Western Australia

Planning and Development Act 2005

Planning and Development Regulations 2009

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Planning and Development Regulations 2009

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Planning and Development Regulations 2009

Part 1 — Preliminary matters

1. Citation

These regulations are the *Planning and Development Regulations 2009*.

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) the rest of these regulations — when section 150 and Part 13 Division 3 of the Act come into operation.

3. Terms used

In these regulations, unless the contrary intention appears —

Act means the *Planning and Development Act 2005*;

Registrar of Titles means the person designated under the *Transfer of Land Act 1893* to be the Registrar of Titles;

section means a section of the Act.

4. Utility services prescribed (Act s. 4(1))

These services are prescribed for the purposes of the definition of ***utility services*** in section 4(1) —

(a) gas supply services;

(b) telecommunications supply services.

Part 2 — Activities on certain State land

Division 1 — Preliminary matters

5. Terms used

In this Part —

identified State land means any land that is unallocated Crown land (within the meaning given by the *Land Administration Act 1997*), or that is vested in or owned by the Crown, the State or the Commission, and —

(a) is reserved under a planning scheme for a public purpose; or

(b) is subject to an improvement plan in force under section 119; or

(c) is subject to a State development area declaration;

road vehicle means any thing on wheels or tracks that is capable of transporting people or things by road, other than any such thing —

(a) that is propelled solely by human power; or

(b) that has 3 or more wheels, is self-propelled and is designed to transport a single person with a physical disability at a pedestrian speed;

warden means a person appointed under regulation 7 as a warden.

[Regulation 5 amended: SL 2026/10 r. 4.]

6. Application of this Part

(1) This Part does not apply to a warden acting in the course of duty.

(2) If any identified State land is leased by the State or the Commission to a person, this Part —

(a) does not prevent the lessee, or a person acting with the lessee's authority, from doing any act on that land that is authorised by the lease; and

(b) does not authorise the lessee or any other person to do any act on that land that is prohibited by the lease.

Division 2 — Wardens

7. Appointment

(1) Any act done by the Commission under this regulation must be in writing.

(2) The Commission may appoint any person to be a warden.

(3) A warden may be appointed on an honorary basis.

(4) The Commission may cancel a warden's appointment.

(5) The Commission must give each warden a certificate of his or her appointment signed by the chairperson.

(6) A person whose appointment as a warden is cancelled must return his or her certificate of appointment to the Commission within 21 days after the date on which he or she is notified of the cancellation.

Penalty: a fine of $500.

8. Functions

(1) A warden's functions are those set out in this Part and in any other written law and include the enforcement of this Part.

(2) A warden may give a person on identified State land any direction that is reasonably necessary —

(a) for the proper control and management of the land; or

(b) to enable the public to peacefully use and enjoy the land.

(3) A warden who reasonably believes a person on identified State land has committed or is committing an offence against this Part may order the person to leave the land, or a part of it specified by the warden.

(4) If, while performing any of a warden's functions, a warden is asked to do so by any person, the warden must produce his or her certificate of appointment for inspection by the person.

Division 3 — General matters

9. Defences to charges of offences against this Part

It is a defence to a charge of an offence against this Part to prove the accused was acting —

(a) under an authority conferred under a written law; or

(b) with the written permission of the Commission.

10. Signs and wardens' directions or orders to be obeyed

(1) A person who is given a direction or order by a warden under regulation 8 must obey it.

(2) A person must obey any sign that is erected on or near identified State land by or on behalf of the Commission.

Penalty: a fine of $5 000.

11. Camping etc. and fires prohibited

(1) A person must not place or use a temporary dwelling (such as a tent or caravan) on identified State land.

(2) A person must not light or attempt to light a fire on identified State land.

Penalty: a fine of $2 000.

12. Public events prohibited

A person must not arrange, advertise or take part in an event on identified State land to which the public is invited.

Penalty: a fine of $2 000.

13. Animals on identified State land

(1) A person must not bring or allow an animal on identified State land.

(2) A person who brings an animal on identified State land must keep it under control by means of a rein or leash.

(3) A person must not ride an animal on identified State land.

(4) A person who rides an animal on identified State land without due care and attention commits an offence.

Penalty: a fine of $2 000.

14. Vehicles on identified State land

A person must not bring or use a road vehicle on identified State land.

Penalty: a fine of $2 000.

15. Protection of nature

(1) In this regulation —

fauna means any living thing or the eggs of any living thing, but not a human being or flora;

flora means any form of, or any part of, plant life or a fungus;

take —

(a) in relation to fauna, includes to catch, kill, remove, snare and trap;

(b) in relation to flora, includes to cut, pull up, dig up, pick and remove.

(2) A person must not chase, injure, interfere with, take or attempt to take any fauna on identified State land.

(3) A person must not interfere with or destroy any nest or habitat of fauna on identified State land.

(4) A person must not damage, destroy or take any flora, living or dead, on identified State land.

(5) A person must not disturb or remove any soil or rock on identified State land.

(6) A person must not take any water from, or interfere with the flow of any water on, identified State land.

Penalty: a fine of $5 000.

16. Rubbish and signs prohibited

(1) In this regulation —

place a sign, includes to draw, erect, paint, post, stick, stencil and otherwise affix the sign;

rubbish in a person's possession, means any solid or liquid matter in the person's possession that the person has no use for, no longer wants or has rejected;

sign includes graffiti and an advertisement, bill, notice, placard and poster.

