

March 2020

**Metropolitan Region
Scheme Amendment
1364/57 (Minor Amendment)**



**Kwinana Freeway, Mundijong Road and
Kulija Road Intersection –
Primary Regional Roads Reservation**

Amendment Report

City of Rockingham

**Metropolitan Region Scheme
Amendment 1364/57
(minor amendment)**

**Kwinana Freeway, Mundijong Road and
Kulija Road Intersection -
Primary Regional Roads Reservation**

Amendment Report

City of Rockingham



March 2020

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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MRS Amendment 1364/57 Amendment Report
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This document is available in alternative formats on application to the Department of Planning, Lands and Heritage Communications Branch.

Contents

The Metropolitan Region Scheme	v
Abbreviations	ix

Amendment Report

1 Purpose.....	1
2 Background.....	1
3 Scope and content of the amendment.....	1
4 Discussion.....	2
5 Aboriginal heritage	3
6 Coordination of local and region scheme amendments	4
7 Substantiality.....	4
8 Sustainability appraisal.....	4
9 Environmental Protection Authority advice	5
10 The amendment process.....	5
11 Submissions on the amendment	5
12 Modifications to the amendment.....	6
13 Final outcome.....	6
Amendment Figure – Proposal 1	9

Appendix A	Notice of environmental assessment
Appendix B	List of plans supporting the amendment
Appendix C	Your property and the planning system - region schemes
Appendix D	Preparing a submission
Appendix E	Submission form for this amendment (form 57)

The Metropolitan Region Scheme

What it is and how it is amended - minor

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 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 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 57 (often referred to as a minor amendment).

The minor amendment process includes (also see the diagram on page viii):

- 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 60 days.
- 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 recommendation to the Minister for Planning whether to accept, reject or modify the proposed amendment.
- Minister considers proposed amendment.
- If approved, with or without modification, the amendment becomes legally effective in the MRS with the publishing of a notice in the Government Gazette. If declined, the amendment is discarded.
- 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

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 WAPC 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 is 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 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 and 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: 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*.

Other regional roads: 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.

To 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 of this report and online at <https://www.dplh.wa.gov.au/your-property-and-region-schemes>.

How can my views be heard?

You can lodge a submission during the advertised period:

- online at www.dplh.wa.gov.au/mrs-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).

Publications

Amendments made to the MRS using the provisions of section 57 will in most cases have information 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*.

