

Planning and Development Act 2005

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Greater Bunbury Region Scheme

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Activity Centres for Greater Bunbury

PL406*

PLANNING AND DEVELOPMENT ACT 2005**INSTRUMENT OF DELEGATION****DELEGATION POWERS OF LOCAL GOVERNMENTS (GBRS) DEL 2014/01**

**Delegation to local governments of certain powers and functions of the
Western Australian Planning Commission relating to the
Greater Bunbury Region Scheme**

Preamble

Unless exempted by clause 25 and 26, under clause 24 of the Greater Bunbury Region Scheme (GBRS), on reserved land, a person must not commence or carry out development unless that person has planning approval. Development on zoned land requires planning approval if it is of a kind or class set out in a resolution of the Western Australian Planning Commission (WAPC) under clause 27 of the GBRS. Parts 7 and 8 of the GBRS sets out the requirements, procedures and functions of the WAPC in relation to the determination of applications for planning approval.

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the *Government Gazette*, delegate any function to a local government, a committee established under the *Local Government Act 1995* or an employee of a local government.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or conferred upon the WAPC by the Act or any other written law as the case requires.

Resolution under section 16 of the Act (delegation)

On 22 April 2014, pursuant to section 16 of the Act, the WAPC RESOLVED—

- A TO DELEGATE to local governments, and to members and officers of those local governments, its functions in respect of the determination, in accordance with Parts 7 and 8 of the Greater Bunbury Region Scheme, of applications for approval to commence and carry out development as specified in schedules 1 and 2, within their respective districts, subject to the terms set out in schedule 3;
- B TO REVOKE its delegation of powers and functions to local governments as detailed in a notice published in the *Government Gazette* of 20 April 2012 (pages 1717—1722).

TIM HILLYARD, Secretary,
Western Australian Planning Commission.

PLANNING AND DEVELOPMENT ACT 2005**INSTRUMENT OF DELEGATION****SCHEDULE 1—Development on reserved land delegated to local governments**

1. Development on land in a regional road reservation where the local government accepts the recommendation and any advice of the advice agency.
2. Development of private jetties and associated facilities located in an artificial waterway in the waterways reservation.

3. Development on reserved land, which requires planning approval under the GBRS and which is—
 - (a) Ancillary and incidental development that does not conflict with the purposes of the reservation; and
 - (b) Development where the local government accepts the recommendation and any advice of the public authority responsible for that reserved land.
4. Any extension and/or change to a non-conforming use which requires planning approval under the GBRS and which is one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Planning.
 - (b) Development for which the local government decides to refuse.

SCHEDULE 2—Development on zoned land delegated to local governments

Applications for development on zoned land, excluding public works undertaken by public authorities—

1. On land abutting regional open space reservations, development which requires planning approval under the GBRS and which is one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Planning.
 - (b) Development for which the local government decides to refuse approval under the GBRS.
2. On land abutting a primary regional roads reservation, development which requires planning approval under the GBRS and which is of one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of Main Roads Western Australia.
 - (b) Development for which the local government decides to refuse approval under the GBRS.
3. On land abutting an other regional roads reservation, development which requires planning approval under the GBRS and which is of one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Planning.
 - (b) Development which—
 - i. complies with an approved access policy pertaining to other regional roads reservations submitted by the local government and endorsed by the WAPC, and
 - ii. is approved subject to conditions requiring compliance with that policy.
 - (c) Development for which the local government decides to refuse approval under the GBRS.
4. On land abutting a port installations, public purposes, railways, state forests or waterways reservation, development of one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the public authority responsible for that reserved land.
 - (b) Development for which the local government decides to refuse approval under the GBRS.
5. On land in the water catchments special control area (SCA No. 1), development which requires planning approval under the GBRS and which is of one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Water and/or the Water Corporation, as the case may be.
 - (b) Development for which the local government decides to refuse approval under the GBRS.
6. On land in the Kemerton industrial zone buffer special control area (SCA No. 2), development which requires planning approval under the GBRS and which is one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of State Development and the Environmental Protection Authority.
 - (b) Development for which the local government decides to refuse under approval under the GBRS.
7. On land in the Glen Iris service corridor buffer special control area (SCA No. 3) development which requires planning approval under the GBRS and which is one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Bunbury Port Authority, Department of State Development and the Environmental Protection Authority.
 - (b) Development for which the local government decides to refuse approval under the GBRS.

