

# PLANNING LEGISLATION AMENDMENT ACT (No. 2) 1994

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No. 84 of 1994

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AN ACT to amend —

- the *East Perth Redevelopment Act 1991*;
- the *Metropolitan Region Town Planning Scheme Act 1959*;
- the *State Planning Commission Act 1985*;
- the *Subiaco Redevelopment Act 1994*; and
- the *Town Planning and Development Act 1928*,

and certain other Acts, and for related matters.

[Assented to 13 January 1995.]

The Parliament of Western Australia enacts as follows:

**PART 1 — PRELIMINARY**

**Short title**

1. This Act may be cited as the *Planning Legislation Amendment Act (No. 2) 1994*.

**Commencement**

2. The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

**PART 2 — AMENDMENTS TO EAST PERTH  
REDEVELOPMENT ACT 1991**

**Principal Act**

**3.** In this Part, the *East Perth Redevelopment Act 1991*\* is referred to as the principal Act.

[\* *Act No. 62 of 1991.*

*For subsequent amendments, see 1993 Index to  
Legislation of Western Australia, Table 1, p. 64, and  
Act No. 32 of 1994.]*

**Section 4 amended**

**4.** Section 4 (5) of the principal Act is amended by deleting “subsection (3)” and substituting the following —

“ subsection (4) ”.

**Section 40 amended**

**5.** Section 40 (1) of the principal Act is amended by deleting “development area” and substituting the following —

“ redevelopment area ”.

**PART 3 — AMENDMENTS TO METROPOLITAN REGION  
TOWN PLANNING SCHEME ACT 1959**

**Principal Act**

6. In this Part, the *Metropolitan Region Town Planning Scheme Act 1959*\* is referred to as the principal Act.

[\* *Reprinted as at 11 March 1993.*

*For subsequent amendments, see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 134-5,  
and Act No. 35 of 1994.]*

**Section 32A amended**

7. Section 32A (1) of the principal Act is amended by deleting “sections 14” and substituting the following —

“ section 14 ”.

**Section 33 amended**

8. Section 33 (7) of the principal Act is repealed.

**Section 35A amended**

9. Section 35A of the principal Act is amended —

(a) by repealing subsection (2) and substituting the following subsections —

“

(2) Where the Scheme is amended the local authority of the district in which the land directly affected by the amendment is situate or the responsible authority in

relation to the land under the Town Planning Act, as the case requires, shall —

- (a) not later than 3 months after the date on which the amendment to the Scheme has the force of law, resolve to prepare in relation to the land a town planning scheme, or an amendment to an existing town planning scheme, which —
  - (i) is in accordance with and consistent with the Scheme as so amended; and
  - (ii) will not impede the implementation of the Scheme;

and

- (b) within such reasonable time after the passing of that resolution as is directed in writing by the Minister, forward to the Minister for approval the town planning scheme or amendment prepared by it.

(2a) The Minister may require the local authority to modify the town planning scheme or amendment to a scheme prepared under subsection (2) in such manner as he may specify in order to ensure that the town planning scheme or amendment complies with paragraphs (a) and (b) of that subsection.

and

”;

- (b) in subsection (3) by deleting “90” and substituting the following —

“ 60 ”.

### **Section 35B amended**

- 10.** Section 35B of the principal Act is amended by deleting —

- (a) “(3) This Part of this Act” and substituting the following —

“ (4) This Part ”; and

- (b) “(4) A declaration” and substituting the following —

“ (5) A declaration ”.

### **Section 36 amended**

- 11.** (1) Section 36 (7) of the principal Act is amended by deleting “specifying the amount of compensation so paid and the date of payment.” and substituting the following —

“  
specifying —

- (a) the date of payment of compensation;
- (b) the amount of compensation so paid; and
- (c) the proportion (expressed as a percentage), which the compensation bears to the unaffected value of the land (as assessed under subsection (6) (b)).

”.

(2) After section 36 (8) of the principal Act the following subsections are inserted —

“

(9) Where —

- (a) compensation for injurious affection to land (the **“original compensation”**) has been paid to an owner of the land in the circumstances set out in subsection (3); and
- (b) as a result of the Scheme being amended or revoked the reservation of the land for a public purpose is revoked or the area of the land the subject of the reservation is reduced,

the Commission is entitled to recover from the owner of the land at the date of the revocation or reduction of the reservation an amount (**“the refund”**) which is determined by calculating the relevant proportion (as determined under subsections (12) to (15)) of the value of the land as at the date on which the refund becomes payable under subsection (10).

(10) The refund is not payable by the owner of the land until the land is first sold or subdivided following the date of the revocation or reduction referred to in subsection (9) (b) unless otherwise agreed by the owner and the Commission.

(11) If the land is owned by 2 or more people they are jointly and severally liable to pay the refund.

(12) Where the reservation has been revoked the relevant proportion for the purposes of subsection (9) is the same as the proportion referred to in subsection (7) (c) in relation to the original compensation.

(13) Where the area of the reservation has been reduced the relevant proportion for the purposes of subsection (9) shall be determined as follows —

- (a) a notional amount of compensation is determined under subsections (3) and (6) as if —
  - (i) the reservation had never occurred;
  - (ii) a reservation of the reduced area had occurred when the reduction occurred; and
  - (iii) the land were being sold;
- (b) the proportion (expressed as a percentage) which that notional amount of compensation bears to the current value of the land (unaffected by the existence of the reservation) is calculated; and
- (c) the relevant proportion is then determined by deducting the proportion calculated under paragraph (b) from the proportion referred to in subsection (7) (c) in relation to the original compensation.

|          |                                  |            |
|----------|----------------------------------|------------|
| Example: | Original compensation proportion | 25%        |
|          | less                             |            |
|          | Notional compensation proportion | <u>15%</u> |
|          | Relevant proportion              | = 10%      |



(14) Despite subsection (12), where the reservation is revoked after an amount has been recovered under subsection (10) in respect of a previous reduction of the reservation, the relevant proportion is the same as the notional compensation proportion calculated under subsection (13) (a) and (b) in respect of the previous reduction.

(15) Despite subsection (13), where the reservation is reduced after an amount has been recovered under subsection (10) in respect of a previous reduction of the reservation, the relevant proportion shall be determined as follows —

- (a) a notional compensation proportion is calculated under subsection (13) (a) and (b) in respect of the subsequent reduction; and
- (b) the relevant proportion is then determined by deducting the proportion referred to in paragraph (a) from the notional compensation proportion calculated under subsection (13) (a) and (b) in respect of the previous reduction.

|          |   |           |
|----------|---|-----------|
| Example: | Notional compensation<br>proportion calculated under<br>subsection (13) (a) and (b)<br>on previous reduction      | 15%       |
|          | less  |           |
|          | Notional compensation<br>proportion calculated<br>under subsection (13)<br>(a) and (b) on<br>subsequent reduction | <u>8%</u> |
|          | Relevant proportion<br>on subsequent<br>reduction   | = 7%      |

(16) For the purposes of subsections (9) and (13) (b) the value of the land shall be determined by one of the methods set out in subsection (2b) (a), (b) or (c), but that value is to be determined without regard to any increase in value attributable to factors unrelated to the reservation or to its revocation or reduction.

(17) When the Commission has an entitlement to recover an amount under subsection (9) it has an interest in the land and may lodge with the Registrar of Titles a caveat against the land giving notice of the existence of that interest, and may withdraw any caveat so lodged.

