



Additional information

Ordinary Meeting of Council

Wednesday, 23 September 2020, 6.00pm

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SPT2009-3 PLANNING RECOVERY INITIATIVES – ADDITIONAL DEVELOPMENT APPROVAL EXEMPTIONS, AND STATE PLANNING REFORMS

ADDITIONAL INFORMATION 1 - Extract – draft Planning and Development (Local Planning Scheme) Regulations 2015 Amendments - Proposed Change of Use Exemptions

Planning Regulations Amendment Regulations 2020

Schedule 2 Deemed provisions for local planning schemes

cl. 61

- (b) development that is ~~a class P use in relation to a use identified in this Scheme as a use that is permitted in~~ the zone in which the development is located, ~~if and~~ —

- (i) the development has no works component; or
- (ii) development approval is not required for the works component of the development;

- (ba) development that is an exempt class D use under subclause (2A) in relation to the zone in which the development is located, if —

- (i) the development has no works component; or
- (ii) development approval is not required for the works component of the development;

- (c) the use of premises as a home office;
- (d) temporary use which is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;
- (e) any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval;
- (f) use of a type identified elsewhere in this Scheme as use that does not require development approval.

- (2A) For the purposes of subclause (2)(ba), a use of land is an exempt class D use in relation to the zone in which the land is located if —

- (a) the use is a class D use in relation to the zone; and
- (b) the use is of a class set out in Column 1 of an item of the Table; and
- (c) the zone is of a class set out in Column 2 of the Table opposite that item; and
- (d) if conditions are set out in Column 3 of the Table opposite that item — all of those conditions are satisfied in relation to the use.

Planning Regulations Amendment Regulations 2020
Deemed provisions for local planning schemes **Schedule 2**

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<u>Table</u>			
	<u>Column 1 Use</u>	<u>Column 2 Zones</u>	<u>Column 3 Conditions</u>
<u>1.</u>	<u>Shop</u>	<u>Commercial, centre or mixed use zone</u>	<u>Net lettable area is no more than 400 m².</u>
<u>2.</u>	<u>Restaurant/café</u>	<u>Commercial, centre or mixed use zone</u>	
<u>3.</u>	<u>Convenience store</u>	<u>Commercial, centre or mixed use zone</u>	<u>Store not used for the sale of petroleum products.</u>
<u>4.</u>	<u>Consulting rooms</u>	<u>Commercial, centre or mixed use zone</u>	<u>Consulting rooms have open frontage.</u>
<u>5.</u>	<u>Office</u>	<u>Commercial, centre or mixed use zone</u>	<u>Office is not located on the ground floor of a building.</u>
<u>6.</u>	<u>Liquor store — small</u>	<u>Commercial, centre or mixed use zone</u>	<u>Store is in the metropolitan region or Peel region.</u>
<u>7.</u>	<u>Small bar</u>	<u>Commercial, centre or mixed use zone</u>	<u>(a) Small bar is in the metropolitan region or Peel region.</u> <u>(b) The lot on which the small bar is located does not directly adjoin a residential zone.</u>

Planning Regulations Amendment Regulations 2020

Schedule 2 Deemed provisions for local planning schemes

cl. 61

	<u>Column 1 Use</u>	<u>Column 2 Zones</u>	<u>Column 3 Conditions</u>
<u>8.</u>	<u>Hotel</u>	<u>Commercial, centre or mixed use zone</u>	(a) <u>Hotel is in the metropolitan region or Peel region.</u> (b) <u>The lot on which the hotel is located does not directly adjoin a residential zone.</u> (c) <u>Net lettable area is not more than 400 m².</u>
<u>9.</u>	<u>Tavern</u>	<u>Commercial, centre or mixed use zone</u>	(a) <u>Tavern is in the metropolitan region or Peel region.</u> (b) <u>The lot on which the tavern is located does not directly adjoin a residential zone.</u> (c) <u>Net lettable area is not more than 400 m².</u>
<u>10.</u>	<u>Recreation — private</u>	<u>Commercial, centre or mixed use zone</u>	(a) <u>Premises are in the metropolitan region.</u> (b) <u>Net lettable area of any indoor area of the premises is not more than 400 m².</u> (c) <u>Premises are not located on the ground floor of a building.</u>

Planning Regulations Amendment Regulations 2020
Deemed provisions for local planning schemes **Schedule 2**

