

July 2020

Metropolitan Region Scheme Amendments 1372/57 and 1373/57 (Minor Amendments)



- 1372/57 – Part Lot 800
Canning Road, Carmel
(Heidelberg Park)
- 1373/57 – Old Railway Reserve,
Kalamunda and Surrounds

Amendment Report

City of Kalamunda

**Metropolitan Region Scheme
Amendments
(minor amendments)**

1372/57

**Part Lot 800 Canning Road, Carmel
(Heidelberg Park)**

1373/57

Old Railway Reserve, Kalamunda & Surrounds

Amendment Report

City of Kalamunda



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.

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MRS Amendments 1372/57 & 1373/57 Amendment Report
Files 833-2-24-67 Pt 1 & 833-2-24-68 Pt 1

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

CONTENTS

The Metropolitan Region Scheme v

Abbreviations ix

SECTION 1 Amendment 1372/57
Part Lot 800 Canning Road, Carmel (Heidelberg Park)

SECTION 2 Amendment 1373/57
Old Railway Reserve, Kalamunda & Surrounds

Appendix I Your property and the planning system - region schemes

Appendix II Preparing a submission

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*.

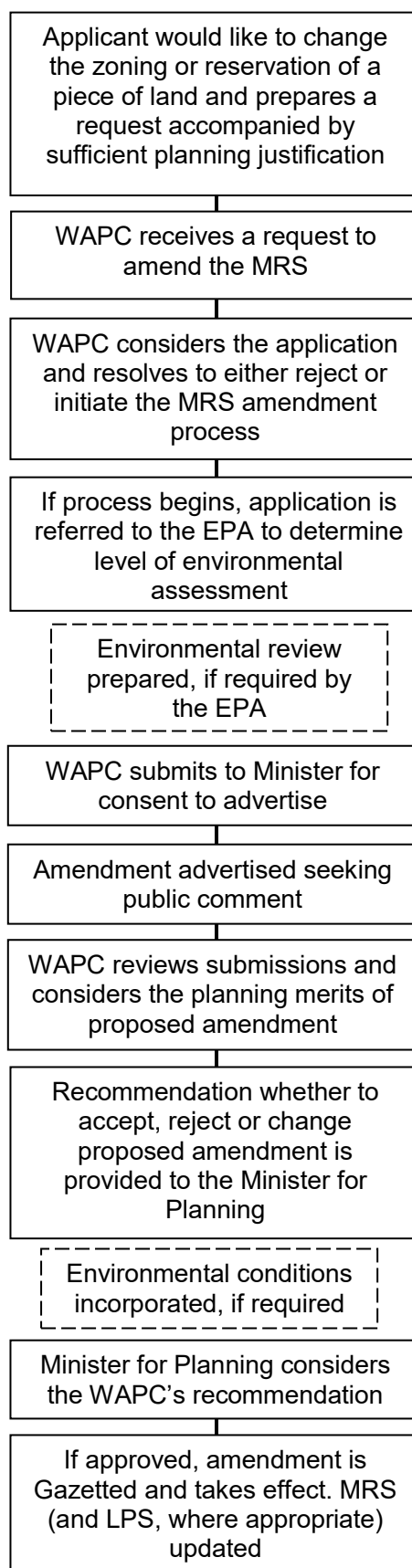
Report on submissions

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

AAS	Aged Accommodation Strategy
AHA	Aboriginal Heritage Act
CBD	Central Business District
DBCA	Department of Biodiversity Conservation and Attractions
DPLH	Department of Planning, Lands and Heritage
DWER	Department of Water and Environmental Regulation
EPA	Environmental Protection Authority
LHS	Local Housing Strategy
LPS	Local Planning Scheme
MRS	Metropolitan Region Scheme
POS	Public Open Space
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
WAPC	Western Australian Planning Commission

Amendment 1372/57

Pt Lot 800 Canning Rd, Carmel (Heidelberg Park)

