



Western Australia

Planning and Development Amendment (Metropolitan Region Scheme) Act 2024

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Planning and Development Amendment (Metropolitan Region Scheme) Act 2024

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Western Australia

Planning and Development Amendment (Metropolitan Region Scheme) Act 2024

No. 41 of 2024

An Act to amend the *Metropolitan Region Scheme*, the *Planning and Development Act 2005* and the *Railway (METRONET) Act 2018*.

[Assented to 29 October 2024]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Planning and Development Amendment (Metropolitan Region Scheme) Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

3. Term used: Metropolitan Region Scheme

In this Act —

Metropolitan Region Scheme has the meaning given in the *Planning and Development Act 2005* section 4(1).

Part 2 — *Metropolitan Region Scheme* amended

4. Scheme amended

This Part amends the *Metropolitan Region Scheme*.

5. Parts I to V replaced

Delete Parts I to V and insert the text contained in Schedule 1.

6. Forms 1 to 6 deleted

Delete Forms 1 to 6.

7. Scheme Map legend amended

In the legend to the Scheme Map:

(a) under the heading “**Reserved lands**”:

(i) delete “Parks and recreation” and insert:

Regional Open Space

(ii) delete “Restricted public access” and insert:

Regional Open Space — Restricted public access

(b) delete the heading “**Notice of delegation**” and insert:

Other

(c) delete the heading “**Redevelopment schemes**”.

8. Effect of amendments

(1) In this section —

amend, the *Metropolitan Region Scheme*, includes delete, without substitution, a provision of the Scheme;

s. 8

amendments, to the *Metropolitan Region Scheme*, includes deletions, without substitution, of provisions of the Scheme.

- (2) The amendments to the *Metropolitan Region Scheme* effected by this Part have effect as though the amendments were enacted under the *Planning and Development Act 2005*.
- (3) Nothing in this Part affects the operation of the *Planning and Development Act 2005* with respect to amendments to the *Metropolitan Region Scheme* as amended by this Part.

Part 3 — *Planning and Development Act 2005* amended

9. Act amended

This Part amends the *Planning and Development Act 2005*.

10. Section 17 amended

In section 17(7) after “under” insert:

the Metropolitan Region Scheme or

11. Section 36 amended

Delete section 36(a)(ii) and (iii) and insert:

- (ii) clause 33 or 45 of the Metropolitan Region Scheme as in force immediately after the *Planning and Development Amendment (Metropolitan Region Scheme) Act 2024* section 5 comes into operation;

12. Section 37 amended

In section 37(2)(b) delete “the *Gazette*.” and insert:

accordance with the *Interpretation Act 1984* section 41(1)(a).

s. 13

13. Section 54 amended

In section 54(a) delete “the *Gazette*; and” and insert:

accordance with the *Interpretation Act 1984* section 41(1)(a);
and

14. Section 55 amended

(1) In section 55(2) and (3) delete “the *Gazette*,” and insert:

accordance with the *Interpretation Act 1984* section 41(1)(a),

(2) In section 55(4) delete “the *Gazette*” and insert:

accordance with the *Interpretation Act 1984* section 41(1)(a)

(3) In section 55(4)(b) and (5)(b) delete “the *Gazette*.” and insert:

accordance with the *Interpretation Act 1984* section 41(1)(a).

15. Section 56 amended

(1) In section 56(1) delete “the *Gazette*.” and insert:

accordance with the *Interpretation Act 1984* section 41(1)(a).

(2) In section 56(4) delete “the *Gazette*” and insert:

accordance with the *Interpretation Act 1984* section 41(1)(a)

16. Section 62 amended

In section 62(2)(a) delete “the *Gazette*; and” and insert:

accordance with the *Interpretation Act 1984* section 41(1)(a);
and

17. Section 175 amended

After section 175(2) insert:

- (2A) When land is alleged to be injuriously affected by the amendment of the Metropolitan Region Scheme by the amendment Act, no compensation is payable in respect of the injurious affection if or so far as the relevant provisions of the Metropolitan Region Scheme were also contained in a relevant planning scheme that applied in the metropolitan region before commencement day.
- (2B) In subsection (2A) —
amendment, of the Metropolitan Region Scheme, includes deletion, without substitution, of a provision of the Scheme;
amendment Act means the *Planning and Development Amendment (Metropolitan Region Scheme) Act 2024*;
commencement day means the day on which section 17 of the amendment Act comes into operation;
relevant planning scheme means —
- (a) the Metropolitan Region Scheme as in force immediately before commencement day; or
 - (b) a local planning scheme that applies to land in the metropolitan region immediately before commencement day; or

- (c) an improvement scheme that applies to land in the metropolitan region immediately before commencement day.

18. Section 178 amended

In section 178(2) delete the passage that begins with “notice” and continues to the end of the subsection and insert:

the scheme or amendment takes effect.

19. Section 181 amended

After section 181(16A) insert:

- (16B) The reference in subsection (1)(b) to the planning scheme being amended or revoked includes, in relation to land in the metropolitan region for which compensation for injurious affection was paid before commencement day —
 - (a) a reference to the Metropolitan Region Scheme being amended by the amendment Act; and
 - (b) a reference to the making of a subsequent Metropolitan Region Scheme or the amendment of the Metropolitan Region Scheme.
- (16C) In subsection (16B) —
 - amend***, the Metropolitan Region Scheme, includes delete, without substitution, a provision of the Scheme;
 - amendment Act*** means the *Planning and Development Amendment (Metropolitan Region Scheme) Act 2024*;
 - commencement day*** means the day on which section 19 of the amendment Act comes into operation.

Part 4 — *Railway (METRONET) Act 2018* amended

20. Act amended

This Part amends the *Railway (METRONET) Act 2018*.

21. Section 5 amended

In section 5:

- (a) in the definition of *Bush Forever area* delete “clause 28A(1);” and insert:

clause 25(1);

- (b) in the definition of *non-railway land* paragraph (a) delete “Part II” and insert:

Part 3

- (c) in the definition of *non-railway land* paragraph (b) delete “Part III;” and insert:

Part 4;

- (d) in the definition of *railway land* delete “Part II” and insert:

Part 3

Schedule 1 — Metropolitan Region Scheme Parts 1 to 13

[s. 5]

Part 1 — Preliminary

1. Citation

This region planning scheme is the *Metropolitan Region Scheme*.

2. Application of Scheme

- (1) This Scheme applies to all land in the metropolitan region.
- (2) Subclause (1) applies subject to the *Swan Valley Planning Act 2020* section 9.

Note for this clause:

This Scheme and the *Peel Region Scheme* cover areas that are contiguous. Some strategic planning documents such as the Perth-Peel sub-regional strategy <Perth and Peel@3.5million> apply to both scheme areas.

3. Contents of Scheme

This Scheme comprises —

- (a) the provisions of the Scheme; and
- (b) the Scheme Map (sheets 1 to 38); and
- (c) all other maps, plans, specifications and other particulars contained in the Scheme.

