GOVERNMENT OF WESTERN AUSTRALIA

Western Australian Planning Commission

We're working for Western Australia.

July 2020

Metropolitan Region Scheme Amendment 1367/57 (Minor Amendment)

Part Lot 5131 Jandakot Road, Treeby and Surrounds

Amendment Report

City of Cockburn

Metropolitan Region Scheme Amendment 1367/57
(minor amendment)

Part Lot 5131 Jandakot Road, Treeby and Surrounds

Amendment Report

City of Cockburn

GOVERNMENT OF WESTERN AUSTRALIA

Western Australian Planning Commission

July 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.

Disclaimer

This document has been published by the Western Australian Planning Commission. Any representation, statement, opinion or advice expressed or implied in this publication is made in good faith and on the basis that the government, its employees and agents are not liable for any damage or loss whatsoever which may occur as a result of action taken or not taken, as the case may be, in respect of any representation, statement, opinion or advice referred to herein. Professional advice should be obtained before applying the information contained in this document to particular circumstances.

© State of Western Australia

Published by the
Western Australian Planning Commission
Gordon Stephenson House
140 William Street
Perth WA 6000

Locked Bag 2506
Perth WA 6001

MRS Amendment 1367/57 Amendment Report
File 833-2-23-69 Pt 1

Published July 2020

Internet: www.dplh.wa.gov.au
Email: info@dplh.wa.gov.au
Phone: (08) 6551 8002
Fax: (08) 6551 9001
National Relay Service: 13 36 77

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 2

4 Discussion 2

5 Aboriginal Heritage 6

6 Co-ordination of local and region scheme amendments 7

7 Substantiality 7

8 Sustainability appraisal 8

9 Environmental Protection Authority advice 8

10 The amendment process 8

11 Submissions on the amendment 8

12 Modifications to the amendment 9

13 Final outcome 9

Amendment Figure – Proposal 1 13

Appendix A Notice of environmental assessment

Appendix B List of detail 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*.

