

Western Australia

DRAFT 7

**Planning and Development Legislation
Amendment (Western Trade Coast Protection
Area) Bill 2015**

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Western Australia

LEGISLATIVE ASSEMBLY/COUNCIL

DRAFT 7

**Planning and Development Legislation
Amendment (Western Trade Coast Protection
Area) Bill 2015**

A Bill for

**An Act to amend the *Hope Valley Wattleup Redevelopment Act 2000*
and the *Planning and Development Act 2005* to provide for
development restrictions in respect of the Western Trade Coast
Protection Area.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Planning and Development Legislation Amendment (Western Trade Coast Protection Area) Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

1 **Part 2 — Hope Valley Wattleup Redevelopment**
2 **Act 2000 amended**

3 **3. Act amended**

4 This Part amends the *Hope Valley-Wattleup Redevelopment*
5 *Act 2000*.

6 **4. Section 28 amended**

7 After section 28(1)(e) insert:

- 8
9 (fa) any relevant regulations made under
10 section 34B(1); and
11

12 **5. Part 5A inserted**

13 After section 33 insert:

15 **Part 5A — Additional development control for**
16 **Western Trade Coast Protection Area**

17 **34A. Term used: Western Trade Coast Protection Area**

18 In this Part —

19 ***Western Trade Coast Protection Area*** means the area
20 referred to in the *Planning and Development Act 2005*
21 section 165B(1).

22 **34B. Regulations restricting land use**

23 (1) The Governor may make regulations —

- 24 (a) setting out classes of land use that are
25 prohibited in any part of the Western Trade
26 Coast Protection Area that is within, or partly
27 within, the redevelopment area; and

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- 1 (b) providing for duties and responsibilities of the
2 Commission in relation to deciding applications
3 for approval of development in the Western
4 Trade Coast Protection Area.
- 5 (2) The Governor must not make regulations under
6 subsection (1) except on the recommendations of —
- 7 (a) the Minister responsible for the administration
8 of the *Government Agreements Act 1979*; and
9 (b) the Minister.
- 10 (3) Before making a recommendation under
11 subsection (2)(b), the Minister must consult with the
12 following —
- 13 (a) the Commission;
14 (b) each local government the district of which
15 includes land within the Western Trade Coast
16 Protection Area;
17 (c) any party to a Government agreement (within
18 the meaning of the *Government Agreements*
19 *Act 1979* section 2) that relates to land within
20 the Western Trade Coast Protection Area.
- 21 (4) If a provision in a State planning policy is inconsistent
22 with a regulation made under subsection (1), the
23 provision in the State planning policy is void to the
24 extent of the inconsistency.

25 **34C. Approvals must not conflict with regulations**

- 26 (1) An application cannot be made for approval of
27 development in the Western Trade Coast Protection
28 Area if the development would conflict with
29 regulations made under section 34B.
- 30 (2) The Commission must not grant an approval for
31 development in the Western Trade Coast Protection

1 Area if the development would conflict with
2 regulations made under section 34B.

3 **34D. Prohibited land use**

4 (1) A person who undertakes a use of land in the Western
5 Trade Coast Protection Area that is prohibited under
6 regulations made under section 34B commits an
7 offence.

8 Penalty for this subsection: a fine of \$50 000 and a
9 daily penalty of \$5 000.

10 (2) Subsection (1) applies subject to section 34E.

11 **34E. Saving**

12 (1) In this section —

13 *non-conforming use* means a use of land which,
14 though lawful immediately before the coming into
15 operation of a regulation made under section 34B, is
16 prohibited under the regulation.

17 (2) Nothing in regulations made under section 34B affects
18 the following —

19 (a) the continuation and completion of the
20 development of any land in the Western Trade
21 Coast Protection Area that was lawfully being
22 carried out immediately before the regulations
23 came into operation;

24 (b) the continued use of any land in the Western
25 Trade Coast Protection Area for the purpose for
26 which it was lawfully being used immediately
27 before the regulations came into operation;

28 (c) the erection, alteration or extension on land in
29 the Western Trade Coast Protection Area of any
30 building in connection with, or in furtherance
31 of, a non-conforming use of the land which, but

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for the regulations, would not have been an unlawful erection, alteration or extension.

- (3) Subsection (2)(c) only applies in respect of that part of the land that comprises the lot or lots on which the non-conforming use is being carried on.

1 **Part 3 — Planning and Development Act 2005 amended**

2 **6. Act amended**

3 This Part amends the *Planning and Development Act 2005*.

4 **7. Part 10 Division 6A inserted**

5 After Part 10 Division 5 insert:
6

7 **Division 6A — Additional development control for**
8 **Western Trade Coast Protection Area**

9 **165A. Terms used**

10 In this Division —

11 ***planning instrument*** means —

12 (a) a planning scheme; or

13 (b) an interim development order;

14 ***Western Trade Coast Protection Area*** means the area
15 referred to in section 165B(1).

16 **165B. Western Trade Coast Protection Area**

17 (1) The Western Trade Coast Protection Area is the area
18 identified in Schedule 10 Part A.

