraph (c) by deleting “section 21 of the Town Planning  
Act” and inserting instead —

“

section 147 of the *Planning and Development  
Act 2005*

”.

30

(4) Section 24(2)(c) is amended by deleting “the Town Planning Act” and  
inserting instead —

“ the *Planning and Development Act 2005* ”.

- (5) Section 28 is amended by deleting “a town planning scheme under the Town Planning Act.” and inserting instead —

“

a local planning scheme under the *Planning and Development Act 2005*.

”.

- (6) Section 38(3) is amended as follows:

- (a) in paragraph (a) by deleting “Town Planning Act” and inserting instead —

“ *Town Planning and Development Act 1928* ”;

- (b) by deleting “and” after paragraph (a);

- (c) by inserting after paragraph (a) —

“

- (aa) any local planning scheme under the *Planning and Development Act 2005* that is in operation in the redevelopment area immediately before the appointed day; and

”.

- (7) Section 45(1) is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

- (8) Section 47(2) is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

- (9) Section 48(1) and (2) are repealed and the following subsection is inserted instead —

“

- (1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2005*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

- (a) the redevelopment scheme were a planning scheme under that Act;

**cl. 19**

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- (b) the Authority were a responsible authority under that Act; and
- (c) in the case of land reserved, zoned or classified under the redevelopment scheme for a public purpose, the land were reserved for a public purpose under a planning scheme.
- ”.
- (10) Section 48(3) is amended by deleting “an Act as applied by subsection (1) or (2)” and inserting instead —
- “
- the *Planning and Development Act 2005* as applied by subsection (1)
- ”.
- (11) Section 55 is amended as follows:
- (a) by deleting “Section 33 of the Town Planning Act” and inserting instead —
- “
- Section 132 of the *Planning and Development Act 2005*
- ”;
- (b) in paragraph (a) by deleting “an approved scheme” and inserting instead —
- “ a planning scheme ”.
- 19.      *Electricity Corporations Act 2005***
- (1) Section 60(3) is amended as follows —
- (a) by deleting “*Town Planning and Development Act 1928* sections 7B(7) and 10AB(1)” and inserting instead —
- “
- Planning and Development Act 2005* sections 221 and 218
- ”.
- (b) in paragraph (b) by deleting “town” and inserting instead —
- “ local ”.



- (2) Section 60(5) is amended by deleting “*Town Planning and Development Act 1928*” and inserting instead —

“ *Planning and Development Act 2005* ”.

**20. *Energy Operators (Powers) Act 1979***

- 5 Section 41 is amended by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

“

section 135 of the *Planning and Development Act 2005*

”.

10 **21. *Environmental Protection Act 1986***

- (1) Section 3(1) is amended by deleting the definitions of “Metropolitan Region Scheme”, “regional planning scheme” and “town planning scheme”.

- 15 (2) Section 3(1) is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“**local planning scheme**” has the meaning given to that term in the *Planning and Development Act 2005* section 4;

- 20 “**region planning scheme**” has the meaning given to that term in the *Planning and Development Act 2005* section 4;

”.

- 25 (3) Section 3(1) is amended in the definition of “assessed scheme” by deleting paragraph (b)(iii) and inserting instead —

“

- 30 (iii) which is a local planning scheme, or an amendment to a local planning scheme, in respect of which sections 124, 125, 126 or 128 of the *Planning and Development Act 2005* have been complied with to the extent, if any, necessary in relation to a region

planning scheme, or an amendment to a region planning scheme, which amendment or scheme is a scheme referred to in paragraph (a) or subparagraph (i) or (ii);

- 10 “
- (c) a region planning scheme, or an amendment to a region planning scheme, means an approval under section 53 or 62, as the case requires, of the *Planning and Development Act 2005*;
- 15
- (d) a local planning scheme, or an amendment to a local planning scheme, means an approval under section 87(2) of the *Planning and Development Act 2005*; or
- 20
- (e) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy, means an approval under section 87(2), as read with section 32, of that Act;
- 25 ”

- 30 (c) a region planning scheme, or an amendment  
to a region planning scheme, means the  
period referred to in section 44(1) or  
58(1)(b), as the case requires, of the  
*Planning and Development Act 2005*;

- (d) a local planning scheme, or an amendment to a local planning scheme, means the period of advertisement for public inspection prescribed for the purposes of section 84 of the *Planning and Development Act 2005*; or
- (e) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy, means the period of advertisement for public inspection prescribed for the purposes of section 84, as read with section 32, of that Act;
- (6) Section 3(1) is amended by deleting the definition of “responsible authority” and inserting instead —
- “
- “responsible authority”, in relation to —
- (a) a scheme which is —
- (i) prepared under the *Armadale Redevelopment Act 2001*, means the Armadale Redevelopment Authority established under that Act;
- (ii) prepared under the *East Perth Redevelopment Act 1991*, means the East Perth Redevelopment Authority established by that Act;
- (iii) prepared under the *Hope Valley-Wattleup Redevelopment Act 2000*, means the Western Australian Land Authority established by section 5(1) of the *Western Australian Land Authority Act 1992*;