(18) On receipt of the caveat from the Commission, the Registrar of Titles shall enter it in the Register Book.

(19) Before selling or subdividing land against which a caveat is lodged under subsection (17), the owner of the land shall give notice in writing to the Commission, in accordance with the regulations, of the owner's intention to sell or subdivide the land.

(20) Where a caveat is lodged under subsection (17) the Registrar shall not register a transfer of the land without the consent of the Commission.

(21) Subsection (9) has effect whether the reservation of the land occurred before the commencement of the amending section or occurs after that commencement.

(22) Where the reservation of the land occurred before the commencement of the amending section, subsection (9) does not have effect if —

- (a) the revocation or reduction of the reservation occurred before 1 July 1988; or
- (b) the sale or subdivision referred to in subsection (10) occurred before the commencement of the amending section,

but otherwise has effect whether the revocation or reduction occurred before the commencement of the amending section or occurs after that commencement.

(23) In subsections (21) and (22) “**amending section**” means section 11 of the *Planning Legislation Amendment Act (No. 2) 1994*.

”.

## **Section 36A amended**

**12.** Section 36A of the principal Act is amended by inserting after —

- (a) the section designation “**36A.**” the subsection designation “(1)”; and
- (b) the existing section the following subsection —

“

(2) Section 36 applies to compensation payable under this section as if a reference in that section to compensation for injurious affection to any land were a reference to compensation under this section for injurious affection as a result of the declaration, or the amendment to the declaration, of a planning control area under section 35C.

”.

**Section 36AA inserted**

**13.** Part V of the principal Act is amended by inserting after section 36A the following section —

“

**Effect of payment of compensation**

**36AA.** Where compensation has been paid under section 36 or 36A in relation to a matter no further compensation shall be payable under any other provision of this Act as a result of the same matter.

”.

**Section 37A amended**

**14.** Section 37A of the principal Act is amended by inserting after subsection (2) the following subsection —

“

(2a) The Commission may —

- (a) amend an improvement plan by notice of amendment; or
- (b) revoke an improvement plan by a notice of revocation,

and subsection (1) applies to a notice of amendment or revocation under paragraph (a) or (b) as if it were an improvement plan.

”.

**Section 42 amended**

**15.** Section 42 of the principal Act is amended by deleting —

(a) “\$2 000” and substituting the following —

“ \$50 000 ”; and

(b) “\$200” and substituting the following —

“ \$5 000 ”.

**Section 44 amended**

**16.** Section 44 of the principal Act is amended by deleting “\$1 000” and substituting the following —

“ \$50 000 ”.

**PART 4 — AMENDMENTS TO STATE PLANNING  
COMMISSION ACT 1985**

**Principal Act**

17. In this Part, the *State Planning Commission Act 1985*\* is referred to as the principal Act.

[\* *Act No. 91 of 1985.*

*For subsequent amendments, see 1993 Index to  
Legislation of Western Australia, Table 1, p. 200, and  
Act No. 32 of 1994.]*

**Long title amended**

18. The long title to the principal Act is amended by deleting  
“and to provide for a planning council for the  
metropolitan region and a planning council for the  
remainder of the State,”.

**Section 1 amended**

19. Section 1 of the principal Act is amended by deleting  
“*State*” and substituting the following —

“ *Western Australian* ”.

**Section 3 amended**

20. Section 3 of the principal Act is amended —

- (a) in the definitions of “Account” and “Commission” by  
deleting “State” and substituting in each case the  
following —

“ *Western Australian* ”;

- (b) by deleting the definition of “chairman” and substituting the following definition —

“  
    **“chairperson”** means chairperson of the  
        Commission;  
”;

- (c) by deleting the definition of “Council”;

- (d) by inserting before the definition of “District Planning Committee” the following definition —

“  
    **“deputy member”** means person for the  
        time being appointed to be the deputy  
        of a member under section 5A (1);  
”;

- (e) by inserting before the definition of “public authority” the following definition —

“  
    **“officer of the Commission”** means  
        public service officer referred to in  
        section 38;  
”;

- (f) by deleting the full stop at the end of the definition of “public authority” and substituting a semicolon; and

- (g) by inserting after the definition of “public authority” the following definitions —

“  
    **“region”** means region referred to in  
        Schedule 1;

**“regional planning scheme”** means town  
        planning scheme referred to in  
        section 18 (1) (ba);

**“the Regional Minister”** means the  
        Minister to whom the administration

of the *Regional Development Commissions Act 1993* is for the time being committed by the Governor;

“WAMA” means the association —

- (a) known as the Western Australian Municipal Association; and
- (b) constituted as a body corporate under the *Local Government Act 1960*.

”.

#### **Heading to Part II amended**

**21.** The heading to Part II of the principal Act is amended by deleting “**STATE PLANNING COMMISSION AND OTHER BODIES.**” and substituting the following —

“

**WESTERN AUSTRALIAN PLANNING  
COMMISSION AND COMMITTEES**

”.

#### **Heading to Division 1 of Part II amended**

**22.** The heading to Division 1 of Part II of the principal Act is amended by deleting “*State*” and substituting the following —

“ *Western Australian* ”.

#### **Section 4 amended**

**23.** Section 4 (1) of the principal Act is amended by deleting “*State*” and substituting the following —

“ *Western Australian* ”.



**Section 5 repealed and section 5 substituted**

**24.** (1) Section 5 of the principal Act is repealed and the following section is substituted —

“

**Constitution of Commission**

**5.** (1) The Commission consists of —

- (a) a chairperson appointed by the Governor on the nomination of the Minister;
- (b) 5 other members appointed by the Governor, of whom —
  - (i) one is to be a person nominated by the Minister from a list of the names of 4 persons representing the interests of the local government authorities within the metropolitan region submitted to the Minister by WAMA;
  - (ii) one is to be a person nominated by the Minister from a list of the names of 4 persons representing the interests of the local government authorities outside the metropolitan region submitted to the Minister by WAMA;
  - (iii) one is to be the mayor of the City of Perth; and
  - (iv) 2 are to be persons nominated by the Minister as having experience in one or more of the fields of urban and regional planning, business management, property development,

financial management, engineering, surveying, valuation, transport, housing, heritage, local government or community affairs;

and

- (c) 6 other members, being —
- (i) the person holding or acting in the office of the chief executive officer of the department principally assisting the Minister in the administration of this Act;
  - (ii) the person holding or acting in the office of the Managing Director of the Water Authority of Western Australia established under the *Water Authority Act 1984*;
  - (iii) the person holding or acting in the office of Commissioner of Main Roads under the *Main Roads Act 1930*;
  - (iv) the person holding or acting in the office of Director General of Transport referred to in section 8 (1) of the *Transport Co-ordination Act 1966*;
  - (v) the person holding or acting in the office of the Chief Executive Officer within the meaning of the *Environmental Protection Act 1986*; and
  - (vi) a person nominated by the Regional Minister.

(2) When the submission of a list of names is required for the purposes of subsection (1) (b) (i) or (ii), that submission shall be made to the Minister in writing signed on behalf of WAMA within such reasonable time after the receipt by WAMA of a notice from the Minister stating that that submission is required as is specified in that notice.

(3) If a submission is not made under subsection (2) within the time specified under that subsection, the Minister may nominate such person as he thinks fit to be a member of the Commission in place of the person referred to in subsection (1) (b) (i) or (ii).

”.

