

Planning Online Program

Planning Online

Terms of use

November 2023

About Planning Online

The Planning Online Program Application and its associated software (Planning Online) is provided by the State of Western Australia (also called the WA Government) to help people connect online with the Department of Planning, Lands and Heritage (the Department).

Planning Online is a contemporary online portal that enables users to lodge a broad range of planning applications electronically (eLodgement), which will simplify the interactions between applicants, other agencies, and the Department.

Alternatives to Planning Online

If you are unable to (or you do not wish to) use Planning Online, you can access the Department's services in other ways – for example, you can refer planning applications over the counter, by mail and email. However, the efficiency gains expected through using Planning Online may not be delivered through these other options.

Please email us at posupport@dplh.wa.gov.au for more information.

Terms of Use

The Planning Online Terms of Use apply to individuals and organisations who access and use the Planning Online and set out the rules that apply to your use of Planning Online.

Before accessing or using Planning Online, users are required to acknowledge and accept the Terms of Use.

Any person using Planning Online for an organisation is agreeing to these Terms of Use on behalf of that organisation – and represents and warrants that the person can do so.

Questions or concerns

If you have any questions or concerns about Planning Online, please email posupport@dplh.wa.gov.au

Terms of Use

These Terms of Use apply to:

- **you** – the individual who uses Planning Online; and
- the WA Government acting through the Department (also called **we** or **us**).

If you are using Planning Online on behalf of another person (including an individual or an organisation), then these Terms of Use also apply to the other person – and a reference to **you*** or **your*** means both the individual using Planning Online and that other person.

You* are responsible for complying with these Terms of Use, the terms of use for myID, and with all laws (and any other terms) that apply to your* use of Planning Online. If you* are an organisation, you* are also responsible for ensuring such compliance by anyone who uses Planning Online on your* behalf.

Interpretation

In these Terms of Use:

- **the Department, we or us** means the WA Government acting through the Department of Planning, Lands and Heritage;
- **Planning Online** means the Department's Planning Online website and all associated software and content accessible through that website
- **using Planning Online** includes using the WA Identity Exchange in connection with Planning Online;
- **you** means the individual who is using Planning Online;
- **you*** means both the individual who is using Planning Online and any person on whose behalf the individual is using Planning Online;
- **transaction** includes making applications or referrals, and disclosing or obtaining information about a person;
- **notifications** includes messages, requests, directions, notices, orders, licences, permits, approvals, invoices, receipts and other documents and information;
- **person** includes organisations;
- **organisation** includes firms, companies, partnerships, joint ventures, associations and other body corporates, and any of their successors or permitted assigns; and
- **including, for example** and similar words do not imply any limit.

If any part of these Terms of Use is illegal, unenforceable or invalid, that part is deemed to be changed as required so that it is no longer illegal, unenforceable or invalid, and the remaining parts of these Terms of Use remain in full effect. Our failure or delay in enforcing these Terms of Use is not a waiver of our right to do so later.

Change to Terms of Use

These Terms of Use may only be varied by the Department. The Department may, at any time and at its absolute discretion, vary these Terms of Use. If the Department changes these Terms of Use, we will notify you* when you* next log in to Planning Online.

If you* do not agree with the changes, then **do not continue to use Planning Online**. If you* continue to use Planning Online, the changed terms will apply from the time they were changed. The changed terms will replace any previous Planning Online Terms of Use.

Using Planning Online

You* must use Planning Online in accordance with these Terms of Use solely for lawful purposes and to interact with the Department.

Access

To access Planning Online, you will need: **a device with a Web browser** – Planning Online is accessible using most recent versions of popular web browsers;

- **a reliable network connection** – you are responsible for all internet access and network charges.

If you have any difficulties accessing Planning Online, please email posupport@dplh.wa.gov.au.

In addition, if you are accessing Planning Online on behalf of someone else (such as your employer, or a client), they must have authorised you to access Planning Online on their behalf.

Performance

Planning Online's performance may vary from device to device, and may be affected by many things, including your location and the quality of your network connection.

Using a Planning Online account

Once you have an account with Planning Online, you must not:

- let anyone else use your account;
- use anyone else's account; and
- share your Planning Online login details with anyone else.