Contents

Amendment Report

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

Appendix A Preliminary Concept Plan

Appendix B Notice of environmental assessment

Appendix C List of plans supporting the amendment

Appendix D Submission form for this amendment (form 57)

Amendment Report

Metropolitan Region Scheme Amendment 1372/57

Part Lot 800 Canning Road, Carmel (Heidelberg Park)

Amendment Report

1 Purpose

The purpose of the amendment is to transfer approximately 10.78 ha of land from the Parks and Recreation reservation to the Urban zone in the Metropolitan Region Scheme (MRS), as shown on the *Amendment Figure – Proposal 1*.

The proposed Urban zoning will allow for aged persons facilities and Public Open Space (POS) (for recreation and conservation purposes) following a Local Planning Scheme (LPS) amendment, detailed structure planning and subdivision approval.

2 Background

The subject land is located within the City of Kalamunda and comprises Pt Lot 800 Canning Road, Carmel (Heidelberg Park). The land is approximately 19.9 km east of the Perth CBD and is approximately 4 km south of the Kalamunda townsite. The land is within 1.7 km of the Lesmurdie Village Shopping Centre.

The site is bounded by Pomeroy Road to the north, Canning Road to the east and existing Parks and Recreation reserves to the south and west. The Korung National Park is to the west. The site has access to Canning and Pomeroy Roads and the established residential areas of Lesmurdie and Kalamunda are in close proximity to the north.

The subject land is a Crown Reserve which is managed by the City of Kalamunda. The land previously contained an orchard and is primarily cleared of native vegetation except on the western and southern boundaries.

The site contains intact remnant vegetation in “Very Good” to “Excellent” condition on the southern and western boundaries, which provides habitat to a number of conservation significant fauna species. No Threatened, Declared Rare or Priority Flora are located within the site. The site is not located within or abutting any Bush Forever sites and does not contain any wetlands.

Should the land be zoned Urban, landuse and development within the amendment area would generally be controlled by the City of Kalamunda LPS No. 3.

Preliminary Concept Plan

The City of Kalamunda has undertaken a preliminary concept plan which provides for aged accommodation. The remainder of the amendment area is to be retained as POS (for recreation and conservation purposes). This area includes seating, pathways connecting to existing bushland walkways, olive orchard, shelter with seating areas / BBQ facilities, playground etc.

The western portion of Lot 800 Canning Road (outside amendment area) is approximately 2.78 ha and reserved as Parks and Recreation given its environmental values. If the amendment is finalised, the Department of Biodiversity, Conservation and Attractions (DBCA) has agreed to accept management of this portion of Lot 800 and its addition to the adjacent Korung National Park A-Class Reservation.

Appendix A, contains a copy of the preliminary concept plan.

3 Scope and content of the amendment

The amendment proposes to rezone Pt Lot 800 Canning Road, Carmel (Heidelberg Park), the total area the subject of this amendment being transferred from the Parks and Recreation reservation to the Urban zone is approximately 10.78 ha.

4 Discussion

STRATEGIC PLANNING CONTEXT

Perth and Peel@3.5million / North-East Sub-regional Planning Framework

The *North-East 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 Framework reflects the sites current Parks and Recreation reservation. However, the site is identified for aged care and POS investigation in the City of Kalamunda draft *Local Housing Strategy 2020 – 2025* (LHS). Therefore, the proposed amendment is consistent with the general intent of the draft LHS.

City of Kalamunda – Draft Local Housing Strategy 2020 - 2025

The City of Kalamunda draft LHS informs and focuses the strategic planning framework to assist in delivering housing needs. The draft LHS has taken the local planning context into consideration including the City's *Aged Accommodation Strategy* (AAS).

The City recognises it has a changing and ageing population and many within the community that will want to age in place and remain within the City well into retirement. It is the City's goal to identify opportunities for people to stay whilst facilitating the necessary and appropriate housing forms to accommodate this trend.

