

Perth Hills Planning Bill 2010

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Western Australia

LEGISLATIVE COUNCIL

(Introduced by Hon. Alison Xamon, MLC)

Perth Hills Planning Bill 2010

A Bill for

- 1 **An Act to promote sustainable, appropriate and integrated land use**
- 2 **planning and development in the Perth Hills area, by establishing a**
- 3 **committee to first facilitate the creation of a Perth Hills Plan, and**
- 4 **subsequently to advise on land use planning and development in the**
- 5 **Perth Hills area..**

The Parliament of Western Australia enacts as follows:

1 **Part 1 — Preliminary**

2 **1. Short title**

3 This Act is the *Perth Hills Planning Act 2010*.

4 **2. Commencement**

5 This Act comes into operation on Royal Assent.

6 **3. Object of this Act**

7 The object of this Act is to promote sustainable, appropriate and
8 integrated land use planning and development in the Perth Hills
9 area.

10 **4. Terms used in this Act**

11 In this Act, unless the contrary intention appears —

12 **“appointed member”** means a member other than an *ex officio*
13 member;

14 **“Commission”** means the Western Australian Planning
15 Commission established under the *Planning and Development*
16 *Act 2005*;

17 **“Committee”** means the Perth Hills Planning Committee;

18 **“Department”** means the department principally assisting the
19 Minister in the administration of the *Planning and Development*
20 *Act 2005*.

21 **“development”** means the development or use of any land,
22 including—

- 23 (a) any demolition, erection, construction, alteration of or
24 addition to any building or structure on the land and the
25 carrying out on the land of any excavation or other
26 works; and

- 1 (b) in the case of a place to which a Conservation Order
2 made under section 59 of the *Heritage of Western*
3 *Australia Act 1990* applies, any act or thing that —
- 4 (i) is likely to change the character of that place or
5 the external appearance of any building; or
- 6 (ii) would constitute an irreversible alteration of the
7 fabric of any building;
- 8 **“ex officio member”** means a member referred to in section
9 6(2)(c);
- 10 **“land”** includes waters and land covered by water whether
11 continuously or otherwise;
- 12 **“local planning scheme”** means the local planning scheme for
13 the time being in force under the *Planning and Development Act*
14 *2005* for the local government districts of Chittering, Swan,
15 Mundaring, Kalamunda, Gosnells, Armadale and Serpentine-
16 Jarrahdale;
- 17 **“member”** means a member of the Committee;
- 18 **“Metropolitan Region Scheme”** has the meaning given to that
19 term in the *Planning and Development Act 2005* section 4;
- 20 **“Perth Hills local government”** means each local government
21 for the districts of Chittering, Swan, Mundaring, Kalamunda,
22 Gosnells, Armadale and Serpentine-Jarrahdale;
- 23 **“Perth Hills Plan”** means the plan published in the *Gazette*
24 under section 20 as amended from time to time in accordance
25 with Part 3;
- 26 **“Perth Hills Planning Committee”** means the Committee
27 established by section 6(1);
- 28 **“Perth Hills Zone”** means the area described in section 5;
- 29 **“public authority”** means a Minister of the Crown acting in his
30 official capacity, department of the Government, State agency
31 or instrumentality, local government or other person, whether
32 corporate or not, who or which under the authority of a written
33 law administers or carries on for the benefit of the State, or any
34 district or other part thereof, a social service or public utility;

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1 **“utility service provider** means a provider of drainage services,
2 electricity services, sewerage or water services, or other
3 prescribed services;

4 **“WALGA”** means the body constituted under section 9.58 of
5 the *Local Government Act 1995* and known as the Western
6 Australian Local Government Association.

7 **5. Delineation of Perth Hills Zone**

8 (1) The Perth Hills Zone comprises all of the land in the area shown
9 on the plan of the Perth Hills Zone held at the office of the
10 Commission, that plan being certified to define that area for the
11 purposes of this Act.

12 (2) In setting the boundaries of the Perth Hills Zone, the Minister
13 shall have regard to —

14 (a) the draft boundaries set out in any draft Perth Hills Plan
15 produced in accordance with Part 3; and

16 (b) the public submissions received in response to those
17 draft boundaries.