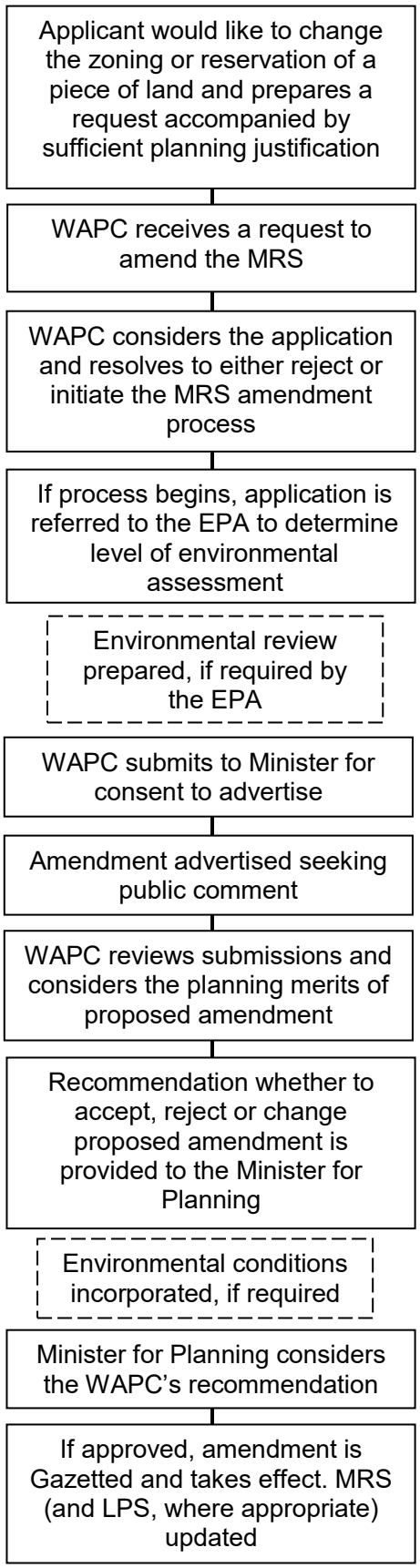
Report on submissions

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
ANEF	Australian Noise Exposure Forecast
DPLH	Department of Planning, Lands and Heritage
DSP	District Structure Plan
DWER	Department of Water and Environmental Regulation
DWMS	District Water Management Strategy
EPA	Environmental Protection Authority
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
LPS	Local Planning Scheme
MRS	Metropolitan Region Scheme
MRWA	Main Roads Western Australia
NPO	Negotiated Planning Outcome
PDWSA	Public Drinking Water Source Areas
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
TEC	Threatened Ecological Community
TIA	Transport Impact Assessment
TPS	Town Planning Scheme
UWPCA	Underground Water Pollution Control Area
WAPC	Western Australian Planning Commission

Amendment Report

Metropolitan Region Scheme Amendment 1367/57

Part Lot 5131 Jandakot Road, Treeby and Surrounds

Amendment Report

1 Purpose

The purpose of the amendment is to rezone approximately 31.93 ha of land in the Treeby locality from the Rural-Water Protection zone to the Urban zone under the Metropolitan Region Scheme (MRS), as shown on the *Amendment Figure – Proposal 1*. Rationalisation of Bush Forever site 390 (addition: 2.39 ha and removal: 9.58 ha) is also proposed.

The amendment will allow for the residential development of the subject land, following a local scheme amendment, structure planning and subdivision approval.

2 Background

The subject land is located in the City of Cockburn and is approximately 18 km south of the Perth Central Business District. The site contains a former sand quarry. 330 kv powerlines traverse the southern part of the amendment area. The subject land is located in the Jandakot Underground Water Pollution Control Area (UWPCA) and is in a Priority 2 (P2) area.

The amendment site is bounded by existing and future residential development to the south and west, Jandakot Road to the north, Parks and Recreation reservation (Bush Forever site 390) and Rural-Residential development to the east. The amendment includes part of the Jandakot Road / Fraser Road upgrades and a road extension south to Lot 705 Armadale Road, Treeby.

The central part of the amendment area is proposed for residential development and contains 'Degraded' and 'Completely Degraded' remnant vegetation. However, there is an island of remnant vegetation in 'Excellent' condition which is to be located within public open space. The remainder of the site is in 'Good' to 'Excellent' condition the majority of which is in Bush Forever site 390 and is to be left unmodified.

The Federal Department of the Environment and Energy has determined that the proposal is a "controlled action" under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The proponent is assessing options for the provision of offsets to provide a net environmental benefit.

Land use and development within the amendment area is generally controlled by the City of Cockburn's Town Planning Scheme No. 3 (TPS 3). The subject land is zoned "Resource" under TPS 3.

Bush Forever Area 390 - Draft Negotiated Planning Outcome

The proposed amendment is accompanied by a draft Negotiated Planning Outcome (NPO) which proposes to retain and protect approximately 46.24 ha of vegetation within a realigned Bush Forever area 390 boundary (includes abutting Lot 705 Armadale Road, Treeby). In summary, the main elements of the draft NPO are as follows:

- To rezone approximately 31.93 ha of Pt Lot 5131 Jandakot Road and portion of Fraser Road from the Rural – Water Protection zone to the Urban zone.
- The removal of approximately 9.58 ha of Bush Forever site 390 – some of this area contains local road infrastructure (i.e. realignment of Jandakot / Fraser Roads and new roundabouts).
- The addition of approximately 2.39 ha of 'Excellent' vegetation to Bush Forever Site 390.
- The ceding free of cost of approximately 46.24 ha of a rationalised Bush Forever area 390 within Lot 5131 Jandakot Road and Lot 705 Armadale Road, Treeby comprising 'Excellent' and 'Very Good' vegetation.

The rationalisation of the Bush Forever area through a NPO is considered appropriate as the current irregular shaped boundary will be difficult to manage from a biodiversity and bushfire perspective once the surrounding area is urbanised. A NPO will result in an improved planning and environmental outcome for the site.