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	<u>Column 1 Use</u>	<u>Column 2 Zones</u>	<u>Column 3 Conditions</u>
11.	<u>Recreation — private</u>	<u>Light industry zone</u>	(a) <u>Premises are in the metropolitan region.</u> (b) <u>Net lettable area of any indoor area on the premises is not more than 400 m².</u>
12.	<u>Bulky goods showroom</u>	<u>Light industry zone</u>	
13.	<u>Home occupation</u>	<u>All zones</u>	

(2B) A reference in column 1 of the table to subclause (2A) to a class of land use is a reference to that use as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38, whether or not —

- (a) the relevant definition is included in this Scheme; or
- (b) this Scheme includes a different definition for that use; or
- (c) this Scheme refers to that class of land use by a different name.

(2C) Subclause (2)(ba) has effect despite the zoning table for this Scheme.

- (3) Despite subclause (1) development approval may be required for certain works carried out —
 - (a) in a special control area; or
 - (b) on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area.

~~(4) For the purposes of subclause (1)(c) or (d), development is to be taken to satisfy a deemed to comply requirement of the R-Codes if it complies with —~~

ADDITIONAL INFORMATION 2 -Fact Sheet – Planning Reform (LPS Regulations Cutting Red Tape)



Planning Reform

Proposed Changes to Planning and Development (Local Planning Scheme) Regulations 2015

1. Cutting Unnecessary Red Tape

The State Government is continuing to implement legislative, regulation and policy reforms that will support delivery of Western Australia's COVID-19 Recovery Plan and create a more flexible, responsive and contemporary planning system for the State.

By providing more exemptions for planning approvals and change of use applications, and greater consistency across local planning schemes in how car parking provisions apply to development applications, the State Government is cutting unnecessary red tape from the planning system to help facilitate delivery of small projects and support small businesses.

Key Reforms

Changes to the *Planning and Development (Local Planning Scheme) Regulations 2015* propose to include a broader range of exemptions for small projects and exempt more change of use applications in retail, commercial and industrial area. These exemptions will make it easier for people to undertake small improvements to their homes or businesses, getting more people back to work and boosting our local economy.

Small Project Exemptions

The *Planning and Development (Local Planning Scheme) Regulations 2015* currently provides exemptions from planning approval for small residential and non-residential projects. This list will be expanded to include:

- Site works for non-residential development, where the excavation or fill is 0.5m or less.
- Demolition of non-residential buildings that are not attached to another building.
- Installation of water tanks that are less than a certain height (2.4m or 1.8m depending on where the tank is located, and not in front of a building).
- Changes to the wording of previously approved signage.
- Cubby houses with a wall height of less than 2.4 metres and overall height of 3.0 metres, provided that the:
 - floor level is no more than one metre above ground
 - cubby house abuts no more than one boundary and is no less than one metre from other boundaries.
- Installation of solar panels on non-residential buildings (must be installed flush with the roof).
- Installation of a flagpole (one per property, and no more than six metres in height).
- Maintenance and repair works.
- Works that are urgently necessary for public safety, the safety or security of plant or equipment, the maintenance of essential services or the protection of the environment.

These exemptions generally do not apply where works are proposed on a heritage protected place. They are also in addition to those proposed by the review of the R Codes (Volume 1) which include a broader range of small residential projects such as fences, retaining walls, patios, carports, outbuildings and minor house extensions.

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Planning Reform

Proposed Changes to Planning and Development (Local Planning Scheme) Regulations 2015

Change of Use Exemptions

In Western Australia, retail, commercial and industrial development is primarily located in areas broadly referred to as activity or district centres, commercial, mixed use or light industrial zones.

In these challenging times for many small and medium businesses, the State Government is removing unnecessary red tape by dropping the need for planning approval to diversify a business or change the nominated use of a property. This will provide greater flexibility for businesses to adapt, protecting and creating jobs and helping to rejuvenate our activity and town centres.