The draft LHS envisages a need for 500 – 900 additional aged care beds by 2036 to meet the predicted demand for the ageing population. The draft LHS identifies investigation sites suitable for aged care accommodation, and the City has been co-operating with State Government agencies regarding this.

The proposed amendment site is identified as an aged care and POS investigation area, and is consistent with the general intent of the draft LHS.

City of Kalamunda - Aged Accommodation Strategy

The City of Kalamunda AAS provides a strategic framework to addressing the current and future housing, home, community care and residential care needs of older people in the City.

In developing the AAS a detailed study of the demographic profile of older people and a supply demand analysis was undertaken.

The AAS states that in planning and locating seniors' unit complexes and residential care homes, the impacts on the surrounding area, on residential amenity, traffic etc, must be identified with satisfactory measures to mitigate any negative impacts. While there are important planning considerations in developing senior's units and residential care, there is a need for developers to submit proposals that are high quality, attractive and integrate within the locality.

The proposed amendment site is identified as an aged care and POS investigation area, and is in accordance with the general intent of the AAS.

State Planning Policy 2.0 - Environment and Natural Resources

State Planning Policy 2.0 - Environment and Natural Resources (SPP 2.0) defines the principles and considerations that represent good and responsible planning in terms of environment and natural resource issues. SPP 2.0 objectives are to:

- a) Integrate environment and natural resource management with broader land use planning and decision making.
- b) Protect, conserve and enhance the natural environment.
- c) Promote and assist in the wise and sustainable use and management of natural resources.

The proposed amendment is consistent with SPP 2.0 by ensuring development occurs on primarily degraded land and that surrounding bushland is protected and managed to retain existing ecological values – wherever possible.

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. SPP 2.8 recognises that:

“... the protection and management of significant bushland areas as a fundamental consideration in the planning process, while also seeking to integrate and balance wider environmental, social and economic considerations. In general terms, the policy does not prevent development where it consistent with the policy measures and other planning and environmental considerations.”

This section of SPP 2.8 gives the WAPC the option of considering proposals such as this. The WAPC recognises the protection and management of significant bushland areas as a fundamental consideration in the planning process, while also seeking to integrate and balance wider environmental, social and economic considerations.

The proposed amendment area has been recognised in the City of Kalamunda draft LHS as an aged care and POS investigation site, recognising that this development forms part of a larger need for aged accommodation.

The City seeks to ensure that the site is developed in a manner which minimises the impact on the environment, ensuring that development occurs on primarily degraded land and that the surrounding bushland is protected and managed to retain existing ecological values – wherever possible. Whatever the case, State and Commonwealth Legislative requirements will need to be complied with.

The remainder of Lot 800 Canning Road (approximately 2.78 ha and outside amendment area) is to remain reserved as Parks and Recreation given its environmental values. If the amendment is finalised, the DBCA will accept management of this portion of Lot 800 and its addition to the adjacent Korung National Park A-Class Reservation.

It is considered that the social and community benefits of providing land for aged accommodation and potential for residents to “age in place” (and associated POS facilities), justifies the proposed amendment proceeding. This recommendation responds to the individual and particular circumstances and is not necessarily a recommendation that may be applicable in other Local Government areas or in other circumstances.

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, it is considered that the proposed amendment is consistent with the intent of SPP 3.7.

STATUTORY CONTEXT

Environment

The Department of Water and Environmental Regulation (DWER) has verbally advised of the need to consider impacts on social surrounds, remnant vegetation to be retained and fire management issues. The DWER advised that consideration would need to be given to an appropriate planning mechanism/s to ensure the protection of vegetation and provision of POS (amongst other matters). Environmental survey information may also be required.

The DBCA advises that the proponent’s environmental assessment states that the southern and western boundaries of the site contain intact remnant vegetation in “Very Good” to “Excellent” condition, which provides habitat to a number of conservation significant fauna species. The proposed amendment includes a portion of this remnant vegetation in the proposed Urban zone. The City of Kalamunda has provided commitments to retain some vegetation and habitat trees within this area as a managed buffer.

