

Planning and Development (Consequential and Transitional Provisions) Bill 2004

CONTENTS

| | | |
|---|--|---|
| Part 1 — Preliminary | | |
| 1. | Short title | 2 |
| 2. | Commencement | 2 |
| 3. | Interpretation | 2 |
| Part 2 — Repeal and amendment of legislation | | |
| Division 1 — Acts repealed | | |
| 4. | Acts in Schedule 1 repealed | 3 |
| Division 2 — <i>Land Administration Act 1997</i> | | |
| 5. | <i>Land Administration Act 1997</i> amended | 3 |
| 6. | Section 3 amended | 3 |
| 7. | Section 23 amended | 3 |
| 8. | Section 26 amended | 3 |
| 9. | Section 26A inserted | 4 |
| 10. | Section 27 amended | 5 |
| 11. | Section 190 amended | 5 |
| 12. | Section 196 amended | 5 |
| 13. | Section 274 amended | 5 |
| Division 3 — <i>Local Government (Miscellaneous Provisions) Act 1960</i> | | |
| 14. | <i>Local Government (Miscellaneous Provisions) Act 1960</i> amended and transitional | 6 |
| Division 4 — Miscellaneous amendments | | |
| 15. | Acts in Schedule 2 amended | 6 |
| 16. | Power to amend regulations | 6 |

Contents

Part 3 — SAT amendments

| | | |
|-----|---|----|
| 17. | The Act amended | 8 |
| 18. | Section 3 amended | 8 |
| 19. | Section 36 amended | 8 |
| 20. | Section 170 amended | 8 |
| 21. | Section 174 amended | 9 |
| 22. | Section 176 amended | 9 |
| 23. | Section 185 amended | 9 |
| 24. | Section 188 amended | 9 |
| 25. | Section 210 amended | 10 |
| 26. | Section 211 amended | 10 |
| 27. | Section 215 amended | 10 |
| 28. | Part 14 headings replaced | 11 |
| 29. | Sections 236 and 237 replaced | 11 |
| 30. | Section 238 amended | 13 |
| 31. | Section 239 repealed | 14 |
| 32. | Part 14 Divisions 2 and 3 repealed | 14 |
| 33. | Part 14 Division 4 heading deleted | 14 |
| 34. | Sections 247 to 257 repealed | 14 |
| 35. | Section 258 amended | 15 |
| 36. | Section 259 repealed | 16 |
| 37. | Section 260 amended | 16 |
| 38. | Section 261 amended | 16 |
| 39. | Section 262 replaced | 17 |
| 40. | Sections 263 to 265 repealed and section 263 inserted | 17 |
| 41. | Section 266 amended | 18 |
| 42. | Sections 267 and 268 repealed | 18 |
| 43. | Part 14 Division 5 heading deleted | 18 |
| 44. | Section 269 amended | 18 |
| 45. | Section 270 amended | 19 |
| 46. | Section 271 amended | 20 |
| 47. | Part 14 Division 6 heading deleted | 21 |
| 48. | Sections 273 to 275 repealed | 21 |
| 49. | Section 276 amended | 21 |
| 50. | Section 277 amended | 21 |
| 51. | Section 278 amended | 22 |
| 52. | Section 279 amended | 23 |
| 53. | Section 280 amended | 24 |
| 54. | Section 281 amended | 24 |
| 55. | Section 282 replaced | 24 |

| | | |
|--|--|----|
| 56. | Schedule 7 amended | 24 |
| 57. | Schedules 10 and 11 repealed | 25 |
| Part 4 — Transitional and saving provisions | | |
| Division 1 — Preliminary | | |
| 58. | Application of <i>Interpretation Act 1984</i> | 26 |
| 59. | Transitional regulations | 26 |
| 60. | Construction of references in written laws | 27 |
| Division 2 — Continuation of various bodies, memberships and appointments | | |
| 61. | WAPC continues | 28 |
| 62. | Membership of Commission | 28 |
| 63. | Staff | 29 |
| 64. | Committees | 30 |
| 65. | Board of Valuers | 31 |
| Division 3 — Transitional provisions | | |
| 66. | Subsidiary legislation and fees | 32 |
| 67. | Planning schemes in course of preparation | 32 |
| 68. | Caveats | 33 |
| Division 4 — Other savings | | |
| 69. | Section 9(4) and (5) TPD Act | 33 |
| 70. | Section 28A(5) TPD Act | 33 |
| 71. | Section 37A(4a) MRTPS Act | 33 |
| Schedule 1 — Acts repealed | | 34 |
| Schedule 2 — Consequential amendments | | 35 |
| 1. | <i>Agricultural Practices (Disputes) Act 1995</i> | 35 |
| 2. | <i>Anzac Day Act 1960</i> | 35 |
| 3. | <i>Armadale Redevelopment Act 2001</i> | 35 |
| 4. | <i>Bail Act 1982</i> | 38 |
| 5. | <i>Betting Control Act 1954</i> | 39 |
| 6. | <i>Caravan Parks and Camping Grounds Act 1995</i> | 39 |
| 7. | <i>Carbon Rights Act 2003</i> | 39 |
| 8. | <i>Casino (Burswood Island) Agreement Act 1985</i> | 40 |
| 9. | <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i> | 40 |

Contents

| | | |
|-----|--|----|
| 10. | <i>Conservation and Land Management Act 1984</i> | 41 |
| 11. | <i>Constitution Acts Amendment Act 1899</i> | 41 |
| 12. | <i>Contaminated Sites Act 2003</i> | 41 |
| 13. | <i>Control of Vehicles (Off-road Areas) Act 1978</i> | 41 |
| 14. | <i>Country Housing Act 1998</i> | 42 |
| 15. | <i>Dog Act 1976</i> | 42 |
| 16. | <i>East Perth Redevelopment Act 1991</i> | 42 |
| 17. | <i>Energy Operators (Powers) Act 1979</i> | 45 |
| 18. | <i>Environmental Protection Act 1986</i> | 45 |
| 19. | <i>Esperance Port Authority Lands Act 1979</i> | 52 |
| 20. | <i>Family Court Act 1997</i> | 52 |
| 21. | <i>Forest Products Act 2000</i> | 52 |
| 22. | <i>Forrest Place and City Station Development Act 1985</i> | 52 |
| 23. | <i>Gaming and Wagering Commission Act 1987</i> | 53 |
| 24. | <i>Gas Corporation (Business Disposal) Act 1999</i> | 53 |
| 25. | <i>Government Employees' Housing Act 1964</i> | 53 |
| 26. | <i>Heritage of Western Australia Act 1990</i> | 53 |
| 27. | <i>Hope Valley-Wattleup Redevelopment Act 2000</i> | 55 |
| 28. | <i>Housing Act 1980</i> | 57 |
| 29. | <i>Housing Loan Guarantee Act 1957</i> | 58 |
| 30. | <i>Interpretation Act 1984</i> | 58 |
| 31. | <i>Jetties Act 1926</i> | 58 |
| 32. | <i>Land Tax Assessment Act 2002</i> | 58 |
| 33. | <i>Liquor Licensing Act 1988</i> | 60 |
| 34. | <i>Local Government Act 1995</i> | 60 |
| 35. | <i>Marine and Harbours Act 1981</i> | 60 |
| 36. | <i>Metropolitan Region Scheme (Fremantle) Act 1994</i> | 60 |
| 37. | <i>Midland Redevelopment Act 1999</i> | 61 |
| 38. | <i>Mining Act 1978</i> | 64 |
| 39. | <i>Motor Vehicle Dealers Act 1973</i> | 64 |
| 40. | <i>Motor Vehicle Repairers Act 2003</i> | 64 |
| 41. | <i>Perth Parking Management Act 1999</i> | 65 |
| 42. | <i>Petroleum Pipelines Act 1969</i> | 65 |
| 43. | <i>Pigment Factory (Australind) Agreement Act 1986</i> | 65 |
| 44. | <i>Port Authorities Act 1999</i> | 66 |
| 45. | <i>Port Kennedy Development Agreement Act 1992</i> | 66 |
| 46. | <i>Property Law Act 1969</i> | 66 |
| 47. | <i>Racing and Wagering Western Australia Act 2003</i> | 67 |
| 48. | <i>Racing Restriction Act 2003</i> | 67 |
| 49. | <i>Rail Freight System Act 2000</i> | 68 |
| 50. | <i>Road Safety Council Act 2002</i> | 68 |

| | | |
|-----|--|----|
| 51. | <i>Sale of Land Act 1970</i> | 69 |
| 52. | <i>Settlement Agents Act 1981</i> | 69 |
| 53. | <i>Silicon (Kemerton) Agreement Act 1987</i> | 69 |
| 54. | <i>Small Business Development Corporation Act 1983</i> | 70 |
| 55. | <i>Small Claims Tribunals Act 1974</i> | 70 |
| 56. | <i>Soil and Land Conservation Act 1945</i> | 70 |
| 57. | <i>Stamp Act 1921</i> | 70 |
| 58. | <i>Strata Titles Act 1985</i> | 71 |
| 59. | <i>Subiaco Redevelopment Act 1994</i> | 74 |
| 60. | <i>Swan River Trust Act 1988</i> | 77 |
| 61. | <i>Swan Valley Planning Act 1995</i> | 78 |
| 62. | <i>Taxation Administration Act 2003</i> | 80 |
| 63. | <i>Transfer of Land Act 1893</i> | 80 |
| 64. | <i>Tree Plantation Agreements Act 2003</i> | 81 |
| 65. | <i>Water Agencies (Powers) Act 1984</i> | 81 |
| 66. | <i>Water Services Licensing Act 1995</i> | 82 |
| 67. | <i>Waterways Conservation Act 1976</i> | 83 |

Western Australia

LEGISLATIVE ASSEMBLY

(As amended by the Legislation Committee)

**Planning and Development (Consequential and
Transitional Provisions) Bill 2004**

A Bill for

An Act —

- **to repeal the following Acts —**
Metropolitan Region Town Planning Scheme Act 1959;
Town Planning and Development Act 1928;
Western Australian Planning Commission Act 1985;
- **to amend certain other Acts; and**
- **for purposes relating to those repeals and amendments and to the enactment of the *Planning and Development Act 2004*.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Planning and Development (Consequential and Transitional Provisions) Act 2004*.