- A new clause will be introduced into the deemed provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015* to exempt certain uses from development approval in commercial, centre and mixed-use zones, and light industrial zones. Exempt uses include:
 - Shops of less than 400sqm.
 - Restaurant/café, convenience stores and consulting rooms.
 - Offices not located on the ground floor.
 - Small liquor store, small bar, hotel and tavern (only in the Perth metropolitan and Peel regions). Small bars, hotels and taverns must not be located next to a residential zone. Hotels and taverns must also be no more than 400sqm.
 - Gyms and private recreation facilities (only in the Perth metropolitan and Peel regions, not located on the ground floor and less than 400sqm).
 - Gyms and private recreation facilities (less than 400sqm) in light industrial zones.
 - Bulky goods showrooms in light industrial zones.
- Each of the conditions for the different exempt uses are set to minimise any adverse amenity impacts.
- These exemptions apply where the use is discretionary and where there are no changes to the building such as an increase in size or noticeable changes to the front of the building, or where such changes are exempt from approval.
- Permitted uses are already exempt.
- Where a use is either permitted or covered by the new exemption, there will be no parking requirements.
- New definitions for zones and uses are also included so new exemptions can apply broadly in all applicable areas.

ADDITIONAL INFORMATION 3 - Fact Sheet – Planning Reform (LPS Regulations – Improved Consultation Practices)



Planning Reform

Proposed Changes to Planning and Development (Local Planning Scheme) Regulations 2015



3. Improved Consultation Practices

The State Government recognises the need for greater consistency in community consultation on local development matters and has introduced a framework for a consistent approach on complex development proposals. New local planning regulations are one of three key pillars of planning reform to support Western Australia's economic recovery. These regulatory changes will remove unnecessary red tape for small business, make planning easier to navigate and support communities to have their say regarding future development in the local area.

Key Reforms

Amendments to the *Planning and Development (Local Planning Scheme) Regulations 2015* will improve community engagement and consultation processes, making our planning system easier to navigate and establishing clear and transparent consultation practices. The proposed regulatory reforms will support new planning laws recently passed by Parliament and complement changes to State planning policies, including the revised residential design codes policy.

Public Consultation

Proposed changes to the local planning regulations will improve community consultation in planning and development matters and ensure that information about development proposals is presented in a clear, contemporary and consistent manner. These changes include:

- Introduce new consultation requirements for complex development applications, including those applications that are to be determined by a Development Assessment Panel.
 - Applications will be advertised for public comment for 28 days. Any longer period must be agreed by the applicant and the local government.
 - Advertising must include:
 - signage in a manner and form approved by the WAPC; and
 - written notification to owners and occupiers within a minimum 200m radius of the site.
- Replace all requirements for presentation of hard copies of applications and associated planning documents in a physical location with a requirement for online publication. Community members will be able to access documents and plans from the comfort of their home, in their own time.
- Advertising requirements prescribed in the *Planning and Development (Local Planning Scheme) Regulations 2015* will acknowledge the preference for online and digital engagement, with more traditional methods to be used at the discretion of the local government.
- Increase community consultation for all structure plans to 42 days, with the option for further time increases at the discretion of the Western Australian Planning Commission.
- Set limits for additional information requests for development applications that do not require public consultation or referral to ensure that extensive time delays are not added to the assessment process, and providing greater certainty for both the community and the applicant, removing unnecessary angst, avoiding escalating costs and supporting for small businesses.
- Introduce more detail and clarity around consultation requirements into the deemed provisions of local planning regulations, which will reduce the administrative burden of continual policy reviews for local governments, saving time and money and providing for a greater focus on strategic planning.

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ADDITIONAL INFORMATION 4 - Fact Sheet – Planning Reform (LPS Regulations – Improved Consultation Practices)



Planning Reform

Proposed Changes to Planning and Development (Local Planning Scheme) Regulations 2015



2. Streamlined Planning Process

A streamlined and coordinated approval process is one of the State Government's key reform measures to create a more flexible, responsive and contemporary planning system for Western Australia and support delivery of our economic recovery from COVID-19. The planning reform program will reduce unnecessary delays, remove unnecessary red tape and provide greater consistency across all levels of our planning system to support small business and property owners, and generate essential economic activity.

Key Reforms

New provisions will be introduced in the *Planning and Development (Local Planning Scheme) Regulations 2015* to streamline approvals for single residential dwellings, improve the assessment and referral process for development applications, provide more consistent and contemporary community consultation requirements and set consistent guidelines for local planning strategies.

Deemed to Comply Checks

Development approval is not required for a new single house, or extensions and other minor works to a single house, where it meets the deemed-to-comply requirements of the R-Codes.

