

July 2023 Metropolitan Region Scheme Amendment 1404/41 (Major Amendment)



Roe 8 Remainder and Roe 9 (Removal of Primary Regional Roads Reservation)

Amendment Report

City of Fremantle City of Cockburn

Volume 1 of 2

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The Western Australian Planning Commission acknowledges the traditional owners and custodians of this land. We pay our respect to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

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Planning Perth's future

Perth is currently home to more than 2 million people and this is anticipated to grow to 3.5 million by 2050.

To meet this growth, land must be identified for future housing, employment opportunities, transport, conservation and recreation.

The Metropolitan Region Scheme (MRS) provides for this growth by defining what land can be used for. It is also the means by which landowners can be compensated for land acquired for public purposes.

The role of the WAPC?

The Western Australian Planning Commission (WAPC) has statewide responsibility for planning how land in metropolitan and regional areas can be used and developed. The WAPC comprises a Chair and 16 members, representing industry, government and the community.

The WAPC is a statutory authority and operates in accordance with the *Planning and Development Act 2005*. It is supported by the Department of Planning, Lands and Heritage, which provides professional and technical expertise, administrative services and corporate resources.

What is the Metropolitan Region Scheme?

The MRS is a large town planning scheme which defines how land can be used in the Perth metropolitan area, dividing it into broad zones and reservations. The metropolitan area stretches from south of Rockingham to north of Yanchep and east of Mundaring.

The MRS uses a set of maps and a scheme text to set the planning rules and identify the various zones and reservations.

This plan has been in operation since 1963 and provides the legal basis for planning in the Perth metropolitan area.

The MRS is amended frequently as the region grows and changes.

What is an amendment?

An amendment to the MRS changes the zoning or reservation of land to allow for a different land use.

When a rezoning or a new reservation is considered, it is classified as either a major or a minor amendment and to the MRS is advertised to seek comment from landowners, the broader community and all levels of government. Under the Act, the process for proposed major and minor amendments is different.

This process allows for extensive community consultation and discussion in Parliament, prior to a final decision being made.

How is the Metropolitan Region Scheme amended?

The WAPC is responsible for maintaining the MRS, including reviewing and initiating changes where necessary.

The amendment process is regulated by the *Planning and Development Act 2005*. The Act requires an amendment to be consistent with both the *Swan River Trust Act 1988* and the *Heritage of Western Australia Act 1990* and does not allow for an amendment to occur within the defined area of which a redevelopment scheme applies.

The amendment proposed in this report is being made under the provisions of section 41 (often referred to as a major amendment). The major amendment process includes (also see the diagram on page ix):

- Request submitted and considered by the WAPC.
- WAPC determines to either progress or reject application, classifying it as either a major or minor amendment.
- If progressed, the application is referred to the Environmental Protection Authority (EPA) to set the level of environmental assessment. If the EPA requires an environmental review, this is carried out before the amendment is advertised.
- Consent by the Minister for Planning to call for submissions.
- Proposed amendment is advertised for public comment. Advertisements are placed in local and statewide newspapers and the information is made available on www.dplh.wa.gov.au/mrs-amendments. Landowners directly affected by a proposed amendment are contacted in writing. Where there is an environmental review, this is also made available for comment.
- WAPC receives public submissions over a period of three months.
- WAPC considers submissions. Everyone who made a submission may also choose to present to a hearings committee appointed by the WAPC to consider and report on these submissions.
- WAPC reviews the proposed amendment in light of both the submissions and planning advice provided by the Department of Planning, Lands and Heritage.
- WAPC provides a recommendation to the Minister whether to accept, reject or modify the proposed amendment.

- Proposed amendment may be required by the Minister for Planning to be readvertised if the amendment is substantially modified as a result of submissions and planning advice.
- Minister presents the proposed amendment with the WAPC's recommendations to the Governor for approval.
- The proposed amendment, as approved by the Governor, is tabled before each House of State Parliament, where it must remain for 12 sitting days. During this time, the amendment is again on public display.
- In Parliament, a member may introduce a motion to disallow the amendment. If this motion succeeds, the MRS will not be amended. Otherwise, the amendment becomes legally effective in the MRS after 12 sitting days.
- Within three months of an MRS amendment being finalised, all affected local governments must initiate an amendment to its local planning scheme to match the new zonings.

Zones and reservations

Zones and reservations in the MRS are broad categories to define how land can be used and developed. The following descriptions are a guide only.

Zones

<u>Urban</u>: areas in which a range of activities are undertaken including residential, commercial, recreational and light industry.

<u>Urban deferred</u>: land identified for future urban uses following the extension of urban services, the progressive development of adjacent urban areas, and resolution of any environmental and planning requirements relating to development.

The WAPC must be satisfied that these issues have been addressed before rezoning to urban.

<u>Central city area</u>: strategic regional centres for major retail, commercial and office facilities as well as employment, civic, business and residential uses.

Industrial and special industrial: land on which manufacturing, processing, warehousing and related activities are undertaken.

<u>Rural</u>: land on which a range of agricultural, extractive and conservation uses is undertaken.

<u>Private recreation</u>: areas of significance to the region's recreation resource, which are (or are proposed to be) managed by the private sector.

<u>Rural - water protection</u>: rural land over public groundwater areas where land use is controlled to avoid contamination.

Reservations

Land reserved for community purposes. It may be reserved to protect a resource or to provide areas for infrastructure.

<u>Parks and recreation</u>: land of regional significance for ecological, recreation or landscape purposes.

<u>Railways</u>: provides for public transit routes, freight rail lines and associated facilities such as marshalling yards, maintenance depots and park n' ride stations.

<u>Port installations</u>: regional maritime shipping facilities.

<u>State forests</u>: areas of woodland located on Crown land and managed under the *Conservation and Land Management Act 1984.*

<u>Water catchments</u>: water sources protected for high quality public water supply. These areas have strict controls on land use to avoid pollution of the water resource.

<u>Civic and cultural</u>: significant civic precincts and buildings.

<u>Waterways</u>: permanent inland and coastal waters including many rivers and reservoirs.

<u>Public purposes</u>: land for public facilities such as hospitals, high schools, universities, prisons, utilities for electricity, water and treatment of wastewater, commonwealth government and other special uses.

<u>Primary regional roads</u>: important regionally significant roads as part of the planned road network that are currently, or proposed to be declared, under the *Main Roads Act 1930*.

<u>Other regional roads</u>: roads of regional significance in the planned road network for which the planning responsibilities are shared by the WAPC and local governments.

What if my land is rezoned?

Landowners may find that an amendment seeks to rezone their property, for example from rural to urban or urban deferred.

If the zoning is changed, landowners do not have to change their lifestyle or the way they use the land. However, depending on the new zone, there may be opportunities to change the land use, such as seek approval to subdivide or apply to develop it in some way that suits the new zoning.

The WAPC realises that many people choose their properties because they like them as they are and may not want to change from, for example, a rural-residential lifestyle to an urban area. Others are keen to change the land use.

For these reasons, amendments to the MRS are advertised so that all affected landowners and the broader community have time to examine the proposal and provide their comment.

What if my land is reserved?

Land is reserved because it will eventually be needed for a public purpose such as parks and recreation or other regional roads. If your land is proposed to be reserved in an advertised amendment, you can continue to use and enjoy your property. Generally, reserved land can remain in private ownership until it is needed for the purpose for which it is reserved.

То protect landowners, there are procedures for acquisition or compensation by the WAPC. These are outlined in Your Property and the planning system – region schemes, a leaflet reproduced at the back report and online of this at www.dplh.wa.gov.au/your-propertyand-region-schemes.

