

Western Australia

Environmental Protection Amendment Regulations (No. 2) 2022

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Environmental Protection Amendment Regulations (No. 2) 2022

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Environmental Protection Amendment Regulations (No. 2) 2022*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Planning and Development Amendment Act 2020* section 56 comes into operation.

3. Regulations amended

These regulations amend the *Environmental Protection Regulations 1987*.

4. **Part 12A inserted**

After regulation 43 insert:

Part 12A — Prescribed classes of relevant schemes

43A. **Terms used**

In this Part —

approved means approved by the Western Australian Planning Commission under the *Planning and Development Act 2005*;

approved redevelopment scheme has the meaning given in the *Metropolitan Redevelopment Authority Act 2011* section 3;

cultural place means a place as defined in the *Heritage Act 2018* section 7 that has cultural heritage significance as defined in section 5 of that Act;

design requirement —

- (a) means a development requirement that relates to the design of a development; and
- (b) includes a development requirement relating to vehicle parking, signage or plot ratio;

development has the meaning given in the *Planning and Development Act 2005* section 4(1);

development requirement has the same meaning as in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1;

land use category means a category of land use referred to in a local planning scheme;

minor amendment —

- (a) in relation to a region planning scheme —
 - (i) means an amendment to the scheme to correct an administrative or minor error; and
 - (ii) includes an amendment to the scheme to correct an error that is in, or that otherwise relates to, a map, plan or diagram included in the scheme; but
 - (iii) does not include an amendment to the scheme to correct an error that changes the classification or zoning of land;
- (b) in relation to a local planning scheme —
 - (i) means an amendment to the scheme to correct an administrative or minor error; and
 - (ii) includes an amendment to the scheme to correct an error that is in, or that otherwise relates to, a map, plan or diagram included in the scheme; but
 - (iii) does not include an amendment to the scheme to correct an error that changes a land use category;

regional road means a road classified under a region planning scheme as —

- (a) a Primary Regional Road; or
- (b) an Other Regional Road.

43B. Prescribed classes of amendments to region planning schemes (Act s. 48AAA(2))

For the purposes of section 48AAA(2) of the Act, the following classes of amendments to a region planning scheme are prescribed —

- (a) a minor amendment to the planning scheme;
- (b) an amendment to classify or reclassify an area of land as a type of reserve, or to zone or rezone an area of land, if the amendment is required to reflect an approved land use category or development approval;
- (c) an amendment to reserve an area of land for a parks and recreation purpose;
- (d) an amendment to classify or reclassify an area of land as a type of reserve, or to zone or rezone an area of land, if —
 - (i) an approved redevelopment scheme for that area ceases to apply; and
 - (ii) the amendment is required to reflect a zone or reserve created under the approved redevelopment scheme; and
 - (iii) the amended classification or zoning is consistent with the purpose for which the area of land is being used;
- (e) an amendment to create, alter or remove a regional road reserve if —
 - (i) a clearing permit has been granted under Part V Division 2 of the Act; or
 - (ii) the proposed construction of the road forming part of the road reserve has been assessed under Part IV of the Act (including its effect on the road reserve) and a decision has been made that the proposal may be implemented;

- (f) an amendment to alter or repeal a definition in the planning scheme.

43C. Prescribed classes of amendments to local planning schemes (Act s. 48AAA(2))

For the purposes of section 48AAA(2) of the Act, the following classes of amendments to a local planning scheme are prescribed —

- (a) a minor amendment to the planning scheme;
- (b) an amendment to make the planning scheme consistent with the model provisions set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1;
- (c) an amendment to consolidate the planning scheme in accordance with the *Planning and Development Act 2005* section 92(1);
- (d) an amendment to include a new land use category if the new land use category does not affect the zoning of land shown on the scheme map;
- (e) an amendment to classify or reclassify an area of land as a type of reserve or to zone or rezone an area of land for the purpose of conserving a cultural place if the amendment does not permit a change in land use category;
- (f) an amendment to amend or repeal a design requirement (that does not affect a development requirement that relates to building envelopes) on any land except —
 - (i) land that is reserved under the planning scheme for environmental conservation; or
 - (ii) land that is designated under the planning scheme as special control area - environment;

- (g) an amendment to include or amend a development requirement that the Western Australian Planning Commission considers will reduce the impact of a development on the natural environment;
- (h) an amendment to zone or rezone land (except land that is zoned environmental conservation) if the zoning or rezoning allows the land to be used for a purpose —
 - (i) that involves replacing or redeveloping an existing building within the existing building envelope; and
 - (ii) that is not a light industry, general industry, industrial development or strategic industry purpose;
- (i) an amendment to increase the residential density code of an area of land from R12.5 or higher if the area of land does not abut land that is an area of environmental value;
- (j) an amendment to include a new provision or amend an existing provision regarding the administration and enforcement of the planning scheme if the new or amended provision does not permit a change in land use category;
- (k) an amendment to classify or reclassify an area of land as a type of reserve or to zone or rezone an area of land if —
 - (i) an approved redevelopment scheme for that area ceases to apply; and
 - (ii) the amendment is required to reflect a zone or reserve created under the approved redevelopment scheme; and
 - (iii) the amended classification or zoning is consistent with the purpose for which the area of land is being used;

- (l) an amendment to the planning scheme to identify an area of land within the scheme area as a development contribution area because of a determination made under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 70(1);
- (m) an amendment to amend or repeal a definition in Part 1 of the planning scheme if the amendment does not permit a change in land use category.

Clerk of the Executive Council