4. Nature of Scheme

- (1) Although this Scheme and a local planning scheme may cover the same area of land, this Scheme and the local planning scheme have different roles in relation to development of the land.
- (2) This Scheme is focused on matters of State and regional importance and guides overall planning and development in the metropolitan region.

Note for this clause:

Under section 124(1) of the Act, if this Scheme is inconsistent with a local planning scheme, this Scheme prevails over the local planning scheme to the extent of the inconsistency.

5. Purposes of Scheme

The purposes of this Scheme are to —

- (a) reserve and protect land for regional transport, infrastructure, conservation, recreation, cultural and public purposes; and
- (b) zone land for living, working and rural land uses; and
- (c) provide a mechanism for certain development of regional significance, and development in areas of regional significance, to be considered and approved by the Commission; and
- (d) identify and protect land having strategic importance for industrial and future urban use; and
- (e) set out procedures for the assessment and determination of applications for development approval under this Scheme; and
- (f) contribute to the implementation of the State's planning laws and policies by providing for assessment and determination of applications for development approval under this Scheme; and
- (g) provide for the strategic direction of planning and development in the metropolitan region by allowing for the making of particular planning instruments by the Commission; and
- (h) provide for the administration of this Scheme.

6. Aims of Scheme

The aims of this Scheme are to —

- (a) promote the sustainable development of land having regard to relevant environmental, social, economic and cultural factors; and

- (b) provide for regional transportation, community services and infrastructure in a way that is efficient, equitable and timely; and
- (c) protect as regional open space the metropolitan region's riverine and coastal foreshores and other areas of regional conservation significance; and
- (d) provide areas for regional recreational facilities; and
- (e) protect surface water catchments and groundwater areas for future water supplies; and
- (f) protect areas of environmental significance; and
- (g) provide for industrial development in planned estates where land use conflicts and environmental impacts will be minimised and efficient production facilitated; and
- (h) provide for future urban development and prevent works that may jeopardise that development; and
- (i) protect strategic agricultural land considered to be of State or regional importance; and
- (j) protect strategic minerals and basic raw materials of State and regional importance and provide for the efficient and timely extraction of minerals and raw materials and subsequent rehabilitation of affected land.

7. Terms used

In this Scheme —

Bush Forever area means an area identified under clause 25(1);

commencement day means the day on which the *Planning and Development Amendment (Metropolitan Region Scheme) Act 2024* section 5 comes into operation;

Commission website means a website maintained by or on behalf of the Commission;

development approval under this Scheme means approval by the Commission under Part 10;

district structure plan has the meaning given in clause 14(1);

heritage-protected place has the meaning given in clause 8;

local government means a local government of a district in the metropolitan region;

non-conforming use means a use of land which, though lawful immediately before commencement day, is not in conformity with a provision of this Scheme;

owner, in relation to land, means —

- (a) if the land is freehold land —
 - (i) a person whose name is registered as a proprietor of the land; or
 - (ii) the State, if registered as a proprietor of the land; or
 - (iii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land; or
 - (iv) a person who is the holder of a freehold interest in land vested in an executor or administrator under the *Administration Act 1903* section 8;

and

- (b) if the land is Crown land —
 - (i) the State; or
 - (ii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land;

plan area, in relation to a district structure plan, means the area of land covered by the plan;

region planning scheme policy has the meaning given in clause 9(1);

reserved land means land reserved under this Scheme for a public purpose;

Swan Canning development control area has the meaning given in clause 45(1);

zoned land means land zoned under this Scheme.

8. Heritage-protected places

- (1) 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 as described in subclause (2); 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 established under the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 8(1) as that clause has effect as part of a local planning scheme of a local government; or
 - (f) that is within a heritage area designated under the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 9 as that clause has effect as part of a local planning scheme of a local government.
- (2) For the purposes of subclause (1)(b), a place is under consideration for entry into the State Register of Heritage Places if —
- (a) the Heritage Council has made a preliminary determination under the *Heritage Act 2018* section 39(2) that the place warrants review under section 40(1) of that Act but the review has not commenced; or
 - (b) the Heritage Council has commenced but has not completed a review of the place under the *Heritage Act 2018* section 40(1); or
 - (c) the Heritage Council has made a recommendation under the *Heritage Act 2018* section 40(2) that the place be entered in the State Register of Heritage Places but the Minister for Heritage has not yet given a direction under section 41(1) of that Act in relation to that recommendation.

Part 2 — Related policy instruments

Division 1 — Region planning scheme policies

9. Commission may prepare and resolve to approve region planning scheme policy

- (1) The Commission may prepare and resolve to approve a policy (a *region planning scheme policy*) in respect of any matter related to the planning and development of the metropolitan region.
- (2) A region planning scheme policy may apply —
 - (a) generally or in respect of a particular class or classes of matter specified in the policy; and
 - (b) to the whole of the metropolitan region or to part or parts of the region specified in the policy.

10. Procedure for preparing and resolving to approve region planning scheme policy

- (1) Before resolving to approve a region planning scheme policy the Commission must —
 - (a) prepare the proposed policy; and
 - (b) give the proposed policy to each local government in the district of which the policy will apply and consult with those local governments; and
 - (c) publish the proposed policy on the Commission website, or another place chosen by resolution by the Commission, for a period of at least 28 days or another period chosen by resolution by the Commission; and
 - (d) give notice on the Commission website of the following —
 - (i) the manner and form in which submissions may be made;
 - (ii) the period for making submissions and the last day of that period;
 - (iii) any other matter in relation to the proposed policy the Commission considers appropriate;
- and

- (e) give notice of the proposed policy in any other way and carry out any other consultation the Commission considers appropriate.
- (2) The period mentioned in subclause (1)(d)(ii) must be the same as the period for which the proposed policy is published under subclause (1)(c).
- (3) After the expiry of the period for making submissions, the Commission —
 - (a) must consider all submissions made to the Commission on the proposed policy —
 - (i) during the period for making submissions; and
 - (ii) in accordance with the requirements referred to in subclause (1)(d)(i);and
 - (b) may, if the Commission considers it appropriate to do so, consider a submission —
 - (i) that is made during the period for making submissions; but
 - (ii) that the Commission is not required to consider under paragraph (a) because of paragraph (a)(ii);and
 - (c) must review the proposed policy; and
 - (d) must resolve to —
 - (i) approve the proposed policy without modification; or
 - (ii) approve the proposed policy with modification, whether or not the modification is as a result of a submission; or
 - (iii) not approve the proposed policy.
- (4) If the Commission resolves to approve the proposed policy, the Commission must publish the policy as approved on the Commission website.
- (5) The region planning scheme policy takes effect on the day after the day on which the policy is published under subclause (4).

11. Procedure for amending region planning scheme policy

- (1) The Commission may prepare and resolve to approve an amendment to a region planning scheme policy —
 - (a) as if clause 10(1) to (3), with any necessary changes, applied to the amendment; or
 - (b) in any other way the Commission considers appropriate.
- (2) If the Commission resolves to approve an amendment to a region planning scheme policy, the Commission must publish the amendment as approved on the Commission website.
- (3) An amendment to a region planning scheme policy takes effect on the day after the day on which the amendment is published under subclause (2).
- (4) The Commission must maintain and publish on the Commission website an up-to-date version of each region planning scheme policy that is in force, consolidated to include any amendments to the policy.