How can my views be heard?

You can lodge a submission during the advertised period:

- online at <u>www.dplh.wa.gov.au/mrs-</u> amendments
- in writing to Western Australian Planning Commission, Level 2, 140 William Street, Perth 6000 (a submission form is included at the back of this report).

The WAPC will try and make contact with everyone who nominated to attend a hearings committee following the advertised period.

Publications

In the course of each amendment to the MRS, information is published under the following titles:

Amendment report

This document is available from the start of the public submission period of the proposed amendment. It sets out the purpose and scope of the amendment, explains why the proposal is considered necessary and informs people how they can comment.

Environmental review report

The EPA considers the environmental impact of an amendment to the MRS before it is advertised. Should the EPA require formal assessment, an environmental review is undertaken and that information is made available for comment at the same time as the amendment report.

Report on submissions

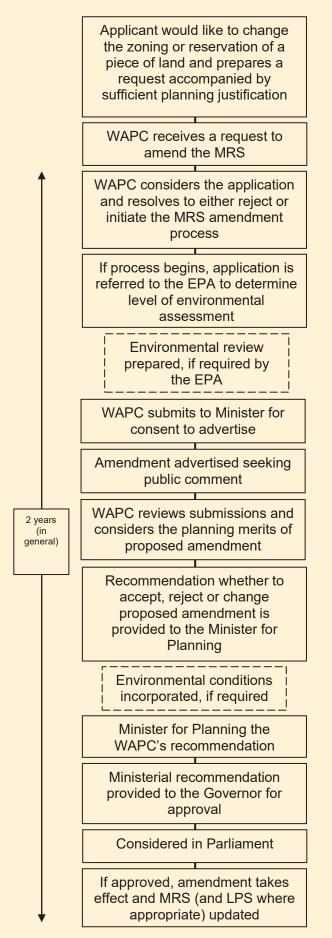
This publication documents the submissions received, the minutes of the hearings and the Hearings committee summary of the proceedings

All written submissions received on the proposed amendment are reproduced as a public record.

The final scheme or amendment

This publication documents the planning rationale for the amendment or scheme and the WAPC's recommendation to the Minister for Planning.

A simple diagram of the amendment process.



Abbreviations

ACHA	Aboriginal Cultural Heritage Act
BMP	Bushfire Management Plan
DPLH	Department of Planning, Lands and Heritage
EPA	Environmental Protection Authority
MRS	Metropolitan Region Scheme
MRWA	Main Roads Western Australia
MS	Ministerial Statement
ORR	Other Regional Roads
PFL	Perth Freight Link
The Act	Planning and Development Act 2005
PRR	Primary Regional Roads
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
WAPC	Western Australian Planning Commission

Amendment Report

Metropolitan Region Scheme Amendment 1404/41

Roe 8 Remainder and Roe 9 (Removal of Primary Regional Roads Reservation)

Amendment Report

1 Purpose

The proposed Metropolitan Region Scheme (MRS) amendment relates to an unconstructed east-west Primary Regional Roads (PRR) corridor located mostly within the City of Cockburn, known as Roe 8 and 9.

The amendment proposes to reclassify approximately 58.01 ha being portions of the PRR reservation and some nearby Urban zoned land to the Parks and Recreation reservation. Other portions of the PRR reservation are proposed to be transferred to the Urban zone. These proposed modifications are depicted on the Amendment Figures – Proposals 1 - 3.

Areas of the site recognised as having high environmental and cultural heritage values are proposed to be reserved for Parks and Recreation under the MRS.

Less-constrained areas of the site present an opportunity for a range of urban land uses to be prescribed through the local planning framework and are proposed to be transferred to the Urban zone under the MRS.

2 Background

Reservation of the subject land for Controlled Access Highways purposes occurred in 1963 when the MRS first came into effect.

Most of the site is within the City of Cockburn localities of Hamilton Hill and Coolbellup with an additional portion further east in the localities of North Lake and Bibra Lake. A small portion of the site (about 420 m²) north of Healy Road is within the City of Fremantle.

The site forms part of the former Perth Freight Link (PFL) project area. That project involved a planned extension of Roe Highway westwards from the Kwinana Freeway, through the localities of Bibra Lake and North Lake to Stock Road in Coolbellup (known as Roe 8).

Land clearing to facilitate construction of Roe 8 commenced in 2016 but was halted in 2017 following a change of State Government. Approximately 34 hectares of Roe 8, between North Lake Road and Bibra Drive (within the Beeliar Wetlands) was transferred from the PRR reservation to the Parks and Recreation reservation in August 2021, pursuant to the *Metropolitan Region Scheme (Beeliar Wetlands) Act.*

The remnant portions of Roe 8 (between Stock Road and North Lake Road and another section east of the Beeliar Wetlands Act area) are referred to in this report as Roe 8 remainder. The term Roe 9 in this report refers to the PRR reservation extending west of Stock Road to Healy Road.

A consequence of the *Beeliar Wetlands Act* coming into effect is that the majority of Roe 8 remainder and Roe 9 no longer connect directly to the Kwinana Freeway. This prevents implementation of the PFL project.

Much of the site is comprised of undeveloped land. Existing land uses include residential, commercial buildings, outbuildings and recreational and parking areas for nearby schools.

Most of the land within the site is owned or managed by State Government entities including Main Roads Western Australia (MRWA), the State of Western Australia, the State Housing Commission, and the Western Australian Planning Commission (WAPC).

The City of Cockburn owns two properties within or partly within the site and has care and control of numerous local road reserves, some of which are large undeveloped land parcels resembling public open space. The City also manages three properties owned by the State of Western Australia.

Thirty-three properties within or partly within the site are privately owned or owned by commercial entities, including two properties owned by the Water Corporation. Some of these properties contain houses, outbuildings, or other improvements.

An indicative land use concept plan has been developed by the Department of Planning, Lands and Heritage (DPLH), which provides a vision as to how the current PRR corridor might one day be repurposed to accommodate a mix of land uses (Appendix F). The concept plan does not bind the local government (or any other planning entity) in terms of how the local planning framework may be updated in due course.

Preliminary community and stakeholder engagement in relation to the potential rezoning of Roe 8 remainder and Roe 9 was undertaken from October 2022 until 20 January 2023 as summarised in (Appendix J).

3 Scope and content of the amendment

The amendment proposes the following modifications:

- 27 hectares from PRR reservation to the Parks and Recreation reservation
- 29 hectares from PRR reservation to the Urban zone
- 0.5 hectares from Parks and Recreation reservation to the Urban zone
- 1.51 hectares from Urban zone to the Parks and Recreation reservation.

The total area the subject of this amendment is: 58.01 ha.

4 Discussion

Perth and Peel @ 3.5 Million and South Metropolitan Peel Sub-regional Planning Framework

The Perth and Peel @ 3.5 Million suite of planning documents provides an envisaged development outcome for the Perth and Peel regions in the future. It makes the case for change from a "business-as-usual" perspective to a more considered, connected, consolidated urban form.

The South Metropolitan Peel Sub-regional Planning Framework (the Framework) forms part of the Perth and Peel @ 3.5 Million suite of planning documents. The Framework does not identify an existing or proposed regional road along the alignment of Roe 8 remainder or Roe 9.

The MRS amendment is consistent with the Framework in so far as seeking to remove the PRR.

