



*We're working for  
Western Australia.*

March 2020

# Metropolitan Region Scheme Amendment 1366/57 (Minor Amendment)



Lot 912 Midland Road,  
Bushmead

Amendment Report

City of Swan



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**Metropolitan Region Scheme  
Amendment 1366/57  
(Minor Amendment)**

**Lot 912 Midland Road, Bushmead**

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**Amendment Report**

**City of Swan**



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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This document is available in alternative formats on application to the Department of Planning, Lands and Heritage Communications Branch.

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# **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](http://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](http://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*.

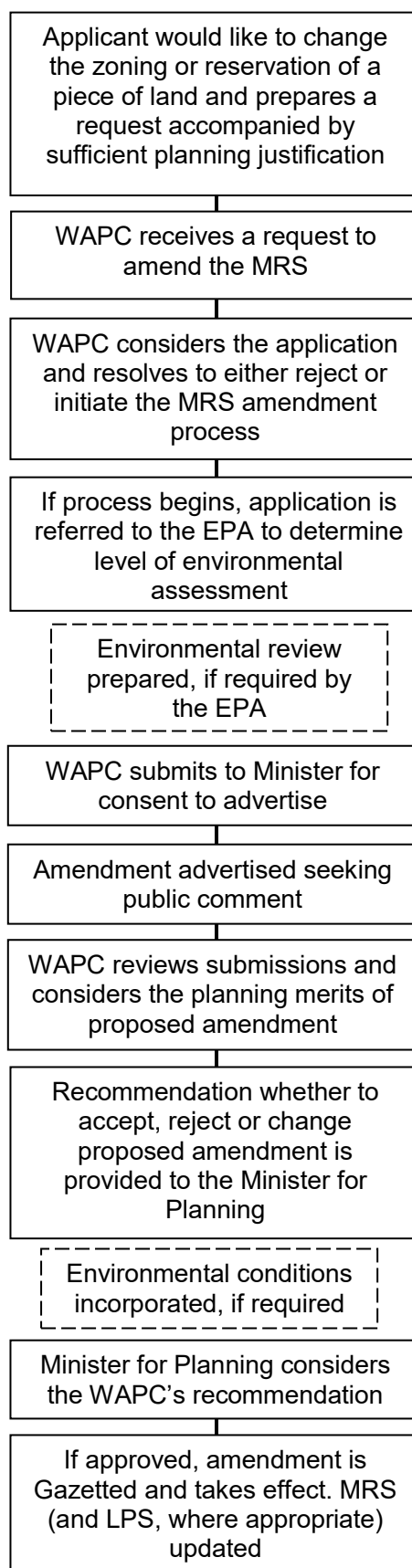
### Report on submissions

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

<b>AHA</b>	Aboriginal Heritage Act
<b>DWER</b>	Department of Water and Environmental Regulation
<b>EPA</b>	Environmental Protection Authority
<b>HEASP</b>	Hazelmere Enterprise Area Structure Plan
<b>MRS</b>	Metropolitan Region Scheme
<b>SPP</b>	State Planning Policy
<b>SWALSC</b>	South West Aboriginal Land and Sea Council
<b>TEC</b>	Threatened Ecological Community
<b>WAPC</b>	Western Australian Planning Commission



## **Amendment Report**



## **Metropolitan Region Scheme Amendment 1366/57**

### **Lot 912 Midland Road, Bushmead**

#### **1 Purpose**

The purpose of the amendment is to transfer approximately 23.89 hectares of land in Bushmead from the Public Purposes - Commonwealth Government reservation to the Urban and Urban Deferred zones under the Metropolitan Region Scheme (MRS), as shown on the Amending Figure - Proposal 1.

The proposed amendment will facilitate the development of residential and related land uses within the amendment area, following local structure planning and subdivision approval.

