



Western Australia

Planning and Development Act 2005

## **Planning and Development (State Planning Policies) Regulations 2024**



# Planning and Development (State Planning Policies) Regulations 2024

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# Planning and Development (State Planning Policies) Regulations 2024

## Part 1 — Preliminary

### 1. Citation

These regulations are the *Planning and Development (State Planning Policies) Regulations 2024*.

### 2. Commencement

These regulations come into operation on 1 March 2024.

### 3. Overview

- (1) These regulations provide for matters relating to the preparation, advertising, approval, amendment and repeal of a State planning policy.
- (2) If the Commission prepares a proposed State planning policy under section 26 of the Act, in order to be effective, the proposed policy must —
  - (a) be advertised, for public inspection and public submissions, in accordance with Part 2 Division 2; and
  - (b) be approved by the Governor, and come into operation, in accordance with Part 2 Division 3.
- (3) The Commission may prepare a proposed amendment to a State planning policy under Part 2 Division 1.

- (4) If the Commission prepares a proposed amendment, in order to be effective, the amendment must —
- (a) if required — be advertised, for public inspection and public submissions, in accordance with Part 2 Division 2; and
  - (b) be approved by the Governor or the Minister, as the case requires, and come into operation, in accordance with Part 2 Division 3.
- (5) A State planning policy may be repealed in accordance with Part 3.

#### **4. Terms used**

In these regulations —

***administrative amendment*** means a standard amendment to a State planning policy that is any of the following —

- (a) an amendment to correct an administrative or minor error;
- (b) an amendment to correct an error that is in, or that otherwise relates to, a map, plan or diagram included in the State planning policy;
- (c) an amendment to address an inconsistency between the State planning policy and any of the following —
  - (i) a public planning document;
  - (ii) subsidiary legislation;
  - (iii) a policy document of a government agency;

***advertising period*** —

- (a) for a proposed policy or proposed amendment that is required to be advertised under regulation 6 — means the advertising period that applies under regulation 7; or
- (b) for an instrument of repeal — means the advertising period that applies under regulation 22;



***approved amendment*** means an amendment to a State planning policy approved by —

- (a) the Governor under regulation 14(6); or
- (b) the Minister under regulation 15(1)(a);

***approved policy*** means a State planning policy approved by the Governor under regulation 14(6);

***Commission's website*** means a website maintained by, or on behalf of, the Commission;

***government agency*** means —

- (a) a department of the Public Service; or
- (b) a body, whether incorporated or not, or the holder of an office, post or position, being a body, office, post or position established or continued under a written law for a public purpose;

***instrument of repeal*** has the meaning given in regulation 20(1)(b);

***proposed administrative amendment*** means a proposed amendment that is an administrative amendment;

***proposed amendment*** means a proposed amendment to a State planning policy prepared by the Commission under Part 2 Division 1;

***proposed policy*** means a proposed State planning policy prepared by the Commission under section 26 of the Act;

***proposed standard amendment*** means a proposed amendment that is a standard amendment;

***proposed substantial amendment*** means a proposed amendment that is a substantial amendment;

***public planning document*** means —

- (a) a State planning policy; or
- (b) a planning code; or

- (c) a document (however named or described) prepared by the Commission under section 14(b) or (c) of the Act —
  - (i) that is available to the public; and
  - (ii) the preparation of which involved a public consultation;

***standard amendment*** means an amendment to a State planning policy that the Commission considers does not constitute a substantial alteration to the policy;

***submission period*** —

- (a) for a proposed policy or proposed amendment — has the meaning given in regulation 10(c); or
- (b) for an instrument of repeal — has the meaning given in regulation 24(c);

***substantial amendment*** means an amendment to a State planning policy that is not a standard amendment.

## **Part 2 — State planning policies and amendments to State planning policies**

### **Division 1 — Preparation of amendments to State planning policies**

#### **5. Preparation of amendment to State planning policy**

- (1) The Commission may, with the agreement or on the direction of the Minister, prepare a proposed amendment to a State planning policy.
- (2) Despite subregulation (1), the agreement or direction of the Minister is not required if the proposed amendment is a standard amendment.

### **Division 2 — Advertising State planning policies and amendments that are not administrative amendments**

#### **6. Requirement to advertise**

- (1) The Commission must advertise the following, for public inspection and public submissions —
  - (a) a proposed policy;
  - (b) a proposed substantial amendment;
  - (c) a proposed standard amendment (other than a proposed administrative amendment).
- (2) For the purposes of subregulation (1), the proposed policy or proposed amendment must be advertised by publishing the following on the Commission's website for the whole of the advertising period —
  - (a) the advertisement prepared under regulation 9;
  - (b) a copy of the proposed policy or proposed amendment;
  - (c) any other document that the Commission considers it is appropriate to publish.

