



Western Australia

Planning and Development Act 2005

**Planning and Development (Region Planning  
Schemes) Regulations 2023**



# Planning and Development (Region Planning Schemes) Regulations 2023

## Contents

1.	Citation	1
2.	Commencement	1
3.	Terms used	1
4.	Advertising of proposed region planning scheme or non-minor region planning scheme amendment	3
5.	Advertising of proposed minor region planning scheme amendment: standard amendment	5
6.	Advertising of proposed minor region planning scheme amendment: basic amendment	7
7.	Public submissions	8
8.	Modifications to proposed region planning scheme or non-minor region planning scheme amendment	9
9.	Further provisions relating to local governments	11

## Defined terms



## **Planning and Development (Region Planning Schemes) Regulations 2023**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Planning and Development (Region Planning Schemes) Regulations 2023*.

### **2. Commencement**

These regulations come into operation on 1 August 2023.

### **3. Terms used**

In these regulations —

***basic amendment*** means a minor region planning scheme amendment in a case where —

(a) the amendment is any of the following —

- (i) an amendment to correct an administrative or minor error;
- (ii) an amendment to correct an error that is in, or that otherwise relates to, a map, plan or diagram included in the region planning scheme;
- (iii) an amendment to ensure consistency between the region planning scheme and a public planning document;
- (iv) an amendment that is otherwise administrative or minor in nature;

and

- (b) it is highly likely that the amendment will have no adverse effect in respect of —
  - (i) any land; or
  - (ii) any owner or occupier of any land;
- and
- (c) either —
  - (i) the amendment is not referred to the EPA under section 38 of the Act because of section 38(3); or
  - (ii) the amendment is referred to the EPA under section 38 of the Act but the Commission is informed under section 48A(1)(a) of the EP Act that the amendment should not be assessed by the EPA;

***minor region planning scheme amendment*** has the meaning given in section 56A of the Act;

***proposed amendment*** means a proposed amendment to a region planning scheme;

***proposed scheme*** means a proposed region planning scheme;

***public planning document*** means —

- (a) a State planning policy; or
- (b) a document (however named or described) prepared by the Commission under section 14(b) or (c) of the Act —
  - (i) that is available to the public; and
  - (ii) the preparation of which involved a public consultation;

or

- (c) a document (however named or described) —
  - (i) that is prepared by the Commission, and is approved, under a provision of the kind referred to in Schedule 7 clause 13(4) of the Act that is contained in the region planning scheme; and

- (ii) that is available to the public; and
- (iii) the preparation of which involved a public consultation.

**4. Advertising of proposed region planning scheme or non-minor region planning scheme amendment**

- (1) For the purposes of section 43(a) of the Act, this regulation applies for the advertising of the following —
  - (a) a proposed scheme;
  - (b) a proposed amendment, except if the Commission applies regulation 5 or 6.
- (2) The Commission must decide on an advertising period, which must not be less than 60 days.
- (3) The Commission must prepare an advertisement, which must —
  - (a) be in a form that the Commission considers appropriate; and
  - (b) set out where the proposed scheme or proposed amendment is published under subregulation (4)(b); and
  - (c) invite public submissions in accordance with regulation 7; and
  - (d) contain any other information that the Commission considers appropriate.
- (4) The Commission must publish, for the whole of the advertising period, the following on a website maintained by, or on behalf of, the Commission —
  - (a) the advertisement;
  - (b) the proposed scheme or proposed amendment.
- (5) The Commission must arrange for the advertisement to be published as follows on at least 2 days during the advertising

period, the first of which must be as early as practicable during the advertising period —

