

Planning and Development Act 2005

INSTRUMENT OF DELEGATION

DEL 2022/07 Powers of Officers (Department of Housing and Works) (Strata Titles Act)

Delegation to officers of certain powers and functions of the
Western Australian Planning Commission relating to certain applications under the
Strata Titles Act 1985

Preamble

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published on a website maintained by, or on behalf of, the WAPC, delegate any function to a member, committee or officer of the WAPC or to a public authority or a member or officer of a public authority.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or conferred upon the WAPC by the Act or any other written law as the case requires.

Resolution under section 16 of the Act (delegation)

On 26 October 2022, pursuant to section 16 of the Act, the WAPC RESOLVED—

- A. TO DELEGATE to the person or persons from time to time holding or acting in the position of the Manager Building Permit Authority in the Housing Authority, its powers and functions under section 15 of the Strata Titles Act 1985 as set out in clause 1 of Schedule 1, subject to the conditions set out in clause 3 of Schedule 1
- B. TO DELEGATE to the person or persons from time to time holding or acting in the position of the Manager Building Permit Authority in the Housing Authority, its powers and functions under sections 21 and 22 of the Strata Titles Act 1985 as set out in clause 2 of Schedule 1, subject to the conditions set out in clause 3 of Schedule 1.
- C. TO PUBLISH a notice in the Government Gazette to give effect to this resolution.

The delegation was amended by resolution of the WAPC on 23 JULY 2025.



Sam Boucher, Secretary,
Western Australian Planning Commission.

SCHEDULE 1

1. Applications made under section 15 of the *Strata Titles Act 1985*

Power to determine applications under section 15 of the *Strata Titles Act 1985*, concerning a strata scheme containing no more than 10 lots, except those applications that—

- (a) propose the creation of a vacant lot;
- (b) propose vacant air stratas in multi-tiered strata scheme developments;
- (c) propose the creation or postponement of a leasehold scheme;
- (d) propose a type 1 (a) subdivision or a type 2 subdivision (as defined in section 3 of the *Strata Titles Act 1985*);
- (e) in the opinion of the WAPC as notified to the Department of Housing and Works in writing, or in the opinion of the Department of Housing and Works as notified to the WAPC in writing, relate to—
 - i. a type of development; and/or
 - ii. land within an area,

which is of state or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest for the WAPC to determine the application.

2. Applications under sections 21 and 22 of the *Strata Titles Act 1985*

Power to determine applications, concerning a strata scheme containing no more than 10 lots, under—

- (a) section 21 of the *Strata Titles Act 1985*;
- (b) section 22 of the *Strata Titles Act 1985* where the amendment or repeal of scheme by-laws requires the approval of the WAPC.

3. Reporting requirements

A delegate that exercises the powers referred to in clause 1 and/or clause 2, is to provide the WAPC with data on all applications determined under this Instrument of Delegation. This must be provided at the conclusion of each quarter and in the format prescribed by the WAPC.

4. Interpretation

- 1. A position listed in this instrument contemplates and includes its successor in title.

SCHEDULE 2

Referral Requirements

- 1) An application for development in or abutting land reserved under the Metropolitan Region Scheme, the Peel Region Scheme or the Greater Bunbury Region Scheme (as applicable) must be referred to the public authority responsible for that reserved land within 7 days of the delegate receiving the application or, in the case of the MRS, if further information or material is required, within 7 days of the process in clause 38 to 40 concluding.
- 2) For the purposes of paragraph (1) the public authority responsible for reserved land is:
 - (a) In the case of reservation for regional open space: the Department of Planning Lands and Heritage;
 - (b) In the case of reservation for primary regional roads: Main Roads Western Australia;
 - (c) In the case of reservation for other regional roads: the Department of Planning Lands and Heritage;
 - (d) In the case of other reservations: the public authority for which the land is reserved or that owns or manages the reserved land;
 - (e) In the case of a development in or adjacent to a Bush Forever area (as defined in the Metropolitan Region Scheme): the Department of Planning Lands and Heritage.
- 3) Each public authority to which the application is referred must:
 - (a) be provided at least 42 days within which to respond; and
 - (b) informed that if no response is received within that time, the application may be determined on the information available.

Other Requirements

- 4) The officer performing the powers and functions of the WAPC specified in Schedule 1 shall provide quarterly reports to the WAPC, in the format prescribed by the WAPC.
- 5) The reports provided under (1) shall detail the number of applications received in that period, the type of development applied for and the decision made on each application.
- 6) The first reporting period shall commence on the date commencement of this instrument, with the first report being required no later than 3 months after commencement and thereafter submitted not later than 28 days after 31 March, 30 June, 30 September and 31 December each year.

Interpretation

1. A position listed in this instrument contemplates and includes its successor in title.
2. “public authority” has the meaning given in the *Planning and Development Act 2005*.

3. A “heritage-protected place” is a place:
- a. that is entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42; or
 - b. that is under consideration for entry into the State Register of Heritage Places (where “under consideration” is as described in subclause (2) of clause 1A, Schedule 2, *Planning and Development (Local Planning Schemes) Regulations 2015* (**the LPS Regulations**)); or
 - c. that is the subject of an order under the *Heritage Act 2018* Part 4; or
 - d. that is the subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90; or
 - e. that is included on a heritage list as defined in clause 7 of Sch. 2 of the LPS Regulations; or
 - f. that is within a heritage area as defined in clause 7 of Sch. 2 of the LPS Regulations.