



Western Australia

Planning and Development Act 2005

## **Planning and Development (Significant Development) Regulations 2024**



# Planning and Development (Significant Development) Regulations 2024

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**Defined terms**

## Planning and Development (Significant Development) Regulations 2024

Made by the Governor in Executive Council.

### Part 1 — Preliminary

#### 1. Citation

These regulations are the *Planning and Development (Significant Development) Regulations 2024*.

#### 2. Commencement

These regulations come into operation on 1 March 2024.

#### 3. Terms used

(1) In these regulations —

***appropriate design reviewer*** means a committee, person or body of a kind referred to in paragraph (a) or (b) of the definition of ***design review*** in section 171H(1) of the Act;

***excluded holiday period day*** means a day that is in —

- (a) a period beginning on 25 December in a year and ending on the next 1 January; or
- (b) a period of 7 days beginning on Good Friday in a year.

(2) If a term used in these regulations is given a meaning in section 171H(1) of the Act, it has the same meaning in these regulations.

**4. Excluded holiday period days not counted in time periods**

For the purposes of these regulations, an excluded holiday period day is not counted in calculating a period of time that is expressed as a number of days.

**5. Prescribed significant development (s. 171I(1))**

For the purposes of section 171I(1) of the Act, development is *prescribed significant development* if the estimated cost of the development is —

- (a) for development in an area to which the Metropolitan Region Scheme, the Peel Region Scheme or the Swan Valley Planning Scheme applies — \$20 million or more;  
or
- (b) otherwise — \$5 million or more.

## **Part 2 — Making significant development applications**

### **6. Requirements before making application**

- (1) Before making a significant development application, the prospective applicant must —
  - (a) consult with the Commission about the application; and
  - (b) if required to do so by the Commission — request an appropriate design reviewer nominated by the Commission to conduct a design review of the development to which the application relates.
- (2) The Commission may specify requirements as to the following —
  - (a) the matters to be considered as part of a design review referred to in subregulation (1)(b);
  - (b) the form of a report on a design review referred to in subregulation (1)(b).

### **7. Application must be signed by owner of land (s. 171N(1)(a)(i))**

- (1) For the purposes of section 171N(1)(a)(i) of the Act, a significant development application must be signed by the owner of the land on which the proposed development is located.
- (2) For the purposes of subregulation (1), a person or body may sign a significant development application as the owner of freehold land only if the person or body is 1 of the following —
  - (a) a person who is the owner (as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 1) of the land;
  - (b) a strata company that —
    - (i) is authorised to make an application for development approval in respect of the land

under scheme by-laws registered under the *Strata Titles Act 1985*; and

- (ii) if the land is held under a leasehold scheme —  
has the written consent of the owner of the  
leasehold scheme to make the application;
- (c) a community corporation for a community titles scheme  
that is authorised to make an application for  
development approval in respect of the land under  
scheme by-laws registered for the community titles  
scheme under the *Community Titles Act 2018*;
- (d) a person who is authorised under another written law to  
make an application for development approval in respect  
of the land;
- (e) an agent of a person referred to in paragraph (a).

Note for this subregulation:

Section 267A of the Act makes provision for the signing of documents  
by the owner of Crown land or freehold land in the name of the State.

- (3) If a term used in subregulation (2)(b) is given a meaning in the  
*Strata Titles Act 1985* section 3(1), it has the same meaning in  
that subregulation.
- (4) If a term used in subregulation (2)(c) is given a meaning in the  
*Community Titles Act 2018* section 3(1), it has the same  
meaning in that subregulation.



## **Part 3 — Procedures for dealing with significant development applications**

### **8. Purpose of Part**

This Part makes provision under section 171ZD(2)(c) of the Act for procedures for dealing with significant development applications.

Note for this regulation:

Section 171Q of the Act applies in relation to the regulations in this Part.

### **9. Action by Commission on receipt of application**

(1) On receipt of a significant development application, the Commission must —

- (a) consider whether the application (including any documents or information required by the Commission to be included in the application) complies with these regulations and the requirements imposed by the Commission under section 171N(1) of the Act; and
- (b) within 7 days after the day on which the application is received, advise the applicant by written notice —
  - (i) if the Commission is satisfied that the application (including any documents or information required by the Commission to be included in the application) complies with these regulations and the requirements imposed by the Commission under section 171N(1) of the Act — that the application has been accepted for assessment; or
  - (ii) otherwise — that the applicant must amend the application (including by providing further documents or information for inclusion in the application) before the application can be accepted for assessment.

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- (2) If the Commission does not give advice under subregulation (1)(b) within the 7-day period referred to in that subregulation, the significant development application is taken to be accepted for assessment on the day after the end of that period.
- (3) If the Commission gives advice under subregulation (1)(b)(ii) and the applicant amends the significant development application as required, this regulation applies again in respect of the application as amended as if references to the receipt of the application were to the receipt of the amended application.

**10. Commission may request additional documents or information**

- (1) If a significant development application has been accepted for assessment, the Commission may, by written notice given to the applicant, request the applicant to provide any further documents or information that the Commission reasonably requires to determine the application.
- (2) A request under subregulation (1) may be made whether or not the Commission gave the applicant advice under regulation 9(1)(b)(ii) in relation to the application before it was accepted for assessment.
- (3) A request under subregulation (1) must state the period within which the further documents or information must be provided, which must be a period of at least 21 days after the day on which the request is made.
- (4) The Commission and the applicant may agree on a longer period within which the further documents or information must be provided.
- (5) The Commission may make more than 1 request under subregulation (1).

**11. Applicant may agree to or refuse request for additional documents or information**

- (1) If a request under regulation 10(1) is made to the applicant in relation to a significant development application, the applicant may agree to or refuse the request by written notice given to the Commission within 7 days after the day on which the request is made.
- (2) If the applicant does not agree to or refuse the request within the 7-day period referred to in subregulation (1), the applicant is taken to have refused the request.
- (3) If an applicant agrees to a request under regulation 10(1), the period set out in subregulation (4) is not to be counted for the purposes of calculating the period of time within which the significant development application must be determined under section 171T(1) of the Act and regulation 16.
- (4) For the purposes of subregulation (3), the period —
  - (a) begins on the day on which the applicant agrees to the request; and
  - (b) ends on the earlier of the following —
    - (i) the day on which the applicant gives the documents or information specified in the request to the Commission;
    - (ii) the last day of the period stated in the notice of request under regulation 10(3) (or, if the Commission and the applicant have agreed a longer period under regulation 10(4), the last day of that longer period).
- (5) If an applicant refuses a request under regulation 10(1) —
  - (a) the Commission must not refuse to determine the significant development application merely because the applicant has refused the request; and

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- (b) the making of the request does not affect the calculation of the period of time within which the significant development application must be determined under section 171T(1) of the Act and regulation 16.

**12. Commission may request design review of development**

- (1) For the purposes of the Commission's consideration of a significant development application under section 171P(1) of the Act, the Commission may, at any time after the application is made, request an appropriate design reviewer to conduct a design review of the development to which the application relates.
- (2) The Commission may specify requirements as to the following —
  - (a) the matters to be considered as part of a design review referred to in subregulation (1);
  - (b) the form of a report on a design review referred to in subregulation (1).

**13. Required consultation and advertising**

- (1) This regulation applies for the purposes of the Commission's consideration of a significant development application under section 171P(1) of the Act.
- (2) The Commission must —
  - (a) consult the Minister; and
  - (b) if required by the Minister — give the Minister a reasonable opportunity to make submissions to the Commission; and
  - (c) have due regard to any submissions made by the Minister.

(3) The Commission must —

- (a) consult the Heritage Council if the development would, or would be likely to, affect any of the following —
  - (i) a place that is a registered place under the *Heritage Act 2018*;
  - (ii) a place that is the subject of a protection order under the *Heritage Act 2018* Part 4 Division 1;
  - (iii) a place that is the subject of a heritage agreement made by the Heritage Council under the *Heritage Act 2018* Part 7;

and

- (b) consult the Swan River Trust if the development —
  - (i) is of land that is partly in the development control area as defined in the *Swan and Canning Rivers Management Act 2006* section 3(1); or
  - (ii) is of land that abuts that development control area; or
  - (iii) would, or would be likely to, affect any waters in that development control area;

and

- (c) have due regard to any submission made, or advice given, to the Commission in the course of a consultation under paragraph (a) or (b).

(4) The Commission must —

- (a) give any local government to the district of which the significant development application relates an opportunity to make submissions to the Commission within a period specified by the Commission; and
- (b) have due regard to any submissions made by the local government within that period.

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- (5) The Commission must —
  - (a) in the manner the Commission considers appropriate, advertise the significant development application, inviting submissions from members of the public generally or from a class or group of members of the public that the Commission considers appropriate; and
  - (b) specify a period within which members of the public may make submissions in response to the invitation under paragraph (a); and
  - (c) have due regard to any submissions made by members of the public in response to the invitation under paragraph (a) within the specified period.
- (6) If a local government or member of the public does not make any submission within the period specified under subregulation (4)(a) or (5)(b) (as the case requires), the Commission may proceed on the basis that the local government or member of the public does not have any submission to make.

**14. Other consultation and input**

- (1) For the purposes of the Commission's consideration of a significant development application under section 171P(1) of the Act, the Commission may —
  - (a) consult any person or body not referred to in regulation 13(2) to (4) whom the Commission considers it appropriate to consult; and
  - (b) do anything else that is not covered by regulation 13(2) to (5) that the Commission considers it appropriate to do in order to obtain a document, information, an opinion or any other contribution from any person or body.
- (2) If the Commission does anything under subregulation (1) —
  - (a) the Commission must, as it considers appropriate, specify a period within which, as the case requires —

- (i) a person or body who is being consulted by the Commission may respond to the Commission on any matter; or
  - (ii) a person or body may provide any document, information, opinion or other contribution;
- and
- (b) if the person or body does not respond, or provide the document, information, opinion or other contribution, within the specified period, the Commission may proceed on the basis that the person or body does not have any response, document, information, opinion or other contribution (as the case requires) to give.

**15. Applicant may be required to pay costs of advertising or erect signs**

- (1) The Commission may require the costs of the Commission advertising a significant development application under regulation 13(5)(a) to be paid by the applicant.
- (2) If the Commission decides to advertise a significant development application under regulation 13(5)(a) in a manner that involves the erection of signs giving notice of the development, the Commission may, instead of erecting those signs, require the applicant to erect those signs.

## **Part 4 — Other matters**

### **16.      Period within which application must be determined           (s. 171T(1))**

For the purposes of section 171T(1) of the Act, the Commission must determine a significant development application within —

- (a) 120 days after the day on which the application is accepted for assessment; or
- (b) a longer time agreed in writing between the applicant and the Commission.

### **17.      Application under s. 171X(2) for amendment or cancellation           of development approval**

- (1) Parts 2 and 3 and regulation 16 apply, with any necessary modifications, to an application under section 171X(2) of the Act as they apply to a significant development application.
- (2) Despite subregulation (1), if the Commission is of the opinion that the amendment to which an application under section 171X(2)(a), (b), (c) or (d) of the Act relates is a minor amendment —
  - (a) the Commission is not required to comply with any of the requirements of regulation 13 in relation to the application; but
  - (b) the Commission may, if the Commission considers it appropriate, do anything referred to in regulations 13 to 15 in relation to the application.



**18. Matters in relation to which meetings not required to be open to public (s. 171ZB(3))**

(1) For the purposes of section 171ZB(3) of the Act, the matters are as follows —

- (a) legal advice obtained, or which may be obtained, by the Commission and which relates to a matter to be discussed at the meeting;
- (b) a matter that, if disclosed, would reveal any of the following —
  - (i) a trade secret;
  - (ii) information that has a commercial value to a person;
  - (iii) information about the business, professional, commercial or financial affairs of a person;
- (c) a matter that, if disclosed, could be reasonably expected to —
  - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
  - (ii) endanger the security of the Commission's property; or
  - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.

(2) Subregulation (1)(b) does not apply to a trade secret that is held by, or information that is about, the Commission.

N. HAGLEY, Clerk of the Executive Council

Defined terms

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**Defined terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
appropriate design reviewer .....	3(1)
excluded holiday period day .....	3(1)
prescribed significant development .....	5

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Western Australia

Planning and Development Act 2005

# **Planning and Development (Planning Codes) Regulations 2024**



# **Planning and Development (Planning Codes) Regulations 2024**

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## **Planning and Development (Planning Codes) Regulations 2024**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations are the *Planning and Development (Planning Codes) Regulations 2024*.

#### **2. Commencement**

These regulations come into operation on 1 March 2024.

#### **3. Overview**

- (1) These regulations provide for matters relating to the preparation, advertising, approval, amendment and repeal of a planning code.
- (2) If the Commission prepares a proposed planning code under section 32A(1) of the Act, in order to be effective, the proposed planning code must —
  - (a) be advertised, for public inspection and public submissions, in accordance with Part 2 Division 2; and
  - (b) be approved by the Minister, and come into operation, in accordance with Part 2 Division 3.
- (3) The Commission may prepare a proposed amendment to a planning code under Part 2 Division 1.

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- (4) If the Commission prepares a proposed amendment, in order to be effective, the amendment must —
  - (a) if required — be advertised, for public inspection and public submissions, in accordance with Part 2 Division 2; and
  - (b) be approved by the Minister, and come into operation, in accordance with Part 2 Division 3.
- (5) A planning code may be repealed in accordance with Part 3.

**4. Terms used**

In these regulations —

***administrative amendment*** means a standard amendment to a planning code if —

- (a) the amendment is any of the following —
  - (i) an amendment to correct an administrative or minor error;
  - (ii) an amendment to correct an error that is in, or that otherwise relates to, a map, plan or diagram included in the planning code;
  - (iii) an amendment to ensure consistency between the planning code and a public planning document, subsidiary legislation or a policy document of a government agency;
  - (iv) an amendment that is otherwise administrative or minor in nature;

and

- (b) it is highly likely that the amendment will have no adverse effect in respect of —
  - (i) any land; or
  - (ii) any owner or occupier of any land;



***advertising period*** —

- (a) for a proposed planning code or proposed amendment that is required to be advertised under regulation 7 — means the advertising period that applies under regulation 8; or
- (b) for an instrument of repeal — means the advertising period that applies under regulation 20;

***approved amendment*** means an amendment to a planning code approved by the Minister under regulation 14(3)(a);

***approved planning code*** means a planning code approved by the Minister under regulation 14(3)(a);

***approved planning code or amendment*** means a planning code, or an amendment to a planning code, approved by the Minister under regulation 14(3)(a);

***Commission's website*** means a website maintained by, or on behalf of, the Commission;

***government agency*** means —

- (a) a department of the Public Service; or
- (b) a body, whether incorporated or not, or the holder of an office, post or position, being a body, office, post or position established or continued under a written law for a public purpose;

***instrument of repeal*** has the meaning given in regulation 18(1)(b);

***proposed administrative amendment*** means a proposed amendment that is an administrative amendment;

***proposed amendment*** means a proposed amendment to a planning code prepared by the Commission under regulation 5(1);

***proposed planning code*** means a proposed planning code prepared by the Commission under section 32A(1) of the Act;

***proposed standard amendment*** means a proposed amendment that is a standard amendment;

***proposed substantial amendment*** means a proposed amendment that is a substantial amendment;

***public planning document*** means —

- (a) a State planning policy; or
- (b) a planning code; or
- (c) a document (however named or described) prepared by the Commission under section 14(b) or (c) of the Act —
  - (i) that is available to the public; and
  - (ii) the preparation of which involved a public consultation;

***standard amendment*** means an amendment to a planning code that the Commission considers does not constitute a substantial alteration to the code;

***submission period*** —

- (a) for a proposed planning code or proposed amendment — has the meaning given in regulation 11(c); or
- (b) for an instrument of repeal — has the meaning given in regulation 22(c);

***substantial amendment*** means an amendment to a planning code that is not a standard amendment.

## **Part 2 — Planning codes and amendments to planning codes**

### **Division 1 — Preparation of amendments to planning codes**

#### **5. Preparation of amendment to planning code**

- (1) The Commission may, with the agreement or on the direction of the Minister, prepare a proposed amendment to a planning code.
- (2) Despite subregulation (1), the agreement or direction of the Minister is not required if the proposed amendment is a standard amendment.