**cl. 21**

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- (iv) prepared under the *Midland Redevelopment Act 1999*, means the Midland Redevelopment Authority established by that Act;
- 5 (v) prepared under the *Subiaco Redevelopment Act 1994*, means the Subiaco Redevelopment Authority established by that Act;
- 10 (vi) a region planning scheme, or an amendment to a region planning scheme, means the Western Australian Planning Commission;
- 15 (vii) a local planning scheme, or an amendment to a local planning scheme, means the local government which is responsible for the local planning scheme or amendment; or
- 20 (viii) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy, means the Western Australian Planning Commission;
- or
- 25 (b) a subdivision which is —
- (i) an activity requiring approval under Part 10 Division 2 of the *Planning and Development Act 2005*, means the Western Australian Planning Commission; or
- 30 (ii) a strata plan, strata plan of subdivision or strata plan of consolidation required to be accompanied by a certificate issued under section 23 of the *Strata Titles Act 1985*, means the local
- 35

government within the district of which  
the subdivision is proposed;

”.

- 5 (7) Section 3(1) is amended in the definition of “scheme” by deleting paragraphs (f), (g), (h) and (i) and “or” after paragraph (h) and inserting instead —

“

- (f) a region planning scheme, or an amendment  
to a region planning scheme;
- 10 (g) a local planning scheme, or an amendment to  
a local planning scheme; or
- (h) a State planning policy to which section 32  
of the *Planning and Development Act 2005*  
applies, or an amendment to such a policy;

15

”.

- (8) Section 3(1) is amended by deleting the definition of “scheme Act”  
and inserting instead —

“

20 “**scheme Act**” means *Armadale Redevelopment*  
*Act 2001*, *East Perth Redevelopment Act 1991*,  
*Hope Valley-Wattleup Redevelopment Act 2000*,  
*Midland Redevelopment Act 1999*, *Subiaco*  
*Redevelopment Act 1994* or *Planning and*  
*Development Act 2005*;

25

”.

- (9) Section 3(1) is amended in the definition of “Western Australian  
Planning Commission” by deleting “section 4 of the *Western*  
*Australian Planning Commission Act 1985*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

**cl. 21**

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- (10) Section 3(2a)(a) is amended by deleting “under Part III of the *Town Planning and Development Act 1928*” and inserting instead —

“

under Part 10 Division 2 of the *Planning and Development Act 2005*

”.

- (11) Section 48C(7) is amended in the definition of “public review” by deleting paragraphs (c), (d), (e) and (f) and “or” after paragraph (e) and inserting instead —

“

(c) a region planning scheme, or an amendment to a region planning scheme, means procedure referred to in sections 43, 44, 46 and 48, or section 58, as the case requires, of the *Planning and Development Act 2005*;

(d) a local planning scheme, or an amendment to a local planning scheme, means procedure referred to in sections 84 and 87(1) of the *Planning and Development Act 2005*; or

(e) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy, means procedure referred to in sections 84 and 87(1), as read with section 32, of that Act.

”.

- (12) Section 51O(1) is amended in the definition of “planning instrument” by deleting paragraphs (b) and (c) and “or” after paragraph (b) and inserting instead —

“

(b) a State planning policy approved under section 29 of the *Planning and Development Act 2005* and published in the *Gazette*; or

(c) a local planning strategy made under the  
*Planning and Development Act 2005*.

”.

5 (13) Section 68 is amended by deleting “under section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

“

under section 135 of the *Planning and Development Act 2005*

”.

10 (14) Schedule 6 clause 9 is amended as follows:

(a) by deleting “*Town Planning and Development Act 1928*” and inserting instead —

“ *Planning and Development Act 2005* ”;

15 (b) in paragraph (a) by deleting “section 20D” and inserting instead —

“ section 157 ”.

**22. *Esperance Port Authority Lands Act 1979***

(1) Section 4(2) is amended by deleting “the *Town Planning and Development Act, 1928*” and inserting instead —

20 “ the *Planning and Development Act 2005* ”.

(2) Section 4(3)(c) is amended by deleting “the *Town Planning and Development Act, 1928*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

**23. *Family Court Act 1997***

25 Section 5 is amended by deleting the definition of “metropolitan region” and inserting instead —

“

“**metropolitan region**” has the meaning given to that term in the *Planning and Development Act 2005* section 4;

30

”.

**cl. 24**

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**24.      *Forest Products Act 2000***

Section 54(7) is amended by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

“    section 136 of the *Planning and Development Act 2005*    ”.

5    **25.      *Forrest Place and City Station Development Act 1985***

(1)    Section 12(5) is amended by deleting “Part III of the *Town Planning and Development Act 1928*” and inserting instead —

“    Section 135 of the *Planning and Development Act 2005*    ”.

10    (2)    Section 16(4) is amended by deleting “Part III of the *Town Planning and Development Act 1928*” and inserting instead —

“    Section 135 of the *Planning and Development Act 2005*    ”.

**26.      *Gaming and Wagering Commission Act 1987***

Section 55(3)(b) is amended as follows:

15    (a)    by deleting “town planning matters” and inserting instead —  
“    local planning matters    ”;

(b)    by deleting “to town planning” and inserting instead —  
“    to local planning    ”.