State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7)

Portions of the amendment area are classified as bushfire-prone. As a result, DPLH engaged a consultant to prepare a Bushfire Management Plan (BMP) for the proposed MRS amendment having regard to the indicative concept plan. The BMP report (Appendix H) identifies bushfire hazards and risks at the strategic level and demonstrates that the hazard level can be managed in subsequent planning stages.

The BMP relates to the land between North Lake Road and the western end of Cardigan Street. It does not include the proposed urban area east of the Beeliar wetlands.

State Planning Policy 3.5 Historic Heritage Conservation (SPP 3.5)

SPP 3.5 sets out the principles of sound and responsible planning for the conservation and protection of Western Australia's historic heritage.

Clontarf Hill

A registered Aboriginal Heritage Place (Clontarf Hill) encompasses various land parcels within and beyond the PRR reservation. This Aboriginal heritage place is understood to include a massacre site.

The following properties are proposed to be transferred to the Parks and Recreation reservation to assist with conserving the Clontarf Hill heritage place:

- six undeveloped lots south of Cardigan Street
- portions of two wide unconstructed local reserves west of Starling Street
- Lot 52 Rockingham Road (beyond the study area)
- a small triangular portion of Starling Street.

Portions of the Clontarf Hill heritage place that fall outside the area under consideration for rezoning under this MRS amendment include:

- (a) the northern portion of the Clontarf Hill site, comprising several lots immediately north of the PRR reservation on high ground, in the City of Fremantle; and
- (b) nearby Lot 2 Bellion Drive, Hamilton Hill, south of Rockingham road.

Randwick Stables

Randwick Stables is a nearby State-registered heritage place that falls partly within the existing PRR reservation and partly within the Urban zone. The heritage place encompasses four properties owned by Main Roads Western Australia (Lots 23 and 24 Hardey Street and Lots 26 and 27 Rockingham Road).

The stables are located on Lots 23 and 24, partly straddling the boundary between these two lots. A dwelling straddles the boundary between nearby Lots 26 and 27.

Nearby Lot 25 Rockingham Road is located east of Lot 26 (outside of the registered heritage site boundary) and is being used for horse riding purposes. The horse-riding area extends further eastward into a portion of Lot 52 Rockingham Road.

Lot 52 Rockingham Road falls within the Clontarf Hill heritage place and does not form part of the Randwick Stables heritage place.

Lots 23 - 27 and part of an adjoining undeveloped rear laneway in private ownership (Lot 66) are outside of the study area but are proposed to be transferred to the Parks and Recreation reservation in the interests of conserving the heritage significance of Randwick Stables.

Other Heritage Sites

Other sites with local heritage significance within the current PRR reservation include:

- the former Council buildings at the corner of Rockingham Road and Forest Road; and
- Johnson's Stables at 19 Forest Road.

These locally significant heritage sites are proposed to be included in the Urban zone, where a range of classifications could be considered for the sites under the local planning framework that facilitate their retention and ensure compatible use of the sites.

Environment

In accordance with the *Environmental Protection Act 1986*, a portion of the amendment area is subject to Ministerial Statement (MS) 1148 and mapped as 'Rehabilitation Zone', to allow for the rehabilitation of areas cleared as part of the Roe 8 Highway Extension proposal approved under MS 1008. Implementation requirements of MS 1148 are the responsibility of Main Roads Western Australia. Most of the areas within the amendment overlapping with MS 1148 are proposed to be reserved for Parks and Recreation. A small portion in the vicinity of Coolbellup Avenue is proposed to be zoned Urban in recognition of its existing and future function as a local road. As no clearing or further development is envisaged, these classifications are considered consistent with MS 1148.

In 2022, DPLH engaged a consultant to prepare an environmental assessment study (Appendix G) for the western portion of Roe 8 remainder and Roe 9 (but excluded existing urban zoned land in the western portion of the site and the proposed urban area east of the Beeliar wetlands - see below), which included:

- Spring Flora and Vegetation Assessment
- Black Cockatoo habitat assessment and basic fauna survey
- Dieback assessment
- Summary environmental report.

Key findings of the Flora and Vegetation assessment include:

- No threatened flora species listed under the state *Biodiversity Conservation Act* 2016 or Commonwealth *Environmental Protection and Biodiversity Conservation Act* 1999 were recorded within the study area.
- One Priority Flora species, (Priority 4), was identified within the study area.
- No flora species of other conservation significance based on one or more criteria listed in the Environmental Protection Authority's environmental factor guideline for flora and vegetation were recorded within the study area.
- Two ecological communities of conservation significance were identified:
 - Commonwealth-listed Tuart Woodlands and Forests of the Swan Coastal Plain (Critically endangered) ecological community/State-listed Tuart Woodlands and Forests of the Swan Coastal Plan (Priority 3) ecological community.

- Commonwealth-listed Banksia Woodlands of the Swan Coastal Plain (Threatened) ecological community/State-listed Banksia dominated woodlands of the Swan Coastal Plain IBRA region (Priority 3) ecological community.
- One vegetation unit shows affinity to a state listed Priority 3 Ecological community coastal shrublands on shallow sands, south Swan Coastal Plain.
- 48% of the site is assessed to be in Completed Degraded condition and 51% is assessed as Good to Degraded condition.

Key findings of the Black Cockatoo habitat assessment and basic fauna survey include:

- Evidence of foraging activity from both Carnaby's Cockatoo and Forest Red-tailed Black Cockatoo was recorded however no breeding or roosting activity was observed.
- 295 potential habitat trees were recorded, with ten having suitable hollows for Black Cockatoos.
- Strong competition from other species and a low number of suitable hollows suggests that it is unlikely either black cockatoos species will breed in the suitable hollows within the study area.

The dieback field assessment did not identify any Phytophthora Dieback infestations.

Having regard to the environmental reports provided, there are reasonable grounds for transferring a portion of Roe 8 West, east of the Stock Road PRR reservation interchange footprint, to the Parks and Recreation reservation as much of this area is identified as having high ecological value.

Some areas west of the Stock Road PRR interchange footprint are mapped as having medium ecological value and are either proposed to be reserved as Parks and Recreation reservation or zoned Urban. Where an urban zoning is proposed over land identified as having medium ecological value, this would not preclude the land from being reserved for local open space purposes under the local planning framework.

It should be noted that some areas recommended to be included in the MRS amendment fall outside the area that was subject to the environmental assessment study. These areas are:

- the existing urban zoned land in the western portion of the site contains minimal vegetation and is recommended to be transferred to the Parks and Recreation reservation for reasons discussed in the Cultural Heritage Considerations section of this report; and
- the proposed urban area east of the Beeliar wetlands is not heavily vegetated and has been previously considered for clearing by the EPA, without any requirement for rehabilitation.

Infrastructure

Regional Roads

Stock Road is a key PRR bisecting the study area, connecting Leach Highway (3.2 kms to the north) with Rockingham Road (5.1 kms to the south).

North Lake Road forms the eastern boundary of the site and is a PRR reservation where it intersects with the Roe 8 (West) PRR corridor. North Lake Road transitions to an Other Regional Road (ORR) reservation north and south of the study area.

Portions of Carrington Street, Stock Road, Coolbellup Avenue and Sudlow Road are reserved for PRR purposes and intersect with the main east-west PRR corridor, proving north-south road linkages. However, these roads transition to local roads immediately beyond the study area. As these roads are not part of the planned regional road network, it is proposed that these roads be transferred to the Urban zone.