#### **6. Matters to be taken into account when preparing proposed planning code or proposed amendment**

- (1) When preparing a proposed planning code or proposed amendment, the Commission must take into account the factors listed in subregulation (2) in relation to —
  - (a) the State; or
  - (b) the portion or portions of the State to which the proposed planning code or proposed amendment is to apply.
- (2) The factors are as follows —
  - (a) demographic, social and economic factors and influences;
  - (b) conservation of natural or cultural resources for social, economic, environmental, ecological and scientific purposes;
  - (c) characteristics of land;
  - (d) characteristics and disposition of land use;
  - (e) amenity, design and environment;
  - (f) communications;
  - (g) developmental requirements of public authorities;

- (h) risks associated with natural hazards and other hazards.

**Division 2 — Advertising planning codes and amendments that are not administrative amendments**

**7. Requirement to advertise**

- (1) The Commission must advertise the following, for public inspection and public submissions —
  - (a) a proposed planning code;
  - (b) a proposed substantial amendment;
  - (c) a proposed standard amendment (other than a proposed administrative amendment).
- (2) For the purposes of subregulation (1), the proposed planning code or proposed amendment must be advertised by publishing the following on the Commission's website for the whole of the advertising period —
  - (a) the advertisement prepared under regulation 10;
  - (b) a copy of the proposed planning code or proposed amendment;
  - (c) any other document that the Commission considers it is appropriate to publish.

**8. Advertising period**

- (1) The advertising period for a proposed planning code or proposed amendment required to be advertised under regulation 7 is —
    - (a) for a proposed planning code or a proposed substantial amendment —
      - (i) 90 days; or
      - (ii) a longer period that the Commission considers appropriate;
- or

- (b) for a proposed standard amendment (other than a proposed administrative amendment) — 60 days.
- (2) Despite subregulation (1)(b), the Commission may decide on a longer advertising period for a proposed standard amendment (other than a proposed administrative amendment) if the Commission considers that it is appropriate to do so in order to enable the proposed amendment to be advertised concurrently with any other document that is required to be advertised under the Act.

**9. Ministerial approval to advertise**

- (1) The Commission must, before advertising a proposed planning code or proposed substantial amendment under regulation 7 —
  - (a) submit the proposed planning code or proposed amendment to the Minister; and
  - (b) obtain the Minister's approval to advertise the proposed planning code or proposed amendment.
- (2) If a proposed planning code or proposed substantial amendment is submitted under subregulation (1)(a) or (5), the Minister may —
  - (a) approve the proposed planning code or proposed amendment for advertising; or
  - (b) require the Commission to modify the proposed planning code or proposed amendment; or
  - (c) refuse approval for the proposed planning code or proposed amendment to be advertised under regulation 7.
- (3) The Minister must give the Commission written notice of a decision under subregulation (2).

- (4) If the Minister requires the proposed planning code or proposed substantial amendment to be modified under subregulation (2)(b), the notice must describe the modification required.
- (5) If given a notice referred to in subregulation (4), the Commission must modify the proposed planning code or proposed substantial amendment as required and submit the modified proposed planning code or proposed substantial amendment to the Minister.

**10. Information to be advertised**

For the purposes of regulation 7, the Commission must prepare an advertisement, which must —

- (a) contain a statement of the purpose of the proposed planning code or proposed amendment; and
  - (b) if the advertisement relates to —
    - (i) a proposed planning code — specify if the proposed planning code repeals another planning code; or
    - (ii) a proposed standard amendment (other than a proposed administrative amendment) — contain a statement explaining why the Commission considers that the amendment is a standard amendment;
- and
- (c) list the documents related to the proposed planning code or proposed amendment published on the Commission's website under regulation 7(2)(b) and (c); and
  - (d) invite public submissions on the proposed planning code or proposed amendment in accordance with regulation 11; and

- (e) contain any other information that the Commission considers appropriate.

**11. Public submissions**

For the purposes of regulation 10(d), the invitation must —

- (a) provide that a submission may be made either electronically or in hard copy form; and
- (b) set out the way in which an electronic submission must be made and the way in which a hard copy submission must be made; and
- (c) set out the period (the *submission period*) during which a submission must be made, which must be the same period as the advertising period; and
- (d) set out any other requirements that the Commission considers appropriate and with which a submission must comply.

**12. Notice of proposal**

The Commission must, as early as practicable during the advertising period for a proposed planning code or proposed amendment advertised under regulation 7, give written notice of the advertisement prepared under regulation 10 to the following —

- (a) any local government the district of which the Commission considers is likely to be affected by the proposed planning code or proposed amendment;
- (b) any government agency, representative group or person that the Commission considers has an interest in the proposed planning code or proposed amendment.

**13. Consideration of submissions**

The Commission, in relation to a proposed planning code or proposed amendment that has been advertised under regulation 7 —

- (a) must consider all submissions that are made in response to the invitation under regulation 10(d) —
  - (i) during the submission period; and
  - (ii) in accordance with the requirements referred to in regulation 11(b) and (d); and
  - (iii) if the submissions relate to a proposed standard amendment — that are directed to the proposed amendment;
- and
- (b) may, if the Commission considers it appropriate to do so, consider a submission —
  - (i) that is made in response to the invitation under regulation 10(d); but
  - (ii) that the Commission is not required to consider under paragraph (a).

**Division 3 — Approval and publication of planning code or amendment**

**14. Minister's approval of proposed planning code or proposed amendment**

- (1) After the Commission has completed its consideration of submissions under regulation 13 in relation to a proposed planning code, a proposed substantial amendment or a proposed standard amendment (other than a proposed administrative amendment), the Commission must —
  - (a) make the modifications, if any, it considers appropriate to make to the proposed planning code or proposed



- amendment, including as a result of those submissions;  
and
- (b) submit the proposed planning code or proposed amendment to the Minister.
- (2) After preparing a proposed administrative amendment, the Commission must submit the proposed amendment to the Minister.
- (3) If a proposed planning code or proposed amendment is submitted to the Minister under subregulation (1)(b), (2), (6)(b)(iii) or (7)(c) the Minister may —
- (a) approve the proposed planning code or proposed amendment; or
- (b) require the Commission to modify the proposed planning code or proposed amendment; or
- (c) decide not to approve the proposed planning code or proposed amendment.
- (4) The Minister must give the Commission written notice of a decision under subregulation (3).
- (5) If the Minister requires a proposed planning code or proposed amendment to be modified under subregulation (3)(b), the notice under subregulation (4) —
- (a) must describe the modification required; and
- (b) in the case of a proposed planning code, a proposed substantial amendment or a proposed standard amendment that is not an administrative amendment — may include a requirement that the Commission advertise the modified proposed planning code or proposed amendment in the manner specified in the notice.

- (6) If given a notice referred to in subregulation (5), the Commission must —
- (a) modify the proposed planning code or proposed amendment as required; and
  - (b) do whichever of the following is applicable —
    - (i) if required to do so by the Minister under the notice — advertise the modified proposed planning code or proposed amendment in the manner required;
    - (ii) in the case of a proposed planning code, a proposed substantial amendment or a proposed standard amendment that is not an administrative amendment, if subparagraph (i) does not apply but the Commission considers that the modified proposed planning code or proposed amendment should be advertised — advertise the modified proposed planning code or proposed amendment in a manner that the Commission considers appropriate;
    - (iii) if subparagraphs (i) and (ii) do not apply — submit the modified proposed planning code or proposed amendment to the Minister.
- (7) If the modified proposed planning code or proposed amendment is advertised by the Commission under subregulation (6)(b)(i) or (ii), the Commission must —
- (a) consider any public submissions made on the modified proposed planning code or proposed amendment; and
  - (b) make the further modifications, if any, it considers appropriate to make to the modified proposed planning code or proposed amendment, including as a result of those submissions; and
  - (c) submit the modified proposed planning code or proposed amendment to the Minister.

**15. Documents to be published on Commission's website following approval of planning code or amendment**

As soon as practicable after an approved planning code or amendment is published in accordance with the *Interpretation Act 1984* section 41(1)(a), the Commission must publish the following on the Commission's website —

- (a) a notice that states when the approved planning code or amendment came or will come into operation in accordance with the *Interpretation Act 1984* section 41(1)(b);
- (b) as the case requires —
  - (i) a copy of the approved planning code; or
  - (ii) a copy of the planning code that is the subject of the approved amendment, updated to take account of the approved amendment;
- (c) any other information that the Commission considers appropriate.

**16. Notice of approved planning code or amendment**

- (1) As soon as practicable after an approved planning code or amendment is published in accordance with the *Interpretation Act 1984* section 41(1)(a), the Commission must cause notice of the approved planning code or amendment to be provided to the following —
  - (a) any body or person who was notified under regulation 12;
  - (b) any body or person who made a submission that was considered by the Commission under regulation 13.
- (2) A notice under subregulation (1) must state the following —
  - (a) when the approved planning code or amendment came or will come into operation in accordance with the *Interpretation Act 1984* section 41(1)(b);

- (b) that the following is published on the Commission's website, as the case requires —
  - (i) a copy of the approved planning code;
  - (ii) a copy of the planning code that is the subject of the approved amendment, updated to take account of the approved amendment.

**17. Publication of planning codes**

The Commission must ensure that a consolidated copy of each planning code that is in operation is published on the Commission's website.

## Part 3 — Repeal of planning codes

### Division 1 — Preliminary

#### 18. Repeal of planning code

- (1) A planning code may be repealed by —
  - (a) a new planning code that —
    - (i) comes into operation in accordance with the *Interpretation Act 1984* section 41(1)(b); and
    - (ii) expressly repeals the planning code;or
  - (b) an instrument (*instrument of repeal*) that —
    - (i) is prepared by the Commission with the agreement or on the direction of the Minister; and
    - (ii) is advertised in accordance with regulation 19; and
    - (iii) is approved by the Minister under regulation 25(2); and
    - (iv) comes into operation in accordance with the *Interpretation Act 1984* section 41(1)(b).
- (2) The repeal of a planning code takes effect —
  - (a) if the code is being repealed by a new planning code — on the day on which the provision of the new planning code that repeals the planning code comes into operation in accordance with the *Interpretation Act 1984* section 41(1)(b); or
  - (b) if the code is being repealed by an instrument of repeal — on the day on which the instrument of repeal comes into operation in accordance with the *Interpretation Act 1984* section 41(1)(b).

## **Division 2 — Advertising instrument of repeal**

### **19. Requirement to advertise instrument of repeal**

- (1) The Commission must advertise, for public inspection and public submissions, an instrument of repeal prepared under regulation 18(1)(b)(i).
- (2) For the purposes of subregulation (1), an instrument of repeal must be advertised by publishing the following on the Commission's website for the whole of the advertising period —
  - (a) the advertisement prepared under regulation 21;
  - (b) a copy of the instrument of repeal;
  - (c) a copy of the planning code proposed to be repealed;
  - (d) any other document that the Commission considers it is appropriate to publish.

### **20. Advertising period**

- (1) The advertising period for an instrument of repeal is 30 days.
- (2) Despite subregulation (1), the Commission may decide on a longer advertising period for an instrument of repeal if —
  - (a) the instrument of repeal is consequential on or connected with a proposed amendment; and
  - (b) the advertising period that applies to the proposed amendment is longer than 30 days; and
  - (c) the Commission considers that it is appropriate for the instrument of repeal and the proposed amendment to be advertised concurrently.

**21. Information to be advertised**

For the purposes of regulation 19, the Commission must prepare an advertisement, which must —

- (a) contain a statement as to why it is proposed to repeal the planning code identified in the instrument of repeal; and
- (b) list the documents related to the proposal to repeal the planning code published on the Commission's website under regulation 19(2)(b) to (d); and
- (c) invite public submissions on the proposal to repeal the planning code in accordance with regulation 22; and
- (d) contain any other information that the Commission considers appropriate.

**22. Public submissions**

For the purposes of regulation 21(c), the invitation must —

- (a) provide that a submission may be made either electronically or in hard copy form; and
- (b) set out the way in which an electronic submission must be made and the way in which a hard copy submission must be made; and
- (c) set out the period (the *submission period*) during which a submission must be made, which must be the same period as the advertising period; and
- (d) set out any other requirements that the Commission considers appropriate and with which a submission must comply.

**23. Notice of proposed repeal of planning code**

The Commission must, as early as practicable during the advertising period for an instrument of repeal, give written

notice of the advertisement prepared under regulation 21 to the following —

- (a) any local government the district of which the Commission considers is likely to be affected by the repeal of the planning code;
- (b) any government agency, representative group or person that the Commission considers has an interest in the repeal of the planning code.

**24. Consideration of submissions**

The Commission, in relation to an instrument of repeal —

- (a) must consider all submissions that are made in response to the invitation under regulation 21(c) —
  - (i) during the submission period; and
  - (ii) in accordance with the requirements referred to in regulation 22(b) and (d);and
- (b) may, if the Commission considers it appropriate to do so, consider a submission —
  - (i) that is made in response to the invitation under regulation 21(c); but
  - (ii) that the Commission is not required to consider under paragraph (a).

**Division 3 — Approval and publication of instrument of repeal**

**25. Minister's approval of instrument of repeal**

- (1) After the Commission has completed its consideration of submissions under regulation 24, the Commission must —
  - (a) submit the instrument of repeal to the Minister; and
  - (b) make a recommendation to the Minister as to whether or not the planning code should be repealed.



- (2) The Minister may approve an instrument of repeal submitted under subregulation (1)(a), whether or not the Commission has recommended the repeal.
- (3) The Minister must give the Commission written notice of a decision under subregulation (2).

**26. Documents to be published on Commission's website following approval of instrument of repeal**

As soon as practicable after an approved instrument of repeal is published in accordance with the *Interpretation Act 1984* section 41(1)(a), the Commission must publish the following on the Commission's website —

- (a) a notice that states the day on which the instrument of repeal came or will come into operation in accordance with the *Interpretation Act 1984* section 41(1)(b); and
- (b) a copy of the instrument of repeal.

**27. Notice of approved instrument of repeal**

- (1) As soon as practicable after an instrument of repeal is published in accordance with the *Interpretation Act 1984* section 41(1)(a), the Commission must cause notice of the instrument of repeal to be provided to the following —
  - (a) any body or person who was notified under regulation 23;
  - (b) any body or person who made a submission that was considered by the Commission under regulation 24.
- (2) A notice under subregulation (1) must include the following information —
  - (a) when the instrument of repeal came or will come into operation in accordance with the *Interpretation Act 1984* section 41(1)(b);
  - (b) that a copy of the instrument of repeal is published on the Commission's website.

## **Part 4 — Transitional provisions**

### **28. Terms used**

In this Part —

***consultation and public notice process*** —

- (a) means the process required under section 28 of the former Act for consultation, public inspection, notice and making details public, in relation to a proposed amendment to a State planning policy; and
- (b) includes the consideration of submissions referred to in section 28(5) of the former Act in relation to the proposed amendment to a State planning policy;

***former Act*** means the Act as in force immediately before 1 March 2024;

***proposed R-Codes amendment*** means a proposed amendment to the R-Codes;

***R-Codes*** means the Residential Design Codes prepared as a State planning policy under section 26(1) of the former Act.

### **29. Consultation and public notice process commenced but not completed before 1 March 2024**

- (1) This regulation applies if —
  - (a) a proposed R-Codes amendment was prepared as a proposed amendment to a State planning policy under section 31(1) of the former Act before 1 March 2024; and
  - (b) the consultation and public notice process in relation to the proposed R-Codes amendment commenced, but was not completed, before 1 March 2024.
- (2) The consultation and public notice process may be completed in accordance with the requirements of section 28 of the former Act, rather than these regulations, as if on and after

1 March 2024 the R-Codes continued to be a State planning policy rather than planning codes.

Note for this regulation:

Under section 291 of the Act, the R-Codes are taken to be planning codes on and after 1 March 2024.