12. Review of region planning scheme policy

- (1) The Commission must review the operation and effectiveness of a region planning scheme policy that is in force within 6 months after an anniversary referred to in subclause (2).
- (2) The anniversaries are the 10th anniversary of the day on which the region planning scheme policy first takes effect, the 20th anniversary of that day, the 30th anniversary of that day and so on.

13. Revocation of region planning scheme policy

- (1) A region planning scheme policy may be revoked —
 - (a) by a subsequent region planning scheme policy that —
 - (i) is prepared in accordance with this Division; and
 - (ii) expressly revokes the policy;or

- (b) by a notice of revocation —
 - (i) prepared by the Commission; and
 - (ii) published by the Commission on the Commission website.
- (2) A revocation under subclause (1)(b) does not take effect until the notice of revocation has been published on the Commission website for a period of 21 days.

Division 2 — District structure plans

14. Commission may prepare and resolve to approve district structure plan

- (1) The Commission may prepare and resolve to approve a plan (a *district structure plan*) that deals broadly with major strategic aspects of the coordination of future land uses and infrastructure in respect of an area of land in the metropolitan region.
- (2) A district structure plan may include —
 - (a) the key attributes and constraints of the plan area, including the natural environment, landform and topography of the plan area; and
 - (b) the planning context for —
 - (i) areas surrounding the plan area, including, for example, whether surrounding areas are flood or fire prone or contain an airport; and
 - (ii) the plan area; and
 - (iii) the metropolitan region;
 - and
 - (c) any major land uses, zoning or reserves proposed by the plan; and
 - (d) the population impacts that are expected to result from the implementation of the plan; and
 - (e) the extent to which the plan provides for the coordination of key transport and other infrastructure; and

- (f) the proposed staging of the subdivision, if any, covered by the plan; and
 - (g) other significant details in the plan area, including, for example, major roads, drainage and infrastructure; and
 - (h) any maps, information or other material considered relevant by the Commission.
- (3) A proposal in a district structure plan that land be zoned or reserved as referred to in subclause (2)(c) does not operate to zone or reserve the land.

15. Procedure for preparing and resolving to approve district structure plan

- (1) Before resolving to approve a district structure plan the Commission must —
- (a) prepare the proposed plan; and
 - (b) give the proposed plan to each local government in the district of which the plan will apply and consult with those local governments; and
 - (c) publish the proposed plan on the Commission website for a period of at least 42 days; and
 - (d) give notice on the Commission website of the following —
 - (i) the manner and form in which submissions may be made;
 - (ii) the period for making submissions and the last day of that period;
 - (iii) any other matter in relation to the proposed plan the Commission considers appropriate;
- and
- (e) give notice of the proposed plan in any other way and carry out any other consultation the Commission considers appropriate.
- (2) The period mentioned in subclause (1)(d)(ii) must be the same as the period for which the proposed plan is published on the Commission website under subclause (1)(c).

- (3) After the expiry of the period for making submissions, the Commission —
- (a) must consider all submissions made to the Commission on the proposed plan —
 - (i) during the period for making submissions; and
 - (ii) in accordance with the requirements referred to in subclause (1)(d)(i);and
 - (b) may, if the Commission considers it appropriate to do so, consider a submission —
 - (i) that is made during the period for making submissions; but
 - (ii) that the Commission is not required to consider under paragraph (a) because of paragraph (a)(ii);and
 - (c) must review the proposed plan; and
 - (d) must resolve to —
 - (i) approve the proposed plan without modification; or
 - (ii) approve the proposed plan with modification, whether or not the modification is as a result of a submission; or
 - (iii) not approve the proposed plan.
- (4) If the Commission resolves to approve the proposed plan, the Commission must publish the plan as approved on the Commission website.
- (5) The district structure plan takes effect on the day after the day on which the plan is published under subclause (4).

16. Procedure for amending district structure plan

- (1) The Commission may prepare and resolve to approve an amendment to a district structure plan —
- (a) as if clause 15(1) to (3), with any necessary changes, applied to the amendment; or

- (b) in any other way the Commission considers appropriate.
- (2) If the Commission resolves to approve an amendment to a district structure plan, the Commission must publish the amendment as approved on the Commission website.
- (3) An amendment to a district structure plan takes effect on the day after the day on which the amendment is published under subclause (2).
- (4) The Commission must maintain and publish on the Commission website an up-to-date version of each district structure plan that is in force, consolidated to include any amendments to the plan.

17. Review of district structure plan

- (1) The Commission must review the operation and effectiveness of a district structure plan that is in force within 6 months after an anniversary referred to in subclause (2).
- (2) The anniversaries are the 10th anniversary of the day on which the district structure plan first takes effect, the 20th anniversary of that day, the 30th anniversary of that day and so on.

18. Revocation of district structure plan

- (1) A district structure plan may be revoked —
 - (a) by a subsequent district structure plan that —
 - (i) is prepared in accordance with this Division; and
 - (ii) expressly revokes the plan;
 - or
 - (b) by a notice of revocation —
 - (i) prepared by the Commission; and
 - (ii) published by the Commission on the Commission website.
- (2) A revocation under subclause (1)(b) does not take effect until the notice of revocation has been published on the Commission website for a period of 21 days.

Part 3 — Reserved lands

19. Reserves

The lands shown as reserved lands on the Scheme Map are reserved under this Scheme for the public purposes shown on the Scheme Map.

20. Purposes of reserves

Land is reserved under this Scheme for the following public purposes —

- (a) regional open space — to protect the natural environment, provide recreational and cultural opportunities, safeguard important landscapes and sites of cultural or historical significance and provide for public access;
- (b) regional open space — restricted public access — to protect the natural environment, provide recreational and cultural opportunities, safeguard important landscapes and sites of cultural or historical significance with limited or no public access;
- (c) primary regional roads — to provide a regional road network to accommodate current and future transport needs on roads declared under the *Main Roads Act 1930*;
- (d) other regional roads — to provide a regional road network to accommodate current and future transport needs on roads for which the planning responsibilities are shared between the Commission and local government;
- (e) railways — to provide for the passage of trains, the marshalling, maintenance and storage of rolling stock, and the conveying of the public and freight by rail;
- (f) port installations — to provide for current and future expansion needs;
- (g) waterways — to recognise coastal and inland waterways and lakes, provide for navigation in, and public access to, those waterways and lakes where appropriate, and to protect environmental, landscape and cultural values;

- (h) water catchments — to protect water sources from contamination;
- (i) State forests — to recognise State forests;
- (j) civic and cultural — to preserve and protect significant civic precincts and buildings;
- (k) public purposes — to provide for other public purposes as denoted on the Scheme Map.