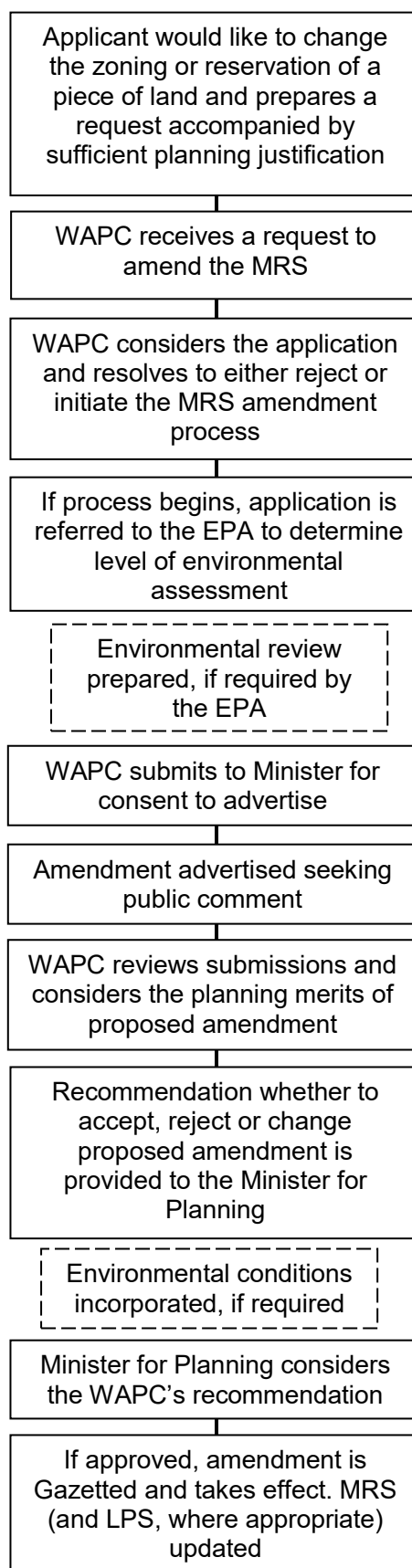
Report on submissions

This publication documents the planning rationale, determination of submissions received, and the recommendations for final approval of the amendment made by the WAPC.

Submissions

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

A simple diagram of the amendment process.



Abbreviations

AHA	Aboriginal Heritage Act
DP	Department of Planning
DPLH	Department of Planning, Lands and Heritage
EPA	Environmental Protection Authority
LPS	Local Planning Scheme
MRS	Metropolitan Region Scheme
ORR	Other Regional Roads
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 1364/57

Kwinana Freeway, Mundijong Road and Kulija Road Intersection - Primary Regional Roads Reservation

Amendment Report

1 Purpose

The purpose of the amendment is to transfer approximately 37.3 hectares of land in Baldivis from the Rural, Urban and Urban Deferred zones and the Other Regional Roads (ORR) reservation to the Primary Regional Roads (PRR) reservation under the Metropolitan Region Scheme (MRS), as shown on the ***Amendment Figure - Proposal 1***.

The amendment will set aside and protect land required for the future upgrade of the interchange at the intersection of the Kwinana Freeway with Mundijong and Kulija Roads. The interchange is planned to be a key connection between the proposed Fremantle - Rockingham Highway, the Kwinana Freeway and Mundijong Road.

2 Background

The amendment area is located in Baldivis in the City of Rockingham approximately 37 kilometres south of the Perth Central Business District and seven kilometres east of the Rockingham strategic metropolitan centre.

Part of the amendment area is located to the west of the Kwinana Freeway and has been zoned Urban Deferred in the MRS to set aside land required for the planned upgrade of the interchange.

The extent of this Urban Deferred zone was determined by the WAPC between 2013 and 2015 when it transferred adjacent land from the Urban Deferred zone to the Urban zone, pursuant to clause 27 of the MRS. The extent of this zone is consistent with the land requirement for the interchange as determined by concept and land protection plans which have been prepared by Main Roads Western Australia.

Apart from Kulija Road, the Urban Deferred land is currently undeveloped. Urban zoned land to the south is also currently undeveloped, whilst Urban zoned land to the north is being subdivided and developed for residential purposes.

Most of the land within the amendment area east of the Kwinana Freeway is occupied by constructed wetlands, which were created as a result of clay extraction activities in the area.

3 Scope and content of the amendment

The amendment proposes to rezone approximately 37.3 hectares of land from the Rural, Urban and Urban Deferred zones and the ORR reservation to the PRR reservation in the MRS.

4 Discussion

Strategic Planning Context

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

The *Perth and Peel@3.5million* 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. Future areas for urban development have been determined in conjunction with the State Government’s draft *Strategic Assessment of the Perth and Peel Regions*, in order to avoid and protect areas that have significant regional environmental value.

The *South Metropolitan Peel Sub-regional Planning Framework* (the Framework) forms part of the *Perth and Peel@3.5million* suite of planning documents. The Framework identifies Mundijong Road and the proposed Fremantle - Rockingham Highway as proposed Primary distributor roads and as a primary freight route. The Framework states that this route would provide a vital east-west connections between the future Outer harbour in Kwinana and freight logistic centres and strategic industrial locations throughout the region.

The western part of this interchange will form part of the proposed Fremantle - Rockingham Highway, which is identified as a “*medium-term (2022 - 2031)*” priority in the Framework. The upgrade of Mundijong Road to a four-lane divided standard freight route to link Tonkin Highway with the Kwinana Freeway and the proposed Fremantle - Rockingham Highway is identified as a “*long-term (2031 - 2050)*” priority.