**27.      *Gas Corporation (Business Disposal) Act 1999***

20    Section 23(1) is amended by deleting “section 27A(1)(b)(v) of the *Town Planning and Development Act 1928*” and inserting instead —

“  
   section 167(1)(b)(iv) of the *Planning and Development Act 2005*  
   ”.

25    **28.      *Government Employees’ Housing Act 1964***

Section 19(a) is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —

“    the *Planning and Development Act 2005*    ”.



**29.      *Heritage of Western Australia Act 1990***

- (1)    Section 36(2)(b) is deleted and the following paragraph is inserted instead —

“

- 5                    (b)    on being satisfied that there has been  
                         consultation by the Council with the Western  
                         Australian Planning Commission established by  
                         the *Planning and Development Act 2005* —  
10                    remit the whole or any part of the Metropolitan  
                         Region Improvement Tax payable by the owner  
                         in respect of that place under section 200 of the  
                         *Planning and Development Act 2005*;

”.

- 15            (2)    Section 60(1) is amended by deleting “Part V of the *Town Planning and Development Act 1928* shall apply to any such referral under this Act, with any modification that may be necessary, as they apply to other appeals” and inserting instead —

“

- 20                    Part 14 of the *Planning and Development Act 2005*  
                         apply to any such referral under this Act, with any  
                         modification that may be necessary, as they apply to  
                         applications for review

”;

- 25            (3)    Section 75(3)(a)(ii) and (iii) are deleted and the following subparagraph is inserted instead —

“

- (ii)    the *Planning and Development Act 2005*;

”.

- 30            (4)    Section 78(1)(a) and (b) are deleted and the following paragraphs are inserted instead —

“

- 35                    (a)    applications for approval of development in a  
                         planning control area made under Part 7 of the  
                         *Planning and Development Act 2005*;

**cl. 30**

---

- (b) applications for approval under section 135, 136 or 162, or approvals for the purposes of section 147, of the *Planning and Development Act 2005*;

”.

**30.      *Hope Valley-Wattleup Redevelopment Act 2000***

- (1) Section 3(1) is amended as follows:

- (a) by deleting the definition of “Commission” and inserting instead —

“

**“Commission”** means the Western Australian Planning Commission established under the *Planning and Development Act 2005*;

”;

- (b) in the definition of “development” by deleting “Town Planning Act” and inserting instead —

“ *Planning and Development Act 2005* ”;

- (c) by deleting the definition of “Metropolitan Region Scheme” and inserting instead —

“

**“Metropolitan Region Scheme”** has the meaning given to that term in the *Planning and Development Act 2005* section 4;

”;

- (d) in the definition of “redevelopment area” by deleting the semicolon and inserting a full stop;

- (e) by deleting the definition of “Town Planning Act”.

- (2) Section 8(3) is repealed and the following subsection is inserted instead —

“

- (3) For the avoidance of doubt, the Authority is a public authority to whom the Commission can, under section 16 of the *Planning and Development Act 2005*, delegate a function conferred under this section.

”.

- (3) Section 11 is amended by deleting “a town planning scheme under the Town Planning Act.” and inserting instead —

“

a local planning scheme under the *Planning and Development Act 2005*.

”.

- (4) Section 23(3) is amended as follows:

- (a) in paragraph (a) by deleting “Town Planning Act” and inserting instead —

“ *Town Planning and Development Act 1928* ”;

- (b) by deleting “and” after paragraph (a);

- (c) by inserting after paragraph (a) —

“

(aa) any local planning scheme under the *Planning and Development Act 2005* that is in operation in the redevelopment area immediately before the appointed day; and

”.

- (5) Section 29(1) is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

- (6) Section 31(2) is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

- (7) Section 33(1) and (2) are repealed and the following subsection is inserted instead —

“

- (1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2005*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

- (a) the master plan were a planning scheme under that Act;

- (b) the Commission were the responsible authority under that Act; and
- (c) in the case of land reserved, zoned or classified under the master plan for a public purpose, the land were reserved for a public purpose under a planning scheme.

”

- 10

the *Planning and Development Act 2005* as applied by subsection (1)

”

- 15

- “

20

”.

- “ a planning scheme ”.

## 25

“

- 30

the Minister, to secure the closing of any street  
or the extinguishment of any easement or  
restrictive covenant;

”.

5     **32.     *Housing Loan Guarantee Act 1957***

Section 7B(1a)(a) is deleted and the following paragraph is inserted  
instead —

“

10                 (a)    within the metropolitan region as defined in the  
                          *Planning and Development Act 2005*;

”.

**33.     *Interpretation Act 1984***

Section 5 is amended in the definition of “subsidiary legislation” by  
deleting “town planning scheme” and inserting instead —

15                 “    local or region planning scheme    ”.

**34.     *Jetties Act 1926***

Section 7(3) is amended by deleting “made under the *Metropolitan  
Region Town Planning Scheme Act 1959*” and inserting instead —

“

20                         as that term is defined in the *Planning and  
                              Development Act 2005*

”.

**35.     *Land Tax Assessment Act 2002***

25           (1)    Section 15(3)(b) is amended by deleting “town” and inserting  
                      instead —

“    local    ”.

(2)    Section 28(2)(a) is amended by deleting “town” and inserting  
          instead —

“    local    ”.

