
PLANNING

PL301*

Planning and Development Act 2005

**Planning and Development (Development
Assessment Panels) Amendment
Regulations 2015**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Planning and Development (Development Assessment Panels) Amendment Regulations 2015*.

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 1 May 2015.

3. Regulations amended

These regulations amend the *Planning and Development (Development Assessment Panels) Regulations 2011*.

4. Regulation 3 amended

- (1) In regulation 3(1) delete the definitions of:

Planning CEO

R-Codes

- (2) In regulation 3(1) insert in alphabetical order:

Director General means the chief executive officer of the department;

R-Codes means the Residential Design Codes prepared by the Western Australian Planning Commission under section 26 of the Act, as amended from time to time;

5. Regulation 5 amended

In regulation 5:

- (a) in paragraph (b) delete “\$15 million” and insert:

\$20 million

- (b) in paragraph (c) delete “\$7 million” and insert:

\$10 million

6. Regulation 6 amended

In regulation 6:

- (a) in paragraph (b) delete “\$10 million or more and less than \$15 million; and” and insert:

\$2 million or more and less than \$20 million; and

- (b) in paragraph (c) delete “\$3 million or more and less than \$7 million,” and insert:

\$2 million or more and less than \$10 million,

7. Regulation 11A inserted

After regulation 10 insert:

11A. Further information

On receipt of a DAP application, a local government —

- (a) must consider the application and all accompanying material; and
- (b) may, by written notice given to the applicant, require the applicant to give to the local government further specified information or documents.

8. Regulation 11 amended

- (1) In regulation 11 delete “A local” and insert:

(1) A local

- (2) Delete regulation 11(c) and insert:

- (c) confirmation that the applicant has paid the fee under regulation 10(1);
- (d) a copy of any notice given to the applicant under regulation 11A.

- (3) At the end of regulation 11 insert:
- (2) A local government must, within 7 days after the date on which it receives further documents or information in relation to an application that has been provided in response to a notice given under regulation 11A, give the administrative officer of the DAP that will determine the application the further documents or information.

9. Regulation 12 amended

After regulation 12(3) insert:

- (4A) For the purposes of calculating the period within which the report on a DAP application must be given under subregulation (3)(a) or (c), any period after the applicant has been given a notice under regulation 11A and before the applicant complies with the notice is to be excluded.

10. Regulation 16 amended

- (1) In regulation 16(1) delete “The” and insert:

Except as provided in subregulations (2A) and (2B), the

- (2) After regulation 16(1) insert:
- (2A) If a provision of a planning instrument is inconsistent with a provision of these regulations, the regulations prevail to the extent of the inconsistency.
- (2B) If a planning instrument provides that an application is deemed to be refused if not determined within a specified period after the application is made, the following periods are to be excluded in calculating the period between when the application is made and when the application is determined —
- (a) any period after an applicant has been given a notice under regulation 11A in respect of an application and before the applicant complies with the notice;
- (b) any period of extension for the giving of a report on an application referred to in a notice given under regulation 12(4).

11. Regulation 18 amended

- (1) In regulation 18(3) after “2004,” insert:

other than section 31, the presiding member of

- (2) After regulation 18(3) insert:

- (4) For the purposes of reconsideration of a decision on an invitation made under the *State Administrative Tribunal Act 2004* section 31, the decision-maker is the DAP that made the reviewable decision.

12. Regulation 19 amended

- (1) Delete regulation 19(1) and insert:

- (1) A development application is an application of a class prescribed for the purposes of this regulation if —

- (a) the application is for approval for development that has an estimated cost of \$2 million or more; and
- (b) the application is one of the following —
 - (i) an application that is not an excluded development application;
 - (ii) an application for approval for the construction of less than 10 grouped dwellings and any associated carport, patio, outbuilding and incidental development;
 - (iii) an application for approval for the construction of less than 10 multiple dwellings and any associated carport, patio, outbuilding and incidental development.

- (2) Delete regulation 19(4)(a) and insert:

- (a) the power of the Commission to determine a development application of a class prescribed under subregulation (1) that is made to the Commission; and

- (3) Delete regulation 19(6) and insert:
- (6) A local government or the Commission must not make a delegation under this regulation or amend such a delegation unless the local government or the Commission has notified in writing —
- (a) the applicant; and
 - (b) the Director General.
- 13. Regulation 20 replaced**
- Delete regulation 20 and insert:
- 20. Commencement of delegation**
- (1) An instrument of delegation under regulation 19, and any instrument amending or revoking the delegation, takes effect on the day specified in the instrument.
 - (2) A body that delegates to a DAP under regulation 19 must give a copy of the instrument of delegation to the Director General.
- 14. Regulation 22 amended**
- In regulation 22(1) and (2) delete “each application that is determined by a DAP pursuant to the delegation” and insert:
- the application
- 15. Regulation 27 amended**
- (1) In regulation 27(2) delete “The” and insert:

Subject to subregulation 3A, the
 - (2) After regulation 27(2) insert:

(3A) If both the presiding member and the deputy presiding member of a DAP are unable to act as presiding member of the DAP by reason of illness, absence or other cause, the Director General may appoint the presiding member of another DAP to act as presiding member of the DAP.

16. Regulation 31 amended

After regulation 31(2) insert:

- (3A) A DAP member may be paid 50% of the fee to which the member would have been entitled under subregulation (1) or (2) for attending a DAP meeting if —
- (a) the DAP meeting is cancelled after the agenda for the meeting was published in accordance with regulation 39(1); and
 - (b) the Director General approves the payment.

17. Regulation 32 amended

- (1) After regulation 32(4) insert:

- (5A) A person appointed as a local government member of a DAP on the nomination of a local government under regulation 24(1)(a) ceases to be a member of the DAP if the person ceases to be a member of the council of the local government.

- (2) In regulation 32(5) delete “The” and insert:

Except in the circumstances referred to in subregulation (5A), the

18. Regulation 36 deleted

Delete regulation 36.

19. Regulation 37 amended

Delete regulation 37(1) and insert:

- (1) The Minister, when appointing a person as a specialist member of a DAP under regulation 23(1)(b) or 25(1)(b) or an alternate member under regulation 28(1)(c), must appoint a person selected by the Minister from the register maintained under regulation 35.

20. Regulation 38 deleted

Delete regulation 38.

21. Regulation 40 amended

In regulation 40(4)(a):

- (a) delete “simultaneously”;
- (b) delete “instantaneous” and insert:

electronic

22. Regulation 41 replaced

Delete regulation 41 and insert:

41. Quorum

At a meeting of a DAP, 3 members of the DAP, including the presiding member, constitute a quorum.

23. Schedule 1 amended

In Schedule 1 item 1(a) delete “\$3 million” and insert:

\$2 million

24. Various references to “Planning CEO” amended

In the provisions listed in the Table delete “Planning CEO” (each occurrence) and insert:

Director General

Table

r. 12(2)	r. 22(3)
r. 30(1)	r. 39(1)(b)(ii)
r. 40(5)	r. 44(1) and (7)
r. 45(1) and (3)	r. 46(3) and (5)
r. 49(3)	r. 51
r. 53(1) and (2)	r. 55

N. HAGLEY, Clerk of the Executive Council.