The north-eastern portion of the amendment area is also partially within the East of Kwinana “*Planning Investigation*” area, and will need to be considered in the investigations for this area.

State Planning Policy 3.0: Urban Growth and Settlement

State Planning Policy 3.0 - Urban Growth and Settlement (SPP 3.0) sets out the principles and considerations that guide the development of new urban growth areas and settlements. One of its objectives is to coordinate development with the efficient, economic and timely provision of infrastructure and services.

The amendment is consistent with SPP 3.0 as it will ensure that the amendment area is appropriately reserved in order to protect the land required for the future upgrade of the proposed interchange, which is planned to become a key part of the regional movement network.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP 3.7) guides the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure. It applies to all strategic planning proposals, subdivision and development applications in designated bushfire prone areas, unless exemptions apply.

The amendment area is identified as a bushfire prone area. However, a bushfire management plan has not been prepared, and is not required, as the amendment will not significantly increase the threat of bushfire to people consistent with objective 5.1 of

SPP 3.7, and it being likely that the threat of bushfire to infrastructure can be appropriately managed in subsequent planning stages.

Statutory Planning Context

Environment

The Department of Water and Environmental Regulation has not identified any significant environmental issues and raises no objections to the amendment.

The Department of Biodiversity, Conservation and Attractions raises no objection to the amendment and provides advice in relation to water birds which use the constructed wetlands east of Kwinana Freeway and legislative and regulatory requirements for vegetation clearing.

Regional Roads

Main Roads Western Australia supports the amendment as it is consistent with the land protection plan it has prepared for the planned interchange.

Urban Water Management

A District Water Management Strategy is not required for the site, as the amendment is only identifying and protecting the extent of land that is required for the planned upgrade of this interchange.

Water Infrastructure

The Water Corporation raises no objections to the amendment and advises it has water, sewerage and drainage infrastructure located within the amendment area. In this respect, it advises that this infrastructure will need to be considered in the construction of any future interchange.

5 Aboriginal Heritage

The *Aboriginal Heritage Act 1972* (AHA) is administered by the Department of Planning, Lands and Heritage and 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 AHA. 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.

Proponents of proposals are advised to familiarise themselves with the State's *Cultural Heritage Due Diligence Guidelines* (the Guidelines). These have been developed to assist proponents to identify any risks to Aboriginal heritage and to mitigate risk where heritage sites may be present. The Guidelines are available electronically at: <http://www/dplh.wa.gov.au/information-and-services/aboriginal-heritage/land-use-under-the-aha/aboriginal-heritage-surveys>.

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.

The amendment was not referred to SWALSC as part of preliminary investigations as it was not expected to impact on Aboriginal heritage values. However, the amendment will be referred to SWALSC during the formal advertising period.

6 Co-ordination of local and region scheme amendments

Under Section 126(3) of the *Planning and Development Act 2005*, the City of Rockingham has the option of requesting the WAPC to concurrently rezone land being zoned Urban under the MRS to a "Development" zone or similar in the Local Planning Scheme. As no land is being zoned Urban in the MRS, section 126(3) of the *Planning and Development Act 2005* is not applicable.

7 Substantiality

The *Planning and Development Act 2005* 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 or not. *Development Control Policy 1.9 – Amendment to Region Schemes* sets out the criteria for deciding whether the major or minor process should be followed. In this regard, the amendment is proposed to be processed as a "minor" amendment as follows:

- The amendment area is identified as the location of a key interchange in the regional road network in the *South Metropolitan Peel Sub-regional Planning Framework*.
- The amendment would facilitate the construction of an efficient and effective regional movement network consistent with the intent of the *South Metropolitan Peel Sub-regional Planning Framework*.
- The amendment constitutes a logical rationalisation of the zoning and reservation of land in the MRS for the locality.
- Key State Government agencies agree to the initiation of the amendment.