Part 4 — Zones

21. Zones

- (1) Parts of the metropolitan region are classified into the zones shown on the Scheme Map.
- (2) The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

22. Purposes of zones

Land is classified into zones under this Scheme for the following purposes —

- (a) urban — to provide for residential development and associated local employment, recreation and open space, shopping, schools and other community facilities;
- (b) urban deferred — to provide for land suitable for future urban development but where there are various planning, servicing and environmental requirements that need to be addressed before urban development can take place;
- (c) central city area — to provide for areas where commercial, civic, cultural, residential, service and administration serving the metropolitan region are located;
- (d) industrial — to provide for manufacturing industry, the storage and distribution of goods and associated uses;
- (e) special industrial — to provide for industry of State, regional, or strategic importance;
- (f) industrial deferred — to provide for land suitable for future industrial development but where there are various planning,

servicing and environmental requirements that need to be addressed before industrial development can take place;

- (g) rural —
 - (i) to provide for the sustainable use of land for agriculture; and
 - (ii) to assist in the conservation and wise use of natural resources, including water, flora, fauna and minerals; and
 - (iii) to provide a distinctive rural landscape setting for urban areas; and
 - (iv) to accommodate carefully planned rural living developments; and
 - (v) to accommodate tourism in keeping with rural character, including, for example, farm stay accommodation, breweries and wineries;
- (h) rural — water protection — to control land use over public groundwater supplies to avoid contamination;
- (i) private recreation — to accommodate regionally significant open space and recreational activities in private use.

23. Change of zone by resolution

- (1) The Commission may by resolution transfer land —
 - (a) from the urban deferred zone to the urban zone; or
 - (b) from the industrial deferred zone to the industrial zone.
- (2) A resolution under subclause (1) takes effect —
 - (a) on the day (**publication day**) on which notification of the resolution is published in the *Gazette*; or
 - (b) on a day after publication day that is specified in the resolution.
- (3) A transfer of land under this clause must be reflected on the Scheme Map from the day the resolution to transfer the land takes effect.

Part 5 — Special control areas

24. Special control areas

- (1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The purpose, objectives and additional provisions that apply to each special control area are set out in the Table.

**Table
Special control areas in Scheme area**

Name of area	Purpose	Objectives	Additional provisions

- (3) The provisions of this Part applying to the special control areas apply in addition to the provisions of this Scheme applying to any underlying zone or reserve and any general provision of the Scheme.

Note for this clause:

On commencement day there are no special control areas on the Scheme Map. This clause will be amended as special control areas are established.

Part 6 — Bush Forever areas

25. Bush Forever areas

- (1) Land is identified as a Bush Forever area in the manner described in column 1 of the Table.

**Table
Bush Forever area in Scheme area**

Column 1 Legend on Scheme map	Column 2 Area
All land hatched	Bush Forever area

- (2) The identification of an area as a Bush Forever area —
- (a) operates in addition to —
 - (i) the provisions of this Scheme applying to any underlying zone or reserve; and
 - (ii) any general provisions of this Scheme;
 - and
 - (b) does not operate to zone or reserve that area.

Part 7 — Regional infrastructure plan areas

26. Regional infrastructure plan areas

- (1) Regional infrastructure plan areas are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The purpose, objectives and additional provisions that apply to each regional infrastructure plan area are set out in the Table.

Table

Regional infrastructure plan areas in Scheme area

Name of area	Purpose	Objectives	Additional provisions

- (3) The provisions of this Part applying to regional infrastructure plan areas apply in addition to the provisions of this Scheme applying to any underlying zone or reserve and any general provision of the Scheme.

Note for this clause:

On commencement day there are no regional infrastructure plan areas on the Scheme Map. This clause will be amended as regional infrastructure plan areas are established.

Part 8 — Development of land

27. Requirement for development approval

- (1) A person must not commence or carry out development of —
- (a) reserved land; or
 - (b) zoned land specified in a resolution by the Commission under clause 28(1); or
 - (c) zoned land that is —
 - (i) land comprised in a lot any part of which (but not all of which) is within the Swan Canning development control area; or
 - (ii) land (including water) that abuts the Swan Canning development control area;
- or
- (d) land for which Part 5 states development approval under this Scheme must be obtained.
- (2) Subclause (1) does not apply if the person has obtained development approval under this Scheme for the development.
- (3) Also, subclause (1)(a) and (b) do not apply if this Part provides that the development does not require development approval under this Scheme.

Notes for this clause:

- 1. Planning approval for development in a planning control area must be obtained under the *Planning and Development Act 2005* Part 7.
- 2. Other approval to commence or carry out development may be required by a local planning scheme or other instrument.

28. Commission may require development of zoned land to have approval

- (1) The Commission may by resolution require development of zoned land to have development approval under this Scheme before it is commenced or carried out.

- (2) The resolution may be made so as to apply to —
- (a) all land, or a specified area of land, zoned under this Scheme; or
 - (b) all development or classes of development or a specified development or class of development of land zoned under this Scheme.
- (3) Notice of the resolution must, as soon as practicable after it is made, be —
- (a) published in the *Gazette*; and
 - (b) served on each local government.

29. Permitted development of reserved land

- (1) The following development of reserved land does not require development approval under this Scheme —
- (a) the erection, construction, maintenance, improvement or alteration of a boundary fence or wall or other means of boundary enclosure;
 - (b) building or work that affects only the interior of a building and does not materially affect the external appearance of the building;
 - (c) the demolition of a building or structure;
 - (d) the erection of a sign that —
 - (i) relates to the functions of a public authority or local government (other than signs of a promotional nature) and is constructed or exhibited by, or on behalf of, the public authority or local government; or
 - (ii) is required for the management or control of traffic on a public road, carpark, cycleway, railway or waterway and is constructed or exhibited by or on behalf of a public authority or local government; or
 - (iii) is required to be exhibited under a written law;
 - (e) the erection, construction, maintenance, improvement or alteration of a jetty or associated structure (including a boat

lifting device or mooring pile) within an artificial waterway except if the jetty or associated structure —

- (i) does not comply with a policy in regard to such structures that is adopted by the relevant local government; or
 - (ii) is situated on a regionally significant waterway identified by resolution of the Commission for the purposes of this provision;
- (f) works on reserved land owned by or vested in a public authority that are —
- (i) works on land reserved for primary regional roads or other regional roads for the purpose of or in connection with a road as defined in the *Main Roads Act 1930* section 6; or
 - (ii) works on land reserved for port installations for the purpose of or in connection with a port; or
 - (iii) works for the purpose of, or in connection with, the supply of water or wastewater services, electricity or gas, the drainage of surplus water or the treatment of water, wastewater or surplus water; or
 - (iv) works on land reserved for railways, primary regional roads or other regional roads for the purpose of or in connection with a railway, other than the construction or alteration of a railway station or any related carparks, public transport interchange facilities or associated means of pedestrian or vehicular access; or
 - (v) works on reserved land if the works are in accordance with a management plan endorsed by the Commission; or
 - (vi) works on land reserved for public purposes — high school for the purpose of or incidental to a high school; or
 - (vii) operational works on land reserved for State forests for the purpose of or incidental to a State forest; or
 - (viii) works that a public authority is expressly authorised under an Act to commence or carry out without the approval of the Commission;

- (g) development that the Commission by resolution, notice of which is published in the *Gazette*, declares to be development that does not require development approval under this Scheme.
- (2) In subclause (1) —
reserved land owned by or vested in a public authority includes reserved land in relation to which a public authority has an easement, right of way, right of occupation or any other interest, right, privilege or concession.
- (3) Subclause (1)(a), (d), (e) and (g) apply regardless of whether the land is located in a heritage-protected place.
- (4) Subclause (1)(b), (c) and (f)(i) to (vii) do not apply if the land is located in a heritage-protected place.
- (5) Subclause (1)(g) does not apply to development of —
 - (a) land comprised in a lot any part of which (but not all of which) is within the Swan Canning development control area; or
 - (b) land (including water) that abuts the Swan Canning development control area.
- (6) Subclause (1) does not authorise development of land that involves —
 - (a) the clearing of native vegetation in a Bush Forever area; or
 - (b) direct drainage into a Bush Forever area.

