



Western Australia

Swan Valley Planning Act 2020

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Contents

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Terms used	3
4.	Swan Valley	5
5.	Objects of Act	5
6.	Act binds Crown	7

Notes

	Compilation table	8
	Uncommenced provisions table	8

Defined terms



Western Australia

Swan Valley Planning Act 2020

An Act to —

- **provide for a Swan Valley Planning Scheme that will apply to the Swan Valley for the purposes of the *Planning and Development Act 2005*; and**
 - **provide for the establishment and functions of a Swan Valley Strategic Leadership Group and a Swan Valley Statutory Planning Committee; and**
 - **amend the *Planning and Development Act 2005* in relation to its application in the Swan Valley; and**
 - **repeal the *Swan Valley Planning Act 1995*; and**
 - **make consequential amendments to other Acts,**
- and for related purposes.**

Part 1 — Preliminary

1. Short title

This is the *Swan Valley Planning Act 2020*.

2. Commencement

(1) This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) sections 53, 54 and 62 —
 - (i) if the *Planning and Development Amendment Act 2020* section 65 comes into operation on or before the day fixed under paragraph (e) — on the day fixed under paragraph (e); or
 - (ii) otherwise — immediately after the day on which the *Planning and Development Amendment Act 2020* section 65 comes into operation;
- (c) sections 55 and 103 —
 - (i) if the *Planning and Development Amendment Act 2020* section 56 comes into operation on or before the day fixed under paragraph (e) — on the day fixed under paragraph (e); or
 - (ii) otherwise — immediately after the *Planning and Development Amendment Act 2020* section 56 comes into operation;
- (d) section 84(2) —
 - (i) if the *Planning and Development Amendment Act 2020* section 18 comes into operation on or before the day fixed under paragraph (e) — on the day fixed under paragraph (e); or
 - (ii) otherwise — immediately after the *Planning and Development Amendment Act 2020* section 18 comes into operation;

- (e) the rest of the Act — on a day fixed by proclamation.
- (2) Despite subsection (1), if the *Planning and Development Amendment Act 2020* Part 6 Division 1 comes into operation before the day fixed under subsection (1)(e), sections 66 and 67 and Part 10 Division 10 of this Act —
 - (a) do not come into operation; and
 - (b) are deleted on the day fixed under subsection (1)(e).
- (3) However, if no day is fixed under subsection (1)(e) before the end of the period of 10 years beginning on assent day, this Act is repealed on the day after that period ends.

3. Terms used

In this Act —

applicable regulations means —

- (a) if there are relevant local planning scheme regulations, as defined in section 40(1), that deal with a matter in relation to local planning schemes that is substantially similar to the matter referred to in the provision in which the term is used — those relevant local planning scheme regulations as they apply for the purposes of this Act under section 40; or
- (b) if there are no relevant local planning scheme regulations of the kind referred to in paragraph (a) — regulations made under section 41 for the purposes of the provision in which the term is used;

chairperson has the meaning given in the *Planning and Development Act 2005* section 4(1);

Commission means the Western Australian Planning Commission established by the *Planning and Development Act 2005* section 7(1);

Department means the department of the Public Service principally assisting in the administration of this Act;

development has the meaning given in the *Planning and Development Act 2005* section 4(1);

EPA means the Environmental Protection Authority continued in existence under the *Environmental Protection Act 1986* section 7(1);

Heritage Council means the Heritage Council of Western Australia established by the *Heritage Act 2018* section 11(1);

Herne Hill townsite means the area in the Swan Valley bounded by the Great Northern Highway to the west, McDonald Street to the north, Railway Crescent to the east and Argyle Street to the south;

improvement scheme has the meaning given in the *Planning and Development Act 2005* section 4(1);

land has the meaning given in the *Planning and Development Act 2005* section 4(1);

local planning scheme has the meaning given in the *Planning and Development Act 2005* section 4(1);

Metropolitan Region Scheme has the meaning given in the *Planning and Development Act 2005* section 4(1);

Minister for Heritage means the Minister who administers the *Heritage Act 2018*;

Minister for the Environment means the Minister who administers the *Environmental Protection Act 1986*;

officer of the Commission has the meaning given in the *Planning and Development Act 2005* section 4(1);

public authority has the meaning given in the *Planning and Development Act 2005* section 4(1);

State planning policy has the meaning given in the *Planning and Development Act 2005* section 4(1);

State Register of Heritage Places means the register established and maintained under the *Heritage Act 2018* section 35(1);

Swan Valley has the meaning given in section 4(1);

Swan Valley local government means the local government for the local government district that includes the Swan Valley;

Swan Valley Planning Scheme means the Swan Valley Planning Scheme in force under Part 2;

Swan Valley rural land means land in the Swan Valley that is used, or is suitable to be used, for horticulture or viticulture;

Swan Valley Statutory Planning Committee means the committee established under section 33(1);

Swan Valley Strategic Leadership Group means the committee established by section 28(1).

