



29 May 2023

Consistent Local Planning Schemes

As the peak industry body for the property and development industry, the Property Council has consistently advocated for greater consistency within the planning system, noting that varying planning processes between local government (LG) jurisdictions add cost and complexity to projects.

The Property Council welcomes the opportunity to provide feedback on the Consistent Local Planning Schemes (LPS) Stakeholder Consultation Report, which represents a positive step towards bringing greater consistency to planning processes across the state.

The Property Council of Australia

The Property Council of Australia is the peak industry body representing the whole of the property industry. In Australia, the property industry employs more than 1.4 million Australians and shapes the future of our communities and cities.

As industry leaders we support smarter planning, better infrastructure, sustainability, and globally competitive investment and tax settings which underpin the contribution our members make to the economic prosperity and social well-being of Australians.

The Property Council WA membership consists of more than 300 member companies. They are architects, urban designers, town planners, builders, investors and developers. Our members conceive of, invest in, design, build and manage the places that matter most – our homes, retirement living communities, shopping centres, office buildings, education, research and health precincts, tourism and hospitality venues.

This submission is informed by Property Council's membership and expert committee members.

General

The Property Council supports the ambition of the state government to provide greater consistency across LPS. Consistency will improve certainty for the development community and help streamline the delivery of projects across Western Australia.

While generally supportive of the findings of the Stakeholder Consultation Report, the Property Council notes that flexibility in land use and zone and reserve definitions is required to respond to differences in land use, operational requirements, and locality. Balancing greater consistency with the ability of definitions to be appropriately adaptive to planning requires regular review of the operation of definitions, and balance so that definitions are not so prescriptive such that they impede appropriate levels of flexibility.

The Property Council recommends ongoing consultation with industry during the advancement of the reforms is essential to monitor any broader/unintended consequences associated with the implementation of a standardised system.

Part A – Land uses terms (and associated definitions)

The Property Council is generally supportive of consistent land use terms and associated definitions across LG jurisdictions. However, there are specific changes that the Property Council believes require further consideration.

Land Use Term	Supported (Y/N)	Comments
Bulky Goods Showroom	N	<ul style="list-style-type: none"> The definition has been changed to specifically exclude the retail component unless this is incidental to the bulky goods use. These changes have potential broader ramifications, particularly if it is brought in immediately (via the Deemed Provisions) rather than the Model Scheme Text. The Property Council considers that this definition requires further research and analysis prior to implementing any amendments to ensure that changes to the standard definition are justified and necessary, and the implications are well understood.

Part B – Zones and reserves (and associated definitions)

The Property Council is supportive of consistent zone and reserve definitions across LG jurisdictions. However, there are specific changes that the Property Council would like to make comment on:

Zone/Reserve	Supported (Y/N)	Comments
Residential zone	N	<ul style="list-style-type: none"> Proposed objective to make <u>specific</u> reference to the R-Codes and objectives of the Medium Density Codes is considered excessive. It is recommended the objectives remain 'generic', as specific R-Codes reference sterilises opportunities for alternative subdivision and built-form development outcomes.
Rural residential	Y	<ul style="list-style-type: none"> Proposal to align with State Planning Policy 2.5 – Rural Planning is supported as it provides better understanding of subdivision/development across Local Government.
Rural enterprise	Y	<ul style="list-style-type: none"> Provides a hybrid residential/light industrial focus where someone can operate a business and reside onsite. Careful consideration around amenity and land use conflict for rural areas needs to be given, in addition to potential impacts on demand for industrial land.
Mixed use	Y	<ul style="list-style-type: none"> Supported as it enables flexibility of subdivision/development for the benefit of the developer.

		E.g., Grouped/Multiple Dwellings may be discretionary permitted/approved in said areas should commercial type uses not be viable in the short term (and vice versa).
Commercial	Y	<ul style="list-style-type: none"> Removal of a generic 'Commercial' zone is supported recognising that more specific Local Centre, Neighbourhood Centre, Mixed Use and Special Use zones now take this mantle.
Cultural and Natural Resource Use	N	<ul style="list-style-type: none"> This zone raises some general implementation concerns for land encompassed by a corresponding 'Region Scheme' zoning (i.e. Metropolitan, Peel and Greater Bunbury Regions). If a site is of regional (Cultural Heritage) significance, then it may be best adopting a suitable 'Region Scheme' zoning – thus a landowner (as applicable) has the option to be compensated for land ceded; this approach is similar to a landowner being compensated when a site is zoned 'Parks and Recreation' under a Region Scheme. A general example may apply to say a living stream (creek bed) through a private land development. <ul style="list-style-type: none"> It may be identified early (rezoning stage) as having Cultural Heritage significance. If a LG reserves the land by zoning it 'Cultural and Natural Resource Use', then a private landowner may lose their ability to otherwise develop/landscape the site (or its immediate surrounds/buffers) for the purpose of 'creditable' open space in the overall subdivision/development. If identified early, then the site may be best adopting a 'Regional Scheme' zoning for which compensation may then apply, and the cultural site becomes a gross deduction from the overall development area. The definition of 'significant' needs to be thoroughly examined, so this proposed zone is not used liberally in future (or pending/retrospective) developments. NB. For other Country (regional) areas that do not have a Region Scheme, said areas may more appropriately use this Local Scheme zoning.
Foreshore	Y	<ul style="list-style-type: none"> Supportive of the inclusion of new reserve. However, noted that foreshore reserve will accommodate a range of active and passive recreational uses. The Property Council seeks clarification on whether these spaces will be creditable for public open space.