The proposal abuts the Korung National Park which is managed by the DBCA. The DBCA supports installation of appropriate fencing along the interface with the National Park. Future residents should be aware of operational management activities undertaken within the National Park, including prescribed burning, feral animal and weed control.

As the existing adjacent land manager and controlling agency responsible for undertaking bushfire suppression of bushland areas to the west, the DBCA requests that all fire protection requirements are provided on-site, and do not place impositions or reliance on the management of the adjoining National Park.

Prior to future planning stages the proponent should contact the Department of Environment and Energy for information on their obligations in accordance with the *Environmental Protection and Biodiversity Conservation Act 1999*.

The DBCA will accept management of the western portion of Lot 800 Canning Road (outside amendment area) and its addition to the adjacent Korung National Park A-Class Reservation if the amendment is finalised.

Urban Water Management

The DWER has advised given the limited water issues on-site, a District Water Management Strategy would not be required. Local drainage issues can be considered by the City of Kalamunda.

Infrastructure

Water and Wastewater

The amendment area is located within the Water Corporation's Walliston water scheme. Water is supplied to existing customers from elevated storage tanks on Raymond Road, situated approximately 1.5 km to the north of the site. The Raymond Road tanks are refilled via mains from the Lesmurdie tank and pump station.

The population in the Walliston water scheme is approximately 6,700 people (~2,000 services). The forecast growth for the water scheme zone is approximately 0.4% over the longer term. The Corporation's headworks planning for small schemes in the foothills has been based on the existing pattern of development, the City of Kalamunda's current Town Planning Scheme and low growth projections. As Lot 800 is reserved for Parks and Recreation in the MRS and the City's LPS, the Corporation's water infrastructure planning has not previously made any allowance for additional water demands from development of this site.

However, the Corporation has undertaken hydraulic modelling of the Walliston water network assuming the site will be developed to create approximately 130 new water services. This has confirmed that the additional services can be accommodated on the water storage and distribution network.

Whilst the additional demands on the network is likely to cause a decrease in water pressure (head loss) for other existing services (between Orangedale and Pomeroy Roads) at peak demand times, the modelled reduction will be relatively minor and acceptable minimum pressures will still be maintained.

As no sewerage services are available on-site effluent disposal is proposed for the site. The Department of Health raises no objections to the proposed on-site effluent disposal.

Transport

The Department of Transport, Main Roads WA and the Public Transport Authority raise no objections to the proposed amendment.

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 LPS 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 (DPLH) 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 Coordination of local and region scheme amendments

Under section 126(3) of the *Planning and Development Act 2005* the WAPC has the option to concurrently rezone land being zoned Urban under the MRS to a "Development" zone (or similar) in the LPS. In accordance with standard practice, the WAPC will make a determination on the suitability of the concurrent LPS amendment of the site at the final determination stage.

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. In this regard, the amendment is proposed to be processed as "minor" amendment as follows:

- The proposed amendment is not considered complex and will facilitate the provision of aged persons accommodation and POS (for recreation and conservation purposes).
- The proposal is in accordance with the recommendations of the City of Kalamunda draft LHS which identifies the site for aged care and POS investigation.
- The proposed amendment area is primarily over land that has been cleared of vegetation, however where vegetation exists it is proposed to be retained - wherever possible.
- If the amendment is finalised, the DBCA will accept management of the western portion of Lot 800 (outside the amendment area) and its addition to the adjacent Korung National Park A-Class Reservation.
- The City of Kalamunda and relevant State Government agencies have not raised matters which prevent the initiation and/or advertising of the amendment or which can't be resolved in subsequent planning stages.

8 Sustainability appraisal

The proposed amendment will facilitate the provision of aged persons accommodation and POS in accordance with the recommendations of the City of Kalamunda draft LHS (and associated AAS).