18 (3) The Perth Hills Zone shall not overlap, but may abut, the area of
19 the Swan Valley as defined in the *Swan Valley Planning Act*
20 1995.

1 **Part 2 — Perth Hills Planning Committee**

2 **Division 1 — Committee established, and functions**

3 **6. Perth Hills Planning Committee established**

4 (1) The Perth Hills Planning Committee is established by this
5 section.

6 (2) The Committee consists of 10 members —

7 (a) an independent person with appropriate qualifications
8 and experience appointed by the Minister to be the
9 chairperson;

10 (b) the chairperson or acting chairperson for the time being
11 of the Commission, or his or her nominee;

12 (c) the president or acting president for the time being of
13 WALGA, *ex officio*, or his or her nominee;

14 (d) at least one person who in the opinion of the Minister is
15 suitable to represent Aboriginal interests in the Perth
16 Hills area; and

17 (e) up to 6 other persons appointed by the Minister who, as
18 far as practicable, comprise persons who between them
19 have knowledge of, and experience in, the fields of
20 conservation, natural resource management, other
21 environmental expertise, recreation, tourism, planning,
22 development, and matters of interest to the Perth Hills
23 community.

24 (3) In appointing the Committee, the Minister shall ensure, as far as
25 practicable, that all members have knowledge and experience
26 concerning the Perth Hills area, and that at least three members
27 are residents of the Perth Hills area.

1 **7. Expressions of interest**

2 (1) Before appointing a member under section 6(2)(d) the Minister
3 must publish in —

- 4 (a) a newspaper circulating throughout the State; and
5 (b) such local newspapers circulating throughout the area
6 governed by the Perth Hills local governments as
7 necessary to cover as much of that area as possible,

8 a notice calling for expressions of interest in appointment to the
9 Committee.

10 (2) The Minister must consider expressions of interest lodged in
11 accordance with the notice but may appoint a person as a
12 member of the Committee whether or not the person has lodged
13 an expression of interest.

14 **8. Functions**

15 The functions of the Committee are —

- 16 (a) to prepare and develop a Perth Hills Plan in accordance
17 with Part 3;
- 18 (b) to provide advice in accordance with —
19 (i) section 10(2) of this Act;
20 (ii) sections 40A, 47A, 78A and 134 of the *Planning
21 and Development Act 2005*; and
22 (iii) clause 30C of the Metropolitan Region Scheme
23 as defined in the *Planning and Development Act
24 2005*;
- 25 (c) to advise the Minister on the coordination and
26 promotion of the preservation, sustainable use and
27 sensitive development of land in the Perth Hills Zone;
- 28 (d) to provide advice and assistance to any other body or
29 person in relation to the preservation, sustainable use
30 and sensitive development of land in the Perth Hills
31 Zone; and

- 1 (e) to provide advice to utility service providers on any
2 matter relating to capital works that those utility service
3 providers propose for part or all of the Perth Hills Zone.

4 **9. Objectives**

5 In providing the advice referred to in section 8(1)(b), the
6 Committee shall seek to ensure that the application, scheme or
7 scheme amendment is consistent with the Perth Hills Plan.

8 **10. Referral of development applications**

- 9 (1) Where an application is made to a Perth Hills local government
10 under the local planning scheme for development approval
11 relating to land in the Perth Hills Zone the Perth Hills, local
12 government, unless subsection (5) applies, is to give full
13 particulars of the application to the Committee.
- 14 (2) The Committee, within 42 days after the day on which it
15 receives particulars of an application under subsection (1), or
16 within such longer period as the local government may consent
17 to in writing, is to give the local government its advice in
18 writing as to how the application should be determined,
19 including any conditions to which any approval should be made
20 subject.
- 21 (3) If the Committee fails to give advice within the time allowed
22 under subsection (2), it shall be taken to have no advice to give
23 on the application.
- 24 (4) The local government is to have due regard to the advice of the
25 Committee but may determine the application otherwise than in
26 accordance with that advice.
- 27 (5) The Committee may determine that any particular class or
28 description of application need not be referred to the Committee
29 for advice under this section and is to notify the Perth Hills local
30 governments of any such determination.
- 31 (6) This section has effect despite anything in the local planning
32 scheme.

1 (7) Subsection (1) does not apply to any application made before
2 the commencement of this section.

