

'Planning approval' means the planning approval of the WAPC as required under the PRS and this resolution, whether granted by the WAPC or by delegates of the WAPC including committees, officers, local governments and members and officers of local governments.

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PL405\*

### PLANNING AND DEVELOPMENT ACT 2005

#### RESOLUTION

#### RESOLUTION UNDER CLAUSE 27 OF THE GBRS RES 2014/03

#### **Resolution made under clause 27 of the Greater Bunbury Region Scheme regarding development on zoned land requiring planning approval**

Unless exempted by clause 25 and 26, under clause 24 of the Greater Bunbury Region Scheme (GBRS), on *reserved* land, a person must not commence or carry out development unless that person has planning approval. Also under clause 24, on *zoned* land, a person must not commence or carry out development of a kind or class specified in a resolution made by the Western Australian Planning Commission (WAPC) under clause 27 unless that person has planning approval.

Under clause 27 of the GBRS, on *zoned* land, the WAPC may by resolution require specified development to have planning approval before it is commenced or carried out. By virtue of Section 5(2) of the *Planning and Development Act 2005* (the Act), this includes public works.

**Resolution under clause 27 of the GBRs**

On 22 April 2014, pursuant to clause 27 of the GBRs, the WAPC resolved—

- A TO REVOKE its resolution made under clause 27 of the Greater Bunbury Region Scheme as detailed in a notice published in the *Government Gazette* of 20 April 2012 (pages 1713-1717);
- B TO REQUIRE any development which is on land zoned under the Greater Bunbury Region Scheme, and which is of a kind or class set out in schedule 1, to be approved by the WAPC before the said development is commenced or carried out;
- C TO REQUIRE local governments within the area covered by the Greater Bunbury Region Scheme following referrals and procedures as specified in schedule 2, either—
  - (i) to forward applications for approval to commence and carry out such development to the WAPC for determination, or
  - (ii) to assess and determine such applications where the WAPC has formally delegated those functions to the local government;
- D TO CONFIRM that words used in the schedules to this resolution have the meanings given to them in the Act and the Greater Bunbury Region Scheme and, unless the context otherwise requires, the meanings defined in schedule 3. In the case of any inconsistency, the Act prevails;
- E TO DECLARE that this resolution takes effect when notice of it is published in the *Government Gazette*.

TIM HILLYARD, Secretary,  
Western Australian Planning Commission.

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**SCHEDULE 1—Development on zoned land requiring planning approval****1. Development of State or Regional Significance**

Development in respect of which the WAPC, by notice in writing in each case, advises the local government that the development is of state or regional significance or that, in the public interest, the development should be the subject of an application determined by the WAPC.

**2. Land abutting a Regional Open Space Reservation**

All development on land abutting a regional open space reservation except—

- (a) Residential development of four or fewer dwellings that does not encroach onto the reservation.
- (b) Ancillary and incidental development that does not encroach onto the reservation and which in the opinion of the local government does not conflict with the purposes of the regional open space reservation stated in clause 10(a) of the GBRs.
- (c) Development, other than intensive agriculture, associated with existing rural activities which in the opinion of the local government does not conflict with the purposes of the regional open space reservation stated in clause 10(a) of the GBRs.

**3. Land abutting a Regional Road Reservation**

Development of the following kinds on land abutting a regional road reservation—

- (a) Development including earthworks and drainage which encroaches upon the regional road reservation.
- (b) Development with direct access or existing vehicular access to a regional road reservation.
- (c) Development where access to a regional road reservation is proposed.
- (d) Development which in the opinion of the WAPC has the potential to significantly increase traffic and has access to a regional road reservation.
- (e) Development where existing access to a regional road reservation is to be retained but where alternative access is available.

Exceptions—

- (i) Residential development of four or fewer dwellings that does not encroach onto the regional road reservation and where no additional, relocated or new access is proposed.
- (ii) Ancillary and incidental development that does not encroach onto the regional road reservation and where no additional, relocated or new access is proposed.

**4. Land abutting other Reservations**

All development on land abutting a port installations, public purposes, railways, state forests or waterways reservation.

**5. Development in Special Control Areas**

Development of the following kinds in special control areas—

- (a) Development on land in the water catchments special control area (SCA No. 1) which in the opinion of the WAPC or the local government may conflict with the purposes of SCA No. 1 stated in clause 15(c) of the GBRs.
- (b) Development on land in the Kemerton industrial zone buffer special control area (SCA No. 2) which in the opinion of the WAPC or the local government may conflict with the purposes of SCA No. 2 stated in clause 18(b) of the GBRs.

- (c) Development on land in the Glen Iris service corridor buffer special control area (SCA No. 3) which in the opinion of the WAPC or the local government may conflict with the purposes of SCA No. 3 stated in clause 21(b) of the GBRS.
- (d) Development on land wholly or partly within the Wastewater Treatment Plant Odour Buffer special control area (SCA No. 4) which in the opinion of the WAPC or the local government may conflict with the purposes of SCA No. 4 stated in clause 24A(c) of the GBRS

#### **6. Development in the Strategic Agricultural Resource Policy Area**

Development in, adjacent to or in close proximity to the strategic agricultural resource policy area which, in the opinion of the WAPC or the local government, would potentially be incompatible with agricultural activities in the policy area or would be adversely affected by, or would adversely affect, those activities, including but not limited to bed and breakfast, caravan park, club premises, corrective institution, educational establishment, exhibition centre and park home park.