**cl. 35**

---

(3) Section 28(7) is amended by deleting “town” and inserting instead —  
“ local ”.

(4) The Glossary clause 1 is amended as follows:

5 (a) in the definition of “metropolitan region” by deleting  
“*Metropolitan Region Town Planning Scheme Act 1959*” and  
inserting instead —

“ *Planning and Development Act 2005* ”;

(b) after the definition of “land tax Act” by inserting the  
following definition —

10 “  
“**local planning scheme**” has the meaning given to that  
term in the *Planning and Development Act 2005*  
section 4;

”;

15 (c) by deleting the definition of “town planning scheme”.

(5) The Glossary clause 3(1) is amended as follows:

(a) in paragraph (a) by deleting “section 20(2) of the *Town  
Planning and Development Act 1928*” and inserting  
instead —

20 “  
section 135 of the *Planning and Development  
Act 2005*

”;

(b) in paragraph (b) —

25 (i) by deleting “section 21(1)(a)” and inserting  
instead —

“ section 147(1) ”; and

(ii) by deleting “section 21(2)” and inserting instead —

“ section 147(2) ”;

(c) by deleting paragraph (c) and inserting instead —

“

(c) on an application for review under section 251  
of that Act, the State Administrative Tribunal  
gives an approval referred to in paragraph (a) or  
(b);

”.

(6) The Glossary clause 4 is amended by deleting “town” and inserting  
instead —

“ local ”.

**36. *Liquor Licensing Act 1988***

(1) Section 40(1) is amended by deleting “town”.

(2) Section 40(3) is amended by deleting “town”.

**37. *Local Government Act 1995***

(1) Section 1.4 is amended in the definition of “metropolitan area” by  
deleting “section 6 of the *Metropolitan Region Town Planning  
Scheme Act 1959*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

(2) Section 6.33(1)(a) is deleted and the following paragraph is inserted  
instead —

“

(a) the purpose for which the land is zoned under a  
local planning scheme in force under the  
*Planning and Development Act 2005*;

”.

**38. *Marine and Harbours Act 1981***

Section 12(3) is amended by deleting “made under the *Metropolitan  
Region Town Planning Scheme Act 1959*” and inserting instead —

“

as that term is defined in the *Planning and  
Development Act 2005*

”.

**cl. 39**

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**39.      *Metropolitan Region Scheme (Fremantle) Act 1994***

- (1) Section 3 is amended by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —
- “ the *Planning and Development Act 2005* ”.
- 5      (2) Section 5(2) is amended by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —
- “ the *Planning and Development Act 2005* ”.

**40.      *Midland Redevelopment Act 1999***

- (1) Section 3 is amended as follows:
- 10      (a) in the definition of “development” by deleting “Town Planning Act” and inserting instead —
- “ *Planning and Development Act 2005* ”;
- (b) in the definition of “Metropolitan Region Scheme” by deleting “Metropolitan Scheme Act” and inserting instead —
- 15      “ *Planning and Development Act 2005* ”;
- (c) by deleting the definitions of “Metropolitan Scheme Act” and “Town Planning Act”;
- (d) by deleting the semicolon at the end of the definition of “temporary member” and inserting a full stop instead.
- 20      (2) Section 5(4)(a) is amended by deleting “town” and inserting instead —
- “ local ”.
- (3) Section 20(7) is amended as follows:
- 25      (a) by deleting “section 20 of the Town Planning Act” and inserting instead —
- “
- sections 135 and 136 of the *Planning and Development Act 2005*
- ”;



- (b) in paragraph (c) by deleting “section 21 of the Town Planning Act” and inserting instead —

“

section 147 of the *Planning and Development Act 2005*

”.

- (4) Section 27(2)(b) is amended by deleting “Town Planning Act” and inserting instead —

“ *Planning and Development Act 2005* ”.

- (5) Section 31 is amended by deleting “a town planning scheme under the Town Planning Act.” and inserting instead —

“

a local planning scheme under the *Planning and Development Act 2005*.

”.

- (6) Section 45(3) is amended in the definition of “planning scheme” as follows:

- (a) by deleting “Town Planning Act” and inserting instead —

“ *Town Planning and Development Act 1928* ”;

- (b) by deleting “and” after paragraph (a);

- (c) by inserting after paragraph (a) —

“

(aa) any local planning scheme under the *Planning and Development Act 2005* that is in operation in the redevelopment area immediately before the appointed day; and

”.

- (7) Section 52(1) is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

**cl. 40**

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- (8) Section 54(2) is amended by deleting “Part V of the Town Planning Act” and inserting instead —
- “ Part 14 of the *Planning and Development Act 2005* ”.
- (9) Section 56(1) and (2) are repealed and the following subsection is  
5 inserted instead —
- “
- (1) Part 11 Divisions 1 and 2 of the *Planning and  
Development Act 2005*, and sections 184(3) and (4),  
10 187 and 188 of that Act, apply with all necessary  
changes to land in the redevelopment area as if —
- (a) the redevelopment scheme were a planning  
scheme under that Act;
- (b) the Authority were a responsible authority  
under that Act; and
- 15 (c) in the case of land reserved, zoned or classified  
under the redevelopment scheme for a public  
purpose, the land were reserved for a public  
purpose under a planning scheme.
- ”.
- 20 (10) Section 56(3) is amended by deleting “an Act as applied by  
subsection (1) or (2)” and inserting instead —
- “
- the *Planning and Development Act 2005* as applied by  
subsection (1)
- 25 ”.
- (11) Section 65 is amended as follows:
- (a) by deleting “Section 33 of the Town Planning Act” and  
inserting instead —
- “
- 30 Section 132 of the *Planning and Development  
Act 2005*
- ”;

- (b) in paragraph (a) by deleting “an approved scheme” and inserting instead —  
“ a planning scheme ”.