3 **11. Evidence of advice or submissions**

4 (1) A statement setting out the advice of the Committee or a
5 submission made by the Committee is sufficient evidence of
6 that advice or that submission if it is signed on behalf of the
7 Committee —

8 (a) by the chairperson; or

9 (b) by some other person authorised by the Committee to
10 sign the statement.

11 (2) A statement purporting to be signed by the chairperson or a
12 person referred to in subsection (1)(b) is presumed to be duly
13 signed until the contrary is shown.

14 **12. Staff, resources and facilities**

15 The Committee may, by arrangement made between it and the
16 Department, on such terms and conditions as are agreed, make
17 use either full-time or part-time of the services of any officer or
18 employee of the Department, and make use of any other
19 resources or facilities of the Department.

20 **Division 2 — Provisions relating to the Committee and its**
21 **members**

22 **13. Constitution and proceedings**

23 The provisions of Schedule 1 have effect with respect to the
24 constitution and proceedings of the Committee.

25 **14. Remuneration of members**

26 A member is to be paid such remuneration and travelling and
27 other allowances as are determined in his or her case by the
28 Minister on the recommendation of the Minister for Public
29 Sector Management.

1 **15. Protection of members**

2 A member is not personally liable for any done or omitted to be
3 done in good faith by the Committee in the performance of any
4 function under this Act.

5 **16. Particular duties of members**

6 (1) A member must at all times act honestly and diligently in
7 performing his or her functions under this Act.

8 (2) If a matter is before a meeting for consideration and a member
9 present at the meeting has a direct or indirect pecuniary interest
10 in the matter —

11 (a) the member must disclose to the other members present
12 at the meeting, as soon as possible after the relevant
13 facts have come to his or her knowledge, that he or she
14 has an interest;

15 (b) the disclosure is to be recorded in the minutes of the
16 meeting; and

17 (c) the member must not subsequently be present during
18 any consideration or discussion of, and is not to vote on
19 any determination of, the matter.

20 (3) A member must not disclose any information acquired by virtue
21 of the performance of any function under this Act unless —

22 (a) the disclosure is made in connection with the carrying
23 out of this Act or under a legal duty; or

24 (b) that information is otherwise available to the public
25 under section 18.

26 (4) A member must not make use of any information acquired by
27 virtue of the performance of his or her functions to gain, directly
28 or indirectly, an improper advantage for himself or herself or to
29 cause detriment to any person.

Perth Hills Planning Bill 2010

Part 2 Perth Hills Planning Committee

Division 2 Provisions relating to the Committee and its members

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- 1 (5) A member who commits a breach of any provision of this
2 section —
- 3 (a) commits an offence and is liable to a fine of \$10,000;
4 and
- 5 (b) is liable to the Crown for any profit made by him or her
6 as a result of the breach of that provision.
- 7 (6) This section is in addition to and does not derogate from any
8 other law relating to the duty or liability of the holder of a
9 public office.

Part 3 — Perth Hills Plan

17. Preparation of Perth Hills Plan

- (1) The Committee shall, within two years of the commencement of this Act, finalise the Perth Hills Plan in accordance with this Part.
- (2) The Perth Hills Plan shall —
- (a) provide a vision for the Perth Hills Zone to the year 2050;
 - (b) set out planning principles in order to achieve that vision; and
 - (c) contain guidance for land use planning and development control in the Perth Hills Zone.
- (3) The draft Perth Hills Plan shall set out draft boundaries for the Perth Hills Zone for the purposes of section 5(2)(a).
- (4) The Perth Hills Plan may make provision for any matter which may be the subject of a local planning scheme as set out in Schedule 7 of the *Planning and Development Act 2005*.

18. Consultation

- (1) When preparing the Perth Hills Plan, the Committee shall —
- (a) consult with all Perth Hills local governments;
 - (b) hold forums to consult with residents and representatives of community organisations in the Perth Hills, at not less than 10 public places which the Committee considers to be convenient for such consultation; and
 - (c) publish the times and places of the forums under subsection (b) in such local newspapers circulating throughout the area governed by the Perth Hills local governments as necessary to cover as much of that area as possible.