Keep your login details secure so that no one else can access them. If:

- you don't take reasonable steps to keep your login details secure, and someone else signs in to your Planning Online account; or
- you give your login details to someone else who then signs in to your Planning Online account,

then you are responsible for everything that person does using your account.

Tell us immediately:

- if you think your account is no longer secure,
- if you think someone else has accessed your Planning Online account; or
- if you receive a notification addressed to another person.

If you think your password is no longer secure, you should change your myID password immediately on your myID app.

Remember to log off

You must log off your Planning Online account and any protected areas of the Planning Online portal when you finish your session.

Acting on behalf of another person

If you are using Planning Online to carry out a transaction on behalf of someone else (e.g. another individual or an organisation), then at the time of that transaction:

- you must be currently authorised by them to carry out that transaction on their behalf, (meaning they have authorised you, and not withdrawn that authorisation);
- if that authorisation is based on you holding a certain position (for example, as an employee), you must currently hold that position;
- if your authorisation is held as a result of law (for example, as a Power of Attorney), then that authorisation must be current; and
- you must comply with any request made by the Department for you to verify your authorisation to act on behalf of the other person.

Authorising others to access Planning Online for you*

It is the **sole responsibility of the individual or organisation** to ensure that all authorisations to act on their behalf are current and that those who hold authorisations have the capacity to act on, or contract on, their behalf.

The WA Government takes no responsibility or liability for:

- any authorisation or appointment that is not current;
- the disclosure of information to any unauthorised or unappointed person; or
- any unauthorised or unappointed person carrying out a transaction (including applying for an environmental impact assessment).

Your material

By uploading, entering or submitting any **material** (including information, data, documents or other material) to Planning Online, you* represent and warrant that:

- the material is current, complete, and accurate;
- you* are authorised to provide the material and have the necessary rights in the material to grant the licences as provided for in these Terms of Use;
- you* agree, to the extent reasonably practicable and appropriate, to promptly update the material to maintain its completeness and accuracy;
- the material is not defamatory or a malicious falsehood in relation to any product, service, person or corporation or set of facts or circumstances;
- the material is not the "passing off" of any product or service and does not constitute unfair competition or infringe the rights of any person or corporation;
- the material does not, and the Department's use of the material will not, infringe the rights (including intellectual property rights) of any person; and
- the material does not infringe any laws.

Providing information

You* are required to provide information that is true and correct, including:

1. providing the right information when setting up an account on Planning Online and myID –you must make sure this information is accurate, complete and up-to-date;
2. providing the right information when using Planning Online;
3. not pretending to be another person;
4. not pretending to be authorised to act for someone else;
5. not accessing Planning Online on behalf of someone else unless you have been properly authorised by them; and
6. not providing other wrong information.

In addition, if you* knowingly provide false or misleading information, you* may also be subject to **penalties** or have your* statutory **instrument or licence revoked** by the Department.

Authorised use

Planning Online is to be used solely for lawful purposes. Unauthorised use is strictly prohibited.

You* must not use Planning Online in any way other than as set out in these Terms of Use. For example, you* must not use Planning Online for:

- **commercial use:** do not resell or make Planning Online available to any third party, or otherwise commercially exploit Planning Online;
- **decompiling:** do not (nor attempt to) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying algorithms on any part of Planning Online or the technology they use;
- **framing:** do not (nor attempt to) frame or mirror any part of Planning Online, or delete any attributions or legal or proprietary notices on Planning Online; and
- **monitoring or copying:** do not monitor or copy Planning Online, do not change, translate or otherwise create derivative works of Planning Online, do not use any software (like bots, scraper tools etc.) to access, monitor or copy Planning Online, and do not use Planning Online or its contents to build or inform a competitive product service.

You* must:

- **not bypass security measures:** do not attempt to bypass or undermine any security measures in respect of Planning Online or any technology they use;
- **not use automation:** do not access or use Planning Online using automated means (which may include the use of bots or artificial intelligence);
- **not harm the system:** do not use (or misuse) Planning Online in any way that may impair the functionality of the underlying systems or technology used by Planning Online, or impair the ability of any other user to access or use Planning Online;
- **not harm others:** do not use Planning Online in a way that violates anyone else's rights (including intellectual property rights) or privacy, or is objectionable, defamatory, malicious or misleading, or encourages unlawful conduct;
- **not avoid payment:** do not use Planning Online in a manner that does, or is designed to, avoid paying required fees and charges;
- **not attempt unauthorised access:** do not attempt to view, access or copy any material or data that you are not authorised to access – or any material or data that you* do not need in order to use Planning Online in accordance with these Terms of Use;
- **not allow other users access:** do not allow anyone (other than you) to access or use Planning Online using your login details. Do not access anyone else's Planning Online account;
- **keep up to date:** keep your* contact and project information and notification settings up to date; and
- **comply with laws and policy:** comply with laws, regulations and Department usage policies that are in force when you* access Planning Online.