5 **2. Commencement**

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

10 **3. Interpretation**

In this Act —

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

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

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

“**PD Act**” means the *Planning and Development Act 2004*;

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

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

Part 2 — Repeal and amendment of legislation

Division 1 — Acts repealed

4. Acts in Schedule 1 repealed

The Acts mentioned in Schedule 1 are repealed.

5

Division 2 — *Land Administration Act 1997*

5. *Land Administration Act 1997* amended

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

[* Reprinted as at 22 June 2001.

10

For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 206-7 and Act No. 56 of 2003.]

6. Section 3 amended

15

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

“ under the *Planning and Development Act 2004*; ”.

7. Section 23 amended

20

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

“ the *Planning and Development Act 2004*, ”.

8. Section 26 amended

25

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

“ Subject to section 26A, the Minister ”.

9. Section 26A inserted

After section 26 the following section is inserted —

“

26A. Names of roads and areas in new subdivisions

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

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

5

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

”.

10. Section 27 amended

Section 27(5) is repealed.

10 **11. Section 190 amended**

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

“ the *Planning and Development Act 2004* ”.

12. Section 196 amended

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

“ the *Planning and Development Act 2004* ”.

13. Section 274 amended

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

“ the *Planning and Development Act 2004* ”.

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

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

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

[* Reprinted as at 28 July 1999.

10 *For subsequent amendments see Western Australian
Legislation Information Tables for 2003, Table 1, p. 227 and
Act No. 50 of 2003 .]*

(2) Section 295 is repealed.

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

(4) Until minimum standards of construction and drainage are fixed
under section 169 of the *Planning and Development Act 2004*,
20 the minimum standards fixed under section 295(3a) of the *Local
Government (Miscellaneous Provisions) Act 1960* apply for the
purposes of the *Planning and Development Act 2004* as if they
had been fixed under that Act.

Division 4 — Miscellaneous amendments

15. Acts in Schedule 2 amended

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

16. Power to amend regulations

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

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

Part 3 — SAT amendments

17. The Act amended

The amendments in this Part are to the *Planning and Development Act 2004**.

5 [* *Bill currently before Parliament as Planning and Development Bill 2004.*]

18. Section 3 amended

10 Section 3(1) is amended by deleting the definitions of “appeal”, “deputy President”, “party”, “President”, “Principal Registrar”, “rules”, “Tribunal” and “Tribunal member”.

19. Section 36 amended

Section 36(b) is amended as follows:

- 15 (a) by deleting “an appeal” and inserting instead —
“ an application ”;
- (b) by inserting before “Tribunal” —
“ State Administrative ”.

20. Section 170 amended

Section 170(5) is amended as follows:

- 20 (a) by deleting “appeal to the Tribunal” and inserting instead —
“
apply to the State Administrative Tribunal for a review
”;
- 25 (b) by deleting “against” and inserting instead —
“ of ”.

21. Section 174 amended

Section 174(4) is amended by inserting before “Tribunal” —
“ State Administrative ”.

22. Section 176 amended

5 Section 176(1) is amended by inserting before “Tribunal” —
“ State Administrative ”.

23. Section 185 amended

Section 185(1)(b) is amended as follows:

- 10 (a) by deleting “determination appealed against by” and
inserting instead —
“ decision for the review of which ”;
- (b) by inserting after “claimant” —
“ has made an application ”;
- 15 (c) by inserting before “Tribunal” —
“ State Administrative ”.

24. Section 188 amended

- (1) Section 188(2)(b) is deleted and the following paragraph is
inserted instead —

20 “
(b) by the State Administrative Tribunal on the
owner of the land applying to it for a
determination of that value;
”.

- (2) Section 188(3)(b) is amended by inserting before “Tribunal” —
25 “ State Administrative ”.

s. 25

25. Section 210 amended

Section 210(4) is repealed and the following subsection is inserted instead —

“

- 5 (4) A local government may apply to the State Administrative Tribunal for a review, in accordance with Part 14, of any order of the Minister under this section.

”.

10 **26. Section 211 amended**

- (1) Section 211(2) is amended by inserting before “Tribunal” —
“ State Administrative ”.

- (2) Section 211(3) is amended by deleting “appeal” and inserting instead —

15 “ application for review ”.

- (3) Section 211(4) is amended by inserting before “Tribunal” —
“ State Administrative ”.

- (4) Section 211(5) is amended by inserting before “Tribunal” —
“ State Administrative ”.

20 **27. Section 215 amended**

- (1) Section 215(1)(a)(ii) is amended as follows:

(a) by deleting “appeal” and inserting instead —
“ apply ”;

25 (b) by deleting “against” and inserting instead —
“ for a review of ”.

(2) Section 215(1)(b) is amended as follows:

- (a) by deleting “appeal” and inserting instead —
“ application ”;
- (b) by deleting “against” and inserting instead —
“ for a review of ”;
- (c) by inserting before “Tribunal” —
“ State Administrative ”.

5

28. Part 14 headings replaced

The heading to Part 14 and the heading to Part 14 Division 1 are
deleted and the following heading is inserted instead —

10

“

Part 14 — Applications for review

”.

29. Sections 236 and 237 replaced

Sections 236 and 237 are repealed and the following sections
are inserted instead —

15

“

236. When this Part applies

- (1) In this section —
“**planning scheme**” includes any other instrument that
regulations made under the *State Administrative
Tribunal Act 2004* specify to be a planning scheme
for the purposes of subsection (3).
- (2) This Part applies if a written law or a planning scheme
give the State Administrative Tribunal jurisdiction to
carry out a review in accordance with this Part.
- (3) Even if a planning scheme does not expressly give a
person a right to apply to the State Administrative
Tribunal for a review, in accordance with this Part, of a

20

25

decision or matter, the planning scheme is taken to give that right if —

- 5 (a) the planning scheme is expressed as conferring on the person a right to appeal against the decision, or to refer the matter, under this Act; or
- 10 (b) the planning scheme is expressed as conferring on the person a right to appeal or apply for review in respect of the matter and the matter involves the exercise by the responsible authority of a discretionary power.
- 15 (4) Subsection (3) applies even if the planning scheme provides for the appeal, referral or application to be made otherwise than to the State Administrative Tribunal or, in the circumstances described in paragraph (b) of that subsection, otherwise than in accordance with this Part.
- 20 (5) A provision in a planning scheme of the kind described in subsection (3)(a) or (b) has no effect other than the effect given to that provision by subsection (3).

237. Terms used in this Part

In this Part, unless the contrary intention appears —

25 “**ordinary member**” has the meaning given to that term in section 3(1) of the *State Administrative Tribunal Act 2004*;

“**party**” has the meaning given to that term in section 36 of the *State Administrative Tribunal Act 2004*;

30 “**President**” means the President of the State Administrative Tribunal.

”.

30. Section 238 amended

- (1) Section 238(1) is amended by deleting “Each Tribunal member is to be a person who, in the opinion of the Minister,” and inserting instead —

5

“

The member constituting the State Administrative Tribunal, or each of them if there is more than one, is to be a person who

”.

10

- (2) Section 238(2) is repealed.

- (3) Section 238(3) to (5) are repealed and the following subsections are inserted instead —

“

15

- (3) If the application is for a review of a decision referred to in section 281 or a decision relating to an environmental condition, the member constituting the State Administrative Tribunal, or at least one of them if there is more than one, is to be a person who has knowledge of and experience in the field of environmental science.