(2) On the commencement of section 24 of the *Planning Legislation Amendment Act (No. 2) 1994*, each person who held office immediately before that commencement as a member of the Commission within the meaning of the principal Act ceases to hold that office.

### **Section 5A inserted**

**25.** Part II of the principal Act is amended by inserting after section 5 the following section —

“

#### **Deputy members**

**5A.** (1) The Governor may on the recommendation of the Minister appoint a person to be the deputy of —

- (a) the member referred to in section 5 (1) (b) (i) or (ii), in which case the provisions of section 5 (1) (b) (i) or (ii), (2) and (3) apply with any necessary modifications to and in relation to that appointment;

- (b) the member referred to in section 5 (1) (b) (iii), in which case the person is to be a person nominated by the Minister from a list of the names of 3 persons representing the interests of the City of Perth submitted to the Minister by the City of Perth and the provisions of section 5 (2) and (3) apply with any necessary modifications to and in relation to that appointment as if the person were to be the deputy of a member referred to in paragraph (a); or
- (c) a member referred to in section 5 (1) (b) (iv), in which case the person is to be a person nominated by the Minister as having experience in one or more of the fields referred to in that section.

(2) A deputy member may resign at any time by notice in writing given to the Minister.

(3) The Governor may at any time on the recommendation of the Minister revoke the appointment of a deputy member.

(4) While taking the place of the member concerned, a deputy member has all the functions and entitlements of, and the protection given to, that member under this Act.

(5) A reference in this Act to a member includes a reference to a deputy member taking the place of the member.

(6) No appointment of, and no act or omission done by, a deputy member in that capacity is to be questioned on the ground that the occasion for his or her appointment had not arisen or had ceased.

**Section 6 amended**

**26.** Section 6 of the principal Act is amended —

(a) in subsection (1) by deleting —

(i) “shall” and substituting the following —

“ may ”; and

(ii) “each region referred to in Schedule 1” and substituting the following —

“ a region ”;

and

(b) by repealing subsections (2), (3) and (4) and substituting the following subsection —

“

(2) Each nomination by the Minister for appointment as an associate member under subsection (1) shall be made on the recommendation of the Regional Minister.

”.

**Section 7 amended**

**27.** Section 7 of the principal Act is amended in subsections (1) and (2) by deleting “A member and” and substituting in each case the following —

“ A member or ”.

**Section 11 amended**

**28.** Section 11 of the principal Act is amended by inserting after "A member," the following —

" a deputy member,       ".

**Section 13 repealed**

**29.** Section 13 of the principal Act is repealed.

**Section 16 amended**

**30.** Section 16 (1) of the principal Act is amended by deleting "3" and substituting the following —

" 6       ".

**Section 18 amended**

**31.** (1) Section 18 (1) of the principal Act is amended by —

- (a) deleting "and" at the end of paragraph (a) (i);
- (b) inserting "and" at the end of paragraph (a) (ii);
- (c) inserting after paragraph (a) (ii) the following subparagraph —

"

- (iii) town planning schemes under the *Town Planning and Development Act 1928*, and amendments to those schemes, made or proposed to be made for any part of the State;

",  
";

- (d) inserting after paragraph (b) the following paragraphs —

“

(ba) if matters of State or regional importance so require, to prepare such town planning schemes, and amendments to town planning schemes prepared by it, as may be necessary for the effective planning and co-ordination of land use and land development for any part of the State outside the metropolitan region;

(bb) to plan for the co-ordinated provision of infrastructure for land development and the planning of transport;

”;

and

- (e) deleting subparagraph (iii) of paragraph (e).

(2) Section 18 of the principal Act is amended by inserting after subsection (1) the following subsections —

“

(1a) Subject to subsection (1b), the Commission shall, in performing its functions under subsection (1) (ba), resolve to prepare a regional planning scheme or an amendment to a regional planning scheme as if it were a local authority acting under section 7 (1) of the *Town Planning and Development Act 1928*, but shall, immediately after so resolving, instead of complying with the procedures set out in Part I of that Act and in any regulations made under section 9 of that Act, comply with the relevant procedures set out in sections 32A (2), 33 (2), (3), (4), (5) and (6) and 33A of the *Metropolitan Scheme Act* in respect of the regional planning scheme or that amendment as if the regional

planning scheme or that amendment were an amendment to the Metropolitan Region Scheme.

(1b) The provisions of the Metropolitan Scheme Act referred to in subsection (1a) apply to and in relation to a regional planning scheme or an amendment to a regional planning scheme as if —

- (a) there were substituted for section 32A (2) of that Act the following subsection —

“

(2) A regional planning scheme within the meaning of the *Western Australian Planning Commission Act 1985* or an amendment to such a regional planning scheme shall not be formulated in a manner that is contrary to or inconsistent with any Order made under section 59 of the *Heritage of Western Australia Act 1990*, except in so far as may be ordered on an appeal or referral made under section 60 of that Act to the Town Planning Appeal Tribunal.

”;

- (b) “and any revocation of the Scheme by a subsequent Scheme” in section 33 (2) of that Act were “and any revocation of a regional planning scheme within the meaning of the *Western Australian Planning Commission Act 1985* by a subsequent such regional planning scheme”;



- (c) there were substituted for section 33 (2) (b) of that Act the following paragraph —

“

- (b) If the Minister consents to public submissions being sought, the Commission shall deposit copies of the regional planning scheme, or the amendment to a regional planning scheme, for public inspection during ordinary business hours free of charge at the offices of the municipalities the districts of which lie within or partly within the area to which the regional planning scheme or that amendment applies and at not less than 3 other public places which the Commission considers to be most convenient for public inspection.

”;

and

- (d) references to newspapers in section 33 (2) (c) (ii) and (iii) of that Act were references to —

- (i) one daily newspaper; and  
(ii) one Sunday newspaper,

circulating in the area to which the regional planning scheme or that amendment applies,

and with any necessary additional modifications.

(1c) When the relevant procedures set out in the provisions of the Metropolitan Scheme Act referred to in subsection (1a), as read with that subsection and subsection (1b), have been complied with in respect of a regional planning scheme or an amendment to a regional planning scheme, and the regional planning scheme or that amendment, as the case requires, (in this section called **“the Commission scheme”**) is inconsistent with a town planning scheme prepared by a local authority under the *Town Planning and Development Act 1928* (in this section called **“the local authority scheme”**) —

(a) the Commission scheme is to prevail over the local authority scheme to the extent of that inconsistency; and

(b) the local authority shall —

(i) not later than 90 days after the day on which the Commission scheme has full force and effect under those provisions, resolve to prepare —

(A) a town planning scheme which is consistent with the Commission scheme; or

(B) an amendment to the local authority scheme which renders the local authority scheme consistent with the Commission scheme,

and which does not contain or which removes, as the case requires, any provision which would be likely to impede the implementation of the Commission scheme; and

- (ii) within such reasonable time after the passing of that resolution as is directed in writing by the Minister, forward to the Minister for approval under section 7 of the *Town Planning and Development Act 1928* the town planning scheme or amendment prepared by it.

(1d) The Minister may, before approving under section 7 of the *Town Planning and Development Act 1928* a town planning scheme or amendment forwarded to the Minister under subsection (1c) (b), direct the local authority concerned to modify that town planning scheme or amendment in such manner as is specified in that direction for the purpose of achieving the consistency, or removing any impedimental provision, referred to in that subsection and to forward that town planning scheme or amendment as so modified to the Minister for approval under that section, and that local authority shall comply with that direction.