8. On land in the Wastewater Treatment Plant Odour Buffer special control area (SCA No. 4) development which requires planning approval under the GBRS and which is one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Water Corporation.
 - (b) Development for which the local government decides to refuse approval under the GBRS.
9. Development of one or more of the following kinds which is on land in, adjacent to or in close proximity to the strategic agricultural resource policy area and which requires planning approval under the GBRS—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Agriculture and Food.
 - (b) Development for which the local government decides to refuse approval under the GBRS.
10. Development of one or more of the following kinds which is on land in, adjacent to or in close proximity to the strategic minerals and basic raw materials resource policy area and which requires planning approval under the GBRS—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Mines and Petroleum.
 - (b) Development for which the local government decides to refuse approval under the GBRS.
11. Development of one or more of the following kinds which is on land partly or wholly within the land subject to the floodplain management policy area and which requires planning approval under the GBRS—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Water;
 - (b) Development for which the local government decides to refuse approval under the GBRS.
12. Development in an activity centre which is for shop-retail purposes and which requires planning approval under the GBRS and which is for one or more of the following kinds—
 - (a) Development generally in accordance with a WAPC endorsed activity centres structure plan;
 - (b) Development for which the local government decides to refuse approval under the GBRS.
13. Development in the rural zone, other than for an animal husbandry-intensive, which requires planning approval under the GBRS and for which the local government decides to refuse approval under the GBRS.
14. Development for an animal husbandry-intensive premises, or for any extension or addition in excess of 100 m² to the improvements of an existing animal husbandry-intensive premises and which is one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Planning, Department of Agriculture and Food, Department of Health, Department of Environmental Regulation, Department of Parks and Wildlife and/or Environmental Protection Authority.
 - (b) Development for which the local government decides to refuse approval under the GBRS.
15. Any extension and/or change to a non-conforming use which requires planning approval under the GBRS and which is one or more of the following kinds—
 - (a) Development where the local government accepts the recommendation and any advice of the Department of Planning.
 - (b) Development for which the local government decides to refuse.

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

1. Under clause 36 of the GBRS, an application for planning approval is to be submitted to the local government, which, if the application is to be determined by the WAPC, shall forward it to the WAPC in seven days and make recommendations to the WAPC within 42 days, or such longer period as the WAPC allows.
2. An application for development on reserved land, excluding regional open space, shall be referred within seven days to the public authority responsible for that reserved land for advice and recommendation before being considered by the local government.
3. An application for development on or abutting regional open space reservations, shall be referred within seven days to the Department of Planning for advice and recommendation before being considered by the local government.
4. An application for development in or abutting a primary regional roads reservation shall be referred within seven days to Main Roads Western Australia for advice and recommendation before being considered by the local government.

