



Western Australia

Planning and Development Act 2005

Greater Bunbury Region Scheme

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Greater Bunbury Region Scheme

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Greater Bunbury Region Scheme

Part 1 — Preliminary

1. Citation

This is the *Greater Bunbury Region Scheme*.

2. Definitions

- (1) Subject to subclause (2), words and expressions used in the Scheme have the same meaning as they have in the *Planning and Development Act 2005*.
- (2) In this Scheme —
 - artificial waterway** means an artificial channel, lake, harbour or embayment, for navigational, ornamental or recreational purposes, or for any of those purposes, and includes any addition to, or alteration of, an artificial waterway as so defined;
 - EP department** mean the department principally assisting in the administration of the *Environmental Protection Act 1986*;
 - local government** means a local government of a district in the region;
 - region** means the Greater Bunbury Region described in clause 3;
 - reserved land** means land reserved under the Scheme for a public purpose;
 - reserved land owned by or vested in a public authority** includes reserved land in relation to which a public authority has an

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easement, right of way, right of occupation, or any other interest, right, privilege or concession;

SCA No. 1 means the Water Catchments — Special Control Area shown on the Scheme Map;

SCA No. 2 means the Kemerton Industrial Zone Buffer Area — Special Control Area shown on the Scheme Map;

SCA No. 3 means the Glen Iris Corridor Buffer Area — Special Control Area shown on the Scheme Map;

SCA No. 4 means the Wastewater Treatment Plant Odour Buffer Areas — Special Control Areas shown on the Scheme Map;

Scheme means the Greater Bunbury Region Scheme;

State forest has the same meaning as it has in the *Conservation and Land Management Act 1984*;

State Planning Framework means the State planning policy of that title.

[Clause 2 amended: Gazette 7 Jun 2013 p. 2152.]

3. Application of Scheme

The Scheme applies to the Greater Bunbury Region which comprises all of the districts of the City of Bunbury, the Shire of Capel, the Shire of Dardanup, and the Shire of Harvey, as shown on the Scheme Map.

4. Contents of Scheme

The Scheme comprises —

- (a) the Scheme Text; and
- (b) the Scheme Map (sheets 1-23).

5. Purposes of Scheme

The purposes of the Scheme are to —

- (a) provide for the reservation and protection of land for regional transport, infrastructure, conservation, recreation and public purposes;
- (b) provide for the zoning of land for living, working and rural land uses;
- (c) provide a mechanism for landowners to be compensated in a fair and equitable manner where land is reserved for a public purpose;
- (d) provide an opportunity for the formal environmental assessment of regional planning proposals and provide increased certainty to such proposals;
- (e) provide a mechanism for certain development of regional significance, and development in areas of regional significance, to be considered and approved by the Commission; and
- (f) identify and protect land having strategic importance for industrial and future urban use.

6. The aims of the Scheme

The aims of the Scheme are to —

- (a) promote the sustainable development of land taking into account relevant environmental, social and economic factors;
- (b) provide for regional transportation, community services and infrastructure in a way that is efficient, equitable and timely;
- (c) protect as regional open space the region's coastal foreshores, the foreshores of the Harvey, Brunswick, Collie, Preston and Capel Rivers, and the Leschenault Estuary and Inlet, as well as other areas of regional conservation significance and areas for regional recreational facilities;
- (d) protect surface water catchments and groundwater areas for future water supplies;

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- (e) provide for industrial development in planned estates where land use conflicts and environmental impacts will be minimised and efficient production facilitated;
- (f) provide for future urban purposes and prevent development which could prejudice the future development of urban land;
- (g) protect strategic agricultural land considered to be of State or regional importance; and
- (h) protect strategic minerals and basic raw materials of State and regional importance and provide for the efficient and timely extraction of minerals and raw materials and subsequent rehabilitation of affected land.

7. Scheme prevails over inconsistent local planning scheme

If the Scheme is inconsistent with a local planning scheme, the Scheme prevails over the local planning scheme to the extent of the inconsistency.

Part 2 — State Planning Framework

8. Scheme determinations to conform with particular provisions of the State Planning Framework

Except to the extent that those provisions are inconsistent with the Scheme, determinations of the Commission under the Scheme are to be consistent with the provisions of the State Planning Framework that the Commission considers are relevant to the region.

Part 3 — Reserved lands

9. Reserves

The lands shown as Reserved Lands on the Scheme Map are reserved under the Scheme for the public purposes shown on the Scheme Map.