20

- (4) Unless this section does not apply because of subsection (5), the State Administrative Tribunal is to be constituted by an ordinary member sitting alone when dealing with —

25

- (a) an application for review of —

30

- (i) the determination of, or conditions imposed in respect of, a development application to commence a development of a value of less than \$250 000 or such other amount as is prescribed by regulations made under the *State Administrative Tribunal Act 2004*;
- (ii) the determination of, or conditions imposed in respect of, a development

- 5 application to commence a development
of a single house on a single lot where
the development is of a value of less
than \$500 000 or such other amount as
is prescribed by regulations made under
the *State Administrative Tribunal
Act 2004*, or any development ancillary
to that development; or
- 10 (iii) the determination of, or conditions
imposed in respect of, an application for
approval to subdivide a lot into not
more than 3 lots;
- or
- 15 (b) an application that the applicant, with the
agreement of each other party, has elected at
the time of making the application to have
determined by an ordinary member sitting
alone.
- 20 (5) Subsection (4) does not apply if the President is of the
opinion that the application is likely to raise complex
or significant planning issues.

”.

31. Section 239 repealed

Section 239 is repealed.

25 **32. Part 14 Divisions 2 and 3 repealed**

Part 14 Divisions 2 and 3 are repealed.

33. Part 14 Division 4 heading deleted

The heading to Part 14 Division 4 is deleted.

34. Sections 247 to 257 repealed

30 Sections 247, 248, 249, 250, 251, 252, 253, 254, 255, 256 and
257 are repealed.

35. Section 258 amended

(1) Section 258(1) and (2) are repealed.

(2) Section 258(3) is amended as follows:

5 (a) by deleting “An appellant in an appeal described in section 240(3)(a)” and inserting instead —
“
In the case of an application described in section 238(4)(a), the applicant
”;

10 (b) by deleting “appeal is commenced” and inserting instead —

“ application is made ”;

(c) by deleting “party to the appeal” and inserting instead —

15 “ party to the application ”.

(3) Section 258(4) is amended as follows:

(a) by deleting “appellant” in each place where it occurs and inserting instead —

“ applicant ”;

20 (b) by deleting “appeal” in the first place where it occurs and in paragraph (b) and inserting instead —

“ application ”;

(c) in paragraph (a) by deleting “has given a direction under section 240(4) in respect of the appeal” and inserting instead —

25 “
30 , being of the opinion that the application is likely to raise complex or significant planning issues, directs that the parties may be so represented
”.

s. 36

36. Section 259 repealed

Section 259 is repealed.

37. Section 260 amended

Section 260 is amended as follows:

- 5 (a) by deleting “appeal to the Tribunal from” and inserting instead —
“ application for the review of ”;
- (b) by deleting “Tribunal is to” and inserting instead —
“ State Administrative Tribunal is to ”;
- 10 (c) by deleting “appeal.” and inserting instead —
“ application. ”.

38. Section 261 amended

(1) Section 261(1) is amended as follows:

- 15 (a) by deleting “appeal” in each place where it occurs and inserting instead —
“ application ”;
- (b) by inserting before “Tribunal” —
“ State Administrative ”.

(2) Section 261(2) is amended as follows:

- 20 (a) by deleting “appeal” in both places where it occurs and inserting instead —
“ application ”;
- (b) by inserting before “Tribunal” —
“ State Administrative ”.

(3) Section 261(3) is amended as follows:

- 25 (a) by deleting “appeal against” and inserting instead —
“ application for a review of ”;

- (b) by deleting “appellant” and inserting instead —
“ applicant ”;
- (c) by inserting before “Tribunal” in each place where it
occurs —
“ State Administrative ”.

5

39. Section 262 replaced

Section 262 is repealed and the following section is inserted
instead —

“

10

262. Submissions from persons who are not parties

The State Administrative Tribunal may receive or hear
submissions in respect of an application from a person
who is not a party to the application if the Tribunal is
of the opinion that the person has a sufficient interest in
the matter.

15

”.

40. Sections 263 to 265 repealed and section 263 inserted

Sections 263, 264 and 265 are repealed and the following
section is inserted instead —

20

“

263. Exclusion of powers to join parties

Section 38 of the *State Administrative Tribunal
Act 2004* does not apply in a proceeding for a review in
accordance with this Part.

25

”.

s. 41

41. Section 266 amended

- (1) Section 266(1) is repealed and the following subsection is inserted instead —

“

- 5 (1) The State Administrative Tribunal constituted by the President may, of its own motion or upon an application made under subsection (3), review a direction, determination or order upon a matter involving a question of law that was made by the State
10 Administrative Tribunal when constituted without a legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2004*.

”.

- 15 (2) Section 266(2) is amended by inserting before “Tribunal” in both places where it occurs —

“ State Administrative ”.

- (3) Section 266(5) is amended by inserting before “Tribunal” —

“ State Administrative ”.

42. Sections 267 and 268 repealed

- 20 Sections 267 and 268 are repealed.

43. Part 14 Division 5 heading deleted

The heading to Part 14 Division 5 is deleted.

44. Section 269 amended

- (1) Section 269(1) is amended as follows:

- 25 (a) by inserting before “Tribunal” in each place where it occurs —

“ State Administrative ”;

(b) by deleting “appeal” in both places where it occurs and inserting instead —
“ application ”.

(2) Section 269(2) is amended as follows:

5 (a) by deleting “appeal” in both places where it occurs and inserting instead —
“ application ”;

(b) by inserting before “Tribunal” —
“ State Administrative ”.

10 (3) Section 269(3) is amended by deleting “appeal” in both places where it occurs and inserting instead —
“ application ”.

(4) Section 269(4) is amended by inserting before “Tribunal” in both places where it occurs —

15 “ State Administrative ”.

(5) Section 269(5) is amended by deleting “appeal” in both places where it occurs and inserting instead —

“ application ”.

45. Section 270 amended

20 (1) Section 270(1) is amended by deleting “appeal” in each place where it occurs and inserting instead —
“ application ”.

(2) Section 270(2) is amended as follows:

25 (a) by deleting “appeal” in both places where it occurs and inserting instead —
“ application ”;

- (b) in paragraph (a) by deleting “Principal Registrar” and inserting instead —
“ President ”;
- (c) in paragraph (b) by inserting before “Tribunal” —
“ State Administrative ”.
- 5
- (3) Section 270(3) is amended as follows:
- (a) in paragraphs (a) and (c) by deleting “appeal” and inserting instead —
“ application ”;
- 10 (b) in paragraph (a) by inserting before “Tribunal” —
“ State Administrative ”;
- (c) by deleting paragraph (b) and “or” after it and inserting instead —
“
15 (b) more than 14 days after the application was made to the State Administrative Tribunal; or
”.

46. Section 271 amended

- (1) Section 271(1) and (2) are amended by deleting “appeal” and inserting instead —
20 “ application ”.
- (2) Section 271(3) is amended as follows:
- (a) by deleting “appeal” and inserting instead —
“ application ”;
- 25 (b) by deleting “Principal Registrar” and inserting instead —
“
executive officer of the State Administrative Tribunal
”.

- (3) Section 271(4)(a) is amended by deleting “appeal” and inserting instead —
“ application ”.

47. Part 14 Division 6 heading deleted

5 The heading to Part 14 Division 6 is deleted.

48. Sections 273 to 275 repealed

Sections 273, 274 and 275 are repealed.

49. Section 276 amended

- 10 (1) Section 276(1) is amended by deleting “appeal under this Part.” and inserting instead —

“
apply to the State Administrative Tribunal for a review,
in accordance with this Part, of the decision to refuse or
to impose the conditions.
15 ”.

- (2) Section 276(2) is amended by deleting “appeal” and inserting instead —

“ application for review ”.

50. Section 277 amended

- 20 (1) Section 277(1) is amended as follows:

- (a) by deleting “appeal against that approval or refusal under” and inserting instead —

“
25 apply to the State Administrative Tribunal for a review,
in accordance with
”;

- (b) after “Part” by inserting —
“ , of that approval or refusal ”.

s. 51

(2) Section 277(2) is amended as follows:

- (a) by deleting “An appeal” and inserting instead —
“ An application ”;
- (b) after “subsection (1)” by inserting —
“ for a review ”;
- (c) by deleting “the appeal” and inserting instead —
“ the application referred ”.

5

51. Section 278 amended

(1) Section 278(1) is amended by deleting “appeal under this Part
against” and inserting instead —

10

“
apply to the State Administrative Tribunal for a review,
in accordance with this Part, of
”.

15

(2) Section 278(2) is amended by deleting “appeal under this Part
against” and inserting instead —

“
apply to the State Administrative Tribunal for a review,
in accordance with this Part, of
”.

20

(3) Section 278(3) is amended by deleting “appeal under this Part
against” and inserting instead —

“
apply to the State Administrative Tribunal for a review,
in accordance with this Part, of
”.

25

(4) Section 278(4) is amended by deleting “appeal under this Part
against” and inserting instead —

“
apply to the State Administrative Tribunal for a review,
in accordance with this Part, of
”.

30

(5) Section 278(5) is amended as follows:

(a) by deleting “appeal under” and inserting instead —

“ application under ”;

(b) by deleting “appeal against” and inserting instead —

5 “ application for a review of ”.