5. An application for development in or abutting an other regional roads reservation shall be referred within seven days to the Department of Planning for advice and recommendation before being considered by the local government.
6. An application for development abutting a port installations, public purposes, railways, state forests or waterways reservation shall be referred within seven days to the public authority responsible for that reserved land for advice and recommendation before being considered by the local government.
7. An application for development within the water catchments special control area (SCA No. 1) shall be referred within seven days to the Department of Water and/or the Water Corporation for advice and recommendation before being considered by the local government.
8. An application for development in the Kemerton industrial zone buffer special control area (SCA No. 2) shall be referred within seven days to the Department of State Development and the Environmental Protection Authority for advice and recommendation before being considered by the local government.
9. An application for development in the Glen Iris service corridor buffer special control area (SCA No. 3) shall be referred within seven days to the Bunbury Port Authority, Department of State Development and the Environmental Protection Authority for advice and recommendation before being considered by the local government.
10. An application for development in the Wastewater Treatment Plant Odour Buffer special control area (SCA No. 4) shall be referred within seven days to the Water Corporation for advice and recommendation before being considered by the local government.
11. An application for development within, adjacent to or in close proximity to the strategic agricultural resource policy area shall be referred within seven days to the Department of Agriculture and Food for advice and recommendation before being considered by the local government.
12. An application for development in, adjacent to or in close proximity to the strategic minerals and basic raw materials resource policy area shall be referred within seven days to the Department of Mines and Petroleum for advice and recommendation before being considered by the local government.
13. An application for development partly or wholly within the floodplain management policy area shall be referred within seven days to the Department of Water for advice and recommendation before being considered by the local government.
14. An application for an animal husbandry-intensive premises shall be referred to the Department of Planning, Department of Agriculture and Food, Department of Health, Department of Environmental Regulation, Department of Parks and Wildlife and/or the Environmental Protection Authority for advice and recommendation before being considered by the local government.
15. An application for any extension and/or change to a non-conforming use shall be referred within seven days to the Department of Planning for advice and recommendation before being considered by the local government.
16. Where an application is referred to an advice agency for advice and recommendation the agency is to be advised that if no advice or recommendation has been received within thirty days of receipt of the application by the advice agency the application may be determined on the available information; and the WAPC, or delegate of, or a local government acting under delegated power, may determine the application on that basis.
17. Following referral for advice and recommendation, an application which is to be determined by the WAPC shall be forwarded as soon as practicable to the WAPC with the advice and recommendations provided by all the advice agencies consulted together with the advice and recommendation of the local government.
18. Where the recommendation provided by an advice agency specified above is not acceptable to the local government, the application, together with the recommendations provided by all advice agencies consulted and the reasons why the recommendation is not acceptable to the local government, shall be forwarded immediately to the WAPC for determination.
19. Each local government shall report to the WAPC, in the form and manner required by the WAPC, all decisions made under this instrument of delegation.
20. The powers delegated to members and officers of a local government may only be exercised by a member or officer who has been delegated power from the local government to consider and determine applications for approval to commence and carry out development in the local government district under the local planning scheme.

SCHEDULE 4—Definitions

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

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

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

‘Activity centre’ means the category of activity centres set out in Table 2 of the *Activity Centres for Greater Bunbury Policy*, namely—

- City Centre
- District Centres
- Neighbourhood centres
- Special Centres
- Town Centres

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

‘Animal husbandry-intensive’ has the same meaning as in the *Town Planning Regulations 1967*.

‘Forward to the WAPC’ and similar expressions mean convey by mail, by hand or electronically to the Bunbury office of the Department of Planning.

‘Net lettable area’ means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—

- (a) all stairs, toilets, cleaner’s cupboards, lift shafts and motor rooms, tea rooms and plant rooms and other service areas;
- (b) lobbies between lifts facing other lifts servicing the same floor
- (c) areas set aside for the provision of facilities or services to the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building.

‘Non-conforming use’ has the same meaning as it has in the Planning and Development Act 2005 section 172.

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

‘Planning approval’ and ‘planning approval under the GBRs’ mean the planning approval of the WAPC as required under the GBRs and by resolution of the WAPC under clause 27 of the GBRs, whether granted by the WAPC or by delegates of the WAPC including committees, officers, local governments and members and officers of local governments.

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

‘Shop-retail’ means the land use activities included in “Planning land use category 5: Shop/Retail” as defined by the Commission’s South West Land Use and Employment Survey (as amended from time-to-time).

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Planning and Development Act 2005

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Activity Centres for Greater Bunbury

PL407*

PLANNING AND DEVELOPMENT ACT 2005

AMENDMENT TO INSTRUMENT OF DELEGATION

DEL 2012/02 POWERS OF OFFICERS

Amendment to the Instrument of Delegation to Officers of certain powers and functions of the Western Australian Planning Commission, as gazetted on 23 October 2012 and as amended by correction notice on 13 November 2012 and as subsequently amended by notices published on 6 September 2013 and 11 October 2013

Preamble

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution in the *Government Gazette*, delegate any function to a member, committee or officer of the WAPC or to a public authority or a member or officer of a public authority.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or conferred upon the WAPC by the Act or any other written law as the case requires.