

**WESTERN AUSTRALIAN PLANNING COMMISSION**

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**METROPOLITAN REGION SCHEME  
Amendment No. 1138/41**

**EAST LEIGHTON**

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**City of Fremantle and Town of Mosman Park**

**AMENDMENT REPORT**

December 2006

PERTH  
WESTERN AUSTRALIA



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# **THE METROPOLITAN REGION SCHEME**

## **What it is and how it is amended**

### **PLANNING PERTH'S FUTURE**

Perth has a reputation as one of the world's cleanest and greenest cities. This is largely due to good planning. It is a city anticipated to grow. As it grows, change must be well planned and well managed.

In 2001 Perth was home to nearly 1.4 million people. Each year its population is growing by about 20,000 people. By the State's Bicentenary in 2029, Perth's population is expected to have exceeded 2 million, making up 72 percent of the population of Western Australia.

Provision must be made for future housing, employment opportunities and transport needs to meet this growth. It is also necessary to set aside land for conservation and recreation.

The Metropolitan Region Scheme provides for this change, and the means by which affected landowners can be compensated for land acquired for regional public purposes.

### **WHAT IS THE METROPOLITAN REGION SCHEME?**

The Metropolitan Region Scheme (MRS) is a large town planning scheme for land use in the Perth metropolitan area. This area stretches from south of Rockingham to north of Yanchep and east of Mundaring.

The Scheme defines the future use of land, dividing it into broad zones and reservations. It requires local government town planning schemes to provide detailed plans for their part of the region. These schemes must be consistent with the Metropolitan Region Scheme.

The MRS uses a set of maps and a scheme text. The scheme text provides planning rules for zones and reservations, which are shown on the maps in different colours and patterns.

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

To plan for changing needs, the MRS is amended frequently.

### **WHAT IS AN AMENDMENT?**

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

When a rezoning or a new reservation is considered, an amendment to the MRS is advertised to seek comment from the wider community and all levels of government.

The process allows for extensive community consultation and discussion in Parliament before a final decision is made.

### **HOW IS THE METROPOLITAN REGION SCHEME AMENDED?**

The Western Australian Planning Commission (WAPC) is responsible for keeping the Metropolitan Region Scheme under review and initiating changes where they are seen to be necessary.

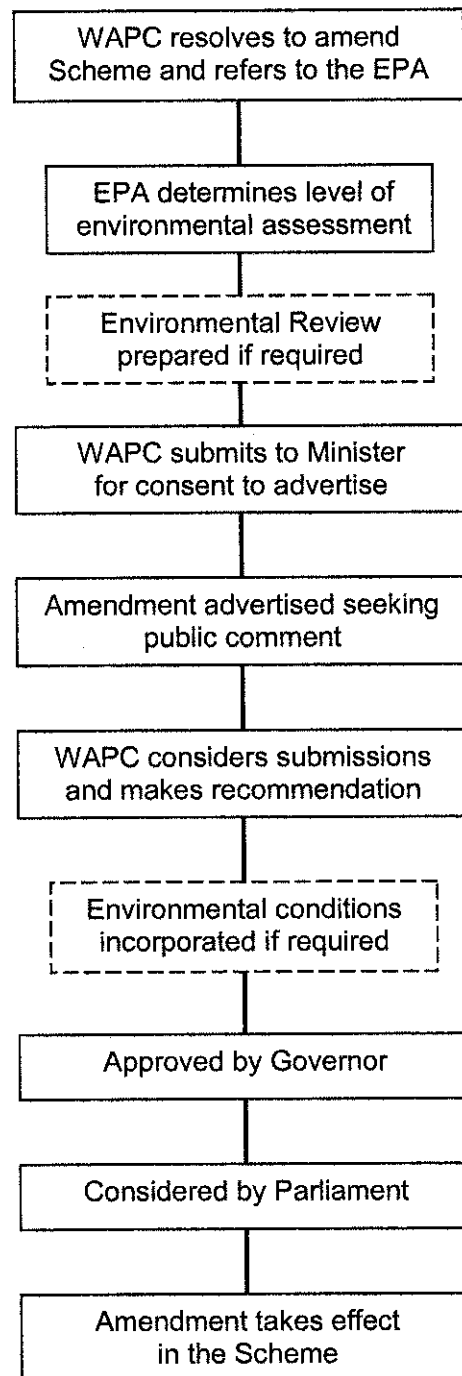
The amendment process is regulated by the *Planning and Development Act 2005*. The amendment proposed in this report is being made under the provisions of Section 41 of that act (often referred to as a 'major' amendment).