**30. R-Codes amendment subject to consultation and public notice process under former Act**

- (1) This regulation applies if —
  - (a) the consultation and public notice process for a proposed R-Codes amendment commences before 1 March 2024 and is completed under regulation 29; or
  - (b) the consultation and public notice process for a proposed R-Codes amendment is completed before 1 March 2024, but the proposed R-Codes amendment is not approved by the Governor under section 29(1) of the former Act before 1 March 2024.
- (2) For the purposes of the application of these regulations to the proposed R-Codes amendment as a proposed amendment to a planning code —
  - (a) the Commission is taken to have complied with the applicable requirements of Part 2 Division 2 in relation to advertising, and considering submissions on, the proposed R-Codes amendment; and
  - (b) these regulations apply with any necessary changes.

N. HAGLEY, Clerk of the Executive Council

Defined terms

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

Defined term	Provision(s)
administrative amendment .....	4
advertising period .....	4
approved amendment .....	4
approved planning code .....	4
approved planning code or amendment .....	4
Commission's website .....	4
consultation and public notice process .....	28
former Act .....	28
government agency .....	4
instrument of repeal .....	4, 18(1)
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proposed amendment .....	4
proposed planning code .....	4
proposed R-Codes amendment .....	28
proposed standard amendment .....	4
proposed substantial amendment .....	4
public planning document .....	4
R-Codes .....	28
standard amendment .....	4
submission period .....	4, 11, 22
substantial amendment .....	4

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Western Australia

Planning and Development Act 2005

## **Planning and Development (Local Planning Schemes) Amendment Regulations 2024**



## Planning and Development (Local Planning Schemes) Amendment Regulations 2024

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## **Planning and Development (Local Planning Schemes) Amendment Regulations 2024**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Planning and Development (Local Planning Schemes) Amendment Regulations 2024*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on 1 March 2024.

**3. Regulations amended**

These regulations amend the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**4. Regulation 3 amended**

In regulation 3 delete the definition of *local planning scheme documents*.

**5. Regulation 20 amended**

In regulation 20(1) delete the note.

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**6. Part 4 Division 2 heading replaced**

Delete the heading to Part 4 Division 2 and insert:

**Division 2 — Process for advertisement and submission  
of local planning scheme**

**7. Regulation 21 replaced**

Delete regulation 21 and insert:

**21. Resolution to seek approval to advertise local  
planning scheme and provision of scheme to  
Commission**

- (1) After completing the preparation of a proposed local planning scheme or the consideration of a proposed local planning scheme proposed by an owner of land in the scheme area, a local government must resolve —
  - (a) to proceed to seek approval to advertise the proposed scheme under section 83A of the Act;  
or
  - (b) to proceed to modify the proposed scheme and to seek approval to advertise the modified proposed scheme under section 83A of the Act;  
or
  - (c) not to proceed with the proposed scheme.
- (2) Within 21 days, or such longer period as the Commission allows, after the day on which a resolution

is made under subregulation (1), the local government must —

- (a) in the case of a resolution under subregulation (1)(a) — provide the proposed local planning scheme to the Commission; or
- (b) in the case of a resolution under subregulation (1)(b) — modify the proposed local planning scheme and provide the modified proposed scheme to the Commission; or
- (c) in the case of a resolution under subregulation (1)(c) — provide a copy of the resolution to the Commission.

**21A. Submission of local planning scheme for advertising approval**

- (1) The Commission must —
  - (a) consider a proposed local planning scheme provided to it under regulation 21(2)(a) or (b); and
  - (b) make a recommendation as to whether the Minister should —
    - (i) under section 83A(2)(a) of the Act, approve the proposed scheme for advertising; or
    - (ii) under section 83A(2)(b) of the Act, require the local government to modify the proposed scheme in a specified manner and to resubmit the proposed scheme under section 83A(1) of the Act; or

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- (iii) under section 83A(2)(c) of the Act,  
refuse approval for the proposed scheme  
to be advertised;
  - and
  - (c) submit the proposed scheme to the Minister on  
behalf of the local government in accordance  
with section 83A(1) of the Act, together with  
the recommendation.
- (2) Subject to sections 81 and 82 of the Act (if applicable)  
having been complied with, the Commission must  
comply with subregulation (1) within —
  - (a) 90 days after the day on which the proposed  
local planning scheme provided under  
regulation 21(2)(a) or (b) is received; or
  - (b) a longer period approved by the Minister or an  
authorised person.

**21B. Modifications to local planning scheme submitted  
for approval to advertise**

If the Minister under section 83A(2)(b) of the Act  
requires the local government to modify a proposed  
local planning scheme submitted for approval to  
advertise, the local government must —

- (a) modify the proposed scheme as required; and
- (b) resubmit the modified proposed local planning  
scheme to the Minister in accordance with  
section 83A of the Act.

**8. Regulation 22 amended**

(1) In regulation 22(1):

- (a) delete “Subject to sections 81 and 82 of the Act, if the Commission advises a local government that it is satisfied that a draft local planning scheme submitted by the local government is suitable to be advertised, the local government must, as soon as is reasonably practicable,” and insert:

As soon as reasonably practicable after the Minister under section 83A(2)(a) of the Act approves a proposed local planning scheme for advertising under section 84 of the Act, the local government must

- (b) in paragraphs (a) and (b) delete “draft” and insert:

proposed

(2) In regulation 22(2):

- (a) delete “must advertise the draft” and insert:

must advertise the proposed

- (b) in paragraphs (a)(ii) and (b) delete “draft local planning” and insert:

proposed

- (c) in paragraph (c) delete “draft local planning scheme as directed by the Commission and” and insert:

proposed scheme

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- (3) In regulation 22(3) delete “draft” and insert:

proposed

**9. Regulation 23 amended**

In regulation 23:

- (a) in paragraph (a) delete “draft” and insert:

proposed

- (b) in paragraph (b) delete “draft”.

**10. Regulation 24 amended**

In regulation 24(1) delete “draft” and insert:

proposed

**11. Regulation 25 amended**

In regulation 25(1), (2) and (3) delete “draft” (each occurrence) and insert:

proposed

**12. Regulation 26 amended**

- (1) In regulation 26(1), (2) and (3) delete “draft” (each occurrence) and insert:

proposed



- (2) In regulation 26(4):
- (a) delete “the draft” and insert:  
  
a proposed
  - (b) in paragraph (a) delete “local planning” and insert:  
  
proposed
- (3) In regulation 26(6) and (7) delete “draft” and insert:
- proposed

Note: The heading to amended regulation 26 is to read:

**Local government may advertise proposed modifications to local  
planning scheme**

**13. Regulation 27 amended**

In regulation 27 delete “draft local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the draft scheme but before complying with regulation 28, the local government must amend the local planning scheme documents —” and insert:

proposed local planning scheme delivered under section 48F(2) of the EP Act before complying with regulation 28, the local government must amend the proposed scheme —

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**14. Regulation 28 amended**

- (1) In regulation 28(1):
- (a) delete “local planning scheme documents” and insert:  
  
proposed local planning scheme (incorporating any  
conditions required under regulation 27)
  - (b) in paragraph (a) delete “draft” and insert:  
  
proposed
  - (c) in paragraph (c) delete “each modification to the draft”  
and insert:  
  
any modifications to the proposed
  - (d) in paragraph (d) before “scheme” insert:  
  
proposed
  - (e) in paragraphs (f), (g) and (h) delete “draft” and insert:  
  
proposed
- (2) In regulation 28(2) delete “and (d)(iii) must include —” and  
insert:  
  
or (d)(iii) must include, in relation to each submission —

- (3) Delete regulation 28(3) and insert:
- (3) In the case of a resolution under regulation 25(3)(a) or (c), the local government must comply with subregulation (1) within —
- (a) 21 days after the day on which the local government passes the resolution; or
  - (b) a longer period approved by the Commission.
- (4) In the case of a resolution under regulation 25(3)(b), the local government must comply with subregulation (1) within —
- (a) 21 days after —
    - (i) if the local government decides not to advertise any of the proposed modifications — the day on which the local government passes the resolution; or
    - (ii) otherwise — the day on which the local government complies with regulation 26(7);
  - or
  - (b) a longer period approved by the Commission.

Note: The heading to amended regulation 28 is to read:

**Provision of local planning scheme and documents to  
Commission**

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**15. Regulation 29 replaced**

Delete regulation 29 and insert:

**29. Commission to submit local planning scheme and documents to Minister**

The Commission must, within 120 days after the day on which it receives the proposed local planning scheme and additional documents under regulation 28(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the proposed scheme and additional documents; and
- (b) make any recommendations to the Minister in respect of the proposed scheme that the Commission considers appropriate; and
- (c) endorse a copy of the proposed scheme; and
- (d) submit the endorsed copy of the proposed scheme to the Minister on behalf of the local government in accordance with section 87(1) of the Act, together with the additional documents and recommendations.

**16. Regulation 30 amended**

(1) Delete regulation 30(1) and insert:

(1A) This regulation applies if —

- (a) a proposed local planning scheme is submitted for approval under section 87 of the Act; and

- (b) the local government proposes, the Commission recommends, or the Minister is otherwise considering, modifications to the proposed scheme as it was advertised under regulation 22.
- (1) Before a decision is made under section 87 of the Act in relation to the proposed local planning scheme, the Minister or an authorised person may direct the local government to advertise any of the modifications that the Minister or authorised person considers are significant.
- (2) In regulation 30(3) delete “modification to a local planning scheme” and insert:

modifications

Note: The heading to amended regulation 30 is to read:

**Minister or authorised person may direct modifications to local  
planning scheme be advertised**

**17. Regulations 31 and 32 replaced**

Delete regulations 31 and 32 and insert:

**31. Decision by Minister to refuse to approve local  
planning scheme**

- (1) If the Minister refuses to approve a local planning scheme under section 87(2)(c) of the Act, the Minister must notify the local government of the refusal to approve the scheme.

- (2) As soon as reasonably practicable after being notified of the refusal to approve the scheme, the local government must notify each person who made a submission in relation to the scheme of the refusal to approve the scheme.

**32. Decision by Minister to require modification of local planning scheme**

- (1) If the Minister requires a local government to modify a local planning scheme under section 87(2)(b) of the Act, the Minister must notify the local government of the requirement to modify the scheme.
- (2) Within 42 days after the day on which the local government is notified of the requirement to modify the scheme, or within such longer period as the Minister or an authorised person allows, the local government must —
  - (a) modify the scheme as required; and
  - (b) provide to the Commission —
    - (i) the scheme as modified; and
    - (ii) a copy of the notification from the Minister.
- (3) The Commission must, within 28 days after the day on which it receives the documents under subregulation (2)(b), or within such longer period as the Minister or an authorised person allows —
  - (a) endorse a copy of the modified scheme; and
  - (b) resubmit the endorsed copy of the modified scheme to the Minister on behalf of the local government.

**32A. Decision by Minister to approve local planning scheme**

If the Minister approves a local planning scheme under section 87(2)(a) of the Act, the Minister must —

- (a) notify the Commission and the local government of the approval; and
- (b) provide a copy of the approved scheme to the Commission and the local government.

**32B. Certified copy of local planning scheme**

A person authorised in writing by the Commission may certify that a copy of a local planning scheme is a true copy of the local planning scheme as approved by the Minister.

**18. Regulation 33 amended**

In regulation 33(1) delete “a copy of the notice of a local planning scheme published” and insert:

notice of the publication of a local planning scheme

**19. Regulation 34 amended**

- (1) In regulation 34 delete the definition of *basic amendment*.
- (2) In regulation 34 insert in alphabetical order:

*basic amendment* means an amendment to a local planning scheme in a case where —

- (a) the amendment is any of the following —
  - (i) an amendment to correct an administrative error;

- (ii) an amendment to the scheme so that it is consistent with the model provisions in Schedule 1 or with another provision of the local planning scheme;
- (iii) an amendment to the scheme text to delete provisions that have been superseded by the deemed provisions in Schedule 2;
- (iv) an amendment to the scheme so that it is consistent with any other Act that applies to the scheme or the scheme area;
- (v) an amendment to the scheme so that it is consistent with a State planning policy;
- (vi) an amendment to the scheme map to include a boundary to show the land covered by an improvement scheme or a planning control area;
- (vii) an amendment to the scheme map that is consistent with a structure plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan;
- (viii) an amendment that results from a consolidation of the scheme in accordance with section 92 of the Act;
- (ix) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area if the amendment will have minimal



effect on the scheme or landowners in  
the scheme area;

and

(b) either —

- (i) the amendment is not referred to the  
EPA under section 81 of the Act  
because of section 81(2) of the Act; or
- (ii) the EPA has informed the local  
government under section 48A(1)(a) of  
the EP Act that the proposed  
amendment should not be assessed by  
the EPA;

(3) In regulation 34 in the definition of *standard amendment* after  
paragraph (c) insert:

(ca) an amendment to the scheme to —

- (i) include a provision in the scheme that a  
specified planning code is to be read as  
part of the scheme; or
- (ii) provide for the modification of a  
planning code that is to be read as part  
of the scheme;

## **20. Regulation 35 amended**

In regulation 35(2)(a) after “the amendment is” insert:

likely to be

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**21. Regulation 35A amended**

In regulation 35A:

- (a) delete “an amendment” and insert:

a proposed amendment

- (b) delete “the amendment” (each occurrence) and insert:

the proposed amendment

**22. Regulation 36 amended**

- (1) In regulation 36(1) delete “the amendment is” and insert:

a proposed amendment to a local planning scheme is likely to be

- (2) In regulation 36(2) after “the amendment is” insert:

likely to be

**23. Regulation 37 replaced**

Delete regulation 37 and insert:

**37. Resolution to seek approval to advertise complex  
amendment and provision of amendment to  
Commission**

- (1) After completing the preparation of a proposed  
complex amendment to a local planning scheme or the  
consideration of a proposed complex amendment to a

local planning scheme proposed by an owner of land in the scheme area, the local government must resolve —

- (a) to proceed to seek approval to advertise the proposed amendment, without modification, under section 83A of the Act; or
  - (b) to proceed to modify the proposed amendment and to seek approval to advertise the modified proposed amendment under section 83A of the Act; or
  - (c) not to proceed with the proposed amendment.
- (2) Within 21 days, or such longer period as the Commission allows, after the day on which a resolution is made under subregulation (1), the local government must —
- (a) in the case of a resolution under subregulation (1)(a) — provide the proposed complex amendment to the Commission; or
  - (b) in the case of a resolution under subregulation (1)(b) — modify the proposed complex amendment and provide the modified proposed amendment to the Commission; or
  - (c) in the case of a resolution under subregulation (1)(c) — provide a copy of the resolution to the Commission.

**37A. Submission of complex amendment for advertising approval with recommendation**

- (1) The Commission must —
- (a) consider a proposed complex amendment provided to it under regulation 37(2)(a) or (b); and

- (b) make a recommendation as to whether the Minister should —
    - (i) under section 83A(2)(a) of the Act, approve the proposed amendment for advertising; or
    - (ii) under section 83A(2)(b) of the Act, require the local government to modify the proposed amendment in a specified manner and to resubmit the proposed amendment under section 83A(1) of the Act; or
    - (iii) under section 83A(2)(c) of the Act, refuse approval for the proposed amendment to be advertised;
  - and
  - (c) submit the proposed amendment to the Minister on behalf of the local government in accordance with section 83A(1) of the Act, together with the recommendation.
- (2) Subject to sections 81 and 82 of the Act (if applicable) having been complied with, the Commission must comply with subregulation (1) within —
  - (a) 60 days after the day on which the proposed complex amendment provided under regulation 37(2)(a) or (b) is received; or
  - (b) a longer period approved by the Minister or an authorised person.

**37B. Modifications to complex amendment submitted for approval to advertise**

If the Minister under section 83A(2)(b) of the Act requires the local government to modify a proposed

complex amendment submitted for approval to  
advertise, the local government must —

- (a) modify the proposed amendment as required;  
and
- (b) resubmit the modified proposed amendment to  
the Minister in accordance with section 83A of  
the Act.