30. Use of reserved land by public authorities

- (1) Without limiting clause 29, reserved land may be used by a public authority without development approval under this Scheme if the land is used —
 - (a) for the purpose for which it is reserved under this Scheme; or
 - (b) for any purpose for which the land may be lawfully used by the public authority.
- (2) Subclause (1) does not authorise use of land that involves —
 - (a) the clearing of native vegetation in a Bush Forever area; or
 - (b) direct drainage into a Bush Forever area.

31. Continued uses and non-conforming uses

- (1) This Scheme does not prevent the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before commencement day.
- (2) Subclause (1) does not apply if —
 - (a) the use of land is a non-conforming use; and
 - (b) the non-conforming use of the land is discontinued; and
 - (c) a period of 6 months, or a longer period approved by the Commission, has elapsed since the discontinuation of the non-conforming use.
- (3) Also, subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the Commission —
 - (a) purchases the land; or
 - (b) pays compensation to the owner of the land in relation to the non-conforming use.

32. Changes to non-conforming use

Development approval under this Scheme is required to —

- (a) alter or extend a non-conforming use of land; or
- (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
- (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
- (d) change the use of land from a non-conforming use to another non-conforming use.

33. Part does not apply to particular developments

This Part does not apply to a development to which the *Swan and Canning Rivers Management Act 2006* Part 5 applies.

Part 9 — Applications for development approval

34. Application under local planning scheme taken to be application under Scheme

- (1) This clause applies if —
 - (a) an application to a local government for approval for development of land in the metropolitan area under a local planning scheme is accepted by the local government; and
 - (b) development approval under this Scheme is required for development of the land.
- (2) The application is taken to also be an application for development approval under this Scheme of the development.

35. Applications under Scheme

- (1) This clause applies if —
 - (a) approval under a local planning scheme of development of land in the metropolitan region is not required; but
 - (b) development approval under this Scheme is required for development of the land.
- (2) An application for development approval under this Scheme of the development must be lodged with the local government in the district of which the land is situated.
- (3) An application made under subclause (2) must be —
 - (a) made in the form approved by the Commission; and
 - (b) signed by the owner of the land on which the development is proposed; and
 - (c) accompanied by any plans and other information required under clause 36.
- (4) For the purposes of subclause (3)(b), a person or body may sign an application for development approval under this Scheme as the owner of freehold land if the person or body is 1 of the following —
 - (a) a person who is referred to in paragraph (a) of the definition of *owner* in clause 7;

- (b) a strata company that —
 - (i) is authorised to make an application for development approval in respect of the land under scheme by-laws registered under the *Strata Titles Act 1985*; and
 - (ii) if the land is held under a leasehold scheme, has the written consent of the owner of the leasehold scheme to make the application;
- (c) a community corporation for a community titles scheme that is authorised to make an application for development approval in respect of the land under scheme by-laws registered for the community titles scheme under the *Community Titles Act 2018*;
- (d) a person who is authorised under another written law to make an application for development approval in respect of the land;
- (e) an agent of a person referred to in paragraph (a).

Note:

The *Planning and Development Act 2005* section 267A makes provision for the signing of documents by the owner of Crown land or freehold land in the name of the State.

- (5) If a term used in subclause (4)(b) is given a meaning in the *Strata Titles Act 1985* section 3(1), it has the same meaning in subclause (4)(b).
- (6) If a term used in subclause (4)(c) is given a meaning in the *Community Titles Act 2018* section 3(1), it has the same meaning in subclause (4)(c).

36. Accompanying material

Unless the Commission waives any particular requirement, an application for development approval under clause 35(2) must be accompanied by —

- (a) a plan or plans to a scale of not less than 1:500 showing —
 - (i) the location of the site, including street names, lot numbers, north point and the dimensions of the site; and

- (ii) the existing and proposed ground levels over the whole of the land that is the subject of the application; and
 - (iii) the location, height and type of all existing structures on the land that is the subject of the application, and all existing structures and vegetation proposed to be removed; and
 - (iv) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site; and
 - (v) the existing and proposed means of access for pedestrians and vehicles to and from the site; and
 - (vi) the location, number, dimensions and layout of all carparks intended to be provided; and
 - (vii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods and commodities to and from the site and the means of access to and from those areas; and
 - (viii) the location, dimensions and design of any open storage or trade display area, and particulars of the manner in which it is proposed to develop those areas; and
 - (ix) the nature and extent of any open space and landscaping proposed for the site;
- and
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain; and
 - (c) any specialist studies the Commission may require the applicant to undertake in support of the application, including, for example, traffic, heritage, environmental, engineering or urban design studies; and
 - (d) any other plan or information relating to the proposed development that the Commission may reasonably require.

37. Action by local government on receipt of application

- (1) This clause applies if —
 - (a) a local government receives an application to which clause 34 applies or under clause 35; and
 - (b) the local government is not empowered to determine the application under this Scheme under powers delegated to the local government by the Commission.
- (2) The local government must forward a copy of the application and accompanying material to the Commission within 7 days of the local government becoming aware that it is not empowered to determine the application.
- (3) Within 42 days of receiving the application, or such longer period as the Commission allows, the local government may make recommendations to the Commission regarding the application.

38. Action by Commission on receipt of application

- (1) On receipt under clause 37(2) of an application for development approval under this Scheme, the Commission must —
 - (a) consider whether the application and accompanying material satisfies clauses 34 to 36, as the case requires; and
 - (b) within 7 days after the day on which the application is received, give the applicant written notice stating —
 - (i) if the Commission is satisfied that the application and accompanying material satisfies clauses 34 to 36, as the case requires — that the application has been accepted for assessment; or
 - (ii) otherwise — that the applicant must amend the application, or provide further accompanying material, before the application can be accepted for assessment.
- (2) If the Commission does not give notice under subclause (1)(b) within the 7-day period referred to in that subclause, the application is taken to be accepted for assessment on the day after the end of that period.

