

**WESTERN
AUSTRALIAN
GOVERNMENT**
Gazette
ISSN 1448-949X

3581



PERTH, WEDNESDAY, 18 AUGUST 2004 No. 143 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM

© STATE OF WESTERN AUSTRALIA

**WESTERN AUSTRALIAN PLANNING COMMISSION
ACT 1985**

**NINGALOO COAST REGIONAL
PLANNING SCHEME
SUMMARY OF RESOLUTION**

AND

**NOTICE OF NINGALOO COAST
REGIONAL INTERIM
DEVELOPMENT ORDER 2004**

WESTERN AUSTRALIAN PLANNING COMMISSION ACT 1985**SUMMARY OF NINGALOO COAST REGIONAL PLANNING
SCHEME RESOLUTION**

In accordance with section 21(5) of the *Western Australian Planning Commission Act 1985* a summary of the resolution to prepare the Ningaloo coast regional scheme made under section 18(1a) of the *Western Australian Planning Commission Act 1985* and a description of the part of the State to which the proposed regional planning scheme is to apply are set out below.

The Western Australian Planning Commission has resolved to prepare the Ningaloo coast regional scheme for the area from Carnarvon to Exmouth (excluding the townsites) generally to the coast from west of the North-West Coastal Highway and the Minilya-Exmouth Road to the Learmonth Solar Observatory and then along the coast to the northern end of the cape.

WESTERN AUSTRALIAN PLANNING COMMISSION ACT 1985**NOTICE OF NINGALOO COAST
REGIONAL INTERIM DEVELOPMENT ORDER 2004**

In accordance with section 21(4) of the *Western Australian Planning Commission Act 1985*, a summary is set out below of the Ningaloo coast regional interim development order 2004 made under section 21 of the *Western Australian Planning Commission Act 1985* and is published for general information.

The Western Australian Planning Commission has made copies of the order available for inspection by any person free of charge at the offices of the Department for Planning and Infrastructure, Albert Facey House, 469—489 Wellington Street, Perth, and at the offices of the Shire of Carnarvon and Exmouth during normal office hours.

SUMMARY

1. The *Ningaloo coast regional interim development order 2004*—
 - (a) provides that the order applies to the area from Carnarvon to Exmouth (excluding the townsites) specified in the order;
 - (b) prohibits the carrying out of certain development on land to which the order applies without permission as provided for in the order;
 - (c) provides for the making of applications for, and the grant of, permission for development other than development exempted by the order;
 - (d) provides for development by a public authority;
 - (e) provides for certain development to be exempted by the order;
 - (f) provides for appeals against refusal of development and against conditions subject to which permission to carry out development is granted.
2. The order comes into operation on the day of publication of this notice in the *Government Gazette*.

Dated 12 August 2004.

IAN PATTERSON, Secretary.

WESTERN AUSTRALIAN PLANNING COMMISSION ACT 1985

**NINGALOO COAST
REGIONAL INTERIM DEVELOPMENT ORDER 2004**

Made under section 21 of the Act by the Western Australian Planning Commission with the approval of the Minister.

PART 1—PRELIMINARY**1. Citation**

This regional interim development order may be cited as the *Ningaloo coast regional interim development order 2004*.

2. Application

This order applies to those parts of the Shires of Carnarvon and Exmouth as delineated by the boundary shown on Plan A in Schedule 1.

3. Interpretation

In this order—

“heritage building” means a place entered on the Register within the meaning of the *Heritage of Western Australia Act 1990* or which is included on a Heritage List of a town planning scheme;

“exempt development” means development referred to in clause 5;

“planning approval” means the written permission of the Commission to carry out development.

PART 2—DEVELOPMENT OF LAND**4. Requirement for approval to commence development**

Subject to clauses 5 and 6 a person must not commence or carry out any development on land to which this order applies unless that person has first applied for and obtained the planning approval of the Commission under clause 12.

5. Exempt development

The following development does not require the planning approval of the Commission:—

- (a) fencing associated with pastoral activities;
- (b) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (c) demolition of any building or structure that is not a heritage building;
- (d) construction, repair and maintenance of roads, railways, pipelines, service mains, sewerage and drainage lines by public and local authorities on any public roadway or on any reserve or easement established for the purpose.