52. Section 279 amended

(1) Section 279(1) is amended by deleting “appeal under this Part against” and inserting instead —

“

10 apply to the State Administrative Tribunal for a review,
in accordance with this Part, of

”.

(2) Section 279(2) is amended by deleting “appeal under this Part against” and inserting instead —

“

15 apply to the State Administrative Tribunal for a review,
in accordance with this Part, of

”.

(3) Section 279(3) is amended as follows:

20 (a) by deleting “of appeal”;

(b) by deleting “planning scheme,” and inserting instead —

“

planning scheme to apply for a review of a decision,

”;

25 (c) by deleting “appeal in respect” and inserting instead —

“ apply for a review ”.

s. 53

53. Section 280 amended

Section 280(3) is amended by deleting “appeal under this Part” and inserting instead —

“

5 apply to the State Administrative Tribunal for a review,
in accordance with this Part,

”.

54. Section 281 amended

Section 281 is amended by deleting “appeal under this Part
10 against” and inserting instead —

“

apply to the State Administrative Tribunal for a review,
in accordance with this Part, of

”.

15 **55. Section 282 replaced**

Section 282 is repealed and the following section is inserted
instead —

“

282. Review of section 214 direction

20 A person to whom a direction is given under
section 214 may apply to the State Administrative
Tribunal for review, in accordance with this Part, of the
decision to give the direction.

”.

25 **56. Schedule 7 amended**

Schedule 7 clause 14 is amended by deleting “of appeal to the
Tribunal” and inserting instead —

“

30 to apply to the State Administrative Tribunal for a review of
the exercise of the power

”.

57. Schedules 10 and 11 repealed

Schedules 10 and 11 are repealed.

Part 4 — Transitional and saving provisions

Division 1 — Preliminary

58. Application of *Interpretation Act 1984*

5 (1) The provisions of the *Interpretation Act 1984* (for example, sections 16(1), 36 and 38) about the repeal of written laws and the substitution of other written laws for those so repealed apply to the repeal of an Act mentioned in Schedule 1 as if that Act were repealed and re-enacted by the PD Act.

10 (2) The other provisions of this Act are additional to the provisions applied by subsection (1) and except in the case of section 14(3) and (4) do not affect the operation of the provisions applied by subsection (1).

59. Transitional regulations

15 (1) If there is no sufficient provision in this Act for dealing with a transitional matter, regulations under this Act may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with the matter.

(2) In subsection (1) —
20 **“transitional matter”** means a matter that needs to be dealt with for the purpose of —

- (a) effecting the transition from the provisions of the Acts repealed by this Act to the provisions of the PD Act; or
- 25 (b) effecting the transition from the provisions of an Act amended by a provision of this Act (the **“amending provision”**) as in force before this Act comes into operation to the provisions of that Act as in force after the amending provision comes into operation.

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

60. Construction of references in written laws

- (1) Unless the context otherwise requires, a reference in a written law to an enactment repealed by this Act includes a reference to the corresponding provision, if any, of the PD Act.
- 30 (2) A reference in a written law to a town planning scheme may, where the context so requires, be read as if it had been amended

**Planning and Development (Consequential and Transitional Provisions)
Bill 2004**

Part 4 Transitional and saving provisions

Division 2 Continuation of various bodies, memberships and appointments

s. 61

to include or be a reference to a local planning scheme under the PD Act.

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

Division 2 — Continuation of various bodies, memberships and appointments

61. WAPC continues

- 15
- (1) The Western Australian Planning Commission established under the PD Act is a continuation of and the same legal entity as the Western Australian Planning Commission established under the WAPC Act, with the same rights and obligations as the existing Commission.
- (2) If in a written law or other document or instrument there is —
- 20
- (a) a reference to the existing Commission; or
- (b) a reference that is read and construed as a reference to the existing Commission,

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

25

62. Membership of Commission

- (1) The persons who were members and deputy members of the existing Commission (including the chairperson and deputy chairperson) immediately before the commencement of the PD Act continue in office, under and subject to that Act, as the
- 30

chairperson, deputy chairperson, members and deputy members
of the board of the Commission established under the PD Act.

(2) A person to whom subsection (1) applies is to be regarded as
having been appointed under the PD Act.

5 (3) If in a written law or other document or instrument there is —

(a) a reference to the chairperson or a member of the
existing Commission; or

(b) a reference that is read and construed as a reference to
the chairperson or a member of the existing
10 Commission,

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

15 **63. Staff**

(1) People who were engaged by the existing Commission
immediately before the commencement of the PD Act continue,
under and subject to that Act, as officers of the Commission.

20 (2) A person mentioned in subsection (1) is to be regarded as
having been engaged under the PD Act.

(3) Except as otherwise agreed by the officer of the Commission,
the remuneration, existing or accrued rights, rights under a
superannuation scheme or continuity of service of an officer of
the existing Commission are not affected, prejudiced or
25 interrupted by the operation of subsection (1) or the repeal of
the WAPC Act.

(4) The rights under a superannuation scheme of a person who was
an officer of the existing Commission are not affected,
prejudiced or interrupted by the repeal of the WAPC Act.

**Planning and Development (Consequential and Transitional Provisions)
Bill 2004**

Part 4 Transitional and saving provisions

Division 2 Continuation of various bodies, memberships and appointments

s. 64

64. Committees

(1) In this section —

“existing committee” means —

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

reference to the Sustainable Transport Committee established under the PD Act.

- 5 (6) The persons who were members of an existing committee immediately before the commencement of the PD Act continue in office, under and subject to that Act, as the members of the committee of the same name established under the PD Act.
- 10 (7) The persons who were members of the Transport Committee immediately before the commencement of the PD Act continue in office, under and subject to that Act, as the members of the Sustainable Transport Committee established under the PD Act.

65. Board of Valuers

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

Division 3 — Transitional provisions

66. Subsidiary legislation and fees

(1) Regulations made under —

- 5 (a) section 8 of the TPD Act or section 26 of the
MRTPS Act continue in force as if they were made
under section 283 of the PD Act;
- (b) section 9(1) of the TPD Act continue in force as if they
were made under section 285 of the PD Act;
- 10 (c) section 9(2b) of the TPD Act continue in force as if they
were made under section 286 of the PD Act;
- (d) section 33B of the TPD Act continue in force as if they
were made under section 288 of the PD Act;
- 15 (e) section 44 of the MRTPS Act, section 58 of the WAPC
Act or section 27A(5) or 34 of the TPD Act continue in
force as if they were made under section 290 of the PD
Act,

and may be amended or repealed accordingly.

- 20 (2) Local laws made under section 31 of the TPD Act continue in
force as if they were made under section 289 of the PD Act and
may be amended or repealed accordingly.
- (3) Fees prescribed under section 29 of the TPD Act continue, until
fees are set under section 20 of the PD Act, to be chargeable and
payable as if the fees were set under section 20 of the PD Act.

67. Planning schemes in course of preparation

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

68. Caveats

5 (1) A caveat lodged under section 36 of the MRTPS Act or section 35 or 36 of the WAPC Act but not registered before the commencement day may be registered under section 180 or 181 of the PD Act, as the case requires, as if it were a notification under that section of the PD Act.

(2) A caveat —
10 (a) registered under section 36 of the MRTPS Act or section 35 or 36 of the WAPC Act; and
(b) subsisting immediately before the commencement day,
is taken to be a notification registered under section 180 or 181 of the PD Act, as the case requires.

Division 4 — Other savings

69. Section 9(4) and (5) TPD Act

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

70. Section 28A(5) TPD Act

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

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

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

Schedule 1 — Acts repealed

[s. 4]

Metropolitan Region Town Planning Scheme Act 1959

Town Planning and Development Act 1928

5 *Western Australian Planning Commission Act 1985*

Schedule 2 — Consequential amendments

[s. 15]

1. *Agricultural Practices (Disputes) Act 1995*

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

“
10 a local planning scheme within the meaning of the *Planning and Development Act 2004*
”.

2. *Anzac Day Act 1960*

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

“ region ”.

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

“
20 (3) In this section —
“**metropolitan region**” has the same meaning as it has
in the *Planning and Development Act 2004*.
”.

3. *Armada Redevelopment Act 2001*

(1) Section 3 is amended as follows:

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

“ *Planning and Development Act 2004* ”;

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

“

a local planning scheme under the *Planning and Development Act 2004*.

”.

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

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

“ *Town Planning and Development Act 1928* ”;

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

(c) by inserting after paragraph (a) —

“

(aa) any local planning scheme under the *Planning and Development Act 2004* that is in operation in the redevelopment area immediately before the appointed day; and

”.

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

“ Part 14 of the *Planning and Development Act 2004* ”.

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

“ Part 14 of the *Planning and Development Act 2004* ”.

