
PLANNING

PD301*

Town Planning and Development Act 1928

Town Planning Amendment Regulations 1998

Made by the Minister for Planning under section 9 of the Act.

1. Citation

These regulations may be cited as the *Town Planning Amendment Regulations 1998*.

2. Regulation 25 amended

Regulation 25 of the *Town Planning Regulations 1967** is amended as follows:

- (a) by inserting after the regulation designation “25.” the subregulation designation “(1)”;
- (b) by deleting “A” and inserting — “ Subject to subregulation (2), a ”;
- (c) by deleting paragraphs (fa) and (fb) and inserting the following paragraphs instead —
“
(fa) regulation 15(3) shall not apply but —
 - (i) the Commission shall send to the responsible authority a copy of the notice referred to in regulation 15(1); and
 - (ii) the advertisement required to be made under regulation 15(1) shall be effected by the responsible authority publishing the notice once in a newspaper circulating in the district where the land the subject of the Amendment is situated and also displaying a copy of the notice in a prominent place in the offices of the responsible authority until the date specified by the Commission or the Minister, as the case requires, as the date on or before which submissions in respect of the Amendment may be made;

- (faa) in regulation 15(5) —
- (i) the reference to the notice advertised or given pursuant to this regulation shall be read and construed as a reference to the copy of the notice sent by the Commission to the responsible authority; and
 - (ii) the reference to the date of publication of the advertisement in the *Gazette* pursuant to this regulation shall be read and construed as a reference to the date of publication of the advertisement by the responsible authority in a newspaper circulating in the district where the land the subject of the Amendment is situated;
- (fb) in regulation 17(1)(a) a reference to a period within 6 months of the expiry of the period specified by the Commission or the Minister, as the case requires, under regulation 15(5) for making submissions shall be read and construed as a reference to a period within 42 days from the date of publication of the advertisement in a newspaper circulating in the district where the land the subject of the Amendment is situated or any other date that the Commission or the Minister, as the case requires, has specified as the date on or before which submissions in respect of the Amendment may be made;
- (fba) in regulation 17(2) a reference to no submissions having been lodged within the period specified under regulation 15(5) for making submissions shall be read and construed as a reference to no submissions having been lodged by the date specified on or before which submissions in respect of the Amendment may be made;
- ";
- (d) after subregulation (1), by inserting the following subregulation —
- “
- (2) If a Town Planning Scheme Amendment —
- (a) is consistent with section 6(1) of the Act or is for a purpose or work or contains a provision or power that is set out in the First Schedule of the Act;
 - (b) is consistent with any regulations made under the Act;
 - (c) is consistent with the Metropolitan Region Scheme made under section 30 of the

Metropolitan Region Town Planning Scheme Act 1959, a town planning scheme or amendments to a town planning scheme prepared under section 18(1)(ba) of the *Western Australian Planning Commission Act 1985* or any gazetted notice of the Commission relating to the Metropolitan Region Scheme or to a town planning scheme or amendment of a town planning scheme made under section 18(1)(ba) of the *Western Australian Planning Commission Act 1985*; and

- (d) is consistent with any statement of planning policy prepared by the Commission with the approval of the Minister under section 5AA of the Act or any variation or amplification of the policy prepared by the Commission and approved by the Minister under the section,

the Town Planning Scheme Amendment shall be in conformity with these regulations as though it were a Scheme except that —

- (e) it shall comprise only such of the documents comprising a Scheme as are necessary to convey the intent and reasons for the amendment;
- (f) regulations 4 and 5 shall not apply;
- (g) the resolution of the responsible authority to amend a Scheme shall be in the Form No. 1C in Appendix A and shall be forwarded to the Commission separate from but with the Amendment;
- (h) the Commission shall not be under a duty to examine the Amendment and shall not make a recommendation to the Minister under regulation 13(2);
- (i) regulations 13(4) and (5) and 14 shall not apply but —
 - (i) the Amendment shall not be advertised for public inspection unless section 7A1 of the Act has been complied with;
 - (ii) the Amendment shall not be advertised for public inspection if the EPA acts under section 48A(1)(c) of the EP Act unless a direction is given under section 48A(2)(a) of the EP Act and there has been compliance with section 48C(6)(a) of the EP Act (if compliance is required);
 - (iii) the Amendment shall not be advertised for public inspection if the EPA acts under section 48C(1)(a) of the EP Act

unless the local government has complied with sections 7A2 of the Act and 48C(6)(a) of the EP Act;

