

WESTERN AUSTRALIA

**METROPOLITAN REGION TOWN
PLANNING SCHEME
AMENDMENT ACT**

No. 6 of 1986

AN ACT to amend the *Metropolitan Region Town Planning Scheme Act 1959*.

[Assented to 15 July 1986.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title

1. This Act may be cited as the *Metropolitan Region Town Planning Scheme Amendment Act 1986*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Metropolitan Region Town Planning Scheme Act 1959** is referred to as the principal Act.

[*Reprinted as approved 20 February 1984 and amended by Acts Nos. 54, 92 and 109 of 1985.]

Section 6 amended

4. Section 6 of the principal Act is amended by inserting after the definition of “Council” the following definition—

“ “District Planning Committee” means District Planning Committee constituted by or under section 23; ”.

Section 23 amended

5. Section 23 of the principal Act is amended in subsection (3) (a) and in subsection (4) by inserting before “Committee” wherever it occurs the following in each case—

“ District Planning ”.

Section 24 amended

6. Section 24 of the principal Act is amended—

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

“ the District Planning Committee ”; and

(b) in subsections (2) and (3) by deleting “Each Committee” wherever it occurs and substituting in each case the following—

“ Each District Planning Committee ”.

Section 33 amended

7. (1) Section 33 of the principal Act is amended in subsection (2) by—

- (a) deleting “preliminary approval” in paragraph (a) and substituting the following—

“ consent to public submissions being sought ”;

- (b) deleting “so approves” in paragraph (b) and substituting the following—

“ consents to public submissions being sought ”;

- (c) deleting paragraph (g) and substituting the following paragraphs—

“ (g) After considering all submissions that have been duly lodged, the Commission shall submit the amendment to which those submissions relate, with such modifications, if any, as it thinks fit to make, together with a copy of each of those submissions and a report by the Commission on those submissions, to the Minister.

(ga) If the report submitted with an amendment under paragraph (g) recommends that the amendment should not be proceeded with, the Minister may, instead of presenting the amendment to the Governor for his consideration, withdraw the amendment. ”;

- (d) inserting after paragraph (k) the following paragraph—

“ (ka) If the report submitted with an amendment under paragraph (g) as read with paragraph (k) recommends that the amendment should not be proceeded with, the Minister may, instead of presenting the amendment to the Governor for his consideration, withdraw the amendment. ”; and

- (e) inserting after “The Minister shall then” in paragraph (1) the following—

“ , if he has not withdrawn the amendment under paragraph (ka), ”.

(2) Any proposed amendment to or revocation of the Metropolitan Region Scheme which was immediately before the coming into operation of this Act being dealt with under the procedure set forth in section 33 of

the principal Act shall on that coming into operation continue to be dealt with under that procedure as if the amendment of that section by subsection (1) had not taken place.

Section 33A repealed and substituted

8. (1) Section 33A of the principal Act is repealed and the following section is substituted—

“ Procedure for amendments not constituting substantial alteration to Scheme

33A. (1) Notwithstanding section 33, if a proposed amendment does not, in the opinion of the Commission, constitute a substantial alteration to the Scheme, that amendment is not required to be submitted and approved in accordance with the procedure prescribed in section 33 (2), (3) and (4).

(2) If under subsection (1) a proposed amendment is not required to be submitted and approved in accordance with the procedure prescribed in section 33 (2), (3) and (4), the Commission shall—

- (a) send a copy of that amendment to the Minister;
- (b) publish in the *Gazette* and in a daily newspaper circulating in the metropolitan region—
 - (i) a notice of that amendment describing that amendment, stating where and when that amendment will be available for inspection and notifying all persons who desire to make submissions on any provision of that amendment that those submissions may be made to the Minister in writing in the form set out in that notice; and
 - (ii) a certificate certifying that, in the opinion of the Commission, that amendment does not constitute a substantial alteration to the Scheme;

and

- (c) within 7 days of the publication referred to in paragraph (b), notify in writing the owners of land in the opinion of the Commission directly affected by that amendment of that amendment.

(3) Submissions may be made on any provision of a proposed amendment at any time within the period specified in the relevant notice published under subsection (2), being a period of not less than 60 days after the day on which that notice was so published.

(4) When a submission is made in accordance with the relevant notice published under subsection (2) by a group of persons, that group shall appoint one person to represent that group for the purposes of the submission.