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- 1 (2) The Committee is to deposit copies of the draft Perth Hills Plan
2 for public inspection during ordinary business hours free of
3 charge —
- 4 (a) at the office of the Commission; and
5 (b) at not less than 10 other public places which the
6 Committee considers to be convenient for public
7 inspection.
- 8 (3) As soon as practicable after the deposit of the copies of the draft
9 Perth Hills Plan under subsection (2) the Committee must
10 publish in a daily newspaper and a Sunday newspaper
11 circulating throughout the State, and in such local newspapers
12 circulating throughout the area governed by the Perth Hills local
13 governments as necessary to cover as much of that area as
14 possible, a notice stating —
- 15 (a) in brief, the purpose of the draft Perth Hills Plan;
16 (b) that the draft Perth Hills Plan has been so deposited and
17 the place and times at which it may be inspected free of
18 charge; and
19 (c) the period (being a period of not less than 60 days after
20 the day on which the notice is published) within which,
21 and the form in which, submissions may be made to the
22 Committee on any provision of the proposal.
- 23 (4) Without limiting subsections (1), (2) and (3), the Committee —
- 24 (a) is to make reasonable endeavours to consult all readily
25 discernable and significant segments of the Perth Hills
26 community in respect of the draft Perth Hills Plan;
27 (b) is to take such other steps to consult stakeholders and to
28 make public the details of the draft Perth Hills Plan as
29 the Committee otherwise considers to be necessary, or
30 as the Minister may direct.
- 31 (5) When finalising the Perth Hills Plan, the Committee is to
32 consider any submissions with respect to the draft Perth Hills
33 Plan and may modify the plan as it sees fit.

1 **19. Principles**

- 2 (1) For the purposes of section 17(2)(b) the planning principles in
3 the draft Perth Hills Plan shall include but not be limited to all
4 of the following —
- 5 (a) the preservation and enhancement of the Perth Hills area
6 as a clean water catchment for Perth and as a source of
7 water for major rivers;
 - 8 (b) the preservation of the flora and fauna of the area as part
9 of the unique biodiversity of South West Australia;
 - 10 (c) the preservation of the natural character of the area
11 including the natural topography, native vegetation and
12 colours normally associated with the native landscape;
 - 13 (d) the preservation and enhancement of the area as a highly
14 accessible and visible natural and rural backdrop to the
15 coastal plain;
 - 16 (e) the protection of agricultural and horticultural land for
17 its economic, landscape, tourism and social values;
 - 18 (f) the recognition and protection of Aboriginal, cultural
19 and historical areas of significance;
 - 20 (g) the promotion of recreation, tourism and cultural
21 activities that do not conflict with the other planning
22 objectives of the area; and
 - 23 (h) the limiting of residential, commercial and industrial
24 development to areas and types of development that do
25 not detract from the conservation values or character of
26 the Perth Hills Zone.
- 27 (2) In the preparation of the draft Perth Hills Plan and the final
28 Perth Hills Plan, the Committee is to have regard to existing
29 land uses and the effect the Perth Hills Plan will have on
30 existing landholders.

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1 **20. Approval of Governor**

- 2 (1) The Governor may approve the Perth Hills Plan with or without
3 such minor modifications as the Minister may recommend and
4 the Governor thinks necessary to make and which the Governor
5 is by this subsection authorised to make.
- 6 (2) The Perth Hills Plan has no force or effect until it is approved
7 by the Governor and published in the *Gazette*.

8 **21. Publication**

- 9 (1) After the Perth Hills Plan is approved by the Governor under
10 section 20, the Committee is to cause a copy of the Perth Hills
11 Plan —
- 12 (a) to be published in the *Gazette*;
- 13 (b) to be forwarded to each Perth Hills local government;
- 14 (c) to be deposited at the offices of the Commission;
- 15 (d) to be deposited at not less than 10 other public places
16 which the Committee considers to be convenient for
17 public inspection; and
- 18 (e) to be published on an internet site maintained by the
19 Committee or the Commission.
- 20 (2) After the Perth Hills Plan is approved by the Governor under
21 section 20, the Committee is to publish, in such local
22 newspapers circulating throughout the area governed by the
23 Perth Hills local governments as necessary to cover as much of
24 that area as possible, notice of —
- 25 (a) the locations of the public places referred to in
26 subsection (1)(d); and
- 27 (b) the address of the internet site in referred to in
28 subsection (1)(e).