(1e) If a local authority does not comply with subsection (1c) or, not later than 60 days after the giving of the direction concerned, with a direction given under subsection (1d), the Minister may cause the relevant town planning scheme or amendment to be prepared or modified, as the case requires, and forwarded to the local authority, and direct the local authority to adopt that town planning scheme or amendment as if it were a town planning scheme proposed by owners of land referred to in section 7 (1) of the *Town Planning and Development Act 1928*, whereupon the local authority shall comply with that direction.

(1f) If a local authority to which a direction has been given under subsection (1e) does not comply with that direction within 60 days after the relevant town

planning scheme or amendment was forwarded to it, the Minister may approve of that town planning scheme or amendment and cause it to be published in the *Gazette* in accordance with section 7 of the *Town Planning and Development Act 1928*.

(1g) All expenses incurred by the Minister in exercising the powers conferred on him or her by subsections (1d), (1e) and (1f) may be recovered by the Minister from the local authority concerned in a court of competent jurisdiction as a debt due to the Crown or may be deducted from any moneys payable by the Crown to that local authority.

”.

### **Section 19 amended**

**32.** (1) Section 19 (1) of the principal Act is amended by deleting “The Commission” and substituting the following —

“ Subject to subsections (1a) to (1k), the Commission ”.

(2) Section 19 of the principal Act is amended by inserting after subsection (1) the following subsections —

“

(1a) The Commission shall establish —

- (a) a committee to be known as the Executive, Finance and Property Committee;
- (b) a committee to be known as the Statutory Planning Committee;
- (c) a committee to be known as the Transport Committee; and

- (d) a committee to be known as the Infrastructure Co-ordinating Committee.

(1b) The Executive, Finance and Property Committee —

- (a) is to consist of —

- (i) the chairperson, or a person nominated by the chairperson and approved by the Minister;
- (ii) the member of the Commission referred to in section 5 (1) (c) (i), or a person nominated by that member and approved by the Minister;
- (iii) one other member of the Commission appointed by the Commission; and
- (iv) such other person or persons as the Commission, after obtaining the approval of the Minister, appoints from time to time;

and

- (b) is to perform such of the administrative, financial and property functions of the Commission under this Act or any other written law as are delegated to the Executive, Finance and Property Committee under section 20 and such other functions as are delegated to it under that section.

(1c) Subject to subsection (1d), the Statutory Planning Committee —

(a) is to consist of —

- (i) the chairperson, or a person nominated by the chairperson and approved by the Minister;
- (ii) the member of the Commission referred to in section 5 (1) (c) (i), or a person nominated by that member and approved by the Minister;
- (iii) the member of the Commission referred to in section 5 (1) (c) (vi), or a deputy appointed under subsection (1f);
- (iv) a person approved by the Minister and appointed by the Commission as having practical knowledge of and experience in community affairs;
- (v) a person approved by the Minister and appointed by the Commission as having practical knowledge of and experience in one or more of the fields of urban and regional planning, business management, property development, financial management, engineering, surveying, valuation, transport, housing, heritage or local government;
- (vi) a person approved by the Minister and appointed by the Commission to represent the interests of local government authorities; and

- (vii) such other person or persons as the Commission, after obtaining the approval of the Minister, appoints from time to time;

and

- (b) is to perform such of the functions of the Commission under this Act, Part II of the *Strata Titles Act 1985* and the *Town Planning and Development Act 1928* as are delegated to the Statutory Planning Committee under section 20 and such other functions as are delegated to it under that section.

(1d) Should the Commission delegate to the Statutory Planning Committee under section 20 not only the functions of the Commission under this Act, Part II of the *Strata Titles Act 1985* and the *Town Planning and Development Act 1928* but also the functions of the Commission under the Metropolitan Scheme Act in respect of the Metropolitan Region Scheme, the Statutory Planning Committee may perform those latter functions only if the Statutory Planning Committee consists not merely of the persons referred to in subsection (1c) (a) but also of —

- (a) a member of the council of the municipality of the City of Perth who is nominated for appointment as a member of the Statutory Planning Committee by that council and is so appointed by the Minister; and
- (b) 5 persons, each of whom is the chairman of a District Planning Committee (other than the District Planning Committee for the municipality of the City of Perth), or persons nominated by those persons and approved by the Minister.

## (1e) The Transport Committee —

## (a) is to consist of —

- (i) the chairperson, or a person nominated by the chairperson and approved by the Minister;
- (ii) the member of the Commission referred to in section 5 (1) (c) (i), or a person nominated by that member and approved by the Minister;
- (iii) the member of the Commission referred to in section 5 (1) (c) (vi), or a deputy appointed under subsection (1f);
- (iv) the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*, or a person nominated by him or her and approved by the Minister;
- (v) the Commissioner within the meaning of the *Main Roads Act 1930*, or a person nominated by him or her and approved by the Minister;
- (vi) the chief employee of the Metropolitan (Perth) Passenger Transport Trust constituted under the *Metropolitan (Perth) Passenger Transport Trust Act 1957*, or a person nominated by that employee and approved by the Minister;



- (vii) the Commissioner within the meaning of the *Government Railways Act 1904*, or a person nominated by him or her and approved by the Minister;
- (viii) a person approved by the Minister and appointed by the Commission to represent the interests of local government authorities; and
- (ix) such other person or persons as the Commission, after obtaining the approval of the Minister, appoints from time to time;

and

- (b) is to advise the Commission on all matters relating to transport planning throughout the State and to perform such of the functions of the Commission under this Act and any other written law as are delegated to the Transport Committee under section 20.

(1f) The Commission shall for the purposes of subsections (1c) (a) (iii) and (1e) (a) (iii) appoint one person —

- (a) nominated by the Regional Minister; and
- (b) approved by the Minister,

to be the deputy of the member of the Commission referred to in section 5 (1) (c) (vi) or, if the Regional Minister so requests, shall instead appoint one person so nominated and approved to be that deputy for the purposes of subsection (1c) (a) (iii) and another such person to be that deputy for the purposes of subsection (1e) (a) (iii).

(1g) The Infrastructure Co-ordinating  
Committee —

(a) is to consist of —

- (i) the chairperson, or a person nominated by the chairperson and approved by the Minister;
- (ii) the members of the Commission referred to in section 5 (1) (c) (i), (ii) and (iv), or persons nominated by those members and approved by the Minister;
- (iii) the Chief Executive Officer referred to in section 11 (1) (b) of the *State Energy Commission Act 1979*, or a person nominated by him or her and approved by the Minister;
- (iv) the chief executive officer within the meaning of the *Education Act 1928*, or a person nominated by him or her and approved by the Minister;
- (v) the Commissioner within the meaning of the *Health Act 1911*, or a person nominated by him or her and approved by the Minister;
- (vi) the chief executive officer of the department principally assisting the Regional Minister in the administration of the *Regional Development Commissions Act 1993*, or a person nominated by that chief executive officer and approved by the Minister;

- (vii) the chief executive officer of the department principally assisting the Minister to whom the administration of the *Government Agreements Act 1979* is for the time being committed by the Governor in that administration, or a person nominated by that chief executive officer and approved by the Minister;
- (viii) the chief executive officer of the department principally assisting the Minister to whom the administration of the *Mining Act 1978* is for the time being committed by the Governor in that administration, or a person nominated by that chief executive officer and approved by the Minister;
- (ix) a person approved by the Minister and appointed by the Commission to represent the interests of local government authorities; and
- (x) such other person or persons as the Commission, after obtaining the approval of the Minister, appoints from time to time;

and

- (b) is to advise the Commission on planning for the provision of physical and community infrastructure throughout the State and to perform such of the functions of the Commission under this Act and any other written law as are delegated to the Infrastructure Co-ordinating Committee under section 20.