10. Purposes of reserves

Land is reserved under the Scheme for the following public purposes —

- (a) Regional Open Space — to protect the natural environment, provide recreational opportunities, safeguard important landscapes and provide for public access;
- (b) Primary Regional Roads — to provide a regional road network to accommodate current and future transport needs on roads declared under the *Main Roads Act 1930*;
- (c) Other Regional Roads — to provide a regional road network to accommodate current and future transport needs on roads for which the planning responsibilities are shared between the Commission and local government;
- (d) Railways — to provide for the passage of trains, the marshalling, maintenance and storage of rolling stock, and the conveying of the public and freight by rail;
- (e) Port Installations — to provide for the current and future expansion needs of the Port of Bunbury;
- (f) Waterways — to recognise permanently inundated inland and coastal lands below the high water mark, and existing and proposed water canals;
- (g) State Forests — to recognise State forests;
- (h) Public Purposes — to provide for other public purposes as denoted on the Scheme Map.

Part 4 — Zones

11. Zones

- (1) The region is classified into the zones shown on the Scheme Map.
- (2) The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

12. Purposes of zones

Land is classified into zones under the Scheme for the following purposes —

- (a) Urban — to provide for residential development and associated local employment, recreation and open space, shopping, schools and other community facilities;
- (b) Urban Deferred — land suitable for future urban development but where there are various planning, servicing and environmental requirements which need to be addressed before urban development can take place;
- (c) Regional Centre — The Bunbury central business district where commercial, civic, cultural, residential, service and administration serving the region are located;
- (d) Industrial — to provide for manufacturing industry, the storage and distribution of goods and associated uses;
- (ea) Industrial Deferred — land suitable for future industrial development but where there are various planning, servicing and environmental requirements which need to be addressed before industrial development can take place;
- (e) Rural — to provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for

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the urban areas and accommodate carefully planned rural living developments;

- (f) Private Recreation — to accommodate regionally significant open space and recreational activities in private use.

[Clause 12 amended: Gazette 9 Apr 2010 p. 1363; 9 May 2014 p. 1429.]

13. Change of zone by resolution

- (1) The Commission may, by resolution, transfer land —
 - (a) from the Urban Deferred zone to the Urban zone; or
 - (b) from the Industrial Deferred zone to the Industrial zone.
- (2) A resolution under subclause (1) takes effect —
 - (a) on the day on which notification of the resolution is published in the *Gazette* (**publication day**); or
 - (b) on a day after publication day that is specified in the resolution.

[Clause 13 inserted: Gazette 9 May 2014 p. 1429.]

Part 5 — Special control areas

Division 1 — Operation of special control areas

14. Operation of special control areas

- (1) The following special control areas are shown on the Scheme Map —
- (a) Water Catchments — Special Control Area (SCA No. 1); and
 - (b) Kemerton Industrial Zone Buffer Area — Special Control Area (SCA No. 2); and
 - (c) Glen Iris Service Corridor Buffer Area — Special Control Area (SCA No. 3); and
 - (d) Wastewater Treatment Plant Odour Buffer Areas — Special Control Areas (SCA No. 4).
- (2) The provisions of this Part applying to the special control areas apply in addition to the provisions of the Scheme applying to any underlying zone or reserve and any general provisions of the Scheme.

[Clause 14 amended: Gazette 7 Jun 2013 p. 2152.]

Division 2 — Water Catchments

15. Purposes — SCA No. 1

The purposes of SCA No. 1 are —

- (a) to implement State Planning Policy No.2.7: Public Drinking Water Source Policy;
- (b) to identify proclaimed surface water catchments within the Greater Bunbury Region; and
- (c) to prevent land uses or development which would prejudice the quality or quantity of water supplies for public use.

16. Planning requirements — SCA No. 1

In considering an application for planning approval in SCA No. 1 the Commission is to have regard to —

- (a) the provisions of State Planning Policy No.2.7: *Public Drinking Water Source Policy*;
- (b) the impact of the proposal on the quality of any existing or future public drinking water supply source;
- (c) the extent to which the proposal achieves and adheres to best management practices for the storage of substances that could contaminate the public drinking water sources;
- (d) the adequacy of proposed measures to manage run-off and drainage;
- (e) whether there is any loss of native vegetation which will be detrimental to maintaining water supply and quality;
- (f) the recommendations of the chief executive officer of the EP department, and advice contained in the Water Quality Protection Note: Land Use Compatibility in Public Drinking Water Source Areas prepared by the EP department; and
- (g) any other matters that the Commission considers relevant.

17. Consultation

In considering an application for planning approval with respect to land wholly or partly within SCA No. 1 the Commission is to consult with the chief executive officer of the EP Department.