29 **22. Amendment**

- 30 (1) The Perth Hills Plan may be amended.

- 1 (2) Subject to subsection (4), the Governor may, after a
2 recommendation from the Committee made with due regard to
3 the principles referred to in section 19, approve minor
4 amendments to the Perth Hills Plan.
- 5 (3) After the minor amendments in subsection (2), section 21 shall
6 apply, with such modifications as are necessary, to the
7 publication of the Perth Hills Plan so amended.
- 8 (4) For amendments other than amendments referred to in
9 subsection (2), sections 17, 18, 19, 20 and 21 apply, with such
10 modifications as are necessary, to and in relation to an
11 amendment as if the amendment was the Perth Hills Plan.
- 12 (5) The Committee shall review the Perth Hills Plan every 10 years
13 from the date on which the Perth Hills Plan is approved by the
14 Governor under section 20.
- 15 (6) For the purposes of reviewing the Perth Hills Plan, the processes
16 for consultation set out in section 18(1) apply as if ‘preparation’
17 was replaced with ‘review’.
- 18 **23. Minister may require local government to prepare or adapt**
19 **local planning scheme**
- 20 (1) Each Perth Hills local government is to ensure that any aspects
21 of a local planning scheme, and any policies made under that
22 local planning scheme, that relate to —
23 (a) the subdivision of land;
24 (b) the provision of infrastructure; and
25 (c) the carrying out of development generally,
26 in the Perth Hills Zone are consistent with the Perth Hills Plan.
- 27 (2) The Committee may recommend that the Minister make an
28 order under subsection (4), if it forms the view that a local
29 planning scheme is inconsistent with the Perth Hills Plan.

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- 1 (3) The Minister is to have due regard to the recommendation of the
2 Committee but may determine to proceed otherwise than in
3 accordance with that advice.
- 4 (4) Subject to subsections (2) and (3), the Minister may order a
5 Perth Hills local government to, within such time as is specified
6 in the order, prepare and submit for the approval of the
7 Minister —
- 8 (a) an amendment to a local planning scheme;
9 (b) a local planning scheme, incorporating, if necessary, any
10 modifications to, or conditions on, the scheme; or
11 (c) a consolidated local planning scheme,
12 that is consistent with the Perth Hills Plan.
- 13 (5) An order under subsection (4) is to be treated as an order made
14 by the Minister under section 76 of the *Planning and*
15 *Development Act 2005*, and sections 212 and 213 of that Act
16 apply accordingly.
- 17 **24. Environmental review**
18 The Committee may, in relation to the Perth Hills Plan or to an
19 amendment to the Perth Hills Plan, act under sections 81, 82, 84,
20 85 and 86 of the *Planning and Development Act 2005* as if —
- 21 (a) the Committee were a local government; and
22 (b) the Perth Hills Plan or amendment to the Perth Hills
23 Plan was a local planning scheme.

Part 4 — Miscellaneous

1
2 **25. Transparency of decisions made and performance of other**
3 **functions relating to this Act**

4 (1) The Committee is to cause a record to be kept of any advice
5 given, determination made, recommendation made or other
6 decision made by it, including the reasons for those decisions, in
7 the performance of its functions.

8 (2) The record referred to in subsection (1) is to be available for
9 inspection by members of the public during normal office hours
10 free of charge.

11 (3) Where the Governor or a public authority makes a decision or
12 determination under this Act, and has determined a matter
13 otherwise than in accordance with the advice, recommendations
14 or other decision of the Committee, the Governor or authority
15 must make public written reasons for that determination.

16 **26. Regulations**

17 The Governor may make regulations prescribing all matters that
18 are required or permitted by this Act to be prescribed, or are
19 necessary or convenient to be prescribed, for giving effect to the
20 purposes of this Act.

21 **27. Review of Act**

22 (1) The Minister is to carry out a review of the operation and
23 effectiveness of this Act as soon as is practicable after the
24 expiration of 5 years from its commencement, and in the course
25 of that review the Minister is to consider and have regard to —

26 (a) the functions and the effectiveness of the operations of
27 the Committee; and

28 (b) any other matters that appear to the Minister to be
29 relevant to the operation and effectiveness of this Act.