MRWA is undertaking a review of Stock Road to identify future vehicle movement needs and land requirements. The outcomes of the MRWA review will not likely be known until after this MRS amendment has reached a conclusion. Accordingly, this intersection of the corridor is excluded from this MRS Amendment so as to not prejudice the any future requirements or future MRS amendment relevant to that intersection.

MRWA has provided transport modelling and network assessment for the subject land and surrounding road network (Appendix I). It is understood that the surrounding road network will continue to function within acceptable limits if the amendment is approved.

Electricity Network

Preliminary consultation has occurred with Western Power. Two transmission lines traverse the corridor. A primary priority for Western Power is protection of strategic assets with a preference for passive land uses protected via ongoing easements.

These transmission lines pose a constraint for future development, particularly built form, and will need to be carefully considered at subsequent planning stages.

Water and Wastewater

Preliminary consultation has occurred with the Water Corporation. The Corporation owns two properties in the proposed Urban zone (one south of Kerry Street fronting Forrest Road and the other north of Bailey Street fronting Rockingham Road), which contain parallel sewer pressure mains. The Corporation advises that these are critical assets and that it would not likely be feasible for them to be relocated. These sewer mains could possibly be contained within a future road reserve, subject to consideration at subsequent planning stages.

Several other water and sewer pipes cross of the current PRR reservation. Most of these pipes are currently unprotected and are not contained in gazetted roads, reserves or easements. The feasibility of relocating any of these pipes would be subject to detailed engineering investigation on a case-by-case basis.

5 Aboriginal heritage

The *Aboriginal Cultural Heritage Act 2021* (ACHA) provides for the protection and preservation of Aboriginal heritage and culture throughout Western Australia, including places and objects that are of significance to Aboriginal people. Aboriginal sites and materials are protected whether or not they have been previously recorded or reported.

The process of rezoning or reservation of land in a region scheme is not in itself directly affected by the ACHA. Proposed changes to land-use at MRS amendment stage are broad by nature and do not physically interfere with the land. Consideration of any protection that

may be required is addressed more specifically at later stages of the planning process, typically being a local planning scheme amendment and when preparing a local structure plan.

Nevertheless, in recognising the importance of having reliable Aboriginal information on land and the values attached to it, the WAPC and the Department of Planning, Lands and Heritage have entered into a Memorandum of Understanding with the South West Aboriginal Land and Sea Council (SWALSC) for the provision of Aboriginal consultative services. All MRS amendment proposals likely to be of interest to Aboriginal persons are referred to SWALSC for comment before being released for public submission. SWALSC is the recognised Native Title Representative Body for Western Australia's southwest region and as such is well placed to provide advice on Aboriginal heritage.

Preliminary consultation with SWALSC, via the Whadjuk Aboriginal Corporation's Cultural Advisory Committee, has already occurred, with discussions ongoing. The amendment will be referred to SWALSC during the public advertising period.

Aboriginal Heritage Place No.18332 (Clontarf Hill) impacts the western portion of the site, as discussed earlier in this report.

Future planning for the site will be undertaken in a consultative manner with Traditional Owners.

6 Coordination of local and region scheme amendments

Under section 124(3) of the *Planning and Development Act (2005)* (the Act), if a region planning scheme is amended and is inconsistent with a local planning scheme, the local government of the district in which the land directly affected is situated is to, not later than 90 days after the day on which the amendment to the region planning scheme has effect, resolve to prepare in relation to the land:

- (a) a local planning scheme which is consistent with the region planning scheme; or
- (b) an amendment to the local planning scheme which renders the local planning scheme consistent with the region planning scheme.

Under section 126(1) of the Act, if a region planning scheme delineates land comprised in a local planning scheme as a reserve for any public purpose, then the local planning scheme, in so far as it operates in relation to that land, is, by force of this section and without any further action under the Act, amended to such extent (if any) as is necessary to give effect to the reservation under the region planning scheme.

Under section 126(3) of the *Planning and Development Act 2005*, the WAPC has the option to concurrently rezone land being zoned Urban under the MRS to a "Development" zone (or similar) in the local planning scheme.

A limitation of section 126 is that it cannot be used to reclassify land for local open space purposes. Section 126 could potentially be used to reclassify portions of the site for residential purposes (such as the existing residential area in the vicinity of Cardigan Street), or to a development zone, (such as land along Carrington Street with potential commercial suitability and potential school expansion areas near Fremantle Christian College and Port School). However, areas identified as having potential suitability for such purposes on the concept plan are largely indicative at this stage.

In this instance, the use of section 126(3) to apply a uniform development zone over the site is not supported as:

- a broader strategic planning analysis has not yet been undertaken by the State or local government to establish whether future structure planning is warranted and, if so, whether future structure planning ought to extend beyond the current PRR boundary;
- a blanket "Development" zone limits the early consideration of unconstrained land being transferred directly to another zone or reserve, such as residential and local open space, should it be deemed appropriate, increases uncertainty about development outcomes and delays the planning process due to the need for a structure plan to be developed and approved; and
- the indicative spatial boundaries of potential residential areas and potential development zone areas shown on the concept plan may evolve over time as they are subject to more detailed examination and community feedback.

7 Substantiality

The Act allows for amendments to the MRS to be processed as either "minor" or "major" amendments depending on whether they are considered to constitute a substantial alteration to the MRS.

The amendment is proposed to be processed as a "major" amendment as it represents a significant change to the current planning framework and also recognises the strong community interest in the future zoning and land uses of the remaining portions of the PRR corridor.

8 Sustainability appraisal

The proposed Parks and Recreation reservation is proposed to be applied to areas having regional significance, either due to environmental and/or aboriginal heritage considerations.

The proposed Urban zoning aims to facilitate the development of various urban land uses near existing services, infrastructure, and transport routes, as well as enabling protection of locally significant environmental values.

9 Environmental Protection Authority advice

The proposed amendment was referred to the Environmental Protection Authority (EPA) for advice on whether environmental assessment would be required.

The EPA has advised that the proposed amendment does not require formal assessment under Part IV of the *Environmental Protection Act 1986*. A copy of the notice from the EPA is included at Appendix A.

10 The amendment process

The procedures for amending the MRS are prescribed by the *Planning and Development Act, 2005.* The amendment proposed in this report is being made under the provisions of Section 41 of that Act.

In essence, this procedure for a substantial alteration to the MRS (often referred to as a 'major' amendment) involves:

- formulation of the amendment by the WAPC
- referral to the EPA for environmental assessment
- completion of an Environmental Review (if required) to EPA instructions
- public submissions being sought on the proposed amendment (including the Environmental Review if it was required)
- consideration of submissions (including hearings where requested)
- referral of WAPC recommendations, with or without any modifications to the amendment in response to submissions, to the Minister for Planning and Infrastructure
- approval by the Governor
- consideration by both Houses of Parliament, which can disallow the amendment
- amendment takes legal effect when no longer subject to disallowance after 12 sitting days.

An explanation of this process can also be found in the front of this report, entitled '*The Metropolitan Region Scheme, what it is and how it is amended*'.

11 Submissions on the amendment

The WAPC invites people to comment on this proposed amendment to the MRS.

The amendment is being advertised for public submissions for a period of three months from Friday 7 July 2023 to Friday 6 October 2023.

Copies of the amendment will be available for public inspection at:

- i) WAPC, 140 William Street, Perth
- ii) City of Cockburn
- iii) City of Fremantle
- iv) City of Melville
- v) City of Perth
- vi) State Reference Library, Northbridge.