**24. Regulation 38 amended**

(1) In regulation 38(1):

- (a) delete “Subject to sections 81 and 82 of the Act, if the  
Commission advises a local government that it is  
satisfied that a complex amendment to a local planning  
scheme submitted by the local government is suitable to  
be advertised, the local government must, as soon as is  
reasonably practicable,” and insert:

As soon as reasonably practicable after the Minister  
under section 83A(2)(a) of the Act approves a proposed  
complex amendment to a local planning scheme for  
advertising under section 84 of the Act, the local  
government must

- (b) in paragraph (a) before “amendment; and” insert:

proposed

- (c) in paragraph (b) before “amendment” insert:

proposed

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- (2) In regulation 38(2):
  - (a) before “complex” insert:  
  
proposed
  - (b) in paragraph (a)(ii) and (c) before “amendment;” insert:  
  
proposed
  - (c) in paragraph (e) delete “amendment as directed by the  
Commission and” and insert:  
  
proposed amendment
- (3) In regulation 38(3) before “complex” insert:  
  
proposed

**25. Regulation 39 amended**

In regulation 39(a) delete “an” and insert:

a proposed complex

**26. Regulation 40 amended**

In regulation 40(1) before “complex” insert:

proposed

**27. Regulation 41 amended**

- (1) In regulation 41(1) in the definition of *consideration period*:

- (a) before “complex” insert:

proposed

- (b) in paragraph (a) before “amendment;” insert:

proposed

- (c) in paragraphs (b) and (c) before “amendment” insert:

proposed

- (2) In regulation 41(1) in the definition of *submission period* before “complex” insert:

proposed

- (3) In regulation 41(2):

- (a) in paragraph (a) before “complex” insert:

proposed

- (b) in paragraph (b) before “amendment” insert:

proposed

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- (4) In regulation 41(3):
  - (a) before “complex” insert:  
  
proposed
  - (b) in paragraphs (a), (b) and (c) before “amendment”  
insert:  
  
proposed

**28. Regulation 42 amended**

- (1) In regulation 42(1):
  - (a) delete “modification to a complex” and insert:  
  
proposed modification to a proposed complex
  - (b) in paragraph (a) before “amendment; and” insert:  
  
proposed
- (2) In regulation 42(2) delete “complex amendment to the local  
planning scheme.” and insert:  
  
proposed complex amendment.
- (3) In regulation 42(3) before “complex” insert:  
  
proposed



- (4) In regulation 42(4):
  - (a) before “complex” insert:

proposed
  - (b) in paragraph (a) before “amendment” insert:

proposed
- (5) In regulation 42(6) before “complex” insert:

proposed
- (6) In regulation 42(7) delete “an amendment” and insert:

a proposed complex amendment

**29. Regulation 43 amended**

In regulation 43 delete “complex amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the amendment but before complying with regulation 44, the local government must amend the amendment documents —” and insert:

proposed complex amendment to a local planning scheme delivered under section 48F(2) of the EP Act before complying with regulation 44, the local government must amend the proposed amendment —

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**30. Regulation 44 amended**

(1) In regulation 44(1):

- (a) delete “advertised amendment to the local planning scheme” and insert:

advertised proposed complex amendment (incorporating any conditions required under regulation 43)

- (b) in paragraph (a) before “amendment;” insert:

proposed

- (c) in paragraph (c) delete “each modification to the” and insert:

any modifications to the proposed

- (d) in paragraph (d) before “amendment” insert:

proposed

- (e) in paragraph (f) delete “the amendment to the local planning scheme;” and insert:

the proposed amendment;

(2) In regulation 44(2) delete “and (d)(iii) must include the following — ” and insert:

or (d)(iii) must include the following in relation to each submission —

- (3) Delete regulation 44(3) and insert:
- (3) In the case of a resolution under regulation 41(3)(a) or (c), the local government must comply with subregulation (1) within —
- (a) 21 days after the day on which the local government passes the resolution; or
  - (b) a longer period approved by the Commission.
- (4) In the case of a resolution under regulation 41(3)(b), the local government must comply with subregulation (1) within —
- (a) 21 days after —
    - (i) if the local government decides not to advertise any of the proposed modifications — the day on which the local government passes the resolution; or
    - (ii) otherwise — the day on which the local government complies with regulation 42(7);
  - or
  - (b) a longer period approved by the Commission.

Note: The heading to amended regulation 44 is to read:

**Provision of complex amendment and documents to Commission**

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**31. Regulation 45 replaced**

Delete regulation 45 and insert:

**45. Commission to submit complex amendment and documents to Minister**

The Commission must, within 90 days after the day on which it receives the proposed complex amendment and additional documents under regulation 44(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the proposed amendment and additional documents; and
- (b) make any recommendations to the Minister in respect of the proposed amendment that the Commission considers appropriate; and
- (c) endorse a copy of the proposed amendment; and
- (d) submit the endorsed copy of the proposed amendment to the Minister on behalf of the local government in accordance with section 87(1) of the Act, together with the additional documents and recommendations.

**32. Regulation 46 amended**

(1) Delete regulation 46(1) and insert:

(1A) This regulation applies if —

- (a) a proposed complex amendment is submitted for approval under section 87 of the Act; and
- (b) the local government proposes, the Commission recommends, or the Minister is

otherwise considering, modifications to the proposed amendment as it was advertised under regulation 38.

- (1) Before a decision is made under section 87 of the Act in relation to the proposed complex amendment, the Minister or an authorised person may direct the local government to advertise any of the modifications that the Minister or authorised person considers are significant.
- (2) In regulation 46(3) delete “modification to the amendment to the local planning scheme” and insert:

modifications

**33. Regulations 46A to 46C inserted**

At the beginning of Part 5 Division 3 insert:

**46A. Resolution to seek approval to advertise standard amendment and provision of amendment to Commission**

- (1) After completing the preparation of a proposed standard amendment to a local planning scheme or the consideration of a proposed standard amendment to a local planning scheme proposed by an owner of land in the scheme area, the local government must resolve —
  - (a) to proceed to seek approval to advertise the proposed amendment, without modification, under section 83A of the Act; or
  - (b) to proceed to modify the proposed amendment and to seek approval to advertise the modified

- proposed amendment under section 83A of the Act; or
  - (c) not to proceed with the proposed amendment.
- (2) Within 21 days, or such longer period as the Commission allows, after the day on which a resolution is made under subregulation (1), the local government must —
  - (a) in the case of a resolution under subregulation (1)(a) — provide the proposed standard amendment to the Commission; or
  - (b) in the case of a resolution under subregulation (1)(b) — modify the proposed standard amendment and provide the modified proposed amendment to the Commission; or
  - (c) in the case of a resolution under subregulation (1)(c) — provide a copy of the resolution to the Commission.

**46B. Submission of standard amendment for advertising approval**

- (1) The Commission must —
  - (a) consider a proposed standard amendment provided to it under regulation 46A(2)(a) or (b); and
  - (b) make a recommendation as to whether the Minister should —
    - (i) under section 83A(2)(a) of the Act, approve the proposed amendment for advertising; or
    - (ii) under section 83A(2)(b) of the Act, require the local government to modify the proposed amendment in a specified manner and to resubmit the proposed

- amendment under section 83A(1) of the Act; or
  - (iii) under section 83A(2)(c) of the Act, refuse approval for the proposed amendment to be advertised;
  - and
  - (c) submit the proposed amendment to the Minister on behalf of the local government in accordance with section 83A(1) of the Act, together with the recommendation.
- (2) Subject to sections 81 and 82 of the Act (if applicable) having been complied with, the Commission must comply with subregulation (1) within —
- (a) 42 days after the day on which the proposed standard amendment provided under regulation 46A(2)(a) or (b) is received; or
  - (b) a longer period approved by the Minister or an authorised person.

**46C. Modifications to standard amendment submitted for approval to advertise**

If the Minister under section 83A(2)(b) of the Act requires the local government to modify a proposed standard amendment submitted for approval to advertise, the local government must —

- (a) modify the proposed amendment as required; and
- (b) resubmit the modified proposed amendment to the Minister in accordance with section 83A of the Act.

**34. Regulation 47 amended**

(1) In regulation 47(1):

- (a) delete “Subject to sections 81 and 82 of the Act, if a local government resolves under regulation 35(1) to prepare a standard amendment to a local planning scheme or to adopt a standard amendment to a local planning scheme proposed by the owner of land in the scheme area, the local government must, as soon as is reasonably practicable,” and insert:

As soon as reasonably practicable after the Minister under section 83A(2)(a) of the Act approves a proposed standard amendment to a local planning scheme for advertising under section 84 of the Act, the local government must

- (b) in paragraph (a) before “amendment; and” insert:

proposed

- (c) in paragraph (b) before “amendment” insert:

proposed

(2) In regulation 47(2):

- (a) before “standard” insert:

proposed



- (b) in paragraph (a)(ii) before “amendment;” insert:

proposed

- (c) in paragraph (e) delete “amendment as directed by the Commission and” and insert:

proposed amendment

- (3) In regulation 47(3) before “standard” insert:

proposed

**35. Regulation 48 amended**

In regulation 48(a) delete “an amendment” and insert:

a proposed standard amendment

**36. Regulation 49 amended**

In regulation 49(1) before “standard” insert:

proposed

**37. Regulation 50 amended**

- (1) In regulation 50(1) in the definition of *consideration period*:

- (a) before “standard” insert:

proposed

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(b) in paragraph (a) before “amendment;” insert:

proposed

(c) in paragraphs (b) and (c) before “amendment” insert:

proposed

(2) In regulation 50(1) in the definition of *submission period* before “standard” insert:

proposed

(3) In regulation 50(2):

(a) in paragraph (a) before “standard” insert:

proposed

(b) in paragraph (b) before “amendment” insert:

proposed

(4) In regulation 50(3):

(a) before “standard” insert:

proposed

(b) in paragraphs (a) and (b) before “amendment” insert:

proposed

- (c) in paragraph (c) before “amendment.” insert:

proposed

**38. Regulation 51 amended**

- (1) In regulation 51(1):

- (a) delete “modification to a standard” and insert:

proposed modification to a proposed standard

- (b) in paragraph (a) before “amendment; and” insert:

proposed

- (c) in paragraph (b) delete “to the amendment”.

- (2) In regulation 51(2) and (3) before “standard” insert:

proposed

- (3) In regulation 51(4):

- (a) before “standard” insert:

proposed

- (b) in paragraph (a) before “amendment” insert:

proposed

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- (4) In regulation 51(6) before “standard” insert:

proposed

- (5) In regulation 51(7):

- (a) delete “an amendment” and insert:

a proposed standard amendment

- (b) delete “a local government —” and insert:

the local government —

**39. Regulation 52 amended**

In regulation 52 delete “standard amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to prepare or adopt the amendment but before complying with regulation 53, the local government must amend the amendment documents —” and insert:

proposed standard amendment to a local planning scheme delivered under section 48F(2) of the EP Act before complying with regulation 53, the local government must amend the proposed amendment —

**40. Regulation 53 amended**

(1) In regulation 53(1):

- (a) delete “advertised amendment to the local planning scheme” and insert:

advertised proposed standard amendment (incorporating any conditions required under regulation 52)

- (b) in paragraph (a) before “amendment;” insert:

proposed

- (c) in paragraph (c) delete “each modification to the” and insert:

any modifications to the proposed

- (d) in paragraph (d) before “amendment” insert:

proposed

- (e) in paragraph (f) before “amendment;” insert:

proposed

- (f) delete paragraph (g).

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- (2) In regulation 53(2) delete “The schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include the following — ” and insert:

A schedule of submissions referred to in subregulation (1)(a) or (d)(iii) must include the following in relation to each submission —

- (3) Delete regulation 53(3) and insert:

- (3) In the case of a resolution under regulation 50(3)(a) or (c), the local government must comply with subregulation (1) within —
- (a) 21 days after the day on which the local government passes the resolution; or
  - (b) a longer period approved by the Commission.
- (4) In the case of a resolution under regulation 50(3)(b), the local government must comply with subregulation (1) within —
- (a) 21 days after —
    - (i) if the local government decides not to advertise any of the proposed modifications — the day on which the local government passes the resolution; or
    - (ii) otherwise — the day on which the local government complies with regulation 51(7);

or

- (b) a longer period approved by the Commission.

Note: The heading to amended regulation 53 is to read:

**Provision of standard amendment and documents to Commission**

**41. Regulations 54 and 55 replaced**

Delete regulations 54 and 55 and insert:

**55. Commission to submit standard amendment and documents to Minister**

The Commission must, within 60 days after the day on which it receives the proposed standard amendment and additional documents under regulation 53(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the proposed amendment and additional documents; and
- (b) make any recommendations to the Minister in respect of the proposed amendment that the Commission considers appropriate; and
- (c) endorse a copy of the proposed amendment; and
- (d) submit the endorsed copy of the proposed amendment to the Minister on behalf of the local government in accordance with section 87(1) of the Act, together with the additional documents and recommendations.

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**42. Regulation 56 amended**

(1) Delete regulation 56(1) and insert:

(1A) This regulation applies if —

- (a) a proposed standard amendment is submitted for approval under section 87 of the Act; and
- (b) the local government proposes, the Commission recommends, or the Minister is otherwise considering, modifications to the proposed amendment as it was advertised under regulation 47.

(1) Before a decision is made under section 87 of the Act in relation to the proposed standard amendment, the Minister or an authorised person may direct the local government to advertise any of the modifications that the Minister or authorised person considers are significant.

(2) In regulation 56(3) delete “modification to the amendment to the local planning scheme” and insert:

modifications

**43. Part 5 Division 4 heading replaced**

Delete the heading to Part 5 Division 4 and insert:

**Division 4 — Process for basic amendments to local  
planning scheme**



**44. Regulations 57 to 60 replaced**

Delete regulations 57 to 60 and insert:

**57. Basic amendment not required to be advertised**

For the purposes of section 83A(5)(a) of the Act, a proposed basic amendment to a local planning scheme is not required to be advertised.

Notes for this regulation:

1. Under section 83A(5) of the Act, the effect of this regulation is that the local government is not required —
  - (a) to submit a proposed basic amendment for approval to advertise under section 83A(1) of the Act; or
  - (b) to comply with section 84 of the Act in relation to a proposed basic amendment.
2. Under regulation 61, the Minister or an authorised person may direct a local government to advertise a basic amendment submitted for the Minister's approval under section 87(1) of the Act.

**58. Basic amendment to be provided to Commission**

- (1) A local government must provide a proposed basic amendment to the Commission, together with any relevant maps, plans, specifications and particulars required by the Commission.
- (2) The local government must comply with subregulation (1) within —
  - (a) if the proposed basic amendment is not required to be referred to the EPA because of section 81(2) of the Act — 28 days after the day on which the local government resolves to prepare or adopt the amendment under regulation 35(1); or

- (b) if the EPA has informed the local government under section 48A(1)(a) of the EP Act that the proposed amendment should not be assessed by the EPA — 7 days after the day on which the EPA so informs the local government.

**59. Commission may direct amendment be treated as complex or standard amendment**

If, on receipt of documents provided to it under regulation 58, the Commission considers that the proposed amendment to the local planning scheme is a complex amendment or a standard amendment, the Commission may give the local government a direction stating —

- (a) that the Commission considers that the proposed amendment is a complex amendment or a standard amendment, rather than a basic amendment; and
- (b) that the local government must accordingly comply with sections 83A and 84 of the Act, and Division 2 or 3 of this Part (as the case requires), on that basis.

**60. Commission to submit basic amendment to Minister**

Unless the Commission gives a direction under regulation 59, the Commission must, within 42 days after the day on which it receives the proposed basic amendment and additional documents under regulation 58, or within such longer period as the Minister or an authorised person allows —

- (a) consider the proposed amendment and additional documents; and
- (b) make any recommendations to the Minister in respect of the proposed amendment that the Commission considers appropriate; and

- (c) endorse a copy of the proposed amendment;  
and
- (d) submit the endorsed copy of the proposed amendment to the Minister on behalf of the local government in accordance with section 87(1) of the Act, together with the additional documents and recommendations.

