

**PLANNING AND DEVELOPMENT ACT 2005**

**INSTRUMENT OF DELEGATION**

Del 2024/04 Powers of Local Governments (Mandogalup Improvement Scheme No.1)

Notice of delegation to local governments of certain powers and functions of the Western Australian Planning Commission (WAPC) relating to the Mandogalup Improvement Scheme No.1 (the Scheme).

**Preamble**

Under clause 76 of the Scheme, and subject to the exemptions stated in clause 77, development on reserved and zoned land requires planning approval.

Parts 10 and 11 of the Scheme set out the requirements, procedures and functions of the WAPC in relation to the determination of applications for planning approval.

Under section 16 of the *Planning and Development Act 2005* (the Act) the WAPC may, by resolution, delegate any function to a local government, a committee established under the *Local Government Act 1995* or an employee of a local government.

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 20 November 2024, pursuant to section 16 of the Act, the WAPC RESOLVED—

- A. TO DELEGATE to the City of Kwinana, and to members and officers of that local government its powers and functions in respect of the determination, in accordance with Parts 10 and 11 of the Scheme, of applications for approval to commence and carry out development specified in Schedule 1, within the Scheme area, subject to the terms set out in Schedule 2.
- B. TO PUBLISH this instrument of delegation in accordance with its resolution of 20 November 2024

Sam Fagan, Secretary

Western Australian Planning Commission

**PLANNING AND DEVELOPMENT ACT 2005**

**Instrument of Delegation**

**Schedule 1 – Development on zoned or reserved land delegated to City of Kwinana**

1. Applications for development on zoned land under the Scheme, excluding applications for development of State or regional importance.
2. Applications for development on land in or abutting land reserved for a primary distributor road under the Scheme and where the local government accepts the comment and/or recommendation of Main Roads Western Australia.
3. Applications for development on land in or abutting land reserved for a district distributor road under the Scheme and where the local government accepts the comment and/or recommendation of the Department of Planning, Lands and Heritage.

4. Applications for development on land in Precinct E under the Scheme, and which is one or more of the following kinds:
  - a. Development which complies with arrangements to be made for the provision of land for an Air Quality Monitor in accordance with clause 45 of the Scheme; or
  - b. Development where arrangements have not been made for the provision of land for an Air Quality Monitor and the local government accepts the comment and/or recommendation of the Department of Water and Environmental Regulation and/or the Department of Planning, Lands or Heritage, as the case may be.
5. Applications for development on land in or abutting land identified in the Scheme Report's Concept Plan as requiring a Sewer Pump Station and where the local government accepts the comment and/or recommendation of:
  - a. the Water Corporation; and
  - b. the Department of Water and Environmental Regulation.
6. Applications for development on land in or abutting land identified as "Restricted Use – Powerline Easement" under the Scheme and where the local government accepts the comment and/or recommendation of Western Power.
7. Applications for development of land in or abutting land identified as "Restricted Use – DBNGP" under the Scheme and where the local government accepts the comment and/or recommendation of:
  - a. the relevant pipeline operator; and
  - b. the Department of Planning, Lands and Heritage (Land Access Minister).
8. Applications for development on land in the North-East Precinct D under the Scheme and which is one or more of the following kinds:
  - a. Development which in the opinion of the local government, is consistent with the intent and provisions of an approved local structure plan, or approved subdivision; or
  - b. Development on land where a local structure plan or subdivision has not been approved and the local government accepts the comment and/or recommendation of the Department of Planning, Lands and Heritage.

#### **Schedule 2 – Terms of delegations to determine development on reserved and zoned land**

1. An application for development on land in or abutting a primary distributor road reservation is to be referred within seven days of being accepted for assessment to Main Roads Western Australia for comment and recommendation before being considered by the local government.
2. An application for development on land abutting a district distributor road reservation is to be referred within seven days of being accepted for assessment to the Department of Planning, Lands and Heritage for comment and recommendation before being considered by the local government.
3. An application for development on land in Precinct E where arrangements have not been made for the provision of land for an Air Quality Monitor is to be referred within seven days of being accepted for assessment to the Department of Water and Environmental Regulation and/or the Department of Planning, Lands or Heritage, as the case may be, for comment and recommendation before being considered by the local government.

4. An application for development on land in or abutting land identified in the Scheme Report's Concept Plan as requiring a Sewer Pump Station is to be referred within seven days of being accepted for assessment to the Water Corporation and the Department of Water and Environmental Regulation for comment and recommendation before being considered by the local government.
5. An application for development on land in or abutting land identified as "Restricted Use – Powerline Easement" is to be referred within seven days of being accepted for assessment to Western Power for comment and recommendation before being considered by the local government.
6. An application for development of land in or abutting land identified as "Restricted Use – DBNGP" is to be referred within seven days of being accepted for assessment to the relevant pipeline operator and the Department of Planning, Lands and Heritage (Land Access Minister) for comment and recommendation before being considered by the local government.
7. An application for development on land in the North-East Precinct D where a local structure plan or subdivision has not been approved is to be referred within seven days of being accepted for assessment to the Department of Planning, Lands and Heritage for comment and recommendation before being considered by the local government.
8. Where an application is referred to an advice agency for comment and recommendation the agency is to be advised that if no comment or recommendation has been received within forty two days of receipt of the application by the advice agency the application may be determined on the available information, and the WAPC, or a local government acting under delegated power may determine the application on that basis.
9. Following referral of any application referred to in Schedule 1 for comment and recommendation and where the local government does not accept the comment and/or recommendation of the advice agency, an application is consequently to be determined by the WAPC and is to be forwarded as soon as practicable to the WAPC with the advice and recommendations provided by all advice agencies consulted together with the comment and recommendation of the local government. These should be accompanied by the reasons why the recommendation of the advice agency is not acceptable to the local government.
10. Following advertising under clause 81 of the Scheme, where objections to the development application are made on valid planning grounds relevant to the application, and where the objection cannot be addressed by an amended application or by imposing a condition(s) of development approval, an application is consequently to be determined by the WAPC and is to be forwarded as soon as practicable to the WAPC along with all submissions received, together with the comment and recommendation of the local government.
11. The local government is to report to the WAPC in the manner and form required by the WAPC, all decisions made under this instrument of delegation.
12. The powers delegated to members and officers of a local government may only be exercised by a member or officer who has been delegated power from the local government to consider and determine applications for approval to commence and carry out development in the local government district under the Scheme.