



Western Australia

Metropolitan Region Scheme (Appeals) Regulations 1964

Compare between:

[14 Nov 1983, 01-a0-02] and [18 Apr 2003, 01-b0-05]

METROPOLITAN REGION TOWN PLANNING SCHEME ACT 1959

**Metropolitan Region Scheme (Appeals)
Regulations 1964**

1. Citation

These regulations may be cited as the *Metropolitan Region Scheme (Appeals) Regulations 1964*.

2. Interpretation

In these regulations unless the contrary intention appears —

“**appeal**” means an appeal under —

- (a) subsection (4) of section 33A of the Act;
- (b) subsection (3) of section 43 of the Act; and
- (c) clause 35 of the Metropolitan Region Scheme;

“**Minister**” means the Minister of the Crown to whom the administration of the Act is for the time being committed by the Governor, and includes any Minister of the Crown for the time being discharging the duties of the office of the Minister;

“**Secretary**” means the Secretary of The Metropolitan Region Planning Authority;

“**the Act**” means the *Metropolitan Region Town Planning Scheme Act 1959*¹; and

expressions used in these regulations have, unless the contrary intention appears, the same respective meanings as they have in the Act.

[Regulation 2 amended by Gazette 8 July 1983 p.2495.]

3. Notice of appeal

- (1) Every appeal shall be instituted by notice in writing in the form of Form 1 in the Schedule to these regulations.
- (2) Every notice of appeal shall set out —
 - (a) the substance of the decision, determination or matter appealed from;
 - (b) the date of such decision, determination or matter;
 - (c) particulars of any land or building affected;
 - (d) full particulars, in the form of a written submission, of the grounds upon which the appeal is made.

[Regulation 3 inserted by Gazette 8 July 1983 p.2496.]

3A. Lodgement of notice of appeal

- (1) A notice of appeal shall be lodged with the Minister —
 - (a) in the case of an appeal under subsection (4) of section 33A of the Act, within 60 days after the date the amendment appealed against had the force of law pursuant to section 33A (3) of the Act;
 - (b) in the case of an appeal under subsection (3) of section 43 of the Act, within the time specified in the notice to which the appeal relates; and
 - (c) in the case of an appeal under clause 35 of the Metropolitan Region Scheme, within 60 days of the date of the decision in respect of which the appeal is made.
- (2) A copy of the notice of appeal shall be given as soon as practicable after it is so lodged, where the appeal is pursuant to —
 - (a) subsection (4) of section 33A of the Act, to the Authority;
 - (b) subsection (3) of section 43 of the Act, to the Authority or to the relevant local authority, as the case requires; or

(c) clause 35 of the Metropolitan Region Scheme, to the Authority.

- (3) The Authority or the local authority upon whom a copy of the notice of appeal is served pursuant to subregulation (2) of these regulations shall lodge with the Minister within the time limited by him, a written response to the grounds of appeal set forth in the notice of appeal and shall, as soon as practicable after it is so lodged, serve a copy of that response on the appellant.

[Regulation 3A inserted by Gazette 8 July 1983 p.2496.]

~~4.~~ *Repealed by Gazette 8 July 1983 p.2496.]*

5. Manner of determining appeals

- (1) The Minister shall consider the matter or matters referred to in the notice of appeal and the response and may either determine the appeal based upon the written submissions of the appellant and the respondent or hear the parties in person.

[Regulation 5 inserted by Gazette 8 July 1983 p.2496.]

6. Minister to fix hearing

If the appellant is to be heard in person, the Minister shall fix a time and place for the hearing of the appeal and cause not less than fourteen days' notice thereof to be given to the appellant and to the Authority or the relevant local authority, as the case requires.

[Regulation 6 amended by Gazette 8 July 1983 p.2496.]

7. Proceedure at hearing

In the hearing and determination of any appeal under these regulations the Minister shall act without regard to technicalities or legal forms and shall not be bound by rules of evidence but may inform his mind on any matter in such a way as he regards just but at the hearing of an appeal at which the appellant is to

be heard in person the appellant and the Authority or local authority may be represented by counsel, or agent.

[Regulation 7 amended by Gazette 8 July 1983 p.2496.]

8. 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 justices in the course of exercising summary jurisdiction.

[Regulation 8 amended by Gazette 8 July 1983 p.2496.]

9. 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.

[Regulation 9 inserted by Gazette 8 July 1983 p.2496.]

Schedule

Reg. 3

Form 1

Western Australia
Metropolitan Region Town Planning Scheme Act 1959

NOTICE OF APPEAL

To the Hon. Minister:

I the undersigned, hereby appeal —

- * (1) under section 33A of the Act against the amendment to the Metropolitan Region Scheme published in the *Government Gazette* on the day of 19 , and in the on the day of 19 ;
- (2) under section 43 of the Act against a direction that I (state direction appealed against) contained in a notice dated the day of 19 served on me;
- (3) under clause 35 of the Metropolitan Region Scheme against the decision of the Authority not to transfer the land described below from the urban deferred zone to the urban zone, dated the day of 19 ,

so far as it affects the following land: —

Lot No. Street Plan No.
Location No. Certificate of Title Vol. Fol.

Situated in the City/Town/Shire of

The nature of my interest being

Grounds of appeal:

(Annex further sheets if necessary)

Name

Signature

(Signed by the Owner of the Land)

Date

Note — This form to be lodged at the office of the Metropolitan Region Planning Authority, 22 St George's Terrace, Perth.

* Delete whichever is not applicable.

Notes

- ¹ This is a compilation of the *Metropolitan Region Scheme (Appeals) Regulations 1964* and includes the amendments referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Metropolitan Region Scheme (Appeals) Regulations 1964</i>	8 Jul 1964 pp.2655-6	
Reprinted as at 14 November 1983		
<u>These regulations were repealed by the Western Australia Planning Commission (Regional Planning Schemes) Repeal Regulations 2003 r. 3 as at 18 Apr 2003 (see s. 2 and Gazette 17 Apr 2003 p. 1243)</u>		

- ² Now *Metropolitan Region Town Planning Scheme Act 1959*.