The process of a major amendment to the Metropolitan Region Scheme includes the following steps:

- Formulation of the amendment by the WAPC.
- Referral of the proposed amendment to the Environmental Protection Authority (EPA) to set the level of environmental assessment. Where the EPA requires an environmental review, this is carried out before the amendment is advertised.

- Consent by the Minister for Planning and Infrastructure to call for submissions.
- Advertising the amendment for public inspection and inviting submissions. Advertisements are placed in local and state-wide newspapers, and information made available on the WAPC Internet site. Landowners whose property is directly affected by a proposed change 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 considering written submissions. People who have made submissions may, if they wish, also make an oral presentation to a special committee appointed to consider and report on these submissions.
- WAPC reviewing the proposed amendment in light of submissions. The amendment may be modified before proceeding.
- Readvertising for further public submissions may be required by the Minister for Planning and Infrastructure if the amendment is substantially modified as a result of submissions.
- Minister presenting the amendment with WAPC recommendations to the Governor for approval.
- Placing of the amendment, as approved by the Governor, before each House of State Parliament, where it must remain for 12 sitting days. During this time, the amendment is again on public display with the *WAPC Report on Submissions*.
- In Parliament, a Member may introduce a Motion to Disallow the amendment. If this motion succeeds, the Metropolitan Region Scheme will not be amended. Otherwise, the amendment becomes legally effective in the Scheme.

The following diagram shows the main steps.



When the Metropolitan Region Scheme is amended, local town planning schemes must also be amended to match the broad zonings and reservations of the MRS. Affected local governments provide more detailed planning for each area.

Within three months of a MRS amendment being finalised, an affected local

government must initiate an amendment to its town planning scheme.

## ZONES AND RESERVATIONS

Zones and reservations in the Metropolitan Region Scheme are broad categories. They are not precisely defined or limited, but the following descriptions are a guide.

### ZONES

**Urban:** Areas in which a range of activities are undertaken, including residential, commercial recreational and light industry

**Urban deferred:** 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 Western Australian Planning Commission must be satisfied that these issues have been addressed before rezoning to Urban.

**Central City Area:** 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.

**Rural:** Land on which a range of agricultural, extractive and conservation uses are undertaken.

**Private Recreation:** Areas of significance to the Region's recreation resource, which are, or are proposed to be, managed by the private sector.

**Rural - Water Protection:** Rural land over public groundwater areas, where land use is controlled to avoid contamination.

### RESERVATIONS

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

**Parks and Recreation:** Land of regional significance for ecological, recreation or landscape purposes.

**Railways:** Provides for public transit routes, freight rail lines and associated facilities such as marshalling yards, maintenance depots and park'n'ride stations.

**Port Installations:** Regional maritime shipping facilities.

**State Forests:** Areas of woodland located on Crown Land managed under the *Conservation and Land Management Act, 1984*.

**Water Catchments:** Water sources protected for high quality public water supply. These areas have strict controls on land use to avoid pollution of the water resource.

**Civic and Cultural:** Significant civic precincts and buildings.

**Waterways:** Permanent inland and coastal waters including many rivers and reservoirs.

**Public Purposes:** 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.

**Primary Regional Roads:** These are the most important of the roads of regional significance in the planned road network, and are currently or proposed to be declared under the *Main Roads Act, 1930*.

**Other Regional Roads:** These are roads of regional significance in the planned road network for which the planning responsibilities are shared by the Western Australian Planning Commission 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 use of the land or lifestyle. They can stay as they are or they may set about changing their land use. For instance, some may seek approval to subdivide their land or apply to develop it in some way that suits the new zoning.

The Western Australian Planning Commission 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 Metropolitan Region Scheme are advertised so that all affected landowners and anyone else have time to examine the proposals and lodge a submission.

### **WHAT IF MY LAND IS RESERVED?**

Land is reserved because it will be needed eventually for a public purpose such as Parks and Recreation or Other Regional Roads.

If your land is marked for a reservation 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. The Western Australian Planning Commission has reservations over many areas of land, which are privately owned.

To protect landowners, there are procedures for acquisition or compensation by the Western Australian Planning Commission. These are outlined in *Your Property and the Metropolitan Region Scheme*, a leaflet reproduced at the back of this report and available separately from the Department for Planning and Infrastructure.

### **HOW CAN MY VIEWS BE HEARD?**

You can lodge a written submission on the proposed amendment during the advertised period. A submission form is available at the back of this report, from the display locations for this amendment and from the WAPC Internet site.

People writing submissions may choose also to attend a hearing. This follows the submission period, where you can express your views to a hearings panel.