Whilst the management of the Bush Forever area does not directly impact upon the proposed MRS amendment, all agreements need to be finalised. Therefore, the long-term management of the rationalised Bush Forever area requires agreement and endorsement (as part of the NPO) prior to the Western Australian Planning Commission's (WAPC) consideration of the amendment for a final determination.

3 Scope and content of the amendment

The amendment proposes to rezone approximately 31.93 ha of land in the Treeby locality from the Rural-Water Protection zone to the Urban zone under the MRS. Rationalisation of Bush Forever site 390 (addition: 2.39 ha and removal: 9.58 ha) is also proposed.

4 Discussion

Strategic Planning Context

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

The *South Metropolitan Peel Sub-regional Planning Framework* forms part of the *Perth and Peel@3.5million* strategic suite of planning documents. 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* identifies the site as *Open Space* and *Urban Investigation* with a *Short-Medium Term (2015-2031)* urban staging timeframe. The proposed amendment seeks to further refine the *Open Space* and *Urban Investigation* boundaries to better reflect existing vegetation on-site and a draft Bush Forever NPO.

The Framework states the following considerations for subject land (and surrounds):

- Impacts, risks and management of Jandakot groundwater resources (existing Priority 2 Source Protection Area).

- Protection of significant environmental values.
- Australian Noise Exposure Forecast (ANEF) considerations associated with Jandakot Airport.

The above requirements are considered to be addressed.

Treeby (Banjup) District Structure Plan

The City of Cockburn's Treeby (Banjup) District Structure Plan (DSP) is intended to guide and coordinate more detailed planning (including the preparation of Local Structure Plans) for individual sites within the DSP. The DSP identifies the subject land for residential development, areas of POS and contains part of a powerline easement. The proposed amendment is generally consistent with the intent of the Treeby DSP.

State Planning Policy No. 2.3: Jandakot Groundwater Protection

State Planning Policy No. 2.3: Jandakot Groundwater Protection (SPP 2.3) seeks to ensure that development over the Jandakot water mound is compatible with the long-term use of the groundwater for human consumption.

SPP 2.3 states that there is a general presumption against new residential, special residential, industrial or commercial zones within the Jandakot UWPCA. These are all uses that are permissible on land zoned Urban under the MRS. SPP 2.3 states that proposals which satisfy the following criteria may be supported:

- Large landholdings that were previously cleared and disturbed.
- Land directly adjacent to already-developed areas.
- Land identified as being appropriate for more intensive development through strategic planning instruments such as a regional or sub-regional structure plan.

The subject land is a former sand quarry and is largely cleared of vegetation. It abuts an existing Urban zoned area and is identified in the *South Metropolitan Peel Sub-regional Strategy* as *Open Space* and *Urban Investigation* with a *Short-Medium Term (2015 – 2031)* timeframe.

The proposed amendment is accompanied by a District Water Management Strategy (DWMS) and a draft NPO which proposes the protection of 'Excellent' and 'Very Good' vegetation and the ceding free of cost of Bush Forever area 390 within Lot 5131 Jandakot Road and Lot 750 Armadale Road. The proposed amendment is considered to be consistent with the intent of SPP 2.3.

Draft State Planning Policy 2.4: Basic Raw Materials

Draft *State Planning Policy 2.4: Basic Raw Materials* (SPP 2.4) sets out the matters to be undertaken into account in considering zoning applications for land in the vicinity of identified basic raw material resource areas. It classifies resources as 'Priority Resource Locations', 'Key Extraction Areas' and 'Extraction Areas'.

As sand extraction activities have been completed, the proposed amendment is considered to be consistent with the intent of draft SPP 2.4.

State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region

State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region (SPP 2.8) aims to provide a policy and implementation framework that will ensure bushland protection and management issues are addressed and integrated with broader land use planning and

decision-making. In general, the policy does not prevent development where it consistent with policy measures and other planning and environmental considerations.

The subject land is a former sand quarry and is largely cleared of vegetation. It abuts an existing Urban zoned area and is primarily identified in the *South Metropolitan Peel Sub-regional Planning Framework* as *Open Space* and *Urban Investigation* with a *Short-Medium Term (2015 – 2031)* timeframe.