(1h) Without limiting the generality of subsection (1), the Commission may under that subsection establish a regional planning committee for the whole or any part of a region if the Commission is satisfied that the need for the regional planning committee exists.

(1i) A regional planning committee —

(a) is to consist of —

- (i) the chairperson, or a person nominated by the chairperson and approved by the Minister;
- (ii) the member of the Commission referred to in section 5 (1) (c) (i), or a person nominated by that member and approved by the Minister;
- (iii) a person approved by the Minister and appointed by the Commission as having practical knowledge of and experience in community affairs;
- (iv) not less than 3 persons approved by the Minister and appointed by the Commission from a list of the names of persons representing the interests of the local government authorities within the whole or part of the region for which the regional planning committee is established submitted to the Commission by WAMA;
- (v) a person nominated by the Regional Minister, approved by the Minister and appointed by the Commission to represent the interests of the commission or commissions within the

meaning of the *Regional Development Commissions Act 1993* within the whole or part of the region for which the regional planning committee is established; and

- (vi) such other person or persons as the Commission, after obtaining the approval of the Minister, appoints from time to time;

and

- (b) is to advise the Commission on planning for the region, or part of the region, for which the regional planning committee is established, to make recommendations to the Commission on the need for, and the extent and content of, regional planning schemes and to perform such of the functions of the Commission under this Act, the *Strata Titles Act 1985*, the *Town Planning and Development Act 1928* and any other written law as are delegated to that committee under section 20.

(1j) When the submission of a list of names is required for the purposes of subsection (1i) (a) (iv), that submission shall be made to the Commission in writing signed on behalf of WAMA within such reasonable time after the receipt by WAMA of a notice from the Commission stating that that submission is required as is specified in that notice.

(1k) If a submission is not made under subsection (1j) within the time specified under that subsection, the Commission may appoint such persons as it thinks fit to be members of the regional planning committee in place of the persons provided for in subsection (1i) (a) (iv).

**Section 20 amended**

**33.** Section 20 (4) of the principal Act is amended by deleting paragraph (c) and “or” at the end of that paragraph and substituting the following —

“ (c) a District Planning Committee; or ”.

**Divisions 2 and 3 of Part II repealed**

**34.** Divisions 2 and 3 of Part II of the principal Act are repealed.

**Sections 38, 39 and 40 repealed and section 38 substituted**

**35.** Sections 38, 39 and 40 of the principal Act are repealed and the following section is substituted —

“

**Staff of Commission**

**38.** There shall be appointed under Part 3 of the *Public Sector Management Act 1994* such public service officers as are necessary to enable the Commission and its committees to perform their respective functions.

”.

**Section 41 amended**

**36.** Section 41 of the principal Act is amended —

(a) in subsection (1) by deleting “The Commission” and substituting the following —

“ Subject to subsection (3), the Commission ”;  
and

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

“

(3) The Commission may, without the approval of the Minister, engage under contracts for services such consultants and professional or technical or other assistance in such circumstances and for such periods as the Minister may from time to time specify by notice in writing served on the Commission.

”.

#### **Section 45 amended**

**37.** Section 45 (2) of the principal Act is amended by deleting “State” and substituting the following —

“ Western Australian ”.

#### **Section 55 amended**

**38.** Section 55 of the principal Act is amended —

- (a) in paragraphs (a) and (b) of the definition of “member” in subsection (1) by deleting “or the Council”; and
- (b) in subsection (5) by inserting after “himself” the following —

“ or herself ”.

**Section 56 amended**

**39.** Section 56 of the principal Act is amended by deleting "being".

**Section 59 amended**

**40.** Section 59 (1) of the principal Act is amended in paragraphs (a) and (b) by deleting "the Country Planning Council and the Metropolitan Planning Council".

**Schedule 1 repealed and Schedule 1 substituted**

**41.** Schedule 1 to the principal Act is repealed and the following Schedule is substituted —

"

**SCHEDULE 1**

[Section 3]

| <i>Item</i> | <i>Region</i>  |
|-------------|--|
| <b>1</b>    | <b>Gascoyne Region</b><br><br>The districts of the Shires of Carnarvon, Exmouth, Shark Bay and Upper Gascoyne.   |
| <b>2</b>    | <b>Goldfields-Esperance Region</b><br><br>The districts of the City of Kalgoorlie-Boulder and of the Shires of Coolgardie, Dundas, Esperance, Laverton, Leonora, Menzies, Ngaanyatjaraku and Ravensthorpe. |
| <b>3</b>    | <b>Great Southern Region</b><br><br>The districts of the Town of Albany and of the Shires of Albany, Broomehill, Cranbrook,  |



Denmark, Gnowangerup, Jerramungup, Katanning, Kent, Kojonup, Plantagenet, Tambellup and Woodanilling.

**4 Kimberley Region**

The districts of the Shires of Broome, Derby-West Kimberley, Hall's Creek and Wyndham-East Kimberley.

**5 Mid West Region**

The districts of the City of Geraldton and of the Shires of Carnamah, Chapman Valley, Coorow, Cue, Greenough, Irwin, Meekatharra, Mingenew, Morawa, Mount Magnet, Mullewa, Murchison, Northampton, Perenjori, Sandstone, Three Springs, Wiluna and Yalgoo.

**6 Peel Region**

The districts of the City of Mandurah and of the Shires of Boddington, Murray and Waroona.

**7 Pilbara Region**

The districts of the Town of Port Hedland and of the Shires of Ashburton, East Pilbara and Roebourne.

**8 South West Region**

The districts of the City of Bunbury and of the Shires of Augusta-Margaret River, Boyup Brook, Bridgetown-Greenbushes, Busselton, Capel, Collie, Dardanup, Donnybrook-Balingup, Harvey, Manjimup and Nannup.

**9 Wheatbelt Region**

The districts of the Towns of Narrogin and Northam and of the Shires of Beverley, Brookton, Bruce Rock, Chittering, Corrigin,

Cuballing, Cunderdin, Dandaragan, Dalwallinu, Dowerin, Dumbleyung, Gingin, Goomalling, Kellerberrin, Kondinin, Koorda, Kulin, Lake Grace, Merredin, Moora, Mount Marshall, Mukinbudin, Narembreen, Narrogin, Northam, Nungarin, Pingelly, Quairading, Tammin, Toodyay, Trayning, Victoria Plains, Wagin, Wandering, West Arthur, Westonia, Wickelbin, Williams, Wongan-Ballidu, Wyalkatchem, Yilgarn and York.

”.

**Minor amendments****42. A provision of the principal Act specified in —**

- (a) Part 1 of the Table to this section is amended by deleting “chairman”, wherever it occurs, and substituting the following —

“ chairperson ”;

- (b) Part 2 of the Table to this section is amended by inserting after “he”, wherever it occurs, the following —

“ or she ”;

- (c) Part 3 of the Table to this section is amended by inserting after “him”, wherever it occurs, the following —

“ or her ”; and

- (d) Part 4 of the Table to this section is amended by inserting after “his”, wherever it occurs, the following —

“ or her ”.