**7. Advertising period**

- (1) The advertising period for a proposed policy or proposed amendment required to be advertised under regulation 6 is —
  - (a) for a proposed policy or proposed substantial amendment —
    - (i) 90 days; or
    - (ii) a longer period that the Commission considers appropriate;
  - or
  - (b) for a proposed standard amendment (other than a proposed administrative amendment) — 60 days.
- (2) Despite subregulation (1)(b), the Commission may decide on a longer advertising period for a proposed standard amendment (other than a proposed administrative amendment) if the Commission considers that it is appropriate to do so in order to enable the proposed amendment to be advertised concurrently with any other document that is required to be advertised under the Act.

**8. Ministerial approval to advertise**

- (1) The Commission must, before advertising a proposed policy or proposed substantial amendment under regulation 6 —
  - (a) submit the proposed policy or proposed amendment to the Minister; and
  - (b) obtain the Minister's approval to advertise the proposed policy or proposed amendment.
- (2) If a proposed policy or proposed substantial amendment is submitted under subregulation (1)(a) or (5) the Minister may —
  - (a) approve the proposed policy or proposed amendment for advertising; or
  - (b) require the Commission to modify the proposed policy or proposed amendment; or

- (c) refuse approval for the proposed policy or proposed amendment to be advertised under regulation 6.
- (3) The Minister must give the Commission written notice of a decision under subregulation (2).
- (4) If the Minister requires the proposed policy or proposed substantial amendment to be modified under subregulation (2)(b), the notice must describe the modification required.
- (5) If given a notice referred to in subregulation (4), the Commission must modify the proposed policy or proposed substantial amendment as required and submit the modified proposed policy or proposed amendment to the Minister.

**9. Information to be advertised**

For the purposes of regulation 6, the Commission must prepare an advertisement, which must —

- (a) contain a statement of the purpose of the proposed policy or proposed amendment; and
  - (b) if the advertisement relates to —
    - (i) a proposed policy — specify if the proposed policy repeals another State planning policy; or
    - (ii) a proposed standard amendment (other than a proposed administrative amendment) — contain a statement explaining why the Commission considers that the amendment is a standard amendment;
- and
- (c) list the documents related to the proposed policy or proposed amendment published on the Commission's website under regulation 6(2)(b) and (c); and

- (d) invite public submissions on the proposed policy or proposed amendment in accordance with regulation 10; and
- (e) contain any other information that the Commission considers appropriate.

**10. Public submissions**

For the purposes of regulation 9(d), the invitation must —

- (a) provide that a submission may be made either electronically or in hard copy form; and
- (b) set out the way in which an electronic submission must be made and the way in which a hard copy submission must be made; and
- (c) set out the period (the *submission period*) during which a submission must be made, which must be the same period as the advertising period; and
- (d) set out any other requirements that the Commission considers appropriate and with which a submission must comply.

**11. Notice of proposal**

The Commission must, as early as practicable during the advertising period for a proposed policy or proposed amendment advertised under regulation 6, give written notice of the advertisement prepared under regulation 9 to the following —

- (a) any local government the district of which the Commission considers is likely to be affected by the proposed policy or proposed amendment;
- (b) any government agency, representative group or person that the Commission considers has an interest in the proposed policy or proposed amendment.

**12. Consideration of submissions**

The Commission, in relation to a proposed policy or proposed amendment that has been advertised under regulation 6 —

- (a) must consider all submissions that are made in response to the invitation under regulation 9(d) —
  - (i) during the submission period; and
  - (ii) in accordance with the requirements referred to in regulation 10(b) and (d); and
  - (iii) if the submissions relate to a proposed standard amendment — that are directed to the proposed amendment;

and

- (b) may, if the Commission considers it appropriate to do so, consider a submission —
  - (i) that is made in response to the invitation under regulation 9(d); but
  - (ii) that the Commission is not required to consider under paragraph (a).

**Division 3 — Approval and publication of State planning policy or amendment**

**13. Submission of proposed policy or proposed amendment to Minister**

- (1) After the Commission has completed its consideration of submissions under regulation 12 in relation to a proposed policy, a proposed substantial amendment or a proposed standard amendment (other than a proposed administrative amendment), the Commission must —
  - (a) make the modifications, if any, it considers appropriate to make to the proposed policy or proposed amendment, including as a result of those submissions; and

(b) submit the proposed policy or proposed amendment to the Minister.

