

INACTIVE

RESCINDED

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WESTERN AUSTRALIAN
PLANNING COMMISSION

BACKGROUND NOTES

1. This policy deals with the general principles to be used by the Commission in its determination of applications for approval to commence development. The Commission is the responsible authority for those classes of application listed in section 1.5 of the policy, although the creation of the Swan River Trust transfers responsibility for some of those applications to the Trust.
2. The policy was reconsidered and updated by the Commission in May 1998.
3. Related policies are:
 - Policy No. DC 5.1 - Regional Roads (Vehicular Access)
 - Policy No. DC 5.4 - Advertising on Reserved Land.

I. INTRODUCTION

- 1.1 This policy applies only in the metropolitan region.
- 1.2 The Metropolitan Region Scheme requires that approval to commence development is required for all development in the metropolitan region except for:-
- the erection of a boundary fence on land reserved by the scheme;
 - the use of reserved land owned by or vested in a public authority for the purpose for which the land is reserved, for which it has lawfully been used before the coming into effect of the scheme, or for any other purpose for which the land may lawfully be used by the public authority; and
 - on land zoned by the scheme, the erection of a single dwelling house on a lot or the carrying out of works in, on, over, or under a street or road by a public authority pursuant to the provisions of any Act, provided the land is not the subject of a notice under Clause 32 of the scheme and not included in a Planning Control Area.
- 1.3 For the purpose of the scheme, the term “development” has the same meaning given to it by the *Town Planning and Development Act, 1928*, which is: -
- “the use or development of any land includes the erection, construction, alteration, or carrying out, as the case may be, of any building, excavation or other works on any land.”
- 1.4 The Act, the scheme, resolutions made under Clause 32 of the scheme, and delegations made under Section 20 of the Western Australian Planning Commission’s own Act all combine to assign responsibility for the determination of applications for approval to commence development made under the scheme. The responsible authority for that determination is either the Commission or the relevant local government.
- 1.5 The Commission is the responsible authority for all applications which are:-
- on land reserved, or partly reserved, by the scheme for other than road purposes;
 - the responsibility of the Commission by its resolution gazetted on 28 November 1997 concerning development on or abutting regional reserves;
- the subject of resolutions made under Clause 32 of the scheme;
 - on land within, or partly within, a Planning Control Area declared under Section 35C of the *Metropolitan Region Town Planning Scheme Act*; and
 - partly within the management area of the Swan River Trust.
- All other applications are to be determined by the relevant local government.
- 1.6 Special arrangements apply in respect of the Swan River Trust Management Area. Applications wholly within the management area are determined by the Minister responsible for the *Swan River Trust Act, 1988* in accordance with Part V of the Act. Applications partly within or abutting the waters of the management area are determined by the Commission in accordance with the advice of the Minister responsible for the *Swan River Trust Act*. Applications which abut the management area or which are likely to affect the waters of the management area are determined by local government (under delegated powers from the Commission) following consultation with the Swan River Trust.
- 1.7 The purpose of this policy is to set out the general principles that will be applied by the Commission in its determination of those applications for which it is the responsible authority. It should be noted that for land which is zoned by the scheme, the separate approval of the relevant local government may also be required under the provisions of its own town planning scheme.

2. POLICY OBJECTIVES

- To protect the integrity and purpose of reservations made under the Metropolitan Region Scheme.
- To ensure that development is consistent with the principles of any strategic plan for the Perth Metropolitan Region and other policies of the Commission.
- To preserve planning options in areas subject to planning study or review.
- To ensure that development is in accordance with sound town planning principles.

3. POLICY MEASURES

3.1 Region Scheme Reservations

- 3.1.1 Appendix One to this policy sets out the purposes for which land may be reserved by the scheme. In its determination of applications for approval to commence development in areas so reserved, the Commission is bound by Clause 19 of the scheme to have regard to the purpose for which the land is reserved and, without limiting the generality of the clause, may include conditions limiting the period of its approval and relating to the types of building that may be built on the land, or the removal of buildings.
- 3.1.2 The Commission's principal objective in this regard is to ensure that the use of the reserved land, its acquisition or its eventual development is not prejudiced by the proposal which is the subject of the application. Its decision on this point may be influenced not only by the scale and purpose of the proposal, but also by other matters such as its cost, the period of time it is likely to remain, or its design.
- 3.1.3 The determination of certain classes of application on land abutting regional reservations has been delegated to the relevant local government with the Ministry for Planning having only a referral role.
- 3.1.4 In determining applications on land abutting reserves, local governments should ensure that the reservation is not prejudiced, bearing in mind the purpose of the reservation and the detail of the proposal. With proposals abutting land reserved for regional road purposes, for example, local government should have regard for the arrangements made, if any, for the creation of vehicular access to the road. Likewise, development proposals abutting land reserved for parks and recreation should be considered against such matters as visual domination or intrusion of the development, any increases in public utilisation of the reservation that may result, or any physical effects it may have on the reservation.