Online submissions are encouraged via https://consultation.dplh.wa.gov.au

Written submissions on the amendment should be sent to:

The Secretary Western Australian Planning Commission Locked Bag 2506 PERTH WA 6000

or by email to:-

RegionPlanningSchemes@dplh.wa.gov.au

and must be received by Friday 6 October 2023.

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form (Form 41) is contained in this report (Appendix E). Additional copies of this form are available from the display locations and the Department of Planning, Lands and Heritage website *https://www.dplh.wa.gov.au/mrs-amendments*.

You should be aware that the calling for submissions is a public process, and all submissions lodged will together become a public document. It will be published and made available when the amendment is presented to both Houses of Parliament. Advice of disclosure and access requirements is shown on side two of the submission form.

Before making your submission, it is recommended that you read the information in Appendix D of this report regarding preparing a submission.

12 Hearings

Any person making a written submission also has the opportunity to personally present the basis of their submission to a sub-committee of the WAPC. Details required for attending the hearings are on side two of the submission form.

Presentations made to the hearings committee are an extension of the submission process and the minutes of all hearings will become a public document. The minutes will be published and made available when the amendment is presented to both Houses of Parliament.

Before completing your submission form, please refer to the information regarding hearings in Appendix D of this report.

13 Modifications to the amendment

After considering any comments received from the public and government agencies, the WAPC may make modifications to the amendment.

The recommendations of the WAPC, including any modifications, are published in a Report on Submissions. Anyone who has made a submission will receive a copy of this document when the amendment is tabled in Parliament. The report will also be available on the Department of Planning, Lands and Heritage website *https://www.dplh.wa.gov.au/mrsamendments*.

14 Final Outcome

After considering the submissions, the WAPC may make modifications to the amendment. The WAPC will then submit the amendment plans, together with a *Report on Submissions* and a copy of all written submissions, to the Minister for Planning for presentation to the Governor.

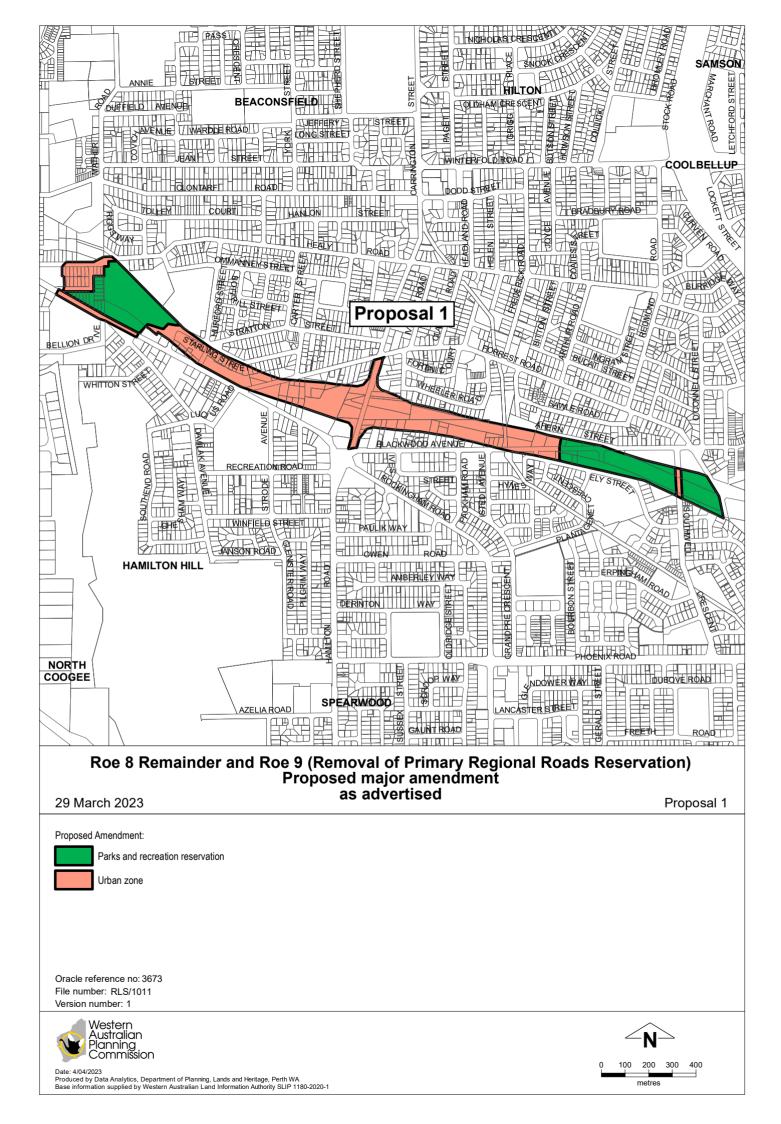
If the Governor approves, a copy of the plans of the amendment together with the *Report on Submissions* will be laid before each House of Parliament for twelve sitting days. Either House may, by resolution, disallow an amendment within that time. As soon as the amendment is no longer subject to disallowance it becomes legally effective in the MRS.

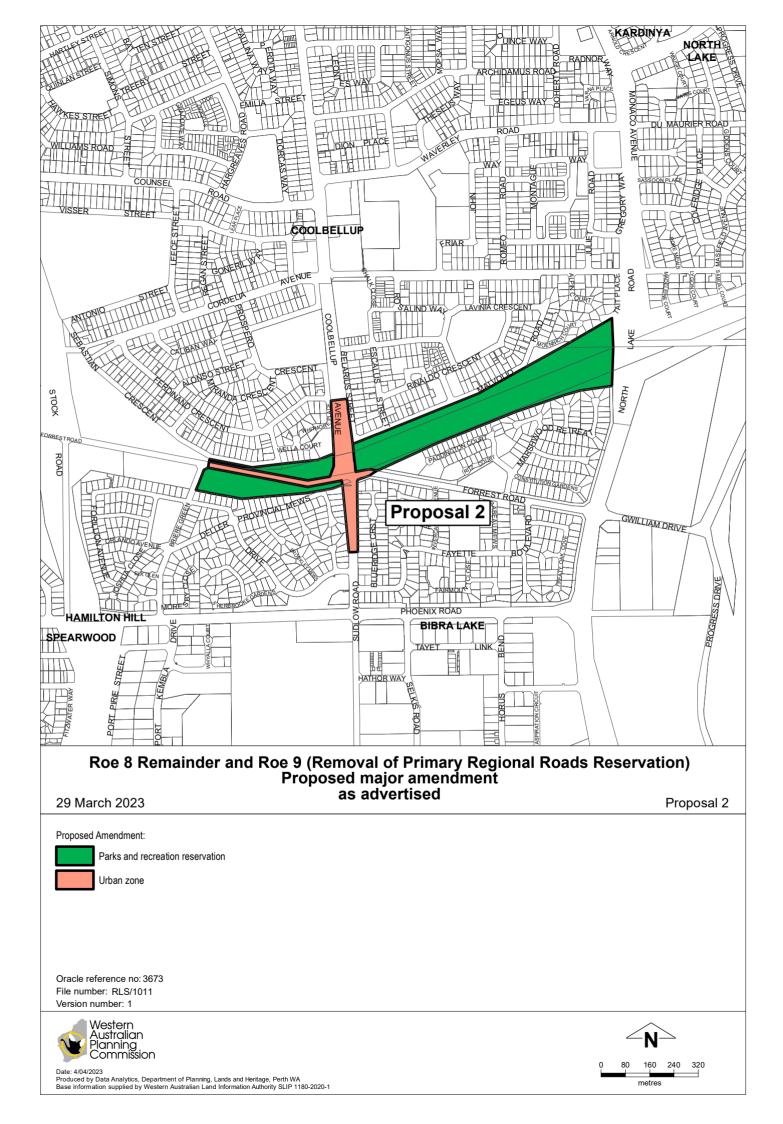
People who have made submissions will be kept advised on the progress of the amendment, and along with all affected landowners, will be notified of the final outcome.