The proposed amendment is accompanied by a draft NPO which proposes the protection of 'Excellent' and 'Very Good' vegetation and the ceding free of cost of approximately 46.24 ha of realigned Bush Forever area 390 in Lot 5131 Jandakot Road and Lot 750 Armadale Road, Treeby.

The rationalisation of the Bush Forever area through a NPO is considered appropriate as the current irregular shaped boundary will be difficult to manage from a biodiversity and bushfire perspective once the surrounding area is urbanised. A NPO will result in an improved planning and environmental outcome for the site. It is considered that the proposed amendment generally complies with the intent of SPP 2.8.

State Planning Policy 3.7: Planning for Bushfire Risk Management

State Planning Policy 3.7: Planning for Bushfire Risk Management (SPP 3.7) forms the foundation for land-use planning to address bushfire risk management in Western Australia. It is used to inform and guide decision-makers, referral authorities and proponents to achieve acceptable fire protection outcomes on planning proposals in bushfire-prone areas. A Bushfire Management Plan has been approved by the Department of Fire and Emergency Services. The proposed amendment is considered to be consistent with the intent of SPP 3.7.

State Planning Policy No. 5.3: Land Use Planning in the Vicinity of Jandakot Airport

State Planning Policy 5.3: Land Use Planning in the Vicinity of Jandakot Airport (SPP 5.3) applies to land in the vicinity of Jandakot Airport, which is or may in the future, be affected by aircraft noise associated with the movement of aircraft. SPP 5.3 includes a *Core Area* which is defined by the 20 ANEF contour and a *Frame Area* which is between the 20 ANEF contour and Roe Highway, Ranford Road, Warton Road, Armadale Road and the Kwinana Freeway.

The subject land is located with the *Frame Area* of SPP 5.3 where there is no restriction on the zoning or development of the site. It is considered that the proposed amendment is consistent with the intent of SPP 5.3.

State Planning Policy 5.4: Road and Rail Noise

State Planning Policy 5.4: Road and Rail Noise (SPP 5.4) seeks to minimise the adverse impact of road and rail noise on noise-sensitive land use and / or development within the specified trigger distance of major transport corridors. The Policy also seeks to protect the functionality of the State's transport corridors by protecting them from encroaching incompatible development.

As Jandakot Road abuts the northern boundary of the subject land, there is the potential for noise attenuation to be required. The exact nature of these measures will be determined at the detailed structure planning stage through negotiations with Main Roads WA and the local government. It is considered that the proposed amendment is consistent with the intent of SPP 5.4.

Statutory Planning Context

Environment

The Department of Water and Environmental Regulation (DWER) advises that the proposed amendment contains significant environmental values including:

- Bush Forever Site 390 (Fraser Road Bushland).
- Banksia woodlands listed as a Priority 3 Ecological Community by the Department of Biodiversity Conservation and Attractions, and a Threatened Ecological Community (TEC) under the EPBC Act.
- Potential habitat for the Grand Spider-orchid *Caladenia huegelii* listed as Critically Endangered under the *Wildlife Conservation Act 1950* and Endangered under the EPBC Act.
- Potential habitat for Threatened Fauna Black Cockatoos.
- A Resource Enhancement Wetland.

The DWER advises that it will need to demonstrate how the potential impacts of urban development on the above environmental values will be managed. Should any modification to Bush Forever site 390 be proposed as part of the amendment, the modification should not result in a net loss of Bush Forever site 390, with any addition in area to be in good or better vegetation condition.

The DWER advises that all amendments require referral to the Environmental Protection Authority (EPA) in accordance with Section 38 of the *Planning and Development Act 2005,* for a decision on whether or not the amendment requires environmental assessment.

Urban Water Management

The DWER has approved a DWMS which demonstrates that water management measures are appropriate for a Priority 3 Public Drinking Water Source Areas (PDWSA). Further water quality risk mitigation measures are required at later stages of the planning process.