3.2 Effect on Commission Policies

- 3.2.1 The Commission will continue to use its statutory powers to allow it to determine those classes of application which may have an impact upon its own policy and planning proposals. For example, certain classes of application in the Urban zone must be referred

to it for determination, in order that the effect of those proposals upon the Metropolitan Centres Policy can be assessed against the regional objective of maintaining a hierarchy of centres promoted by The Corridor Plan for Perth and Metroplan.

3.3 Protection of Planning Options

In areas where studies or other regional planning are being undertaken by the Commission, the Commission will continue to require development applications to be referred to it for determination in order to ensure that planning options can be maintained, and it will use the provisions of Clause 32 of the scheme or the declaration of Planning Control Areas to this end.

3.4 Telecommunications Infrastructure

- 3.4.1 Overhead cabling and mobile phone towers constitute "development" under the *Town Planning and Development Act, 1928*, and therefore require planning approval under local government town planning schemes and under the Metropolitan Region Scheme and regional planning schemes. In most cases, applications for telecommunications infrastructure will be determined by the local government.
- 3.4.2 Where the application is on land reserved under the Metropolitan Region Scheme or in other circumstances where the Commission is the responsible authority, the following matters will be taken into account:
- the social and economic benefits of affordable and convenient access to modern telecommunications-based services;
 - continuity of supply of telecommunications services;
 - protection of the environment;
 - safeguarding visual amenity and streetscape;
 - protection of heritage places;
 - public safety; and
 - coordination with other services.

4. IMPLEMENTATION OF POLICY

4.1 Statutory Provisions

4.1.1 Clause 30 of the scheme provides that the Commission will, in exercising its development control powers, have regard for the purpose for which the subject land is zoned or reserved, the orderly and proper planning of the locality, and the preservation of the amenities of the locality.

4.2 Procedures

4.2.1 All applications for approval to commence development are to be submitted to the local government in whose district the site is situated. Appendix Two to the policy outlines the supporting information that should be included. The local government is required to forward the application to the Commission within seven days of its receipt, and to forward its advice and recommendations within 42 days of the receipt of the application.

4.2.2 In its consideration of the application the Commission may consult with any authority that in the circumstances it thinks appropriate, and this may include the Water Corporation, Environmental Protection Authority, Westrail, Health Department or Main Roads Western Australia. The Commission will make its determination in the light of any comments and recommendations it has received and the general principles outlined in this policy.

4.2.3 The Commission has 60 days from the date of its receipt of the application to issue its decision, although if additional information is required the 60-day period begins when that information is received. In addition, the applicant may agree to an extension of the period. If a decision is not issued within that period, then the application is deemed to be refused and a right of appeal is created.

4.2.4 The Commission's approval will remain valid for the period indicated in its decision, generally a period of two years. In the case of applications for excavations or quarry workings, the time period is usually extended to five years which may be renewable on application.

4.2.5 The Commission may impose upon an approval such conditions as it sees fit, and these may be used to secure the objectives outlined earlier. An approval to commence development runs with the land, and any

conditions of that approval are enforceable against persons other than those to whom the approval was first granted, including successors in title.

4.2.6 In certain circumstances, the Commission may give its approval to an application on a temporary basis, subject to the removal of any development at the end of the period and the reinstatement of the land where appropriate. In such cases, the Commission will have regard for the nature, cost, and expected life of the development.

4.3 Appeals

4.3.1 If an applicant is aggrieved by a decision of the Commission to refuse an application for consent to development or to impose upon its approval conditions which are unacceptable to the applicant, then there is a right of appeal.

4.3.2 Appeals may be made to either the Minister for Planning or the Town Planning Appeal Tribunal within 60 days of the date of the Commission's decision.

APPENDIX ONE - Purposes for which land may be reserved

The purposes for which land may be reserved by the Metropolitan Region Scheme are:

- Parks and Recreation
- Railways
- Port Installations
- State Forests
- Water Catchments
- Civic and Cultural
Waterways
Roads - Controlled Access
- Other Major Highways
- Important Regional Roads
- Public Purposes

APPENDIX TWO - Applications to commence development

All applications for approval to commence development should be submitted on Form 1 of the scheme and must be accompanied by such plans and information as the responsible authority may reasonably require. In the case of applications for new development, the Commission requires the following:

1. plans at a scale not less than 1:500 showing:-
 - (i) street names, lot number(s), north point and the dimensions of the site;
 - (ii) the location and proposed use of the site, including any existing building to be retained and proposed buildings to be erected on the site;
 - (iii) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (iv) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (v) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;

(vi) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same;

(vii) the nature and extent of any open space and landscaping proposed for the site;

(viii) the relative levels of the site with respect to the adjoining streets; and

(ix) the position and size of existing sewers, stormwater drains and other major services on the site.

2. plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
3. any specialist studies that the responsible authority may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
4. any other plan or information that the responsible authority may require to enable the application to be determined.