8 Sustainability appraisal

The proposed amendment will facilitate the planned upgrade of the interchange on this site and would provide for the ongoing planning and development of an efficient and effective regional movement network, in accordance with the *Perth and Peel@3.5million / South Metropolitan Peel Sub-regional Planning Framework*.

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*. However, it has provided advice on the key environmental factors for the amendment. 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 57 of that Act.

In essence, the procedures for an amendment not constituting a substantial alteration to the MRS (often referred to as a minor 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
- approval, with or without any modifications in response to submissions, or refusal to approve, by the Minister
- the amendment takes legal effect with Gazettal of the Minister's approval.

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

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 60 days from Friday 13 March 2020 to Friday 15 May 2020.

Copies of the amendments are available for public inspection at the:

- i) Western Australian Planning Commission, 140 William Street, Perth
- ii) City of Rockingham
- iii) State Reference Library, Northbridge.

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

Written submissions commenting on the amendment should be sent to:

The Secretary
Western Australian Planning Commission
Locked Bag 2506
PERTH WA 6001

or by email to:-

mrs@dplh.wa.gov.au

and must be received by 5 pm Friday 15 May 2020.

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form (Form 57) is contained in this report (appendix E). Additional copies of the form are available from the display locations and the Department of Planning, Land and Heritage website via www.dplh.wa.gov.au/mrs-amendments.

You should be aware that calling for public submissions is a public process and all submissions lodged will become public. All submissions are published and made available when the Minister has made a determination on the amendment. Advice of disclosure and access requirements are 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 Modifications to the amendment

After considering any submissions received from Government agencies and the public, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve.