#### **Requirement to lift the Urban Deferment**

The northernmost portion of the subject land is being zoned Urban Deferred, as the following requirements are to be addressed prior to lifting of Urban Deferred:

- Confirmation that the poultry farm at Lot 15 Midland Road, Hazelmere has permanently ceased operating, or it being determined that a reduced separation distance would be appropriate upon the advice of the Department of Water and Environmental Regulation.

#### **2 Background**

The subject land is located within the City of Swan and is approximately 13 kilometres east of the Perth Central Business District and 4 kilometres south of the Midland strategic metropolitan centre.

The subject land is privately owned, but was formerly owned by the Department of Defence and was used as a transport depot and driver training facility by the Australian Army. The subject land is occupied by buildings, a driver training course and infrastructure associated with this former use.

The amendment area is predominantly covered by remnant vegetation which, for the most part, has been parkland cleared and is in a "Completely Degraded" condition.

Remnant vegetation in the north-west corner of the amendment area is in a "Good" to "Very Good" condition and is also identified as a Threatened Ecological Community (TEC) - *Corymbia calophylla* over *Xanthorrhoea preissii* woodlands and shrublands.

Land to the west, north and north-east of the amendment area is zoned Urban and Urban Deferred and land to the south is zoned Rural under the MRS. Land to the east is reserved Parks and Recreation under the MRS and is part of Bush Forever area 213.

Land use and development within the amendment area is generally controlled by the MRS which identifies the land as "Public Purposes - Commonwealth Government". Should the amendment area be zoned Urban and Urban Deferred under the MRS, land use and development would be generally controlled by the *City of Swan Local Planning Scheme No. 17*.

### 3 Scope and content of the amendment

The amendment proposes to rezone approximately 23.89 hectares of land from the Public Purposes - Commonwealth Government reservation to the Urban and Urban Deferred zones under the MRS.

### 4 Discussion

#### **Strategic Planning Context**

##### **Perth and Peel@3.5million and North-East Sub-Regional Planning Framework**

The *Perth and Peel@3.5million* suite of planning documents outlines 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 *North-East Sub-regional Planning Framework* (the Framework) forms part of the *Perth and Peel@3.5million* suite of planning documents. The Framework identifies the subject land as “Public Purposes” consistent with its “Public Purposes - Commonwealth Government” reservation under the MRS. However, this reservation is no longer appropriate given the subject is no longer owned by the Department of Defence and, as such, it is appropriate for the subject land to be transferred to another zone or reservation under the MRS.

Whilst the amendment area is not designated as Urban, Urban Deferred, Urban Expansion or Urban Investigation in the Framework, the amendment is still consistent with the intent of the Framework given it is consistent with the key planning framework principles of the Framework, for the following reasons:

- It represents a logical extension to, and rounding out of, the urban form in the locality, given adjacent land is currently zoned Urban or Deferred under the MRS.
- Residential development of the subject land would facilitate more people living close to where they work, given the proximity of the subject land to key employment areas in Midland, Hazelmere and Forrestfield and at Perth Airport.
- Significant environmental values of the amendment area can be appropriately protected in subsequent stages of the planning process.

##### **Hazelmere Enterprise Area Structure Plan**

The *Hazelmere Enterprise Area Structure Plan* (HEASP) was jointly prepared by the City of Swan and the Western Australian Planning Commission (WAPC), and was endorsed by the WAPC in October 2011. The HEASP seeks to facilitate appropriate industrial development in the area whilst protecting sensitive wetlands, ground and surface water resources and surrounding residential areas.



The amendment area is located within Precinct 9(B) - Bushmead of the HEASP, which is identified as having potential for residential and non-residential development identified through the local structure planning process and dependent upon suitability with constraints and surrounding land uses. The amendment is consistent with the HEASP as it is consistent with the intended planning direction for Precinct 9(B).