(2) After preparing a proposed administrative amendment, the Commission must submit the proposed amendment to the Minister.

**14. Governor’s approval of State planning policy or substantial amendment to State planning policy**

(1) If a proposed policy or proposed substantial amendment is submitted to the Minister under regulation 13(1)(b), or subregulation (4)(b)(iii) or (5)(c) of this regulation, the Minister may —

(a) submit the proposed policy or proposed amendment to the Governor and recommend its approval; or

(b) require the Commission to modify the proposed policy or proposed amendment; or

(c) decide not to recommend the approval of the proposed policy or proposed amendment to the Governor.

(2) The Minister must give the Commission written notice of a decision under subregulation (1).

(3) If the Minister requires a proposed policy or proposed substantial amendment to be modified under subregulation (1)(b), the notice —

(a) must describe the modification required; and

(b) may include a requirement that the Commission advertise the modified proposed policy or proposed amendment in the manner specified in the notice.

(4) If given a notice referred to in subregulation (3), the Commission must —

(a) modify the proposed policy or proposed substantial amendment as required; and



- (b) do whichever of the following is applicable —
  - (i) if required to do so under the notice — advertise the modified proposed policy or proposed substantial amendment in the manner required;
  - (ii) if subparagraph (i) does not apply but the Commission considers that the modified proposed policy or proposed substantial amendment should be advertised — advertise the modified proposed policy or proposed amendment in a manner that the Commission considers appropriate;
  - (iii) if subparagraphs (i) and (ii) do not apply — submit the modified proposed policy or proposed substantial amendment to the Minister.
- (5) If the modified proposed policy or proposed substantial amendment is advertised by the Commission under subregulation (4)(b)(i) or (ii), the Commission must —
  - (a) consider any public submissions made on the modified proposed policy or proposed amendment; and
  - (b) make the further modifications, if any, it considers appropriate to make to the modified proposed policy or proposed amendment, including as a result of those submissions; and
  - (c) submit the modified proposed policy or proposed amendment to the Minister.
- (6) The Governor may approve a proposed policy or proposed substantial amendment submitted and recommended by the Minister under subregulation (1)(a).

**15. Minister's approval of standard amendment**

- (1) If a proposed standard amendment is submitted to the Minister under regulation 13(1)(b) or (2), or subregulation (4)(b)(iii) or (5)(c) of this regulation, the Minister may —
  - (a) approve the proposed amendment; or
  - (b) require the Commission to modify the proposed amendment; or
  - (c) decide not to approve the proposed amendment.
- (2) The Minister must give the Commission written notice of a decision under subregulation (1).
- (3) If the Minister requires a proposed standard amendment to be modified under subregulation (1)(b), the notice —
  - (a) must describe the modification required; and
  - (b) in the case of a proposed standard amendment that is not an administrative amendment — may include a requirement that the Commission advertise the modified proposed amendment in the manner specified in the notice.
- (4) If given a notice referred to in subregulation (3), the Commission must —
  - (a) modify the proposed standard amendment as required; and
  - (b) do whichever of the following is applicable —
    - (i) if required to do so under the notice — advertise the modified proposed standard amendment in the manner required;
    - (ii) in the case of a proposed standard amendment that is not an administrative amendment, if subparagraph (i) does not apply but the Commission considers that the modified proposed amendment should be advertised — advertise the modified proposed amendment in a

manner that the Commission considers appropriate;

- (iii) if subparagraphs (i) and (ii) do not apply — submit the modified proposed standard amendment to the Minister.

- (5) If the modified proposed standard amendment is advertised by the Commission under subregulation (4)(b)(i) or (ii), the Commission must —
  - (a) consider any public submissions made on the modified proposed amendment; and
  - (b) make the further modifications, if any, it considers appropriate to make to the modified proposed amendment, including as a result of those submissions; and
  - (c) submit the modified proposed amendment to the Minister.

**16. Commencement of approved policy or amendment**

An approved policy or approved amendment comes into operation on a day specified in the instrument of approval, and different days may be specified for different provisions.

**17. Documents to be published on Commission’s website following approval of policy or amendment**

As soon as practicable after a proposed policy or proposed amendment is approved under regulation 14(6) or 15(1)(a), but before any provision of the approved policy or approved amendment comes into operation, the Commission must publish the following on the Commission’s website —

- (a) a notice that states when the approved policy or approved amendment comes into operation;
- (b) as the case requires —
  - (i) a copy of the approved policy; or

- (ii) a copy of the State planning policy that is the subject of the approved amendment, updated to take account of the approved amendment;
- (c) any other information that the Commission considers appropriate.