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

“

(1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2004*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

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

Schedule 2 Consequential amendments

- (b) the Authority were a responsible authority under that Act; and
- (c) in the case of land reserved, zoned or classified under the redevelopment scheme for a public purpose, the land were reserved for a public purpose under a planning scheme. ”.
- (9) Section 54(3) is amended by deleting “an Act as applied by subsection (1) or (2)” and inserting instead —
- “
- the *Planning and Development Act 2004* as applied by subsection (1)
- ”.
- (10) Section 64 is amended as follows:
- (a) by deleting “Section 33 of the Town Planning Act” and inserting instead —
- “
- Section 132 of the *Planning and Development Act 2004*
- ”;
- (b) in paragraph (a) by deleting “an approved scheme” and inserting instead —
- “ a planning scheme ”.
- 4. *Bail Act 1982***
- Section 16A(4) is amended in the definition of “urban area” by deleting paragraph (a) and “and” after it and inserting instead —
- “
- (a) the metropolitan region within the meaning of the *Planning and Development Act 2004* and any prescribed area that adjoins that region; and
- ”.

5. Betting Control Act 1954

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

“

5

“metropolitan region” has the same meaning as it has in the *Planning and Development Act 2004*;

”.

- (2) Sections 18A(1) and 32(2)(a) are amended by deleting “metropolitan area” in each place where it occurs and inserting instead —

10

“ metropolitan region ”.

6. Caravan Parks and Camping Grounds Act 1995

Section 30(1)(b) is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —

“ the *Planning and Development Act 2004* ”.

15

7. Carbon Rights Act 2003

- (1) Section 8(2)(b) is amended by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

“ section 135 of the *Planning and Development Act 2004* ”.

20

- (2) Section 15(c) is amended by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

“

section 135 of the *Planning and Development Act 2004*

”.

Schedule 2 Consequential amendments

8. Casino (Burswood Island) Agreement Act 1985

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

“

5

the *Planning and Development Act 2004* or in the
Metropolitan Region Scheme

”.

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

10

“ or the *Planning and Development Act 2004* ”.

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

“

15

(b) the *Planning and Development Act 2004*, local
planning schemes prepared under that Act,

”.

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

“ Metropolitan Region Scheme ”.

20

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

“

25

“Metropolitan Region Scheme” has the same
meaning as it has in the *Planning and
Development Act 2004*;

”.

9. Commercial Tenancy (Retail Shops) Agreements Act 1985

Section 12(3) is amended in the definition of “metropolitan region improvement tax” by deleting “the *Metropolitan Region Town Planning Scheme Act 1959*,” and inserting instead —

30

“ the *Planning and Development Act 2004*; ”.

10. Conservation and Land Management Act 1984

Section 34B(7) is amended by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

5 “ section 136 of the *Planning and Development Act 2004* ”.

11. Constitution Acts Amendment Act 1899

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

“ the *Planning and Development Act 2004*. ”.

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

15 “ the *Planning and Development Act 2004*. ”.

12. Contaminated Sites Act 2003

Section 58(6) is amended by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

20 “ section 135 of the *Planning and Development Act 2004* ”.

13. Control of Vehicles (Off-road Areas) Act 1978

(1) Section 16(5)(d) is amended by deleting “town” and inserting
instead —

25 “ local ”.

Schedule 2 Consequential amendments

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

“

5 any local planning scheme has been or is made under
the *Planning and Development Act 2004*

”.

14. Country Housing Act 1998

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

“

“**metropolitan region**” has the same meaning as it has
in the *Planning and Development Act 2004*;

”.

15 **15. Dog Act 1976**

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

“

20 “**metropolitan region**” has the same meaning as it has
in the *Planning and Development Act 2004*;

”.

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

“ the *Planning and Development Act 2004* ”.

25 **16. East Perth Redevelopment Act 1991**

- (1) Section 3 is amended as follows:

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

“

30 “**Metropolitan Region Scheme**” has the same
meaning as it has in the *Planning and
Development Act 2004*;

”;

- (b) by deleting the definitions of “Metropolitan Scheme Act” and “Town Planning Act”;
- (c) by deleting the semicolon at the end of the definition of “temporary member” and inserting a full stop.
- 5 (2) Section 5(4)(a) is amended by deleting “town” and inserting instead —
“ local ”.
- (3) Section 19(8) is amended as follows:
- 10 (a) by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —
“
sections 135 and 136 of the *Planning and Development Act 2004*
”;
- 15 (b) in paragraph (c) by deleting “section 21 of the Town Planning Act” and inserting instead —
“
section 147 of the *Planning and Development Act 2004*
”.
- 20 (4) Section 24(2)(c) is amended by deleting “the Town Planning Act” and inserting instead —
“ the *Planning and Development Act 2004* ”.
- 25 (5) Section 28 is amended by deleting “a town planning scheme under the Town Planning Act.” and inserting instead —
“
a local planning scheme under the *Planning and Development Act 2004*.
”.

Schedule 2 Consequential amendments

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

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

“ *Town Planning and Development Act 1928* ”;

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

(c) by inserting after paragraph (a) —

“

10 (aa) any local planning scheme under the *Planning and Development Act 2004* that is in operation in the redevelopment area immediately before the appointed day; and

”.

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

15 “ Part 14 of the *Planning and Development Act 2004* ”.

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

“ Part 14 of the *Planning and Development Act 2004* ”.

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

“

25 (1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2004*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

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

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

30 (c) in the case of land reserved, zoned or classified under the redevelopment scheme for a public

purpose, the land were reserved for a public purpose under a planning scheme.

”.

- 5 (10) Section 48(3) is amended by deleting “an Act as applied by subsection (1) or (2)” and inserting instead —

“

the *Planning and Development Act 2004* as applied by subsection (1)

”.

- 10 (11) Section 55 is amended as follows:

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

“

15 Section 132 of the *Planning and Development Act 2004*

”;

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

“ a planning scheme ”.

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

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

“

25 section 135 of the *Planning and Development Act 2004*

”.

18. *Environmental Protection Act 1986*

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

Schedule 2 Consequential amendments

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

“

5 **“local planning scheme”** has the same meaning as it has in the *Planning and Development Act 2004*;

“region planning scheme” has the same meaning as it has in the *Planning and Development Act 2004*;

”.

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

“

- (iii) which is a local planning scheme, or an amendment to a local planning scheme, in respect of which sections 124, 125, 126 or 128 of the *Planning and Development Act 2004* have been complied with to the extent, if any, necessary in relation to a region planning scheme, or an amendment to a region planning scheme, which amendment or scheme is a scheme referred to in paragraph (a) or subparagraph (i) or (ii);

”.

- 25 (4) Section 3(1) is amended in the definition of “final approval” by deleting paragraphs (c), (d), (e) and (f) and “or” after paragraph (e) and inserting instead —

“

30 (c) a region planning scheme, or an amendment to a region planning scheme, means an approval under section 53 or 62, as the case requires, of the *Planning and Development Act 2004*;

35 (d) a local planning scheme, or an amendment to a local planning scheme, means an approval

- under section 87(2) of the *Planning and Development Act 2004*; or
- 5 (e) a State planning policy to which section 32 of the *Planning and Development Act 2004* applies, or an amendment to such a policy, means an approval under section 87(2), as read with section 32, of that Act;
- 10 (5) Section 3(1) is amended in the definition of “period of public review” by deleting paragraphs (c), (d), (e) and (f) and “or” after paragraph (e) and inserting instead —
- “
- 15 (c) a region planning scheme, or an amendment to a region planning scheme, means the period referred to in section 44(1) or 58(1)(b), as the case requires, of the *Planning and Development Act 2004*;
- 20 (d) a local planning scheme, or an amendment to a local planning scheme, means the period of advertisement for public inspection prescribed for the purposes of section 84 of the *Planning and Development Act 2004*; or
- 25 (e) a State planning policy to which section 32 of the *Planning and Development Act 2004* applies, or an amendment to such a policy, means the period of advertisement for public inspection prescribed for the purposes of section 84, as read with section 32, of that Act;
- 30 ”.