**45. Regulation 61 amended**

- (1) Delete regulation 61(1) and insert:

- (1) Before a decision is made under section 87 of the Act in relation to a basic amendment submitted for approval under that section, the Minister or an authorised person may direct the local government to advertise the proposed amendment if the Minister or authorised person is of the opinion that the proposed amendment is significant.

- (2) In regulation 61(2)(a) before “amendment; and” insert:

proposed basic

- (3) In regulation 61(3) delete “amendment to a local planning scheme” and insert:

proposed basic amendment

**46. Regulations 62 and 63 replaced**

Delete regulations 62 and 63 and insert:

**62. Decision by Minister to refuse to approve  
amendment to local planning scheme**

- (1) If the Minister refuses to approve an amendment to a local planning scheme under section 87(2)(c) of the Act, the Minister must notify the local government of the refusal to approve the amendment.
- (2) As soon as reasonably practicable after being notified of the refusal to approve the amendment, the local government must notify each person who made a submission in relation to the amendment of the refusal to approve the amendment.

**63. Decision by Minister to require modification of  
amendment to local planning scheme**

- (1) If the Minister requires a local government to modify an amendment to a local planning scheme under section 87(2)(b) of the Act, the Minister must notify the local government of the requirement to modify the amendment.
- (2) Within 42 days after the day on which the local government is notified of the requirement to modify the amendment, or within such longer period as the Minister or an authorised person allows, the local government must —
  - (a) modify the amendment as required; and
  - (b) provide to the Commission —
    - (i) the amendment as modified; and

- (ii) a copy of the notification from the Minister.
- (3) The Commission must, within 28 days after the day on which it receives the documents under subregulation (2)(b), or within such longer period as the Minister or an authorised person allows —
  - (a) endorse a copy of the modified amendment; and
  - (b) resubmit the endorsed copy of the modified amendment to the Minister on behalf of the local government.

**63A. Decision by Minister to approve amendment to local planning scheme**

If the Minister approves an amendment to a local planning scheme under section 87(2)(a) of the Act, the Minister must —

- (a) notify the Commission and the local government of the approval; and
- (b) provide a copy of the approved amendment to the Commission and the local government.

**63B. Certified copy of amendment to local planning scheme**

A person authorised in writing by the Commission may certify that a copy of an amendment to a local planning scheme is a true copy of the amendment as approved by the Minister.

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**47. Regulation 64 amended**

In regulation 64(1) delete “a copy of the notice of an amendment to a local planning scheme published” and insert:

notice of the publication of an amendment to a local planning scheme

**48. Regulation 66 amended**

Delete regulation 66(2)(e) and insert:

- (e) an overview of the extent to which the scheme has been amended to —
  - (i) comply with the requirements of any relevant legislation, region planning scheme or State planning policy; or
  - (ii) provide for any planning code that is to be read as part of the scheme or any modifications to a planning code.

**49. Part 9 Division 3 inserted**

At the end of Part 9 insert:

**Division 3 — Transitional provisions for *Planning and Development (Local Planning Schemes) Amendment Regulations 2024***

**83. Term used: former Act**

In this Division —

*former Act* means the Act as in force immediately before 1 March 2024.

**84. Provision of local planning scheme that applies  
State planning policy of no effect**

- (1) This regulation applies to a provision of a local planning scheme included in the scheme before 1 March 2024 under section 77(1)(b) of the former Act that provides that a specified State planning policy, with or without modifications, is to be read as part of the scheme.
- (2) On and after 1 March 2024, the provision is of no effect.
- (3) Subregulation (2) does not apply to a provision of a local planning scheme that provides that the R-Codes, with or without modification, are to be read as part of the scheme.

Note for this subregulation:

Under section 291 of the Act, the R-Codes are taken to be planning codes on and after 1 March 2024.

**50. Schedule 1 clauses 27 and 28 deleted**

Delete Schedule 1 clauses 27 and 28.

**51. Schedule 1 clauses 29 and 30 replaced**

Delete Schedule 1 clauses 29 and 30 and insert:

**29. Other planning codes to be read as part of Scheme**

- (1) The planning codes set out in the Table, modified as set out in clause 30, are to be read as part of this Scheme.

**Table**

<b>Other planning codes to be read as part of Scheme</b>
<i>(Insert details of planning codes (other than the R-Codes) that are to be read as part of the Scheme.)</i>

- (2) The local government must ensure that each planning code set out in the Table to subclause (1) is published in accordance with clause 87 of the deemed provisions.
- (3) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

*(If no other planning codes are to be read as part of the Scheme, insert the words “There are no other planning codes that are to be read as part of the Scheme.”.)*

**30. Modification of planning codes**

*(To be inserted if exclusions and variations to any other planning code that is to be read as part of the Scheme are to apply. If no exclusions or variations are to apply, insert the words “There are no modifications to a planning code that, under clause 29, is to be read as part of the Scheme.”.)*

**52. Schedule 1 clause 32 amended**

- (1) In Schedule 1 clause 32(1) delete “R-Codes,” and insert:

R-Codes or other planning codes listed under clause 29,

- (2) In Schedule 1 clause 32(2) delete “R-Codes,” and insert:

R-Codes or other planning code listed under clause 29,



**53. Schedule 2 clause 1 amended**

In Schedule 2 clause 1 in the definition of ***R-Codes*** delete  
“Residential Design Codes prepared by the Western Australian  
Planning Commission under section 26 of the Act,” and insert:

planning codes entitled Residential Design Codes prepared by the  
Commission under the Act,

**54. Schedule 2 clause 28 amended**

In Schedule 2 clause 28(3)(c) delete “change or a change in a State  
planning policy; or” and insert:

change, a change in a State planning policy or a change in the  
R-Codes or any other planning code that is read into the Scheme; or

**55. Schedule 2 clause 67 amended**

In Schedule 2 clause 67(2)(a) after “Scheme” (1<sup>st</sup> occurrence)  
insert:

(including any planning codes that are read, with or without  
modifications, into this Scheme)

**56. Schedule 2 clause 71 amended**

In Schedule 2 clause 71 delete the note and insert:

Note for this clause:

For an application determined by a Development  
Assessment Panel, the *Planning and Development  
(Development Assessment Panels) Regulations 2011*

**r. 56**

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regulation 16A provides for the period within which  
development must be substantially commenced.

N. HAGLEY, Clerk of the Executive Council



Western Australia

Planning and Development Act 2005

## **Planning and Development (State Planning Policies) Regulations 2024**



# Planning and Development (State Planning Policies) Regulations 2024

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**Defined terms**





## **Planning and Development (State Planning Policies) Regulations 2024**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations are the *Planning and Development (State Planning Policies) Regulations 2024*.

#### **2. Commencement**

These regulations come into operation on 1 March 2024.

#### **3. Overview**

- (1) These regulations provide for matters relating to the preparation, advertising, approval, amendment and repeal of a State planning policy.
- (2) If the Commission prepares a proposed State planning policy under section 26 of the Act, in order to be effective, the proposed policy must —
  - (a) be advertised, for public inspection and public submissions, in accordance with Part 2 Division 2; and
  - (b) be approved by the Governor, and come into operation, in accordance with Part 2 Division 3.
- (3) The Commission may prepare a proposed amendment to a State planning policy under Part 2 Division 1.

**r. 4**

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- (4) If the Commission prepares a proposed amendment, in order to be effective, the amendment must —
  - (a) if required — be advertised, for public inspection and public submissions, in accordance with Part 2 Division 2; and
  - (b) be approved by the Governor or the Minister, as the case requires, and come into operation, in accordance with Part 2 Division 3.
- (5) A State planning policy may be repealed in accordance with Part 3.

**4. Terms used**

In these regulations —

***administrative amendment*** means a standard amendment to a State planning policy that is any of the following —

- (a) an amendment to correct an administrative or minor error;
- (b) an amendment to correct an error that is in, or that otherwise relates to, a map, plan or diagram included in the State planning policy;
- (c) an amendment to address an inconsistency between the State planning policy and any of the following —
  - (i) a public planning document;
  - (ii) subsidiary legislation;
  - (iii) a policy document of a government agency;

***advertising period*** —

- (a) for a proposed policy or proposed amendment that is required to be advertised under regulation 6 — means the advertising period that applies under regulation 7; or
- (b) for an instrument of repeal — means the advertising period that applies under regulation 22;

***approved amendment*** means an amendment to a State planning policy approved by —

- (a) the Governor under regulation 14(6); or
- (b) the Minister under regulation 15(1)(a);

***approved policy*** means a State planning policy approved by the Governor under regulation 14(6);

***Commission's website*** means a website maintained by, or on behalf of, the Commission;

***government agency*** means —

- (a) a department of the Public Service; or
- (b) a body, whether incorporated or not, or the holder of an office, post or position, being a body, office, post or position established or continued under a written law for a public purpose;

***instrument of repeal*** has the meaning given in regulation 20(1)(b);

***proposed administrative amendment*** means a proposed amendment that is an administrative amendment;

***proposed amendment*** means a proposed amendment to a State planning policy prepared by the Commission under Part 2 Division 1;

***proposed policy*** means a proposed State planning policy prepared by the Commission under section 26 of the Act;

***proposed standard amendment*** means a proposed amendment that is a standard amendment;

***proposed substantial amendment*** means a proposed amendment that is a substantial amendment;

***public planning document*** means —

- (a) a State planning policy; or
- (b) a planning code; or

**r. 4**

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- (c) a document (however named or described) prepared by the Commission under section 14(b) or (c) of the Act —
  - (i) that is available to the public; and
  - (ii) the preparation of which involved a public consultation;

***standard amendment*** means an amendment to a State planning policy that the Commission considers does not constitute a substantial alteration to the policy;

***submission period*** —

- (a) for a proposed policy or proposed amendment — has the meaning given in regulation 10(c); or
- (b) for an instrument of repeal — has the meaning given in regulation 24(c);

***substantial amendment*** means an amendment to a State planning policy that is not a standard amendment.

## **Part 2 — State planning policies and amendments to State planning policies**

### **Division 1 — Preparation of amendments to State planning policies**

#### **5. Preparation of amendment to State planning policy**

- (1) The Commission may, with the agreement or on the direction of the Minister, prepare a proposed amendment to a State planning policy.
- (2) Despite subregulation (1), the agreement or direction of the Minister is not required if the proposed amendment is a standard amendment.

### **Division 2 — Advertising State planning policies and amendments that are not administrative amendments**

#### **6. Requirement to advertise**

- (1) The Commission must advertise the following, for public inspection and public submissions —
  - (a) a proposed policy;
  - (b) a proposed substantial amendment;
  - (c) a proposed standard amendment (other than a proposed administrative amendment).
- (2) For the purposes of subregulation (1), the proposed policy or proposed amendment must be advertised by publishing the following on the Commission's website for the whole of the advertising period —
  - (a) the advertisement prepared under regulation 9;
  - (b) a copy of the proposed policy or proposed amendment;
  - (c) any other document that the Commission considers it is appropriate to publish.

**7. Advertising period**

- (1) The advertising period for a proposed policy or proposed amendment required to be advertised under regulation 6 is —
  - (a) for a proposed policy or proposed substantial amendment —
    - (i) 90 days; or
    - (ii) a longer period that the Commission considers appropriate;
  - or
  - (b) for a proposed standard amendment (other than a proposed administrative amendment) — 60 days.
- (2) Despite subregulation (1)(b), the Commission may decide on a longer advertising period for a proposed standard amendment (other than a proposed administrative amendment) if the Commission considers that it is appropriate to do so in order to enable the proposed amendment to be advertised concurrently with any other document that is required to be advertised under the Act.

**8. Ministerial approval to advertise**

- (1) The Commission must, before advertising a proposed policy or proposed substantial amendment under regulation 6 —
  - (a) submit the proposed policy or proposed amendment to the Minister; and
  - (b) obtain the Minister's approval to advertise the proposed policy or proposed amendment.
- (2) If a proposed policy or proposed substantial amendment is submitted under subregulation (1)(a) or (5) the Minister may —
  - (a) approve the proposed policy or proposed amendment for advertising; or
  - (b) require the Commission to modify the proposed policy or proposed amendment; or

- (c) refuse approval for the proposed policy or proposed amendment to be advertised under regulation 6.
- (3) The Minister must give the Commission written notice of a decision under subregulation (2).
- (4) If the Minister requires the proposed policy or proposed substantial amendment to be modified under subregulation (2)(b), the notice must describe the modification required.
- (5) If given a notice referred to in subregulation (4), the Commission must modify the proposed policy or proposed substantial amendment as required and submit the modified proposed policy or proposed amendment to the Minister.

**9. Information to be advertised**

For the purposes of regulation 6, the Commission must prepare an advertisement, which must —

- (a) contain a statement of the purpose of the proposed policy or proposed amendment; and
  - (b) if the advertisement relates to —
    - (i) a proposed policy — specify if the proposed policy repeals another State planning policy; or
    - (ii) a proposed standard amendment (other than a proposed administrative amendment) — contain a statement explaining why the Commission considers that the amendment is a standard amendment;
- and
- (c) list the documents related to the proposed policy or proposed amendment published on the Commission's website under regulation 6(2)(b) and (c); and

- (d) invite public submissions on the proposed policy or proposed amendment in accordance with regulation 10; and
- (e) contain any other information that the Commission considers appropriate.

**10. Public submissions**

For the purposes of regulation 9(d), the invitation must —

- (a) provide that a submission may be made either electronically or in hard copy form; and
- (b) set out the way in which an electronic submission must be made and the way in which a hard copy submission must be made; and
- (c) set out the period (the *submission period*) during which a submission must be made, which must be the same period as the advertising period; and
- (d) set out any other requirements that the Commission considers appropriate and with which a submission must comply.

**11. Notice of proposal**

The Commission must, as early as practicable during the advertising period for a proposed policy or proposed amendment advertised under regulation 6, give written notice of the advertisement prepared under regulation 9 to the following —

- (a) any local government the district of which the Commission considers is likely to be affected by the proposed policy or proposed amendment;
- (b) any government agency, representative group or person that the Commission considers has an interest in the proposed policy or proposed amendment.



**12. Consideration of submissions**

The Commission, in relation to a proposed policy or proposed amendment that has been advertised under regulation 6 —

- (a) must consider all submissions that are made in response to the invitation under regulation 9(d) —
  - (i) during the submission period; and
  - (ii) in accordance with the requirements referred to in regulation 10(b) and (d); and
  - (iii) if the submissions relate to a proposed standard amendment — that are directed to the proposed amendment;
- and
- (b) may, if the Commission considers it appropriate to do so, consider a submission —
  - (i) that is made in response to the invitation under regulation 9(d); but
  - (ii) that the Commission is not required to consider under paragraph (a).

**Division 3 — Approval and publication of State planning policy or amendment**

**13. Submission of proposed policy or proposed amendment to Minister**

- (1) After the Commission has completed its consideration of submissions under regulation 12 in relation to a proposed policy, a proposed substantial amendment or a proposed standard amendment (other than a proposed administrative amendment), the Commission must —
  - (a) make the modifications, if any, it considers appropriate to make to the proposed policy or proposed amendment, including as a result of those submissions; and

(b) submit the proposed policy or proposed amendment to the Minister.

(2) After preparing a proposed administrative amendment, the Commission must submit the proposed amendment to the Minister.

**14. Governor's approval of State planning policy or substantial amendment to State planning policy**

(1) If a proposed policy or proposed substantial amendment is submitted to the Minister under regulation 13(1)(b), or subregulation (4)(b)(iii) or (5)(c) of this regulation, the Minister may —

(a) submit the proposed policy or proposed amendment to the Governor and recommend its approval; or

(b) require the Commission to modify the proposed policy or proposed amendment; or

(c) decide not to recommend the approval of the proposed policy or proposed amendment to the Governor.

(2) The Minister must give the Commission written notice of a decision under subregulation (1).