A new clause will be introduced to the *Planning and Development (Local Planning Scheme) Regulations 2015* to provide a deemed to comply check for single residential dwellings

- Homeowners can contact their local government to confirm whether their plans for a new house, extension or other minor works would be "deemed to comply" with the R-Codes [residential design codes], and therefore are exempt from requiring planning approval and can instead proceed straight to a building permit.
- The deemed to comply check will be available only for single dwellings and development proposals relating to single dwellings, such as patios and minor extensions, in the Perth and Peel regions. Other local governments may also opt to provide this service which will have an associated fee of \$290.
- The local government will be required to provide advice as to whether or not a planning approval is required within 14 days.
- If the proposal is not exempt, an applicant can choose to submit an application for development approval or amend the proposal to meet the deemed to comply requirements. If the applicant chooses to amend plans, another deemed to comply check may be submitted to ensure compliance. Alternatively, if the applicant is certain the amended plans meet the deemed to comply requirements, it can be lodged directly for a building permit.

The new Deemed to Comply Checks will provide certainty for applicants to know whether or not a planning approval is required and address any issues of non-compliance with the R-Codes prior to the building permit process, enabling a more streamlined and efficient building permit process. It will also ensure that the same level of certainty can be consistently available from local governments in the most populous areas of the State.

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Planning Reform

Proposed Changes to Planning and Development (Local Planning Scheme) Regulations 2015

Additional Information Requests

In assessing development applications, the assessor may request more information from the applicant. Depending on the nature of information required, these requests can add considerable time to the assessment process and provide uncertainty for the applicant and the local community.

- A new clause in the *Planning and Development (Local Planning Scheme) Regulations 2015* will require the local government to advise an applicant whether all of the required and necessary information has been submitted within seven (7) days of receiving an application.
- If no advice is provided within seven (7) days, the application is taken to be accepted for assessment.
- A new pathway will also be established for local governments to request additional information after the application has been lodged.
- New clauses will prescribe specific limitations for more simple proposals for such information requests to enable the assessment and determination of the application to progress as efficiently as possible. Specifically, this includes:
 - The local government will specify in the request a time period for the additional information to be submitted.
 - The applicant can choose to agree or not agree with the request.
 - If the applicant agrees, the time period for submitting the information will commence. This time period will not be counted as part of the statutory timeframe for determining the application (ie. the “clock will be stopped” on the determination of the application during this time).
 - If the applicant does not agree within 14 days after the request is made, the applicant will be considered to have refused the request and the local government must continue to determine the application as submitted.
 - Only one such request can be made by the local government for applications that do not require advertising under the scheme or a referral to another authority.

Streamlined Referral Process

Complex development applications are referred to other Government agencies and regulatory authorities to provide feedback and advice on the detailed elements of the proposed. For example, this can include referral to the Water Corporation to review the proposed scheme water and sewerage plans for the development, or it could include referral to transport agencies for consideration of traffic impacts.

The *Planning and Development (Local Planning Scheme) Regulations 2015* currently provide 42 days for the referral agencies to respond, and this time period can be extended adding further delays to the determination of the proposal. Changes will be made to state that:

- the 42-day referral request time can only be extended once by the local government, and for a maximum of 14 days; and
- where a referral authority does not respond within the specified time period (42 or 56 days), the local government is to determine that the authority has no objection or recommendations.



Planning Reform

Proposed Changes to Planning and Development (Local Planning Scheme) Regulations 2015

Car Parking Provisions

A more flexible and consistent approach to the provision of car parking for non-residential development is proposed as part of the State's regulatory reforms.

Exemptions and Variations

The requirements to provide car parking will be exempt in certain circumstances and a consistent requirement will be introduced for any variations.

- For non-residential development, a new clause will exempt car parking requirements for all uses that are exempt from planning approval.
- In all other cases, the *Planning and Development (Local Planning Scheme) Regulations 2015* will include a standard and consistent clause which allows variations to minimum car parking standards where:
 - Reasonable efforts have been made to provide required parking on site.
 - The car parking to be provided will meet the demands of the development having regard to the likely use of parking, the availability of off-site parking, and the likely use of alternative means of transport.

Cash in Lieu Provisions

A new clause will introduce consistent cash in lieu provisions that will allow the local government to accept a cash payment in lieu of providing car parking bays as part of the development. Any payments must be paid into a separate reserve account and must be spent within 10 years on public parking or other transport related infrastructure within the locality of the development.