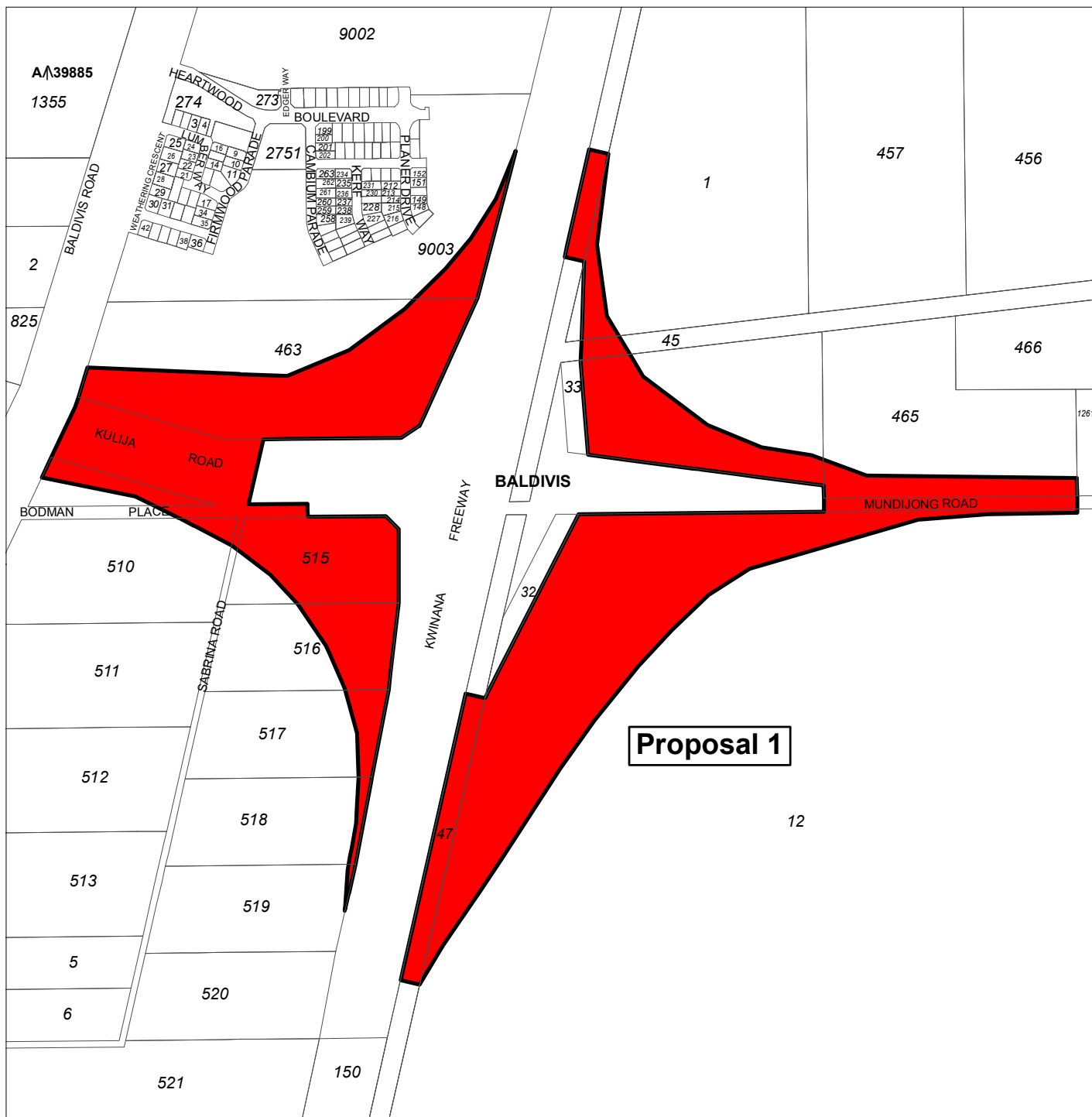
13 Final outcome

The recommendations of the WAPC, including any modifications, along with the determination of the Minister, are published in a report on submissions. Anyone who has made a submission, along with affected landowners, will be notified of the outcome when the amendment is gazetted to give it legal effect.

MRS Amendment 1364/57

**Kwinana Freeway, Mundijong Road and
Kulija Road Intersection -
Primary Regional Roads Reservation**

**Amending Figure
Proposal 1**



**Kwinana Freeway, Mundijong Road and Kulija Road Intersection
- Primary Regional Roads Reservation
Proposed minor amendment
as advertised**

27 November 2019

Proposal 1

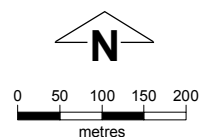
Proposed Amendment:

 Primary regional roads reservation

Oracle reference no: 3012
File number: 833/02/01/0075
Version number: 2



Date: 3/12/2019
Produced by Data Analytics, Department of Planning, Lands and Heritage, Perth WA
Base information supplied by Western Australian Land Information Authority SLIP 1096-2018-1



Appendix A

Notice of environmental assessment



Environmental Protection Authority

Department of Planning, Lands and Heritage Received	
Scanned	08 JAN 2020
Attachments	<input type="checkbox"/>
Scan QA	<input type="checkbox"/>
Doc No.	<input type="checkbox"/>
File No.	PLS/0857

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

Our Ref: CMS17741
Enquiries: Steve Pavey, 6364 7600
Email: Steve.Pavey@dwer.wa.gov.au

Dear Ms Fagan

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

SCHEME: Metropolitan Region Scheme Amendment
1364/57
LOCATION: The intersection of the Kwinana Freeway with
Mundijong and Kulija Roads
RESPONSIBLE AUTHORITY: Western Australian Planning Commission
DECISION: Referral Examined, Preliminary Investigations
and Inquiries Conducted. Scheme Amendment
Not to be Assessed Under Part IV of EP Act.
Advice Given. (Not Appealable)

Thank you for referring the above proposed 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) but nevertheless provides the attached advice and recommendations. I have also attached a copy of the Chairman's determination of the scheme.

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.