6. Development by a public authority or local government

(1) Any public authority or local government intending to carry out development on land to which this order applies must consult the Commission in writing and supply such information as may be necessary to explain the proposal.

(2) The public authority or local government must not commence the development until the Commission has advised the public authority or local government that the development—

- (a) is in conformity with the proposed regional planning scheme; or
- (b) can be co-ordinated with the proposals to be included in the proposed regional planning scheme.

(3) The Commission may require modification to the development before advising a public authority or local government under subclause (2).

(4) If the Commission and the public authority or local government are not able to reach agreement concerning coordination with the proposals to be included in the proposed regional planning scheme, the Commission may submit the matter to the Minister for determination by the Governor under section 27(2) of the Act.

7. Unauthorised existing developments

- (1) Despite clause 4, the Commission may grant planning approval for development already commenced or carried out.
- (2) Subclause (1) does not affect the operation of—
 - (a) clause 4 in respect of development commenced or carried out before planning approval has been granted ;
 - (b) sections 26, 37J and 37K of the Act in respect of development commenced or carried out before planning approval has been granted.
- (3) Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval for the development, and the continuation of a development unlawfully commenced is taken to be lawful upon the grant of planning approval.

PART 3—APPLICATIONS FOR PLANNING APPROVAL

8. Form of application

An application for planning approval is to be—

- (a) made in the form of Schedule 2 Form 1;
- (b) signed by the owner of the land on which the development is proposed; and
- (c) accompanied by such plans and other information as are required under clause 10.

9. Accompanying material

Unless the Commission waives any particular requirement, every application for planning approval is to be accompanied by—

- (1)
 - (a) a plan or plans to a scale of not less than 1:500 showing—
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site, as appropriate;
 - (ii) the existing and proposed ground levels over the whole of the land that is the subject of the application;
 - (iii) the location, height and type of all existing structures on the land that is the subject of the application, and all existing structures and vegetation proposed to be removed;
 - (iv) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (v) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (vi) the location, number, dimensions and layout of all car-parking spaces intended to be provided;
 - (vii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods and commodities to and from the site and the means of access to and from those areas;
 - (viii) the location, dimensions and design of any open storage or trade display area, and particulars of the manner in which it is proposed to develop those areas; and
 - (ix) the nature and extent of any open space and landscaping proposed for the site;
 - and
 - (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain.
 - (c) written confirmation to demonstrate that the proposal is consistent with the *Ningaloo coast regional strategy* and *Ningaloo coast statement of planning policy 6.3*.
- (2) An applicant is also to provide—
 - (a) any specialist studies that the Commission may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies;
 - (b) any management plans that the Commission may require to support the application; and
 - (c) any other plan or information relating to the proposed development that the Commission may reasonably require.

10. Application procedure

An application for planning approval is to be lodged with the Commission.

11. Advertising of applications

- (1) If the Commission is of the opinion that planning approval should not be granted before notice of the application is given, the Commission may give notice, or require the applicant to give notice, of the application for planning approval in one or more of the following ways—
 - (a) notice of the proposed development served on nearby owners and occupiers who, in the opinion of the Commission, are likely to be affected by the proposed development, stating that submissions may be made to the Commission by a day specified in the notice, being not less than 14 days from the day the notice is served;

- (b) notice of the proposed development published in a newspaper circulating in the state and region stating that submissions may be made to the Commission by a day specified in the notice being not less than 14 days from the day the notice is published;
 - (c) a sign or signs displaying notice of the proposed development erected in a conspicuous position on the land on which development is proposed for a period of not less than 14 days from the day the notice is erected.
- (2) The notice referred to in subclause (1) is to be in the form of Schedule 2 Form 2 with such modifications as are considered appropriate by the Commission.
- (3) Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application during business hours at the offices of the Commission or local government.