(2) A person must not deposit, discharge, leave or allow to escape on identified State land any rubbish in the person's possession.

(3) Subregulation (2) does not apply to the deposit of solid rubbish in a receptacle provided for the deposit of rubbish.

(4) A person must not place a sign on identified State land.

Penalty: a fine of $5 000.

17. Firearms, weapons and explosives prohibited

(1) A person must not carry or use a firearm (as defined in the *Firearms Act 2024* section 6) on identified State land.

(2) A person must not carry or use a dangerous or offensive weapon or instrument on identified State land.

(3) A person must not carry or use an explosive on identified State land.

Penalty: a fine of $5 000.

[Regulation 17 amended: SL 2024/293 r. 4.]

18. Unauthorised removal of material

A person must not interfere with or take from identified State land any thing on State land that the person does not own or is not entitled to possess.

Penalty: a fine of $10 000.

Part 3 — Subdivision and development control

Division 1 — Subdivisions and similar matters

19. Term used: section 135 application

In this Division —

section 135 application means an application for the approval of the Commission under section 135.

20. How to apply for approval under Act s. 135

To make a section 135 application, a person must give the Commission the following —

(a) an application in a form approved by the Commission;

(b) 8 copies (or such other number as the Commission requires) of a plan, in a form approved by the Commission, that —

(i) clearly illustrates the proposed subdivision, amalgamation or road, as the case may be; and

(ii) contains any other information the Commission requires;

(c) any fee set under section 20.

21. Matters to be considered on application for subdivision

When considering a section 135 application, the Commission must have regard to all relevant matters including but not limited to these —

(a) the size, shape and dimensions of each lot;

(b) the services available to each lot;

(c) drainage of the land;

(d) access to each lot;

(e) the amount of public open space to be provided;

(f) any relevant planning scheme;

(g) any relevant regulations made by the Minister under the Act;

(h) any relevant local laws relating to town planning.

22. Notice of Commission's decision under Act s. 143

(1) The Commission must give the applicant written notice of any decision it makes on a section 135 application.

(2) If the Commission refuses to approve a section 135 application, the written notice must set out the reasons for the refusal.

23. How to apply for approval of diagram or plan of survey (Act s. 145)

A person who, under section 145, submits to the Commission a diagram or plan of survey of a plan of subdivision that has been approved, must also submit a request in a form approved by the Commission.

24. Commission's duties on application under Act s. 145

(1) If the Commission, under section 145, endorses its approval on a diagram or plan of survey it must —

(a) give the diagram or plan to the Registrar of Titles; and

(b) give a copy of the diagram or plan to the local government of the district where the land is situated.

(2) If under section 145 the Commission refuses to endorse its approval on a diagram or plan of survey, it must give the person who made the request under section 145 written notice of and reasons for its decision.

Division 2 — Applications for approval of certain transactions

25. How to apply for approval under Act s. 136

To apply for the Commission's approval, under section 136, of a transaction referred to in section 136(1), a person must give the Commission the following —

(a) an application in a form approved by the Commission;

(b) a copy of the transaction;

(c) 8 copies (or such other number as the Commission requires) of a sketch showing the land to which the transaction relates;

(d) any other information the Commission requires;

(e) any fee set under section 20.

26. How to apply for approval under Act s. 139

To apply for the Commission's approval, under section 139, of a class of lease or licence in respect of a person, the person must give the Commission the following —

(a) an application in a form approved by the Commission;

(b) an example of a lease or licence of the class concerned;

(c) any other information the Commission requires;

(d) any fee set under section 20.

27. Commission's duties on applications under Act s. 136 and 139

(1) The Commission must give the applicant written notice of any decision it makes on an application for its approval under section 136 or 139.

(2) If the Commission refuses to give the approval requested, the written notice must set out the reasons for the refusal.

(3) If the Commission grants an approval under section 136, it must give a copy of the approval and the sketch of the land concerned to the local government of the district where the land is situated.

Division 3 — Road access conditions

28. Terms used

In this Division —

plan includes a deposited plan, a diagram, a plan of survey of a subdivision, and a scheme plan lodged for registration under the *Strata Titles Act 1985* or the *Community Titles Act 2018*;

road access condition means a condition imposed under section 143 and in accordance with section 150.

[Regulation 28 amended: Gazette 31 Dec 2019 p. 4653; SL 2021/78 r. 4.]

29. Commission's power to impose conditions not limited

This Division does not affect the Commission's power under section 143 to impose any condition it thinks fit to ensure that a road access condition it imposes in respect of land is obeyed, including but not limited to a condition requiring the erection of a barrier or other means to physically prevent the access that the condition prohibits.

30. Imposing road access conditions

(1) A road access condition imposed in respect of land must specify the following —

(a) by annotations on an approved plan that shows the land, the portion or portions of the boundary between the land and a road across which access to or from the land is restricted or prohibited;

(b) details of the restriction or prohibition and to whom or what it applies and when and in what circumstances;

(c) as the covenantee, either or both of these persons —

(i) the Commission;

(ii) the road control authority,

and no other person.

(2) If a road access condition specifies the road control authority as the covenantee (whether or not the Commission is also specified), the reference in the condition to the road control authority is to be taken as a reference to whichever of the following from time to time has the control and management of the portion of the road to which the condition relates —

(a) the Commissioner of Main Roads established under the *Main Roads Act 1930*;

(b) the Minister administering the *Public Works Act 1902*;

(c) the local government of the district in which the portion is situated.

