

---



---

## PLANNING

---



---

**PL402**

**PLANNING AND DEVELOPMENT ACT 2005**

INSTRUMENT OF DELEGATION

Del 2022/05. Powers of Local Governments (PRS)

Notice of delegation to local governments of certain powers and functions of the Western Australian Planning Commission relating to the Peel Region Scheme

**Preamble**

Under clause 18 of the Peel Region Scheme (PRS), and subject to the exemptions stated in clauses 19 and 20, development on reserved land requires planning approval. On zoned land, development requires planning approval if it is of a kind or class set out in a resolution of the Western Australian Planning Commission (the WAPC) under clause 21 of the PRS. Parts 7 and 8 of the PRS 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 published in the *Government Gazette*, 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 23 March 2022, pursuant to section 16 of the Act, the WAPC RESOLVED—

- A TO DELEGATE to local governments, and to members and officers of those local governments, its powers and functions in respect of the determination, in accordance with Parts 7 and 8 of the Peel Region Scheme, of applications for approval to commence and carry out development specified in Schedules 1 and 2, within their respective districts, subject to the terms set out in schedule 3 ;
- B TO REVOKE its delegation of powers and functions of instrument entitled "2008/12 Powers of Local Governments (PRS) as amended.

SAM FAGAN, Secretary, Western Australian Planning Commission.

**PLANNING AND DEVELOPMENT ACT 2005**

INSTRUMENT OF DELEGATION

**Schedule 1—Development on reserved land delegated to local governments**

1. Development on land in a regional road reservation where the local government accepts the advice and/or recommendation of the advice agency.
2. Development of private jetties and associated facilities located in an artificial waterway in the waterways reservation.
3. Development of jetties and associated facilities located in the natural waterways of the Peel Region in the Waterways Reservation and which is of one or more of the following kinds—
  - (a) the application is in accordance with the objectives and intent of the Peel Region Scheme—Boating Facilities Policy

- (b) Development where the local government accepts the advice and/or recommendation of the Department of Water and Environmental Regulation and/or Department of Transport (Maritime).

**Schedule 2—Development on zoned land delegated to local governments except in respect of public works undertaken by public authorities**

1. On land abutting regional open space reservations, development which requires planning approval under the PRS.
2. On land abutting a primary regional roads reservation, development which requires planning approval under the PRS and which is of the following kind—
  - i. Development where the local government accepts the advice and/or recommendation of Main Roads Western Australia.
3. On land abutting an other regional roads reservation, development which requires planning approval under the PRS and which is of one or more of the following kinds—
  - i. Development where the local government accepts the advice and/or recommendation of the Department of Planning, Lands and Heritage.
  - ii. Development which—
    1. complies with an approved access policy pertaining to other regional roads reservations, or a specified section of the other regional roads reservation, submitted by the local government and endorsed by the WAPC, and
    2. is approved subject to conditions requiring compliance with that policy.
4. On land in the water catchments special control area (SCA No. 1), development which requires planning approval under the PRS and which is of the following kind—
  - i. Development where the local government accepts the advice and/or recommendation of the Department of Water and Environmental Regulation and/or the Water Corporation, as the case may be.
5. Development of the following kinds which is for Category A activity centre uses and which requires planning approval under the PRS—
  - a) Development which—
    - i. is major development located in a local centre or neighbourhood centre; or
    - ii. is major development not located in an activity centre and less than 1500m<sup>2</sup> net lettable area; or
    - iii. is generally in accordance with a WAPC endorsed precinct structure plan; or
    - iv. is major development located in an activity centre that is exempt from the requirement to prepare a precinct structure plan as identified in an endorsed local planning strategy.
6. Development in the rural zone, other than for a poultry farm, which requires planning approval under the PRS.
7. Development for a new poultry farm or for any extension or addition in excess of 100 m<sup>2</sup> to the improvements of an existing poultry farm.
8. Development of one or more of the following kinds, which is on land in, adjacent to or in close proximity to Priority Agricultural Land as identified in Appendix 1 of the PRS Priority Agricultural and Rural Land Use Policy, and which requires planning approval under the PRS—
  - (a) Development where the local government accepts the recommendation and any advice of the Department of Primary Industries and Regional Development.