### **State Planning Policy 2.5: Rural Planning**

*State Planning Policy 2.5: Rural Planning* (SPP 2.5) seeks to support existing, expanded and future primary production through the protection of rural land and to avoid and minimise land use conflicts. SPP 2.5 states that where an area is transitioning from a rural land uses to urban land uses, that appropriate separation distances may be required to manage the transition and allow rural land uses to continue operations until such time as production ceases or relocation occurs.

A poultry farm is located approximately 280 metres north-west of the subject land. A site-specific odour study has previously been undertaken for this poultry farm in support of a lifting of urban deferment request (MRS amendment 1337/27) for land adjacent to the amendment area (Lot 9503 Midland Road). The WAPC approved this request on the basis that it had been demonstrated that nearby poultry farm will not cause unacceptable odour impacts within the lifting of Urban Deferment area that cannot be appropriately addressed in subsequent stages of the planning process.

As Lot 9503 is located adjacent to the northern part of the amendment area, it appropriate for the same approach to be used to determine the extent of the Urban and Urban Deferred zones over the subject land. It is likely that any potential unacceptable impacts within the proposed Urban zone can appropriately managed in a similar fashion to how they can be managed on the adjacent land.

However, the Urban Deferred zoning over the northern portion of the subject land can only be lifted once it is demonstrated that the poultry farm has permanently ceased operations or that a reduced separation distance would be appropriate.

### **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. Its objectives include promoting a sustainable and well-planned pattern of development across the State and managing the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community constraints.

The amendment is consistent with SPP 3.0 as it will provide additional Urban zoned land in a suitable location, which can be serviced, and that can be developed without resulting in significant environmental impacts.

### **State Planning Policy 3.7: Planning in Bushfire Prone Areas**

*State Planning Policy 3.7 - Planning in Bushfire Prone Areas* (SPP 3.7) seeks to guide 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 higher order strategic planning documents, strategic planning proposals, subdivision and development applications in designated bushfire prone areas (unless exemptions apply).

The accompanying *Guidelines for the Planning in Bushfire Prone Areas* provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7. They provide advice on how bushfire risk is to be addressed when planning, designing or assessing a planning proposal within a bushfire prone area. The Department of Fire and Emergency Services advises that the bushfire management plan prepared for the amendment is acceptable.

## **Statutory Planning Context**

### **Environment**

The former Office of the Environmental Protection Authority advises that potential environmental impacts associated with the development can be managed in subsequent planning stages. The Department of Water and Environmental Regulation (DWER) and the Department of Biodiversity, Conservation and Attractions do not raise any objections. These agencies provide the following advice.

#### **Flora and vegetation**

The amendment area contains one hectare of a Threatened Ecological Community (TEC) mapped as Floristic Community Type 3c '*Corymbia calophylla* over *Xanthorrhoea preissii* woodlands and shrublands' located in the northern part of the site. This TEC is listed as Endangered under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* and is listed as Critically Endangered at the State level.

The amendment area also contains a large number of Marri and Jarrah trees. Most of this vegetation is mapped as "Completely Degraded", but is also mapped as Forrestfield Complex vegetation, which only has 11.5 per cent of its original extent remaining.

The above TEC should be set aside for conservation purposes and other vegetation and fauna habitat values across the site should be appropriately protected and managed in any structure planning for the subject land.

#### **Black Cockatoo habitat**

Development of the amendment area may impact on breeding and foraging habit for threatened Black Cockatoo species. Provisions should be made to retain as much of this habitat as possible in subsequent stages of the planning process, and consideration should be given to whether offsets may be required to mitigate any impacts.

Development of the subject land may also require assessment under the *Wildlife Conservation Act 1950* and the *Environmental Protection and Biodiversity Conservation Act 1999*.

#### **Kadina Brook**

Kadina Brook is located adjacent to the eastern boundary of the amendment area. An appropriate foreshore area would need to be identified over part of the amendment area and a foreshore management plan should be prepared at the local structure planning stage of the planning process.

### **Urban Water Management**

The DWER has endorsed a District Water Management Strategy for the subject land.

