



Western Australia

Planning and Development Amendment Act 2022

As at 24 Jun 2022

No. 17 of 2022

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Planning and Development Amendment Act 2022

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Western Australia

Planning and Development Amendment Act 2022

No. 17 of 2022

An Act to amend the *Planning and Development Act 2005*.

[Assented to 24 June 2022]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Planning and Development Amendment Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *Planning and Development Act 2005*.

4. Section 269 amended

In section 269(1) insert in alphabetical order:

extended recovery period means the period that —

- (a) begins when the *Planning and Development Amendment Act 2022* section 4 comes into operation; and
- (b) ends immediately before 5 pm on 29 December 2023;

5. Section 271 amended

(1) In section 271 delete “During” and insert:

- (1) During

(2) At the end of section 271 insert:

- (2) During the extended recovery period, a person may make a development application to the Commission for determination under section 274 if the application is for approval of significant development.

Note: The heading to amended section 271 is to read:

**Development applications that may be made directly to
Commission during recovery period or extended recovery period**

6. Section 272 amended

(1) After section 272(3) insert:

- (3A) During the extended recovery period, the prospective applicant in relation to a development application that has not yet been made may notify the Minister that they want the application to be determined under section 274.
- (3B) Subsection (3C) applies if the Minister —
- (a) is notified under subsection (3A); and
 - (b) considers that the development application raises issues of such State or regional importance that it would be appropriate for the application to be determined under section 274.
- (3C) During the extended recovery period, the Premier, on the Minister's recommendation, may refer the development application to the Commission for determination under section 274.

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- (2) In section 272(4)(a) and (5) delete “the recovery period,” and insert:

the extended recovery period,

- (3) After section 272(7) insert:

- (8) Section 268A applies as if references in that section to the Minister were to the Premier.

Note: The heading to amended section 272 is to read:

Development applications that may be referred to Commission by Premier during recovery period or extended recovery period

7. Section 273 amended

In section 273(2) after “272(1)” insert:

or (3A)

8. Section 274 amended

- (1) In section 274(1)(a) delete “272(3)” and insert:

272(3), (3C)

- (2) In section 274(3) delete “period.” and insert:

period or the extended recovery period.

9. Section 278 amended

- (1) At the end of section 278(3) insert:

Note for this subsection:

The period referred to in subsection (2) can be extended by an amendment to the approval made under section 279 or made by an order under section 284 — see, in particular, subsections (4) and (5) and sections 279(2)(aa) and (6A) and 284(2)(aa).

- (2) After section 278(3) insert:

- (4) The application referred to in section 279(6A) can be made or determined even if the approval has lapsed under subsection (3) and, if the application is granted after the approval has lapsed, the approval comes back into effect accordingly when the application is granted.
- (5) An order under section 284 may make an amendment of the kind referred to in section 284(2)(aa) even if the approval has lapsed under subsection (3), in which event the approval comes back into effect accordingly when the amendment is made.

10. Section 279 amended

- (1) Before section 279(2)(a) insert:

- (aa) for the purposes of section 278(2), to amend the approval —
- (i) to extend the period specified in the approval; or

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- (ii) if no period is specified in the approval — to specify a period that is longer than the period of 24 months referred to in section 278(2)(b);

or

(2) Delete section 279(4).

(3) After section 279(6) insert:

- (6A) No more than 1 application can be made under subsection (2) for an amendment of the kind referred to in subsection (2)(aa) and, accordingly, the Commission can make an amendment of that kind only once under this section.

(4) Before section 279(7)(a) insert:

- (aa) make an amendment of the kind referred to in subsection (2)(aa);

11. Section 280 amended

(1) In section 280(1)(b) delete “a condition imposed by the Commission” and insert:

any of the conditions imposed

(2) After section 280(1) insert:

- (1A) In subsection (1)(a) to (c), references to the approved development, the conditions imposed on the approval or the approval are to the development, conditions or

approval as amended from time to time under section 279 or by an order under section 284.

12. Section 284 amended

Before section 284(2)(a) insert:

- (aa) for the purposes of section 278(2), amend the approval —
 - (i) to extend the period specified in the approval; or
 - (ii) if no period is specified in the approval — to specify a period that is longer than the period of 24 months referred to in section 278(2)(b);

13. Part 19 heading amended

In the heading to Part 19 delete “**for *Planning and Development Amendment Act 2020***”.

14. Part 19 Division 1 heading inserted

At the beginning of Part 19 insert:

Division 1 — Provisions for *Planning and Development Amendment Act 2020*

15. Part 19 Division 2 inserted

At the end of Part 19 insert:

Division 2 — Provisions for *Planning and Development Amendment Act 2022*

295. Amendments to development approvals

The amendments made by the *Planning and Development Amendment Act 2022* sections 9 to 12 apply to an approval for development whether granted by the Commission before, on or after the day on which those sections come into operation.

296. Fees

- (1) The development applications (as defined in section 269(1)) to which the *Planning and Development (Part 17 Fees) Notice 2020* clause 4(1)(a) and (2) apply (subject to clause 4(5)) include a development application (as defined in section 269(1)) to be determined by the Commission under section 274 as a result of an amendment made to Part 17 by the *Planning and Development Amendment Act 2022*.
- (2) The applications made under section 279(2) to which the *Planning and Development (Part 17 Fees) Notice 2020* clause 4(1)(b) applies include an application made under section 279(2) for an amendment of the kind referred to in section 279(2)(aa) as inserted by the *Planning and Development Amendment Act 2022*.
- (3) This section does not limit or otherwise affect the Minister's power to amend, repeal or replace the

Planning and Development (Part 17 Fees) Notice 2020
by a further notice published under section 285.

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