31. Offences

(1) The owner of land subject to a road access condition must not contravene or permit another person to contravene the condition.

(2) The owner of land subject to a road access condition must not damage, destroy or remove any barrier or other structure erected on the land in compliance with a condition imposed under section 143 to ensure the road access condition is obeyed.

Penalty: a fine of $50 000.

32. Modifying and discharging covenants

(1) If land is subject to a covenant referred to in section 150 because of a road access condition, the owner of the land may apply to the Commission for its consent to modifying or discharging the covenant.

(2) The application must —

(a) be made in a form approved by the Commission; and

(b) be accompanied by any fee set under section 20.

(3) The Commission may consent to modifying or discharging the covenant if it is satisfied —

(a) that the circumstances that justified imposing the road access condition have materially changed since the condition was imposed; and

(b) that the current circumstances justify modifying or discharging the covenant.

(4) If the Commission consents to modifying or discharging the covenant, the Commission must give the applicant a written notice that specifies either —

(a) the modification to which the Commission consents; or

(b) that the Commission consents to the discharge of the covenant.

(5) If the owner of the land —

(a) applies to the Registrar of Titles to have the covenant modified or discharged (as the case may be); and

(b) gives the Registrar the Commission's written notice given under subregulation (4) in relation to the covenant,

the Registrar may, by order, modify or discharge the covenant accordingly and may make any entries or endorsements that may be necessary or proper to evidence the modification or discharge.

(6) If the Commission refuses its consent on an application made under this regulation, it must give the applicant a written notice of its decision that includes its reasons for refusing.

(7) A person who is dissatisfied with the Commission's decision made on an application by the person under this regulation may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of the decision.

Division 3A — Integration of subdivision and development

[Heading inserted: SL 2021/78 r. 5.]

32A. Commission or responsible authority to consider policy or position statements

The Commission or responsible authority must have regard to any relevant Commission policy or position statement when determining whether subdivision and development approvals should be integrated under section 164A.

[Regulation 32A inserted: SL 2021/78 r. 5.]

Division 4 — Easements

33. Terms used

In this Division —

affected land, in relation to an easement, means that part of any land comprised in a plan that the plan shows is subject to the easement;

easement means an easement created under section 167;

easement holder means —

(a) a local government in whose favour an easement exists for the purposes of sewerage or drainage or access to sewerage or drainage works;

(b) a licensee as defined in the *Water Services Act 2012* in whose favour an easement exists for the purpose of water supply, sewerage, irrigation or drainage works or access to water supply, sewerage, irrigation or drainage works;

(c) the holder of a licence under the *Electricity Industry Act 2004* in whose favour an easement exists for the purpose of the supply of electricity or access to electricity supply works;

(d) the holder of a distribution licence under the *Energy Coordination Act 1994* in whose favour an easement exists for the purpose of the supply of gas, or access to gas supply works, under the authority of that licence;

(e) the holder of a licence under a written law in whose favour an easement exists for the purpose of the supply of a utility service or access to a utility service under the authority of that licence;

plan includes a deposited plan, a diagram, a plan of survey of a subdivision, and a scheme plan lodged for registration under the *Strata Titles Act 1985* or the *Community Titles Act 2018*.

[Regulation 33 amended: Gazette 14 Nov 2013 p. 5059; 31 Dec 2019 p. 4654; SL 2021/78 r. 6.]

34. Other Acts' operation not affected by this Division

This Division does not affect —

(a) any right, power or authority conferred by any other Act on an easement holder; or

(b) the operation of any Act that applies to land that is subject to an easement.

35. How easements to be depicted on plans

An easement must be depicted on a plan in such a manner as to identify the easement holder.

36. Rights, powers and privileges under easements (Act s. 167(2))

(1) An easement holder may at any time, for the purpose for which the easement exists, do any or all of the following —

(a) enter the affected land with or without vehicles and other equipment;

(b) survey the affected land and conduct tests of soil or other materials on it;

(c) subject to the *Environmental Protection Act 1986*, clear and remove any vegetation or other material or any thing on the affected land (including any thing the owner or occupier of the land has placed or permitted on the land) that, in the opinion of the easement holder, hinders —

(i) the carrying out of any work needed for the purpose for which the easement exists; or

(ii) the exercise of any powers in this regulation;

(d) disturb and excavate the affected land;

(e) use any material cleared or excavated from the affected land;

(f) construct, install, reconstruct, replace, reinstate and extend over, on or under the affected land any thing needed for the purpose for which the easement exists;

(g) alter, maintain, repair, inspect and service any such thing.

(2) An easement holder may use any thing constructed or installed over, on or under the affected land under this regulation for the purpose for which the easement exists.

(3) An easement holder does not have to fence off the affected land or any part of it but may install any gate that the holder needs in any fence that crosses the affected land.

(4) Any thing constructed or installed on or under the affected land by an easement holder remains the property of the easement holder even if it is fixed to the land.

Part 4 — Compensation and acquisition

37. Term used: Board

In this Part —

Board means the Board of Valuers established under section 182.

38. Notice of intention to sell (Act s. 181(11))

For the purposes of section 181(11), a written notice given by an owner of land to the responsible authority must state —

(a) whether the owner intends to subdivide the land; and

(b) whether the owner intends to sell the land.