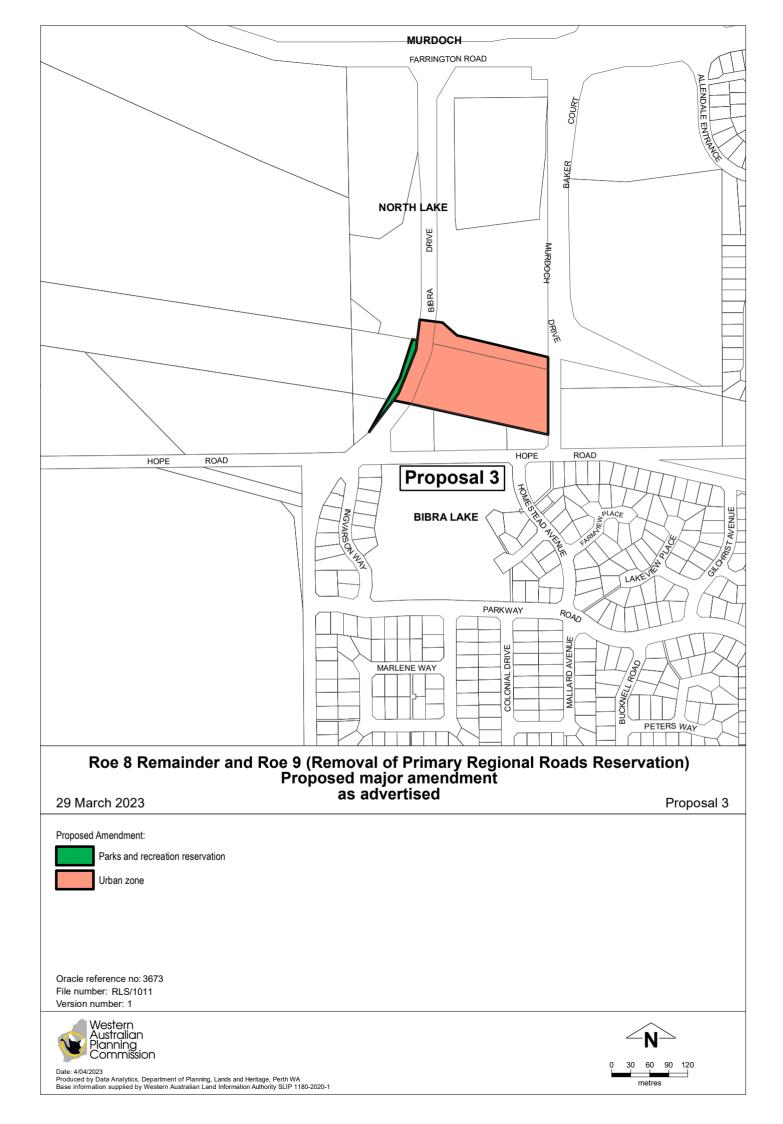
MRS Amendment 1404/41

Roe 8 Remainder and Roe 9 (Removal of Primary Regional Roads Reservation)

> Amendment Figures (Proposal 1-3)







Appendix A

Notice of environmental assessment



Ms Sam Fagan Secretary Western Australian Planning Commission Locked Bag 2506 **PERTH WA 6001**

Our Ref: APP-0000329 Enquiries: Fiona Pond, 6364 7623 Email: fiona.pond@dwer.wa.gov.au

Dear Ms Fagan

DECISION UNDER SECTION 48A(1)(a) Environmental Protection Act 1986

SCHEME	Metropolitan Region Scheme Amendment 1404/41
LOCATION	Various lots within Hamilton Hill, Coolbellup, North
	Lake and Bibra Lake
RESPONSIBLE AUTHORITY	Western Australian Planning Commission
DECISION	Referral Examined, Preliminary Investigations and
	Inquiries Conducted. Scheme Amendment Not to be
	Assessed Under Part IV of the EP Act.
	No Advice Given (Not Appealable)

Thank you for referring the above scheme to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act).

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.
- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of the EPA's Determination is attached and will be made available to the public via the EPA website.

Yours sincerely

Prof. Matthew Tonts Chair of the Environmental Protection Authority

31 May 2023

Encl. EPA Determination

Prime House, 8 Davidson Terrace Joondalup, Western Australia 6027. Postal Address: Locked Bag 10, Joondalup DC, Western Australia 6919.



Environmental Protection Authority

WESTERN AUSTRALIA s.48A Referrals 4 MAC A Title: Metropolitan Region Scheme Amendment 1401/41 Location: Various lots within Hamilton Hill, Coolbellup, North Lake and Bibra Lake, known as Roe 8 and Roe 9 **Description:** The Western Australian Planning Commission proposes to amend the Metropolitan Region Scheme to transfer sections of land known as Roe 8 and Roe 9 from Primary Regional Roads (PRR) reservation to Parks and Recreation reservation and Urban zone; from Parks and Recreation reservation to Urban zone; and from Urban zone to Parks and Recreation reservation. Ref ID: APP-0000329 Date Received: 11/04/2023 **Date Sufficient Information Received:** 22/05/2023 **Responsible Authority:** Western Australian Planning Commission Locked Bag 2506 Perth WA 6001 Contact: Marija Bubanic **Preliminary Environmental Factors:** Flora and Vegetation; Terrestrial Fauna and Social Surroundings **Potential Significant Effects:** Vegetation, fauna habitat and heritage values occur within the amendment area. Protection: Vegetation, fauna habitat and heritage values are not proposed to be impacted. Implementation of the amendment will comply with Ministerial Statement 1148 which provides conditions for a Rehabilitation Zone, which intersects with parts of the amendment area. **Determination: Referral Examined, Preliminary Investigations and Inquiries** Conducted. Scheme/Scheme Amendment Not to be Assessed under Part IV of the EP Act. No Advice Given. (Not Appealable).

The Environmental Protection Authority (EPA) has carried out some investigations and inquiries before deciding not to assess this scheme. In deciding not to formally assess schemes, the EPA has determined that no further assessment is required by the EPA.

This Determination is not appealable.

Chair's Initials:

Date: 31 May 2023

Appendix B

List of detail plans supporting the amendment

Proposed Major Amendment 1404/41

Roe 8 Remainder and Roe 9 (Removal of Primary Regional Roads Reservation)

as advertised

Amending Plan 3.2807 Detail Plans 1.6479, 1.6498 - 1.6502, 1.6513

Appendix C

Your property and the planning system - region schemes

Your property and the planning system – region schemes Rights to compensation in relation to reserved land

The Western Australian Planning Commission (WAPC) has statewide responsibility for planning how land in metropolitan and regional areas can be used and developed. It does this by reserving and zoning land for immediate and future development through region schemes and/or planning control areas.

Region schemes

The WAPC administers three region schemes which classify land into zones and reservations:

- Metropolitan Region Scheme
- Peel Region Scheme
- Greater Bunbury Region Scheme.

Zones are large areas identified for purposes such as industry (industrial zone) and residential (urban zone).

Reservations are required for public purposes such as schools, railways, major roads, and parks and recreation.

How do you amend a region scheme?