Division 3 — Kemerton Industrial Zone Buffer Area

18. Purposes — SCA No. 2

The purposes of SCA No. 2 are —

- (a) to identify land likely to be subject to significant levels of noise, odour, dust, risk or any other off-site impacts from the Kemerton Industrial Zone; and
- (b) to ensure that the use and development of land in the area is compatible with any existing or proposed future use or development within the Kemerton Industrial Zone.

19. Planning requirements — SCA No. 2

(1) The following uses are not permitted in SCA No. 2 —

- (a) residential accommodation including single residential dwellings and grouped dwellings;
- (b) hospitals;
- (c) schools;
- (d) institutional or other uses involving residential accommodation, including temporary, short stay or holiday accommodation;
- (e) general, noxious, hazardous and light industry uses as defined in State Planning Policy No.4.1: *State Industrial Buffer Policy*.

(2) In considering an application for planning approval in SCA No. 2, the Commission is to have regard to —

- (a) whether the proposal is compatible with any existing or proposed future use or development within the Kemerton Industrial Zone;
- (b) any other relevant planning and environmental considerations including, but not limited to, provisions of the State Planning Framework; and

- (c) recommendations of the chief executive officer of the department principally assisting in the administration of the *Mining Act 1978* and the chief executive officer of the EP department.

20. Consultation

In considering an application for planning approval with respect to land wholly or partly within SCA No. 2, the Commission is to consult with the chief executive officer of the department principally assisting in the administration of the *Mining Act 1978* and the chief executive officer of the EP department.

Division 4 — Glen Iris Service Corridor Buffer Area

21. Purposes — SCA No. 3

The purposes of SCA No. 3 are —

- (a) to identify land likely to be subject to significant levels of noise, vibration, odour, dust, risk or any other off-site impacts from the Glen Iris Service Corridor; and
- (b) to ensure that the use and development of land in the area is compatible with any existing or proposed future use or development of the Glen Iris Service Corridor.

22. Planning requirements — SCA No. 3

- (1) The following uses are not permitted in SCA No. 3 —
 - (a) residential accommodation including single residential dwellings and grouped dwellings;
 - (b) hospitals;
 - (c) schools;
 - (d) institutional or other uses involving residential accommodation, including temporary, short stay or holiday accommodation.

- (2) In considering an application for planning approval in SCA No. 3, the Commission is to have regard to —
- (a) whether the proposal is compatible with any existing or proposed future infrastructure or transport facilities within the Glen Iris Service Corridor;
 - (b) any other relevant planning and environmental considerations including, but not limited to, provisions of the State Planning Framework;
 - (c) recommendations of the chief executive officer of the department principally assisting in the administration of the *Mining Act 1978* and the chief executive officer of the EP department.

23. Consultation

In considering an application for planning approval with respect to land wholly or partly within SCA No. 3, the Commission is to consult with the chief executive officer of the department principally assisting in the administration of the *Mining Act 1978* and the chief executive officer of the EP department.

Division 5—Wastewater Treatment Plant Odour Buffer Areas

[Heading inserted: Gazette 7 Jun 2013 p. 2152.]

24A. Purposes—SCA No. 4

The purposes of SCA No. 4 are—

- (a) to implement State Planning Policy No. 4.1: State Industrial Buffers Policy; and
- (b) to identify land likely to be subject to offsite odour impacts from wastewater treatment plants; and
- (c) to ensure that the use and development of the land in the area is compatible with the on-going operation and expansion of the capacity of the treatment plant, to the extent possible, within the identified odour buffer.

[Clause 24A inserted: Gazette 7 Jun 2013 p. 2152.]

24B. Planning requirements—SCA No. 4

In considering an application for planning approval in SCA No. 4, the Commission is to have regard to—

- (a) whether the proposal is compatible with any existing or proposed future use or development within the wastewater treatment plant; and
 - (b) whether the proposal—
 - (i) will suffer adverse impacts from possible odour emissions; or
 - (ii) may, by its nature, potentially jeopardise the continued operation of the wastewater treatment plant; or
 - (iii) may limit the wastewater treatment plant from operating at its planned ultimate capacity;
- and
- (c) any other relevant planning and environmental considerations including, but not limited to, provisions of the State Planning Framework and policies of the EP department.

[Clause 24B inserted: Gazette 7 Jun 2013 p. 2152-3.]

24C. Consultation

In considering an application for subdivision or development approval with respect to land wholly or partly within SCA No. 4, the Commission is to consult with the chief executive officer of Water Corporation for comment, and due regard is to be given to any recommendations or comments provided by the Corporation prior to determining the application.