**18. Notice of approval**

- (1) As soon as practicable after a proposed policy or proposed amendment is approved under regulation 14(6) or 15(1)(a), but before any provision of the approved policy or approved amendment comes into operation, the Commission must cause notice of the approval —
  - (a) to be published in the *Gazette*; and
  - (b) if relevant, to be provided to the following —
    - (i) any body or person who was notified under regulation 11;
    - (ii) any body or person who made a submission that was considered by the Commission under regulation 12.
- (2) A notice under subregulation (1) must state the following —
  - (a) when the approved policy or approved amendment comes into operation;
  - (b) that the following is published on the Commission’s website, as the case requires —
    - (i) a copy of the approved policy;
    - (ii) a copy of the State planning policy that is the subject of the approved amendment, updated to take account of the approved amendment;
  - (c) in the case of an approved standard amendment that is an administrative amendment — the reason why the Commission considers that the amendment is an administrative amendment.

**19. Publication of State planning policies**

The Commission must ensure that a consolidated copy of each State planning policy that is in operation is published on the Commission's website.

## **Part 3 — Repeal of State planning policies**

### **Division 1 — Preliminary**

#### **20. Repeal of State planning policy**

- (1) A State planning policy may be repealed by —
  - (a) a new State planning policy that —
    - (i) comes into operation in accordance with regulation 16; and
    - (ii) expressly repeals the State planning policy;or
  - (b) an instrument (*instrument of repeal*) that —
    - (i) is prepared by the Commission with the agreement or on the direction of the Minister; and
    - (ii) is advertised in accordance with regulation 21; and
    - (iii) is approved by the Governor under regulation 27(4); and
    - (iv) comes into operation in accordance with regulation 28.
- (2) The repeal of a State planning policy takes effect —
  - (a) if the policy is being repealed by a new State planning policy — on the day on which the provision of the new State planning policy that repeals the State planning policy comes into operation under regulation 16; or
  - (b) if the policy is being repealed by an instrument of repeal — on the day on which the instrument of repeal comes into operation under regulation 28.

## **Division 2 — Advertising instrument of repeal**

### **21. Requirement to advertise instrument of repeal**

- (1) The Commission must advertise, for public inspection and public submissions, an instrument of repeal prepared under regulation 20(1)(b)(i).
- (2) For the purposes of subregulation (1), the instrument of repeal must be advertised by publishing the following on the Commission's website for the whole of the advertising period —
  - (a) the advertisement prepared under regulation 23;
  - (b) a copy of the instrument of repeal;
  - (c) a copy of the State planning policy proposed to be repealed;
  - (d) any other document that the Commission considers it is appropriate to publish.

### **22. Advertising period**

- (1) The advertising period for an instrument of repeal is 30 days.
- (2) Despite subregulation (1), the Commission may decide on a longer advertising period for an instrument of repeal if —
  - (a) the instrument of repeal is consequential on or connected with a proposed amendment; and
  - (b) the advertising period that applies to the proposed amendment is longer than 30 days; and
  - (c) the Commission considers that it is appropriate for the instrument of repeal and the proposed amendment to be advertised concurrently.

**23. Information to be advertised**

For the purposes of regulation 21, the Commission must prepare an advertisement, which must —

- (a) contain a statement as to why it is proposed to repeal the State planning policy to which the instrument of repeal relates; and
- (b) list the documents related to the proposal to repeal the State planning policy published on the Commission's website under regulation 21(2)(b) to (d); and
- (c) invite public submissions on the proposal to repeal the State planning policy in accordance with regulation 24; and
- (d) contain any other information that the Commission considers appropriate.

**24. Public submissions**

For the purposes of regulation 23(c), the invitation must —

- (a) provide that a submission may be made either electronically or in hard copy form; and
- (b) set out the way in which an electronic submission must be made and the way in which a hard copy submission must be made; and
- (c) set out the period (the *submission period*) during which a submission must be made, which must be the same period as the advertising period; and
- (d) set out any other requirements that the Commission considers appropriate and with which a submission must comply.

**25. Notice of proposed repeal of State planning policy**

The Commission must, as early as practicable during the advertising period for an instrument of repeal, give written



notice of the advertisement prepared under regulation 23 to the following —

- (a) any local government the district of which the Commission considers is likely to be affected by the repeal of the State planning policy;
- (b) any government agency, representative group or person that the Commission considers has an interest in the repeal of the State planning policy.

