

This fact sheet provides an explanation of improvement plans and schemes, and identify the factors that the Western Australian Planning Commission (WAPC) takes into account when deciding whether to prepare an improvement plan and an improvement scheme.

What is an improvement plan?

Improvement plans are strategic instruments used to advance the planning, development and use of the land in areas identified by the WAPC as requiring special planning.

Use of an improvement plan:

Section 119(1)(a) of the *Planning and Development Act 2005* states that the WAPC can recommend to the Minister that land should be subject of an improvement plan because:

- the land should be planned, replanned, designed, redesigned, consolidated, resubdivided, cleared, developed, reconstructed or rehabilitated or
- provision should be made for the land to be used for such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces for those purposes, as may be appropriate or necessary.

Section 121(1) of the *Planning and Development Act 2005* provides that the WAPC may, in an improvement plan area, develop and construct buildings on land it owns or holds. The WAPC may enter into agreements with other land owners in an improvement plan area to re-plan, consolidate, rehabilitate and develop the land in accordance with an improvement plan.

Effect of an improvement plan:

Improvement plans do not remove the land in question from the existing planning framework it is subject to under region or local planning schemes. As such, development undertaken under an improvement plan is subject to the usual requirements regarding approvals under those schemes.

Preparation of an improvement plan:

Section 119 of the *Planning and Development Act 2005* requires that improvement plans set out the purpose of advancing the planning, development and use of land, and the way the land should be dealt with. Improvement plans are a high-level document comprising supporting text and maps.

Section 119 allows an improvement plan to be made anywhere in the State, regardless of whether a region planning scheme applies. However, section (3A) prevents an improvement plan from being made over land that is:

- in an approved redevelopment scheme under the *Metropolitan Redevelopment Authority Act 2011*
- in the redevelopment area defined in the *Hope Valley-Wattleup Redevelopment Act 2000* or
- in the development control area as defined in the *Swan and Canning Rivers Management Act 2006*.

Community consultation:

Section 119(3B) of the *Planning and Development Act 2005* requires the WAPC to consult with the affected local government(s) before the WAPC recommends to the Minister that the improvement plan is made. Currently there are no other mandatory community consultation requirements for improvement plans.

In addition to community consultation, the Minister for Planning is required to lay a copy of the improvement plan before each House of Parliament following gazettal.

Effect of the 2010 amendment to the *Planning and Development Act 2005*:

Improvement plans made prior to 2010 will continue to exist. However, they cannot be used to make an improvement scheme, unless the WAPC amends them to authorise the making of an improvement scheme. The requirements for consultation and laying before Parliament would apply to any amendment to an existing improvement plan.

What is an improvement scheme?

Improvement schemes are statutory planning schemes similar to a local planning scheme, focusing on the area identified in the improvement plan.

An improvement plan may authorise the making of an improvement scheme by the WAPC in respect to some or all of the land to which the improvement plan applies. Furthermore, an improvement scheme must specify the land to which it applies (the improvement

scheme area). An improvement scheme may, in relation to the whole or any part of the improvement scheme area, provide for all matters referred to in section 119(1) (a) and the objects, purposes, provisions, powers and works referred to in section 69(1) - that is, the same general objects of a local planning scheme.

Use of an improvement scheme:

It is intended that the WAPC will only use improvement schemes in limited circumstances, where an improvement scheme is the best mechanism available to achieve the improvement plan purpose and objectives for the subject land.

An improvement scheme will not always be the most appropriate instrument to achieve particular land use objectives. Examples where an improvement scheme may be appropriate include:

- where the WAPC is a significant landowner in the improvement plan area or has capacity to acquire land in that area
- where an improvement plan covers more than one local government area and coordinated development of the improvement plan area is required
- where development in an area is identified by the WAPC and the State Government as a priority and is required to occur in a specified time frame
- where there is fragmented land ownership in the area, for example Crown land, private ownership
- where that land has particular issues that require coordinated development to address, for example heritage or contaminated sites.

The WAPC must decide whether an improvement scheme will be used to provide the development control provisions to meet the objectives of the proposed improvement plan at the time that an improvement plan is prepared or amended. To determine if an improvement scheme is appropriate, the WAPC will consider why that land requires special planning, and the outcomes that are desired for that land. The WAPC will also consider the objectives and intent of the improvement plan that will be implemented through the improvement scheme. As an improvement scheme can take substantial time to prepare and is only intended to be a temporary instrument (used to facilitate immediate implementation), the WAPC will also look at alternative long-term mechanisms to address the issues with the subject land, before making a decision about the most suitable course of action.