39. Application for valuation (Act s. 183(1))

(1) For the purposes of section 183(1) an application by an owner of land for a valuation of the land must be made by posting or delivering a written application to the Board at the office of the Commission.

(2) The application must —

(a) describe the land to which it relates; and

(b) state whether the owner wants to be heard by the Board on the making of the valuation.

40. Board of Valuers, procedure for

(1) On receiving an application made under section 183(1) the Board's chairperson must —

(a) appoint a member of the Board (other than the chairperson) to —

(i) inspect the land concerned; and

(ii) prepare and summarise the data necessary for the making of a valuation; and

(iii) give the Board a preliminary report,

before the day fixed for the making of the valuation; and

(b) give the applicant written notice of the day and time fixed for the making of the valuation.

(2) Any evidence presented to the Board by an applicant must be in the form of a statutory declaration.

(3) An applicant is entitled to be heard by the Board, either in person or by counsel.

(4) The Board may adjourn its proceedings from time to time and from place to place.

(5) Proceedings of the Board shall not be impugned for want of formality.

41. Fees for valuation

(1) A person who applies under section 183(1) for a valuation is liable to reimburse the State the fees it pays to the Board under Schedule 9 clause 5 of the Act in relation to determining the application.

(2) The Board must give a person written notice of the amount payable to the State under subregulation (1) as soon as practicable after determining the person's application.

(3) The State may recover an amount payable under subregulation (1) in a court of competent jurisdiction as debt due and payable.

Part 5 — Enforcement and legal proceedings

42. Prescribed offences and their modified penalties (Act s. 227)

(1) For the purposes of section 227 —

(a) each offence against a provision of the Act listed in column 1 of the Table is prescribed to be an offence for which an infringement notice may be issued under Part 13 Division 3 of the Act; and

(b) the amount opposite the provision in column 2 of the Table is prescribed as the modified penalty for the offence.

Table

Provision of the Act	Modified penalty
s. 214	$500
s. 218	$500
s. 220	$500
s. 221	$500

(2) For the purposes of section 227 —

(a) each offence against a provision of these regulations listed in column 1 of the Table is prescribed to be an offence for which an infringement notice may be issued under Part 13 Division 3 of the Act; and

(b) the amount opposite the provision in column 2 of the Table is prescribed as the modified penalty for the offence.

Table

Provision of these regulations	Modified penalty
Part 2	10% of the maximum penalty provided for the offence
r. 31	$500

43. Prescribed forms (Act s. 229 and 231)

(1) For the purposes of section 229, Schedule 1 Form 1 is the prescribed form of an infringement notice.

(2) For the purposes of section 231, Schedule 1 Form 2 is the prescribed form of the withdrawal of an infringement notice.

Part 6 — Applications for review

44. Submissions considered by Minister (Act s. 246(7))

For the purposes of section 246(7)(b), a copy or transcript of a submission must be published by making it available to the public during office hours at the Commission's office.

45. Fee for Minister's reasons (Act s. 247(4))

(1) For the purposes of section 247(4)(c), the fee for a copy of reasons is $45.00.

(2) The fee for the supply of a copy is payable before the copy is supplied.

(3) Despite subregulations (1) and (2), the Minister or the executive officer of the State Administrative Tribunal may, in a particular case for special reasons, direct that —

(a) a fee be waived or reduced; or

(b) the whole or part of a fee be refunded; or

(c) that the payment of the whole or part of a fee be deferred until such time, and upon such conditions, if any, as the Minister or executive officer thinks fit.

Part 7 — Local government planning charges

Division 1 — Preliminary matters

46. Terms used

In this Part —

applicant includes a person making a request;

DAP application has the meaning given in the *Planning and Development (Development Assessment Panels) Regulations 2011* regulation 3(1);

fee includes charge;

local development plan has the meaning given in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 46;

Panel means a Fees Arbitration Panel appointed under regulation 54;

structure plan —

(a) has the meaning given in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 14; and

(b) includes a plan taken to be a precinct structure plan or standard structure plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 92 (as that clause applies as part of local planning schemes).

[Regulation 46 amended: Gazette 24 Mar 2011 p. 1037; 25 Aug 2015 p. 3380-1; SL 2020/252 r. 83.]

Division 2 — Fees and other charges

47. Fees for certain planning services (Sch. 2)

(1) A local government may impose a fee for a service listed in Schedule 2 provided by the local government.

(2) The fee imposed by a local government for a service listed in Schedule 2 must be decided by the local government but must not exceed the fee specified in that Schedule for the service unless the local government is exempted under regulation 53.

(3) Any fee imposed for a service listed in Schedule 2 must be paid by the applicant when applying for or requesting the service.

48A. Fees for DAP applications

(1) A local government may impose a fee for services in respect of a DAP application made to it notwithstanding that it will not itself determine the application.

(2) The fee must be decided by the local government but must not exceed the maximum fee specified in Schedule 2 in relation to a development application in respect of the same kind of development.

(3) Any fee imposed under subregulation (1) must be paid to the local government by the applicant when making the DAP application.

[Regulation 48A inserted: Gazette 24 Mar 2011 p. 1038.]