**TABLE**

**Part 1**

Sections 6 (5) and (7), 12 (1), (4) and (5), 13 (1), 15, 16 (2) and (4), 57 (3) and 65 (1) (b).

**Part 2**

Sections 6 (5) and (6), 7 (2), 10 (a), (b), (c), (d) and (e), 16 (2), 48 (1), 50 (1) (b) and 55 (3).

**Part 3**

Sections 8 (1), 9 (b), 17 (1), 41 (2) (b), 50 (3), 55 (6) (a) and 59 (1) (c).

**Part 4**

Sections 7 (1) and (2), 8 (1), 9 (b), 10 (a) and (e), 11, 12 (4), 13 (1) and (2), 16 (4), 41 (2) (b), 55 (3) and 59 (2).

**Consequential amendments to *Metropolitan Region Town Planning Scheme Act 1959***

**43.** The *Metropolitan Region Town Planning Scheme Act 1959*\* is amended —

- (a) in section 6 by deleting the definition of “Council”;
- (b) in section 24 (3) by deleting “Council as may be delegated to it under section 37” and substituting the following —

“

Commission as may be delegated to it  
under section 20

”;

- (c) in section 38 (3) by —
  - (i) inserting after paragraph (a) the following —

“ and ”;
  - (ii) deleting “; and” at the end of paragraph (b) and substituting a full stop; and
  - (iii) deleting paragraph (c);and
- (d) in section 43A (1) (b) by deleting “or the Council”.

[\* *Reprinted as at 11 March 1993.*

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, pp. 134-5, and Act No. 35 of 1994.]*

**Consequential amendment to *Parliamentary Commissioner Act 1971***

**44.** The Schedule to the *Parliamentary Commissioner Act 1971*\* is amended by deleting the item relating to the Metropolitan Planning Council.

[\* *Reprinted as at 21 October 1992.*

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, pp. 153-4, and Acts Nos. 26 and 53 of 1993 and 14, 32, 35, 36 and 45 of 1994.]*

**Consequential amendment to *Western Australian Water Resources Council Act 1982***

**45.** Section 4 (4) of the *Western Australian Water Resources Council Act 1982*\* is amended in paragraph (c) by deleting “Chairman of the State Planning Commission, established

pursuant to the *State Planning Commission Act 1985*” and substituting the following —

“ chairperson of the Western Australian Planning Commission, established under the *Western Australian Planning Commission Act 1985*

”.

[\* *Act No. 38 of 1982.*

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, p. 229, and Act No. 32 of 1994.]*

**Amendment of references in other Acts to “*State Planning Commission Act 1985*”, “*State Planning Commission*”, etc.**

**46.** (1) Each Act referred to in column 1 of Part 1 of the Table to this section is amended in the provision or provisions referred to opposite to it in column 2 of that Part by deleting “*State Planning Commission Act 1985*” and substituting the following —

“ *Western Australian Planning Commission Act 1985* ”.

(2) Subject to subsection (3), each Act referred to in column 1 of Part 2 of the Table to this section is amended in the provision or provisions referred to opposite to it in column 2 of that Part by deleting “*State Planning Commission*”, wherever it occurs, and substituting in each case the following —

“ *Western Australian Planning Commission* ”.

(3) If the words deleted by subsection (2) occurred in a list of bodies set out in alphabetical order, the words substituted are to be located in their appropriate position in that order.

(4) Each Act referred to in column 1 of Part 3 of the Table to this section is amended in the provision or provisions referred to

opposite to it in column 2 of that Part by deleting "Town Planning Board" and substituting the following —

" Western Australian Planning Commission "

(5) Part 3 of Schedule V to the *Constitution Acts Amendment Act 1899\** is amended by deleting —

(a) "The Metropolitan Region Planning Authority constituted by the *Metropolitan Region Town Planning Scheme Act 1959.*"; and

(b) "The Town Planning Board constituted under the *Town Planning and Development Act 1928.*" and substituting in the appropriate alphabetical position the following —

" The Western Australian Planning Commission established under the *Western Australian Planning Commission Act 1985.*

"

[\* *Reprinted as at 6 April 1993.*

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, pp. 44-6, and Acts Nos. 26, 40 and 53 of 1993 and 6, 32, 35, 36 and 45 of 1994.]*

(6) Section 22 (2) (c) of the *Control of Vehicles (Off-road areas) Act 1978\** is deleted and the following paragraph is substituted —

"

(c) an officer of the Western Australian Planning Commission nominated by the chairperson of the Western Australian Planning Commission;

"

[\* *Act No. 117 of 1978.*

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, pp. 47-8, and Act No. 32 of 1994.]*

(7) Section 22 (1) (a) of the *Housing Act 1980\** is amended by deleting “Town Planning Board constituted under the Town Planning and Development Act 1928” and substituting the following —

“  
Western Australian Planning Commission established  
under the *Western Australian Planning Commission  
Act 1985*

”.

[\* *Act No. 58 of 1980.*

*For subsequent amendments, see 1993 Index to  
Legislation of Western Australia, Table 1, p. 99, and  
Act No. 32 of 1994.]*

(8) The *Land Tax Assessment Act 1976\** is amended —

(a) in the definition of “lot” in section 5 by deleting  
“Board,” and substituting the following —

“

Town Planning Board or the Western  
Australian Planning Commission, as the  
case requires,

”;

(b) in section 15A (1) (b) (ii) by deleting —

(i) “said Board” and substituting the following —

“

Western Australian Planning  
Commission

”,  
,and

(ii) “Board’s” and substituting the following —

“

Western Australian Planning  
Commission’s

”;

and

- (c) in section 15A (1) (c) by deleting "Town Planning Board's" and substituting the following —

" Western Australian Planning Commission's

".

[\* *Reprinted as approved 1 December 1982.*

*For subsequent amendments, see 1993 Index to  
Legislation of Western Australia, Table 1, p. 115.]*

(9) Section 297A of the *Local Government Act 1960\** is amended —

- (a) by deleting subsection (3) (d) and substituting the following paragraph —

"

(d) the Western Australian Planning Commission established under the *Western Australian Planning Commission Act 1985*;

”;

and

- (b) in subsection (6) (a) by deleting "Town Planning Board constituted under the Town Planning and Development Act 1928" and substituting the following —

"

Western Australian Planning Commission established under the *Western Australian Planning Commission Act 1985*

”.

[\* *Reprinted as approved 24 June 1983.*

*For subsequent amendments, see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 123-5,  
and Acts Nos. 40 of 1993 and 6 and 27 of 1994.]*



(10) The *Metropolitan Region Town Planning Scheme Act 1959\** is amended in sections 31 (b) and 33 (2) (b) (i) by deleting "Town Planning Department" and substituting in each case the following —

" Commission ".

[\* *Reprinted as at 11 March 1993.*

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, pp. 134-5 and Act No. 35 of 1994.]*

(11) The *Property Law Act 1969\** is amended in sections 122 (6) and 123 (8) by deleting "Town Planning Board established under the *Town Planning and Development Act 1928*" and substituting in each case the following —

" Western Australian Planning Commission established under the *Western Australian Planning Commission Act 1985*

".