12. Determination by Commission

After—

- (a) the expiry of the period referred to in section 24(2) of the *Western Australian Planning Commission Act 1985* within which the local government may make recommendations; and
- (b) the expiry of any period specified for the purposes of clause 11(1)(a), (1)(b) or (1)(c) in respect of the notice of proposed development,

the Commission may determine the application for planning approval.

PART 4—PROCEDURE FOR DEALING WITH APPLICATIONS

13. Consultation with other authorities

The Commission may consult on a proposed development with any public authority it considers appropriate.

14. Matters to be considered by Commission

The Commission in considering an application for planning approval is to have regard to such of the following matters as are in the opinion of the Commission relevant to the development that is the subject of the application—

- (a) the aims and provisions of the proposed region planning scheme and any other town planning schemes in effect within the area to which the order applies;
- (b) the objectives and provisions of *Ningaloo coast statement of planning policy 6.3, Ningaloo coast regional strategy, Planning and environmental guidelines for sustainable tourism on the Ningaloo coast, Coral Bay settlement plan, Ningaloo Marine Park Management Plan and Cape Range National Park Management Plan*;
- (c) the requirements of orderly and proper planning including any new town planning scheme or amendment, for which consent for public submissions to be sought has been granted;
- (d) any statement of planning policy approved under section 5AA of the *Town Planning and Development Act 1928*;
- (e) any environmental protection policy approved under the *Environmental Protection Act 1986*;
- (f) any policy or strategy of the Commission and any policy adopted by the Government of the State;
- (g) any relevant catchment or natural resource management plans approved by the Commission;
- (h) the provisions of any Local planning strategy of the local government in respect of a town planning scheme, as approved by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;
- (i) in the case of land proposed to be reserved under the proposed regional planning scheme, the purpose for which the land is proposed to be reserved;
- (j) the conservation of any place that has been—
 - (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) which is included in a Heritage List or a Heritage Area under a town planning scheme;
- (k) the compatibility of a development with its setting;
- (l) the likely effects of any social impacts on the amenity of the locality;
- (m) the cultural significance of any place or area affected by the development;
- (n) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment, both terrestrial and marine;
- (o) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or other risk;
- (p) the preservation of the amenity of the location;
- (q) the relationship of the proposal to development on adjoining land or on other land in the locality, including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (r) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;

- (s) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
 - (t) whether infrastructure, including potable water supply; power supply; emergency communication services and facilities; effluent, wastewater and putrescible waste treatment and disposal; and stormwater drainage are available and adequate;
 - (u) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
 - (v) whether adequate provision has been made for access by disabled persons;
 - (w) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
 - (x) whether the proposal is likely to cause soil erosion or land degradation;
 - (y) the potential loss of any community service or benefit resulting from the planning approval;
 - (z) any relevant submissions received on the application;
- (za) consultations under clause 13(1); and
- (zb) any other planning consideration the Commission considers relevant.

15. Determination of applications

- (1) In determining an application for planning approval the Commission may—
- (a) grant its approval with or without conditions; or
 - (b) refuse to grant its approval.
- (2) The Commission is to give reasons for imposing conditions under subclause (1)(a) or a refusal to grant its approval under subclause (1)(b).

16. Form and date of determination

- (1) As soon as practicable after determining an application, the Commission is to give notice of the determination to the applicant in the form of Schedule 2 Form 3.
- (2) The date of the determination is the date specified in the notice.

17. Term of planning approval

- (1) If the Commission grants planning approval for the development of land—
- (a) the development approved is to be substantially commenced within 2 years, or such other period as is specified in the approval, after the date of the determination; and
 - (b) the approval lapses if the development has not substantially commenced before the expiration of that period.
- (2) A written request may be made to the Commission for an extension of the term of planning approval at any time prior to the expiry of the approval period under subclause (1).

18. Temporary planning approval

If the Commission grants planning approval, the Commission may impose conditions limiting the period of time for which the approval is given.

19. Scope of planning approval

Planning approval may be granted—

- (a) for the development for which the approval is sought;
- (b) for that development, except for a specified part or aspect of that development; or
- (c) for a specified part or aspect of that development.