Infrastructure

Regional Roads

Main Roads WA raises no objections to the amendment and advises of the following matters for consideration in subsequent planning stages:

- A detailed Transport Impact (TIA) Assessment should be submitted with any Local Structure Plan. This is to be prepared in accordance with the WAPC TIA Guidelines 2016.
- The TIA outlines that Jandakot Road is expected to be duplicated in future. MRWA supports this given the estimated traffic generation and future development on adjacent land.
- It is likely that Jandakot Road will be operating over its existing capacity as a regional distributor road. This should be considered by the Local Government prior to any future Local Structure Plan approval.
- The amendment proposes that all of Lot 5131 is zoned as Urban, however a significant portion contains Bush Forever. MRWA recommends that the amendment should reflect the approved DSP with the Bush Forever areas reserved as Parks and Recreation.

The proponent has been advised of the above matters which require consideration in the subsequent more detailed stages of the planning and development process.

Water and Wastewater

The Water Corporation advises that the amendment area is located within the Jandakot UWPCA and the subject land is classified as P2 within which urban development is not permitted. P2 areas carry a high priority for public drinking water supply and are therefore managed to ensure only low risk and low intensity land use are permitted in order to ensure no increased risk of groundwater contamination.

As the Corporation is a major licensed abstractor of groundwater as part of a multi-source approach for consumption within the metropolitan Integrated Water Supply System, the Corporation remains opposed to any loss of currently protected groundwater resources due to the increased groundwater contamination risks posed by urban development activities in the groundwater protection area.

The WAPC is advised to liaise with the DWER regarding the acceptability of urban development in this location within the context of strategic metropolitan water resource planning and regarding the process to change the classification of this area from P2 to P3 prior to the amendment being formally advertised.

Water and Wastewater Planning: The subject land is located outside of the Corporation's planned water supply and wastewater schemes. If reticulated water and wastewater services are required to support future development of the area, further water and wastewater planning investigations will need to be undertaken. High-level, conceptual water and wastewater planning has previously been undertaken for the development proposals on the adjoining land to the west.

Once the full extent of the ultimate urban development footprint has been agreed for this area, the Corporation will schedule water and wastewater planning studies to determine the most efficient way to extent services to this land.

General Comments: The principle followed by the Corporation for the funding of water-related infrastructure to support subdivision or development is one of 'user pays'. The developer may be required to fund new works or the upgrading of existing off-site works as well as appropriate protection of all infrastructure required for servicing the land. Any temporary infrastructure required for servicing of the land will be fully funded by the developer. The Corporation may also require land to be ceded free of cost to accommodate infrastructure such as pipes and pump stations.

5 Aboriginal Heritage

The *Aboriginal Heritage Act 1972* (AHA) 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 identify any risks to Aboriginal heritage and to mitigate risk where heritage sites may be present. The Guidelines are available electronically at: *https://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.

This amendment was not pre-referred to SWALSC as it was not expected to impact on Aboriginal heritage values. However, the amendment has been referred to SWALSC during the public advertising period.

6 Co-ordination of local and region scheme amendments

Under Section 126(3) of the *Planning and Development Act 2005* the WAPC has the option of concurrently rezoning land being zoned Urban under the MRS to a 'Development' zone (or equivalent) in a Local Planning Scheme (LPS). The proponent has confirmed that a separate LPS amendment is proposed to be undertaken for the site.

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. WAPC *Development Control Policy 1.9 – Amendment to Region Schemes* sets out the criteria for deciding whether the major or minor process should be followed. The amendment is proposed to be processed as a "minor" amendment as follows:

- The subject land has been primarily identified in the *Perth and Peel@3.5million* / *South Metropolitan Peel Sub-Regional Planning Framework* as *Open Space* and *Urban Investigation* area with a *Short-Medium Term (2015-2031)* urban staging timeframe.
- The subject land is a former sand quarry and urbanisation would not result in the widespread clearance of vegetation or substantially reduce the amount of vegetation in place over the Jandakot UWPCA.
- The proposed amendment is not considered complex and is generally consistent with the *South Metropolitan Peel Sub-regional Planning Framework* and SPP's 2.3, 2.8 and 5.3.
- The proposed amendment is considered to represent a logical extension of the existing Treeby Urban Precinct, and like that area is within close proximity of the Cockburn Central activity centre, railway station and regional roads.