#### **7. Development in the Strategic Minerals and Basic Raw Materials Resource Policy Area**

Development in, adjacent to or in close proximity to the strategic minerals and basic raw materials resource policy area which, in the opinion of the WAPC or the local government, would potentially be incompatible with mining or materials extraction in the policy area or would be adversely affected by, or would adversely affect, those activities, including but not limited to agriculture—intensive, animal establishment, animal husbandry—intensive, caravan park, club premises, corrective institution, educational establishment, exhibition centre, fuel depot, industry—rural, park home park, place of worship, private recreation, rural pursuit, veterinary centre and winery.

#### **8. Development in the Floodplain Management Policy Area**

Development on land partly or wholly within the land subject to the floodplain management policy which, in the opinion of the WAPC or local government, would have the potential to increase the risk or impact from major river flooding, would be adversely affected by flooding, or would adversely affect the natural flood carrying capacity of floodplains or water quality of waterways as a natural resource.

#### **9. Development in Activity Centres**

Development in an activity centre relating to a building or extension/s to an existing building for shop-retail purposes where the development proposed constitutes a Major Development under the Activity Centres for Greater Bunbury Policy.

##### **Exceptions**

Development generally in accordance with WAPC endorsed Activity Centre Structure Plans.

#### **10. Development in the rural zone**

Development in the rural zone, other than for animal husbandry-intensive, which in the opinion of the WAPC or the local government may not be consistent with the purposes of the rural zone stated in clause 12(e) of the GBRS.

#### **11. Animal Husbandry**

Development for an animal husbandry-intensive premises, or for any extension or addition in excess of 100 m<sup>2</sup> to the improvements of an existing animal husbandry-intensive premises.

#### **12. Non-conforming use**

Any extension and/or change to a non-conforming use.

### **SCHEDULE 2—Requirements for referral to advice agencies and forwarding to the WAPC**

1. Under clause 36 of the GBRS, an application for planning approval is to be submitted to the local government, where the local government will exercise the powers and follow the procedures provided by an instrument of delegation made by the WAPC under section 16 of the *Planning and Development Act 2005*. If the application is to be determined by the WAPC, the local government shall forward it to the WAPC within seven days and make recommendations to the WAPC within 42 days (or such longer period as the WAPC allows).
2. An application for development abutting regional open space reservations, shall be referred within seven days to the Department of Planning for advice and recommendation before being considered by the local government.
3. An application for development in or abutting a primary regional roads reservation shall be referred within seven days to Main Roads Western Australia for advice and recommendation before being considered by the local government.
4. An application for development in or abutting an other regional roads reservation shall be referred within seven days to the Department of Planning for advice and recommendation before being considered by the local government.
5. An application for development abutting reserved land, other than land reserved for regional open space or for regional roads, shall be referred within seven days to the public authority responsible for that reserved land.
6. An application for development in the water catchment special control area (SCA No. 1) shall be referred within seven days to the Department of Water and/or the Water Corporation for advice and recommendation before being considered by the local government.

7. An application for development in the Kemerton industrial zone buffer special control area (SCA No. 2) shall be referred within seven days to the Department of State Development and the Environmental Protection Authority for advice and recommendation before being considered by the local government.

8. An application for development in the Glen Iris service corridor buffer special control area (SCA No. 3) shall be referred within seven days to the Bunbury Port Authority, Department of State Development and the Environmental Protection Authority for advice and recommendation before being considered by the local government.

9. An application for development in the Wastewater Treatment Plant Odour Buffer special control area (SCA No. 4) shall be referred within seven days to the Water Corporation for advice and recommendation before being considered by the local government.

10. An application for development in, adjacent to or in close proximity to the strategic agricultural resource policy area shall be referred within seven days to the Department of Agriculture and Food for advice and recommendation before being considered by the local government.

11. An application for development in, adjacent to or in close proximity to the strategic minerals and basic raw materials resource policy area shall be referred within seven days to the Department of Mines and Petroleum for advice and recommendation before being considered by the local government.

12. An application for development partly or wholly within the floodplain management policy area shall be referred within seven days to the Department of Water for advice and recommendation before being considered by the local government.

13. An application for an animal husbandry-intensive premises requiring approval under the GBRs shall be referred to the Department of Planning, Department of Agriculture and Food, Department of Health, Department of Environmental Regulation, Department of Parks and Wildlife and/or the Environmental Protection Authority for advice and recommendation before being considered by the local government.

14. An application for any extension and/or change to a non-conforming use shall be referred within seven days to the Department of Planning for advice and recommendation before being considered by the local government.

15. Where an application is referred to an advice agency for advice and recommendation the agency is to be advised that if no advice or recommendation has been received within thirty days of receipt of the application by the advice agency the application may be determined on the available information; and the WAPC or delegate of, or a local government acting under delegated power, may determine the application on that basis.