[Clause 24C inserted: Gazette 7 Jun 2013 p. 2153.]

Part 6 — Development of land

24. Requirement for approval to commence development

Subject to clauses 25 and 26 a person must not commence or carry out —

- (a) development on reserved land; or
- (b) development of a kind or class specified in a resolution made by the Commission under clause 27,

unless that person has first applied for and obtained the planning approval of the Commission under Part 7.

Note for this clause:

[Planning approval for development in a planning control area must be obtained under the *Planning and Development Act 2005* Part 7.]

25. Permitted development on reserved land

The following development on reserved land does not require the planning approval of the Commission —

- (a) the erection, construction, maintenance, improvement or alteration of a boundary fence or wall or other means of boundary enclosure;
- (b) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is —
 - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6;
- (c) the demolition of any building or structure except where the building or structure is —

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- (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6;
- (d) the erection of signs that —
 - (i) relate to the functions of a public authority or local government (other than signs of a promotional nature) and are constructed or exhibited by, or on behalf of, the public authority or local government;
 - (ii) are required for the management or control of traffic on a public road, car park, cycleway, railway or waterway and are constructed or exhibited by or on behalf of a public authority or local government; or
 - (iii) are required to be exhibited under a written law;
- (e) the erection, construction, maintenance, improvement or alteration of a jetty or associated structure (including a boat lifting device or mooring pile) within an artificial waterway except where the jetty or associated structure —
 - (i) does not comply with a policy in regard to such structures that is adopted by the relevant local government; or
 - (ii) is situated on a regionally significant waterway identified by resolution of the Commission for the purposes of this provision;
- (f) development on reserved land owned by or vested in a public authority that is —
 - (i) works on land reserved for Primary Regional Roads or Other Regional Roads for the purpose of or in connection with a road as defined in the *Main Roads Act 1930*;

- (ii) works on land reserved for Port Installations for the purpose of or in connection with a port;
 - (iii) works for the purpose of, or in connection with, the supply of water or wastewater services, electricity or gas, or the drainage of surplus water or treatment of water, wastewater or surplus water;
 - (iv) works on land reserved for Railways, or for Primary Regional Roads or Other Regional Roads, for the purpose of or in connection with a railway, but this does not include the construction or alteration of a railway station or any related carparks, public transport interchange facilities, or associated means of pedestrian or vehicular access;
 - (v) works on land reserved for Regional Open Space where the works are in accordance with a management plan endorsed by the Commission;
 - (vi) works on land reserved for Public Purposes — High School for the purpose of or incidental to a high school;
 - (vii) operational works on land reserved for State Forests for the purpose of or incidental to a State forest;
 - (viii) development that a public authority is expressly authorised under an Act to commence or carry out without the approval of the Commission;
- (g) any development or class of development that the Commission by resolution, notice of which is published in the *Gazette*, declares to be development not requiring the approval of the Commission.

26. Use of reserved land by a public authority

Without limiting clause 25, reserved land may be used by a public authority without the approval of the Commission if the land is used —

- (a) for the purpose for which it is reserved under the Scheme; or
- (b) for any purpose for which the land may be lawfully used by the public authority.

27. Resolution as to development in respect of zoned land requiring approval

- (1) The Commission may by resolution require development on land zoned under this Scheme to have the planning approval of the Commission before it is commenced or carried on.
- (2) The resolution may be made so as to apply to —
 - (a) all land, or a specified area of land, zoned under this Scheme; and
 - (b) all development or classes of development or a specified development or class of development on land zoned under this Scheme.
- (3) Notice of the resolution is to be —
 - (a) published in the *Gazette*; and
 - (b) served on each local government,as soon as practicable after the resolution is made.

28. Deemed determination of application to commence development where power is delegated to local government

- (1) If —
 - (a) a determination is made by a local government under a local planning scheme in respect of planning approval for development on land to which a resolution under clause 27 applies;

- (b) at the same time as the application for that planning approval was made under the local planning scheme, an application was made to that local government under this Scheme for planning approval in respect of the same development; and
- (c) the local government has power, pursuant to a delegation by the Commission, to determine the application made under this Scheme,

then, subject to subclause (2) and despite any other provision of this Scheme, the local government is deemed to have made, at the same time as the determination under the local planning scheme was made, the same determination under this Scheme in respect of the development.

- (2) Nothing in this clause prevents the Commission from exercising its power to determine an application for planning approval in accordance with the terms of the delegation referred to in subclause (1)(c).