Effect of an improvement scheme:

Section 122D of the *Planning and Development Act 2005* states that, once it comes into effect, an improvement scheme will replace any region planning scheme or local planning scheme that would usually apply to the improvement scheme area. As such, for the duration of the improvement scheme, existing local and region planning schemes will cease to apply to the land identified in the improvement scheme.

The WAPC is the determining authority for applications for development approval in the improvement scheme area. However, the WAPC may delegate these powers to other bodies, including the relevant local government.

When the improvement scheme is no longer required, the WAPC will repeal the improvement scheme, and the land will once again be subject to the provisions of existing region and local planning schemes. Section 122J allows the Minister to amend the relevant local planning scheme to make it consistent with the provisions of the improvement scheme. Similarly, section 122K allows for an amendment to be made to a region planning scheme to make it consistent with the requirements of the improvement scheme. Such an amendment will be subject to the same requirements as a minor amendment to a region planning scheme under Part 4, Division 4 of the *Planning and Development Act 2005*.

Preparation of an improvement scheme:

Section 122B of the *Planning and Development Act 2005* requires improvement schemes to be prepared and advertised in the same way as local planning schemes are currently prepared and advertised under Part 5 of the *Planning and Development Act 2005* and in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015. Specifically, section 122B of the Act states that the following provisions are to apply to improvement schemes:

- **Section 75:** This section deals with the amendment of a scheme.
- **Section 77:** This section requires the WAPC to have due regard to state planning policy when preparing a scheme.
- **Section 78:** This section requires the WAPC to refer the proposed scheme to the Swan Valley Planning Committee if it relates to land in the Swan Valley.

- **Section 79:** This section requires the WAPC to refer the proposed scheme to the Heritage Council if it affects land registered under the *Heritage of Western Australia Act 1990*.
- **Section 80:** This section requires the WAPC to have due regard to any relevant management plan in force under the *Swan River Trust Act 1988*.
- **Section 81:** This section requires the WAPC to refer the proposed scheme to the Environmental Protection Authority.
- **Section 82:** This section states that, if the Environmental Protection Authority has acted under section 48C(1)(a) of the *Environmental Protection Act 1986*, the WAPC is to undertake an environmental review of the scheme.
- **Section 83:** This section states that the WAPC is to make reasonable endeavours to consult with affected public authorities and persons before submitting the scheme to the Minister for final approval.
- **Section 84:** This section states that advertisement of the scheme is to be undertaken in accordance with the *Planning and Development Act 2005* Regulations.
- **Section 85:** This section states that the WAPC is to send submissions made during the advertising period that relate to environmental issues to the Environmental Protection Authority.
- **Section 86:** This section prevents the Minister from approving a scheme until a statement from the Environmental Protection Authority has been received regarding conditions to which the scheme will be subject, or agreement has been reached with the Minister for the Environment under section 48A(2)(b) of the *Environmental Protection Act 1986*.

- **Section 87:** This section gives the Minister the power to approve the scheme, require the WAPC to modify the scheme, or refuse to approve the scheme.
- **Sections 88-95:** These sections deal with the review and consolidation of improvement schemes.

Improvement schemes will be similar instruments to local planning schemes, as they provide development control provisions relating to the area subject to the improvement plan. Generally, improvement schemes should conform with the model and deemed provisions for local planning schemes set out in Schedules 1 and 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, although the *Planning and Development Act 2005* does provide for some flexibility in the format of improvement schemes.

The Minister is the final authority on an improvement scheme, and has the power to approve or refuse to approve the scheme, or direct the WAPC to make a modification. An improvement scheme will come into effect when it is published in the Government Gazette.

Community consultation:

The WAPC is required to advertise the improvement scheme in accordance with regulation 22 of the Planning and Development (Local Planning Schemes) Regulations 2015, including:

- publishing the notice of the scheme in a newspaper circulating in the area that will be affected by the scheme
- displaying the notice of the scheme in the offices of the WAPC for the duration of the submission period

- giving written notice of the scheme to each public authority and person that the WAPC is required to consult under section 83 of the *Planning and Development Act 2005*
- publishing a copy of the notice and draft scheme and other documents on the Department of Planning, Lands and Heritage website
- inviting submissions on the scheme for no less than 90 days.

The WAPC is required to consider all submissions made regarding the improvement scheme, and assess whether the scheme should be modified according to each submission received. The WAPC must then prepare a schedule of submissions and provide recommendations on each submission, for presentation to the Minister. The Minister will consider all information provided before deciding whether to approve or refuse to approve the improvement scheme.

The provisions of the *Planning and Development Act 2005* and the Planning and Development (Local Planning Schemes) Regulations 2015 ensure that residents in the area affected by a proposed improvement scheme will have the same opportunity to raise issues regarding the proposed scheme as they currently have in relation to local planning schemes.