- (3) If the Commission gives notice under subclause (1)(b)(ii) and the applicant amends the application or provides further accompanying material as required, this clause applies again in respect of the application as amended or as accompanied by the further material as if a reference to the receipt of the application were a reference to the receipt of the amendment or the further material.

39. Commission may request additional information or material

- (1) If an application for development approval under this Scheme has been accepted for assessment, the Commission may, by written notice given to the applicant, request the applicant to provide any further information or material that the Commission reasonably requires to determine the application.
- (2) A request under subclause (1) may be made whether or not the Commission gave the applicant notice under clause 38(1)(b)(ii) in relation to the application before it was accepted for assessment.
- (3) A request under subclause (1) must state the period within which the further information or material must be provided, which must be a period of at least 21 days after the day on which the request is made.

40. Applicant may agree to or refuse request for additional information or material

- (1) If a request under clause 39(1) is made to an applicant for development approval under this Scheme, the applicant may, by written notice given to the Commission within 7 days after the day on which the request is made, agree to or refuse the request.
- (2) If the applicant does not agree to or refuse the request within the 7-day period referred to in subclause (1), the applicant is taken to have refused the request.
- (3) If an applicant agrees to a request under clause 39(1), the period set out in subclause (4) is not to be counted for the purposes of determining when the application for development approval must be determined under clause 47.

- (4) For the purposes of subclause (3), the period —
- (a) begins on the day on which the applicant agrees to the request; and
 - (b) ends on the earlier of the following —
 - (i) the day on which the applicant gives the information or material specified in the request to the Commission;
 - (ii) the last day of the period stated in the notice of request under clause 39(3).
- (5) If an applicant refuses a request under clause 39(1) —
- (a) the Commission must not refuse to determine the application for development approval merely because the applicant has refused the request; and
 - (b) the making of the request does not affect when the application for development approval must be determined under clause 47.

41. Advertising of applications

- (1) If the Commission is of the opinion that notice of an application for development approval under this Scheme should be given before a determination is made regarding development approval, the Commission may require the applicant to give notice of the application in 1 or more of the following ways —
- (a) notice of the proposed development of land served on nearby owners and occupiers who, in the opinion of the Commission, are likely to be affected by the proposed development, stating that submissions may be made to the Commission by a day specified in the notice, being not less than 14 days from the day the notice is served;
 - (b) notice of the proposed development published in a newspaper circulating in the metropolitan region stating that submissions may be made to the Commission by a day specified in the notice, being not less than 14 days from the day the notice is published;
 - (c) a sign or signs displaying notice of the proposed development erected in a conspicuous position on the land on which

development is proposed for a period of not less than 14 days from the day the notice is erected.

- (2) The notice referred to in subclause (1) is to be in the form approved by the Commission with any modifications considered appropriate by the Commission.
- (3) The Commission must publish the application for development approval referred to in the notice and the material accompanying the application on the Commission website.

42. Refusal in relation to copyrighted material

The Commission may refuse to accept an application for development approval under this Scheme if the Commission is not satisfied that there is in place an agreement for the Commission to use any copyrighted material provided in support of the application —

- (a) for the purpose of advertising the application; and
- (b) for zero remuneration.

Part 10 — Dealing with applications for development approval

Division 1 — Considerations and consultation

43. Matters to be considered by Commission

When considering an application for development approval under this Scheme the Commission must have regard to the following matters if, and to the extent, they are of State or regional importance —

- (a) the purposes and aims of this Scheme and any relevant local planning schemes in operation within the metropolitan region;
- (b) the requirements of orderly and proper planning, including —
 - (i) any relevant proposed amendment to this Scheme or proposed replacement Scheme for which advertising has commenced under section 43 of the Act; or
 - (ii) any relevant proposed local planning scheme or proposed amendment to a local planning scheme for which advertising has commenced under section 84 of the Act;

- (c) any State planning policy;
- (d) any environmental protection policy approved under the EP Act;
- (e) any policy or strategy of the Commission, including any region planning scheme policy or district structure plan that is in force;
- (f) any policy adopted by the Government;
- (g) the local government's local planning strategy in respect of a local planning scheme, as endorsed by the Commission under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 15(1) and amended from time to time;
- (h) for reserved land, the public purpose for which the land is reserved;
- (i) the conservation of any place that is a heritage-protected place;
- (j) the compatibility of the development with its setting;
- (k) any social issues that may affect the amenity of the locality;
- (l) the cultural significance of any place or area affected by the development;
- (m) the likely effect of the proposal on the natural environment and any means that are proposed to protect, or to mitigate impacts on, the natural environment;
- (n) whether the land to which the application relates is unsuitable for the proposal because it is, or is likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or other similar risk;
- (o) the preservation of the amenity of the locality;
- (p) the relationship of the proposal to development of adjoining land or on other land in the locality, including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;

- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (s) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (t) whether public utility services are available and adequate for the proposal;
- (u) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (v) whether adequate provision has been made for access by disabled persons;
- (w) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (x) whether the proposal is likely to cause soil erosion or land degradation;
- (y) the potential loss of any community service or benefit resulting from the development approval;
- (z) any relevant submissions received on the application;
- (za) any recommendations received from a local government under clause 37(3);
- (zb) consultation under clause 44(1);
- (zc) any advice of the Trust under clause 45(4);
- (zd) any other development consideration the Commission considers relevant.

44. Consultation with other authorities

- (1) The Commission may consult on the proposed development of land with any public authority the Commission considers appropriate.
- (2) The Commission must not determine an application for development approval under this Scheme in respect of land reserved under this Scheme without first consulting each relevant public authority for the land.

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- (3) Subject to subclause (9), the Commission must give full particulars of the application to the Trust.
- (4) The Trust, within 42 days after the day on which it receives particulars of the application, or within such longer period as the Commission allows, must give the Commission its advice in writing on —
 - (a) how the application should be determined; and
 - (b) any conditions to which any approval of the application should be made subject.
- (5) If the Trust fails to give its advice within the time allowed under subclause (4), it is taken to have no advice to give on the application.
- (6) Subject to any direction under subclause (7)(b), the Commission must determine an application referred to in subclause (2)(a) in a manner that is consistent with the advice of the Trust on the application.
- (7) If the Commission does not agree with all or part of the advice of the Trust on an application referred to in subclause (2)(a) —
 - (a) the matter on which there is not agreement is to be resolved in the manner determined by the SCRM Minister and the Minister; and
 - (b) the Minister must direct the Commission accordingly; and
 - (c) the Commission must determine the application in accordance with the direction.
- (8) The Commission must have regard to the advice of the Trust when determining an application referred to in subclause (2)(b) but is not required to make a determination that is consistent with that advice.
- (9) The Trust —
 - (a) may determine that a particular class or description of application need not be referred to it for advice under this clause; and
 - (b) must notify the Commission of any such determination.

Division 2 — Determinations

46. Earliest Commission may determine application

The Commission must not determine an application for development approval under this Scheme before —

- (a) the earlier of —
 - (i) the expiry of the period referred to in clause 37(3) within which the local government may make recommendations about the application; or
 - (ii) receiving recommendations from the local government under clause 37(3);
- and
- (b) the expiry of the following periods in respect of notice of the proposed development of land —
 - (i) any period specified for the purposes of clause 41(1)(a) or (b);
 - (ii) any period referred to in clause 41(1)(c) for the purposes of that paragraph.