**26. Consideration of submissions**

The Commission, in relation to an instrument of repeal —

- (a) must consider all submissions that are made in response to the invitation under regulation 23(c) —
  - (i) during the submission period; and
  - (ii) in accordance with the requirements referred to in regulation 24(b) and (d);and
- (b) may, if the Commission considers it appropriate to do so, consider a submission —
  - (i) that is made in response to the invitation under regulation 23(c); but
  - (ii) that the Commission is not required to consider under paragraph (a).

**Division 3 — Approval and publication of instrument of repeal**

**27. Governor's approval of instrument of repeal**

- (1) After the Commission has completed its consideration of submissions under regulation 26, the Commission must —
  - (a) submit the instrument of repeal to the Minister; and
  - (b) make a recommendation to the Minister as to whether or not the Minister should recommend the approval of the instrument of repeal to the Governor.

- (2) After receiving the Commission's recommendation under subregulation (1)(b), the Minister must —
  - (a) submit the instrument of repeal to the Governor and recommend its approval; or
  - (b) decide not to recommend the approval of the instrument of repeal to the Governor.
- (3) The Minister must give the Commission written notice of a decision under subregulation (2).
- (4) The Governor may approve an instrument of repeal submitted and recommended by the Minister under subregulation (2)(a).

**28. Commencement of instrument of repeal**

An instrument of repeal approved by the Governor under regulation 27(4) comes into operation on a day specified in the instrument approving the instrument of repeal.

**29. Documents to be published on Commission's website following approval of instrument of repeal**

As soon as practicable after an instrument of repeal has been approved by the Governor under regulation 27(4), but before the instrument of repeal comes into operation, the Commission must publish the following on the Commission's website —

- (a) a notice that states the day on which the State planning policy to which the instrument of repeal relates will be repealed;
- (b) a copy of the instrument of repeal.

**30. Notice of approved instrument of repeal**

- (1) As soon as practicable after an instrument of repeal has been approved by the Governor under regulation 27(4), but before the instrument of repeal comes into operation, the Commission must cause notice of the approved instrument of repeal —
  - (a) to be published in the *Gazette*; and

- (b) to be provided to the following —
  - (i) any body or person who was notified under regulation 25;
  - (ii) any body or person who made a submission that was considered by the Commission under regulation 26.
- (2) A notice under subregulation (1) must include the following information —
  - (a) the day on which the State planning policy to which the instrument of repeal relates will be repealed;
  - (b) that a copy of the instrument of repeal is published on the Commission’s website.

## **Part 4 — Transitional provisions**

### **31. Terms used**

In this Part —

***consultation and public notice process*** —

- (a) means the process required under section 28 of the former Act for consultation, public inspection, notice and making details public, in relation to a proposed State planning policy or proposed SPP amendment; and
- (b) includes the consideration of submissions referred to in section 28(5) of the former Act in relation to the proposed State planning policy or proposed SPP amendment;

***former Act*** means the Act as in force immediately before 1 March 2024;

***proposed SPP amendment*** —

- (a) means a proposed amendment to a State planning policy prepared under section 31(1) of the former Act before 1 March 2024; but
- (b) does not include a proposed R-Codes amendment as defined in the *Planning and Development (Planning Codes) Regulations 2024* regulation 28.

### **32. Consultation and public notice process commenced but not completed before 1 March 2024**

A consultation and public notice process in relation to a proposed State planning policy or proposed SPP amendment that commenced, but was not completed, before 1 March 2024 may be completed in accordance with the requirements of section 28 of the former Act rather than these regulations.

**33. State planning policy or amendment subject to consultation and public notice process under former Act**

- (1) This regulation applies if —
  - (a) the consultation and public notice process for a proposed State planning policy or proposed SPP amendment commences before 1 March 2024 and is completed under regulation 32; or
  - (b) the consultation and public notice process for a proposed State planning policy or proposed SPP amendment is completed before 1 March 2024, but the proposed State planning policy or proposed SPP amendment is not approved by the Governor under section 29(1) of the former Act before 1 March 2024.
- (2) For the purposes of the application of these regulations to the proposed State planning policy or proposed SPP amendment —
  - (a) the Commission is taken to have complied with the applicable requirements of Part 2 Division 2 in relation to advertising, and considering submissions on, the proposed State planning policy or proposed SPP amendment; and
  - (b) these regulations apply with any necessary changes.

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## Notes

This is a compilation of the *Planning and Development (State Planning Policies) Regulations 2024*. For provisions that have come into operation see the compilation table.

### Compilation table

<b>Citation</b>	<b>Published</b>	<b>Commencement</b>
<i>Planning and Development (State Planning Policies) Regulations 2024</i>	SL 2024/26 21 Feb 2024	1 Mar 2024 (see r. 2)

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
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