

# Planning Law Reform

By Andrew Roberts

## Phase 2 planning reforms

In August 2014, a blueprint was released for phase 2 of the planning reforms proposed by the Department of Planning and Western Australian Planning Commission. The phase 1 reforms have been largely implemented, although work continues on a number of initiatives including:

- (1) a review of the *Town Planning Regulations 1967* and the Model Scheme Text;
- (2) a review of *State Planning Policy 3.6* which relates to developer contributions for infrastructure; and
- (3) the preparation of regulations requiring local governments to provide data on development applications.

The phase 2 reform agenda includes a number of significant initiatives.

## Review of the Metropolitan Region Scheme

The *Metropolitan Region Scheme*, first introduced in 1963, is generally regarded as requiring updating to bring it into line with the more recently adopted Peel and Greater Bunbury region schemes. As part of this initiative, the delegation of development approval powers to local government under the MRS and other region schemes is to be reviewed.

## Improved region scheme and local planning scheme amendment process

To address delays which occur in securing amendments to region schemes and local planning schemes, it is proposed to change the scheme amendment process. These changes include the creation of 2 classes of amendment, 'standard' and 'complex'. The advertising period for standard amendments will be less. There is also to be notification of proposed amendments to adjoining landowners so they can make submissions.

It is proposed that minor textual and mapping changes to schemes will be possible by resolution of the Commission without going through the usual amendment process.

## Concurrent amendment of regional and local planning schemes

It is not uncommon for amendments to both region and local planning schemes to be necessary to facilitate subsequent subdivision and development of land. Under the current system, region and local planning scheme amendments generally occur in sequence rather simultaneously. The time required to achieve both amendments can be significant. Legislative changes are proposed to allow a simultaneous amendment process.

## Local scheme reviews

To aid in the preparation and review process for local planning schemes, it is proposed to introduce standard deemed provisions for administrative and procedural matters which will be automatically included in all new and revised schemes. In addition, there will be model provisions for matters such as zone and reserve types, permissibility designations and categories of exemption. Any variation of these provisions would require a detailed justification and Ministerial approval. Rather than the 5-yearly review of schemes as is presently required, it is proposed there be 5-yearly audits followed by a review every 10 years.

### **Structure planning process**

Many local planning schemes require structure plans to be approved both by the local government and subsequently by the Commission. The phase 2 initiatives include a proposal to make the Commission the sole decision maker on structure plans. They will continue to be submitted to and advertised by local governments who would then assess structure plans and make a recommendation to the Commission. It is proposed that the Commission will have power to delegate decision making on certain classes of structure plan to local government, for example those dealing with local development matters.

### **3 track development assessment model**

It is proposed to introduce a 3 track system for all types of planning applications for local governments and the Commission. The 3 tracks will comprise:

- (1) exempt development which raises no issue under the applicable planning framework and which therefore does not require approval;
- (2) standard applications which relate to straightforward development proposals which are generally consistent with the applicable planning framework but require a degree of assessment with approval usually done under delegation; and
- (3) complex development applications which involve significant or strategic development and may not generally comply with the established planning framework and therefore require detailed assessment.

### **Private certification of development applications**

It is proposed to further investigate the proposal for private certification of development applications much in the same manner as presently occurs with building permit applications. However, it appears that significant additional work on this initiative is required before it will obtain government support. As interim measures, it is proposed to:

- include standard deemed provisions in the Model Scheme Text to ensure that all local planning schemes exempt compliant single houses from the need for approval;
- look at the possibility of building permit certifiers to certify proposed single houses as compliant with the *Residential Design Codes*.

### **Standardised delegations**

It is proposed to develop a schedule of model delegations for decision making on planning applications. Prior to completion of the local government reform process, the model delegations are to be applied by local government on a voluntary basis.



Once the reform process is completed, the model delegations will be reviewed with the possibility that they will become mandatory.

#### **Electronic application and tracking system**

The Department of Planning proposes to develop and implement an interactive online portal for the lodgement and processing of all applications determined by the Commission. Consideration is to be given to creating a standard electronic application system for local governments as well.

For further information in regard to the above, contact Andrew Roberts on 9424 6210 or [andrew.roberts@mcleods.com.au](mailto:andrew.roberts@mcleods.com.au). The information contained in this update should not be relied upon without obtaining further detailed legal advice in the circumstances of each case.