19 (2) In any proceedings, a plan purporting to be a copy of
20 the plan referred to in Schedule 10 Part A showing the
21 boundaries of the Western Trade Coast Protection Area
22 is evidence of those boundaries.

23 (3) The map in Schedule 10 Part B is indicative of the
24 Western Trade Coast Protection Area.

25 **165C. Regulations restricting land use**

26 (1) The Governor may make regulations —

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- 1 (a) setting out classes of land use that are
2 prohibited in any part of the Western Trade
3 Coast Protection Area; and
- 4 (b) providing for duties and responsibilities of local
5 governments, the Commission and
6 Development Assessment Panels in relation to
7 deciding applications for approval of
8 development in the Western Trade Coast
9 Protection Area.
- 10 (2) The Governor must not make regulations under
11 subsection (1) except on the recommendations of —
- 12 (a) the Minister responsible for the administration
13 of the *Government Agreements Act 1979*; and
14 (b) the Minister.
- 15 (3) Before making a recommendation under
16 subsection (2)(b), the Minister must consult with the
17 following —
- 18 (a) the Minister responsible for the administration
19 of the *Hope Valley-Wattleup Redevelopment*
20 *Act 2000*;
- 21 (b) the Commission;
- 22 (c) each local government the district of which
23 includes land within the Western Trade Coast
24 Protection Area;
- 25 (d) any party to a Government agreement (within
26 the meaning of the *Government Agreements*
27 *Act 1979* section 2) that relates to land within
28 the Western Trade Coast Protection Area.
- 29 (4) If a provision in a State planning policy or a planning
30 instrument is inconsistent with a regulation made under
31 subsection (1), the provision in the State planning
32 policy or planning instrument is void to the extent of
33 the inconsistency.

1 **165D. Approvals must not conflict with regulations**

- 2 (1) An application cannot be made for approval of
3 development in the Western Trade Coast Protection
4 Area if the development would conflict with
5 regulations made under section 165C.
- 6 (2) A local government, the Commission or a
7 Development Assessment Panel must not grant an
8 approval for development in the Western Trade Coast
9 Protection Area if the development would conflict with
10 regulations made under section 165C.

11 **165E. Saving**

- 12 (1) In this section —
13 *non-conforming use* means a use of land which,
14 though lawful immediately before the coming into
15 operation of a regulation made under section 165C, is
16 prohibited under the regulation.
- 17 (2) Nothing in regulations made under section 165C
18 affects the following —
- 19 (a) the continuation and completion of the
20 development of any land in the Western Trade
21 Coast Protection Area which was lawfully
22 being carried out immediately before the
23 regulations came into operation;
- 24 (b) the continued use of any land in the Western
25 Trade Coast Protection Area for the purpose for
26 which it was lawfully being used immediately
27 before the regulations came into operation;
- 28 (c) the erection, alteration or extension on land in
29 the Western Trade Coast Protection Area of any
30 building in connection with, or in furtherance
31 of, a non-conforming use of the land which, but
32 for the regulations, would not have been an
33 unlawful erection, alteration or extension.

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- 1 (3) Subsection (2)(c) only applies in respect of that part of
2 the land that comprises the lot or lots on which the
3 non-conforming use is being carried on.
4

5 **8. Section 223A inserted**

6 After section 222 insert:
7

8 **223A. Prohibited land use**

- 9 (1) In subsection (2) —
10 *Western Trade Coast Protection Area* has the meaning
11 given in section 165A.
12 (2) A person who commences, continues or carries out a
13 use of land in the Western Trade Coast Protection Area
14 that is prohibited under regulations made under
15 section 165C commits an offence.
16 (3) Subsection (2) applies subject to section 165E.
17

18 **9. Schedule 10 inserted**

19 After Schedule 9 insert:
20

21 **Schedule 10 — Western Trade Coast**
22 **Protection Area**

23 [s. 165B]

24 **PART A**

25 The Western Trade Coast Protection Area is the area outlined in red
26 on the plan entitled “Western Trade Coast Protection Area (1)” held at
27 the office of the Commission and certified by the Minister as the plan
28 prepared for the purpose of defining the area under this Act.

Planning and Development Legislation Amendment (Western Trade Coast Protection Area) Bill 2015