Schedule 2 Consequential amendments

- (6) Section 3(1) is amended by deleting the definition of “responsible authority” and inserting instead —

“

“responsible authority”, in relation to —

- 5 (a) a scheme which is —
- 10 (i) prepared under the *Armadale Redevelopment Act 2001*, means the Armadale Redevelopment Authority established under that Act;
 - 15 (ii) prepared under the *East Perth Redevelopment Act 1991*, means the East Perth Redevelopment Authority established by that Act;
 - 20 (iii) prepared under the *Hope Valley-Wattleup Redevelopment Act 2000*, means the Western Australian Land Authority established by section 5(1) of the *Western Australian Land Authority Act 1992*;
 - 25 (iv) prepared under the *Midland Redevelopment Act 1999*, means the Midland Redevelopment Authority established by that Act;
 - 30 (v) prepared under the *Subiaco Redevelopment Act 1994*, means the Subiaco Redevelopment Authority established by that Act;
 - (vi) a region planning scheme, or an amendment to a region planning scheme, means the Western Australian Planning Commission;

- 5 (vii) a local planning scheme, or an amendment to a local planning scheme, means the local government which is responsible for the local planning scheme or amendment; or
- 10 (viii) a State planning policy to which section 32 of the *Planning and Development Act 2004* applies, or an amendment to such a policy, means the Western Australian Planning Commission;
- or
- 15 (b) a subdivision which is —
- (i) an activity requiring approval under Part 10 Division 2 of the *Planning and Development Act 2004*, means the Western Australian Planning Commission; or
- 20 (ii) a strata plan, strata plan of subdivision or strata plan of consolidation required to be accompanied by a certificate issued under section 23 of the *Strata Titles Act 1985*, means the local government within the district of which the subdivision is proposed;
- 25 ”.
- (7) Section 3(1) is amended in the definition of “scheme” by deleting paragraphs (f), (g), (h) and (i) and “or” after paragraph (h) and inserting instead —
- 30 “
- (f) a region planning scheme, or an amendment to a region planning scheme;
- (g) a local planning scheme, or an amendment to a local planning scheme; or

Schedule 2 Consequential amendments

- (h) a State planning policy to which section 32 of the *Planning and Development Act 2004* applies, or an amendment to such a policy; ”.
- 5 (8) Section 3(1) is amended by deleting the definition of “scheme Act” and inserting instead —
- “
- 10 “**scheme Act**” means *Armadale Redevelopment Act 2001, East Perth Redevelopment Act 1991, Hope Valley-Wattleup Redevelopment Act 2000, Midland Redevelopment Act 1999, Subiaco Redevelopment Act 1994* or *Planning and Development Act 2004*;
- ”.
- 15 (9) Section 3(1) is amended in the definition of “Western Australian Planning Commission” by deleting “section 4 of the *Western Australian Planning Commission Act 1985*” and inserting instead —
- “ the *Planning and Development Act 2004* ”.
- 20 (10) Section 3(2a)(a) is amended by deleting “under Part III of the *Town Planning and Development Act 1928*” and inserting instead —
- “
- under Part 10 Division 2 of the *Planning and Development Act 2004*
- ”.
- 25 (11) Section 48C(7) is amended in the definition of “public review” by deleting paragraphs (c), (d), (e) and (f) and “or” after paragraph (e) and inserting instead —
- “
- 30 (c) a region planning scheme, or an amendment to a region planning scheme, means procedure referred to in sections 43, 44, 46 and 48, or section 58, as the case requires, of the *Planning and Development Act 2004*;

- (d) a local planning scheme, or an amendment to a local planning scheme, means procedure referred to in sections 84 and 87(1) of the *Planning and Development Act 2004*; or
- 5 (e) a State planning policy to which section 32 of the *Planning and Development Act 2004* applies, or an amendment to such a policy, means procedure referred to in sections 84 and 87(1), as read with section 32, of that
- 10 Act.
- ”.
- (12) Section 51O(1) is amended in the definition of “planning instrument” by deleting paragraphs (b) and (c) and “or” after paragraph (b) and inserting instead —
- 15 “
- (b) a State planning policy approved under section 29 of the *Planning and Development Act 2004* and published in the *Gazette*; or
- (c) a local planning strategy made under the
- 20 *Planning and Development Act 2004*.
- ”.
- (13) Section 68 is amended by deleting “under section 20 of the *Town Planning and Development Act 1928*” and inserting instead —
- 25 “
- under section 135 of the *Planning and Development Act 2004*
- ”.
- (14) Schedule 6 clause 9 is amended as follows:
- 30 (a) by deleting “*Town Planning and Development Act 1928*” and inserting instead —
- “ *Planning and Development Act 2004* ”;
- (b) in paragraph (a) by deleting “section 20D” and inserting instead —
- “ section 157 ”.

Schedule 2 Consequential amendments

19. *Esperance Port Authority Lands Act 1979*

(1) Section 4(2) is amended by deleting “the *Town Planning and Development Act, 1928*” and inserting instead —
“ the *Planning and Development Act 2004* ”.

5 (2) Section 4(3)(c) is amended by deleting “the *Town Planning and Development Act, 1928*” and inserting instead —
“ the *Planning and Development Act 2004* ”.

20. *Family Court Act 1997*

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

“
“**metropolitan region**” has the same meaning as it has
in the *Planning and Development Act 2004*;
”.

15 **21. *Forest Products Act 2000***

Section 54(7) is amended by deleting “section 20 of the *Town Planning and Development Act 1928*” and inserting instead —
“ section 136 of the *Planning and Development Act 2004* ”.

22. *Forrest Place and City Station Development Act 1985*

20 (1) Section 12(5) is amended by deleting “Part III of the *Town Planning and Development Act 1928*” and inserting instead —
“ Section 135 of the *Planning and Development Act 2004* ”.

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

25 “ Section 135 of the *Planning and Development Act 2004* ”.

23. Gaming and Wagering Commission Act 1987

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

- (a) by deleting “town planning matters” and inserting instead —
“ local planning matters ”;
- 5 (b) by deleting “to town planning” and inserting instead —
“ to local planning ”.

24. Gas Corporation (Business Disposal) Act 1999

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

- 10 “
section 167(2)(b)(iv) of the *Planning and Development
Act 2004*
”.

25. Government Employees’ Housing Act 1964

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

“ the *Planning and Development Act 2004* ”.

26. Heritage of Western Australia Act 1990

20 (1) Section 3(1) is amended in the definition of “Town Planning Appeal
Tribunal” by deleting “Part V of the *Town Planning and Development
Act 1928*” and inserting instead —

“
Part 14 of the *Planning and Development Act 2004*
”.

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

- “
(b) on being satisfied that there has been
consultation by the Council with the Western
30 Australian Planning Commission established by

Schedule 2 Consequential amendments

5 the *Planning and Development Act 2004* —
remit the whole or any part of the Metropolitan
Region Improvement Tax payable by the owner
in respect of that place under section 200 of the
Planning and Development Act 2004;
”.

(3) Section 60(1) is amended as follows:

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

10

“

Part 14 of the *Planning and Development Act 2004*

”;

(b) by deleting “Part V of that Act” and inserting instead —

“ Part 14 of that Act ”.

15

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

“

(ii) the *Planning and Development
Act 2004*;

20

”.

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

“

25

(a) applications for approval of development in a
planning control area made under Part 7 of the
Planning and Development Act 2004;

30

(b) applications for approval under section 135,
136 or 162, or approvals for the purposes of
section 147, of the *Planning and Development
Act 2004*;

”.

27. Hope Valley-Wattleup Redevelopment Act 2000

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

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

5

“

“**Commission**” means the Western Australian Planning Commission established under the *Planning and Development Act 2004*;

”;

10

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

“ *Planning and Development Act 2004* ”;

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

15

“

“**Metropolitan Region Scheme**” has the same meaning as it has in the *Planning and Development Act 2004*;

”;

20

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

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

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

25

“

- (3) For the avoidance of doubt, the Authority is a public authority to whom the Commission can, under section 16 of the *Planning and Development Act 2004*, delegate a function conferred under this section.

30

”.

Schedule 2 Consequential amendments

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

“

a local planning scheme under the *Planning and
Development Act 2004*.

”.

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

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

“ *Town Planning and Development Act 1928* ”;

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

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

“

(aa) any local planning scheme under the *Planning and Development Act 2004* that is in operation in the redevelopment area immediately before the appointed day; and

”.

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

“ Part 14 of the *Planning and Development Act 2004* ”.

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

“ Part 14 of the *Planning and Development Act 2004* ”.

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

“

(1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2004*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

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

- 5
- (b) the Commission were the responsible authority under that Act; and
 - (c) in the case of land reserved, zoned or classified under the master plan for a public purpose, the land were reserved for a public purpose under a planning scheme.
- ”.
- (8) Section 33(3) is amended by deleting “an Act as applied by subsection (1) or (2)” and inserting instead —
- 10 “
- the *Planning and Development Act 2004* as applied by subsection (1)
- ”.
- (9) Section 34(1) is amended as follows:
- 15 (a) by deleting “Section 33 of the Town Planning Act” and inserting instead —
- “
- Section 132 of the *Planning and Development Act 2004*
- 20 ”;
- (b) in paragraph (a) by deleting “an approved scheme” and inserting instead —
- “ a planning scheme ”.

28. *Housing Act 1980*

- 25 Section 22(1)(a) is deleted and the following paragraph is inserted instead —
- “
- 30 (a) with the consent of the Western Australian Planning Commission within the meaning of the *Planning and Development Act 2004* and any approval required under that Act, to re-plan and re-subdivide any area in which land held by the Commission is situated, and with the

Schedule 2 Consequential amendments

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

”.

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

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

“

10 (a) within the metropolitan region as defined in the
Planning and Development Act 2004;

”.

30. *Interpretation Act 1984*

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

15 “ local or region planning scheme ”.

31. *Jetties Act 1926*

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

“

20 within the meaning of the *Planning and Development
Act 2004*

”.

32. *Land Tax Assessment Act 2002*

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

“ local ”.

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

“ local ”.

