



Planning Reform

Proposed Amendments - Planning & Development (Development Assessment Panel) Regulations 2011

Draft – WA Planning Manual – Local Planning Policies – Feedback Form

Overview

The State Government's 2019 Action Plan for Planning Reform (Action Plan) seeks to make planning easier to understand and navigate and identifies actions specific to improving the legibility and consistency of the use of local planning policies.

Changes to the Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations) will be required to implement some aspects of these actions, such as requiring local planning policies to be prepared in a standard manner and form and having a five-year lifespan to ensure regular review takes place.

Further, Part 9 of the *Planning and Development Amendment Act 2023* (Amendment Act) will introduce improved processes for the review of state and local planning instruments by inserting a new Part 9A into the *Planning and Development Act 2005*. This new part requires the preparation of regulations which will likely include modified provisions for the review of the local planning framework, including local planning policies.

In the interim, the Department on behalf of the WAPC has prepared a draft document for local planning policies, including a supporting template to assist local governments when preparing, reviewing and amending local planning policies. The document will be amended to reflect any new regulatory provisions for local planning policies once these Regulations are finalised.

This document will form part of the WA Planning Manual.

Consultation Details

Feedback is invited on the draft document, including the new template for local planning policies.

You are invited to make a submission by **5PM, 6 December 2024**.

Late submissions may not be accepted. This Feedback Form has been prepared to guide the preparation of a submission.

Please email a completed form to planningreform@dplh.wa.gov.au.





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Submitters Details:

Submitter's name:	Jonathan Speer	
Email address:	wa@architecture.com.au	
Are you submitting on behalf of an organisation?		
Yes		
Organisation name (if applicable):		
Australian Institute of Architects		
Which stakeholder group represents you best? We will use your answer to report on the types of stakeholders we heard from. Select one of the options from the list below.		
Industry Association		
If you selected 'Other', please outline what group best describes your activities?	Insert your stakeholder group here	
Submissions may be published as part of the consultation process. Do you give permission for your name and your organisations name (if applicable) to be published?	Yes, please publish my details	



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Comments:

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1. Section 2.1 – Role of a local planning policy

The draft document highlights that the principal purpose of a local planning policy is to provide guidance on how the local government will make determinations under the local planning scheme in relation to any matters relating to the planning and development of a scheme area to which the policy applies.

Please tick the relevant box and provide any additional comments below:



Support the content relating to the role/purpose of a local planning policy



Support the content relating to the role/purpose of a local planning policy with modification



Do not support the content relating to the role/purpose of a local planning policy

The Institute supports the roles of local planning policies, as defined, particularly in relation to strategic and operational considerations.

2. Section 2.2 – Due regard status

The draft document highlights that a local planning policy is an instrument that is required to be given 'due regard' in decision-making, unlike a local planning scheme which has statutory effect. Because decision-makers are not bound by a local planning policy, the document makes it clear that the use of mandatory or prohibitive language such as 'shall', 'must' and 'not permitted' within a policy should be avoided.





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Please tick the relevant box and provide any additional comments below:



Support the content relating to the due regard status of a local planning policy



Support the content relating to the due regard status of a local planning policy with modification



Do not support the content relating to the due regard status of a local planning policy

The Institute supports local planning policies being given 'due regard'; however, we acknowledge inconsistent resources and training in local authorities across the State. We recommend training and guidance resources to be developed for decision-makers to assist with consistent application of 'due regard'.

2. Section 3 – Preparation of a local planning policy (set of criteria)

The Action Plan outlines that the use and function of a local planning policy will be clearly stipulated with set criteria of what they can and cannot be used for, and local planning policies that do not meet the criteria will require the approval of the WAPC before coming into effect. The document provides detailed information regarding when a local planning policy should be prepared, including Tables 1 and 2 which list situations where it may or may not be appropriate to prepare a local planning policy.

Please tick the relevant box and provide any additional comments below, concerning whether the proposed set of criteria (outlined in Tables 1 and 2 of the document) is sufficient in the absence of additional requirements for WAPC approval:



Support the content relating to where it may or may not be appropriate to prepare a local planning policy (set of criteria)



Support the content relating to where it may or may not be appropriate to prepare a local planning policy with modification (set of criteria)



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Do not support the content relating to where it may or may not be appropriate to prepare a local planning policy (set of criteria)

The proposed criteria for creating local planning policies, alongside the specific examples outlined in Table 1 and Table 2, are supported. These are practical and helpful in ensuring parties understand the differences of function between different instruments.