48. Fees for scheme amendments, structure plans and local development plans

(1) A local government may impose a fee for a service provided by the local government pursuant to a request for —

(a) a local planning scheme amendment; or

(b) the adoption of a structure plan or local development plan provided by the applicant; or

(c) an amendment to a structure plan or local development plan provided by the applicant.

(2) No fee can be imposed for a service provided pursuant to a request for a local planning scheme amendment if the sole purpose of the amendment requested is to amend the local

planning scheme to make it consistent with a region planning scheme.

(3) A local government that receives a request for a local planning scheme amendment must give the applicant an estimate, in the form in Schedule 3, of —

(a) the hours that the local government's staff will spend dealing with the request; and

(b) the total fee, calculated in accordance with that form, that the local government will impose for dealing with the request.

(4) A local government that receives a request to adopt or amend a structure plan or local development plan provided by the applicant must give the applicant an estimate, in the form in Schedule 4, of —

(a) the hours that the local government's staff will spend dealing with the request; and

(b) the total fee, calculated in accordance with that form, that the local government will impose for dealing with the request.

(5) In an estimate given under subregulation (3) or (4), the hourly rates for the local government's staff must be decided by the local government but must not exceed —

(a) for the person in charge of planning at the local government, $88.00 per hour;

(b) for a senior planner or manager, $66.00 per hour;

(c) for a planning officer, environmental health officer or other officer with qualifications relevant to the request, $36.86 per hour;

(d) for a secretary or administrative officer, $30.20 per hour,

unless the local government is exempted under regulation 53.

(6) A local government may reduce the estimated total fee specified in an estimate given under subregulation (3) or (4).

(7) A local government may refuse to deal with a request referred to in subregulation (3) until —

(a) the estimated total fee specified in the estimate given in accordance with the subregulation is paid; or

(b) if that fee is reduced under subregulation (6), the reduced fee is paid.

(8A) A local government may refuse to advertise a structure plan or local development plan or an amendment to a structure plan or local development plan related to a request referred to in subregulation (4) until —

(a) the estimated total fee specified in the estimate given in accordance with the subregulation is paid; or

(b) if that fee is reduced under subregulation (6), the reduced fee is paid.

(8) If the local government —

(a) decides not to initiate the local planning scheme amendment or the adoption or amendment of a structure plan or local development plan; or

(b) decides to discontinue the preparation or adoption of a local planning scheme amendment or the adoption or amendment of a structure plan or local development plan,

moneys paid by the applicant to the local government for the planning service and not expended by the local government on the provision of that service must be refunded to the applicant.

[Regulation 48 amended: Gazette 14 May 2010 p. 2009-10; 6 May 2011 p. 1617; 21 May 2013 p. 2011-12; 25 Aug 2015 p. 3381-2; SL 2020/252 r. 84.]

49. Additional costs and expenses payable by applicants

(1) The following costs and expenses, if incurred by a local government in providing a service listed in Schedule 2 items 1 to 12 or referred to in regulation 48A(1) or 48, are payable by

the applicant in addition to the fee for the provision of the service —

(a) costs and expenses of advertising the application and advertising matters related to the application;

(b) costs and expenses of any specific assessment, such as an environmental assessment, required in relation to the application;

(c) costs and expenses of consultation procedures required in relation to the application;

(d) costs and expenses of technical resources and equipment, such as computer modelling, required in relation to the application;

(e) costs and expenses of specialist advice, such as advice in relation to heritage matters, required in relation to the application.

(2) A local government, in a bill given to the applicant, may —

(a) require the applicant to pay the costs and expenses referred to in subregulation (1) that the local government estimates it will incur; or

(b) require the applicant to pay the actual costs and expenses referred to in subregulation (1) after they are incurred.

(3) Any moneys paid in advance by an applicant to a local government for estimated costs or expenses referred to in subregulation (1) that are not incurred by the local government must be refunded to the applicant on the completion of the service.

[Regulation 49 amended: Gazette 24 Mar 2011 p. 1038.]

50. Itemised account to be provided on request

If an applicant so requests, a local government must give the applicant an itemised account of any fee the local government has imposed on the applicant under regulation 48 or 49.

51. Dispute as to amount payable

(1) If a dispute arises as to an amount payable for or in relation to services to be provided pursuant to a request for —

(a) a local planning scheme amendment; or

(b) adoption or amendment of a structure plan or local development plan provided by the applicant,

the dispute may be referred in writing by the relevant local government or applicant to a Panel for its decision.

(2) The referral of a dispute to a Panel does not affect the provision of the service in respect of which the fee is paid or the requirement to pay that fee, but the Panel may order the local government to refund any part of the fee paid.

(3) A Panel's decision on a dispute is final.

[Regulation 51 amended: Gazette 25 Aug 2015 p. 3382; SL 2020/252 r. 85.]

52. Local government may waive or refund fee

A local government may waive or refund, in whole or in part, payment of a fee for a planning service.

53. Exemption

(1) Any act by the Minister under this regulation must be done in a written notice that is given to the local government concerned.

(2) The Minister may exempt a local government from the requirement to impose fees in accordance with regulations 47 and 48.

(3) The exemption may include any condition the Minister decides.

(4) Regulations 47 to 52 do not apply to a local government while an exemption given to it under subregulation (2) is in force and the local government complies with any condition in the exemption.

(5) The Minister may amend or cancel an exemption given under subregulation (2).