### **PUBLICATIONS**

In the course of each substantial amendment to the Metropolitan Region Scheme, 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 Environmental Protection Authority 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 planning rationale, determination of submissions received, and the recommendations for final approval of the amendment made by the Western Australian Planning Commission.

#### **Submissions**

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

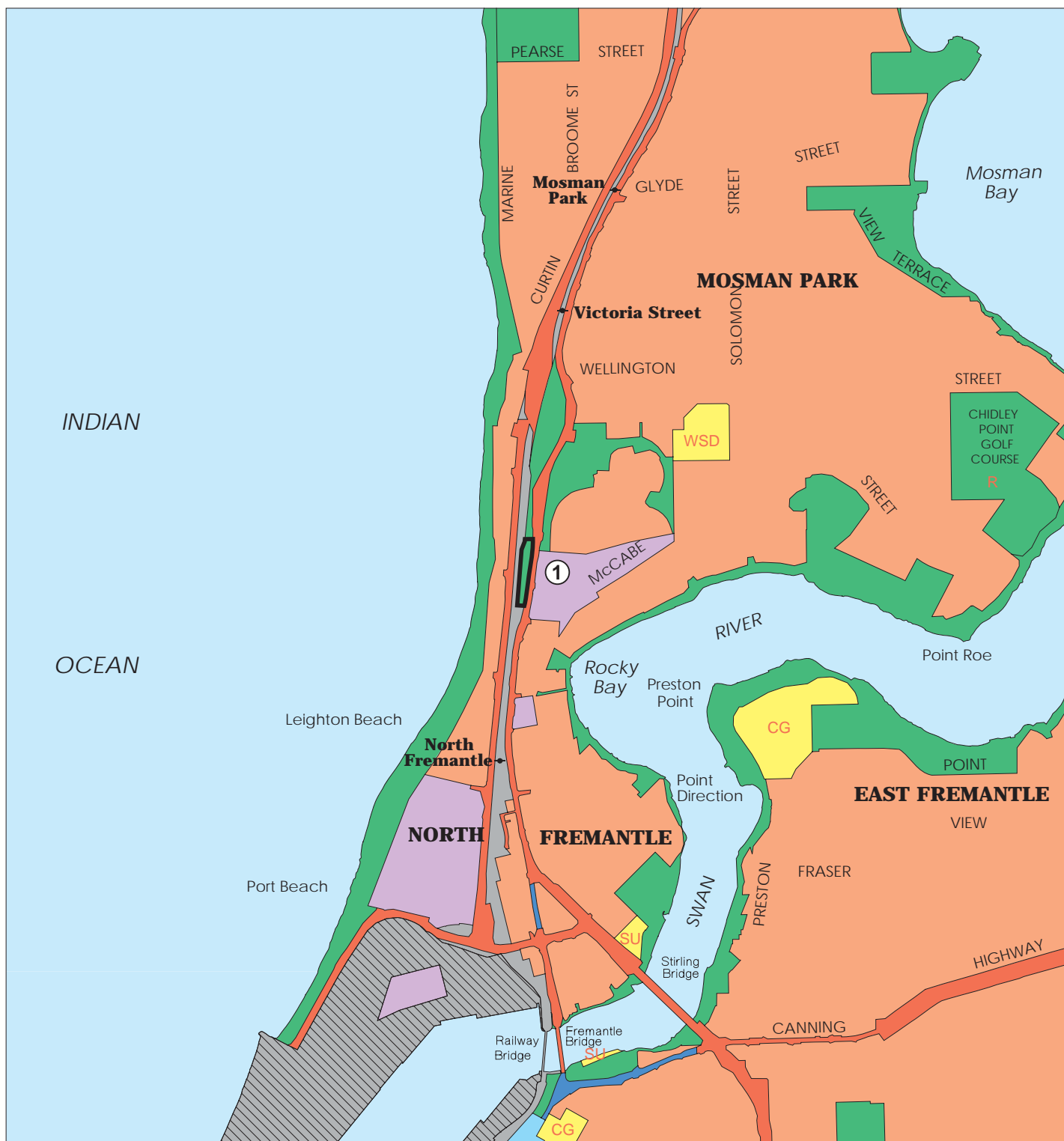
#### **Transcript of Hearings**

The hearings procedures are recorded and transcribed. All transcripts are published as a public record.



