

# TOWN PLANNING AND DEVELOPMENT.

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No. 72 of 1980.

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**AN ACT to amend the Town Planning and  
Development Act 1928-1979 and for related purposes.**

*[Assented to 26 November 1980.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Town Planning and Development Amendment Act 1980*. Short title and citation.

(2) In this Act the Town Planning and Development Act 1928-1979 is referred to as the principal Act. Reprint approved 22 May 1980.

(3) The principal Act as amended by this Act may be cited as the Town Planning and Development Act 1928-1980.

Commence-  
ment.

2. (1) Subject to subsections (2), (3) and (4) of this section this Act shall come into operation on the day on which it is assented to by the Governor.

(2) Sections 3 and 4 of this Act shall come into operation on 14 December 1980.

(3) Sections 6, 7, 8, 9 and 11 of this Act shall come into operation on the twenty-eighth day after the day on which this Act is assented to by the Governor.

(4) Section 10 of this Act shall come into operation on a day to be fixed by proclamation.

Section 3  
amended.

3. Section 3 of the principal Act is amended by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) A person who is skilled in town planning shall be appointed under and subject to the Public Service Act 1978, to be the Town Planning Commissioner.

(2) The Commissioner shall be the permanent head of the department of the Public Service of the State known as the Town Planning Department. ”.

Section 4  
amended.

4. Section 4 of the principal Act is amended—

(a) in subsection (2), by deleting “the Commissioner who, *ex officio*, shall be” and substituting the following—

“ a person to be appointed by the Governor as ”;

(b) by inserting after subsection (2a) the following subsections—

“ (2b) The member of the Board who is the chairman shall be appointed for such period, not exceeding three years as is specified in the instrument of his appointment and, subject to subsection

(4) of this section, the other members of the Board shall be appointed for a period of three years.

(2c) A member of the Board shall be eligible for re-appointment. ”;

(c) in subsection (3), by deleting “, other than the Commissioner, shall be appointed for a period of three years, and shall be eligible for re-appointment, or”;

(d) in subsection (3a), by deleting “, other than the Commissioner,”;

(e) in subsection (3c) by deleting “each member” and substituting the following—

“ a member other than the chairman ”;

(f) by repealing subsection (4) and substituting the following subsection—

“ (4) Where a vacancy in the office of a member of the Board, other than the chairman, occurs otherwise than by effluxion of time the person appointed to fill the vacancy shall hold office for the unexpired portion of the term of his predecessor. ”;

(g) in subsection (6) by deleting “, other than the Commissioner,”;

(h) by repealing subsection (8) and substituting the following subsection—

“ (8) The chairman of the Board shall preside at any meeting of the Board at which he is present and in the event of the absence of the chairman from any meeting, the members present shall select one of their number to preside at the meeting. ”; and

(i) in subsection (9), by deleting “chairman” and substituting the following—

“ member presiding at the meeting ”.

Section 6  
amended.

5. Section 6 of the principal Act is amended by inserting after subsection (2) the following subsection—

“ (3) Nothing in this Act prevents, or has ever prevented,—

(a) a town planning scheme from being made with respect to land comprised in another town planning scheme; or

(b) two or more town planning schemes from having force and effect concurrently with respect to any land. ”.

Section 7  
amended.

6. Section 7 of the principal Act is amended by repealing subsection (4) and substituting the following subsection—

“ (4) A town planning scheme may be—

(a) revoked by a subsequent town planning scheme;

(b) varied or amplified by an amendment to the scheme prepared by the local authority, approved by the Minister and published in the *Gazette*;

(c) revoked by an instrument of revocation made by the local authority, approved by the Minister and published in the *Gazette.* ”.

Section 7AA  
amended.

7. Section 7AA of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) A town planning scheme that has been approved by the Minister and

published in the *Gazette* shall be examined—

- (a) if the Minister after consulting the local authority affected by notice in the *Gazette* so directs, in accordance with that direction; or
- (b) in each fifth year following the date on which it was last published in the *Gazette* with the approval of the Minister. ”;

and

- (b) in subsection (2) by inserting after paragraph (b) the following paragraph—

“ (c) Where a report of the local authority recommends the revocation of the scheme without a review thereof, or the Minister after considering a report advises the local authority that it is desirable that the scheme be revoked without a review thereof, the scheme shall be revoked pursuant to paragraph (c) of subsection (4) of section seven of this Act as soon as practicable after the date of the report or the date of the Minister’s advice as the case may be. ”.

