

Planning and Development Act 2005

INSTRUMENT OF DELEGATION

Del 2025/04 Powers of Local Governments Metropolitan Region Scheme

Delegation of certain powers and functions of the Western Australian Planning Commission relating to the Metropolitan Region Scheme.

Preamble

Unless exempted by clause 29 and 30, under clause 27 of the Metropolitan Region Scheme (MRS), on reserved land, a person must not commence or carry out development unless that person has planning approval. Development on zoned land requires planning approval if it is of a kind or class set out in a resolution of the Western Australian Planning Commission (WAPC) under clause 28 of the MRS.

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 an officer of a public authority or 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 19 FEBRUARY 2025, 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 functions in respect of the determination, in accordance with Parts 8, 9 and 10 of the Metropolitan Region Scheme, of applications (within their respective districts) for approval to commence and carry out development of the type specified in Column 1 of Schedule 1, subject to the conditions specified in Column 2 of Schedule 1 and the requirements in Schedule 2.
- B. TO REVOKE its delegation of powers and functions to local governments as detailed in the notice entitled “DEL 2022/03 Powers of local governments (MRS)” published in the *Government Gazette* on 18 January 2022, to give effect to this delegation.
- C. TO RESOLVE that this resolution takes effect on 31 March 2025.

Sam Boucher Secretary,

Western Australian Planning Commission.

SCHEDULE 1 – TYPES OF DEVELOPMENT AND LOCATION

| Column 1 (Land and Application type) | Column 2 (Conditions) |
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| 1. Proposals concerning reserved land and for which approval is required. | |
| 1.1. Application concerns land on or abutting a regional road reservation. | <p>Power may be exercised:</p> <ol style="list-style-type: none"> 1. if the delegate complies with referral requirements set out in Schedule 2 below; 2. all public authorities consulted, concur; and 3. the delegate accepts the advice and/or recommendations (if any received) of the public authority/s. 4. the application is <u>not</u> for public works undertaken by a public authority. |
| 2. Proposals concerning zoned land and for which approval is required. <u>Does not apply</u> to public works undertaken by a public authority, the Kwinana Industrial Area, North Coogee Area and Parliament House - Inner Precinct. | |
| 2.1. Application concerns zoned land which abuts a primary regional road reservation. | <p>Power may be exercised if the delegate:</p> <ol style="list-style-type: none"> 1. complies with the referral requirements set out in Schedule 2 below; and 2. accepts and applies the advice and/or recommendation (if any) from the public authority specified in cl.2, Schedule 2 below. |
| 2.2. Application concerns zoned land which abuts an other regional road reservation | |
| 2.3. Application concerns zoned land which abuts a regional open space reservation. | |
| 2.4. Application concerns zoned land which is adjacent to a railway reservation or abuts a port installation reservation | |
| 2.5. Application concerns zoned land within a Bush Forever Area | <p>Power may be exercised if the delegate:</p> <ol style="list-style-type: none"> 1. consults the DPLH; 2. provides DPLH at least 30 days within which to respond; and |

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| | <p>3. accepts the advice and / or recommendation received (if any) from DPLH.</p> |
| 2.6. Application concerns development within an Activity Centre | <p>Power may be exercised if the delegate:</p> <ol style="list-style-type: none"> 1. consults the DPLH; 2. provides DPLH at least 30 days within which to respond; and 3. accepts the advice and / or recommendation received (if any) from DPLH. |
| 2.7. Application concerns zoned land which is in or abuts the Swan and Canning Development Control Area | <p>Power may be exercised if the delegate:</p> <ol style="list-style-type: none"> 1. consults the Swan River Trust in accordance with clause 45; and 2. accepts the advice and / or recommendation (if any) received from the Swan River Trust. |
| 2.8. Application to extend or change a non-conforming use on zoned land. | <p>Power may be exercised if the delegate:</p> <ol style="list-style-type: none"> 1. consults the DPLH; 2. provides DPLH at least 30 days within which to respond; and 3. accepts the advice and / or recommendation received (if any) from DPLH. |

SCHEDULE 2

Referral Requirements

- 1) An application for development in or abutting land reserved under the Metropolitan Region Scheme must be referred to the public authority responsible for that reserved land within 7 days of the delegate receiving the application or, 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) of this delegation, 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 be:
 - (a) provided at least 30 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.
- 4) Where the advice and/or recommendation provided by the public authority specified in clause 2 above, is not acceptable to the delegate, the application, together with the advice and/or recommendations provided by all public authorities consulted and the reasons why the recommendation is not acceptable to the delegate, shall be referred immediately to the WAPC for determination.

Interpretation and Guidance

In this Instrument of Delegation, unless the context otherwise requires—

- Powers delegated under this instrument 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 within the local government district under the local government's local planning scheme
- “*development*” has the same meaning given to it in and for the purposes of the *Planning and Development Act 2005*.

- “other regional roads” are delineated in blue and identified on plan SP 694, as amended from time to time (copy attached).
- “primary regional roads” are delineated in red and identified on plan SP 693, as amended from time to time (copy attached).
- “*public authority*” has the meaning given in the *Planning and Development Act 2005*.
- If the conditions set out in Column 2 cannot be met, the power cannot be exercised by the delegate and the application, together with the advice and/or recommendations provided by all public authorities consulted and the reasons why the recommendation is not acceptable to the delegate, must be sent to the WAPC for determination.
- Note, clause 45 applies where development is of land affecting the Swan and Canning Development Control Area.
- The Kwinana Industrial Area covers land within WAPC plan No. 3.2859, as per the WAPC’s Notice of resolution made under clause 28 of the Metropolitan Region Scheme
- North Coogee Area covers land within WAPC plan No. 4.1675 as per the WAPC’s Notice of resolution made under clause 28 of the Metropolitan Region Scheme
- Parliament House Inner Precinct covers land within WAPC plan No. 3.2858 as per the WAPC’s Notice of resolution made under clause 28 of the Metropolitan Region Scheme