(3) If the Minister requires a proposed policy or proposed substantial amendment to be modified under subregulation (1)(b), the notice —

(a) must describe the modification required; and

(b) may include a requirement that the Commission advertise the modified proposed policy or proposed amendment in the manner specified in the notice.

(4) If given a notice referred to in subregulation (3), the Commission must —

(a) modify the proposed policy or proposed substantial amendment as required; and

- (b) do whichever of the following is applicable —
  - (i) if required to do so under the notice — advertise the modified proposed policy or proposed substantial amendment in the manner required;
  - (ii) if subparagraph (i) does not apply but the Commission considers that the modified proposed policy or proposed substantial amendment should be advertised — advertise the modified proposed policy or proposed amendment in a manner that the Commission considers appropriate;
  - (iii) if subparagraphs (i) and (ii) do not apply — submit the modified proposed policy or proposed substantial amendment to the Minister.
- (5) If the modified proposed policy or proposed substantial amendment is advertised by the Commission under subregulation (4)(b)(i) or (ii), the Commission must —
  - (a) consider any public submissions made on the modified proposed policy or proposed amendment; and
  - (b) make the further modifications, if any, it considers appropriate to make to the modified proposed policy or proposed amendment, including as a result of those submissions; and
  - (c) submit the modified proposed policy or proposed amendment to the Minister.
- (6) The Governor may approve a proposed policy or proposed substantial amendment submitted and recommended by the Minister under subregulation (1)(a).

**15. Minister's approval of standard amendment**

- (1) If a proposed standard amendment is submitted to the Minister under regulation 13(1)(b) or (2), or subregulation (4)(b)(iii) or (5)(c) of this regulation, the Minister may —
  - (a) approve the proposed amendment; or
  - (b) require the Commission to modify the proposed amendment; or
  - (c) decide not to approve the proposed amendment.
- (2) The Minister must give the Commission written notice of a decision under subregulation (1).
- (3) If the Minister requires a proposed standard amendment to be modified under subregulation (1)(b), the notice —
  - (a) must describe the modification required; and
  - (b) in the case of a proposed standard amendment that is not an administrative amendment — may include a requirement that the Commission advertise the modified proposed amendment in the manner specified in the notice.
- (4) If given a notice referred to in subregulation (3), the Commission must —
  - (a) modify the proposed standard amendment as required; and
  - (b) do whichever of the following is applicable —
    - (i) if required to do so under the notice — advertise the modified proposed standard amendment in the manner required;
    - (ii) in the case of a proposed standard amendment that is not an administrative amendment, if subparagraph (i) does not apply but the Commission considers that the modified proposed amendment should be advertised — advertise the modified proposed amendment in a

manner that the Commission considers appropriate;

- (iii) if subparagraphs (i) and (ii) do not apply — submit the modified proposed standard amendment to the Minister.

(5) If the modified proposed standard amendment is advertised by the Commission under subregulation (4)(b)(i) or (ii), the Commission must —

- (a) consider any public submissions made on the modified proposed amendment; and
- (b) make the further modifications, if any, it considers appropriate to make to the modified proposed amendment, including as a result of those submissions; and
- (c) submit the modified proposed amendment to the Minister.

**16. Commencement of approved policy or amendment**

An approved policy or approved amendment comes into operation on a day specified in the instrument of approval, and different days may be specified for different provisions.

**17. Documents to be published on Commission's website following approval of policy or amendment**

As soon as practicable after a proposed policy or proposed amendment is approved under regulation 14(6) or 15(1)(a), but before any provision of the approved policy or approved amendment comes into operation, the Commission must publish the following on the Commission's website —

- (a) a notice that states when the approved policy or approved amendment comes into operation;
- (b) as the case requires —
  - (i) a copy of the approved policy; or

- (ii) a copy of the State planning policy that is the subject of the approved amendment, updated to take account of the approved amendment;
- (c) any other information that the Commission considers appropriate.

**18. Notice of approval**

- (1) As soon as practicable after a proposed policy or proposed amendment is approved under regulation 14(6) or 15(1)(a), but before any provision of the approved policy or approved amendment comes into operation, the Commission must cause notice of the approval —
  - (a) to be published in the *Gazette*; and
  - (b) if relevant, to be provided to the following —
    - (i) any body or person who was notified under regulation 11;
    - (ii) any body or person who made a submission that was considered by the Commission under regulation 12.
- (2) A notice under subregulation (1) must state the following —
  - (a) when the approved policy or approved amendment comes into operation;
  - (b) that the following is published on the Commission's website, as the case requires —
    - (i) a copy of the approved policy;
    - (ii) a copy of the State planning policy that is the subject of the approved amendment, updated to take account of the approved amendment;
  - (c) in the case of an approved standard amendment that is an administrative amendment — the reason why the Commission considers that the amendment is an administrative amendment.

**19. Publication of State planning policies**

The Commission must ensure that a consolidated copy of each State planning policy that is in operation is published on the Commission's website.

## **Part 3 — Repeal of State planning policies**

### **Division 1 — Preliminary**

#### **20. Repeal of State planning policy**

- (1) A State planning policy may be repealed by —
  - (a) a new State planning policy that —
    - (i) comes into operation in accordance with regulation 16; and
    - (ii) expressly repeals the State planning policy;
  - or
  - (b) an instrument (*instrument of repeal*) that —
    - (i) is prepared by the Commission with the agreement or on the direction of the Minister; and
    - (ii) is advertised in accordance with regulation 21; and
    - (iii) is approved by the Governor under regulation 27(4); and
    - (iv) comes into operation in accordance with regulation 28.
- (2) The repeal of a State planning policy takes effect —
  - (a) if the policy is being repealed by a new State planning policy — on the day on which the provision of the new State planning policy that repeals the State planning policy comes into operation under regulation 16; or
  - (b) if the policy is being repealed by an instrument of repeal — on the day on which the instrument of repeal comes into operation under regulation 28.



## **Division 2 — Advertising instrument of repeal**

### **21. Requirement to advertise instrument of repeal**

- (1) The Commission must advertise, for public inspection and public submissions, an instrument of repeal prepared under regulation 20(1)(b)(i).
- (2) For the purposes of subregulation (1), the instrument of repeal must be advertised by publishing the following on the Commission's website for the whole of the advertising period —
  - (a) the advertisement prepared under regulation 23;
  - (b) a copy of the instrument of repeal;
  - (c) a copy of the State planning policy proposed to be repealed;
  - (d) any other document that the Commission considers it is appropriate to publish.

### **22. Advertising period**

- (1) The advertising period for an instrument of repeal is 30 days.
- (2) Despite subregulation (1), the Commission may decide on a longer advertising period for an instrument of repeal if —
  - (a) the instrument of repeal is consequential on or connected with a proposed amendment; and
  - (b) the advertising period that applies to the proposed amendment is longer than 30 days; and
  - (c) the Commission considers that it is appropriate for the instrument of repeal and the proposed amendment to be advertised concurrently.

**23. Information to be advertised**

For the purposes of regulation 21, the Commission must prepare an advertisement, which must —

- (a) contain a statement as to why it is proposed to repeal the State planning policy to which the instrument of repeal relates; and
- (b) list the documents related to the proposal to repeal the State planning policy published on the Commission's website under regulation 21(2)(b) to (d); and
- (c) invite public submissions on the proposal to repeal the State planning policy in accordance with regulation 24; and
- (d) contain any other information that the Commission considers appropriate.

**24. Public submissions**

For the purposes of regulation 23(c), the invitation must —

- (a) provide that a submission may be made either electronically or in hard copy form; and
- (b) set out the way in which an electronic submission must be made and the way in which a hard copy submission must be made; and
- (c) set out the period (the *submission period*) during which a submission must be made, which must be the same period as the advertising period; and
- (d) set out any other requirements that the Commission considers appropriate and with which a submission must comply.

**25. Notice of proposed repeal of State planning policy**

The Commission must, as early as practicable during the advertising period for an instrument of repeal, give written

notice of the advertisement prepared under regulation 23 to the following —

- (a) any local government the district of which the Commission considers is likely to be affected by the repeal of the State planning policy;
- (b) any government agency, representative group or person that the Commission considers has an interest in the repeal of the State planning policy.

**26. Consideration of submissions**

The Commission, in relation to an instrument of repeal —

- (a) must consider all submissions that are made in response to the invitation under regulation 23(c) —
  - (i) during the submission period; and
  - (ii) in accordance with the requirements referred to in regulation 24(b) and (d);and
- (b) may, if the Commission considers it appropriate to do so, consider a submission —
  - (i) that is made in response to the invitation under regulation 23(c); but
  - (ii) that the Commission is not required to consider under paragraph (a).

**Division 3 — Approval and publication of instrument of repeal**

**27. Governor's approval of instrument of repeal**

- (1) After the Commission has completed its consideration of submissions under regulation 26, the Commission must —
  - (a) submit the instrument of repeal to the Minister; and
  - (b) make a recommendation to the Minister as to whether or not the Minister should recommend the approval of the instrument of repeal to the Governor.

- (2) After receiving the Commission's recommendation under subregulation (1)(b), the Minister must —
  - (a) submit the instrument of repeal to the Governor and recommend its approval; or
  - (b) decide not to recommend the approval of the instrument of repeal to the Governor.
- (3) The Minister must give the Commission written notice of a decision under subregulation (2).
- (4) The Governor may approve an instrument of repeal submitted and recommended by the Minister under subregulation (2)(a).

**28. Commencement of instrument of repeal**

An instrument of repeal approved by the Governor under regulation 27(4) comes into operation on a day specified in the instrument approving the instrument of repeal.

**29. Documents to be published on Commission's website following approval of instrument of repeal**

As soon as practicable after an instrument of repeal has been approved by the Governor under regulation 27(4), but before the instrument of repeal comes into operation, the Commission must publish the following on the Commission's website —

- (a) a notice that states the day on which the State planning policy to which the instrument of repeal relates will be repealed;
- (b) a copy of the instrument of repeal.

**30. Notice of approved instrument of repeal**

- (1) As soon as practicable after an instrument of repeal has been approved by the Governor under regulation 27(4), but before the instrument of repeal comes into operation, the Commission must cause notice of the approved instrument of repeal —
  - (a) to be published in the *Gazette*; and

- (b) to be provided to the following —
  - (i) any body or person who was notified under regulation 25;
  - (ii) any body or person who made a submission that was considered by the Commission under regulation 26.
- (2) A notice under subregulation (1) must include the following information —
  - (a) the day on which the State planning policy to which the instrument of repeal relates will be repealed;
  - (b) that a copy of the instrument of repeal is published on the Commission's website.

## **Part 4 — Transitional provisions**

### **31. Terms used**

In this Part —

***consultation and public notice process*** —

- (a) means the process required under section 28 of the former Act for consultation, public inspection, notice and making details public, in relation to a proposed State planning policy or proposed SPP amendment; and
- (b) includes the consideration of submissions referred to in section 28(5) of the former Act in relation to the proposed State planning policy or proposed SPP amendment;

***former Act*** means the Act as in force immediately before 1 March 2024;

***proposed SPP amendment*** —

- (a) means a proposed amendment to a State planning policy prepared under section 31(1) of the former Act before 1 March 2024; but
- (b) does not include a proposed R-Codes amendment as defined in the *Planning and Development (Planning Codes) Regulations 2024* regulation 28.

### **32. Consultation and public notice process commenced but not completed before 1 March 2024**

A consultation and public notice process in relation to a proposed State planning policy or proposed SPP amendment that commenced, but was not completed, before 1 March 2024 may be completed in accordance with the requirements of section 28 of the former Act rather than these regulations.

**33. State planning policy or amendment subject to consultation and public notice process under former Act**

- (1) This regulation applies if —
  - (a) the consultation and public notice process for a proposed State planning policy or proposed SPP amendment commences before 1 March 2024 and is completed under regulation 32; or
  - (b) the consultation and public notice process for a proposed State planning policy or proposed SPP amendment is completed before 1 March 2024, but the proposed State planning policy or proposed SPP amendment is not approved by the Governor under section 29(1) of the former Act before 1 March 2024.
- (2) For the purposes of the application of these regulations to the proposed State planning policy or proposed SPP amendment —
  - (a) the Commission is taken to have complied with the applicable requirements of Part 2 Division 2 in relation to advertising, and considering submissions on, the proposed State planning policy or proposed SPP amendment; and
  - (b) these regulations apply with any necessary changes.

N. HAGLEY, Clerk of the Executive Council

Defined terms

Defined terms

[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]

Defined term	Provision(s)
administrative amendment .....	4
advertising period .....	4
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approved policy .....	4
Commission’s website .....	4
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Western Australia

Planning and Development Act 2005

**Planning and Development (Development  
Assessment Panels) Amendment Regulations  
2024**



# Planning and Development (Development Assessment Panels) Amendment Regulations 2024

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***Planning and Development (Development Assessment Panels)  
Amendment Regulations 2024***

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## **Planning and Development (Development Assessment Panels) Amendment Regulations 2024**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Planning and Development (Development Assessment Panels) Amendment Regulations 2024*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on 1 March 2024.

**3. Regulations amended**

These regulations amend the *Planning and Development (Development Assessment Panels) Regulations 2011*.

**4. Regulation 3 amended**

- (1) In regulation 3(1) delete the definitions of:

*administrative officer*

*alternate member*

*DAP application*

*DAP member*

*local government member*

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*local government register*

*R-Codes*

*specialist member*

*warehouse*

- (2) In regulation 3(1) insert in alphabetical order:

***accepted for assessment*** has a meaning affected by subregulation (3);

***accreditation body***, for an area of expertise, means a body that accredits qualifications for the area of expertise;

***accredited***, in relation to a tertiary qualification for an area of expertise, means accredited by an accreditation body for the area of expertise;

***approved form*** means a form approved by the DAP executive director under regulation 54A;

***community housing*** means housing for people on a very low, low or moderate income, or for people with additional needs, that is provided by a person other than an occupant of the housing;

***community housing provider*** means a body corporate or organisation that has as one of its objectives the provision of community housing;

***DAP application*** means a development application of a class or kind prescribed under regulation 6 in respect of which the applicant has made an election under regulation 7;

***DAP executive director*** means the DAP executive director designated under regulation 49;

***DAP member*** means —

- (a) a local government DAP member; or
- (b) a specialist DAP member;



**local government DAP member** means a person designated as a local government DAP member or an alternate local government DAP member under regulation 25(2);

**R-codes** means the planning codes entitled Residential Design Codes prepared by the Commission under Part 3A of the Act, as amended from time to time;

**registered community housing provider** means a community housing provider that is included on the register under regulation 50;

**regular specialist DAP member** means a person who holds the office of regular specialist DAP member under regulation 27(1);

**relevant planning instrument**, in relation to a development application, means the planning instrument under which the application is made;

**sessional specialist DAP member** means a person who holds the office of sessional specialist DAP member under regulation 27(3);

**specialist DAP member** means a regular specialist DAP member or a sessional specialist DAP member.

(3) In regulation 3(1) in the definition of **deputy presiding member**:

(a) delete “appointed” and insert:

designated

(b) delete “regulation 27(1);” and insert:

regulation 24(1);

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- (4) In regulation 3(1) in the definition of ***excluded development application***:
- (a) delete paragraph (a) and insert:
    - (a) construction of a single house and any associated carport, patio, outbuilding and incidental development; or
  - (b) delete paragraphs (c) and (d) and insert:
    - (c) a public work; or
    - (d) development wholly within an area identified as a regional reserve under a region planning scheme;
- (5) In regulation 3(1) in the definition of ***presiding member***:
- (a) after “relation to a” insert:

meeting of a
  - (b) delete “appointed as presiding member of the DAP under regulation 27(1);” and insert:

presiding under regulation 24;
- (6) In regulation 3 in the note:
- (a) delete “DAP, JDAP, LDAP” and insert:

DAP

(b) after “meanings” insert:

in these regulations

**5. Part 2 Division 1 heading inserted**

At the beginning of Part 2 insert:

**Division 1 — DAP applications**

**6. Regulations 4A, 5 and 6 replaced**

Delete regulations 4A, 5 and 6 and insert:

**6. DAP applications**

- (1) A development application for approval of development is prescribed for the purposes of section 171A(2)(ba) of the Act if the development is within a district for which a DAP is established and the development —
  - (a) has an estimated cost of \$2 million or more; or
  - (b) is or includes community housing that is to be provided by a registered community housing provider.
- (2) This regulation does not apply to —
  - (a) an excluded development application; or
  - (b) a development application in respect of which the responsible authority has under regulation 19 delegated the power of determination; or

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- (c) a development application made under Part 11B or 17 of the Act.