## **Water and wastewater infrastructure**

The Water Corporation advises that the information in the Servicing Report prepared by the proponent is sufficient to allow initiation the amendment. The subject land is capable of being provided with water and wastewater services, subject to servicing requirements being reviewed further at the structure planning and subdivision stages of the planning process. These reviews will determine the extent and staging of any upgrades required to service the subject land.

## **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 Swan 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. In this regard, the WAPC will make a decision on the concurrent MRS amendment of the site following the public submission period.

## 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 - *Amendments 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 size and scale of the amendment is not regionally significant and does not reflect a significant change to the strategic planning for the Metropolitan region.
- The amendment is consistent with the key planning framework principles of the *North-East Sub-regional Planning Framework*.
- The amendment area is identified as being suitable for urban development in the WAPC endorsed *Hazelmere Enterprise Area Structure Plan*.
- Rezoning land in the amendment area to the Urban and Urban Deferred zones constitutes a logical extension of the extent of these zone under the MRS for this locality.
- The City of Swan and key State Government agencies agree to the initiation of the amendment.

## 8 Sustainability appraisal

The proposed amendment will facilitate the future urban development of the subject site consistent with the intent the *Perth and Peel@3.5million* document and the intent and key planning framework principles of the *North-East Sub-regional Planning Framework*, and the residential character of adjacent land. Furthermore, it is likely that the environmental values of the site will be protected wherever possible and given further consideration in subsequent stages of the planning process.

## 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 57 of that Act.

In essence, the procedure 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 sought on the proposed amendment (including environmental review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or decline 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 also 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 will be advertised for public submissions for a period of 60 days from Friday 27 March 2020 to Friday 5 June 2020.

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

- i) Western Australian Planning Commission, 140 William Street, Perth
- ii) City of Swan
- 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 6000

or by email to:-

[mrs@dplh.wa.gov.au](mailto:mrs@dplh.wa.gov.au)

**and must be received by 5 pm Friday 5 June 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, Lands and Heritage website [www.dplh.wa.gov.au/mrs-amendments](http://www.dplh.wa.gov.au/mrs-amendments).

You should be aware that calling for 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 comments received from the public and government agencies, 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 1366/57**

**Lot 912 Midland Road, Bushmead**

**Amending Figure  
Proposal 1**









## **Appendix A**

### **Notice of environmental assessment**





## Environmental Protection Authority

Department of Planning,  
Lands and Heritage  
Received

Scanned 17 JAN 2020  
Attachments  
Scan QA  
Doc No  
File No. *RLS/0691*

*A. MUISCARA*

Scanned  
Attachments  
Scan QA  
Doc No  
File No

17 JAN 2020  
Received  
Department of Planning,  
Lands and Heritage

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

Our Ref: CMS17718  
Enquiries: Gerard O'Brien, 6364 7600  
Email: Gerard.O'Brien@dwer.wa.gov.au

Dear Ms Fagan

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

**SCHEME:** Metropolitan Region Scheme Amendment  
1366/57  
**LOCATION:** Lot 912 Midland Road Bushmead  
**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.
- 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



**Hans Jacob**  
**Delegate of the Environmental Protection Authority**  
A/Executive Director  
EPA Services

16 January 2020

Encl. Scheme Advice and Recommendations  
Chairman's Determination

cc City of Swan

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

**Metropolitan Region Scheme Amendment 1366/57**

**Location:** Lot 912 Midland Road Bushmead

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

**Determination Published:** 13 January 2020

**Summary**

The Western Australian Planning Commission (WAPC) proposes to transfer 23 hectares of land at Lot 912 Midland Road Bushmead (Lot 912) from the Public Purposes – Commonwealth Government reservation to the Urban and Urban Deferred zones in the Metropolitan Region Scheme.