8 Sustainability appraisal

The proposed amendment will allow further planning and development to occur to facilitate residential development in close proximity to existing rail, road and urban infrastructure in accordance with the general intent of *Perth and Peel@3.5million* / *South Metropolitan Peel Sub-regional Planning Framework* and Bush Forever NPO.

9 Environmental Protection Authority advice

The proposed amendment was referred to the 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 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) in accordance with 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 can also be found in the front of this report, entitled *The Metropolitan Region Scheme, what it is and how it is amended*.

11 Submissions on the amendment

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

The amendment is being advertised for public submissions for a period of 60 days from Friday 3 July 2020 to Friday 4 September 2020.

Copies of the amendment is available for public inspection at the:

i) Western Australian Planning Commission, 140 William Street Perth

ii) City of Cockburn

ii) 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 4 September 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 *https://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 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.

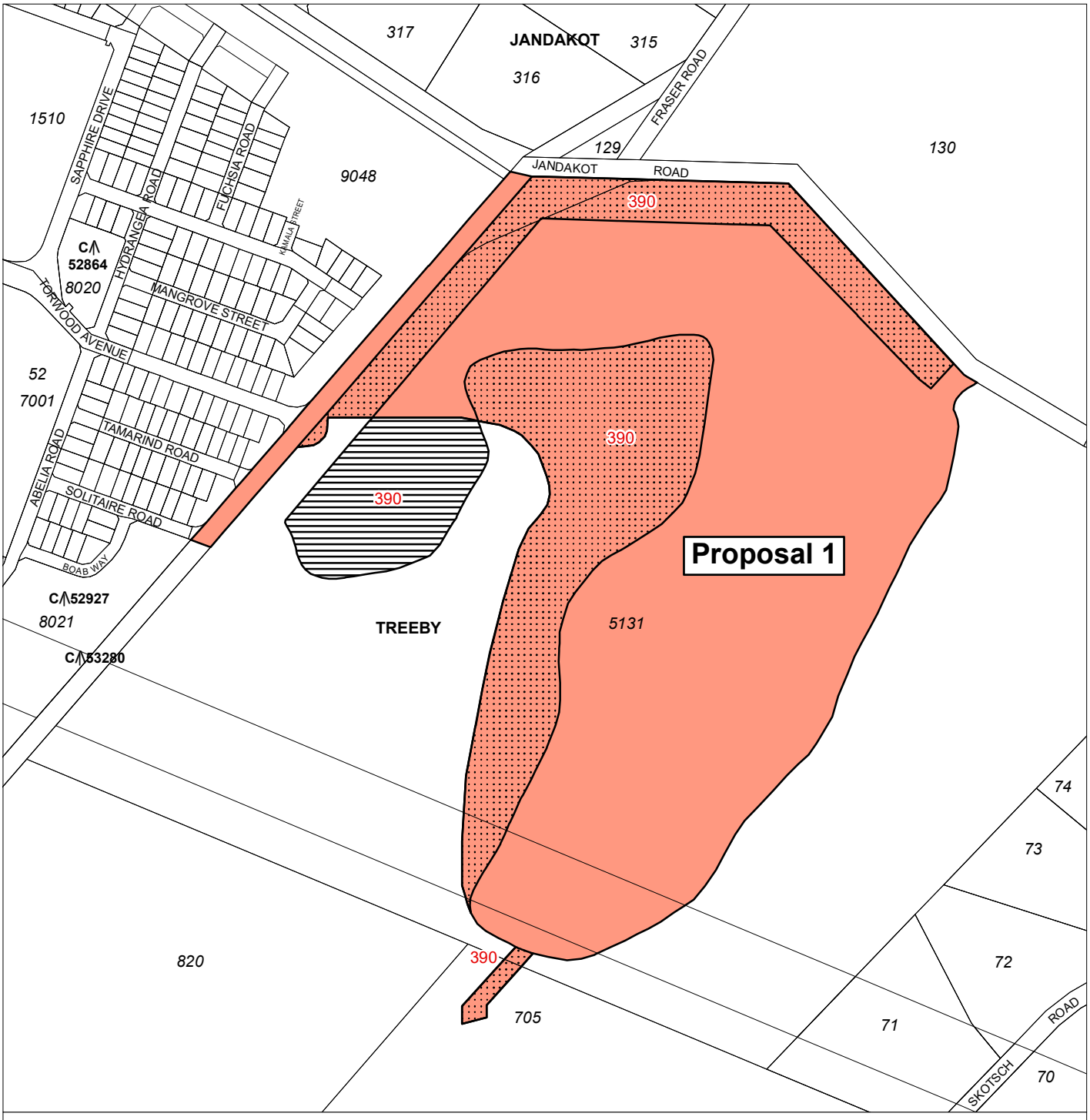
13 Final outcome

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 1367/57

Part Lot 5131 Jandakot Road, Treeby and Surrounds

Amending Figure
Proposal 1



Pt Lot 5131 Jandakot Road, Treeby and Surrounds
proposed minor amendment
as advertised

19 February 2020

Proposal 1

Proposed Amendment:

Urban zone

Notice of Delegation

(Site No) Bush Forever area addition

(Site No) Bush Forever area for removal

Oracle reference no: 2968
File number: 809/02/23/0069P
Version number: 5

Western Australian Planning Commission

Date: 31/01/2020
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

N

0 50 100 150 200
metres

Appendix A

Notice of environmental assessment

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

Our Ref: *CMS 17785*
Enquiries: *Renee Blandin, 6364 6786*
Email: *Renee.Blandin@dwer.wa.gov.au*

Dear Ms Fagan

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

SCHEME	**Metropolitan Region Scheme Amendment 1367/57**
LOCATION	**Part Lot 5131 and Part Lot 705 Jandakot Rd Treeby**
RESPONSIBLE AUTHORITY	**Western Australian Planning Commission**
DECISION	**Referred Examined, Preliminary Investigations and Inquires Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)**

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