29. Extensions and changes to a non-conforming use

- (1) A person must not —
 - (a) alter or extend a non-conforming use;
 - (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
 - (c) change the use of land from a non-conforming use to another non-conforming use,

unless that person has first applied for and obtained planning approval under Part 7.

- (2) In this clause —
non-conforming use has the same meaning as it has in the *Planning and Development Act 2005* section 172.

30. Amending or revoking a planning approval

The Commission may, on written application from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval prior to the commencement of the development that is the subject of the planning approval.

31. Unauthorised existing developments

- (1) Despite clauses 24, 29 and 51, the Commission may grant planning approval for a development already commenced or carried out.
- (2) Subclause (1) does not affect the operation of clauses 24, 29 and 51 and the *Planning and Development Act 2005* Part 13 in respect of development commenced or carried out before planning approval has been granted.
- (3) Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval for the development, and the continuation of a development unlawfully commenced is taken to be lawful upon the grant of planning approval.

32. Existing uses

Nothing in this Scheme prevents the continued use of land for the purpose for which it was being lawfully used immediately before the Scheme came into effect.

33. Existing approvals

Development —

- (a) that was lawfully being carried out in a local government district in the region immediately before the Scheme came into effect; or

- (b) in respect of which all necessary approvals under the local planning schemes applying to that district were in force immediately before the Scheme came into effect, may be lawfully carried out as if this Scheme had not come into effect.

Part 7 — Applications for planning approval

34. Form of application

An application for planning approval is to be —

- (a) made in the form of Form 1 in Schedule 1;
- (b) signed by the owner of the land on which the development is proposed; and
- (c) accompanied by such plans and other information as are required under clause 35.

35. Accompanying material

Unless the Commission waives any particular requirement, every application for planning approval is to be accompanied by —

- (a) a plan or plans to a scale of not less than 1:500 showing —
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land that is the subject of the application;
 - (iii) the location, height and type of all existing structures on the land that is the subject of the application, and all existing structures and vegetation proposed to be removed;
 - (iv) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (v) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (vi) the location, number, dimensions and layout of all car-parking spaces intended to be provided;

- (vii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods and commodities to and from the site and the means of access to and from those areas;
- (viii) the location, dimensions and design of any open storage or trade display area, and particulars of the manner in which it is proposed to develop those areas; and
- (ix) the nature and extent of any open space and landscaping proposed for the site; and
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain,

and an applicant is also to provide —

- (c) any specialist studies that the Commission may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies, and
- (d) any other plan or information relating to the proposed development that the Commission may reasonably require.

36. Application procedure

- (1) An application for planning approval is to be lodged with the local government in whose district the land that is the subject of the application is situated.
- (2) A local government which receives an application under subclause (1) is to forward it to the Commission within 7 days of receiving it.
- (3) A local government may make recommendations to the Commission regarding an application it has forwarded to the Commission within 42 days, or such longer period as the

Commission allows, of the receipt of the application by the local government.

37. Advertising of applications

- (1) If the Commission is of the opinion that planning approval should not be granted before notice of the application is given, the Commission may give notice, or require the applicant to give notice, of the application for planning approval in one or more of the following ways —
 - (a) notice of the proposed development served on nearby owners and occupiers who, in the opinion of the Commission, are likely to be affected by the proposed development, stating that submissions may be made to the Commission by a day specified in the notice, being not less than 14 days from the day the notice is served;
 - (b) notice of the proposed development published in a newspaper circulating in the region stating that submissions may be made to the Commission by a day specified in the notice being not less than 14 days from the day the notice is published;
 - (c) a sign or signs displaying notice of the proposed development erected in a conspicuous position on the land on which development is proposed for a period of not less than 14 days from the day the notice is erected.
- (2) The notice referred to in subclause (1) is to be in the form of Form 2 in Schedule 1 with such modifications as are considered appropriate by the Commission.
- (3) Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application during business hours at the offices of the Commission.

38. Determination by Commission

After —

- (a) the expiry of the period referred to in clause 36(3) within which the local government may make recommendations, or the making of recommendations by the local government under clause 36(3), whichever is sooner; and
- (b) the expiry of any period specified for the purposes of clause 37(1)(a), 37(1)(b) or 37(1)(c) in respect of the notice of proposed development,

the Commission may determine the application for planning approval.

Part 8 — Procedure for dealing with applications

39. Consultation with other authorities

- (1) The Commission may consult on a proposed development with any public authority it considers appropriate.
- (2) The Commission is not to determine a planning application in respect of land reserved under the Scheme for the purposes of a public authority without first consulting that public authority.