## ABBREVIATIONS

<b>EPA</b>	Environmental Protection Authority
<b>MRS</b>	Metropolitan Region Scheme
<b>WAPC</b>	Western Australian Planning Commission



## Location of the proposed amendment to the MRS for 1138/41

Proposed:

① 1138/41 - East Leighton

### Legend

#### METROPOLITAN REGION SCHEME LEGEND

##### RESERVED LANDS

- PARKS AND RECREATION
- RESTRICTED PUBLIC ACCESS
- RAILWAYS
- PORT INSTALLATIONS
- STATE FORESTS
- WATER CATCHMENTS
- CIVIC AND CULTURAL
- WATERWAYS

- ROADS:
- PRIMARY REGIONAL ROADS
  - OTHER REGIONAL ROADS

- PUBLIC PURPOSES - DENOTED AS FOLLOWS:
- H HOSPITAL
  - HS HIGH SCHOOL
  - TS TECHNICAL SCHOOL
  - CP CAR PARK
  - U UNIVERSITY
  - CG COMMONWEALTH GOVERNMENT
  - SEC STATE ENERGY COMMISSION
  - SU SPECIAL USES
  - WSD WATER AUTHORITY OF WA
  - P PRISON

##### ZONES

- URBAN
- URBAN DEFERRED
- CENTRAL CITY AREA
- INDUSTRIAL
- SPECIAL INDUSTRIAL
- RURAL
- PRIVATE RECREATION
- RURAL - WATER PROTECTION

# AMENDMENT NO. 1138/41 TO THE METROPOLITAN REGION SCHEME

## EAST LEIGHTON

### 1. PURPOSE

The purpose of the amendment is to transfer the lots, reserves and portions of reserves, shown on Figure 1 of this report, from the Parks and Recreation reservation to the Urban zone. Lots 4, 500 and 63 are in private ownership (approximately 1322m<sup>2</sup> in total). Lots 3, 2, 501 and 448, the road reserve and the portion of State Government reservation to the west and north of Lot 448 are all in Government ownership (approximately 1.1552ha in total) The total area in the amendment is therefore approximately 1.3874ha.

### 2. BACKGROUND

"Network City: Community Planning Strategy for Perth and Peel" (Western Australian Planning Commission, 2004) is the current State Government document providing an overall context for planning and development in the Perth Metropolitan Region.

The WAPC is preparing a Statement of Planning Policy to confirm the primary status of Network City and to set out ways in which the policy will be used by the WAPC.

The objectives and principles of Network City are captured in eight "Key Themes" also referred to as "Headline Statements".

The land, the subject of this amendment, has been identified as promoting two of the Network City Key Themes being:

- Make fuller use of urban land.
- Encourage public over private transport.

The proposal is also consistent with other principles and objectives of Network City such as:

- Enhance efficiency of urban land use and infrastructure.
- Deliver urban growth management.
- Accommodate urban growth primarily within a Network City pattern, incorporating communities.
- Align transport systems and land use to optimise accessibility and amenity.
- Intensifying land use in existing Urban areas.
- Facilitate increased housing diversity to match the changing needs of the Perth population, in locations which provide equitable access and lifestyle opportunities.

Urbanisation of the land, the subject of this amendment, contributes to urban growth management by providing urban land within the existing Perth metropolitan region in close proximity to the Fremantle Regional Centre and ocean and river recreation areas. This in turn reduces the land required for urban expansion in other areas. Although relatively small

in area, the subject land contributes to the total area being provided by infill urban development throughout the established areas of the Perth metropolitan region.

The land has ready access to public transport (train and bus) and any additional population in the area will add to the viability of these public transport modes. The area has established government, community, educational and private infrastructure and services.

The subject land will also contribute to replacing Urban zoned land and potential Network City opportunities at the former Leighton Marshalling Yards where land is proposed to be transferred to the Parks and Recreation reservation in the Leighton and Environs MRS amendment (Amendment No. 1074/33).

### **3. DISCUSSION**

The North Fremantle locality has been undergoing increasing urbanisation over the last few years with new Urban zonings at Buckland Hill and between McCabe Street and the Swan River. There is also an MRS rezoning in progress for the One Steel site on the corner of McCabe Street and Stirling Highway, which will transfer the site from the Industrial zone to the Urban zone (Amendment No. 1099/33). Other industrial land along McCabe Street is likely to be the subject of similar rezoning proposals.

Accordingly, the East Leighton amendment is consistent with the trend towards increasing urbanization in the North Fremantle locality. Although relatively small in area, the subject land will combine with future Urban land on the eastern side of Stirling Highway along McCabe Street to form a substantial new urban infill in North Fremantle.