Note for this regulation:

Section 171A(2A) of the Act provides that a development application that relates to land in the Swan Valley cannot be a prescribed development application.

**7. Regulation 7 amended**

- (1) In regulation 7(1) after “application of a” insert:

class or

- (2) Delete regulation 7(2)(a) and insert:

- (a) completing a notice of election in the approved form; and

**8. Regulation 8 amended**

- (1) In regulation 8(1) delete “any” (2<sup>nd</sup> occurrence) and insert:

a

- (2) Delete regulation 8(2) and insert:

- (2) If a DAP application is for approval of development in more than 1 district and there is more than 1 DAP established for some or all of those districts, the application is to be determined by the DAP in whose area of jurisdiction the greatest area of land to which the application relates is situated.

- (3) In subregulation (2) —  
***area of jurisdiction***, for a DAP, means the district or districts for which the DAP is established.

Note: The heading to amended regulation 8 is to read:

**DAP applications to be determined by DAPs**

**9. Regulation 9 amended**

- (1) In regulation 9 delete “These regulations” and insert:

(1) These regulations

- (2) At the end of regulation 9 insert:

- (2) For the purposes of these regulations, a development application is made to the Commission even though it is lodged with or given to a local government if, under the planning instrument under which the application is made, the application would be determined by the Commission but for regulation 8 or a delegation under regulation 19.

Note: The heading to amended regulation 9 is to read:

**Making DAP application: initial procedures**

**10. Part 2 Division 2 heading inserted**

After regulation 9 insert:

**Division 2 — Dealing with DAP applications**

**r. 11**

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**11. Regulation 10 amended**

- (1) In regulation 10(1):
- (a) in paragraph (a) delete “a completed notice in the form of Form 1 in Schedule 3; and” and insert:  
  
the completed notice of election referred to in regulation 7(2)(a); and
  - (b) in paragraph (b) delete “Schedule 1.” and insert:  
  
Schedule 1 item 1.
- (2) In regulation 10(2) delete “form” (1<sup>st</sup> occurrence) and insert:

notice

Note: The heading to amended regulation 10 is to read:

**Making DAP applications: notice and fees**

**12. Regulation 11 amended**

- (1) In regulation 11(1):
- (a) delete “administrative officer (the *relevant administrative officer*) of the DAP that will determine the application” and insert:  
  
DAP executive director

- (b) in paragraph (d) delete “planning instrument (the *relevant planning instrument*) under which the application was made;” and insert:

relevant planning instrument;

- (2) After regulation 11(1) insert:

- (1A) On receipt of a DAP application and notice under subregulation (1)(a) and (b) by the DAP executive director, the DAP that will determine the application is, for the purposes of these regulations, taken to have been notified of the application.

- (3) In regulation 11(2):

- (a) delete “a local government” and insert:

the local government

- (b) in paragraphs (a) and (b) delete “relevant administrative officer —” and insert:

DAP executive director —

- (4) In regulation 11(3) delete “relevant administrative officer” and insert:

DAP executive director

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**13. Regulation 12 amended**

- (1) Delete regulation 12(1) to (3) and insert:
  - (2) A responsible authority to which a DAP application is made must give the DAP executive director a report on the application in the approved form.
  - (3) The report must be given at least 12 days before the day on which the application would be taken to be refused under the relevant planning instrument.
- (2) In regulation 12(4A) delete “a DAP application” and insert:

the application
- (3) In regulation 12(4B) delete “DAP”.
- (4) In regulation 12(4):
  - (a) delete “presiding member of the DAP” and insert:

DAP executive director
  - (b) delete “a DAP” and insert:

the
- (5) In regulation 12(5) delete “DAP” (2<sup>nd</sup> occurrence).
- (6) Delete regulation 12(6) and (7) and insert:
  - (6) A DAP, in determining a DAP application, must have regard to, but is not bound to give effect to, the recommendations in a report under subregulation (2).



- (7) A DAP may determine a DAP application in the absence of a report under subregulation (2) if a report is not given in accordance with this regulation.

**14. Regulation 13 amended**

- (1) In regulation 13(1):
- (a) delete “presiding member of a DAP may, at any time after the” and insert:
- DAP executive director may, at any time after a
- (b) delete “give to the DAP” and insert:
- provide
- (2) After regulation 13(3) insert:
- (4) A DAP may determine a DAP application in the absence of a service required under this regulation if the service is not provided in accordance with this regulation.

**15. Regulation 15 amended**

- In regulation 15:
- (a) delete “administrative officer of a DAP” and insert:
- DAP executive director

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- (b) in paragraph (a) delete “DAP;” and insert:

DAP executive director;

- (c) in paragraph (b) after “DAP” insert:

executive director

- (d) delete paragraph (c) and insert:

- (c) the date on which the DAP that will determine  
the application will meet to consider it.

**16. Regulation 16 replaced**

Delete regulation 16 and insert:

**16. Determination by DAP**

- (1) Except as provided in subregulations (2) and (3), the provisions of the Act and the planning instrument under which a DAP application is made apply to the making and notification of the DAP’s determination of the application as if the DAP were the responsible authority in relation to the planning instrument.
- (2) Subregulation (3) applies if the planning instrument provides that an application is taken to be refused if not determined within a specified period after the application is accepted for assessment.
- (3) In calculating, under the planning instrument, the period between when the application is accepted for assessment and when the application is determined, any excluded day or period as defined in

regulation 12(4B) must be excluded, in addition to any period of extension under regulation 12(4).

- (4) A dispute that arises in determining whether a day or period is excluded under the planning instrument or subregulation (3) is to be determined by the DAP executive director.
- (5) The DAP executive director must give the following a copy of any written notice of a determination of a DAP application, together with approved plans and other ancillary documents, given under subregulation (1) to the applicant —
  - (a) the local government of each district in which land to which the application relates is situated;
  - (b) if the Commission is the responsible authority — the Commission.

**17. Regulation 16A amended**

Delete regulation 16A(2) and (3) and insert:

- (2) If development approval is granted by a DAP, the development must be substantially commenced —
  - (a) within the period specified in the approval; or
  - (b) if no period is specified in the approval — within the period of 4 years beginning on the day on which the approval is granted.

Note for this subregulation:

The period can be extended by an amendment of the approval under regulation 17(1)(a) or the provisions applied by regulation 17A.

- (3) The approval lapses if the development has not substantially commenced within the period referred to in subregulation (2).

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- (4) Subregulations (2) and (3) apply despite any provision of the planning instrument under which the DAP application is made.

**18. Regulation 17 amended**

- (1) Before regulation 17(1) insert:

- (1A) In subregulation (1) —

*relevant DAP*, in relation to a development approval, means —

- (a) the DAP established for the district in which the land to which the development approval relates is situated; or
    - (b) if there is more than 1 such district — the DAP established for the district in which the greatest area of land to which the development approval relates is situated.

- (2) In regulation 17(1) after “may apply for the” insert:

relevant

- (3) In regulation 17(2):

- (a) in paragraph (b) delete “the form of Form 2 in Schedule 3; and” and insert:

the approved form; and

- (b) in paragraph (c) delete “relevant fee set out in Schedule 1; and” and insert:

fee in Schedule 1 item 2; and

- (4) In regulation 17(4) delete “DAP may determine an” and insert:

relevant DAP may determine the

- (5) In regulation 17(5) delete “presiding member” and insert:

DAP executive director

- (6) In regulation 17(6) delete “administrative officer of the DAP” and insert:

DAP executive director

**19. Regulation 17A amended**

In regulation 17A(3) delete “administrative officer of the DAP that granted the development approval” and insert:

DAP executive director

**20. Part 2 Division 3 heading inserted**

After regulation 17A insert:

**Division 3 — Review by State Administrative Tribunal**

**r. 21**

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**21. Regulation 18 amended**

In regulation 18(3):

- (a) delete “presiding member of a DAP” and insert:

DAP executive director

- (b) in paragraph (a) delete “application by the DAP” and insert:

application, or an application under regulation 17, by a DAP

**22. Regulation 19 amended**

- (1) Delete regulation 19(1)(a) and (b) and insert:

- (a) the application is for approval for development that —

- (i) has an estimated cost of \$2 million or more; or  
(ii) is or includes community housing that is to be provided by a registered community housing provider;

and

- (b) the application is not an excluded application or made under Part 11B or 17 of the Act.

- (2) Delete regulation 19(5) and (6) and insert:

- (5) If a local government or the Commission delegates under this regulation, the local government or the Commission must notify the DAP executive director in

writing of the delegation and must publish a copy of it  
on a website of the local government or Commission.

**23. Regulation 20 amended**

In regulation 20(2) delete “Director General.” and insert:

DAP executive director.

**24. Regulation 21 amended**

(1) In regulation 21(2):

(a) delete “has delegated” and insert:

delegates

(b) in paragraph (a) delete “lodged a notice in the form of  
Form 1 in Schedule 3; and” and insert:

lodged notice, in an approved form, that the application  
is to be determined by a DAP; and

(c) in paragraph (b) delete “16” and insert:

16A

(2) In regulation 21(3):

(a) delete “has delegated” and insert:

delegates

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- (b) in paragraph (a) delete “lodged an application in the form of Form 2 in Schedule 3; and” and insert:

lodged notice, in an approved form, that the application is to be determined by a DAP; and

- (c) in paragraph (b) delete “16” and insert:

16A

**25. Regulation 22 amended**

- (1) In regulation 22(1) delete “regulation 10 by the applicant if the application were made under that regulation.” and insert:

regulation 10(1)(b) by the applicant if regulation 10 were applicable to the application.

- (2) In regulation 22(2) delete “regulation 17 by the applicant if the application were made under that regulation.” and insert:

regulation 17(2)(c) by the applicant if regulation 17 were applicable to the application.

**26. Part 4 Division 1 Subdivision 1 heading inserted**

At the beginning of Part 4 Division 1 insert:

**Subdivision 1 — Constitution of DAPs**



**27. Regulations 23 to 29 replaced**

Delete regulations 23 to 29 and insert:

**23. Constitution of DAPs**

- (1) Subject to subregulation (4), a DAP, at any meeting of the DAP to determine or otherwise deal with a development application or an application to amend or cancel a development approval, is constituted by —
  - (a) the 2 local government DAP members, designated under regulation 25(2)(a), for the relevant local government in relation to the application; and
  - (b) 3 specialist DAP members appointed by the DAP executive director.
- (2) In subregulation (1)(a) —  
*relevant local government*, in relation to an application, means the local government of the district in which the land to which the application relates is situated.
- (3) At least 1 of the specialist DAP members appointed under subregulation (1)(b) must be a regular specialist DAP member.
- (4) If the application is for approval of development, or to amend or cancel a development approval for development, in more than 1 district and the development is subject to approval under a region planning scheme or a regional interim development order, the DAP is constituted by —
  - (a) 2 local government DAP members appointed by the DAP executive director; and

- (b) 3 specialist DAP members appointed by the DAP executive director.
- (5) The DAP executive director must not appoint, under subregulation (1)(b) or (4)(b), a specialist DAP member who is —
  - (a) employed under the *Local Government Act 1995* section 5.36 by the local government of a district for which the DAP is established; or
  - (b) a member of the council of the local government of a district for which the DAP is established.

**24. Presiding DAP members**

- (1) The DAP executive director must, for a DAP constituted under regulation 23 for the purposes of dealing with an application, designate a specialist DAP member as the presiding member, and a specialist DAP member as the deputy presiding member, for each meeting of the DAP at which the DAP deals with the application.
- (2) If the DAP member designated as the presiding member is unable to preside by reason of illness, absence or other cause, the deputy is to preside.

**Subdivision 2 — Local government DAP members**

**25. Register of local government DAP members**

- (1) The DAP executive director must maintain a register of local government DAP members.

- (2) Subject to subregulation (4), the register must include, for each local government of a district for which a DAP is established, the names of 4 members of the council of the local government —
  - (a) 2 of whom must be designated as the local government DAP members for the local government; and
  - (b) 2 of whom must be designated as the alternate local government DAP members for the local government.
- (3) Whenever it is necessary to include a member of a council of a local government on the register, the Minister must —
  - (a) in writing, request the local government to nominate a member of the council of the local government for inclusion on the register; and
  - (b) unless subregulation (4) applies, include on the register the name of the person nominated.
- (4) If, within 40 days after the day on which the Minister makes a request under subregulation (3) or such longer period as the Minister may allow, the local government fails to nominate a person for inclusion on the register in accordance with the request, the Minister may instead include on the register a person who is an eligible voter of the district of the local government.
- (5) For the purposes of subregulation (4) a person is an eligible voter of a district if that person is eligible under the *Local Government Act 1995* section 4.29 or 4.30 to be enrolled to vote at elections for the district.

**26. Alternate local government DAP members**

- (1) If a local government DAP member designated under regulation 25(2)(a) for a local government is unable to perform the functions of a DAP member by reason of illness, absence or other cause, the DAP executive director may appoint an alternate local government DAP member for the local government to act in their place.
- (2) An alternate member acting in the place of a DAP member may, despite anything in these regulations, continue to act, after the occasion for so acting has ceased, for the purpose of completing a determination of an application.
- (3) An alternate member, while acting in the place of a DAP member, has the same functions and protection from liability as a DAP member.
- (4) No act or omission of an alternate member acting in the place of a DAP member is to be questioned on the ground that the occasion for so acting had not arisen or had ceased.

**Subdivision 3 — Specialist DAP members**

**27. Appointment of specialist DAP members**

- (1) The Minister may appoint a person to the office of regular specialist DAP member if satisfied that the person has experience in and an accredited tertiary qualification in urban and regional planning.
- (2) A regular specialist DAP member holds office on a full-time or part-time basis and cannot engage in any

other paid employment without the written approval of the Minister.

- (3) The Minister may appoint a person to the office of sessional specialist DAP member if satisfied that the person —
- (a) has experience in 1 or more of the following areas of expertise —
    - (i) urban and regional planning;
    - (ii) architecture;
    - (iii) urban design;
    - (iv) civil or structural engineering;
    - (v) landscape architecture;
    - (vi) environmental impact assessment;and
  - (b) has —
    - (i) an accredited tertiary qualification in their area of expertise that is, in the opinion of the Minister, sufficient to allow them to perform the duties of a specialist DAP member; or
    - (ii) extensive experience in their area of expertise that is, in the opinion of the Minister, sufficient to allow them to perform the duties of a specialist DAP member.
- (4) The following are not eligible to hold the office of specialist DAP member —
- (a) an officer of the department;

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- (b) a member of a parliament as defined in the *Local Government Act 1995* section 2.20(2).

**28. Terms and conditions of appointment of specialist DAP members**

- (1) The terms and conditions of appointment of a specialist DAP member, including about remuneration, are to be determined by the Minister on the recommendation of the Public Sector Commissioner.
- (2) A specialist DAP member holds office for the term specified in their instrument of appointment, which cannot exceed 5 years.
- (3) A person may be appointed to the office of specialist DAP member more than once.
- (4) However, the Minister must ensure that if a person is appointed for 2 consecutive terms, a period of at least 3 years follows during which the person does not hold office as a specialist DAP member.
- (5) A failure to comply with subregulation (4) does not give rise to any invalidity.

**28. Part 4 Division 1 Subdivision 4 heading inserted**

Before regulation 30 insert:

**Subdivision 4 — General provisions**

**29. Regulation 30 amended**

- (1) In regulation 30(1) delete “is appointed as a DAP member cannot perform any functions as a member of that DAP until the Director General” and insert:

becomes a DAP member cannot perform the functions of a DAP member until the DAP executive director

- (2) In regulation 30(2):

- (a) after “subregulation (3), a” insert:

local government

- (b) in paragraph (a) delete “specified in Schedule 2 item 7; and” and insert:

in Schedule 2 item 4; and

- (c) in paragraph (b) delete “specified in Schedule 2 item 8.” and insert:

in Schedule 2 item 5.