- (j) regulation 15 shall not apply but —
- (i) the local government specified in the Town Planning Scheme Amendment as such shall become the responsible authority under the Act and —
 - (I) notice of the Amendment shall be advertised in the Form No. 3 in Appendix A in accordance with paragraph (iii);
 - (II) the responsible authority shall take such other steps, if any, as it considers necessary to make public the details of the Amendment;
 - (III) the responsible authority may give any owner of land that the authority considers is affected by the Amendment a copy of the notice of the Amendment referred to in Item (I); and
 - (IV) the responsible authority may take all reasonable steps to ensure that a notice of the Amendment is conspicuously displayed on or adjacent to any land affected by the Amendment;
 - (ii) the responsible authority shall make available for inspection by the public during office hours at the office of the responsible authority a copy of the Amendment, Amendment Report and other supporting documents, and there shall be made available at the office of any local government affected by the Amendment a copy of that part of the Amendment that relates to land within the district of that local government;
 - (iii) the advertisement required to be made under paragraph (j)(i) shall be effected by publication by the responsible authority of the notice referred to in that paragraph once in a newspaper circulating in the district where the land the subject of the Amendment is situated and the responsible authority shall also

- display a copy of the notice in a prominent place in the offices of the responsible authority until the date on or before which submissions in respect of the Amendment may be made as determined or fixed under paragraph (v);
- (iv) the responsible authority shall give to each public authority or person whom the local government is required by section 7(2aa) of the Act to consult, and in the case of a development scheme to every landowner within the area the subject of the Amendment a notice in writing in the Form No. 3 in Appendix A;
- (v) the responsible authority shall, in the notice advertised pursuant to paragraph (iii), describe the purpose of the Amendment, state the times and places where the Amendment may be inspected, and specify a date on or before which submissions in respect of the Amendment may be made; which date shall be a date not less than 42 days from the date of publication of the advertisement in a newspaper circulating in the district where the land the subject of the Amendment is situated pursuant to paragraph (iii) unless, at the request of the responsible authority, the Commission decides that another date, being not less than 21 days from the date of such publication, is appropriate to the Amendment;
- (k) in regulation 17(1)(a) a reference to a period within 6 months of the expiry of the period specified by the Commission or the Minister, as the case requires, under regulation 15(5) for making submissions shall be read and construed as a reference to a period within 42 days from the date of publication of the advertisement in a newspaper circulating in the district where the land the subject of the Amendment is situated or any other date that the Commission has specified as the date on or before which submissions in respect of the Amendment may be made;
- (l) in regulation 17(2) a reference to no submissions having been lodged within the

- period specified under regulation 15(5) for making submissions shall be read and construed as a reference to no submissions having been lodged by the date specified on or before which submissions in respect of the Amendment may be made;
- (m) regulation 18(1) shall apply but the responsible authority shall also forward to the Commission particulars of the steps taken to advertise the Amendment;
- (n) where no submissions are made a local government may, if it resolves to adopt an Amendment without modification and has complied with regulation 17A, proceed to execute the documents in the manner prescribed in regulation 22;
- (o) regulation 21(1) shall apply but, before making a decision under section 7(2a), if the Minister is not satisfied that the steps taken to advertise the Amendment are adequate, the Minister may in writing direct the responsible authority to take such steps as the Minister considers necessary to make public the Amendment and the responsible authority shall give effect to the direction; and
- (p) if the Minister gives a direction under paragraph (o), the Minister is also to give directions in writing as to —
- (i) the manner in which the responsible authority is to publicize the Amendment;
 - (ii) the manner in which a person who desires to make a submission on the Amendment is to make the submission;
 - (iii) the manner in which the responsible authority is to consider, make recommendations on and forward any submission on the Amendment to the Commission; and
 - (iv) the manner in which the Commission is to examine any submission on the Amendment and the recommendations of the responsible authority and make its recommendations to the Minister.

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[* *Reprinted 28 May 1996.
For amendments to 25 August 1998 see 1997 Index to Legislation of Western Australia, Table 4, pp. 268-9.]*