The subject land currently forms part of an open strip of Parks and Recreation reservation located between Stirling Highway and the railway reservation, which provides high quality scenic views from the Highway over the former Marshalling Yards to Leighton Beach, the ocean and Fremantle. In order to preserve these views, the northern boundary of the subject land has been aligned generally with the southern boundary of the Vlamingh Parade road reserve. This is consistent with the Leighton Planning Guidelines (2000).

No environmental assessment of the land has taken place to date. Issues that may arise in an area such as this could be the possibility of soil contamination from previous land uses and noise and vibration from the railway line and Stirling Highway. Such matters would require appropriate investigation and management plans formulated prior to any development occurring, as are commonly required in urban infill areas around Perth.

Heritage assessments of existing buildings may be required as part of structure planning and prior to any redevelopment occurring. The land is cleared and no natural vegetation remains to be preserved. Access to any development on the site from Stirling Highway would need careful consideration.

The type of development (for example, single or multi residential, commercial, mixed use), its form (for example height, bulk and setback), access and connections to surrounding areas would be part of structure planning and local scheme zoning to be undertaken by the affected local governments. At the time of writing, there are no immediate plans or intentions regarding actual development of the subject land.

#### 4. SUSTAINABILITY

In combination with the other urban zones that have been created in North Fremantle over the last decade, the proposed amendment would contribute to increased community sustainability in that area. The increased population will use and support services, infrastructure and public transport. As mentioned above, in a broader sense, the various urban infill developments throughout the metropolitan region decrease to some extent urban expansion on the region's fringes.

#### 5. 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. It has however provided advice on the key environmental factors for the amendment. A copy of the notice from the EPA is included at **Appendix A**.

#### 6. THE AMENDMENT PROCESS

The procedures for amending the Metropolitan Region Scheme 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 Scheme (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 Environmental Review if required);
- consideration of submissions (including hearings where requested);
- referral of WAPC recommendations, with or without any modifications in response to submissions, to the Minister for Planning and Infrastructure;
- approval by the Governor;
- consideration by both Houses of Parliament, who 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*'.

## 7. SUBMISSIONS ON THE AMENDMENT

The Western Australian Planning Commission invites people to comment on this proposed amendment to the Metropolitan Region Scheme.

The amendment is being advertised for public submissions for a period of three months from Friday 29 December 2006 to Friday 13 April 2007.

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

- i) the Western Australian Planning Commission, Wellington Street, Perth;
- ii) the municipal offices of the Cities of Perth and Fremantle, and the Towns of Mosman Park and East Fremantle; and
- iii) the State Reference Library, Northbridge.

Written submissions on the amendment should be sent to:

The Secretary  
Western Australian Planning Commission  
469 Wellington Street  
PERTH WA 6000

and **must be received by Friday 13 April 2007.**

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form (Form 41) for MRS Amendment No. 1138/41 – *East Leighton*, is attached to this report (**Appendix E**). Additional copies of this form are available from the display locations listed above and from the Commission's Internet site [www.wapc.wa.gov.au](http://www.wapc.wa.gov.au).

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.

## 8. 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 transcript of all hearings will become a public document. It 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.

## **9. MODIFICATIONS TO THE AMENDMENT**

After considering any comments received from the public and Government agencies, the Western Australian Planning Commission 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 Commission's Internet site [www.wapc.wa.gov.au](http://www.wapc.wa.gov.au).