The proposed amendment area is over land that has been primarily cleared of vegetation, however where vegetation exists it is proposed to be retained within POS areas (for recreation and conservation purposes).

9 Environmental Protection Authority advice

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

The EPA has advised that the proposed amendment does not require formal assessment under Part IV of the *Environmental Protection Act 1986*. However, it has provided advice on the key environmental factors for the amendment. A copy of the notice from the EPA is included at *appendix B*.

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 is being advertised for public submissions for a period of 60 days from Tuesday 21 July 2020 to Friday 25 September 2020.

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

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

and must be received by 5pm Friday 25 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 D*). 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 II* 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.

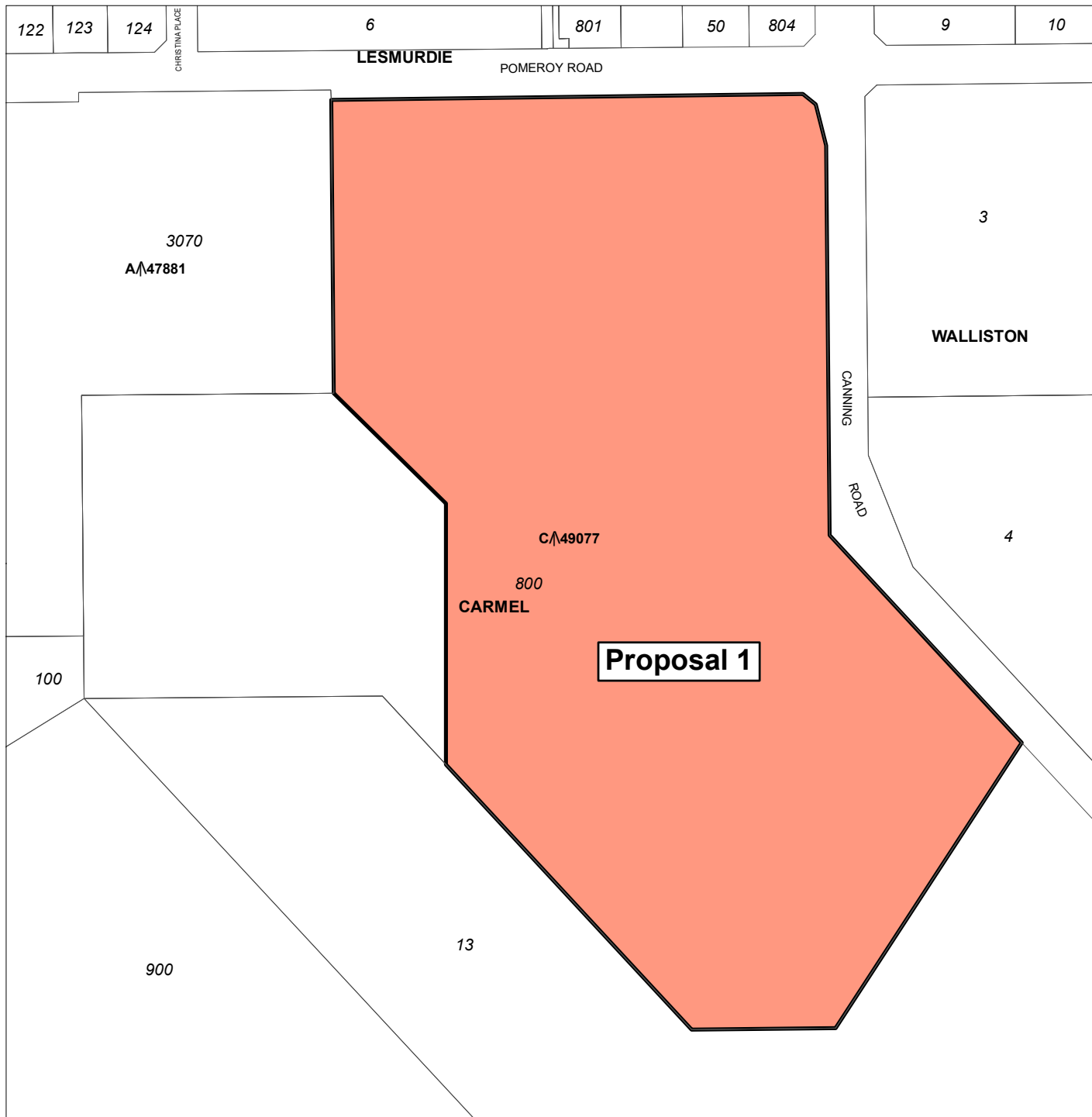
13 Final outcome

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 1372/57

Part Lot 800 Canning Road, Carmel (Heidelberg Park)

**Amending Figure
Proposal 1**



Pt Lot 800 Canning Road, Carmel (Heidelberg Park)
Proposed minor amendment
as advertised

06 May 2020

Proposal 1

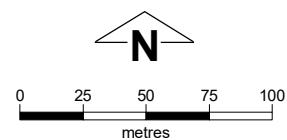
Proposed Amendment:

 Urban zone

Oracle reference no: 3026
 File number: 833/02/24/0067
 Version number: 1



Date: 26/05/2020
 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



Appendix A

Preliminary Concept Plan

LEGEND

- SUBJECT SITE
- LOCATION OF ABOVE GROUND WATER MAIN
- ROAD
- POSSIBLE ROAD



Future planning to identify significant trees for retention.



Appendix B

Notice of environmental assessment

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

Our Ref: CMS 17832
Enquiries: Steve Pavey, 6364 7259
Email: Steve.Pavey@dwer.wa.gov.au

Dear Ms Fagan

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

SCHEME	Metropolitan Region Scheme Amendment 1372/57
LOCATION	Part Lot 800 Canning Road, Carmel (Heidelberg Park)
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 scheme to the Environmental Protection Authority (EPA).

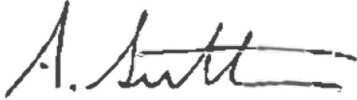
After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations. I have also attached a copy of the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