(5) The Minister shall on receiving any submissions made to him in accordance with the relevant notice published under subsection (2)—

- (a) appoint one or more members of the Appeal Committee to consider, and make a report and recommendation to him on, those submissions; and
- (b) refer those submissions, together with a copy of the proposed amendment to which they relate, to the member or members of the Appeal Committee appointed under this subsection,

and that member or those members shall as soon as practicable thereafter consider, and make a report and recommendation to the Minister on, those submissions.

(6) The Commission may comment to the member or members of the Appeal Committee appointed under subsection (5) on any submissions being considered by him or them and that member or those members shall in considering those submissions take that comment into account.

(7) On receiving a report and recommendation made to him under subsection (5), the Minister may—

- (a) approve, with such modifications, if any, as he considers it necessary to make; or
- (b) decline to approve,

the proposed amendment to which that report and recommendation relate.

(8) When the Minister has approved a proposed amendment under subsection (7)—

(a) the Commission shall cause—

(i) that amendment or that amendment as modified under that subsection, as the case requires, excluding any maps, plans or diagrams forming part of that amendment, to be published in the *Gazette*; and

(ii) any maps, plans or diagrams forming part of that amendment to be open for inspection at such times and places as the Commission determines;

and

(b) that amendment or that amendment as modified under that subsection, as the case requires, shall on publication under this subsection have effect as though its provisions were enacted by this Act.

(9) In subsections (5) and (6)—

“ “the Appeal Committee” means the Town Planning Appeal Committee established by section 40 of the Town Planning Act. ”.

(2) Any proposed amendment to the Scheme which was immediately before the coming into operation of this Act being dealt with under the procedure set forth in section 33A of the principal Act shall on that coming into operation continue to be dealt with under that procedure as if the repeal and substitution of that section by subsection (1) had not taken place.

Section 36 amended

9. Section 36 of the principal Act is amended by repealing subsection (3a) and substituting the following subsection—

“ (3a) Compensation for injurious affection to any land is payable only once under subsection (3) and is so payable—

(a) under paragraph (a) of that subsection to the person who was the owner of the land at the date of reservation; or

- (b) under paragraph (b) of that subsection to the person who was the owner of the land at the date of application,

referred to in that paragraph, unless after the payment of that compensation further injurious affection to the land results from—

- (c) an alteration of the existing reservation thereof; or
(d) the imposition of another reservation thereon. ”.

Section 36B amended

10. Section 36B of the principal Act is amended—

- (a) in subsection (3) by deleting “Commonwealth” and substituting the following—

“ Australian ”; and

- (b) by inserting after subsection (6) the following subsections—

“ (6a) In determining under subsection (6) any fees to which the members of the Board are entitled while engaged in the business of the Board, the Governor may adopt—

(a) wholly or in part; and

(b) with or without alteration,

all or any of the maximum amounts of remuneration fixed under section 25 of the *Land Valuers Licensing Act 1978* for the various kinds of services rendered by licensed valuers and those maximum amounts of remuneration, if so adopted, shall be deemed to be fees determined under that subsection as fees to which the members of the Board are entitled while engaged in the business of the Board.

(6b) An adoption made under subsection (6a) may be made by reference to the citation of the relevant notice published in the *Gazette* under section 25 of the *Land Valuers Licensing Act 1978* and to any provisions of that notice, and it shall not be necessary to set out in the relevant determination made under subsection (6) the full text of that notice or of any provision thereof. ”.

Section 36C amended

11. Section 36C of the principal Act is amended by inserting after subsection (4) the following subsections—

“ (5) In making under subsection (4) any regulations prescribing the fees payable on applications to the Board, the Governor may adopt—

(a) wholly or in part; and

(b) with or without alteration,

all or any of the maximum amounts of remuneration fixed under section 25 of the *Land Valuers Licensing Act 1978* for the various kinds of services rendered by licensed valuers and those maximum amounts of remuneration, if so adopted, shall be deemed to be fees prescribed by regulations made under that subsection as fees payable on applications to the Board.

(6) An adoption made under subsection (5) may be made by reference to the citation of the relevant notice published in the *Gazette* under section 25 of the *Land Valuers Licensing Act 1978* and to any provisions of that notice, and it shall not be necessary to set out in the relevant regulations made under subsection (4) the full text of that notice or of any provision thereof. ”.