**41. Mines Safety and Inspection Act 1994**

- 5 Section 15D(1) is amended in paragraph (a)(ii) of the definition of “residential premises” by deleting “section 6 of the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —  
“ the *Planning and Development Act 2005* ”.

**42. Mining Act 1978**

- 10 (1) Section 120(1) is amended as follows:
  - (a) by deleting “town planning scheme in force under the *Town Planning and Development Act 1928* or local laws in force under the *Local Government Act 1995*” and inserting instead —  
15 “  
planning scheme in force under the *Planning and Development Act 2005*  
”;
  - (b) by deleting “or local laws” in the second place where it  
20 occurs.
- (2) Section 120(2) is amended as follows:
  - (a) by deleting “the *Town Planning and Development Act 1928*” in both places where it occurs and inserting instead —  
“ the *Planning and Development Act 2005* ”;
  - 25 (b) in paragraph (b) —
    - (i) by inserting after “local government” —  
“  
or the Western Australian Planning  
Commission  
30 ”; and
    - (ii) by deleting “town planning scheme or local laws” and inserting instead —  
“ planning scheme ”.

**43. *Motor Vehicle Dealers Act 1973***

- 44. *Motor Vehicle Repairers Act 2003***

- 45. Occupational Safety and Health Act 1984**

46. *Perth Parking Management Act 1999*

- 47. *Petroleum Pipelines Act 1969***

25 “ any planning scheme under the *Planning and Development Act 2005* ”

“

## 5

”

## 10

- “

- 15

”

- “

- 20

”

- 25

“

”

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**cl. 50**

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**50.      *Port Kennedy Development Agreement Act 1992***

Section 9(1) is amended in the definition of “Metropolitan Region Scheme” by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —

5                    “    the *Planning and Development Act 2005*    ”.

**51.      *Property Law Act 1969***

(1)    Section 122(6) is amended by deleting “the *Western Australian Planning Commission Act 1985*” and inserting instead —

                    “    the *Planning and Development Act 2005*    ”.

10          (2)    Section 123(8) is amended by deleting “the *Western Australian Planning Commission Act 1985*” and inserting instead —

                    “    the *Planning and Development Act 2005*    ”.

**52.      *Racing and Wagering Western Australia Act 2003***

(1)    Section 3(1) is amended as follows:

- 15                    (a)    by deleting the definition of “country”;
- (b)    by deleting the definition of “metropolitan area” and inserting instead —

                    “

**“metropolitan region”** has the meaning given to that

20                                      term in the *Planning and Development Act 2005*

                                    section 4;

                                    ”.

(2)    Section 68(2)(b)(ii) is amended by deleting “area” in both places where it occurs and inserting instead —

25                    “    region    ”.

(3)    Section 77(2)(c)(ii) is amended by deleting “area” in both places where it occurs and inserting instead —

                    “    region    ”.

30          (4)    Section 105(3)(a) is amended by deleting “area” and inserting instead —

                    “    region    ”.

- (5) Section 105(4)(a) is amended by deleting “area” and inserting instead —

“ region ”.

**53. Racing Restriction Act 2003**

- 5 (1) Section 3(1) is amended by deleting the definition of “metropolitan area” and inserting instead —

“

“**metropolitan region**” has the meaning given to that term in the *Planning and Development Act 2005* section 4;

10

”.

- (2) Section 13(1) is amended by deleting “area” in the 3 places where it occurs and inserting instead —

“ region ”.

15

- (3) Section 13(2) is amended by deleting “area” in the 3 places where it occurs and inserting instead —

“ region ”.

- (4) Section 14(1) is amended by deleting “area” in the 3 places where it occurs and inserting instead —

20

“ region ”.

**54. Rail Freight System Act 2000**

- (1) The long title is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —

“ **the *Planning and Development Act 2005*** ”.

25

- (2) The heading to Part 5 Division 7 is amended by deleting “*Town Planning and Development Act 1928*” and inserting instead —

“ ***Planning and Development Act 2005*** ”.

**cl. 55**

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- (3) Section 105 is amended by deleting “Section 20(1) of the *Town Planning and Development Act 1928* does” and inserting instead —

“

Sections 135 and 136 of the *Planning and  
Development Act 2005* do

”.

**55.      *Road Safety Council Act 2002***

- (1) Section 6(1)(k) is amended by deleting “*Western Australian Planning Commission Act 1985*” and inserting instead —

“    *Planning and Development Act 2005*    ”.

- (2) Section 6(6) is amended by deleting “*Western Australian Planning Commission Act 1985*” and inserting instead —

“    *Planning and Development Act 2005*    ”.