20 Approval subject to later approval of details

- (1) Where an application for planning approval is for a development that includes the carrying out of any building or works, the Commission may grant approval subject to matters requiring the subsequent planning approval of the Commission. These matters may include the siting, design and external appearance of the buildings, means of access, landscaping and such other matters as the Commission thinks appropriate.
- (2) In respect of an approval requiring subsequent planning approval, the Commission may require such further details as it thinks appropriate prior to considering the application for subsequent planning approval.
- (3) Where the Commission has granted approval subject to matters requiring the later planning approval of the Commission, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the first approval.

PART 5—ENFORCEMENT AND ADMINISTRATION

21. Compensation

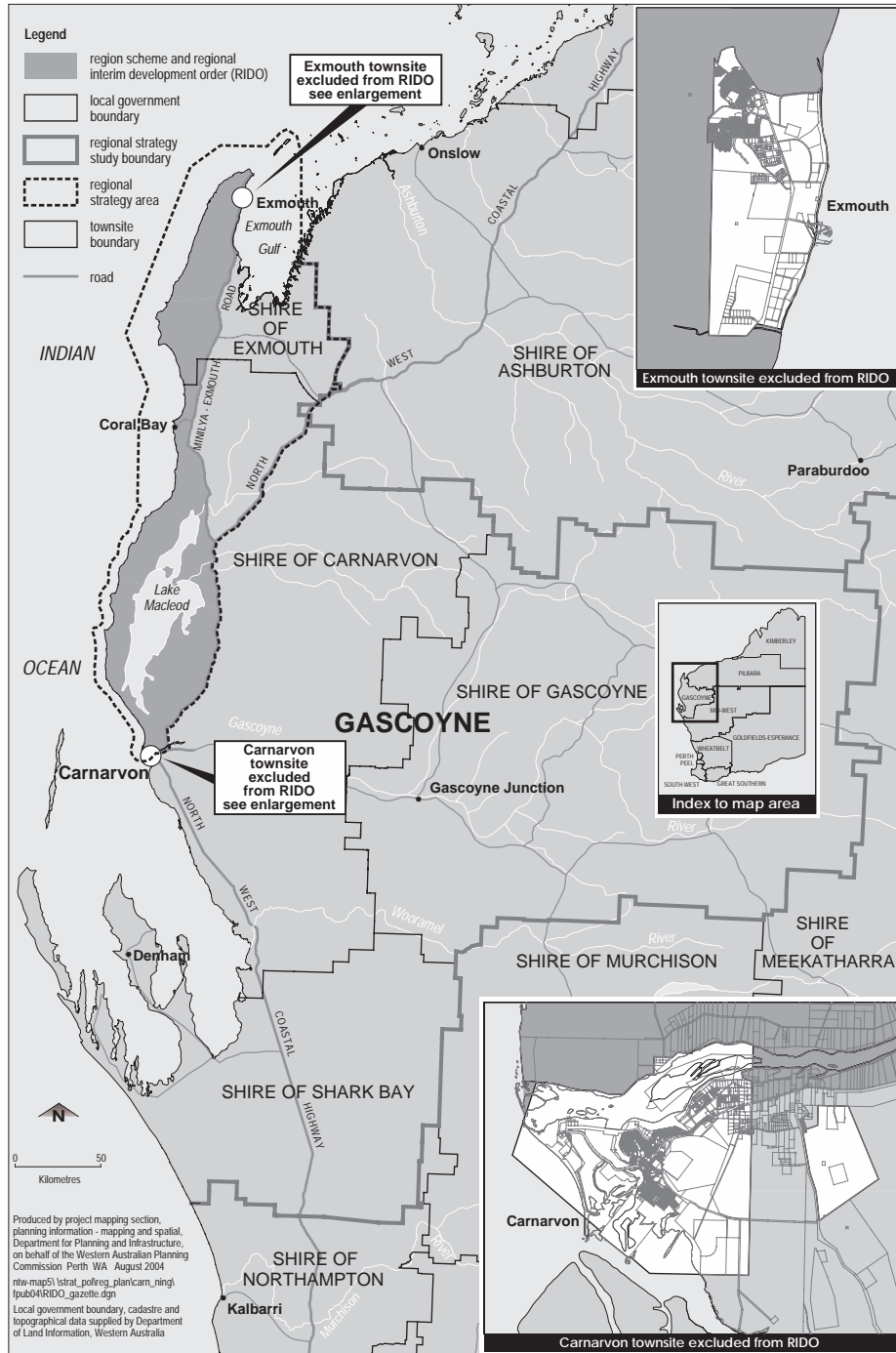
- (1) A claim for compensation for injurious affection may be made under section 29 of the Act.
- (2) A claim for compensation is to be in the form of Schedule 2 Form 4.

