

Environmental Protection Amendment Regulations (No. 2) 2024

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Environmental Protection Amendment Regulations (No. 2) 2024

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Environmental Protection Amendment Regulations (No. 2) 2024*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Environmental Protection Regulations 1987*.

[The following text is the Environmental Protection Regulations 1987 Part 9A showing proposed amendments in track changes. A formal amending instrument will be drafted at a later stage.]

Part 9A — Prescribed classes of relevant schemes

33A. Terms used

In this Part —

approved redevelopment scheme has the meaning given in the *Metropolitan Redevelopment Authority Act 2011* section 3.

33B. Prescribed classes of amendments to region planning schemes (Act s. 48AAA(2))

(1) In this regulation —

Bush Forever area means land identified as a Bush Forever area in accordance with the Metropolitan Region Scheme;

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

regional road means a road that is on land reserved under a region planning scheme for the purpose of —

- (a) primary regional road; or
- (b) other regional road.

(2) For the purposes of section 48AAA(2) of the Act, the following classes of amendments to a region planning scheme are prescribed —

- (a) an amendment to correct an administrative or minor error;
- (b) an amendment to correct an error if —
 - (i) the error is in, or otherwise relates to, a map, plan or diagram included in the scheme; and
 - ~~(ii) the correction does not alter the zoning or classification of land;~~
- (c) an amendment to classify an area of land as a reserve for the purpose of —
 - (i) parks and recreation; or
 - (ii) regional open space;

(ca) an amendment to add land to a Bush Forever area;

- (d) an amendment to zone an area of land, or to classify an area of land as a reserve, if —
 - (i) the area of land has been subdivided and developed to the extent permitted by an approved redevelopment scheme; and
 - (ii) the approved redevelopment scheme for that area of land ceases to apply; and
 - (iii) the amendment is required to reflect a zone or reserve created in accordance with the approved redevelopment scheme;
- (e) an amendment to create, alter or remove the road reserve of a regional road if —
 - (i) a clearing permit has been granted under Part V Division 2 of the Act for an area of land that will be, or that will form part of, the road reserve of the regional road; or
 - (ii) in relation to the proposed construction of a regional road, the area of land proposed for the construction of the regional road and the impact of construction on the road reserve has been assessed under Part IV of the Act and a decision has been made that the proposal may be implemented;
- (f) an amendment to alter or repeal a definition in the planning scheme if the Western Australian Planning Commission considers that amendment would not materially impact the operation of the planning scheme;
- (g) an amendment to correct or update a name, title, designation or other description if the Western Australian Planning Commission considers that the amendment would not materially impact the operation of the planning scheme.

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33C. **Prescribed classes of amendments to local planning schemes (Act s. 48AAA(2))**

- (1) In this regulation —

building envelope has the meaning given in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 37(1);

cultural place means a place as defined in the *Heritage Act 2018* section 7 that has cultural heritage significance as defined in section 5 of that Act;

design requirement —

- (a) means a development requirement that relates to the design of a development; and
- (b) includes a development requirement relating to setbacks, building height, vehicle parking, signage or plot ratio;

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

development requirement has the same meaning as in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1;

land use category means a category of land use referred to in a local planning scheme;

native vegetation has the meaning given in section 51A of the Act;

R-Codes has the meaning given in the *Planning and Development (Local Planning Scheme) Regulations 2015* Schedule 2 clause 1.

- (2) For the purposes of section 48AAA(2) of the Act, the following classes of amendments to a local planning scheme are prescribed —

- (a) an amendment referred to in paragraph(a)(i) to (iv), (vi) or (viii) of the definition of **basic amendment** in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 34;

- ~~(a) an amendment to correct an administrative or minor error;~~

[D3-N1: Per your instructions of 18 October 2024, paragraph (a) no longer includes a reference to paragraph (a)(vii) of the definition of “basic amendment”.]

- (b) an amendment to correct an error if —

- (i) the error is in, or otherwise relates to, a map, plan or diagram included in the scheme; and
- (ii) the correction does not alter the zoning or classification of land;

- (c) an amendment to classify an area of land as a reserve for the purpose of —

- (i) public open space; or
- (ii) environmental conservation; or
- (ii) State forest;

- ~~(c) an amendment to make the planning scheme consistent with the model provisions set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1;~~

- (d) an amendment to include or alter a definition of a land use category if the Western Australian Planning Commission considers that the amendment would not materially impact the operation of the planning scheme;
- (e) an amendment to zone an area of land, or to classify an area of land as a reserve, for the purpose of conserving a cultural place;
- (f) an amendment to alter or repeal a design requirement that relates only to signage and facade treatments on land that is not —
 - (i) zoned environmental conservation; or
 - (ii) classified as a reserve for environmental conservation; or
 - (iii) designated as special control area - environment;

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- (g) an amendment to zone land (except land zoned environmental conservation) if the zoning allows the land to be used for a purpose that —
 - (i) involves carrying out development ~~replacing or redeveloping an existing building~~ within the existing building envelope; and
 - (ii) is not a light industry, general industry, industrial development or strategic industry purpose;
- (h) an amendment to increase the residential density code and decrease the minimum site area per dwelling as set out in the R-Codes Table 1 for an area of land from R12.5 or higher if the area of land —
 - (i) is already developed in accordance with the existing R-Codes; and
 - (ii) does not abut land that is an area of native vegetation;
- (i) an amendment to include a new provision or alter an existing provision regarding the administration and enforcement of the planning scheme;
- (j) an amendment to zone an area of land, or to classify an area of land as a reserve, if —
 - (i) the area of land has been subdivided and developed to the extent permitted by an approved redevelopment scheme; and
 - (ii) the approved redevelopment scheme for that area of land ceases to apply; and
 - (iii) the amendment is required to reflect a zone or reserve created under the approved redevelopment scheme;
- (k) an amendment to identify or alter an area of land within the scheme area as a development contribution area because of a determination made under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 70(1);

- (l) an amendment to alter any matter required to be set out in a development contribution plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 71(4); ~~the term for which a development contribution plan is to have effect;~~
- (m) an amendment to the text of Part 1 of the planning scheme if the amendment does not permit a change in land use; ~~use.~~
- (n) an amendment to the scheme map that is consistent with a structure plan or local development plan that has been implemented under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan.

Clerk of the Executive Council