Schemes can be amended as regions grow and change. This process begins with the local government, landowner, State Government or WAPC making a request to amend a scheme. The WAPC considers the request and can either refuse or approve the initiation of an amendment.

The amendment process is lengthy and in general, takes between 12 to 24 months to complete and includes extensive consultation with landowners and the broader community. In some cases amendments are subject to assessment by the Environmental Protection Authority. Amendments can be classified as Major or Minor, in accordance with Development Control Policy 1.9 – Amendment to Region Schemes.

Planning Control Area

In some instances, the WAPC will use a planning control area (PCA) to protect land required for a particular purpose from development until it may be reserved in one of the region schemes. A PCA acts in a similar manner as a region scheme but can be applied as a temporary measure to enable an amendment to be progressed. This also provides affected landowners with rights to claim compensation while a decision is made to reserve land or not. A PCA is valid for up to five years.

This means the WAPC is the decision-making authority for any development applications on land within a PCA. A person must not commence and carry out development within the PCA area without the prior approval of the WAPC. There are penalties for failure to comply with this requirement. The same compensation and alternative purchase rules apply as with a region scheme. However, if compensation is paid and the PCA or reservation is reduced or removed in the future, the compensation is repayable in whole or part upon the subsequent sale or subdivision of the property.

What if your land is proposed to be reserved?

The WAPC approaches landowners on land proposed to be reserved and invites them to comment through the amendment process.

The Government will ultimately acquire reserved land, but as the reservations are strategic and longterm requirements, the land can generally remain in private ownership until it is needed for the public purpose. Several options are available to the owners of reserved land:

- Retain ownership of your property and continue quiet enjoyment until it is needed for the public purpose. You may complete any development or subdivision approved prior to the reservation taking effect. Under nonconforming use rights, you may continue to use the property for the purpose for which it was legally being used immediately before the reservation came into effect.
- Sell the property on the open market to another person(s). The WAPC recognises that the reservation may make this difficult. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider purchasing a reserved property if an owner is unable to achieve a private sale on the open market. This does affect your right to otherwise claim statutory compensation (outlined in the compensation section below).
- Offer the property for sale to the WAPC. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider purchasing a reserved property. The WAPC purchases a property at its current market value, ignoring the impact of the reservation and proposed public purpose. The WAPC obtains two independent valuations to provide it with advice on the value of the property.

Am I entitled to claim compensation?

If your land is reserved in a region scheme or subject to a PCA and **you are the owner of the land when it was first reserved or the PCA was declared**, you may be able to make a claim for compensation for injurious affection if:

- Private Sale you sell the property on the open market at a reduced price (due to the effect of the reservation or PCA); or
- 2. **Refused development –** the WAPC has either refused a development application over the property or approved it subject to conditions that are unacceptable to you.

What is injurious affection?

Injurious affection occurs when the value of a piece of land is affected by the application of a reservation or restriction for a public purpose.

How do I claim compensation?

I. Private sale

If you wish to sell your property on the open market at a reduced price (affected value), you will need to complete a *Notice of Intention to Sell* form, which is available online at <u>www.dplh.wa.gov.au</u>. The Department of Planning, Lands and Heritage will establish the extent of the reservation and forward the notice to the Board of Valuers.

The Board of Valuers will determine the value of the property as if there was no reservation or PCA (unaffected value). You may wish to attend the board's meeting to present any matters you believe are relevant to the value of your property.

Following the board's decision:

- The board will advise you of the unaffected value of the property.
- You pay the board's valuation fee to the department and you will be advised of the affected value of the property (as determined by the WAPC) – the minimum price for which you can sell the property and receive the full amount of compensation (the difference between the affected and unaffected values). The valuation fee is refundable upon the sale of the property and the payment of compensation.
- You then arrange the sale of the property (either privately or through an agent) the sale price must not be less than the affected value.

You (and your agent) must inform prospective purchasers that you are selling the property at a reduced price and that you will be claiming compensation for injurious affection from the WAPC. You must also include a special condition in the offer and acceptance.

- After you sell the property, you can make a claim for compensation for injurious affection through the WAPC **within six months** of the property being sold (registered at Landgate).
- After the WAPC pays compensation, the WAPC will lodge a notification on the Certificate of Title to identify that it has paid compensation, which is only payable once.
- If the property does not sell within one year of the board's valuation, you may ask the board to revalue the property. The sale process is then repeated.
- Alternatively, you may wish to ask the WAPC to purchase the property, as you have been unable to sell it privately. The WAPC will purchase the property at its then fair market value (unaffected value).

2. Refused development

If the WAPC refused your development application or approved it subject to unacceptable conditions, you may make a claim for compensation for injurious affection **within six months** of the WAPC's decision.

The WAPC will either pay compensation or may elect to purchase the property instead of paying compensation. If the WAPC elects to purchase the property, it obtains valuations for the fair market value (unaffected value) as at the date of the election to purchase.

What is compulsory acquisition?

If land is required for a reservation and has not been previously acquired or compensation has been claimed, the Government may compulsorily acquire the property. The WAPC will obtain independent valuations and make an offer of compensation, in accordance with the *Land Administration Act 1997*.

How can I view a region scheme?

- online at <u>www.dplh.wa.gov.au/your-property-</u> <u>and-region-schemes</u>
- office of the WAPC and the Department of Planning, Lands and Heritage Level 2, 140 William Street, Perth
- any local government office.

The WAPC operates in accordance with the *Planning and Development Act 2005* and receives administrative support from the Department of Planning, Lands and Heritage.

This information is correct as at January 2019.

Appendix D

Preparing a submission and hearings committees

Preparing a submission and hearings committees

The WAPC welcomes comment on proposed amendments to the MRS from interested individuals, groups and organisations.

What is a submission?

A submission is a way to express your opinion and provide information. It is an opportunity to explain why the amendment should be supported, withdrawn or modified. Suggestions of alternative courses of action are also welcomed.

Making a submission is not the same as voting in an election. The number of submissions received for or against a proposal will not in itself determine the result. Rather, it is the reasoned argument of why a particular thing should or should not be done. Your submission will assist the WAPC in reviewing its planning proposal before proceeding. Advertised proposals are often modified in response to the public submission process.

What should I say?

Your comments should focus on the particular issues that arise from the proposed amendment. If there are a number of components in the amendment, please indicate exactly which ones you are addressing.

It is important that you state your point of view clearly and give reasons for your conclusions and recommendations. These may include an alternative approach or other ways for the WAPC to improve the amendment or make it more acceptable. Indicate the source of your information or argument where applicable.

If you prefer not to write your own comments, you may consider joining a group interested in making a submission on similar issues. Joint submissions can increase the pool of ideas and information.

Before lodging your submission

The WAPC prefers to receive submissions online at *https://consultation.dplh.wa.gov.au*, however, hardcopy submissions can also be accepted (form 41 – appendix E).

Please remember to complete all fields in the submission form including your name, contact details and whether you would like to attend a hearing. Pleased limit the number of attachments, where possible, ensuring they are directly relevant to the proposed amendment you are commenting on.

The closing date for submissions and how to lodge them is shown on form 41 and in the submissions on the amendment section of the amendment report. To be eligible to make a presentation to the hearing committee, your written submission must be received by the closing date.

Some amendments may be subject to an environmental review. Under these circumstances, the WAPC will forward a copy of any submission raising environmental issues to the EPA.

You should be aware that all submissions lodged with the WAPC are subject to regulations on disclosure and access, and your submission will become a public document. Presentations made to the hearings committee are an extension of the submission process.