8. Section 8 of the principal Act is amended— Section 8  
amended.

- (a) in subsection (1), by deleting “; and the general provisions, or set of general provisions, appropriate to the area for which a town planning scheme is made, shall take effect as part of every scheme, except so far as provision is made by the scheme, as approved by the Minister, for the variation or exclusion of any of those provisions”; and

- (b) by inserting after subsection (1) the following subsection—

“ (1a) Where a town planning scheme is made in respect of an area, any general provision, appropriate to the area, that is

in force under subsection (1) of this section when the scheme is approved by the Minister, shall have effect as part of the scheme, except so far as the scheme, as approved by the Minister, provides for the variation or exclusion of that provision. ” .

Section 20A  
amended.

9. Section 20A of the principal Act is amended by inserting before “drainage”, in both places where it occurs the following—

“ water supply, sewerage, ”.

Section 27A  
inserted.

10. After the heading “PART IV.—MISCELLANEOUS.” the following section is inserted—

Easements.

“ 27A. (1) Where—

- (a) a plan of subdivision or diagram of subdivision approved by the Board after the coming into operation of section ten of the Town Planning and Development Amendment Act 1980 is deposited at the Office of Titles or the Registry of Deeds; and
- (b) it is shown on the plan or diagram that any land comprised therein is subject or intended to be subject to an easement in favour of—
  - (i) the local authority in whose district the land is situated, for the purpose of drainage or access to drainage works;
  - (ii) the Minister for Water Resources, for the purpose of water supply, sewerage, drainage or access to water supply, sewerage or drainage works;
  - (iii) the Metropolitan Water Supply, Sewerage, and Drainage Board, for the purpose of water supply,

sewerage, drainage or access to water supply, sewerage or drainage works;

- (iv) The State Energy Commission of Western Australia for the purpose of energy supply or access to energy supply works,

the land shall, on and from the date of the approval of the plan or diagram by the Inspector of Plans and Surveys be subject to an easement in favour of the person or authority mentioned on the plan or diagram for the purpose mentioned thereon.

(2) An easement in favour of a person or authority for any purpose, to which any land is subject by virtue of this section, shall give that person or authority such rights, powers and privileges as are prescribed under this section in respect of an easement in favour of that person or authority for that purpose.

(3) If, by virtue of this section, any land is subject to an easement, the Registrar of Titles, or the Registrar of Deeds, as the case requires, shall make all such entries or endorsements, or register any such memorial, as may be necessary or proper to evidence that the land is so subject, and, for the purpose of making any such entry or endorsement or registering any such memorial, it shall be sufficient description of the easement if reference is made to this section.

(4) Where, by virtue of this section, any land is subject to an easement in favour of a person or authority for any purpose, the Registrar of Titles or Registrar of Deeds as the case requires, may, by order made—

- (a) upon application in writing by the person or authority; and
- (b) with the consent in writing of all persons having a registered interest in the land,

vary or extinguish the easement and upon such variation or extinction the Registrar of Titles or Registrar of Deeds, as the case requires, shall make all such entries or endorsements, or register any such memorial, as may be necessary or proper to evidence the variation or extinction.

(5) The Governor may make regulations—

(a) prescribing the rights, powers and privileges given to a specified person or authority where an easement for a specified purpose has effect in favour of that person or authority by virtue of this section;

(b) prescribing any other matter necessary or convenient for giving effect to this section.

(6) In subsection (5) of this section “specified” means specified in regulations made pursuant to that subsection. ”.

Section 54E  
amended.

11. Section 54E of the principal Act is amended by deleting “prescribed.” and substituting the following—

“ prescribed; and

(c) shall, upon payment of a fee determined in the manner prescribed, supply a copy of those reasons to any other person. ”.

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