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- 1 (2) The Minister is to prepare a report based on the review made
2 under subsection (1) and, as soon as is practicable after the
3 report is prepared, cause it to be laid before each House of
4 Parliament.

1 **Part 5 — *Planning and Development Act 2005* amended**

2 **28. The Act amended**

3 The amendments in this Part are to the *Planning and*
4 *Development Act 2005*.

5 **29. Section 4 amended**

6 Section 4(1) is amended by inserting, in the appropriate
7 alphabetical order, the following definitions:

8 “**Committee** means the Perth Hills Planning
9 Committee established under the *Perth Hills Planning*
10 *Act 2009*;”

11 “**Perth Hills Zone** has the meaning given by the *Perth*
12 *Hills Planning Act 2009*;”

13 **30. Section 40A inserted**

14 After section 40, the following section is inserted:
15

16 **40A. Referrals to Perth Hills Planning Committee before**
17 **public submissions**

- 18 (1) The Commission, before submitting to the Minister
19 under section 42 a scheme or amendment that would
20 apply to land in the Perth Hills Zone, is to refer the
21 scheme or amendment to the Committee.
- 22 (2) The Committee, within 42 days after the day on which
23 it receives the referral, or within such longer period as
24 the Commission may allow, is to give to the
25 Commission its written advice on the scheme or
26 amendment including any modifications it thinks
27 should be made.
- 28 (3) If the Committee fails to give its advice within the time
29 allowed under subsection (2), it is to be taken to have
30 no advice to give on the scheme or amendment.

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1 (4) The Minister may, at the request of the Commission,
2 approve of the Commission disregarding the
3 Committee's advice in whole or in part in preparing the
4 scheme or amendment.

5 (5) Subject to any approval under subsection (4), the
6 Commission is to prepare the scheme or amendment in
7 accordance with any advice given by the Committee
8 under this section.
9

10 **31. Section 47A inserted**

11 After section 47, the following section is inserted:
12

13 **47A. Referrals to Perth Hills Planning Committee before**
14 **public submissions**

15 (1) Where as required by section 40A(5), a scheme or
16 amendment has been prepared in accordance with
17 advice given by the Committee and after considering
18 public submissions on the scheme or amendment the
19 Commission has modified the scheme or amendment in
20 a way which is not in accordance with that advice, the
21 Commission is to, before submitting that scheme or
22 amendment to the Minister under section 48, refer the
23 scheme or amendment, with the other documents
24 referred to in that section, back to the Committee for its
25 comments and advice.

26 (2) Where the Committee has any comment to make, or
27 advice to give, on a scheme or amendment or the other
28 written documents referred to it under subsection (1) it
29 is to give a written report to the Commission and that
30 report is to be submitted to the Minister along with the
31 other documents referred to in section 48.

32 (3) If the Committee does not report to the Commission
33 within 42 days of the referral under subsection (2) it is

1 to be taken to have no comment to make or advice to
2 give.
3

4 **32. Section 78A inserted**

5 After section 78, the following section is inserted:
6

7 **78A. Schemes and amendments applicable to the Perth**
8 **Hills**

- 9 (1) If a Perth Hills local government resolves to prepare or
10 adopt a scheme, or an amendment to a scheme, that
11 would apply to land in the Perth Hills Zone, that local
12 government, before the scheme or the amendment is
13 advertised for public inspection under the regulations,
14 is to refer the proposed scheme or amendment to the
15 Committee.
- 16 (2) The Committee, within 42 days after the day on which
17 it receives the referral under subsection (1), or such
18 longer period as the local government allows, is to give
19 the local government its written advice on the proposed
20 scheme or amendment, including any modifications it
21 is of the opinion should be made.
- 22 (3) If the Committee fails to give its advice within the time
23 allowed under subsection (2), it is to be taken to have
24 no advice to give on the proposed scheme or
25 amendment.
- 26 (4) The Minister may, at the request of the local
27 government, approve of the local government
28 disregarding the Committee's advice in whole or in
29 part in preparing the scheme or amendment.
- 30 (5) Subject to any approval under subsection (4), the local
31 government is to prepare the scheme or the amendment

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1 in accordance with any advice given by the Committee
2 under this section.
3