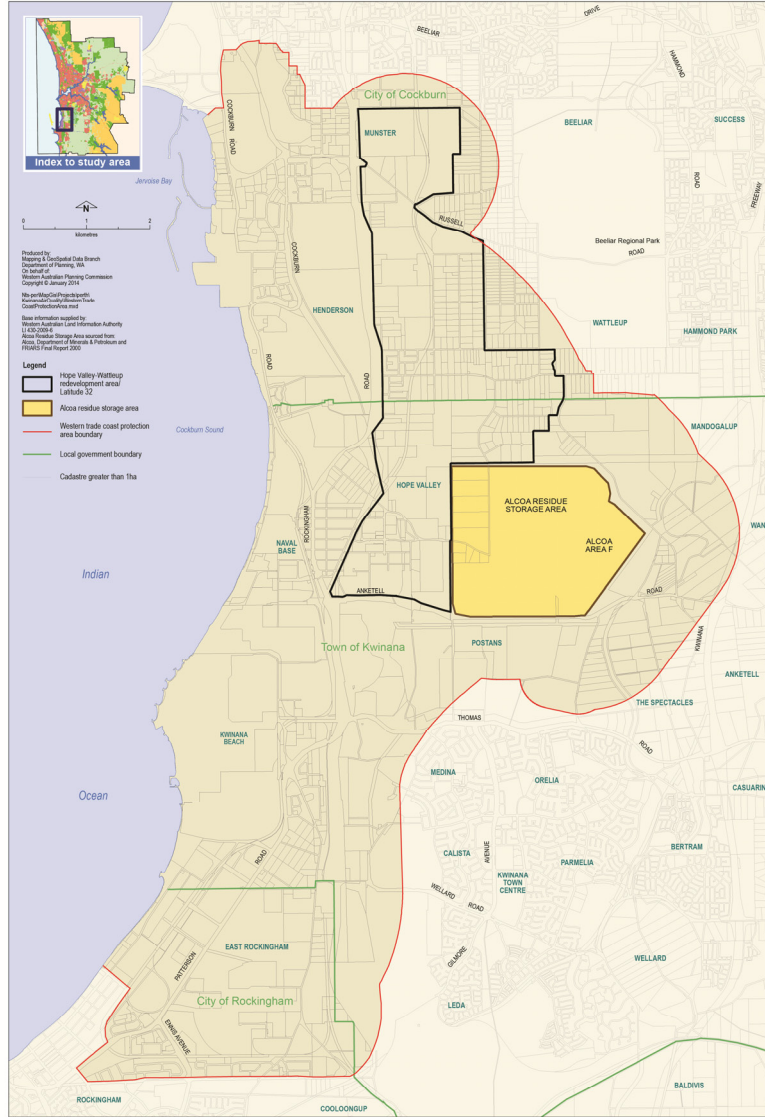
Planning and Development Act 2005 amended

Part 3

s. 9

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PART B



Western Trade Coast Protection Area (1)

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s. 10

1 **10. Schedule 10 replaced**

2 Delete Schedule 10 and insert:

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4 **Schedule 10 — Western Trade Coast**
5 **Protection Area**

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[s. 165B]

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PART A

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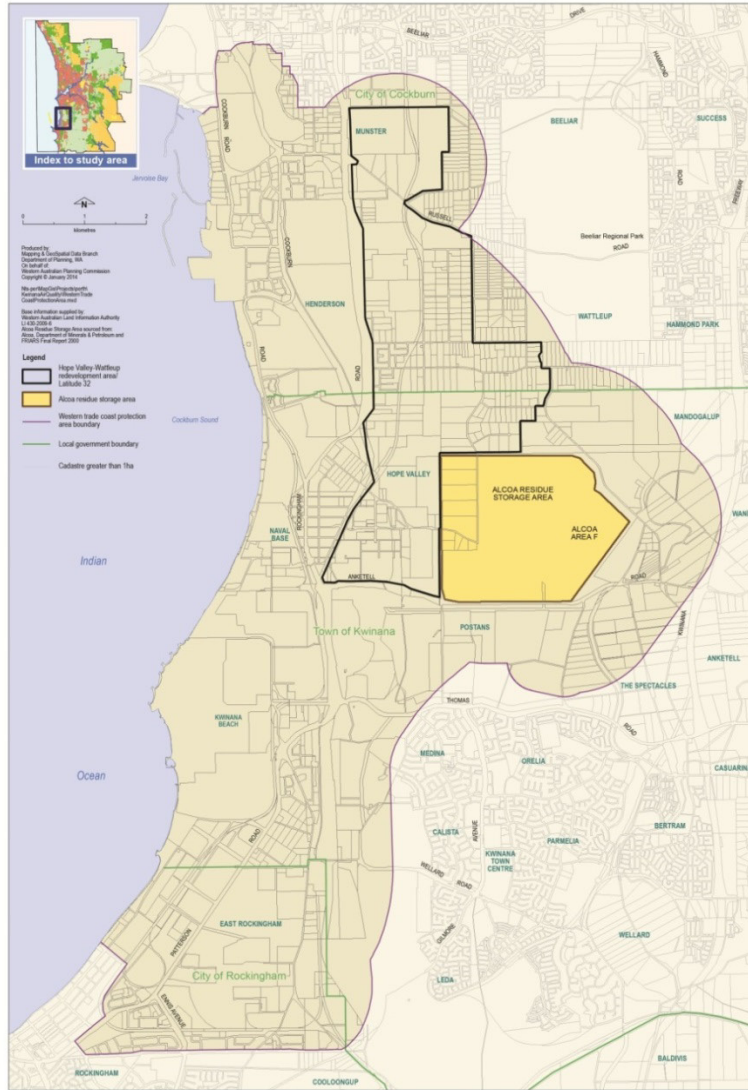
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The Western Trade Coast Protection Area is the area outlined in purple on the plan entitled “Western Trade Coast Protection Area (2)” held at the office of the Commission and certified by the Minister as the plan prepared for the purpose of defining the area under this Act.

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PART B



Western Trade Coast Protection Area (2)

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