

Part 10 — Procedure for Dealing with Applications

10.1 Consultation with Other Authorities

- 10.1.1 In considering an application for planning approval the local government may consult with any other statutory, public or planning authority it considers appropriate.
- 10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the local government is to consult that authority before making its determination.

10.2 Matters to be considered by Local Government

The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application –

- (a) The aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);
- (b) The requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) Any approved statement of planning policy of the Commission;
- (d) Any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) Any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) Any Local Planning Policy adopted by the local government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (g) In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) The conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) The cultural heritage significance of any place or area affected by the development, in particular those heritage places included on the Municipal Inventory of Heritage Places;
- (j) Whether there would be a detrimental impact on the streetscape;
- (k) The compatibility generally of a use or development with its setting;
- (l) Any social issues that have an effect on the amenity of the locality;
- (m) The likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (n) Whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;

- (o) The preservation of the amenity of the locality;
- (p) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (q) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (r) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (s) Whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (t) Whether public utility services are available and adequate for the proposal;
- (u) Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (v) Whether adequate provision has been made for access by disabled persons;
- (w) Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (x) Whether the proposal is likely to cause soil erosion or land degradation;
- (y) The potential loss of any community service or benefit resulting from the planning approval;
- (z) Any relevant submissions received on the application;
- (za) The comments or submissions received from any authority consulted under clause 10.1.1;
- (zb) Any other planning consideration the local government considers relevant.

10.3 Determination of Applications

In determining an application for planning approval the local government may –

- (a) Grant its approval with or without conditions; or
- (b) Refuse to grant its approval.

10.4 Form and Date of Determination

10.4.1 As soon as practicable after making a determination in relation to the application, the local government is to convey its determination to the applicant in the form prescribed in Schedule 9 and the date of determination is to be the date given in the notice of the local government's determination.

10.4.2 Where the local government refuses an application for planning approval the local government is to give reasons for its refusal.

10.5 Term of Planning Approval

10.5.1 Where the local government grants planning approval for the development of land–

- (a) The development approved is to be substantially commenced within two (2) years, or such other period as specified in the approval, after the date of the determination; and

- (b) The approval lapses if the development has not been substantially commenced before the expiration of that period.

10.5.2 A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1.

10.6 Temporary Planning Approval

Where the local government grants planning approval, the local government may impose conditions limiting the period of time for which the approval is granted.

Note: A temporary planning approval is where the local government grants approval for a limited period, for example, where the land may be required for some other purpose in the future, and is different to the term of the planning approval which is the period within which the development must commence.

10.7 Scope of Planning Approval

Planning approval may be granted –

- (a) For the use or development for which the approval is sought;
- (b) For that use or development, except for a specified part or aspect of that use or development; or
- (c) For a specified part or aspect of that use or development.

10.8 Approval Subject to Later Approval of Details

10.8.1 Where an application is for a development that includes the carrying out of any building or works, the local government may grant approval subject to matters requiring the subsequent planning approval of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the local government thinks fit.

10.8.2 In respect of an approval requiring subsequent planning approval, the local government may require such further details as it thinks fit prior to considering the application.

10.8.3 Where the local government has granted approval subject to matters requiring the later planning approval of the local government, an application for approval of those matters must be made not later than two (2) years after the date of the determination of the first approval, or such other period as is specified in the approval.

10.9 Deemed Refusal

10.9.1 Subject to clause 10.9.2, an application for planning approval is deemed to have been refused if a determination in respect of that application is not conveyed to the applicant by the local government within 60 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

10.9.2 An application for planning approval which is the subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the local government within 90 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

10.9.3 Despite an application for planning approval being deemed to have been refused, the local government may issue a determination in respect of the application at any time after the expiry of the period specified in clause 10.9.1 or 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

10.10 Applications for Review (Appeals)

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may apply to review that determination under Part 14 of the Planning Act.