**30. Regulation 31 amended**

- (1) Delete regulation 31(1), (2) and (3A) and insert:

- (1) A local government DAP member who attends a meeting of a DAP is entitled to be paid —
- (a) if paragraph (b) does not apply — the fee in Schedule 2 item 1; or

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- (b) if the sole purpose of their attendance at the meeting is to amend or cancel a development approval — the fee in Schedule 2 item 2.
- (2) If a meeting of a DAP is cancelled after the agenda for the meeting is published under regulation 39(1), each local government DAP member who was to attend the meeting may, if the DAP executive director approves in writing, be paid 50% of the fee to which the member would have been entitled under subregulation (1).
- (2) In regulation 31(3):
  - (a) delete “Subject to subregulation (6), a” and insert:

A local government
  - (b) delete “set out in Schedule 2 item 5 or 6, as the case requires.” and insert:

in Schedule 2 item 3.
- (3) Delete regulation 31(3B).
- (4) In regulation 31(4) before “DAP member” insert:

local government
- (5) In regulation 31(5) before “DAP members” insert:

local government



(6) After regulation 31(5) insert:

(5A) Subregulations (1) to (4) have effect subject to subregulation (6).

(7) In regulation 31(6):

(a) after “fees” insert:

and allowances

(b) before “DAP member” insert:

local government

Note: The heading to amended regulation 31 is to read:

**Fees and allowances for local government DAP members**

**31. Regulation 32 amended**

(1) In regulation 32(3)(d) delete “the DAP” and insert:

a DAP

(2) In regulation 32(4) delete “46(2) or (3),” and insert:

46(2), (2A), (3) or (3A),

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- (3) Delete regulation 32(5A) and (5B) and insert:
- (5A) If the office of a local government DAP member becomes vacant, or the member resigns or is removed from office, the person ceases to be included on the register under regulation 25.
  - (5B) A local government DAP member for a local government ceases to be included on the register under regulation 25 if —
    - (a) the person ceases to be a member of the council of the local government; or
    - (b) in the case of a local government DAP member included on the register under regulation 25(4) — another person is included on the register for the local government under regulation 25.
- (4) In regulation 32(5):
- (a) delete “Except in the circumstances referred to in subregulation (5A), the” and insert:

The
  - (b) after “remove a” insert:

specialist
  - (c) delete “position or”.

**32. Regulation 32A inserted**

After regulation 32 insert:

**32A. Suspension**

- (1) The Minister may, by notice in writing given to the member, suspend a DAP member from office —
  - (a) for a specified period; or
  - (b) if the Minister proposes to remove the member from office under regulation 32(3) or (5) — until the Minister either removes the member from office or decides not to do so.
- (2) A notice given under subregulation (1) must specify the ground for suspension.
- (3) The suspension takes effect on the day on which the member is given the notice or on a later day specified in the notice.

**33. Part 4 Division 2 deleted**

Delete Part 4 Division 2.

**34. Regulation 39 amended**

- (1) In regulation 39(1)(b)(ii) delete “Director General.” and insert:

DAP executive director.

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- (2) In regulation 39(2) delete “administrative officer of the DAP” and insert:

DAP executive director

**35. Regulation 40 amended**

- (1) In regulation 40(1)(b) delete “under regulation 17.” and insert:

to amend or cancel development approvals.

- (2) Delete regulation 40(2) and insert:

(2) Subject to subregulations (2B) and (4), a DAP meeting to determine a development application or to amend or cancel a development approval must be open to the public.

(2A) The requirement in subregulation (2) is satisfied if members of the public can observe the meeting using audiovisual communication.

(2B) Subregulation (2) does not apply to a meeting or a part of a meeting of a DAP that deals with 1 of the following matters —

(a) legal advice obtained, or which may be obtained, for the purpose of advising the DAP in relation to a matter to be considered or determined at the meeting;

(b) a matter that, if disclosed, would reveal any of the following —

(i) a trade secret;

- (ii) information that has a commercial value to a person;
    - (iii) information about the business, professional, commercial or financial affairs of a person;
  - (c) a matter that, if disclosed, could reasonably be expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
    - (ii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.
- (3) In regulation 40(4) delete the passage that begins with “under regulation 17 —” and continues to the end of the subregulation and insert:
- to amend or cancel a development approval is not open to the public.
- (4) In regulation 40(5) delete “Director General” and insert:
- DAP executive director

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**36. Regulation 41 amended**

In regulation 41 delete “members of the DAP,” and insert:

DAP members,

**37. Regulation 42 amended**

In regulation 42(2) delete “of a” and insert:

of the

**38. Regulation 43 amended**

In regulation 43 delete “If the presiding member of a DAP consents, the presence of a person at a meeting of the DAP” and insert:

The presence of a person at a DAP meeting

**39. Regulation 44 amended**

(1) Delete regulation 44(1) and insert:

(1) Accurate minutes of the meetings of a DAP must be kept, in a form approved by the DAP executive director, by a person approved by the DAP executive director.

- (2) In regulation 44(1A) delete “under regulation 17,” and insert:

to amend or cancel a development approval,

- (3) Delete regulation 44(2) and insert:

- (2) The person who takes the minutes must give the DAP executive director a copy of the minutes of the meeting within 5 days after the date of the meeting.

- (4) Delete regulation 44(5).

- (5) In regulation 44(6) delete “administrative officer of the DAP must give the” and insert:

DAP executive director must give each relevant

- (6) Delete regulation 44(7) and insert:

- (7) Each relevant local government must provide a link on its website to the signed minutes on the DAP website.

**40. Regulation 46 amended**

- (1) In regulation 46(1) insert in alphabetical order:

*member’s district*, in relation to a local government DAP member, means the district of the local government of which they are a member;

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- (2) In regulation 46(1) in the definition of *gift* delete “section 5.82(4)” and insert:

section 5.57

- (3) Delete regulation 46(2) and (3) and insert:

- (2) A person who is a specialist DAP member must not accept a prohibited gift from a person who —
- (a) is undertaking development approved by a DAP; or
  - (b) is seeking to undertake development of a kind that could be approved by a DAP; or
  - (c) it is reasonable to believe, is intending to or is likely to undertake development of a kind that could be approved by a DAP.
- (2A) A person who is a local government DAP member must not accept a prohibited gift from a person who —
- (a) is undertaking, in the member’s district, development approved by a DAP established for the district; or
  - (b) is seeking to undertake, in the member’s district, development of a kind that could be approved by a DAP established for the district; or
  - (c) it is reasonable to believe, is intending to or is likely to undertake, in the member’s district, development of a kind that could be approved by a DAP established for the district.
- (3) A person who is a specialist DAP member and who accepts a notifiable gift from 1 of the following persons



must, as soon as practicable, notify the DAP executive director of the acceptance of the gift —

- (a) a person who is undertaking development approved by a DAP;
- (b) a person who is seeking to undertake development of a kind that could be approved by a DAP;
- (c) a person who, it is reasonable to believe, is intending to or likely to undertake development of a kind that could be approved by a DAP.

(3A) A person who is a local government DAP member and who accepts a notifiable gift from 1 of the following persons must, as soon as practicable, notify the DAP executive director of the acceptance of the gift —

- (a) a person who is undertaking, in the member's district, development approved by a DAP established for the district;
- (b) a person who is seeking to undertake, in the member's district, development of a kind that could be approved by a DAP established for the district;
- (c) a person who, it is reasonable to believe, is intending to or is likely to undertake, in the member's district, development of a kind that could be approved by a DAP established for the district.

(4) In regulation 46(5) delete "Director General" and insert:

DAP executive director

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**41. Regulation 48 amended**

In regulation 48(1) delete “member, other than the presiding member,” and insert:

member

**42. Regulations 49 and 50 replaced**

Delete regulations 49 and 50 and insert:

**49. DAP executive director, staff and facilities to be made available**

(1) In this regulation —

*departmental officer* means a public service officer employed in the department;

*employed in the department* includes seconded to perform functions or services for, or duties in the service of, the department;

*public service officer* has the meaning given in the *Public Sector Management Act 1994* section 3(1).

(2) The Director General must designate a departmental officer as the DAP executive director.

(3) The DAP executive director’s functions include assisting the DAPs in the performance of their functions.

(4) The DAP executive director may, in performing their functions, consult DAP members.

Examples for this subregulation:

1. Consulting about the services to be sought under regulation 13.

2. Consulting as part of preparing practice notes under regulation 40(5).
- (5) The departmental officer designated under subregulation (2) must have experience in and an accredited tertiary qualification in urban and regional planning.
- (6) The Director General may, from time to time, designate a departmental officer as the acting DAP executive director when the DAP executive director is unable, or expected to become unable, to act by reason of illness, absence or other cause or when no departmental officer is designated as the DAP executive director.
- (7) The Director General must make other departmental officers available to assist, under the direction of the DAP executive director, the DAPs and the DAP executive director in the performance of their functions.
- (8) The Director General must make the services and facilities of the Department available for the purposes of the performance of the functions of the DAPs.

**50. Register of community housing providers**

- (1) The Director General must maintain a register of community housing providers.
- (2) The Director General may include a body corporate or other organisation (an *entity*) on the register if —
  - (a) the entity is registered as a community housing provider under a law of another Australian jurisdiction; or
  - (b) the Director General is satisfied that the entity has as one of its objectives the provision of community housing.

**r. 43**

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- (3) The Director General must remove an entity from the register if —
  - (a) the entity requests that it be removed; or
  - (b) the entity is under external administration under the *Corporations Act 2001* (Commonwealth).
- (4) The Director General may remove an entity from the register —
  - (a) if an employee of, or a member of the governing body of, the entity is convicted of an offence involving fraud or dishonesty and the Director General is satisfied that the person is in a position of influence in or in relation to the entity; or
  - (b) if the Director General is satisfied that the entity has, by act or omission, compromised the safety or security of tenants of community housing provided by the entity; or
  - (c) for any other good reason.
- (5) The Director General must consult with the chief executive officer of the department of the Public Service principally assisting in the administration of the *Housing Act 1980* before including an entity on the register or removing an entity from the register.
- (6) The Director General must ensure that the register is publicly available on the DAP website.

**43. Regulation 54 amended**

In regulation 54(2) delete “JDAP” (each occurrence) and insert:

DAP

**44. Regulations 54A and 54B inserted**

After regulation 54 insert:

**54A. Approved forms**

- (1) The DAP executive director may approve forms for use under these regulations.
- (2) The DAP executive director must ensure that an approved form is published on the DAP website.
- (3) A failure to comply with subregulation (2) does not give rise to any invalidity.

**54B. Fee waiver, reduction or refund**

The Director General may, on a case by case basis, refund, reduce or waive, in whole or in part, a fee paid or payable by a registered community housing provider under Schedule 1 if the Director General considers it appropriate to do so.

**45. Part 7 heading and Part 7 Division 1 heading inserted**

After regulation 55 insert:

**Part 7 — Transitional Provisions**

**Division 1 — Provision for *Planning Regulations  
Amendment Regulations 2020***

**46. Part 7 Division 2 inserted**

After regulation 56 insert:

**Division 2 — Provisions for *Planning and Development  
(Development Assessment Panels) Amendment  
Regulations 2024***

**57. Terms used**

- (1) In this Division —  
*commencement day* means 1 March 2024;  
*JDAP* has the meaning given in section 4(1) of the Act  
as in force immediately before commencement day;  
*LDAP* has the meaning given in section 4(1) of the Act  
as in force immediately before commencement day;  
*local government register* means the register  
maintained under old regulation 26.
- (2) In this Division, a reference to an old regulation is a  
reference to that regulation as in force before  
commencement day.

**58. Local government DAP members**

- (1) The register maintained under regulation 25 is a  
continuation of the local government register.
- (2) Subregulation (3) applies to a person whose  
appointment under old regulation 23(1)(a) as a local  
government member of an LDAP established for a  
local government was in effect immediately before  
commencement day.
- (3) The name of the person is taken to be included on the  
register under regulation 25 and the person is taken to  
have been designated, on commencement day, under

regulation 25(2)(a), as a local government DAP member for the local government.

- (4) Subregulation (5) applies to a person included on the local government register for a local government immediately before commencement day.
- (5) The person is taken to have been designated, on commencement day, under regulation 25(2)(a), as a local government DAP member for the local government.
- (6) Subregulation (7) applies to a person whose appointment under old regulation 28(1)(b) as an alternate member, for a person appointed under old regulation 23(1)(a) or included on the local government register, for a local government, was in effect immediately before commencement day.
- (7) The person is taken to have been designated, on commencement day, under regulation 25(2)(b), as an alternate local government DAP member for the local government.
- (8) The DAP executive director must amend the register to give effect to this regulation.

**59. Specialist DAP members**

- (1) If a person was, immediately before commencement day, included on the register under old regulation 35, they are taken to hold the office of sessional specialist DAP member until the earliest of the following —
  - (a) being appointed to an office under regulation 27;
  - (b) their office being vacated under regulation 32;
  - (c) the end of 31 December 2024.

- (2) The person's terms and conditions of appointment under these regulations as in force immediately before commencement day continue until the earlier of the following —
  - (a) the occurrence of an event described in subregulation (1);
  - (b) the person's terms and conditions of appointment being determined under regulation 28(1).
- (3) For the purposes of subregulation (2), a person's terms and conditions of appointment may be determined under regulation 28(1) even though the person holds office under this regulation rather than under regulation 27.
- (4) Until 1 January 2025 —
  - (a) regulation 23(3) need not be complied with; and
  - (b) the DAP executive director may, under regulation 24(1), designate any of the DAP members as the presiding member.

**60. DAP applications**

- (1) A DAP application, as defined in old regulation 3(1), of which a DAP had been notified under old regulation 11 and which, immediately before commencement day, had not been determined, is taken to be a DAP application.
- (2) This regulation does not prevent the applicant from discontinuing the application.

**61. Previous determinations of LDAPs and JDAPs**

Regulations 17 and 17A apply in relation to a development approval granted before commencement



day by an LDAP or a JDAP as if the references in regulation 17(1) and 17A(1) to a development approval granted by a DAP included a reference to a development approval granted by an LDAP or a JDAP.

**47. Schedules 1 to 3 replaced**

Delete Schedules 1 to 3 and insert:

**Schedule 1 — Fees for applications**

[r. 10 and 17]		
<b>Item</b>	<b>Application</b>	<b>Fee</b>
1.	For a DAP application if the estimated cost of the development is —	
(a)	less than \$2 million	\$5 341
(b)	not less than \$2 million and less than \$7 million	\$6 168
(c)	not less than \$7 million and less than \$10 million	\$9 522
(d)	not less than \$10 million and less than \$12.5 million	\$10 361
(e)	not less than \$12.5 million and less than \$15 million	\$10 656
(f)	not less than \$15 million and less than \$17.5 million	\$10 952
(g)	not less than \$17.5 million and less than \$20 million	\$11 249

**r. 47**

<b>Item</b>	<b>Application</b>	<b>Fee</b>
	(h) not less than \$20 million and less than \$50 million	\$11 544
	(i) not less than \$50 million	\$16 680
2.	For an application under regulation 17 to amend or cancel a development approval	\$264

**Schedule 2 — Fees for local government DAP  
members**

[r. 30 and 31]

- |    |  |       |
|----|--|-------|
| 1. | Fee for local government DAP member for attendance at a meeting  | \$425 |
| 2. | Fee for local government DAP member for attendance at a meeting for the sole purpose of determining an application to amend or cancel a development approval | \$100 |
| 3. | Fee for a local government DAP member attending proceedings in the State Administrative Tribunal   | \$425 |
| 4. | Fee for training for local government DAP members  | \$400 |
| 5. | Fee for re-training for local government DAP members   | \$200 |

N. HAGLEY, Clerk of the Executive Council

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