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

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

5 June 2020

Encl. Chairman's Determination
Scheme Advice and Recommendations

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

Metropolitan Region Scheme Amendment 1367/57

Location: Part Lot 5131 and Part Lot 705 Jandakot Rd Treeby

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

Determination Published: 8 June 2020

Summary

The Western Australian Planning Commission (WAPC) has initiated Metropolitan Region Scheme (MRS) Amendment 1367/57 to rezone 31.93 hectares (ha) within Part Lot 5131 Jandakot Rd and Part Lot 705 from the Rural-Water Protection zone to the Urban zone. The rationalisation of Bush Forever site 390 (addition: 2.39 ha and removal: 9.58 ha) is also proposed.

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, as set out, 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 scheme amendment 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 factors relevant to this scheme:

- Flora and Vegetation,
- Terrestrial Fauna; and
- Inland Waters.

Advice and Recommendations regarding Environmental Factors

<u>Flora and Vegetation and Terrestrial Fauna</u>

The amendment area contains a portion of Bush Forever Site 390 (BFS 390) and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) listed Threatened Ecological Community (TEC) *Banksia Woodlands of the Swan Coastal Plain* and habitat for threatened species of black cockatoo.

The EPA supports that the 2.39 ha to be added to BFS 390 is in 'Excellent' condition, given majority of the 9.58 ha to be removed is in 'Degraded' and 'Completely Degraded' condition. The EPA also supports the proposal to retain the island of remnant vegetation in 'Excellent' condition within public open space through the future stages of planning. The EPA notes that the remainder of Lot 5131 is in 'Good' to 'Excellent' condition the majority of which is in Bush Forever site 390 and is to be left unmodified.

The EPA further notes that the amendment is accompanied by a draft Negotiated Planning Outcome (NPO) to be coordinated by the Department of Planning, Lands and Heritage, which proposes the protection of 'Excellent' and 'Very Good' vegetation and the ceding free of cost approximately 46.24ha of realigned Bush Forever area 390 in Lot 5131 Jandakot Road and

Lot 750 Armadale Road, Treeby (outside of the amendment area). The EPA supports this inclusion, and the potential for this area of BFS 390 to be ceded to a local or state authority as part of a NPO. The revised boundary of BFS 390 may increase the ability of the site interface between BFS 390 and urban development to be managed to mitigate potential impacts.