Privacy

By using Planning Online, you* agree to the collection, use, storage and disclosure of your* information, in accordance with Privacy laws from time to time. You* also agree that we can monitor and review the activities of Planning Online users.

Electronic messages

You* agree:

- to receive **notifications** (including messages, requests, directions, notices, orders, licences, permits, approvals, invoices, receipts and other documents and information) via electronic communication, including by email, messages on Environmental Online and electronic notifications on your device; and
- that any such notifications satisfy all legal requirements for written communication.

You* are responsible for reading, and where applicable, responding in a timely manner to, all notifications we issue to you*.

Please contact us if:

- you* **do not agree** to receive such notifications electronically; or
- you* wish to **specify** who can receive electronic notifications on your* behalf
- you wish to specify who can receive electronic notifications on your behalf, at posupport@dplh.wa.gov.au

Some notifications are not permitted by law to be sent electronically. For these documents the Department will send these to your* specified registered address. You* are responsible for ensuring that the correct address to which you* wish to have these documents sent has been registered in Planning Online in respect of the specific application or proposal.

Confidential information

Some of the information that you* provide to the Department is subject to mandatory requirements for publication. However, some of that information may – by law – be permitted to be kept confidential and not published by the Department. If this is relevant to the information that you* are submitting, then please ensure that this information is saved within the folder marked “Confidential” when completing your* referral and provide detail on the reasons for requesting the information to be treated as confidential. The Department will consider your* request for confidentiality in accordance with its established procedures.

Freedom of Information

You* acknowledge that information that you provide through Planning Online may be subject to an application for release under the *Freedom of Information Act 1992* (WA) – and that the Department may release that information as required to comply with the law. This may include draft information that is stored on Planning Online but not submitted for assessment.

(The *Freedom of Information Act 1992* (WA) also includes some exemptions from disclosure, for example, for particular types of confidential information.)

No liability

The Department, subject to relevant laws and Department policies, will take all reasonable precautions to protect and safeguard information (including personal information and confidential information) from unauthorised access or disclosure or other misuse or loss. However, if any unauthorised access or disclosure or other misuse or loss to, or disclosure of, this information occurs (whether through Planning Online or otherwise), the WA Government is not liable for any loss or damage, directly or indirectly, suffered by any person.

Disclaimer

Information is presented on Planning Online for the benefit of users to lodge a broad range of planning applications electronically. The Department take reasonable efforts to ensure the accuracy, currency and reliability of the information on Planning Online. However, we do not guarantee its accuracy – for example, changes in circumstances after publication may impact its currency and relevance.

No warranties

Planning Online is provided 'as is' and 'as available'. Except as required by law, the WA Government does not make any claims (and hereby disclaim any warranties) relating to:

- quality, performance or fitness for any particular purpose of Planning Online;
- accuracy, reliability or quiet enjoyment of Planning Online;
- non-infringement of third party rights (including intellectual property rights); or
- anything else to do with Planning Online or any associated services.

Nothing that we say or write or post on Planning Online creates any warranties in respect of Planning Online. But the law may have warranties for Planning Online that we cannot lawfully exclude or change – those warranties will apply to Planning Online as required by law.

Errors and interruptions

The WA Government is not responsible for:

- making sure Planning Online is error free;
- ensuring any defects with Planning Online will be fixed; or
- ensuring that you* have continuous access to Planning Online.

Third party technologies

Planning Online uses technology and services that are provided by third parties (including myID, which is not provided by the WA Government). The technology and services may not always work as expected. As with the other aspects of Planning Online, the Department is not responsible for the operation of those technologies and services, or for making sure they are error-free.