Division 3 — Fees Arbitration Panels

54. Fees Arbitration Panels

(1) A Fees Arbitration Panel consists of the following members appointed by the Minister —

(a) a person nominated by WALGA;

(b) a person nominated by the Commission;

(c) a planning consultant nominated by the Royal Australian Planning Institute;

(d) a person selected by the Minister from a panel of names submitted by industry planning groups under subregulation (2).

(2) When it is necessary to appoint a person under subregulation (1)(d) the Minister must request the following to each nominate a person for appointment —

(a) the Housing Industry Association;

(b) the Urban Development Institute of Australia;

(c) the Property Council of Australia;

(d) the Building Designers Association;

(e) the Real Estate Institute of Western Australia.

(3) The Minister must appoint one of the members as chairperson of the Panel.

(4) The function of a Panel is to determine a dispute referred to it under regulation 51.

55. Panel meetings

(1) A Panel may hold a meeting to decide a dispute referred to the Panel.

(2) A Panel may invite a person to be present at a meeting of the Panel to advise or inform, or make a submission to, the Panel.

(3) The applicant, or a representative of the applicant, and a representative of the local government are entitled to be present whenever a person invited under subregulation (2) is present at a meeting of the Panel.

56. Decisions of a Panel

(1) A Panel member, including the chairperson, has a single vote on a decision to be made by the Panel and, in the case of an equality of votes, the chairperson also has a casting vote.

(2) A matter that is to be decided by a Panel must be decided by a majority of votes.

(3) A decision is a valid decision of the Panel even though it is not made at a meeting of the Panel, if each member of the Panel agrees in writing to the proposed decision.

Part 8 — Miscellaneous matters

57. False or misleading information

(1) A person must not give any false or misleading information in, or in relation to, an application or request made under these regulations.

(2) A person making an application or request made under these regulations must not withhold information that is or may be material to the application or request.

Penalty: a fine of $50 000.

*[**58.** Omitted under the Reprints Act 1984 s. 7(4)(f).]*

Part 9 — Transitional matters

59. Term used: commencement

In this Division —

commencement means the day on which these regulations commence.

60. Wardens' appointments continued

If immediately before commencement a person holds an appointment as a warden or honorary warden made under the *Metropolitan Region Planning Authority (Reserved Land Regulations)* [1], then on commencement the person is to be taken to be appointed as a warden under regulation 7 on the same basis as he or she was appointed immediately before commencement.

Schedule 1 — Forms

1. Infringement notice (r. 43(1))

Planning and Development Act 2005 s. 229 *Planning and Development Regulations 2009*			**Infringement notice** Number:	
Alleged offender	Family name			
	Given names			
	Address			
	Date of birth		Male/Female	
	Driver's licence	No.: State/Country: Type: Class(es): Expiry date:		
Description of alleged offence	Date		Time	
	Place			
	Details[1]			
	Law contravened	*Planning and Development Act 2005* s.		
	Relevant planning document[2] [Tick one box and insert other details]	☐ Planning scheme ☐ Planning control area declaration ☐ Interim development order Name of scheme/details of declaration or order, and number of any provision contravened —		
Modified penalty	The modified penalty for the alleged offence is $			
Vehicle details[3]	Plate No.		State	
	Licence expiry date		Vin/Chassis No.	
	Make		Colour	
	Body type			
Date of notice				
Service details [Tick one box]	This notice was served — ☐ in person ☐ by post		Date	

Form 1

<table>
<tr><td rowspan="4">Officer issuing notice</td><td>Name</td><td></td></tr>
<tr><td>Office</td><td></td></tr>
<tr><td>Responsible authority</td><td></td></tr>
<tr><td>Signature</td><td></td></tr>
<tr><td>Notice to alleged offender</td><td colspan="2">It is alleged that you have committed the above offence.
If you want the alleged offence dealt with in court, tick the box below, post this notice to the address below, and do not pay the modified penalty above.
If you do not wish to be prosecuted for the alleged offence in court, pay the modified penalty above within 28 days after the date on which you receive this notice.
To pay, tick the relevant box below and post this notice and any cheque or credit card details for the modified penalty to the address below.
If you want an extension of time to pay the modified penalty, contact the officer named below at the address below.
Paying the modified penalty will not be taken to be an admission for the purposes of any civil or criminal court case.
If you do not pay the modified penalty, you may be prosecuted in court for the alleged offence and, if convicted, you will be liable to a penalty and costs.</td></tr>
<tr><td>Alleged offender’s response
[Tick one box]</td><td colspan="2">To —[4]

☐ I want this alleged offence dealt with by a court.
☐ I want to pay the modified penalty. A cheque for the modified penalty enclosed.
☐ I want to pay the modified penalty by using a credit card. The credit card’s details are —</td></tr>
</table>

Notes to Form 1 —

1. The details should say what the alleged offender has done that is a contravention of the law.
2. Complete this if an offence against s. 218, 220 or 221 of the Act is alleged.
3. Include vehicle details if alleged offence relates to a vehicle or to a person driving a vehicle.
4. Insert the name and address of the responsible authority and the officer responsible for dealing with infringement notices.

