
PLANNING

PD301*

Western Australian Planning Commission Act 1985

**Western Australian Planning Commission
(Regional Planning Schemes) Regulations 2000**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Western Australian Planning Commission (Regional Planning Schemes) Regulations 2000*.

2. Commencement

These regulations come into operation on the day on which the *Planning Legislation Amendment Act 1999* comes into operation.

3. Interpretation

In these regulations unless the contrary intention appears —

“**appeal**” means an appeal under —

- (a) section 37J(4) of the Act; or
- (b) a regional planning scheme against a decision of the Commission not to transfer land from an Urban Deferred Zone to an Urban Zone;

“**approved**” means approved by the chief executive officer.

4. Notice of appeal

- (1) An appeal is to be instituted by notice in the approved form lodged with the Minister.
- (2) The notice of appeal is to set out —
 - (a) the substance of the direction or decision appealed against;
 - (b) the date of the direction or decision; and
 - (c) full particulars, in the form of a written submission, of the grounds upon which the appeal is made.
- (3) A copy of the notice of appeal is to be given to the Commission or to the relevant local government exercising the powers of the Commission, as the case requires, as soon as practicable after it is lodged.

- (4) The Commission or the local government upon whom a copy of the notice of appeal is given under subregulation (3) must —
 - (a) lodge with the Minister within the time limited by the Minister a written response to the grounds of appeal set out in the notice of appeal; and
 - (b) as soon as practicable after the response is lodged under paragraph (a), give a copy of the response to the appellant.

5. Time for lodging appeal

A notice of appeal is to be lodged —

- (a) in the case of an appeal under section 37J(4), within the time specified in the notice to which the appeal relates; and
- (b) in the case of an appeal under a regional planning scheme, within 60 days of the date of the decision in respect of which the appeal is made.

6. Manner of determining appeals

The Minister is to consider the matter or matters referred to in the notice of appeal and may either determine the appeal based upon the written submissions of the parties or hear the parties in person.

7. Minister to fix hearing

If the appellant is to be heard in person, the Minister is to —

- (a) fix a time and place for the hearing of the appeal; and
- (b) cause not less than 14 days' notice of the time and place to be given to the parties.

8. Procedure at hearing

- (1) In the hearing and determination of an appeal the Minister —
 - (a) is to act without regard to technicalities or legal forms;
 - (b) is not bound by rules of evidence; and
 - (c) may inform himself or herself on any matter in such way as the Minister regards just.
- (2) At the hearing of an appeal at which the appellant is to be heard in person the parties may be represented by counsel or agent.

9. Power of Minister in relation to witnesses

In relation to witnesses and their examination and the production of documents, the Minister may exercise and enforce the like powers as by law in force at the time may be exercised or enforced by a court of summary jurisdiction.

10. False or misleading statements

A person who knowingly makes either orally or in writing a false or misleading statement to the Minister in connection with an appeal commits an offence.

Penalty: \$1 000.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