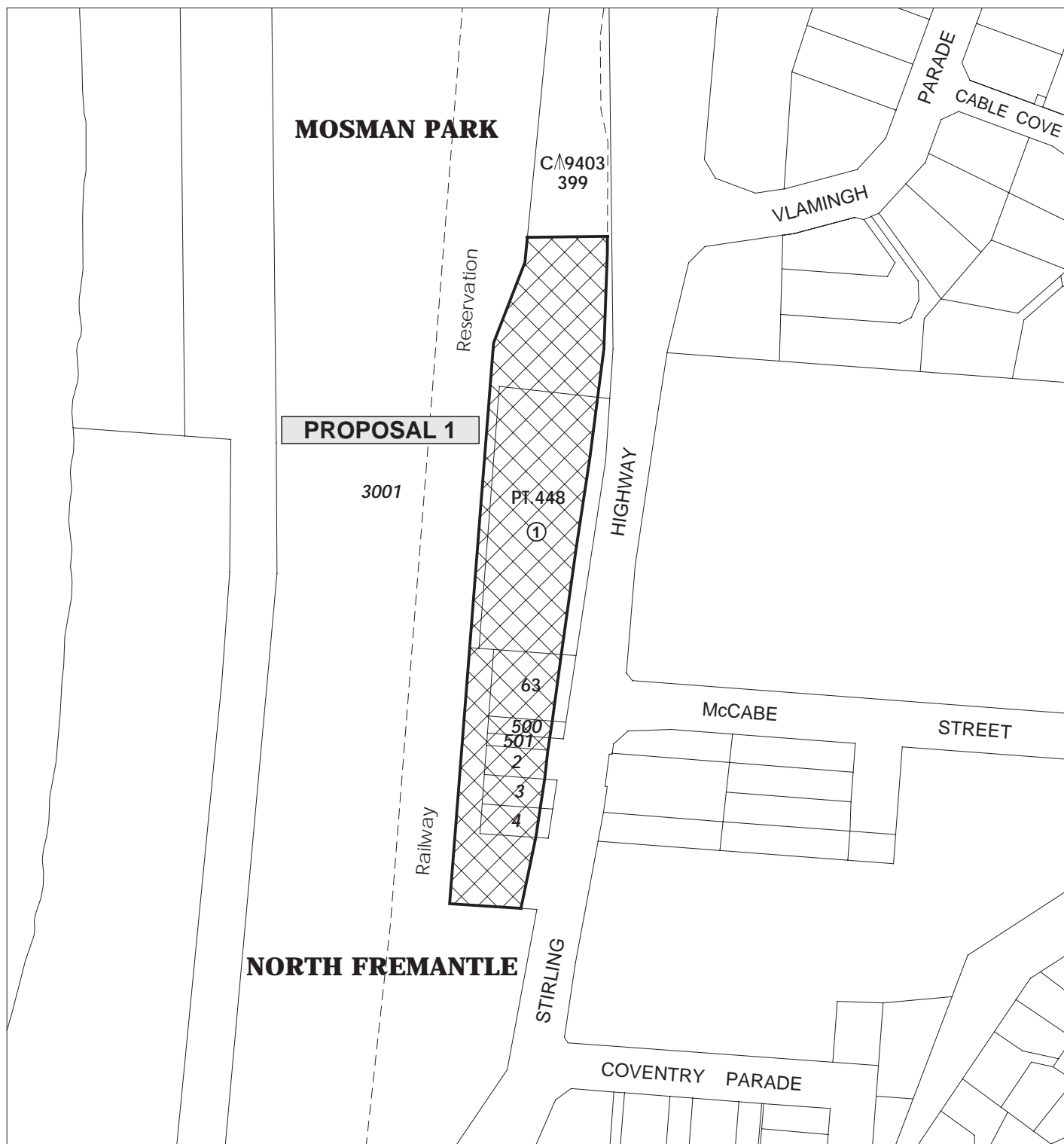
## **10. FINAL OUTCOME**

Following consideration by both Houses of Parliament, those who made submissions will be notified of the final outcome, along with all affected landowners.

**EAST LEIGHTON**

**FIGURE 1**





# East Leighton Amendment - 1138/41 as advertised

21 November 2006

Figure 1

## Legend

Proposed:



urban zone

## **APPENDIX A**

### **NOTICE OF ENVIRONMENTAL ASSESSMENT**



# Environmental Protection Authority

The Atrium,  
Level 8, 168 St Georges Terrace,  
Perth, Western Australia 6000.  
Telephone: (08) 6364 6500. Facsimile: (08) 6364 6522.

Postal Address: PO Box K822,  
Perth, Western Australia 6842.  
Website: [www.epa.wa.gov.au](http://www.epa.wa.gov.au)

Secretary  
Western Australian Planning Commission  
469 Wellington Street  
PERTH WA 6000

Your Ref 809-2-5-7 Pt 1  
Our Ref CRN220702  
Enquiries Glen McLeod-Thorpe

Att: Mr Andrew Trevor

<b>SCHEME AMENDMENT TITLE:</b>	<b>MRS Amendment 1138/41 East Leighton</b>
<b>LOCALITY:</b>	<b>City of Fremantle and Town of Mosman Park</b>
<b>RESPONSIBLE AUTHORITY:</b>	<b>Western Australian Planning Commission</b>
<b>LEVEL OF ASSESSMENT:</b>	<b>Scheme Amendment Not Assessed - Advice Given Under Section 48a(1)(A) (no appeals)</b>

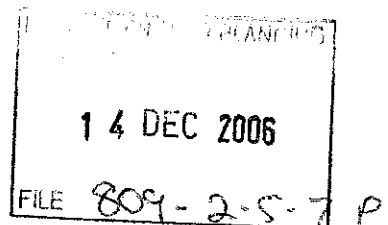
Thank you for your letter of 22 November 2006 referring the above proposed scheme amendment.