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:

**Environmental Factors**

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

- Flora and Vegetation
- Terrestrial Fauna
- Inland Waters
- Social Surroundings

**Advice and Recommendations regarding Environmental Factors**

Flora and Vegetation and Terrestrial Fauna

It is understood based on earlier surveys that whilst much of the vegetation is mapped as completely degraded, the amendment area potentially contains the Threatened Ecological Community (TEC) mapped as Floristic Community Type (FCT) 3c – ‘*Corymbia calophylla* over *Xanthorrhoea preissii* woodlands and shrublands’. The amendment area also potentially contains:

- Banksia Woodlands of the Swan Coastal Plain TEC
- Forrestfield vegetation complex, which only has 12.3% of its original extent remaining
- Habitat for threatened species of black cockatoo.

The EPA does not support a concurrent amendment to the City of Swan local planning scheme. The EPA advises that prior to the initiation of an amendment to the City of Swan local planning scheme, updated flora and vegetation and fauna surveys should be undertaken consistent with EPA technical guidance to determine the values present and inform the appropriate management of impacts to these values. The EPA expects that the future local amendment



should contain specific scheme text to demonstrate how impacts to these values will be avoided and/or managed.

In addition to the proposed retention of the FCT 3c TEC, the EPA would support the additional retention of flora and vegetation through the future stages of planning, informed by the surveys discussed above. Any proposed conservation areas should be consistent with the guidelines described in EPA Environmental Protection Bulletin No. 20 *Protection of naturally vegetated areas through planning and development*.

The Department of Biodiversity, Conservation and Attractions should also be consulted regarding the interface between the proposed development and Bush Forever Site 213 Bushmead Bushland.

#### Inland Waters

Kadina Brook runs along the eastern edge of Lot 912. The EPA supports the proposed buffer to the waterway being extended into Lot 912 where necessary, through the future stages of planning.

#### Social Surroundings

A portion of the amendment area is within a buffer to an existing poultry farm located west of Lot 912. The EPA supports that the northern portion of Lot 912 is proposed to be zoned Urban Deferred, with transfer to Urban zone not to occur until the poultry farm has ceased operating, or a reduced buffer has been approved.

#### **Conclusion**

The EPA concludes that the amendment can be managed to meet the EPA's environmental objectives through appropriate planning controls. The EPA further recommends the future local planning scheme amendment should contain specific scheme text to demonstrate how impacts to these values will be avoided and/or managed.





GOVERNMENT OF  
WESTERN AUSTRALIA

S48A Referrals

## Environmental Protection Authority

**Title:** Metropolitan Region Scheme Amendment 1366/57

**Location:** Lot 912 Midland Road Bushmead

**Description:** Transfer of Lot 912 from the Public Purposes – Commonwealth Government reservation to the Urban and Urban Deferred zones

**Ref ID:** CMS17118

**Date Received:** 17/12/2019

**Date Sufficient Information Received:** 17/12/2019

**Responsible Authority:** Western Australian Planning Commission

**Contact:** Brett Pye

**Preliminary Environmental Factors:** Flora and Vegetation, Terrestrial Fauna, Inland Waters and Social Surroundings

**Potential Significant Effects:** Future urban development will require clearing of vegetation and fauna habitat, and development in proximity to Kadina Brook

**Management:** Impacts can be managed through the implementation of the EPA's recommendation to avoid and minimise impacts to values as informed by appropriate surveys. Future local scheme amendment should also address management of impacts to values

**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: *AB*

Date: 7 Jan 2020



## **Appendix B**

### **List of plans supporting the amendment**



**Proposed Minor Amendment 1366/57**  
**Lot 912 Midland Road, Bushmead**

**as advertised**

**Amending Plan 3.2752**

**Detail Plans**

1.6266, 1.6267, 1.6281 & 1.6282



## **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](http://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](http://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**

Please remember to complete the submission form (form 57 – appendix E). Include your name and full postal address. 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 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 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 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](mailto:mrs@dplh.wa.gov.au) Website - <http://www.dplh.wa.gov.au/mrs-amendments>