- (a) for a proposed scheme — the advertisement must be published in a newspaper circulating on a daily, weekly or other regular basis in the area to which the proposed scheme would apply;
  - (b) for a proposed amendment — the advertisement must be published in a newspaper circulating on a daily, weekly or other regular basis in the area to which the proposed amendment would apply.
- (6) As early as practicable during the advertising period —
- (a) the Commission must give a written notice containing the advertisement to each local government whose district is (wholly or partly) in —
    - (i) for a proposed scheme — the area to which the proposed scheme would apply; or
    - (ii) for a proposed amendment — the area to which the proposed amendment would apply;
- and
- (b) the Commission must make reasonable endeavours to give a written notice containing the advertisement to each public authority who the Commission considers would be likely to be affected by the proposed scheme or proposed amendment; and
  - (c) for a proposed scheme — the Commission must make reasonable endeavours to give a written notice containing the advertisement to each owner of land which, the Commission considers —
    - (i) would have its zoning or reservation changed by the proposed scheme; or



- (ii) would otherwise be affected by any provision contained in the proposed scheme that relates to zoning or reservation of land;
  - and
  - (d) for a proposed amendment — the Commission must make reasonable endeavours to give a written notice containing the advertisement to each owner of land who, in their capacity as owner of the land, the Commission considers would be likely to be affected by the proposed amendment.
- (7) A written notice given to a local government or public authority under subregulation (6)(a) or (b) must include an invitation to the local government or public authority to make a submission in accordance with the provisions of the advertisement inviting public submissions.
- (8) A written notice given to a local government under subregulation (6)(a)(i) must be accompanied by a copy of the proposed scheme.
- (9) The Commission may do anything else that the Commission considers appropriate for either or both of the following purposes —
- (a) bringing the advertisement to the attention of the public, or of a section of the public, during the advertising period;
  - (b) making the proposed scheme or proposed amendment available for public inspection during the advertising period.

**5. Advertising of proposed minor region planning scheme amendment: standard amendment**

- (1) For the purposes of section 43(a) of the Act, the Commission may apply this regulation for the advertising of a proposed

- amendment if the Commission considers that the amendment would be a minor region planning scheme amendment.
- (2) The Commission must decide on an advertising period, which must not be less than 42 days.
  - (3) The Commission must prepare an advertisement, which must —
    - (a) be in a form that the Commission considers appropriate; and
    - (b) set out where the proposed amendment is published under subregulation (4)(b); and
    - (c) invite public submissions in accordance with regulation 7; and
    - (d) contain any other information that the Commission considers appropriate.
  - (4) The Commission must publish, for the whole of the advertising period, the following on a website maintained by, or on behalf of, the Commission —
    - (a) the advertisement;
    - (b) the proposed amendment.
  - (5) If the Commission considers it appropriate to do so, the Commission must arrange for the advertisement to be published on 1 or more days during the advertising period in a newspaper circulating on a daily, weekly or other regular basis in the area to which the proposed amendment would apply.
  - (6) As early as practicable during the advertising period, the Commission must —
    - (a) give a written notice containing the advertisement to each local government whose district is (wholly or partly) in the area to which the proposed amendment would apply; and
    - (b) make reasonable endeavours to give a written notice containing the advertisement to each public authority

who the Commission considers would be likely to be affected by the proposed amendment; and

- (c) make reasonable endeavours to give a written notice containing the advertisement to each owner of land who, in their capacity as owner of the land, the Commission considers would be likely to be affected by the proposed amendment.
- (7) A written notice given to a local government or public authority under subregulation (6)(a) or (b) must include an invitation to the local government or public authority to make a submission in accordance with the provisions of the advertisement inviting public submissions.
- (8) The Commission may do anything else that the Commission considers appropriate for either or both of the following purposes —
- (a) bringing the advertisement to the attention of the public, or of a section of the public, during the advertising period;
  - (b) making the proposed amendment available for public inspection during the advertising period.