Do you want a hearing?

The *Planning and Development Act 2005* provides the opportunity for people who have made a submission to personally present the basis of their submission to a sub-committee of the WAPC. You do not have to attend a hearing. The comments presented by you in your submission will be considered in determining the recommendation for the proposed amendment.

Hearings are arranged so a person can explain or expand on their written submission to the WAPC in person. A hearing is for listening to points of view and planning rationale and is not a forum for general public debate. In the case of a group, a spokesperson must be appointed to represent the group. The time allocated for each presentation is five minutes.

The hearings committee is appointed by the WAPC and is usually comprised of two WAPC committee members and one other person with planning knowledge and expertise related to issues raised in submissions.

You may choose to have your presentation conducted in public or private. A public hearing allows other persons, including the media, to attend. In a private hearing only those persons nominated by you and by the hearings committee may attend.

Appendix E

Submission form for this amendment (Form 41)

Planning and Development Act 2005 Section 41 Amendment (Major)

Form 41

Submission

Metropolitan Region Scheme Amendment 1404/41

Roe 8 Remainder and Roe 9 (Removal of Primary Regional Roads Reservation)

To: Secretary Western Australian Planning Commission Locked Bag 2506 Perth WA 6001 OFFICE USE ONLY
SUBMISSION NUMBER
RLS/1080

Title (Mr, Mrs, I	Miss, Ms)	First Name	
Surname			CLEARLY)
Address		Postcode	
Contact phone	number	Email address	
	ay be published as part of the const ission? □ Yes □ No	ultation process. Do you wish to have your name ren	noved
Submission	(Please attach additional pages if required. It is	preferred that any additional information be loose rather than bound	(۲

turn over to complete your submission

Hearing of submissions

Anyone who has made a written submission on the amendment has the opportunity to personally present the basis of their submission to a sub-committee of the WAPC. **You do not have to attend a hearing.** The comments presented by you in this written submission will be considered in determining the recommendation for the proposed amendment.

For information about the submission and hearings process, please refer to the amendment report and in particular appendix D.

Please choose one of the following:

	${f No}$, I do not wish to speak at the hearings. (Please go to the bottom of the form and sign)		
		OR	
	Yes,	I wish to speak at the hearings. (Please complete the following details)	
		I will be represented by:	
		Myself – My telephone number (business hours):	
		or	
		A spokesperson	
		Name of spokesperson: Contact telephone number (business hours): Postal address:	
		I would prefer my hearing to be conducted in:	
		Public (members from the general public may attend your presentation)	
		OR	
		Private (only the people nominated by you or the hearings committee will be permitted to attend)	
1			

You should be aware that:

- The WAPC is subject to the *Freedom of Information Act 1992* and as such, submissions made to the WAPC may be subject to applications for access under the act.
- In the course of the WAPC assessing submissions, or making its report on these submissions, copies of your submission or the substance of that submission, may be disclosed to third parties.
- Hearings may be recorded and transcribed. The minutes of all hearings, along with all written submissions, are tabled in Parliament and published as public records should the Governor approve the proposed amendment. The WAPC recommendations are similarly published in a report on submissions and tabled in Parliament.

To be signed by person(s) making the submission

Signature Date

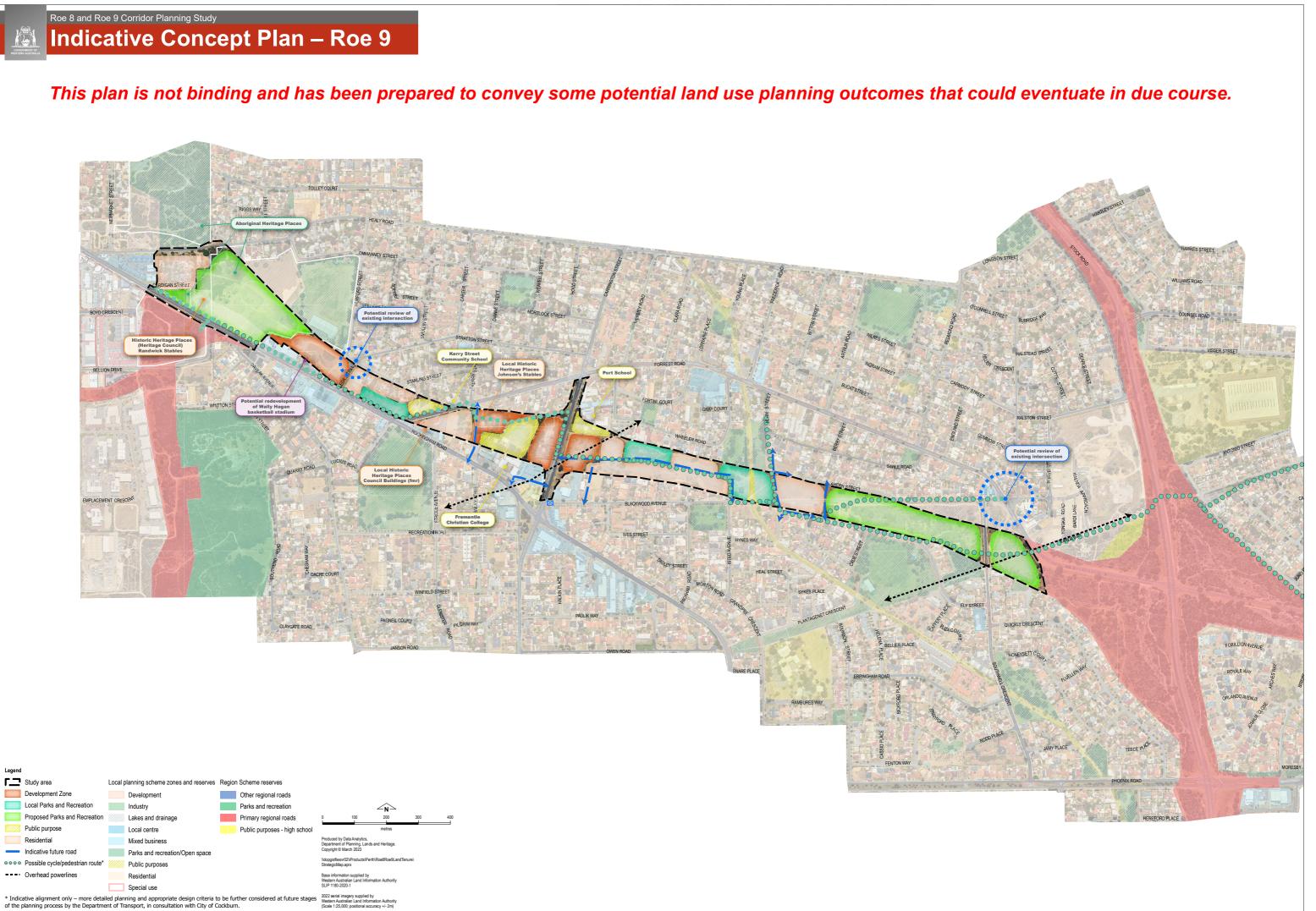
Note: Submissions MUST be received by the advertised closing date, <u>6 OCTOBER 2023</u>. Late submissions will NOT be considered.

Appendix F

Indicative Concept Plans and Potential Green Linkage Plan

(March 2023)

Legen



Indicative Concept Plan - Roe 8 remainder

This plan is not binding and has been prepared to convey some potential land use planning outcomes that could eventuate in due course.





This plan is not binding and has been prepared to convey some potential land use planning outcomes that could eventuate in due course.