The EPA recommends management and mitigation of impacts to the adjacent BFS 390 consistent with EPA Environmental Protection Bulletin No. 20 *Protection of naturally vegetated areas through planning and development*. This should include use of hard edges (such as through consideration of road layout) to separate BFS 390 from development and areas of local open space. Road layout, and fire, noise, and drainage management should all be managed to protect impact to significant environmental values within BFS 390.

Occurrences of the threatened flora *Caladenia huegelii* listed as Critically Endangered under the BC Act and Endangered under the EPBC Act have been identified within the amendment area and BFS 390. *Caladenia huegelii* habitat should be retained and protected, and indirect impacts to habitat managed so as to protect the flora. Further to this, the EPA recommends that the amendment be modified prior to finalisation to remove proposed Urban zone over the *Caladenia huegelii* occurrences near the proposed southern road extension, and include this area in BFS 390.

The EPA expects that consultation regarding the protection of occurrences of threated flora within and adjacent to the amendment area will be undertaken with the Department of Biodiversity, Conservation and Attractions (DBCA).

The site contains potential habitat for threatened species of black cockatoo, listed under both the *Biodiversity Conservation Act 2016* (BC Act) and EPBC Act. Consideration should be given to retention of black cockatoo habitat through the future stages of planning.

The WAPC should ensure that any future Structure Plans for the site will be referred to the DBCA and other relevant authorities for consultation and comment as part of the planning process.

<u>Inland Waters</u>

The amendment area is located in a Priority 2 Public Drinking Water Source Area (PDWSA) The EPA notes that the Department of Water and Environmental Regulation (DWER) has approved a District Water Management Strategy which demonstrates that proposed water management measures are appropriate for a Priority 3 PDWSA. Further consultation with DWER, and water quality risk mitigation measures, will be required at the later stages of the planning process.

Conclusion

The EPA concludes that the amendment can be managed to meet the EPA's environmental objectives through existing planning controls. The EPA recommends its advice is implemented to mitigate potential impacts to Flora and Vegetation, Terrestrial Fauna and Inland Waters.

Appendix B

List of detail plans supporting the amendment

Proposed Minor Amendment 1367/57

Part Lot 5131 Jandakot Road, Treeby and Surrounds

as advertised

Amending Plan 3.2717
Detail Plans
1.6560, 1.6584

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. Pleased limit the number of attachments, where possible, ensuring they are directly relevant to the proposed amendment you are commenting on.

The closing date for submissions and how to lodge them is shown on form 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)

Planning and Development Act 2005

Section 57 Amendment (Minor)
Form 57

Submission

Metropolitan Region Scheme Amendment 1367/57

Part Lot 5131 Jandakot Road, Treeby and Surrounds

OFFICE USE ONLY

SUBMISSION NUMBER
RLS/0915

To: Secretary
Western Australian Planning Commission
Locked Bag 2506
PERTH WA 6001

Title *(Mr, Mrs, Miss, Ms)* ..... First Name .....

Surname ..... (PLEASE PRINT CLEARLY)

Address ..... Postcode .....

Contact phone number ..... Email address .....

Submissions may be published as part of the consultation process. Do you wish to have your name removed from your submission? ☐ *Yes* ☐ *No*

Submission (Please attach additional pages if required. It is preferred that any additional information be loose rather than bound)

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

turn over to complete your submission

(Submission continued. Please attach additional pages if required)

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

……

You should be aware that:

- The WAPC is subject to the *Freedom of Information Act 1992* and as such, submissions made to the WAPC may be subject to applications for access under the act.
- In the course of the WAPC assessing submissions, or making its report on these submissions, copies of your submission or the substance of that submission, may be disclosed to third parties.

To be signed by person(s) making the submission

Signature …… Date ……

Note: Submissions MUST be received by the advertised closing date, being close of business (5pm) on 4 SEPTEMBER 2020. Late submissions will NOT be considered.