After consideration of the information provided by you, the Environmental Protection Authority (EPA) considers that the proposed scheme amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the following advice and recommendations.

## ADVICE AND RECOMMENDATIONS

### 1. Environmental Issues

- Site Contamination
- Noise
- Potential Land Use Conflict



### 2. Advice and recommendations regarding Environmental Issues

#### Site Contamination

There may be a possibility of soil and/or groundwater contamination as a result of current and historical land use. A Preliminary Site Investigation (PSI) should be carried out prior to detailed planning. If as a result of the site investigation the site is found to be contaminated, a Site Remediation and Validation Report is to be produced in consultation with the Department of Environment and Conservation (DEC). Preliminary and detailed site investigation and subsequent management plans should be prepared and implemented in accordance with the DEC's *Contaminated Sites Management Series* and to the satisfaction of the DEC's Land and Water Quality Branch.

#### Noise

The subject land abuts Stirling Highway and the railway line and future noise-sensitive land uses may be subject to excessive noise levels. Noise issues should be addressed at the subsequent stages of planning through compliance with the Western Australian Planning Commission's *Statement of Planning Policy: Road and Rail Transport Noise (Draft)*.

It is also expected that appropriate studies be carried out to determine noise insulation requirement within future mixed use zones or residential zones adjacent to commercial and/or transport nodes. It should be noted that the accepted methodology for prediction of noise impacts

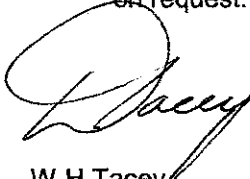
and attenuation due to noise barriers is currently under review by Main Roads WA, and studies should be carried out in accordance with their new guidelines which are understood to be issued in the near future.

Potential Land Use Conflict

The subject land is located in close proximity to industrial development. If an adequate separation distance cannot be maintained, as described in the EPA's Guidance Statement No. 3 *Separation Distances between Industrial and Sensitive Land Uses*, the EPA recommends that site-specific studies be carried out to demonstrate that a lesser distance will not cause unacceptable impacts on future sensitive land uses. It is understood however that some of the nearby industrial zoned land is currently undergoing urbanisation and other industrial land in the vicinity is expected to be the subject of similar rezonings in the future.

**3. General Advice**

- For the purposes of Part IV of the EP Act, the scheme amendment is defined as an assessed scheme amendment. In relation to the implementation of the scheme amendment, 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 on the level of assessment of scheme amendments.
- A copy of this advice will be sent to the relevant authorities and will be available to the public on request.



W H Tacey  
A/Director  
Environmental Impact Assessment

11 December 2006

cc: Department for Planning & Infrastructure

## **APPENDIX B**

### **LIST OF DETAIL PLANS SUPPORTING THE AMENDMENT**

**EAST LEIGHTON**  
**PROPOSED MAJOR AMENDMENT**  
**AMENDMENT No. 1138/41**  
**AS ADVERTISED**  
**3.2080**

**DETAIL PLANS**

3.2081      EAST FREMANTLE - URBAN

## **APPENDIX C**

### **YOUR PROPERTY AND THE METROPOLITAN REGION SCHEME**

## **YOUR PROPERTY AND THE METROPOLITAN REGION SCHEME**

### **Landowners rights to compensation in relation to reserved land**

#### **If land is reserved in the Metropolitan Region Scheme**

Land which is affected by a reservation in the Metropolitan Region Scheme (MRS) will ultimately be acquired by the Government, but generally can remain in private ownership until it is actually needed for the public purpose.

There are several options available to the owners of reserved land:

- Retain ownership and continue with the quiet enjoyment of the property until it is needed for the public purpose. You may complete any development or subdivision of the property that was approved prior to the reservation coming into effect.
- Sell the property on the open market to another person(s). The Western Australian Planning Commission (WAPC) recognises that due to the reservation this may be difficult and, subject to acquisition priorities and the availability of funds, would be willing to consider the purchase of a reserved property if an owner is unable to achieve a private sale on the open market.
- Offer the property for sale to the WAPC. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider the early acquisition of a reserved property. In such cases the property is purchased at the current market value had the property not been affected by the reservation, with the value being determined by independent valuations of the property.
- Make a claim for compensation for injurious affection following the WAPC's refusal of a development application or approval of a development application subject to conditions that are unacceptable to the applicant. In such cases the WAPC may elect to purchase the property instead of paying compensation with the purchase price being determined in the same way as a negotiated purchase.