47. Latest Commission must determine applications

- (1) Subject to clause 46, the Commission must determine an application for development approval under this Scheme —
 - (a) if the application is the subject of a notice under clause 41 — within 90 days after the day on which the application is accepted for assessment; or
 - (b) otherwise — within 60 days after the day on which the application is accepted for assessment; or
 - (c) in either case — within a longer period agreed in writing between the applicant and the Commission.
- (2) If the Commission has not made a determination in the period referred to in subclause (1), the Commission is taken to have refused to grant the development approval.
- (3) Despite subclause (2), the Commission may determine whether or not to grant the development approval after the period applicable under

subclause (1) has expired and the validity of the determination is not affected by the expiry.

48. Determination of applications

In determining an application for development approval under this Scheme the Commission may —

- (a) grant development approval with or without conditions; or
- (b) refuse to grant development approval.

49. Form and date of determination

- (1) As soon as practicable after determining an application, the Commission must give notice of the determination to the applicant in the form approved by the Commission.
- (2) The date of the determination is the date specified in the notice.
- (3) If development approval under this Scheme is refused the Commission must give reasons for its refusal.

50. Term of development approval

If development approval under this Scheme is granted —

- (a) the development of the land must be substantially commenced —
 - (i) if no period is specified in the approval — within the period of 2 years commencing on the date of the determination; or
 - (ii) if a period is specified in the approval — within that period; or
 - (iii) in either case — within a longer period approved by the Commission on an application made under clause 55(1)(a);

and

- (b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).

51. Temporary development approval

The Commission may impose conditions limiting the period of time for which development approval under this Scheme is granted.

52. Scope of development approval

Development approval under this Scheme may be granted —

- (a) for the entire development of the land; or
- (b) for development of the land except for a specified part or aspect of that development; or
- (c) only for a specified part or aspect of the development of the land.

53. Approval subject to later approval of details

- (1) If an application for development approval under this Scheme is for development of land that includes building or works, development approval may be granted subject to matters requiring subsequent development approval, including, for example —
 - (a) the siting, design and external appearance of the buildings; and
 - (b) means of access; and
 - (c) landscaping; and
 - (d) any other matters the Commission considers appropriate.
- (2) The Commission may require such further details as it considers appropriate before considering an application for subsequent development approval.
- (3) An application for subsequent development approval must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the first approval.

54. Determination of applications in relation to zoned land if power delegated to local government

- (1) This clause applies if —
- (a) a determination is made by a local government under a local planning scheme in respect of approval for development of land to which a requirement under clause 28 applies; and
 - (b) the local government is empowered, under a delegation by the Commission, to determine the application for development approval under this Scheme taken to have been made under clause 34.
- (2) Subject to subclause (3) and despite any other provision of this Scheme, the local government is taken to have made, at the same time as the determination under the local planning scheme was made, the same determination under this Scheme in respect of the development.
- (3) Nothing in this clause prevents the Commission from exercising its power to determine an application for development approval in accordance with the terms of the delegation referred to in subclause (1)(b).

55. Amending or cancelling development approval

- (1) An owner of land in respect of which development approval under this Scheme has been granted may make an application to the Commission requesting the Commission to do any or all of the following —
- (a) to amend the approval so as to extend the period within which any development approval must be substantially commenced;
 - (b) to amend or delete any condition to which the approval is subject;
 - (c) to amend an aspect of the development approval which, if amended, would not substantially change the development approved;
 - (d) to cancel the approval.

- (2) An application under subclause (1) —
- (a) must be made in accordance with the requirements of Part 9 and dealt with under this Part as if it were an application for development approval; and
 - (b) may be made during or after the period within which the development approved must be substantially commenced.
- (3) Despite subclause (2), the Commission may waive or vary a requirement in Part 9 or this Part in respect of an application if the Commission is satisfied that the application relates to a minor amendment to the development approval.
- (4) The Commission may determine an application made under subclause (1) by —
- (a) approving the application without conditions; or
 - (b) approving the application with conditions; or
 - (c) refusing the application.

Division 3 — Review

56. Review of determinations

- (1) In this clause —
- affected person***, in relation to a reviewable determination, means —
- (a) the applicant for development approval under this Scheme; or
 - (b) the owner of land in respect of which an application for development approval under this Scheme is made;
- reviewable determination*** means a determination by the Commission —
- (a) to refuse an application for development approval under this Scheme; or
 - (b) to grant development approval under this Scheme subject to conditions; or
 - (c) to refuse to amend or cancel development approval under this Scheme on application made under clause 55.

- (2) An affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with Part 14 of the Act.
- (3) Also, an applicant aggrieved by either of the following decisions by the Commission may apply to the State Administrative Tribunal for a review of the decision in accordance with Part 14 of the Act —
 - (a) a decision not to transfer land from the urban deferred zone to the urban zone;
 - (b) a decision not to transfer land from the industrial deferred zone to the industrial zone.

**Part 11 — Exemptions from planning requirements for state of
emergency**

**57. Minister may issue notice of exemption from planning
requirements if state of emergency declaration in force**

- (1) If a state of emergency declaration is in force under the *Emergency Management Act 2005* Part 5 in relation to the whole or any area or areas of the State, the Minister may issue a notice in writing containing 1 or more exemptions from planning requirements under this Scheme.
- (2) A notice under subclause (1) may be issued only if the Minister considers that it is necessary to do so for the purpose of facilitating a response to the emergency to which the state of emergency declaration relates.
- (3) A reference in subclause (1) to a planning requirement —
 - (a) includes, without limiting that subclause —
 - (i) a requirement to obtain development approval under this Scheme; and
 - (ii) a requirement under a condition of development approval under this Scheme; and
 - (iii) a requirement relating to the permissibility of uses of land; and
 - (iv) a requirement relating to works; and

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- (v) a provision having the effect that a non-conforming use of land is no longer permitted because of a discontinuance of that non-conforming use; and
 - (vi) a requirement in relation to consultation, advertisement, applications, time limits or forms;
- but
- (b) does not include an environmental condition set out in Schedule 1 that is incorporated into this Scheme or an amendment to this Scheme.
- (4) A notice under subclause (1) may be issued whether or not the state of emergency declaration applies in relation to any part of the metropolitan region, but only if it is necessary for the purpose referred to in subclause (2).
- (5) An exemption in a notice issued under subclause (1) may —
- (a) apply generally or to land, or classes of land, specified in the notice; and
 - (b) be unconditional or subject to any conditions specified in the notice.
- (6) The Minister —
- (a) may, by notice in writing, amend a notice under subclause (1) for the purpose referred to in subclause (2); and
 - (b) may, by notice in writing, revoke a notice under subclause (1); and
 - (c) must, under paragraph (b), revoke a notice under subclause (1) if the Minister considers that the notice is no longer necessary for the purpose referred to in subclause (2).