A handwritten signature in dark ink, appearing to read 'A. Sutton', with a horizontal line extending from the end of the signature.

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

26 June 2020

Encl. Chairman's Determination
Scheme Advice and Recommendations

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

Metropolitan Region Scheme Amendment 1372/57

Location: Part Lot 800 Canning Road, Carmel (Heidelberg Park)

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

Determination Published: 29 June 2020

Summary

The Western Australian Planning Commission (WAPC) proposes to transfer approximately 10.78 ha of land forming part of Lot 800 Canning Road, Carmel (Lot 800) from the Parks and Recreation reservation to the Urban zone in the Metropolitan Region Scheme (MRS). The proposed MRS Urban zoning will allow for aged persons facilities and public open space for recreation and conservation purposes following a local scheme amendment, detailed structure planning and subdivision approval.

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. Having considered this matter the following advice is provided.

Environmental Factors

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

- Flora and Vegetation
- Terrestrial Fauna

Advice and Recommendations regarding Environmental Factors

Lot 800, also referred to as 'Heidelberg Park' is 13.56 hectares (ha) in size. Approximately 10.78 ha is proposed to be zoned Urban. The remaining 2.78 ha Parks and Recreation area will be added to the adjoining Korung National Park and managed by the Department of Biodiversity, Conservation and Attractions (DBCA).

The EPA notes that Lot 800 has been historically cleared with remnant vegetation varying from completely degraded to excellent condition. The EPA supports the retention of remnant vegetation and threatened species of black cockatoo habitat in Public Open Space. The EPA's Environmental Protection Bulletin No. 20 *Protection of naturally vegetated areas through planning and development* provides advice on the protection of vegetated areas in urban environments.

The EPA recommends the provision of an appropriate interface between future urban development and Korung National Park, in consultation with the DBCA. Future residents within the proposed urban area should be made aware of operational management activities undertaken within Korung National Park, including prescribed burning and feral animal and weed control.