4. Swan Valley

- (1) For the purposes of this Act, the **Swan Valley** is the area delineated in black on the plan number 0.0731 entitled “Area of the Swan Valley” held at the office of the Commission and certified by the Minister as the plan prepared for the purposes of this section.
- (2) The area delineated in black on the map in Schedule 1 is indicative of the area of the Swan Valley.
- (3) In any proceedings, a plan purporting to be a copy of the plan referred to in subsection (1) showing the boundaries of the Swan Valley is evidence of those boundaries.

5. Objects of Act

- (1) The objects of this Act are —
 - (a) to protect the Swan Valley as a productive agricultural area within the Perth metropolitan region; and
 - (b) to maintain the rural character and conserve the heritage of the Swan Valley; and
 - (c) to ensure that horticulture, viticulture, hobby farming and equestrian activities remain the principal land uses in the Swan Valley; and

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- (d) to discourage land uses in the Swan Valley that are incompatible with its rural character and the principal land uses referred to in paragraph (c); and
 - (e) to ensure that tourism and hospitality in the Swan Valley are consistent with the objects in paragraphs (a) to (d); and
 - (f) other than in the Herne Hill townsite, to prevent new residential development in the Swan Valley except for single houses on single lots in keeping with the rural character of the Swan Valley; and
 - (g) to avoid overstocking, clearing of natural vegetation, activities causing pollution or degradation of the environment, or any other land management practices detrimental to the Swan Valley; and
 - (h) to protect the natural environment of the Swan Valley, including by reducing nutrient levels in the Swan River; and
 - (i) to ensure that, for all development in the Swan Valley, appropriate consideration is given to building setbacks, retention of vegetation, suitable building materials and boundary fencing; and
 - (j) to ensure that new non-rural development of Swan Valley rural land is designed and located so as to reduce any nuisance or other detrimental impacts that could arise from existing or future uses of other Swan Valley rural land for horticulture or viticulture; and
 - (k) to ensure that development and subdivision in the Swan Valley are only permitted if this does not prevent the objects in paragraphs (a) to (j) from being satisfied.
- (2) A person exercising a power or performing a function under this Act, or under the *Planning and Development Act 2005* in relation to the Swan Valley Planning Scheme, must have regard to the objects of this Act.

6. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

[Parts 2-10 have not come into operation.]

[Schedule 1 has not come into operation.]

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Notes

This is a compilation of the *Swan Valley Planning Act 2020*. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Swan Valley Planning Act 2020 Pt. 1</i>	45 of 2020	9 Dec 2020	9 Dec 2020 (see s. 2(1)(a))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
<i>Swan Valley Planning Act 2020</i> (other than Pt. 1 and s. 53-55, 62 and 103)	45 of 2020	9 Dec 2020	Act other than Pt. 1 and s. 53-55, 62 and 103: 1 Aug 2021 (see s. 2(1)(d)(i) and (e) and SL 2021/124 cl. 2); s. 53, 54 and 62: immediately after the <i>Planning and Development Amendment Act 2020</i> s. 65 comes into operation (see s. 2(1)(b)(ii)); s. 55 and 103: immediately after the <i>Planning and Development Amendment Act 2020</i> s. 56 comes into operation (see s. 2(1)(c)(ii))

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
applicable regulations	3
assent day	2(1)
chairperson	3
Commission	3
Department	3
development	3
EPA	3
Heritage Council	3
Herne Hill townsite	3
improvement scheme	3
land	3
local planning scheme	3
Metropolitan Region Scheme	3
Minister for Heritage	3
Minister for the Environment	3
officer of the Commission	3
public authority	3
State planning policy	3
State Register of Heritage Places	3
Swan Valley	3, 4(1)
Swan Valley local government	3
Swan Valley Planning Scheme	3
Swan Valley rural land	3
Swan Valley Statutory Planning Committee	3
Swan Valley Strategic Leadership Group	3