Form 2

2. Withdrawal of infringement notice (r. 43(2))

Planning and Development Act 2005 s. 231 *Planning and Development Regulations 2009*		**Withdrawal of infringement notice**		
Alleged offender	Family name			
	Given names			
	Address			
Infringement notice	Number			
	Date issued			
Description of alleged offence	Date		Time	
	Place			
	Details			
	Law contravened	*Planning and Development Act 2005* s.		
Date of this notice				
Officer issuing this notice	Name			
	Office			
	Responsible authority			
	Signature			
Notice to alleged offender	The above infringement notice, which was issued for the above alleged offence, has been withdrawn. If you have already paid the modified penalty in accordance with the infringement notice, you are entitled to a refund of the money. To obtain a refund post this notice to —[1]			

Notes to Form 2 —

1. Insert the name and address of the responsible authority and the officer responsible for dealing with application for refunds.

Schedule 2 — Maximum fees for certain planning services

[r. 47]

[Heading inserted: Gazette 21 May 2013 p. 2012.]

Item	Planning service		Maximum fee
1.	Determining a development application (other than for an extractive industry) where the development has not commenced or been carried out and the estimated cost of the development is —		
	(a)	not more than $50 000	$147
	(b)	more than $50 000 but not more than $500 000	0.32% of the estimated cost of development
	(c)	more than $500 000 but not more than $2.5 million	$1 700 + 0.257% for every $1 in excess of $500 000
	(d)	more than $2.5 million but not more than $5 million	$7 161 + 0.206% for every $1 in excess of $2.5 million
	(e)	more than $5 million but not more than $21.5 million	$12 633 + 0.123% for every $1 in excess of $5 million
	(f)	more than $21.5 million	$34 196
2.	Determining a development application (other than for an extractive industry) where the development has commenced or been carried out		The fee in item 1 plus, by way of penalty, twice that fee
3.	Determining a development application for an extractive industry where the development has not commenced or been carried out		$739
4.	Determining a development application for an extractive industry where the development has commenced or been carried out		The fee in item 3 plus, by way of penalty, twice that fee

Item	Planning service	Maximum fee
5A.	Determining an application to amend or cancel development approval	$295
5B.	Determining an application for advice made under the *Planning and Development (Local Planning Schemes) Regulations 2015* Sch. 2 cl. 61A (as that clause applies as part of the local planning scheme)	$295
5.	Providing a subdivision clearance for —	
	(a) not more than 5 lots	$73 per lot
	(b) more than 5 lots but not more than 195 lots	$73 per lot for the first 5 lots and then $35 per lot
	(c) more than 195 lots	$7 393
6.	Determining an initial application for approval of a home occupation where the home occupation has not commenced	$222
7.	Determining an initial application for approval of a home occupation where the home occupation has commenced	The fee in item 6 plus, by way of penalty, twice that fee
8.	Determining an application for the renewal of an approval of a home occupation where the application is made before the approval expires	$73
9.	Determining an application for the renewal of an approval of home occupation where the application is made after the approval has expired	The fee in item 8 plus, by way of penalty, twice that fee
10.	Determining an application for a change of use or for an alteration or extension or change of a non-conforming use to which item 1 does not apply, where the change or the alteration, extension or change has not commenced or been carried out	$295

Item	Planning service	Maximum fee
11.	Determining an application for a change of use or for an alteration or extension or change of a non-conforming use to which item 2 does not apply, where the change or the alteration, extension or change has commenced or been carried out	The fee in item 10 plus, by way of penalty, twice that fee
12.	Providing a zoning certificate	$73
13.	Replying to a property settlement questionnaire	$73
14.	Providing written planning advice	$73

[Schedule 2 inserted: Gazette 21 May 2013 p. 2012-13; amended: Gazette 25 Aug 2015 p. 3382; SL 2020/252 r. 86.]

Schedule 3 — Form of estimate of fees for services for local planning scheme amendments

[r. 48(3)]

Task	**Estimated hours** [1]				
	Head of planning	**Senior Planner**	**Planning Officer**	**Other staff e.g. environmental health officer**	**Secretary/ administrative officer**
1. Preliminaries:					
Preliminary discussions and registration of application					
2. Decision to initiate:					
(a) Information and site visit					
(b) Applicant discussion					
(c) Development Control Unit (DCU) meeting					
(d) Action DCU recommendation					
(e) Assessment report and agenda preparation MINOR MAJOR					
3. Approval to advertise:					
(a) Action local government recommendation					
(b) Refer to Commission for approval					
(c) Advertising, notifications, referrals					
(d) Deal with enquiries					
(e) Assess submissions					

(f) Liaise with external agencies					
(g) Applicant discussion and liaison					
4. Decision to adopt:					
(a) Finalise amendment, plan, report and agenda preparation					
(b) Applicant discussion					
(c) Action local government recommendation					
5. Amendment/plan approved:					
(a) Report on Minister's approval					
(b) Notify submissions					
(c) Update text and maps					
Total hours					
Hourly rate (r. 48(5))	$	$	$	$	$
Total hours x rate = $	$	$	$	$	$
+ 33.3% (To recover operating overhead costs)	$	$	$	$	$
= Total salary costs	$	$	$	$	$

Total salary costs b/f (sum of amounts in previous row)	$
+ Direct costs	$
+ Special costs	$
+ Scheme map and text preparation costs	$
= Estimated total fee	$

Notes to Form —

1. If readvertising of substantial modifications is required, the hours needed to arrange the readvertising and review the submissions and the direct costs incurred in readvertising the amendment are to be included in items 3, 4 and 5.