58. Process for issuing notice under cl. 57

- (1) A notice under clause 57(1) or (6) must be signed by the Minister and published in the *Gazette*.
- (2) A notice under clause 57(1) or (6) may be combined in a single instrument with 1 or more other notices of that kind issued under 1 or more other region planning schemes or all other region planning schemes.

cl. 59

- (3) Before issuing a notice under clause 57(1) or (6), the Minister must, unless the Minister considers that it is impracticable to do so because of the urgency of the circumstances, make reasonable endeavours to consult in relation to the notice —
 - (a) any local governments and local government representative bodies the Minister considers appropriate; and
 - (b) the Commission.
- (4) The Minister must ensure that a copy of the notice is sent to the entities mentioned in subclause (3)(a) and (b).
- (5) A failure to comply with subclause (3) or (4) in relation to a notice does not invalidate the notice.

59. Coming into effect and cessation of notices and exemptions under cl. 57

- (1) A notice under clause 57(1) or (6) must state the date and time at which it is signed.
- (2) A notice under clause 57(1) or (6) must also state, for each exemption under the notice, that the exemption is to expire —
 - (a) when the state of emergency declaration ceases to be in force; or
 - (b) at a date and time stated in the notice, which must not be later than the end of the period of 5 years beginning on the day on which the notice is signed.
- (3) A notice under clause 57(1) or (6) takes effect when it is signed.
- (4) An exemption under a notice under clause 57(1) remains in effect, subject to any amendment or revocation of the notice under clause 57(6), until the time of expiry stated under subclause (2) for that exemption.
- (5) When an exemption under a notice under clause 57(1) is amended or ceases to be in effect, the provisions of this Scheme in relation to non-conforming uses of land do not apply in relation to any development of land that was permitted only because of the effect of the exemption prior to the amendment or cessation.

Part 12 — Administration

60. Compensation

- (1) A claim for compensation for injurious affection may be made under Part 11 of the Act.
- (2) For the purposes of section 178(1)(b) of the Act, a claim for compensation for injurious affection referred to in section 174(1)(c) of the Act must be lodged at the office of the Commission within 6 months of the date on which the amendment of this Scheme by which the land or property is injuriously affected takes effect.
- (3) A claim for compensation must be in the form approved by the Commission.

61. Power to enter into agreements

The Commission in implementing this Scheme has the power to enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of this Scheme in respect of any matters relating to this Scheme.

62. Environmental conditions

- (1) For the purposes of sections 50 and 61 of the Act, environmental conditions referred to in sections 48F(2) and 48G(3) of the EP Act that are incorporated into this Scheme or an amendment to this Scheme are set out in Schedule 1.
- (2) The symbol EC on the Scheme Map indicates that environmental conditions apply to that land.

63. Certificates

On payment of the relevant fee set under section 20 of the Act, the Commission may issue a certificate in the form approved by the Commission in respect of any land stating —

- (a) the manner in which the land is affected by this Scheme; and
- (b) if the land is reserved under this Scheme, the public purpose for which it is reserved.

64. Approved forms must be published on website

The Commission must ensure that a form approved by the Commission under this Scheme is published on the Commission website.

Part 13 — Transitional provisions

65. Terms used

In this Part —

amendment Act means the *Planning and Development Amendment (Metropolitan Region Scheme) Act 2024*;

old Scheme means this Scheme as in force immediately before commencement day;

previous, in relation to a clause of this Scheme, means the clause as in force from time to time before commencement day;

relevant period means the period beginning on commencement day and ending on the day that is 12 months after commencement day.

66. Existing lawful works

Works on land that were lawfully being carried out in the metropolitan region before commencement day may continue to be lawfully carried out as if the amendment Act had not come into operation.

67. Existing development approvals

- (1) This clause applies to an approval for the development of land —
 - (a) granted under the old Scheme; and
 - (b) that is in force immediately before commencement day.
- (2) On commencement day, the approval is taken to be an approval for development of land granted by the Commission under Part 10.

68. Existing applications for development approval: applications with Commission

- (1) This clause applies if —
 - (a) before commencement day an application was made to a local government under previous clause 28 and forwarded to the Commission by the local government under previous clause 29(1); and
 - (b) on commencement day the application is not finally determined.
- (2) The application must be dealt with by the Commission under this Scheme.
- (3) If the local government made recommendations about the application under previous clause 29(3) the recommendations are taken to be recommendations made under clause 37(3).

69. Existing applications for development approval: applications with local government

- (1) This clause applies if —
 - (a) before commencement day an application was made to a local government under previous clause 28 and not forwarded to the Commission by the local government under previous clause 29(1); and
 - (b) on commencement day the application is not finally determined.
- (2) The application must be dealt with by the local government under this Scheme.

70. Particular existing documents taken to be district structure plans

- (1) On commencement day, the following documents published on the website <www.wa.gov.au> are taken to be district structure plans approved by the Commission under clause 15 —
 - (a) the document called ‘Burswood Peninsula District Structure Plan’ (March 2015);
 - (b) the document called ‘Cockburn Coast District Structure Plan’ (September 2009);

- (c) the document called ‘East Wanneroo District Structure Plan’ (August 2021);
 - (d) the document called ‘North Ellenbrook (West) District Structure Plan’ (November 2022);
 - (e) the document called ‘North Ellenbrook (East) District Structure Plan’ (October 2022);
 - (f) the document called ‘Southern River/Forrestdale/Brookdale/Wungong District Structure Plan’ (January 2001).
- (2) The Commission must review the operation and effectiveness of each district structure plan referred to in subclause (1) within 6 months after an anniversary referred to in subclause (3).
- (3) The anniversaries are the 10th anniversary of commencement day, the 20th anniversary of that day, the 30th anniversary of that day and so on.

71. Modified application of cl. 15 if plan adopted by Commission during relevant period

- (1) In this clause —
adopted plan means a plan —
- (a) prepared by an entity other than the Commission; and
 - (b) adopted by the Commission during the relevant period.
- (2) For the purposes of clause 15(1)(a) an adopted plan is taken to be a plan prepared by the Commission.

72. Alternative procedure for approving district structure plans during relevant period

- (1) During the relevant period, the Commission may resolve to approve a plan as a district structure plan under this clause, instead of under clause 15, if —
- (a) the plan was prepared by an entity other than the Commission; and
 - (b) either —
 - (i) the Commission carried out a consultation process for the plan; or

- (ii) the Commission is satisfied that the entity carried out a consultation process for the plan.
- (2) Part 2 Division 2, other than clause 15(1) to (3), applies to the district structure plan as if the plan had been prepared and approved by the Commission under clause 15.
- (3) This clause does not limit clause 15.

73. References to parks and recreation and restricted public access

In a document —

- (a) a reference to land reserved under this Scheme as parks and recreation may, if the context permits, be taken to be a reference to land reserved under this Scheme as regional open space; and
- (b) a reference to land reserved under this Scheme as restricted public access may, if the context permits, be taken to be a reference to land reserved under this Scheme as regional open space — restricted public access.

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