**Schedule 3—Terms of delegations to determine development on reserved and zoned land**

1. Under clause 30 of the PRS, an application for planning approval is to be submitted to the local government, which, if the application is to be determined by the WAPC, shall forward it to the WAPC within seven days and may (within 42 days, or such longer period as the WAPC allows) make recommendations to the WAPC.
2. An application for development in or abutting a primary regional roads reservation is to be referred within seven days to Main Roads Western Australia for advice and recommendation before being considered by the local government.
3. An application for development in or abutting another regional roads reservation is to be referred within seven days to the Department of Planning, Lands and Heritage for advice and recommendation before being considered by the local government.
4. An application for development within the water catchments special control area (SCA No. 1) is to be referred within seven days to the Department of Water and Environmental Regulations and/or the Water Corporation for advice and recommendation before being considered by the local government.
5. An application for development in, adjacent to or in close proximity to Priority Agricultural Land, as identified in Appendix 1 of the PRS Priority Agricultural and Rural Land Use Policy, shall be referred within seven days to the Department of Primary Industries and Regional Development for advice and recommendation before being considered by the local government.
6. Where an application is referred to an advice agency for advice and recommendation the agency is to be advised that if no advice or recommendation has been received within thirty 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.

7. Following referral of any application referred to in Schedule 2 for advice and recommendation and where the local government does not accept the advice and/or recommendation of the advice agency, an application which is consequently to be determined by the WAPC 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 advice 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.
8. Each local government shall report to the WAPC, in the form and manner required by the WAPC, all decisions made under this instrument of delegation.
9. 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 local planning scheme.

#### **Schedule 4—Definitions and interpretations**

In this instrument of delegation, words have the meanings given to them in the Act and the PRS. Unless the context otherwise requires—

**‘Abutting’** reserved land means the zoned land shares a common boundary with reserved land.

**“activity centre”** is defined in State Planning Policy 4.2;

**“activity centre hierarchy”** means the categories of activity centres set out in Appendix 1 of State Planning Policy 4.2, namely—

- Capital City;
- Strategic centres;
- Specialised centres;
- Secondary centres;
- District centres;
- Neighbourhood centres; and
- Local centres.

**‘Access’** means entry or exit (or both) from either a road or abutting development by a vehicle.

**‘Advice agency’** means a department, public authority or body which is requested to provide advice and recommendations on applications for planning approval under the PRS as an agency responsible for reserved land or to which local governments refer applications under the terms of schedule 3.

**‘Category A activity centre uses’** means land uses as defined State Planning Policy 4.2;

**‘major development’** means development as defined in State Planning Policy 4.2;

**‘Forward to the WAPC’** and similar expressions mean convey by mail, by hand or electronically to the Peel region office of the Department of Planning, Lands and Heritage.

**‘net lettable area’** is defined in Planning and Development (Local Planning Schemes) Regulations 2015;

**‘Not acceptable’** means that the local government wishes the application to be determined in a manner that is inconsistent with the advice and/or recommendation received from the advice agency which the local government was required to consult.

**‘Planning approval’** and **‘planning approval under the PRS’** mean the planning approval of the WAPC as required under the PRS and by resolution of the WAPC under clause 21 of the PRS, whether granted by the WAPC or by delegates of the WAPC including committees, officers, local governments and members and officers of local governments.

**‘precinct structure plan or equivalent’** means a precinct structure plan prepared for an activity centre as required under State Planning Policy 4.2, and includes what were previously referred to as an activity centre plan;

**‘Proximity’** and **‘in close proximity’** mean that the development is, in the opinion of the WAPC or local government, sufficiently close to a policy area for the effects of activities in the policy area (such as noise, odour, spray drift or dust) to be likely to have an adverse effect on the proposed use, and/or for the effects of the development to be likely to have an adverse effect on uses in the policy area

**‘State Planning Policy 4.2’** means State Planning Policy No. 4.2—Activity Centres, published in the *Government Gazette*