40. Matters to be considered by Commission

The Commission in considering an application for planning approval is to have regard to such of the following matters as are in the opinion of the Commission relevant to the development that is the subject of the application —

- (a) the aims and provisions of the Scheme and any other local planning schemes in effect within the region;
- (b) the requirements of orderly and proper planning including any relevant proposed Scheme amendment, or new local planning scheme or amendment, for which consent for public submissions to be sought has been granted;
- (c) any State planning policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986*;
- (e) any policy or strategy of the Commission and any policy adopted by the Government of the State;
- (f) the provisions of any Local Planning Strategy of the local government in respect of a local planning scheme, as approved by the Commission under the *Town Planning Regulations 1967* regulation 12B and amended from time to time;
- (g) in the case of land reserved under the Scheme, the purpose for which the land is reserved;

- (h) the conservation of any place that has been —
 - (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) which is included in a Heritage List or a Heritage Area under a local planning scheme;
- (i) the compatibility of a development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or other risk;
- (n) the preservation of the amenity of the location;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality, including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;

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- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) any recommendations received from a local government under clause 36(3);
- (za) consultations under clause 39(1); and
- (zb) any other planning consideration the Commission considers relevant.

41. Determination of applications

In determining an application for planning approval the Commission may —

- (a) grant its approval with or without conditions; or
- (b) refuse to grant its approval.

42. Form and date of determination

- (1) As soon as practicable after determining an application, the Commission is to give notice of the determination to the applicant in the form of Form 3 in Schedule 1.

- (2) The date of the determination is the date specified in the notice.
- (3) If the Commission refuses an application for planning approval the Commission is to give reasons for its refusal.

43. Term of planning approval

- (1) If the Commission grants planning approval for the development of land —
 - (a) the development approved is to be substantially commenced within 2 years, or such other period as is specified in the approval, after the date of the determination; and
 - (b) the approval lapses if the development has not substantially commenced before the expiration of that period.
- (2) A written request may be made to the Commission for an extension of the term of planning approval at any time prior to the expiry of the approval period under subclause (1).

44. Temporary planning approval

If the Commission grants planning approval, the Commission may impose conditions limiting the period of time for which the approval is given.

45. Scope of planning approval

Planning approval may be granted —

- (a) for the development for which the approval is sought;
- (b) for that development, except for a specified part or aspect of that development; or
- (c) for a specified part or aspect of that development.

46. Approval subject to later approval of details

- (1) Where an application for planning approval is for a development that includes the carrying out of any building or works, the Commission may grant approval subject to matters requiring the subsequent planning approval of the Commission. These matters may include the siting, design and external appearance of the buildings, means of access, landscaping and such other matters as the Commission thinks appropriate.
- (2) In respect of an approval requiring subsequent planning approval, the Commission may require such further details as it thinks appropriate prior to considering the application for subsequent planning approval.
- (3) Where the Commission has granted approval subject to matters requiring the later planning approval of the Commission, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the first approval.

47. Deemed refusal

- (1) Subject to subclause (2), an application for planning approval is deemed to have been refused if a determination in respect of that application is not given to the applicant by the Commission within 60 days of the receipt of the application by the Commission, or within such further time as is agreed in writing between the applicant and the Commission.
- (2) An application for planning approval which is the subject of a notice under clause 37 is deemed to be refused where a determination in respect of that application is not given to the applicant by the Commission within 90 days of the receipt of the application by the Commission, or within such further time as is agreed in writing between the applicant and the Commission.

- (3) Despite an application for planning approval being deemed to have been refused, the Commission may issue a determination in respect of the application at any time after the expiry of the period referred to in subclause (1) or (2), as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

48. Application for review

An applicant aggrieved by —

- (a) the exercise of a discretionary power by the Commission under the Scheme in respect of the application; or
- (b) a decision of the Commission not to transfer land from the Urban Deferred zone to the Urban zone; or
- (c) a decision of the Commission not to transfer land from the Industrial Deferred zone to the Industrial zone,

may apply to the State Administrative Tribunal for a review under the *Planning and Development Act 2005* Part 14.

[Clause 48 amended: Gazette 9 May 2014 p. 1429.]

Part 9 — Enforcement and administration

49. Compensation

- (1) A claim for compensation for injurious affection may be made under the *Planning and Development Act 2005* Part 11.
- (2) A claim for compensation for injurious affection to land or property other than reserved land is to be lodged at the office of the Commission within 6 months of the date of publication in the *Gazette* of notice of the approval of the Scheme or the amendment by which the land or property is injuriously affected.
- (3) A claim for compensation is to be in the form of Form 4 in Schedule 1.
- (4) If compensation for injurious affection is claimed as a result of the operation of the provisions of the *Planning and Development Act 2005* section 174(1) the Commission may at its option elect to acquire the land so affected instead of paying compensation.