16. Following referral for advice and recommendation, an application which is to be determined by the WAPC shall be forwarded as soon as practicable to the WAPC together with the advice and recommendations provided by all advice agencies consulted and the advice and recommendation of the local government.

17. Where the recommendation provided by an advice agency specified above is not acceptable to the local government, the application, together with the recommendations provided by all advice agencies consulted and the reasons why the recommendation is not acceptable to the local government, shall be forwarded immediately to the WAPC for determination.

### SCHEDULE 3—Definitions

In this notice of resolution, words have the meanings given to them in the Act and the GBRs.

Unless the context otherwise requires—

‘Abutting’ reserved land means the zoned land shares a common boundary with reserved land.

‘Access’ means entry or exit (or both) from either a road or abutting development by a vehicle.

‘Activity centre’ means the category of activity centres set out in Table 2 of the *Activity Centres for Greater Bunbury Policy*, namely—

- City Centre
- District Centres
- Neighbourhood centres
- Special Centres
- Town Centres

‘Advice agency’ means a department, public authority or body which is requested to provide advice and recommendations on applications for planning approval under the GBRs as an agency responsible for reserved land or to which local governments refer applications under the terms of schedule 3.

‘Animal husbandry-intensive’ has the same meaning as in the *Town Planning Regulations 1967*.

‘Forward to the WAPC’ and similar expressions mean convey by mail, by hand or electronically to the Bunbury office of the Department of Planning.

‘Net lettable area’ means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—

- (a) all stairs, toilets, cleaner’s cupboards, lift shafts and motor rooms, tea rooms and plant rooms and other service areas;
- (b) lobbies between lifts facing other lifts servicing the same floor

- (c) areas set aside for the provision of facilities or services to the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building.

'Non-conforming use' has the same meaning as it has in the *Planning and Development Act 2005* section 172.

'Not acceptable' means that the local government wishes the application to be determined in a manner that is inconsistent with the recommendation or advice received from the advice agency which the local government was required to consult.

'Planning approval' means the planning approval of the WAPC as required under the GBRs and this resolution, whether granted by the WAPC or by delegates of the WAPC including committees, officers, local governments and members and officers of local governments.

'Proximity' and 'in close proximity' mean that the development is, in the opinion of the WAPC or local government, sufficiently close to a policy area for the effects of activities in the policy area (such as noise, odour, spray drift or dust) to be likely to have an adverse effect on the proposed use, and/or for the effects of the development to be likely to have an adverse effect on uses in the policy area.

'Shop-retail' means the land use activities included in "Planning land use category 5: Shop/Retail" as defined by the Commission's South West Land Use and Employment Survey (as amended from time-to-time).

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**Planning and Development Act 2005**

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**Greater Bunbury Region Scheme**

generally	Resolution (c)	
clause 10(a)		2(b), (c)
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clause 15(c) re special control area No. 1		5(a)
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clause 21(b) re special control area No. 3		5(c)
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**Activity Centres for Greater Bunbury**

PL406\*

**PLANNING AND DEVELOPMENT ACT 2005**

## INSTRUMENT OF DELEGATION

## DELEGATION POWERS OF LOCAL GOVERNMENTS (GBRS) DEL 2014/01

**Delegation to local governments of certain powers and functions of the  
Western Australian Planning Commission relating to the  
Greater Bunbury Region Scheme****Preamble**

Unless exempted by clause 25 and 26, under clause 24 of the Greater Bunbury Region Scheme (GBRS), on reserved land, a person must not commence or carry out development unless that person has planning approval. Development on zoned land requires planning approval if it is of a kind or class set out in a resolution of the Western Australian Planning Commission (WAPC) under clause 27 of the GBRS. Parts 7 and 8 of the GBRS sets out the requirements, procedures and functions of the WAPC in relation to the determination of applications for planning approval.

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the *Government Gazette*, delegate any function to a local government, a committee established under the *Local Government Act 1995* or an employee of a local government.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or conferred upon the WAPC by the Act or any other written law as the case requires.

**Resolution under section 16 of the Act (delegation)**

On 22 April 2014, pursuant to section 16 of the Act, the WAPC RESOLVED—

- A TO DELEGATE to local governments, and to members and officers of those local governments, its functions in respect of the determination, in accordance with Parts 7 and 8 of the Greater Bunbury Region Scheme, of applications for approval to commence and carry out development as specified in schedules 1 and 2, within their respective districts, subject to the terms set out in schedule 3;
- B TO REVOKE its delegation of powers and functions to local governments as detailed in a notice published in the *Government Gazette* of 20 April 2012 (pages 1717—1722).

TIM HILLYARD, Secretary,  
Western Australian Planning Commission.

**PLANNING AND DEVELOPMENT ACT 2005**

## INSTRUMENT OF DELEGATION

**SCHEDULE 1—Development on reserved land delegated to local governments**

1. Development on land in a regional road reservation where the local government accepts the recommendation and any advice of the advice agency.
2. Development of private jetties and associated facilities located in an artificial waterway in the waterways reservation.