**6. Advertising of proposed minor region planning scheme amendment: basic amendment**

- (1) For the purposes of section 43(a) of the Act, the Commission may apply this regulation for the advertising of a proposed amendment if the Commission considers that the amendment would be a basic amendment.
- (2) The Commission must decide on an advertising period, which must not be less than 14 days.
- (3) The Commission must prepare an advertisement, which must —
  - (a) be in a form that the Commission considers appropriate; and

- (b) set out where the proposed amendment is published under subregulation (4)(b); and
  - (c) invite public submissions in accordance with regulation 7; and
  - (d) contain any other information that the Commission considers appropriate.
- (4) The Commission must publish, for the whole of the advertising period, the following on a website maintained by, or on behalf of, the Commission —
  - (a) the advertisement;
  - (b) the proposed amendment.
- (5) The Commission may do anything else that the Commission considers appropriate for either or both of the following purposes —
  - (a) bringing the advertisement to the attention of the public, or of a section of the public, during the advertising period;
  - (b) making the proposed amendment available for public inspection during the advertising period.

**7. Public submissions**

- (1) The Commission must, in an advertisement under regulation 4, 5 or 6, invite public submissions on the proposed scheme or proposed amendment.
- (2) The invitation must —
  - (a) provide that a submission may be made either electronically or in hard copy form; and
  - (b) set out the way in which an electronic submission must be made and the way in which a hard copy submission must be made; and

- (c) set out the period during which a submission must be made, which must be the same period as the advertising period; and
  - (d) set out any other requirements that the Commission considers appropriate and with which a submission must comply.
- (3) For the purposes of section 43(b) of the Act, the Commission —
- (a) must consider all submissions that are made in response to the invitation —
    - (i) during the period referred to in subregulation (2)(c); and
    - (ii) in accordance with the requirements referred to in subregulation (2)(b) and (d);and
  - (b) may, if the Commission considers it appropriate to do so, consider a submission —
    - (i) that is made in response to the invitation during the period referred to in subregulation (2)(c); but
    - (ii) that the Commission is not required to consider under paragraph (a) because of paragraph (a)(ii).
- (4) Subregulation (3)(a) and (b) also apply to all submissions made by local governments or public authorities as referred to in regulation 4(7) or 5(7).

**8. Modifications to proposed region planning scheme or non-minor region planning scheme amendment**

- (1) Subregulation (2) applies if, in respect of a proposed scheme or proposed amendment, the Minister directs the Commission to consider and report on 1 or more submissions under section 52(2) of the Act.

- (2) For the purposes of section 52(2) of the Act, the Commission must —
- (a) consider the submission or submissions; and
  - (b) submit the following to the Minister —
    - (i) a copy of the submission or submissions;
    - (ii) a report by the Commission on the submission or submissions;
    - (iii) a copy of the report given to the EPA under subregulation (4)(b) (if applicable);
    - (iv) the proposed scheme or proposed amendment with the modifications, if any, that the Commission considers appropriate to take account of the submission or of 1 or more of the submissions.
- (3) Subregulation (4) applies if —
- (a) in respect of a proposed scheme or proposed amendment, the Minister directs the Commission to consider and report on 1 or more submissions under section 52(2) of the Act; and
  - (b) the Commission has been informed under section 48A(1)(b)(i) of the EP Act that the proposed scheme or proposed amendment should be assessed by the EPA; and
  - (c) the submission relates (wholly or partly), or 1 or more of the submissions relate (wholly or partly), to environmental issues raised by the proposed scheme or proposed amendment.
- (4) The Commission must give the EPA —
- (a) a copy of the submission or the submissions that relate to environmental issues; and

- (b) a report containing the Commission's views on, and response to, the environmental issues raised by that submission or those submissions.

**9. Further provisions relating to local governments**

- (1) If the Commission proposes to prepare a region planning scheme, the Commission must, at the earliest stage possible, give notice of the proposal to each local government —
  - (a) whose district is (wholly or partly) in the area to which the region planning scheme would apply; or
  - (b) who is otherwise interested in any land that would be included in the region planning scheme.
- (2) If an amendment in relation to which the Commission applied regulation 6 is published in the *Gazette* under section 54 or 62 of the Act, the Commission must give notice of the amendment to each local government whose district is (wholly or partly) in the area to which the amendment applies.

V. MOLAN, Clerk of the Executive Council

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
basic amendment.....	3
minor region planning scheme amendment .....	3
proposed amendment .....	3
proposed scheme.....	3
public planning document.....	3