

Planning and Development (Local Planning Schemes) Amendment Regulations (No. 3) 2023

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Planning and Development (Local Planning Schemes) Amendment Regulations (No. 3) 2023

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Planning and Development (Local Planning Schemes) Amendment Regulations (No. 3) 2023*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on [date].

3. Regulations amended

These regulations amend the *Planning and Development (Local Planning Schemes) Regulations 2015*.

4. Schedule 2 Part 10 Division 2A inserted

After Schedule 2 Part 10 Division 2 insert:

Division 2A — Performance of development approval functions in relation to single houses

84A. Terms used

In this Division —

authorised employee means an employee of the local government authorised by the local government CEO under clause 84D;

prescribed development approval function means any of the following —

- (a) a function of the local government under clause 61A(2) or (4) or Part 8 or 9;
- (b) a function of approving further details of any works or use under a condition of a kind referred to in clause 74(1) imposed on a development approval;
- (c) a function of the local government under this Scheme that is ancillary or incidental to a function referred to in paragraph (a) or (b);

prescribed single house development has the meaning given in clause 84B.

84B. Prescribed single house development

- (1) In this Division, **prescribed single house development** means development that consists of —
 - (a) the erection of, or alterations or additions to, a single house; or
 - (b) the erection or installation of, or alterations or additions to, any of the following that is ancillary or incidental to a single house —
 - (i) an ancillary dwelling;
 - (ii) an outbuilding;
 - (iii) an external fixture;
 - (iv) a boundary wall or fence;
 - (v) a patio;
 - (vi) a pergola;
 - (vii) a verandah;
 - (viii) a deck;
 - (ix) a garage;
 - (x) a carport.

- (2) Despite subclause (1), development in a heritage-protected place is not *prescribed single house development*.

84C. Performance of prescribed development approval functions in relation to prescribed single house development

- (1) When a prescribed development approval function is performed in relation to prescribed single house development, the function must be performed for and on behalf of the local government by —
- (a) the local government CEO; or
 - (b) an authorised employee.
- (2) A prescribed development approval function cannot be performed by the local government in relation to prescribed single house development otherwise than in accordance with subclause (1) (for example, the function cannot be performed by the council of the local government or a committee of that council).
- (3) In performing a prescribed development approval function for and on behalf of the local government in relation to prescribed single house development, the local government CEO or an authorised employee —
- (a) is not subject to the direction of the council of the local government or a committee of that council; and
 - (b) may, if the performance of the function is dependent on the opinion, belief or state of mind of the local government, perform the function on the opinion, belief or state of mind of the CEO or authorised employee (as the case requires).

84D. Authorisation of employees

- (1) The local government CEO may authorise any employee of the local government to perform prescribed development approval functions for and on behalf of the local government in relation to prescribed single house development.

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- (2) An authorisation under this clause must be in writing and may be general or limited to prescribed development approval functions of a specified class.

Clerk of the Executive Council