Schedule 4 — Form of estimate of fees for services for structure plans and local development plans

[r. 48(4)]

[Heading amended: Gazette 25 Aug 2015 p. 3382; SL 2020/252 r. 87.]

Task [1]	**Estimated hours** [2]				
	Head of planning	**Senior Planner**	**Planning Officer**	**Other staff e.g. environmental health officer**	**Secretary/ administrative officer**
1. Preliminaries:					
Preliminary discussions and registration of application					
2. Decision to advertise:					
(a) Information and site visit					
(b) Proponent discussion					
(c) Development Control Unit (DCU) meeting					
(d) Action DCU recommendation					
(e) Assessment report and agenda preparation					
3. Approval to advertise:					
(a) Action local government recommendation					
(b) Advertising, notifications, referrals					
(c) Deal with enquiries					
(d) Assess submissions					

(e) Liaise with external agencies					
(f) Proponent discussion and liaison					
4. Decision to adopt or amend:					
(a) Finalise report and agenda preparation					
(b) Proponent discussion					
(c) Action local government recommendation					
5. Plan adopted:					
(a) Refer to Commission for endorsement					
(b) Notification and deposit of plan					
Total hours					
Hourly rate (r. 48(5))	$	$	$	$	$
Total hours x rate =	$	$	$	$	$
+ 33.3% (To recover operating overhead costs)	$	$	$	$	$
= Total salary costs	$	$	$	$	$

Total salary costs b/f (sum of amounts in previous row)	$
+ Direct costs	$
+ Special costs	$
= Estimated total fee	$

Notes to Form —

1. This form is based on the provisions for the adoption and amendment of structure plans and local development plans set out in the *Planning and Development (Local Planning Scheme) Regulations 2015*. Item 5 should not be included for local development plans as these are not referred to the Commission.

2. If readvertising of a proposed structure plan or local development plan or a proposed amendment to one of those plans is required, the hours needed to arrange the readvertising and review the submissions and the direct costs incurred in readvertising the plan or the amendment are to be included in items 3, 4 and 5.

[Schedule 4 amended: Gazette 25 Aug 2015 p. 3382-3; SL 2020/252 r. 88.]

Notes

This is a compilation of the *Planning and Development Regulations 2009* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Citation	Published	Commencement
Planning and Development Regulations 2009	19 Jun 2009 p. 2271-318	r. 1 and 2: 19 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b) and *Gazette* 19 Jun 2009 p. 2225)
Planning and Development Amendment Regulations 2010	14 May 2010 p. 2007-12	r. 1 and 2: 14 May 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b))
Planning and Development Amendment Regulations 2011	24 Mar 2011 p. 1037-8	r. 1 and 2: 24 Mar 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Mar 2011 (see r. 2(b) and *Gazette* 24 Mar 2011 p. 1035)
Planning and Development Amendment Regulations (No. 4) 2011	6 May 2011 p. 1617-19	r. 1 and 2: 6 May 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2011 (see r. 2(b))
Planning and Development Amendment Regulations 2013	21 May 2013 p. 2011-13	r. 1 and 2: 21 May 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2013 (see r. 2(b))
Reprint 1: The *Planning and Development Regulations 2009* as at 23 Aug 2013 (includes amendments listed above)		
Planning and Development Amendment Regulations (No. 2) 2013	14 Nov 2013 p. 5059	r. 1 and 2: 14 Nov 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 18 Nov 2013 (see r. 2(b) and *Gazette* 14 Nov 2013 p. 5027)
Planning and Development Amendment Regulations 2015	25 Aug 2015 p. 3380-3	r. 1 and 2: 25 Aug 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Oct 2015 (see r. 2(b))

Citation	Published	Commencement
Planning and Development Amendment Regulations 2019	31 Dec 2019 p. 4653-4	r. 1 and 2: 31 Dec 2019 (see r. 2(a)); Regulations other than r. 1 and 2: 1 May 2020 (see r. 2(b) and SL 2020/39 cl. 2)
Planning Regulations Amendment Regulations 2020 Pt. 3	SL 2020/252 18 Dec 2020	15 Feb 2021 (see r. 2(c))
Planning and Development Amendment Regulations 2021	SL 2021/78 18 Jun 2021	r. 1 and 2: 18 Jun 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jun 2021 (see r. 2(b) and SL 2021/69 cl. 2)
Planning and Development Amendment Regulations 2024	SL 2024/293 21 Dec 2024	r. 1 and 2: 21 Dec 2024 (see r. 2(a)); Regulations other than r. 1 and 2: 31 Mar 2025 (see r. 2(b) and SL 2024/289 cl. 2)
Planning and Development Amendment (State Development) Regulations 2026	SL 2026/10 18 Feb 2026	r. 1 and 2: 18 Feb 2026 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Feb 2026 (see r. 2(b) and SL 2026/13 cl. 2)

Other notes

[1] Repealed by the *Planning and Development (Repeal) Regulations 2009*.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
Act	3
affected land	33
applicant	46
Board	37
commencement	59
DAP application	46
easement	33
easement holder	33
fauna	15(1)
fee	46
flora	15(1)
identified State land	5
local development plan	46
Panel	46
place	16(1)
plan	28, 33
Registrar of Titles	3
road access condition	28
road vehicle	5
rubbish	16(1)
section	3
section 135 application	19
sign	16(1)
structure plan	46
take	15(1)
warden	5

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