#### **Am I entitled to compensation?**

If your land is reserved in the MRS, you may be able to make a claim for compensation for injurious affection if:

- you are the owner of the property when it is first reserved in the MRS and you wish to sell the property on the open market at a reduced price;

**or**

- the WAPC has either refused a development application over the property or has approved a development application over the property subject to conditions that are unacceptable to the applicant.

#### **How do I claim compensation?**

1. If you have chosen to sell the property on the open market at a reduced price, complete a Notice of Intention to Sell form which is available at the Department for Planning and Infrastructure. The department will establish the extent of the reservation and forward the notice to the Board of Valuers.

The Board of Valuers will determine the sworn unaffected and affected values of the property. You may wish to meet with the Board to raise any matters you believe are relevant to the value of the property.

Following the determination by the Board:

- you will be notified of the unaffected value of the property.
- you pay a valuation fee to the WAPC, after which you will be notified of the affected value of the property - this will represent the minimum sale price.
- you then arrange the sale of the property (either privately or through an agent). Note the sale price must not be less than the affected value determined by the Board.



- when the property is sold, you may make a claim for compensation for injurious affection for the difference between the sale price and the unaffected value as determined by the Board.
- If the property does not sell within one year of the Board's valuation, you may ask the Board for a revaluation of the property. The sale process is then repeated.
- Once compensation has been paid, a caveat will be lodged on the Certificate of Title to identify that compensation has been paid. Please note that compensation is only payable once.

Alternatively, you may ask the WAPC to purchase the property, as you have been unable to sell the property privately.

2. If the WAPC has refused your development application or approved it subject to unacceptable conditions **and** the property is reserved in the MRS, you may make a claim for compensation for injurious affection within six months of the WAPC's decision on the application.

In such a case the WAPC will either pay compensation or may elect to purchase the property in lieu of paying compensation.

If the WAPC elects to purchase the property, valuations are obtained for the market value of the property as at the date of the election to purchase had the property not been reserved in the MRS. Please note that the date of valuation is fixed at the date of election to purchase.

### **What is compulsory acquisition?**

A situation may arise where a property is needed as a priority for a public purpose and the owner is unwilling to sell the property to the WAPC.

In such a case, the property may be compulsorily acquired (or "resumed") for that public purpose.

Where a property has been resumed by the WAPC, you have the right to make a claim for compensation in respect of the land resumed.

The WAPC will have the resumed land valued and following the checking of the compensation claim will make you an offer of compensation for the resumed land.

**Should you have any queries concerning the matters raised in this brochure, please do not hesitate to contact the Western Australian Planning Commission, Land Asset Management Branch.**

## **APPENDIX D**

### **PREPARING A SUBMISSION AND FOR A 'HEARING' PRESENTATION**

## **PREPARING A SUBMISSION AND FOR A 'HEARING' PRESENTATION**

The Western Australian Planning Commission (WAPC) welcomes comment on proposed amendments to the Metropolitan Region Scheme 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. 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**

Please remember to complete the Submission Form (Form 41 – **Appendix E**). Include your name and full postal address on side one, and information related to the hearings on side two. It is preferred that any attachments be loose rather than bound.

The closing date for submissions and where they should be lodged is shown on the 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 Environmental Protection Authority.

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

## Do you want a hearing?

The *Planning and Development Act 2005* provides the opportunity for people who have made a written submission to also 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 that the Western Australian Planning Commission can listen to a person should they wish to explain or expand upon their written submission. A hearing is intended for listening to points of view and planning rationale, and is not a forum of general public debate. In the case of a group, a spokesperson must be appointed to represent the group. The time allocated for a hearing is usually 15 minutes, which includes time for questions the committee may have of the presenter.

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.

All hearings, 'public' and 'private', are recorded and transcribed. The transcripts, along with the written submissions, are published as public records. The WAPC recommendations are also published in a *Report on Submissions*.

**APPENDIX E**

**SUBMISSION FORM  
FOR THIS AMENDMENT  
(Form 41)**

**TURN OVER TO COMPLETE YOUR SUBMISSION**

## Hearing of Submissions

The *Planning and Development Act 2005* provides the opportunity for people who have made a written submission to personally present the basis of their submission to a Hearings Committee.

**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**, titled '**Preparing a submission and for a 'hearing' presentation.**

**Please choose ONE of the following:**

☐ **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)

You should be aware that:

- The Western Australian Planning Commission (WAPC) is subject to the *Freedom of Information Act 1992* (FOI Act) and as such, submissions made to the WAPC may be subject to applications for access under the FOI 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.
- All hearings are recorded and transcribed. The transcripts 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, being close of business (5.00pm) on 13 April 2007. Late submissions will NOT be considered.**