Prime House, 8 Davidson Terrace, Joondalup, Western Australia 6027
Telephone 08 6364 7600 | Email info.epa@dwer.wa.gov.au

Locked Bag 10, Joondalup DC WA 6919

www.epa.wa.gov.au

- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of the Chairman's determination, this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely



Anthony Sutton
Delegate of the Environmental Protection Authority
Executive Director
EPA Services

18 December 2019

Encl. Scheme Advice and Recommendations
Chairman's Determination

**ADVICE UNDER SECTION 48A(1)(a)
ENVIRONMENTAL PROTECTION ACT 1986**

Metropolitan Region Scheme Amendment 1364/57

Location: Intersection of Kwinana Freeway with Mundijong and Kulija Roads

Determination: Scheme Not Assessed – Advice Given (not appealable)

Determination Published: 23 December 2019

Summary

The Western Australian Planning Commission (WAPC) proposes to reserve approximately 37.3 hectares of land as Primary Regional Roads at the intersection of the Kwinana Freeway with Mundijong and Kulija Roads.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the documentation provided by the WAPC and having considered this matter, the following advice is provided:

1. Environmental Factors

The EPA has identified the following preliminary environmental factor relevant to this scheme amendment:

- Terrestrial Fauna

2. Advice and Recommendations regarding Environmental Factors

Terrestrial Fauna

The EPA notes the amendment area contains the Alcoa Wellard wetlands which were constructed and revegetated following clay extraction in the 1990s. The wetlands are used by a variety of birds, including the migratory Wood Sandpiper and the Priority 4 Blue-Billed Duck. The wetlands and remnant vegetation may also contain suitable habitat for threatened species of black cockatoos.

The EPA recommends that further terrestrial fauna habitat surveys are undertaken consistent with EPA technical guidance to inform the appropriate management of impacts to these values where possible when planning for the future construction of infrastructure.

Conclusion

The EPA concludes that the amendment can be managed to meet the EPA's environmental objectives through appropriate planning controls. The future infrastructure development should appropriately identify and manage impacts to terrestrial fauna and their habitat.



GOVERNMENT OF
WESTERN AUSTRALIA

S48A Referrals

Environmental Protection Authority

Title: Metropolitan Region Scheme Amendment 1364/57

Location: The intersection of the Kwinana Freeway with Mundijong and Kulija Roads

Description: The Western Australian Planning Commission proposes to reserve approximately 37.3 ha of land as Primary Regional Roads for the future upgrade of the intersection of the Kwinana Freeway with Mundijong and Kulija Roads.

Ref ID: CMS17741

Date Received: 4/12/2019 **Date Sufficient Information Received:** 4/12/2019

Responsible Authority: Western Australian Planning Commission

Contact: Brett Pye

Preliminary Environmental Factors: Terrestrial Fauna

Potential Significant Effects: Clearing of fauna habitat

Management: Can be managed through the implementation of the EPA's recommendation to avoid and minimise impacts to terrestrial fauna as informed by appropriate surveys.

Determination: Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)

The 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.

Chairman's Initials:

NA

Date:

18 Dec 2019

Appendix B

List of plans supporting the amendment

Proposed Minor Amendment 1364/57

**Metropolitan Region Scheme
Kwinana Freeway, Mundijong Road and Kulija Road
Intersection – Primary Regional Roads Reservation**

as advertised

Amending Plan 3.2750

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 long-term 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 non-conforming 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:

1. **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?

1. 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 www.dplh.wa.gov.au. 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 www.dplh.wa.gov.au/your-property-and-region-schemes
- 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

Preparing a submission

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 www.dplh.wa.gov.au/mrs-amendments, however, hardcopy submissions can also be accepted (form 57 – 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. Please 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 57 and in the submissions on the amendment section of the amendment report.

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.

Appendix E

**Submission form for this amendment
(form 57)**

This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the entire width of the page, providing a guide for handwriting or typing. There are no margins, text, or other markings on the page.

- 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.

Signature Date

Contacts: Tel - (08) 6551 8002 Fax - (08) 6551 9001 Email - mrs@dplh.wa.gov.au Website - <http://www.dplh.wa.gov.au/mrs-amendments>