**56.      *Sale of Land Act 1970***

- (1) Section 11 is amended in the definition of “lot” by deleting “section 2 of the *Town Planning and Development Act 1928*” and inserting instead —

“    the *Planning and Development Act 2005*    ”.

- (2) Section 16 is amended by deleting “town planning scheme, or any by-law relating to town planning, in force under the *Town Planning and Development Act 1928*” and inserting instead —

“

local planning scheme, or any local law relating to  
planning, in force under the *Planning and Development  
Act 2005*

”.

**57.      *Settlement Agents Act 1981***

Section 46(2)(a) is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —

“    the *Planning and Development Act 2005*    ”.



**58.      *Silicon (Kemerton) Agreement Act 1987***

Section 4B is repealed and the following section is inserted instead —

“

**4B.      *Planning laws modified***

5

Despite anything in the *Planning and Development Act 2005*, planning schemes prepared under that Act do not apply to or in relation to the silicon plant site.

”.

**59.      *Small Business Development Corporation Act 1983***

10

Section 5(1a) is amended in the definition of “metropolitan region” by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

**60.      *Small Claims Tribunals Act 1974***

15

Section 4(1) is amended in the definition of “metropolitan region” by deleting “section 2 of the *Town Planning and Development Act 1928*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

**61.      *Soil and Land Conservation Act 1945***

20

The Schedule is amended by deleting “*Town Planning and Development Act 1928*” and inserting instead —

“ *Planning and Development Act 2005* ”.

**62.      *Stamp Act 1921***

25

- (1) The Second Schedule item 5(1) is amended by deleting “a town planning scheme, including the Metropolitan Region Scheme” and inserting instead —

“ a planning scheme ”.

**cl. 63**

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- (2) The Second Schedule item 5(2) is deleted and the following subitem is inserted instead —

“

- (2) Expressions used in this item have the same meaning as they have in the *Planning and Development Act 2005*.

”.

5      **63.      *Strata Titles Act 1985***

- (1) Section 3(1) is amended in the definition of “Commission” by deleting “the *Western Australian Planning Commission Act 1985*,” and inserting instead —

“ the *Planning and Development Act 2005*; ”.

- 10      (2) Section 21U(3) is amended by deleting “town planning scheme in force under the *Town Planning and Development Act 1928*” and inserting instead —

“

15                      local planning scheme in force under the *Planning and Development Act 2005*

”.

- (3) Section 21U(5) is amended by deleting “town” and inserting instead —

“ local ”.

- 20      (4) Section 23(2) is amended as follows:

- (a) in paragraph (a) by deleting “town planning scheme prepared or adopted by the local government under the *Town Planning and Development Act 1928*” and inserting instead —

“

25                      local planning scheme in force under the *Planning and Development Act 2005*

”;

- (b) in paragraph (b) by deleting “town” and inserting instead —  
“ local ”.
- (5) Section 24(2) is amended by deleting “town” and inserting instead —  
“ local ”.
- 5 (6) Section 25(5) is amended by deleting “sections 20 and 21 of the *Town Planning and Development Act 1928*” and inserting instead —  
“  
sections 135, 136, 146 and 147 of the *Planning and Development Act 2005*  
10 ”.
- (7) Section 25A(1) is amended as follows:  
(a) by deleting “section 24 of the *Town Planning and Development Act 1928*” and inserting instead —  
“  
15 sections 142, 143 and 144 of the *Planning and Development Act 2005*, and section 151 of that Act applies,  
”;
- (b) by deleting “Part III of”.
- 20 (8) Section 25B(1) is amended by deleting “Part III of the *Town Planning and Development Act 1928*, other than section 20(1)(b),” and inserting instead —  
“  
25 Divisions 1, 2 (other than section 141) and 3 of Part 10 of the *Planning and Development Act 2005*, and section 166 of that Act,  
”.
- (9) Section 25B(3) is amended by deleting “section 26 of the *Town Planning and Development Act 1928*” and inserting instead —  
30 “ section 251 of the *Planning and Development Act 2005* ”.

**cl. 63**

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(10) Section 26(1) is amended as follows:

(a) in paragraph (e) by deleting “town planning scheme prepared or adopted by the local government under the *Town Planning and Development Act 1928*” and inserting instead —

5

“

local planning scheme in force under the  
*Planning and Development Act 2005*

”;

(b) in paragraph (f) by deleting “town” and inserting instead —

10

“ local ”.

(11) Section 26(5) is amended by deleting “Part V of the *Town Planning and Development Act 1928*” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

(12) Section 27(3) is amended by deleting “Part V of the *Town Planning and Development Act 1928*” and inserting instead —

15

“ Part 14 of the *Planning and Development Act 2005* ”.

(13) Section 31F(2)(e) is amended by deleting “town planning scheme in force under the *Town Planning and Development Act 1928*” and inserting instead —

20

“

local planning scheme in force under the  
*Planning and Development Act 2005*

”.

(14) Section 31F(4) is amended by deleting “town” and inserting instead —

25

“ local ”.