Part C – Land use permissibility and development requirements for commercial and industrial type zones in the metropolitan region and Peel region scheme areas

The Property Council is supportive of the DPLH recommendation that a standard land use permissibility table be progressed for the purpose of the Model Scheme Text, and that this be progressively integrated into new Local Planning Schemes as they are prepared. It is also supportive of a broader review of the Deemed Provisions and the Model Scheme Text to create a 'Deemed Scheme', as suggested in Appendix D, as this would provide a much greater level of consistency across LGs.

However, the Property Council is cognisant, that in order to progress a 'Deemed Scheme', a more holistic review of the Deemed Provisions is required to ensure consistency in approach and outcome as well as minimising the potential for legislative conflict or further unintended consequences.

Additionally, there are specific changes to the zoning table for commercial and industrial type zones in the metropolitan region and Peel region scheme areas that the Property Council would like to make comment on:

Zone/Reserve	Comments
Liquor production facility/winery	Proposed as an 'X' use in Local Centre and Neighbourhood Centre zones. Thought should be given to how small operators will produce on site – e.g., how will boutique breweries/distilleries (beer, gin etc) in country areas operate? The Property Council seeks confirmation if 'Rural Enterprise' zone would be used in this situation?
Childcare	Proposed as an 'X' use in Light Industrial zones. Several Child Care centres operate without restriction in Light Industrial areas today – subject to merit and often strategically located on fringe of said areas; and providing service to industrial workforce. Request this be reviewed as 'D' permissibility to avoid non-conforming use issues for established operations.
Independent living complex	Proposed as an 'X' use in Rural Enterprise zones. If Residential land uses can appropriately co-exist with complementary rural land uses (in a rural setting), then this use should also be given a 'D' or 'A' permissibility.
Place of worship	Proposed as an 'X' use in Local Centre and Rural Enterprise zones. Place of Worship does not (always) require a significant space to operate, and a Local Centre site may potentially be utilised if there is no commercial interest from other uses (or at minimum, shared). Suggest a 'D' permissibility. If Residential land uses can appropriately co-exist with complementary rural land uses (in a rural setting), then this use should also be given a 'D' or 'A' permissibility.

Part D – Development requirements in commercial and industrial type zones (Perth and Peel regions only)

The Property Council does not support the proposal for a prescriptive or performance based Industrial Development Code. Industrial development is extremely diverse and needs to be responsive to the practical needs of the tenants. A prescriptive development code will

significantly compromise design responses and could have the unintended consequence of reducing the commercial and operational viability of WA's important industrial sector.

The Property Council recommends that standardised base development expectations through Model Scheme Text is considered, with precinct planning (where necessary) to inform local development standards for new or existing industrial estates.

Part E – Recommended implementation approach

The report considers implementation options for improving the consistency of LPS across the State and for implementing the recommended zoning table and development requirements for commercial and industrial type zones in the Metropolitan and Peel region scheme areas.

The Property Council supports the expansion of the deemed provisions to incorporate more elements of the model provisions into the deemed provisions.

While the Property Council acknowledges that an approach which favours adopting changes through the deemed provisions would require ongoing amendments to the Regulations, the benefits, which include ongoing consistency in land use terms and definitions; and an expedited efficiency of planning systems, are more impactful to improving efficiency in the planning system.

Consistency in planning is more than just the planning frameworks themselves. For an improved system to benefit all users, the Property Council believes several of the processes that support LPS should be made uniform. An important example would be having a 'manner and form' requirement for all approvals, so that all approvals are consistent in their appearance and content. Critical aspects that should be included would be to restate the exact wording of the definition for the approved uses at the time of the approval. This recommendation would provide ease of reference when definitions are updated and essential provide a frozen in time reference to the used, avoiding any confusion that might occur with a change to definition in the deemed provisions at a later date. The adoption of this proposal would ensure the sequencing and timing for achieving compliance with the condition is clear to assist with the delivery of the project.

Additionally, the Property Council queries the rationale behind the establishment and maintenance of a significant tree register within this consultation. Without clearly defined parameters for what constitutes significant, this register could serve as a red tape barrier to development. As such, the Property Council opposes this policy.

In response to the long-term recommendations, the Property Council strongly opposes the recommendations for the implementation of a design code for industrial zones and potentially the service commercial zone. As noted above, the design of industrial estates is targeted at the use and purpose, and highly constricted designs will reduce the commercial viability of these asset types. In addition, as we move to new energy sources to support the net-zero transition, a flexible approach will be needed to facilitate efficient site development.

Next Steps

From the material provided, we anticipate that this is the first stage of ongoing consultation given the potential implications of the changes proposed, and the draft status of the published documentation. We strongly encourage the DPLH to further consult with the broader industry in the review and progression of these modifications and would welcome the opportunity to be involved in such further engagement.

If you require further information or clarification, please contact Lindsay Duncan, WA Policy Advisor at 0404 450 881 or lduncan@propertycouncil.com.au.

Yours sincerely,

A handwritten signature in black ink that reads "S. Brewer". The signature is written in a cursive, flowing style.

Sandra Brewer
Executive Director WA
Property Council of Australia