50. Powers of the Commission

- (1) The Commission in implementing the Scheme has the power to enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme.
- (2) A person authorised in writing by the Commission may, at all reasonable times and with such assistance as may be required, enter any building or land in the region for the purpose of ascertaining whether the provisions of the Scheme are being observed.

51. Person must comply with provisions of Scheme

A person must not —

- (a) contravene the provisions of the Scheme;

- (b) use a building or commence or continue to carry out any development within the region otherwise than in accordance with —
 - (i) the Scheme; and
 - (ii) any conditions imposed upon the grant of any approval under the Scheme in respect of the use or development.

52. Environmental conditions

- (1) Environmental conditions incorporated into the Scheme or an amendment to the Scheme are set out in Schedule 2.
- (2) Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.
- (3) The Commission is to —
 - (a) maintain a register of all relevant statements published under the *Environmental Protection Act 1986* sections 48F and 48G; and
 - (b) make the statements available for public inspection at the offices of the Commission.

53. Certificates

- (1) The Commission may, on payment of the relevant fee set under the *Planning and Development Act 2005* section 20, issue a certificate in the form set out in Schedule 3 in respect of any land, stating the manner in which it is affected by the Scheme and the purpose, if any, for which the land is reserved under the Scheme.

[~~(2) deleted~~]

[*Clause 53 amended: Gazette 1 Jun 2012 p. 2285.*]

Schedule 1 — Forms

Form 1

Form of Application for Planning Approval

[cl. 34]

Greater Bunbury Region Scheme

Owner details	
Name:	
Address:	
	Postcode:
Phone: (home):	
(work):	Fax:
(mobile):	E-mail:
Contact person:	
Signature:	Date:
Signature:	Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>	
Applicant details	
Name:	
Address:	
	Postcode:
Phone: (home):	
(work):	Fax:
(mobile):	E-mail:
Contact person for correspondence:	
Signature:	Date:

Property details		
Lot No.:	House/Street No.:	Location No.:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:		Suburb:
Nearest street intersection:		
Existing building/land use:		
Description of proposed development and/or use:		
Nature of any existing buildings and/or use:		
Approximate cost of proposed development:		
Estimated time of completion:		
OFFICE USE ONLY		
Acceptance Officer's initials:		Date received:
Local government reference No.:		
Commission reference No.:		

Form 2

Notice of Public Advertisement of Planning Proposal

[cl. 37]

Greater Bunbury Region Scheme

Western Australian Planning Commission

The Commission has received an application to use and/or develop land for the following purpose and public comments are invited.		
Lot No.:	Street:	Suburb:
Proposal:		
Details of the proposal are available for inspection at the Commission's office. Comments on the proposal may be submitted to the Commission in writing on or before the..... day of		
Signed:		
Dated:		
for and on behalf of the Western Australian Planning Commission		

Form 3

Notice of Determination of Application for Planning Approval

[cl. 42]

Greater Bunbury Region Scheme
Western Australian Planning Commission

Location:	
Lot No.:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development:	
The application for planning approval is:	
<input type="checkbox"/>	granted subject to the following conditions:
<input type="checkbox"/>	refused for the following reason(s):
Condition(s)/reason(s) for refusal:	
Note 1	If the development that is the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
Note 2	Where an approval has so lapsed, no development shall be carried out without the further approval of the Commission having first been sought and obtained.
Note 3	If an applicant is aggrieved by this determination there is a right of review under the Scheme clause 48. An application for review must be made in accordance with the <i>State Administrative Tribunal Rules 2004</i> .
Signed:	
Dated:	
for and on behalf of the Western Australian Planning Commission	

Form 4

Claim for Compensation for Injurious Affection

[cl. 49]

Greater Bunbury Region Scheme

To the Western Australian Planning Commission:

Owner details*	
Name:	
Address:	
	Postcode:
Phone (home):	
(work):	Fax:
(mobile):	E-mail:

[*If the claim is made under the *Planning and Development Act 2005* section 177(1)(a), the details are to be those of the owner of the land at the date of reservation or alteration of the reservation, as the case requires.

If the claim is made under the *Planning and Development Act 2005* section 177(1)(b), the details are to be those of the owner of the land at the date of the application for approval to carry out development.]