[\* *Reprinted as at 17 March 1987.*

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, p. 169.]*

(12) The *Strata Titles Act 1985\** is amended —

(a) in section 3 (1) by —

(i) inserting after the definition of "building" the following definition —

" "Commission" means Western Australian Planning Commission established under the *Western Australian Planning Commission Act 1985*;

";

and

- (ii) deleting the definition of "Town Planning Board";
- (b) in sections 5 (4), 8 (3) (f) and 9 (3) (a) by deleting —
  - (i) "Town Planning Board" and substituting in each case the following —  
  
" Commission "; and
  - (ii) "that Board" and substituting in each case the following —  
  
" the Commission ";
- (c) in sections 6 (3), 9 (3) (b), 19 (10) and (11), 23 (1) (c) and (e), 25 (1), (2), (3), (4), (5) and (7), 26 (1) (c) and (d) and 27 (1), (2), (3), (7) (a), (8), (9) and (10) by deleting "Town Planning Board" wherever it occurs and substituting in each case the following —  
  
" Commission ";
- (d) in section 25 (4) and (5) by deleting "the Board" wherever it occurs and substituting in each case the following —  
  
" the Commission "; and
- (e) in section 27 (8) and (9) by deleting "that Board" and substituting in each case the following —  
  
" the Commission ".

[\* *Act No. 33 of 1985.*

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, p. 203, and Act No. 32 of 1994.]*

(13) Section 36 (1) of the *Waterways Conservation Act 1976\** is amended by deleting paragraphs (b) and (c) and substituting the following paragraph —

“ (b) the Western Australian Planning Commission established under the *Western Australian Planning Commission Act 1985*;

”.

[\* Act No. 131 of 1976.

*For subsequent amendments, see 1993 Index to Legislation of Western Australia, Table 1, p. 224, and Act No. 32 of 1994.]*

## TABLE

### Part 1

| Column 1<br><i>Short title of Act</i>                    | Column 2<br><i>Provision amended</i>   |
|--|--|
| <i>Bush Fires Act 1954</i>                               | s. 8 (3) (e)   |
| <i>Environmental Protection Act 1986</i>                 | s. 3 (definition of “the State Planning Commission”)                               |
| <i>Heritage of Western Australia Act 1990</i>            | s. 36 (2) (b)  |
| <i>Land Act 1933</i>                                     | s. 149B (14)   |
| <i>Local Government Act 1960</i>                         | s. 295 (2c)  |
| <i>Metropolitan Region Town Planning Scheme Act 1959</i> | ss. 6 (definition of “Commission”), 24 (3), 33 (2) (f) (i) and (ii) and 38 (2) (b) |

|   |  |
|---|--|
| <i>Parliamentary Commissioner Act 1971</i>    | Schedule (item relating to State Planning Commission)            |
| <i>Swan River Trust Act 1988</i>              | ss. 3 (definition of "State Planning Commission") and 12 (1) (c) |
| <i>Town Planning and Development Act 1928</i> | ss. 2 (definition of "Commission") and 5AA (1)                   |

**Part 2**

| Column 1<br><i>Short title of Act</i>                    | Column 2<br><i>Provision amended</i>   |
|--|--|
| <i>East Perth Redevelopment Act 1991</i>                 | ss. 19 (8) (a) and (b) and 24 (2) (b)  |
| <i>Environmental Protection Act 1986</i>                 | ss. 3 (definition of "the State Planning Commission"), 66 (1) and (3) and 68 |
| <i>Financial Administration and Audit Act 1985</i>       | Schedule 1   |
| <i>Heritage of Western Australia Act 1990</i>            | s. 36 (2) (b)  |
| <i>Land Act 1933</i>                                     | s. 149B (12), (13) and (14)  |
| <i>Local Government Act 1960</i>                         | s. 295 (2a), (2b) and (2c)   |
| <i>Metropolitan Region Town Planning Scheme Act 1959</i> | s. 6 (definition of "Commission")  |
| <i>Parliamentary Commissioner Act 1971</i>               | Schedule (item relating to State Planning Commission)                        |

|   |   |
|---|---|
| <i>Swan River Trust Act 1988</i>              | ss. 3 (definition of "State Planning Commission"), 7 (1) (f) and 12 (1) (c) |
| <i>Town Planning and Development Act 1928</i> | s. 2 (definition of "Commission")   |

**Part 3**

| Column 1<br><i>Short title of Act</i>   | Column 2<br><i>Provision amended</i> |
|---|--------------------------------------|
| <i>Land Tax Assessment Act 1976</i>     | s. 15A (1) (b) (i)                   |
| <i>Local Government Act 1960</i>        | s. 297A (6) (b)                      |
| <i>State Energy Commission Act 1979</i> | s. 41                                |
| <i>Water Authority Act 1984</i>         | ss. 67 (3) and 79                    |

**Construction of certain references in written laws to "State Planning Commission Act 1985" or "State Planning Commission"**

**47.** A reference in a written law to the *State Planning Commission Act 1985* or to the State Planning Commission, which reference is not the subject of amendment by this Part, is to be deemed, unless the contrary intention appears, to be amended as if it were a reference to the *Western Australian Planning Commission Act 1985* or to the Western Australian Planning Commission, as the case requires.

**PART 5 — AMENDMENTS TO SUBIACO  
REDEVELOPMENT ACT 1994**

**Principal Act**

**48.** In this Part, the *Subiaco Redevelopment Act 1994\** is referred to as the principal Act.

[\* Act No. 35 of 1994.]

**Section 13 amended**

**49.** Section 13 (3) (c) of the principal Act is amended by deleting subparagraph (ii) and substituting the following subparagraph —

“

- (ii) to a closed meeting, or a closed committee meeting, of the council.

”

**Section 21 amended**

**50.** Section 21 (7) of the principal Act is amended by deleting “and Development”.

**PART 6 — AMENDMENTS TO TOWN PLANNING AND  
DEVELOPMENT ACT 1928**

**Principal Act**

51. In this Part, the *Town Planning and Development Act 1928*\* is referred to as the principal Act.

[\* *Reprinted as at 19 December 1988.*

*For subsequent amendments, see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 211-2,  
and Acts Nos. 32 and 35 of 1994.]*

**Section 2 amended**

52. Section 2 (1) of the principal Act is amended by inserting, after the definition of “responsible authority”, the following definition —

“

**“subdivision”** means —

- (a) activity requiring the approval of the Commission under Part III; or
- (b) strata plan, strata plan of subdivision and strata plan of consolidation required to be accompanied by a certificate of approval given under section 25 of the *Strata Titles Act 1985*;

”.

**Section 7 amended**

**53.** (1) Section 7 of the principal Act is amended —

- (a) by repealing subsection (2) and substituting the following subsections —

“

(2) A town planning scheme prepared or adopted, or an amendment to a town planning scheme prepared, by a local authority shall —

- (a) be advertised for public inspection in accordance with the regulations; and

- (b) after advertisement under this subsection, be submitted to the Minister for his approval.

(2a) The Minister may, in relation to a town planning scheme or amendment submitted to him under subsection (2) (b) —

- (a) approve of that town planning scheme or amendment;

- (b) require the local authority concerned to modify that town planning scheme or amendment in such manner as he specifies before that town planning scheme or amendment is resubmitted for his approval under this subsection; or

- (c) refuse to approve of that town planning scheme or amendment.

”;



- (b) in subsection (3) by inserting after “A town planning scheme” the following —

“ or amendment to a town planning scheme ”;

and

- (c) in subsection (3a) by —

- (i) inserting after “a town planning scheme” the following —

“

or amendment to a town planning  
scheme

”;

and

- (ii) deleting “scheme.” and substituting the following —

“ town planning scheme or amendment. ”.