SCHEDULE 1—PLAN OF REGIONAL INTERIM DEVELOPMENT ORDER AREA

[cl. 2]

Schedule 1 - Plan of regional interim development order area

[cl. 2]



Plan A - Ningaloo coast regional interim development order area

SCHEDULE 2:FORMS

Form 1

Form of Application for Planning Approval

[cl. 8]

Ningaloo coast regional interim development order 2004

Owner details		
Name:		
Address:		
		Postcode:
Phone: (home):		
(work):	Fax:	
(mobile):	E-mail:	
Contact person:		
Signature:		Date:
Signature:		Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>		
Applicant details		
Name:		
Address:		
		Postcode:
Phone: (home):		
(work):	Fax:	
(mobile):	E-mail:	
Contact person for correspondence:		
Signature:		Date:
Property details		
Lot No.:	House/Street No.:	Location No.:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:		Suburb:
Nearest street intersection:		
Existing building/land use:		
Description of proposed development and/or use:		
Nature of any existing buildings and/or use:		
Approximate cost of proposed development:		
Estimated time of completion:		
OFFICE USE ONLY		
Acceptance Officer's initials:		Date received:
Local government reference No.:		
Commission reference No.:		

Form 2

Notice of Public Advertisement of Planning Proposal

[cl. 11]

Ningaloo coast regional interim development order 2004

Western Australian Planning Commission

The Commission has received an application to use and/or develop land for the following purpose and public comments are invited.		
Lot No.:	Street:	Suburb:
Proposal:		
Details of the proposal are available for inspection at the Commission's office. Comments on the proposal may be submitted to the Commission in writing on or before the day of		
Signed:		
Dated:		
for and on behalf of the Western Australian Planning Commission		

Form 3

Notice of Determination of Application for Planning Approval

[cl. 16]

Ningaloo coast regional interim development order 2004

Western Australian Planning Commission

Location:	
Lot No.:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development:	
The application for planning approval is:	
<input type="checkbox"/>	granted subject to the following conditions:
<input type="checkbox"/>	refused for the following reason(s):
Condition(s)/reason(s) for refusal:	
Note 1	If the development that is the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
Note 2	Where an approval has so lapsed, no development shall be carried out without the further approval of the Commission having first been sought and obtained.
Note 3	If an applicant is aggrieved by this determination there is a right of appeal under section 25 of the Act. An appeal must be lodged within 60 days after the refusal is communicated or permission is granted.
Signed:	
Dated:	
for and on behalf of the Western Australian Planning Commission	

Form 4

Claim for Compensation for Injurious Affection

[cl. 21]

Ningaloo coast regional interim development order 2004

To the Western Australian Planning Commission:

Owner details*	
Name:	
Address:	
	Postcode:
Phone (home):	
(work):	Fax:
(mobile):	E-mail:

[*The details are to be those of the owner of the land at the date of the application for approval to carry out development.]

Contact person:		
Signature:	Date:	
Signature:	Date:	
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>		
Details of property in respect of which claim for compensation for injurious affection is made		
Lot No.:	House/Street No.:	Location No.:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:		Suburb:
Nearest street intersection:		
Existing building/land use:		
Description of proposed development and/or use:		
Nature of any existing buildings and/or use:		
State reasons for the claim that the property has been injuriously affected		

State amount of compensation claimed
The amount of compensation claimed is:
which is made up as follows:

\$



2 0 0 4 0 0 1 4 3 6 6