(15) Section 65(1)(c) is amended by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

- (16) Section 65(2) is amended by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

- (17) Section 65A(1) is amended by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

**64. Subiaco Redevelopment Act 1994**

- (1) Section 3 is amended as follows:

- (a) in the definition of “development” by deleting “Town Planning Act” and inserting instead —

“ *Planning and Development Act 2005* ”;

- (b) in the definition of “Metropolitan Region Scheme” by deleting “Metropolitan Scheme Act” and inserting instead —

“ *Planning and Development Act 2005* ”;

- (c) by deleting the definitions of “Metropolitan Scheme Act” and “Town Planning Act”.

- (2) Section 5(4)(a) is amended by deleting “town” and inserting instead —

“ local ”.

- (3) Section 21(7) is amended as follows:

- (a) by deleting “section 20 of the Town Planning Act” and inserting instead —

“

sections 135 and 136 of the *Planning and Development Act 2005*

”;

- (b) in paragraphs (a) and (b) by deleting “State Planning Commission” in both places where it occurs and inserting instead —

“ Western Australian Planning Commission ”;

**cl. 64**

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- (c) in paragraph (c) by deleting “section 21 of the Town Planning Act” and inserting instead —
- “
- 5                                      section 147 of the *Planning and Development Act 2005*
- ”.
- (4) Section 28(2)(c) is amended by deleting “Town Planning Act” and inserting instead —
- “ *Planning and Development Act 2005* ”.
- 10        (5) Section 32 is amended by deleting “a town planning scheme under the Town Planning Act” and inserting instead —
- “
- 15                                      a local planning scheme under the *Planning and Development Act 2005*
- ”.
- (6) Section 33(3)(a) is amended by deleting “State Planning Commission” and inserting instead —
- “ Western Australian Planning Commission ”.
- (7) Section 45(3)(a) is amended as follows:
- 20            (a) by deleting “and” after paragraph (a);
- (b) by inserting after paragraph (a) —
- “
- 25                                      (aa) any local planning scheme under the *Planning and Development Act 2005* that is in operation in the redevelopment area immediately before the appointed day; and
- ”.
- (8) Section 52(1) is amended by deleting “Part V of the Town Planning Act” and inserting instead —
- 30            “ Part 14 of the *Planning and Development Act 2005* ”.

- (9) Section 54(2) is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

- (10) Section 55(1) and (2) are repealed and the following subsection is inserted instead —

“

- (1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2005*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

(a) the redevelopment scheme were a planning scheme under that Act;

(b) the Authority were a responsible authority under that Act; and

(c) in the case of land reserved, zoned or classified under the redevelopment scheme for a public purpose, the land were reserved for a public purpose under a planning scheme.

”.

- (11) Section 55(3) is amended by deleting “an Act as applied by subsection (1) or (2)” and inserting instead —

“

the *Planning and Development Act 2005* as applied by subsection (1)

”.

- (12) Section 63 is amended as follows:

- (a) by deleting “Section 33 of the Town Planning Act” and inserting instead —

“

Section 132 of the *Planning and Development Act 2005*

”;

**cl. 65**

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- (b) in paragraph (a) by deleting “an approved scheme” and inserting instead —  
“ a planning scheme ”.

**65.      *Swan River Trust Act 1988***

- 5      (1) Section 3 is amended as follows:
  - (a) by deleting the definition of “Metropolitan Scheme Act”;
  - (b) in the definitions of “Metropolitan Region Scheme” and “Minister for Planning” by deleting “Metropolitan Scheme Act” and inserting instead —  
10      “ *Planning and Development Act 2005* ”;
  - (c) in the definition of “Western Australian Planning Commission” by deleting “by section 4(1) of the *Western Australian Planning Commission Act 1985*.” and inserting instead —  
15      “ under the *Planning and Development Act 2005*. ”.
- (2) Section 7(1)(f) is amended by deleting “statements of planning policy” and inserting instead —  
“ State planning policies ”.
- 20      (3) Section 12(1)(c) is deleted and the following paragraph is inserted instead —  
“
  - 25      (c) the holder of such office in the Western Australian Planning Commission as the Minister for Planning may from time to time nominate;”.
- (4) Section 47 is amended by deleting the definition of “Minister for Planning”.



- (5) Section 63(2) is amended by deleting “section 36(3)(b) of the Metropolitan Scheme Act” and inserting instead —

“

section 177(1)(b) of the *Planning and Development Act 2005*

”.

- (6) Section 63(4) is amended by deleting “section 36(3)(a) of the Metropolitan Scheme Act” and inserting instead —

“

section 177(1)(a) of the *Planning and Development Act 2005*

”.

- (7) Section 63(8) is amended by deleting “Section 36(2)(b), (2a), (2b), (7) and (8) of the Metropolitan Scheme Act” and inserting instead —

“

Sections 180, 187 and 188 of the *Planning and Development Act 2005*

”.

**66.      *Swan Valley Planning Act 1995***

- (1) Section 3 is amended as follows:

- (a) in the definition of “Commission” by deleting “by section 4(1) of the *Western Australian Planning Commission Act 1985*,” and inserting instead —

“ under the *Planning and Development Act 2005*; ”;

- (b) by deleting the definition of “Shire town planning scheme”;

- (c) after the definition of “land” by inserting —

“

**“local planning scheme”** means the local planning scheme for the time being in force under the *Planning and Development Act 2005* for the local government district of Swan;

”.