- In such circumstances, the cash in lieu payment will be included as a condition of development approval.
- A consistent formula for calculating payments will be introduced and is to be based on:

$$\text{shortfall of car bays in the proposed development} \times \left[\begin{array}{l} (27\text{sqm} \times \text{value of} \\ \text{land/sqm in the area}) \end{array} + \begin{array}{l} \text{construction cost of} \\ \text{a car bay} \end{array} \right]$$

- These provisions can only apply where the local government has prepared a payment in lieu of parking plan (Parking Plan) in accordance with a new clause. The Parking Plan must be in a manner and form approved by the Western Australian Planning Commission and must set out the following matters:
 - What the funds can be used for, which is limited to the maintenance of public parking and other transport infrastructure in the specified locality of the development.
 - For the purposes of the cash in lieu formula, the value of land in the area/s that are subject to the Parking Plan and the construction cost of a car bay. This will allow the cash in lieu formula to be responsive to and reflective of the actual type of car parking the payment is intended to contribute towards (such as at grade level or multi-deck).



Planning Reform

Proposed Changes to Planning and Development (Local Planning Scheme) Regulations 2015

Shared Parking Arrangements

A new clause will introduce consistent shared parking provisions. Such arrangements allow a parking shortfall to be accommodated on another site where there is agreement between the two landowners.

- In such circumstances, the requirement for a shared parking arrangement will be included as a condition of development approval.
- If a shared parking arrangement is required by a condition, the details of the arrangement must be approved by the local government. A new clause will outline what such applications need to address and what the local government will consider when making its determination.
- Any shared arrangement must cover the parking shortfall required by the proposed development and also ensure adequate parking is maintained for the others.

Structure Plans and Precinct Structure Plans

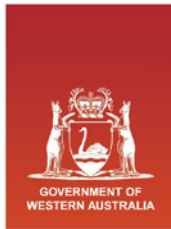
The revised Regulations are also proposed to include one consolidated section regarding structure plans. To support the implementation of *State Planning Policy 7.2: Precinct Design*, two types of structure plans will be specified in the Regulations:

- Precinct Structure Plans – a plan that applies in a wide range of circumstances and considers subdivision, zoning and development, including built form.
- Standard Structure Plans – a traditional structure plan for subdivision and zoning.

Community consultation for all structure plans will be increased to 42 days, with the option for further increases at the discretion of the Western Australian Planning Commission.

There are no proposed changes to regulatory provisions for the preparation and amendment of structure plans, however the new *Planning and Development (Local Planning Scheme) Regulations 2015* will specify clear requirements for the revocation of structure plans where:

- a new structure plan has been prepared and approved
- a structure plan has been fully implemented or is otherwise no longer required
- a structure plan cannot be effectively implemented because of legislative or State Planning Policy change
- the applicant and relevant local government authority agree to revocation
- the structure plan has been 'normalised' through a scheme amendment.



Planning Reform

Proposed Changes to Planning and Development (Local Planning Scheme) Regulations 2015

3 Public Consultation

Proposed changes to the *Planning and Development (Local Planning Scheme) Regulations 2015* will improve community consultation in local planning and development matters and ensure that information about development proposals is presented in a clear, contemporary and consistent manner. These changes include:

- Introducing new consultation requirements for complex development applications, including those applications that are to be determined by a Development Assessment Panel.
 - Applications will be advertised for public comment for 28 days. Any longer period must be agreed by the applicant and the local government.
 - Advertising must include:
 - signage in a manner and form approved by the WAPC; and
 - written notification to owners and occupiers within a minimum 200m radius of the site.
- All requirements for presentation of hard copies of applications and associated planning documents in a physical location have been replaced with a requirement for online publication.
- In recognition of consumer behaviours, advertising requirements prescribed in the *Planning and Development (Local Planning Scheme) Regulations 2015* also acknowledge the preference for online and digital engagement, with an option to utilise other more traditional methods at the discretion of the local government.

Structure Plans and Precinct Structure Plans

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- the structure plan has been 'normalised' through a scheme amendment.

SPT2009-4 CENTRAL AREA TRANSIT (CAT) REVIEW – APPROACH & OBJECTIVES

ADDITIONAL INFORMATION – CAT ROUTES