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

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

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

“ *Planning and Development Act 2004* ”;

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

10

“

“**local planning scheme**” has the same meaning as it has in
the *Planning and Development Act 2004*;

”;

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

15

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

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

20

section 135 of the *Planning and Development*
Act 2004

”;

(b) in paragraph (b) —

25

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

“ section 147(1) ”; and

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

“ section 147(2) ”;

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

30

“

(c) on an application for review under section 278
of that Act, the State Administrative Tribunal
gives an approval referred to in paragraph (a) or
(b);

35

”.

Schedule 2 Consequential amendments

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

“ local ”.

33. *Liquor Licensing Act 1988*

- 5 (1) Section 40(1) is amended by deleting “town”.
(2) Section 40(3) is amended by deleting “town”.

34. *Local Government Act 1995*

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

“ the *Planning and Development Act 2004* ”.

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

“

- 15 (a) the purpose for which the land is zoned under a local planning scheme in force under the *Planning and Development Act 2004*;

”.

35. *Marine and Harbours Act 1981*

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

“

within the meaning of the *Planning and Development Act 2004*

25

”.

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

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

“ the *Planning and Development Act 2004* ”.

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

“ the *Planning and Development Act 2004* ”.

37. *Midland Redevelopment Act 1999*

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

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

“ *Planning and Development Act 2004* ”;

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

“ *Planning and Development Act 2004* ”;

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

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

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

“ local ”.

- (3) Section 20(7) is amended as follows:

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

“

sections 135 and 136 of the *Planning and Development Act 2004*

25

”;

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

“

section 147 of the *Planning and Development Act 2004*

30

”.

Schedule 2 Consequential amendments

- (4) Section 27(2)(b) is amended by deleting “Town Planning Act” and inserting instead —
“ *Planning and Development Act 2004* ”.
- 5 (5) Section 31 is amended by deleting “a town planning scheme under the Town Planning Act.” and inserting instead —
“
a local planning scheme under the *Planning and Development Act 2004*.
”.
- 10 (6) Section 45(3) is amended in the definition of “planning scheme” as follows:
(a) by deleting “Town Planning Act” and inserting instead —
“ *Town Planning and Development Act 1928* ”;
(b) by deleting “and” after paragraph (a);
15 (c) by inserting after paragraph (a) —
“
(aa) any local planning scheme under the *Planning and Development Act 2004* that is in operation in the redevelopment area immediately before the appointed day; and
20
”.
- (7) Section 52(1) is amended by deleting “Part V of the Town Planning Act” and inserting instead —
“ Part 14 of the *Planning and Development Act 2004* ”.
- 25 (8) Section 54(2) is amended by deleting “Part V of the Town Planning Act” and inserting instead —
“ Part 14 of the *Planning and Development Act 2004* ”.
- (9) Section 56(1) and (2) are repealed and the following subsection is inserted instead —
30 “
(1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2004*, and sections 184(3) and (4),

187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

- 5
- (a) the redevelopment scheme were a planning scheme under that Act;
 - (b) the Authority were a responsible authority under that Act; and
 - 10 (c) in the case of land reserved, zoned or classified under the redevelopment scheme for a public purpose, the land were reserved for a public purpose under a planning scheme.

”.

- (10) Section 56(3) is amended by deleting “an Act as applied by subsection (1) or (2)” and inserting instead —

“

- 15 the *Planning and Development Act 2004* as applied by subsection (1)

”.

- (11) Section 65 is amended as follows:

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

“

Section 132 of the *Planning and Development Act 2004*

”;

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

“ a planning scheme ”.

Schedule 2 Consequential amendments

38. Mining Act 1978

(1) Section 120(1) is amended as follows:

- (a) by deleting “town planning scheme in force under the *Town Planning and Development Act 1928* or local laws in force under the *Local Government Act 1995*” and inserting instead —

“

planning scheme in force under the *Planning and Development Act 2004*

”;

- (b) by deleting “or local laws” in the second place where it occurs.

(2) Section 120(2) is amended as follows:

- (a) by deleting “the *Town Planning and Development Act 1928*” in both places where it occurs and inserting instead —

“ the *Planning and Development Act 2004* ”;

- (b) in paragraph (b) —

- (i) by inserting after “local government” —

“

or the Western Australian Planning Commission

”; and

- (ii) by deleting “town planning scheme or local laws” and inserting instead —

“ planning scheme ”.

39. Motor Vehicle Dealers Act 1973

(1) Section 20E(2) is amended by deleting “town”.

(2) Section 21A(2) is amended by deleting “town”.

40. Motor Vehicle Repairers Act 2003

(1) Section 58(2)(a) is amended by deleting “town”.

(2) Section 60(2)(a) is amended by deleting “town”.

41. Perth Parking Management Act 1999

(1) Section 5(a) is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —
“ the *Planning and Development Act 2004* ”.

5 (2) Section 9(4) is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —
“ the *Planning and Development Act 2004* ”.

42. Petroleum Pipelines Act 1969

10 Section 10(2)(c) is amended by deleting “any town planning scheme under the *Town Planning and Development Act 1928* or the Metropolitan Region Scheme under the *Metropolitan Region Town Planning Scheme Act 1959*” and inserting instead —

“
15 any planning scheme under the *Planning and Development Act 2004*
”.

43. Pigment Factory (Australind) Agreement Act 1986

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

“
20 **4B. Planning laws modified**
Despite the *Planning and Development Act 2004*,
planning schemes within the meaning of that Act do
not apply to or in relation to the Kemerton works site.
”.

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

“ the *Planning and Development Act 2004* ”.

47. *Racing and Wagering Western Australia Act 2003*

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

(a) by deleting the definition of “country”;

(b) by deleting the definition of “metropolitan area” and inserting instead —

“

10 “**metropolitan region**” has the same meaning as it has
in the *Planning and Development Act 2004*;

”.

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

15 “ region ”.

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

“ region ”.

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

“ region ”.

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

“ region ”.

25 **48. *Racing Restriction Act 2003***

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

“

30 “**metropolitan region**” has the same meaning as it has
in the *Planning and Development Act 2004*;

”.

Schedule 2 Consequential amendments

- (2) Section 13(1) is amended by deleting “area” in the 3 places where it occurs and inserting instead —
“ region ”.
- 5 (3) Section 13(2) is amended by deleting “area” in the 3 places where it occurs and inserting instead —
“ region ”.
- (4) Section 14(1) is amended by deleting “area” in the 3 places where it occurs and inserting instead —
“ region ”.
- 10 **49. Rail Freight System Act 2000**
- (1) The long title is amended by deleting “the *Town Planning and Development Act 1928*” and inserting instead —
“ **the *Planning and Development Act 2004*** ”.
- 15 (2) The heading to Part 5 Division 7 is amended by deleting “*Town Planning and Development Act 1928*” and inserting instead —
“ ***Planning and Development Act 2004*** ”.
- (3) Section 105 is amended by deleting “Section 20(1) of the *Town Planning and Development Act 1928* does” and inserting instead —
“
20 Sections 135 and 136 of the *Planning and Development Act 2004* do
”.
- 50. Road Safety Council Act 2002**
- 25 (1) Section 6(1)(k) is amended by deleting “*Western Australian Planning Commission Act 1985*” and inserting instead —
“ ***Planning and Development Act 2004*** ”.

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

“ *Planning and Development Act 2004* ”.

51. Sale of Land Act 1970

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

“ the *Planning and Development Act 2004* ”.

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

“

local planning scheme, or any local law relating to
planning, in force under the *Planning and Development
Act 2004*

15

”.

52. Settlement Agents Act 1981

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

20

“ the *Planning and Development Act 2004* ”.

53. Silicon (Kemerton) Agreement Act 1987

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

“

4B. Planning laws modified

25

Despite anything in the *Planning and Development Act 2004*, planning schemes prepared under that Act do not apply to or in relation to the silicon plant site.

”.

Schedule 2 Consequential amendments

54. *Small Business Development Corporation Act 1983*

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

5 “ the *Planning and Development Act 2004* ”.

55. *Small Claims Tribunals Act 1974*

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

10 “ the *Planning and Development Act 2004* ”.

56. *Soil and Land Conservation Act 1945*

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

“ *Planning and Development Act 2004* ”.

15 **57. *Stamp Act 1921***

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

“ a planning scheme ”.

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

“

(2) Expressions used in this item have the same meaning as they have in the *Planning and Development Act 2004*.

”.

58. Strata Titles Act 1985

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

5 “ the *Planning and Development Act 2004*; ”.

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

10 “
local planning scheme in force under the *Planning and Development Act 2004*
”.

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

15 “ local ”.

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

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

20 “
local planning scheme in force under the
Planning and Development Act 2004
”;

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

25 “ local ”.

- (5) Section 24(2) is amended by deleting “town” and inserting instead —

“ local ”.

Schedule 2 Consequential amendments

- (6) Section 25(5) is amended by deleting “sections 20 and 21 of the *Town Planning and Development Act 1928*” and inserting instead —

“

sections 135, 136, 146 and 147 of the *Planning and Development Act 2004*

”.