We may change or withdraw Planning Online

The Department may, at any time, and without notice or liability to you*:

- change Planning Online (including its content and how it works)
- change how and when Planning Online is available; or
- suspend or discontinue Planning Online (in whole or in part).

We can cancel your* access to Planning Online

The Department may, at any time, and without notice or liability to you*:

- terminate, suspend, restrict or disable your* access to or use of Planning Online; or
- change who can use Planning Online.

This could be because you* do not comply with these Terms of Use or with your legal obligations – or it could be for any other reason, including reasons relating to internal WA Government operations.

If your access to Planning Online is terminated or suspended, you can still interact with the Department in other ways (for example, over the counter, by mail and email). Contact us for more information.

Limitations on our liability to you*

Use of Planning Online is at your* own risk.

If Planning Online is defective, you* will not be reimbursed for any costs of fixing it – or fixing any damage or loss arising from it.

Information and links

All information relating to, or presented on, Planning Online is of a general nature only. You* will need to seek professional advice in relation to your particular circumstances and make your* own assessment of the accuracy and completeness of the information provided on Planning Online. In addition, we take no responsibility for:

- your* use of external (non-WA Government) sites that might be linked to (or through) Planning Online;
- your* use of myID or any other digital identity system; or
- any automated translation or other automated services you* use in connection with your* use of Planning Online.

We are not liable for loss of any kind

The WA Government and its service providers are not liable for personal injury, or for any loss or damages whatsoever (including incidental, special, indirect or consequential damages) including, without limitation:

- loss or corruption of data or damage to any technology;
- loss of profits or income, loss of opportunity;
- interruption to your* business or delay to any project or activity; or
- any other loss or cost,

arising out of or related to your* use of (or inability to use, including if your* use of the site is suspended or terminated) Planning Online, or any unauthorised use of Planning Online, however caused, and whether arising under contract, tort, statute, equity or otherwise, and even if you* have advised the WA Government of the possibility of such loss or cost.

The WA Government's total liability to you* for all damages and any kind of loss will not, in any case, exceed \$20 (Australian).

Your* rights at law

Some jurisdictions give you* rights at law that can't be limited or excluded – and so some of the above limitations might not apply to you*. In that case, they apply only to the maximum extent permitted by law.

If the WA Government is liable to you* under the *Australian Competition and Consumer Act 2010* (Cth) or similar legislation, then (to the extent legally possible), the WA Government limits its liability under those provisions to:

- supplying Planning Online or any relevant services again; or
- the payment of the cost of having Planning Online or relevant services supplied again,

as the WA Government chooses.

Your* liability to us

You* are responsible for and indemnify the WA Government against any loss or damage to any person arising from any breach of these Terms of Use, from the provision of any material using Planning Online, and from any wilful, negligent or unlawful act or omission by you* in relation to or in the course of your* use of Planning Online. Your* responsibility for actions or omissions will continue despite you* ceasing to use Planning Online or having been denied access to Planning Online.

Intellectual property rights in Planning Online

The WA Government (or its licensors) own all rights, including copyright, in Planning Online and the technology it uses. It is licensed (not sold) to you* for the sole purpose of lodging planning applications.

The WA Government reserves all rights in and to Planning Online (including in respect of technology, trade marks and branding) that are not expressly granted to you* under this licence. You* agree not to challenge or dispute those reserved rights.

If you* provide us any feedback about Planning Online, we may use and disclose your* feedback without any obligation to you. We own all rights in anything created as a result of that feedback (including any changes to Planning Online).

Laws of WA

These Terms of Use are governed by and interpreted in accordance with the laws of Western Australia, and the courts of Western Australia will have exclusive jurisdiction in respect of any dispute which may arise.

Disputes

Before filing a claim or complaint against the Department regarding Planning Online, you agree to attempt to resolve the dispute by first emailing posupport@dplh.wa.gov.au with a description of your claim. The Department will attempt to resolve the dispute within 60 days of receiving your email.

By selecting '**ACCEPT**':

- you confirm that you are at least **18** years old;
- you confirm that, if you are representing someone else, you are properly authorised to represent them;
- you* consent to the collection, use, storage and disclosure of personal information as set out above; and
- you* agree to these Planning Online Terms of Use.

If you* do not agree, you* can interact with the Department in other ways, including over the counter, by mail and email at posupport@dplh.wa.gov.au.