**cl. 66**

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- (2) Section 13(1)(a) is deleted and the following paragraph is inserted instead —
- “
- (a) to provide advice in accordance with —
- 5            (i) section 15(2);
- (ii) sections 40, 47, 78 and 134 of the  
                 *Planning and Development Act 2005*;  
                 and
- 10            (iii) clause 30B of the Metropolitan Region  
                 Scheme as defined in the *Planning and  
                 Development Act 2005*;
- ”.
- (3) Section 15(1) is amended by deleting “Shire town planning scheme” and inserting instead —
- 15            “ local planning scheme ”.
- (4) Section 15(6) is amended by deleting “Shire town planning scheme” and inserting instead —
- “ local planning scheme ”.
- (5) Section 17(2) is amended by deleting “*Town Planning and  
20            Development Act 1928*” and inserting instead —
- “ *Planning and Development Act 2005* ”.
- (6) Section 23(1) is amended by deleting “Shire town planning scheme” and inserting instead —
- “ local planning scheme ”.

- (7) Section 23(2) is repealed and the following subsection is inserted instead —

“

- (2) For the purposes of ensuring that subsection (1) is complied with the Minister may exercise the powers in section 212 of the *Planning and Development Act 2005* as if —

- (a) subsection (1) of this section were the relevant provision referred to in section 212(1) of that Act; and
- (b) references to a local planning scheme were references to an amendment to the local planning scheme referred to in subsection (1) of this section,

and section 213 of the *Planning and Development Act 2005* applies accordingly.

”.

**67. Taxation Administration Act 2003**

After section 3(1)(g) the following paragraph is inserted —

“

- (ga) section 200 of the *Planning and Development Act 2005*;

”.

**68. Transfer of Land Act 1893**

- (1) Section 4(1) is amended by deleting the definition of “Metropolitan region” and inserting instead —

“

“**Metropolitan region**” has the meaning given to that term in the *Planning and Development Act 2005* section 4;

”.

- (2) Section 166(3) is amended by deleting “section 295 of the *Local Government (Miscellaneous Provisions) Act 1960* and to section 20(2)

**cl. 69**

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of the *Town Planning and Development Act 1928*” and inserting  
instead —

“

section 146(1) of the *Planning and Development  
Act 2005*

”.

- (3) Section 167A(2)(a) is amended by inserting after “*Town Planning and  
Development Act 1928*” —

“

or section 152 of the *Planning and  
Development Act 2005*

”.

**69.      *Tree Plantation Agreements Act 2003***

- (1) Section 6(5) is amended by deleting “section 20 of the *Town Planning  
and Development Act 1928*” and inserting instead —

“

section 135 or 136 of the *Planning and Development  
Act 2005*

”.

- (2) Section 10(2) is amended by deleting “section 20 of the *Town  
Planning and Development Act 1928*” and inserting instead —

“

section 135 or 136 of the *Planning and Development  
Act 2005*

”.

**70.      *Water Agencies (Powers) Act 1984***

- (1) Section 38(1) is amended by deleting “town planning scheme has  
been or is made under the *Town Planning and Development  
Act 1928*” and inserting instead —

“

local planning scheme is in force under the *Planning  
and Development Act 2005*

”.

(2) Section 65(a) is amended as follows:

(a) in the definition of “development” by deleting “*Town Planning and Development Act 1928*” and inserting instead —

5 “ *Planning and Development Act 2005* ”;

(b) in paragraph (a) of the definition of “planning condition” by deleting “Part III of the *Town Planning and Development Act 1928*” and inserting instead —

10 “  
Part 10 of the *Planning and Development Act 2005*  
”.

(3) Section 67(4) is amended by deleting “Part III of the *Town Planning and Development Act 1928*” and inserting instead —

15 “ Part 10 of the *Planning and Development Act 2005* ”.

(4) Section 67(7) is amended by deleting “*Town Planning and Development Act 1928*” and inserting instead —

“ *Planning and Development Act 2005* ”.

20 (5) Section 79 is amended by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

“  
section 135 of the *Planning and Development Act 2005*  
”.

**71. *Water Services Licensing Act 1995***

25 Schedule 2 Part 1 is amended by deleting “*Town Planning and Development Act 1928*”, “s. 20D(a)(ii)” and “s. 27A(1)(b)(ii)” and inserting instead —

“  
30 *Planning and Development Act 2005*  
s. 157(1)(a)(ii)  
s. 167(2)(b)(ii)  
”.

**cl. 72**

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**72.      *Waterways Conservation Act 1976***

Section 36(1) is amended as follows:

(a) by deleting paragraph (a) and inserting instead —

“

5                    (a) the Minister to whom the Governor has for the  
time being committed the administration of the  
*Planning and Development Act 2005*;

”;

10                  (b) in paragraph (b) by deleting “the *Western Australian  
Planning Commission Act 1985*,” and inserting instead —

“ the *Planning and Development Act 2005*; ”;

(c) in paragraph (d) by deleting “*Town Planning and  
Development Act 1928*” and inserting instead —

“ *Planning and Development Act 2005* ”;

15                  (d) by deleting paragraph (f)(i) and inserting instead the  
following subparagraph —

“

(i) a local planning scheme;

”.

20

=====