- (7) Section 25A(1) is amended as follows:

- (a) by deleting “section 24 of the *Town Planning and Development Act 1928*” and inserting instead —

“

sections 142, 143 and 144 of the *Planning and Development Act 2004*, and section 151 of that Act applies,

”;

- (b) by deleting “Part III of”.

- (8) Section 25B(1) is amended by deleting “Part III of the *Town Planning and Development Act 1928*, other than section 20(1)(b),” and inserting instead —

“

Divisions 1, 2 (other than section 141) and 3 of Part 10 of the *Planning and Development Act 2004*, and section 166 of that Act,

”.

- (9) Section 25B(3) is amended by deleting “section 26 of the *Town Planning and Development Act 1928*” and inserting instead —

“ section 278 of the *Planning and Development Act 2004* ”.

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

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

“

local planning scheme in force under the *Planning and Development Act 2004*

”;

- (b) in paragraph (f) by deleting “town” and inserting instead —
“ local ”.
- (11) Section 26(5) is amended by deleting “Part V of the *Town Planning and Development Act 1928*” and inserting instead —
5 “ Part 14 of the *Planning and Development Act 2004* ”.
- (12) Section 27(3) is amended by deleting “Part V of the *Town Planning and Development Act 1928*” and inserting instead —
“ Part 14 of the *Planning and Development Act 2004* ”.
- (13) Section 31F(2)(e) is amended by deleting “town planning scheme in
10 force under the *Town Planning and Development Act 1928*” and
inserting instead —
“
local planning scheme in force under the
15 *Planning and Development Act 2004* ”.
- (14) Section 31F(4) is amended by deleting “town” and inserting
instead —
“ local ”.
- (15) Section 65(1)(c) is amended by deleting “the *Metropolitan Region
20 Town Planning Scheme Act 1959*” and inserting instead —
“ the *Planning and Development Act 2004* ”.
- (16) Section 65(2) is amended by deleting “the *Metropolitan Region Town
Planning Scheme Act 1959*” and inserting instead —
“ the *Planning and Development Act 2004* ”.
- (17) Section 65A(1) is amended by deleting “the *Metropolitan Region
25 Town Planning Scheme Act 1959*” and inserting instead —
“ the *Planning and Development Act 2004* ”.

Schedule 2 Consequential amendments

59. Subiaco Redevelopment Act 1994

(1) Section 3 is amended as follows:

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

5 “ *Planning and Development Act 2004* ”;

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

“ *Planning and Development Act 2004* ”;

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

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

“ local ”.

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

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

“

sections 135 and 136 of the *Planning and Development Act 2004*

20

”;

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

“ Western Australian Planning Commission ”;

25

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

“

section 147 of the *Planning and Development Act 2004*

30

”.

- (4) Section 28(2)(c) is amended by deleting “Town Planning Act” and inserting instead —
“ *Planning and Development Act 2004* ”.
- 5 (5) Section 32 is amended by deleting “a town planning scheme under the Town Planning Act” and inserting instead —
“
a local planning scheme under the *Planning and Development Act 2004*
”.
- 10 (6) Section 33(3)(a) is amended by deleting “State Planning Commission” and inserting instead —
“ *Western Australian Planning Commission* ”.
- (7) Section 45(3)(a) is amended as follows:
(a) by deleting “and” after paragraph (a);
15 (b) by inserting after paragraph (a) —
“
(aa) any local planning scheme under the *Planning and Development Act 2004* that is in operation in the redevelopment area immediately before the appointed day; and
20
”.
- (8) Section 52(1) is amended by deleting “Part V of the Town Planning Act” and inserting instead —
“ *Part 14 of the Planning and Development Act 2004* ”.
- 25 (9) Section 54(2) is amended by deleting “Part V of the Town Planning Act” and inserting instead —
“ *Part 14 of the Planning and Development Act 2004* ”.

Schedule 2 Consequential amendments

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

“

5 (1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2004*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

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

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

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

”.

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

“

20 the *Planning and Development Act 2004* as applied by subsection (1)

”.

(12) Section 63 is amended as follows:

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

“

Section 132 of the *Planning and Development Act 2004*

”;

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

“ a planning scheme ”.

60. *Swan River Trust Act 1988*

(1) Section 3 is amended as follows:

- (a) by deleting the definition of “Metropolitan Scheme Act”;
- (b) in the definitions of “Metropolitan Region Scheme” and
“Minister for Planning” by deleting “Metropolitan Scheme
Act” and inserting instead —

“ *Planning and Development Act 2004* ”;

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

“ under the *Planning and Development Act 2004*. ”.

(2) Section 7(1)(f) is amended by deleting “statements of planning
policy” and inserting instead —

“ State planning policies ”.

(3) Section 12(1)(c) is deleted and the following paragraph is inserted
instead —

“

- (c) the holder of such office in the Western
Australian Planning Commission as the
Minister for Planning may from time to time
nominate;

”.

(4) Section 47 is amended by deleting the definition of “Minister for
Planning”.

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

“

section 177(1)(b) of the *Planning and Development
Act 2004*

”.

Schedule 2 Consequential amendments

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

“

section 177(1)(a) of the *Planning and Development Act 2004*

”.

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

“

Sections 180, 187 and 188 of the *Planning and Development Act 2004*

”.

61. Swan Valley Planning Act 1995

- (1) Section 3 is amended as follows:

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

“ under the *Planning and Development Act 2004*; ”;

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

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

“

“local planning scheme” means the local planning scheme for the time being in force under the *Planning and Development Act 2004* for the local government district of Swan;

”.

- (2) Section 13(1)(a) is deleted and the following paragraph is inserted instead —

“

- (a) to provide advice in accordance with —

- (i) section 15(2);

- (ii) sections 40, 47, 78 and 134 of the
Planning and Development Act 2004;
and
- 5 (iii) clause 30B of the Metropolitan Region
Scheme within the meaning of the
Planning and Development Act 2004;
- (3) Section 15(1) is amended by deleting “Shire town planning scheme”
and inserting instead —
- 10 “ local planning scheme ”.
- (4) Section 15(6) is amended by deleting “Shire town planning scheme”
and inserting instead —
- “ local planning scheme ”.
- (5) Section 17(2) is amended by deleting “*Town Planning and*
15 *Development Act 1928*” and inserting instead —
- “ *Planning and Development Act 2004* ”.
- (6) Section 23(1) is amended by deleting “Shire town planning scheme”
and inserting instead —
- “ local planning scheme ”.
- 20 (7) Section 23(2) is repealed and the following subsection is inserted
instead —
- “
- 25 (2) For the purposes of ensuring that subsection (1) is
complied with the Minister may exercise the powers in
section 212 of the *Planning and Development Act 2004*
as if —
- (a) subsection (1) of this section were the relevant
provision referred to in section 212(1) of that
Act; and

Schedule 2 Consequential amendments

(b) references to a local planning scheme were
references to an amendment to the local
planning scheme referred to in subsection (1) of
this section,

5 and section 213 of the *Planning and Development
Act 2004* applies accordingly.

”.

62. Taxation Administration Act 2003

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

10

“

(ga) section 200 of the *Planning and Development
Act 2004*;

”.

63. Transfer of Land Act 1893

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

“

“**Metropolitan region**” has the same meaning as it has
in the *Planning and Development Act 2004*;

20

”.

(2) Section 166(3) is amended by deleting “section 295 of the *Local
Government (Miscellaneous Provisions) Act 1960* and to section 20(2)
of the *Town Planning and Development Act 1928*” and inserting
instead —

25

“

section 146(1) of the *Planning and Development
Act 2004*

”.

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

“

or section 152 of the *Planning and Development Act 2004*

”.

64. *Tree Plantation Agreements Act 2003*

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

“

section 135 or 136 of the *Planning and Development Act 2004*

”.

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

“

section 135 or 136 of the *Planning and Development Act 2004*

”.

65. *Water Agencies (Powers) Act 1984*

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

“

local planning scheme is in force under the *Planning and Development Act 2004*

”.

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

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

“ *Planning and Development Act 2004* ”;

Schedule 2 Consequential amendments

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

“

5

Part 10 of the *Planning and Development Act 2004*

”.

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

10

“ Part 10 of the *Planning and Development Act 2004* ”.

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

“ *Planning and Development Act 2004* ”.

15

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

“

section 135 of the *Planning and Development Act 2004*

”.

66. Water Services Licensing Act 1995

20

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

“

Planning and Development Act 2004

25

s. 157(1)(a)(ii)

s. 167(2)(b)(ii)

”.

67. *Waterways Conservation Act 1976*

Section 36(1) is amended as follows:

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

“

5

(a) the Minister to whom the Governor has for the time being committed the administration of the *Planning and Development Act 2004*;

”;

10

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

“ the *Planning and Development Act 2004*; ”;

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

“ *Planning and Development Act 2004* ”;

15

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

“

(i) a local planning scheme;

”.

20

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