4 **33. Section 134 amended**

5 After section 134(8), the following subsections are inserted:
6

- 7 (9) Where an application is made to the Commission for
8 approval under section 135 or 136 in relation to land in
9 the Perth Hills Zone, unless subsection (14) applies, the
10 Commission is to give full particulars of the
11 application to the Committee.
- 12 (10) The Committee, within 42 days after the day on which
13 it receives particulars of an application or within such
14 longer period as the Commission allows, is to give to
15 the Commission its advice in writing on how the
16 application should be determined, including any
17 conditions to which any approval should be made
18 subject.
- 19 (11) If the Committee fails to give its advice within the time
20 allowed under subsection (10), it is to be taken to have
21 no advice to give on the proposed scheme or
22 amendment.
- 23 (12) The Minister may, at the request of the Commission,
24 approve of the Commission disregarding the
25 Committee's advice in whole or in part in determining
26 the application.
- 27 (13) Subject to any approval under subsection (12), the
28 Commission is to determine the application after
29 having due regard to the advice given by the
30 Committee under this section, but may determine that
31 application otherwise than in accordance with that
32 advice.

- 1 (14) The Committee may determine that any particular class
2 or description of applications under section 135 or 136
3 need not be referred to the Committee for advice under
4 this section and is notify the Commission of any such
5 determination.
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Part 6 — Miscellaneous amendments

34. Metropolitan Region Scheme amended

After clause 30B of the Metropolitan Region Scheme, the following clause is inserted:

- 30C. (1) Without limiting clause 30 of this Scheme, where an application for approval relates to a development of land in the Perth Hills Zone the responsible authority shall, unless subclause (6) applies to the application, give full particulars of the application to the Perth Hills Planning Committee.
- (2) The Committee shall, within 42 days after the day on which it receives particulars of an application, or within such longer period as the responsible authority allows, give to the responsible authority its advice in writing on how the application should be determined, including any conditions to which any approval should be made subject.
- (3) If the Committee fails to give its advice within the time allowed under subclause (2), it shall be taken to have no advice to give on the application.
- (4) Where the responsible authority is the Commission, the Commission is required to have due regard to the advice of the Committee, but may determine the application otherwise than in accordance with that advice.
- (5) Where the responsible authority is the council of a Perth Hills local government, the council is to have due regard to the advice of the Committee but if that local government does not accept the advice, the local government is to refer the application, together with any recommendations provided by all bodies consulted, and the reasons why the advice of the Committee was

- 1 not accepted by the local government, to the
2 Commission for determination.
- 3 (6) The Committee may determine that any particular class
4 or description of applications for approval need not be
5 referred to the Committee for advice under this section
6 and is to notify the Commission and the council of the
7 local government of any such determination.
- 8 (7) In this clause “**Committee**”, “**Perth Hills local**
9 **government**”, “**Perth Hills Planning Committee**”
10 and “**Perth Hills Zone**” have the same meanings as
11 they have in the *Perth Hills Planning Act 2009*.
12

1 **Schedule 1 — Provisions as to constitution and proceedings**
2 **of the Committee**

3 **1. Term of office**

4 (1) Except as otherwise provided by this Act, an appointed member holds
5 office for the term, not exceeding 3 years, that is specified in the
6 instrument of his or her appointment, but may from time to time be re-
7 appointed.

8 (2) Unless his or her office becomes vacant under clause 2, an appointed
9 member continues in office until his or her successor comes into
10 office, despite the fact that the term for which the member was
11 appointed has expired.

12 **2. Resignation, termination etc.**

13 (1) The office of an appointed member becomes vacant if —

14 (a) he or she resigns the office by written notice addressed to the
15 Minister;

16 (b) he or she is an undischarged bankrupt or a person whose
17 property is subject to an order or arrangement under the laws
18 relating to bankruptcy; or

19 (c) his or her appointment is terminated by the Minister.

20 (2) The Minister may at his or her discretion terminate the appointment of
21 an appointed member at any time.

22 **3. Temporary members**

23 (1) If an appointed member other than the chairperson is unable to act by
24 reason of sickness, absence or other cause, the Minister may appoint
25 another person to act temporarily in his or her place and, while so
26 acting according to the tenor of his or her appointment, that other
27 person is deemed to be a member.

28 (2) If an appointed member is the deputy chairperson and is performing
29 the functions of the chairperson, the Minister may, under subclause
30 (1), appoint another person to act in his or her place as member.