(2) Section 7 of the principal Act is amended by deleting “(6) Where a management programme” and substituting the following —

“ (7) If a management programme ”.

### **Section 7B amended**

**54.** Section 7B (7) of the principal Act is amended —

- (a) in paragraph (a) by deleting “\$1 000.” and substituting the following —

“ \$50 000, and a daily penalty of \$5 000. ”; and

- (b) by deleting paragraph (b).

**Section 9 amended**

**55.** Section 9 (3) of the principal Act is amended by deleting “\$200” and substituting the following —

“ \$5 000 ”.

**Section 10 amended**

**56.** Section 10 (4) of the principal Act is amended —

- (a) in paragraph (a) by deleting “\$2 000.” and substituting the following —

“ \$50 000, and a daily penalty of \$5 000. ”; and

- (b) by deleting paragraph (b).

**Section 12A inserted**

**57.** Part I of the principal Act is amended by inserting after section 12 the following section —

“ **Record of conditions on title**

**12A.** (1) This section applies when the Commission considers it desirable that owners or prospective owners of land —

- (a) comprised in a plan of subdivision; or
- (b) comprised in a strata scheme or proposed strata scheme presented to the Commission for approval under section 25 of the *Strata Titles Act 1985*,

be made aware of hazards or other factors seriously affecting the use or enjoyment of that land and

determines that the title and land register in respect of that land should be noted accordingly.

(2) Where this section applies, the Commission may cause a notification of the hazard or other factor affecting the use or enjoyment of the land to be prepared in a form acceptable to the Registrar of Titles or the Registrar of Deeds, as the case requires, and deposited at the Office of Titles or the Registry of Deeds.

(3) Where a notification is deposited under subsection (2) the Registrar of Titles or the Registrar of Deeds, as the case requires, shall endorse or note the title and land register in respect of the land with that notification.

(4) The Commission may, at any time after the notification has been deposited under subsection (2), request that the Registrar of Titles or the Registrar of Deeds, as the case requires, remove that notification from the title or land register.

”.

### **Section 16 amended**

**58.** Section 16 (2) of the principal Act is amended by deleting “, as the case may be,”.

### **Section 18A inserted**

**59.** Part I of the principal Act is amended by inserting after section 18 the following section —

“

#### **Minister may assume powers of local authority**

**18A.** (1) If the Minister is satisfied that a local authority has failed to comply with a provision of

section 7AA or 18 (“the relevant provision”) the Minister may serve notice in writing on the local authority —

- (a) specifying the relevant provision and the manner in which the local authority has failed to comply with it;
- (b) specifying a period (which is not to be less than 90 days) within which the local authority is required to comply with the relevant provision; and
- (c) advising the local authority that the Minister intends to exercise the powers conferred by subsection (2) if the local authority does not comply with the relevant provision within the period specified in the notice.

(2) Where a notice has been served on a local authority under subsection (1) in relation to a town planning scheme and that local authority has not complied with the relevant provision within the period specified in the notice, the Minister may take all such steps and prepare or cause to be prepared all such documents as are necessary to ensure compliance with the relevant provision as if the Minister were the local authority.

(3) For the purposes of subsection (2) the Minister may by order direct the local authority to provide the Minister with such reports or other information specified in the order as are necessary to allow the preparation of the documents referred to in that subsection.

(4) The Minister shall cause a copy of an order directed to a local authority under subsection (3) to be

served on the local authority, and the local authority shall comply with the order.

(5) For the purposes of subsection (2) the provisions of the regulations that would have applied to the local authority shall apply to the Minister with such modifications as are necessary or are prescribed.

(6) Where the Minister prepares or causes to be prepared and published in the *Gazette* —

- (a) a town planning scheme, incorporating, if necessary, any modifications to, or conditions on, the scheme;
- (b) a consolidated town planning scheme; or
- (c) the revocation of a town planning scheme,

that scheme, scheme as modified or with conditions, consolidation or revocation, as the case may be, has effect as if it were made, published and adopted by the local authority and approved by the Minister and shall be implemented by the local authority accordingly.

(7) All costs, charges and expenses incurred by the Minister in the exercise of any powers conferred on the Minister by subsection (2) may be recovered from the local authority as a debt due to the Crown or may be deducted from any moneys payable by the Crown to the local authority.

(8) A reference in this or any other Act to a scheme prepared in accordance with section 7 or 18 shall be read and construed as including a reference to a town planning scheme prepared or caused to be prepared by the Minister in accordance with this section.

**Section 18B of principal Act and section 8 of *Town Planning and Development Amendment Act 1982* repealed**

**60.** Section 18B of the principal Act and section 8 of the *Town Planning and Development Amendment Act 1982\** are repealed.

[\* Act No. 120 of 1982.]

**Section 18C amended**

**61.** Section 18C (2) of the principal Act is amended by deleting “\$10 000.” and substituting the following —

“ \$50 000. ”.

**Section 24 amended**

**62.** Section 24 of the principal Act is amended by repealing subsections (3) and (4) and substituting the following subsections —

“

(3) After receiving a plan or copy and accompanying memorandum forwarded to it under subsection (2) and considering any objections or recommendations contained in the memorandum the Commission shall approve or refuse to approve the plan or require the applicant for approval to comply with such conditions as the Commission thinks fit to impose before approving the plan.

(4) The Commission is to try to deal with the plan in one of the ways mentioned in subsection (3) within the period of 90 days after the day on which the plan was submitted to the Commission for approval or within such longer period after that day as may be agreed in writing between the Commission and the applicant for approval.

”.

**Section 26 amended**

**63.** Section 26 (1) of the principal Act is amended by inserting after paragraph (a) the following paragraphs —

“

(aa) If at any time after the end of the decision period the Commission has not approved, refused to approve or imposed conditions on the approval of a plan, the applicant for approval may give a written notice of default to the Commission.

(ab) Where a notice of default is given to the Commission under paragraph (aa), the applicant for approval may appeal to the Minister as if the Commission had refused to approve the plan on the day on which the notice of default was given to it.

(ac) In paragraph (aa) “**decision period**” means the period of 90 days specified in section 24 (4) or any longer period that has been agreed between the Commission and the applicant under section 24 (4).

”.

**Section 27 amended**

**64.** Section 27 of the principal Act is amended —

(a) in subsection (1) by deleting “\$2 000.” and substituting the following —

“ \$50 000, and a daily penalty of \$5 000. ”; and

(b) by repealing subsection (2).

**Section 34 amended**

**65.** Section 34 of the principal Act is amended by deleting “\$200” and substituting the following —

“     \$5 000     ”.

**Section 40 amended**

**66.** Section 40 of the principal Act is amended by repealing subsection (3) and substituting the following subsections —

“

(3) The Minister may require the Committee to consider, and report and make a recommendation to him on, an appeal to the Minister (not being an appeal referred to in subsection (3a)) and the Committee shall do so as soon as practicable thereafter, and the Minister, after considering the report and recommendation of the Committee, shall determine that appeal.

(3a) The Minister may require the Committee to consider, and report and make a recommendation to him on, any appeal to the Minister under section 26 (5) or 27 (3) of the *Strata Titles Act 1985* and the Committee shall do so as soon as practicable thereafter.

”.

**First Schedule amended**

**67.** The First Schedule to the principal Act is amended in clause 23 by deleting “and Road Boards”.