3. Section 3.1 – Preliminary engagement with key stakeholders

The document acknowledges that the Western Australian Planning Commission (WAPC) has both approval and advisory roles when it comes to local planning policies and encourages local governments to seek preliminary advice from the Department (on behalf of the WAPC) when preparing or amending a local planning policy.

Please tick the relevant box and provide any additional comments below:

Support the content relating to preliminary engagement when preparing a local planning policy

Support the content relating to preliminary engagement when preparing a local planning policy with modification

Do not support the content relating to preliminary engagement when preparing a local planning policy

Preliminary engagement with key stakeholders is supported and recommended. The early engagement, particularly when relating to a specific area or relating to heritage, is recommended to be expanded. Additional key stakeholders for a specific area may include landholders in that area; whereas relating to specialist consideration (such as heritage) may include specialist consultant engagement (for subject specific advice/considerations) and local interest groups (such as historical societies).



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4. Section 3.2. - Template for local planning policies

- (i) The Action Plan includes an action specifying that all local planning policies will be prepared in a standard manner and form to improve legibility. Implementation of this action will require legislative changes to the LPS Regulations, but as an interim measure to improve consistency and legibility of local planning policies, the WAPC has prepared a template that can be used by local governments when preparing or amending a local planning policy.
- (ii) In addition to the general content, the template includes the following appendices to assist with maintaining the consistency, legibility, and transparency of local planning policy provisions:
- Appendix A – a template for local planning policies that can be used when preparing a local planning policy that makes modifications to the Residential Design Codes.
 - Appendix B – a template that can be used when preparing local planning policy provisions for non-residential development.

Please tick the relevant box and provide any additional comments for 3(i) below:



Support the draft template for a local planning policy



Support the draft template for a local planning policy with modification



Do not support the draft template for a local planning policy

Please tick the relevant box and provide any additional comments for 3(ii) below:



Support the draft appendices relating to residential and non-residential local planning policy provisions



Support the draft appendices relating to residential and non-residential local planning policy provisions with modification





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Do not support the draft appendices relating to residential and non-residential local planning policy provisions

The Institute supports consistency of LPPs, the listed inclusions and the provision of templates in Appendix 1 and 2. Appendix 1 – Local planning policy template, under Item 3.0, notes that the objectives need to be actionable and lists “to ensure”. Noting that the LPP is a ‘due regard’ document, by definition it can only be used in consideration by the decision makers and cannot “ensure”. Note that most built environment professionals no longer use the term “ensure” as often Professional Indemnity Insurance does not cover the professional for the use of this term. It is recommended to seek insurance and liability advice with regards to the use of this term.

5. Section 3.6 – WAPC decision (where required)

The document and associated template provide information on the processes relating to a WAPC decision on local planning policy provisions, seeking to increase the legibility and transparency of policies. The document (or version) control table included in Appendix D of WAPC’s template provides stakeholders with contextual information about the history and status of the local planning policy, including whether WAPC approval was required for certain provisions and if so, the date that WAPC approval was granted.

Please tick the relevant box and provide any additional comments below:

Support the content relating to the processes relating to a WAPC decision (where applicable) on a local planning policy

Support the content relating to the processes relating to a WAPC decision (where applicable) on a local planning policy with modification

Do not support the content relating to the processes relating to a WAPC decision (where applicable) on a local planning policy

Insert comments here



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6. Section 5 - Review of local planning policies

Local planning policies currently have effect in perpetuity (or until they are revoked) as the LPS Regulations do not specify a duration or a requirement to review whether they have remained satisfactory and fit for purpose over time. This has led to a proliferation of local planning policies across the State, some of which are not fit for purpose, are misaligned with the broader planning framework, or have created unnecessary red tape.

The Action Plan includes an action specifying that all local planning policies will have a maximum five-year lifespan to ensure that regular review takes place. Implementation of this action will require legislative changes to the LPS Regulations, but as an interim measure, the draft document recommends that the local government reviews each local planning policy at least once every five years to determine whether:

- It remains satisfactory without amendments.
- It remains satisfactory subject to amendments; or
- It is no longer satisfactory and should be revoked.

The draft document also provides information on the matters that the local government should consider when making this determination.

Please tick the relevant box and provide any additional comments below:



Support the content relating to the review of a local planning policy



Support the content relating to the review of a local planning policy with modification



Do not support the content relating to the review of a local planning policy

Insert comments here

7. Other





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This section should be used to outline any other feedback you have.

Please outline any other suggested improvements or comments below:

The Institute strongly supports design review of LPPs, as outlined in Section 3.4.

THANK YOU FOR YOUR FEEDBACK.