1 (3) No act or omission of a person acting in place of another under this
2 clause is to be questioned on the ground that the occasion for his or
3 her appointment or acting had not arisen or had ceased.

4 (4) The appointment of a person as a temporary member may be
5 terminated at any time by the Minister.

6 **4. Deputy chairperson**

7 (1) The Minister is to appoint a member to be the deputy chairperson of
8 the Committee.

9 (2) The office of deputy chairperson becomes vacant if —

10 (a) the person holding the office resigns the office by notice in
11 writing to the Minister;

12 (b) the person holding the office ceases to be a member; or

13 (c) the Minister declares the office to be vacant.

14 (3) During any vacancy in the office of chairperson, or while he or she is
15 unable to act by reason of sickness, absence or other cause, the deputy
16 chairperson is to perform the functions of the chairperson.

17 (4) No act or omission of the deputy chairperson acting as the chairperson
18 is to be questioned on the ground that the occasion for his or her so
19 acting had not arisen or had ceased.

20 **5. Meetings**

21 (1) The first meeting of the Committee is to be convened by the
22 chairperson and subsequently, subject to subclause (2), meetings are
23 to be held at the times and places that the Committee determines.

24 (2) A special meeting of the Committee may at any time be convened by
25 the chairperson.

26 (3) The chairperson is to preside at all meetings of the Committee at
27 which he or she is present.

28 (4) If both the chairperson and the deputy chairperson are absent from a
29 meeting the members present are to appoint one of their number to
30 preside.

31 (5) A quorum for a meeting of the Committee is 5 members.

1 (6) At any meeting of the Committee the chairperson, deputy chairperson
2 or other person presiding is to have a deliberative vote and, in the case
3 of an equality of votes, is also to have a casting vote.

4 (7) The Committee is to cause accurate minutes to be kept of the
5 proceedings at its meetings.

6 **6. Sub-committees**

7 The Committee may from time to time appoint sub-committees of
8 members, or members and other persons, as it thinks fit, and may
9 discharge or alter any sub-committee so appointed.

10 **7. Telephone and video meetings**

11 Despite anything in this Schedule, a communication between
12 members constituting a quorum under clause 5(5) by telephone or
13 audiovisual means is a valid meeting of members, but only if each
14 participating member is capable of communicating with every other
15 participating member instantaneously at all times during the
16 proceedings and the subject matter under consideration is not being
17 considered for the first time.

18 **8. Resolution may be passed without meeting**

19 (1) If—

20 (a) a document containing a statement to the effect that an act,
21 matter or thing has been done or a resolution has been passed
22 is sent or given to all members; and

23 (b) the document is assented to by all members,

24 that act, matter, thing or resolution is to be taken as having been done
25 at or passed by a meeting of the Committee.

26 (2) For the purposes of subclause (1) —

27 (a) the meeting is to be taken as having been held —

28 (i) if the members assented to the document on the same
29 day — on the day on which the document was
30 assented to and at the time at which the document
31 was last assented to by a member; or

32 (ii) if the members assented to the document on different
33 days — on the day on which, and at the time at

- 1 which, the document was last assented to by a
- 2 member;
- 3 (b) 2 or more separate documents in identical terms each of
- 4 which is assented to by one or more members are to be taken
- 5 to constitute one document; and
- 6 (c) a member may signify assent to a document —
- 7 (i) by signing the document; or
- 8 (ii) by notifying the chairperson of the member's assent
- 9 in person or by post, facsimile transmission,
- 10 telephone, email or other method of written,
- 11 electronic, audio or audiovisual communication.
- 12 (3) Where a member signifies assent to a document otherwise than by
- 13 signing the document, the member must by way of confirmation sign
- 14 the document at the next meeting of the board attended by the
- 15 member, but failure to do so does not invalidate the act, matter, thing
- 16 or resolution to which the document relates.
- 17 (4) Where a document is assented to in accordance with subclause (1), the
- 18 document is to be taken as a minute of a meeting of the Committee.

19 **9. Leave of absence**

20 The Committee may grant leave of absence to a member on the terms

21 and conditions that the Committee thinks fit.

22 **10. Committee to determine own procedures**

23 Subject to this Act, the Committee is to determine its own procedures.

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