Contact person:		
Signature:	Date:	
Signature:	Date:	
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>		
Details of property in respect of which claim for compensation for injurious affection is made		
Lot No.:	House/Street No.:	Location No.:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:

Title encumbrances (e.g. easements, restrictive covenants):	
Street name:	Suburb:
Nearest street intersection:	
Existing building/land use:	
Description of proposed development and/or use:	
Nature of any existing buildings and/or use:	
State reasons for the claim that the property has been injuriously affected	
State amount of compensation claimed	
The amount of compensation claimed is:	
which is made up as follows:	

Schedule 2 — Environmental Conditions

[cl. 52]

1. Management Plans

The following Environmental Management Plans may be required in accordance with the specifications set out in Attachment 1 in the Minister for the Environment's "Statement that a Scheme may be Implemented" No. 000697 published on 31 October 2005, and shall be subsequently implemented in accordance with the provisions of the Management Plans, to the satisfaction of the Western Australian Planning Commission —

- (a) Environmental Management Plans for schemes, subdivisions and developments which impact on Regional Open Space in the scheme, Crown conservation or nature reserves, a National Park or bushland, waterways, wetlands or other land that may be part of an ecological linkage;
- (b) Environmental Management Plans for industrial development within the Kemerton Industrial Area and Special Control Area No. 2;
- (c) Drainage, Nutrient and Water Management Plans in areas where the Average Maximum Groundwater Level is less than 1.2 metres below the natural ground surface or where any proposed off-site drainage could lead to degradation of wetlands or waterways; and
- (d) Acid Sulfate Soil Management Plans where the presence of acid sulphate soils is confirmed or there is likely to be a significant risk of disturbing acid sulphate soils.

2. Biological Survey

As part of a scheme amendment or application to subdivide or develop land which has the potential to impact on regionally significant native remnant vegetation or native fauna, the Western Australian Planning Commission or local government, as the case requires, may require a biological survey, including a search for Declared Rare Flora and Fauna, Priority Flora, Threatened Flora Communities and Threatened Fauna, to be undertaken.

The biological survey shall be undertaken to the satisfaction of the Western Australian Planning Commission or local government, as the case requires, having due regard for advice from relevant government agencies, and shall be taken into account when considering the rezoning and subsequent subdivision and development applications.

3. Provision of Environmental Offsets

Prior to construction of the Port Access Road and Bunbury Outer Ring Road, an environmental offset strategy shall be prepared to mitigate unavoidable impacts on wetlands and native vegetation associated with the Port Access Road and Bunbury Outer Ring Road to the satisfaction of the Western Australian Planning Commission on advice of the Environmental Protection Authority. With respect to the Port Access Road, the strategy shall include a foreshore management plan for the Ferguson River in the vicinity of the road. With respect to the Bunbury Outer Ring Road, the strategy shall include rehabilitation of the strip of land adjacent to the road in the vicinity of Lot 15 North Boyanup Road (South Western Highway) and design of the intersection with the Australind Bypass to minimize impacts on environmental values of the area.

Schedule 3 — Certificate

[cl. 53]

Greater Bunbury Region Scheme

Scheme Certificate

In accordance with the *Greater Bunbury Region Scheme* clause 53 the following information is furnished in respect of:-

Location:
Lot No. : Plan/Diagram No. :
Vol No. : Folio No. :
.....
.....
.....
.....
.....

Notes

¹ This is a compilation of the *Greater Bunbury Region Scheme* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Greater Bunbury Region Scheme</i>	17 Oct 2007 p. 5555-601	17 Oct 2007
<i>Greater Bunbury Region Scheme Amendment No. 0009/57</i>	9 Apr 2010 p. 1363	9 Apr 2010
<i>Region Planning Schemes Amendments Instrument 2012 Pt. 3</i>	1 Jun 2012 p. 2284-5	1 Jun 2012
<i>Greater Bunbury Region Scheme Amendment 0020/57</i>	7 Jun 2013 p. 2152-3	7 Jun 2013
<i>Greater Bunbury Region Scheme Amendment 2013</i>	9 May 2014 p. 1428-9	2 Apr 2014 (see cl. 2)

Defined terms

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

The list is not part of the law.]

Defined term	Provision(s)
artificial waterway	2(2)
EP department.....	2(2)
local government.....	2(2)
non-conforming use	29(2)
region	2(2)
reserved land.....	2(2)
reserved land owned by or vested in a public authority	2(2)
SCA No. 1.....	2(2)
SCA No. 2.....	2(2)
SCA No. 3.....	2(2)
SCA No. 4.....	2(2)
Scheme.....	2(2)
State forest	2(2)
State Planning Framework.....	2(2)