The EPA recommends that bushfire management plans required for development on Lot 800 ensure that all fire protection requirements are provided for within the development area without reliance upon fire management undertaken within Korung National Park.

Conclusion

The EPA concludes that the scheme 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, and Terrestrial Fauna.

Appendix C

List of plans supporting the amendment

Proposed Minor Amendment 1372/57

Pt Lot 800 Canning Rd, Carmel (Heidelberg Park)

as advertised

Amending Plan 3.2771

Detail Plans

1.6375, 1.6392

Appendix D

**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 practice. There are no margins, text, or other markings on the page.

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

Signature Date

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

Amendment 1373/57

Old Railway Reserve, Kalamunda & Surrounds

Contents

Amendment Report

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

Appendix A Notice of environmental assessment

Appendix B List of plans supporting the amendment

Appendix C Submission form for this amendment (form 57)

Amendment Report

Metropolitan Region Scheme Amendment 1373/57

Old Railway Reserve, Kalamunda and Surrounds

Amendment Report

1 Purpose

The purpose of the amendment is to transfer approximately 9.02 ha of land from the Urban zone to the Parks and Recreation reservation in the Metropolitan Region Scheme (MRS), as shown on the *Amendment Figure – Proposal 1*. The proposed amendment will facilitate the reservation of land for recreation and conservation purposes.

2 Background

The subject land is located within the City of Kalamunda and is approximately 19.9 km east of the Perth CBD and is approximately 4 km south of the Kalamunda townsite. The site is bounded by Railway Road to the west, Crown Reserves to the south and existing residential development to the east.

The subject land contains three Crown Reserves (22576, 28545 & 25574) and an old road reserve and forms part of the Old Railway Reserve managed by the City of Kalamunda. These lots contain remnant native vegetation and tennis courts.

The remaining land (Lots 23, 24 & 50) contains native remnant vegetation and is owned by the WAPC. The reservation of this land as Parks as Recreation will remove its subdivision and development potential. This land is to be added to the abutting Old Railway Reserve and managed by the City of Kalamunda.

The subject land is reserved as “Local Open Space”, “Public Purposes” and is zoned “Residential - R5” under the City’s Local Planning Scheme (LPS) No. 3.

3 Scope and content of the amendment

The amendment proposes to rezone Lots 23, 24 and 50 Schmitt Road, Kalamunda, Crown Reserves: 22576, 28545 and 25574 and an old road reserve from the Urban zone to the Parks and Recreation reservation.

The area the subject of the amendment is approximately: 9.02 ha.

4 Discussion

STRATEGIC PLANNING CONTEXT

Perth and Peel@3.5million / North-East Sub-regional Planning Framework

The *North-East 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 Framework reflects the sites current Urban zone. However, following further investigation the subject land contains (or will contain) land which forms part of the Old Railway Reserve. This land is more appropriately reserved as Parks and Recreation given its recreation and conservation use and is consistent with the remainder of the reservation in the MRS.

State Planning Policy 2.0 - Environment and Natural Resources

State Planning Policy 2.0 - Environment and Natural Resources (SPP 2.0) defines the principles and considerations that represent good and responsible planning in terms of environment and natural resource issues within the framework of the State Planning Strategy. Supplemented by more detailed planning policies on particular natural resource matters. SPP 2.0 objectives are to:

- a) Integrate environment and natural resource management with broader land use planning and decision making.
- b) Protect, conserve and enhance the natural environment.
- c) Promote and assist in the wise and sustainable use and management of natural resources.

The proposed amendment is consistent with SPP 2.0 as it proposes to reserve land as Parks and Recreation which is used for recreation and conservation purposes.

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.

The protection and management of significant bushland areas is a fundamental consideration in the planning process, while also seeking to integrate and balance wider environmental, social and economic considerations. The proposed amendment is consistent with SPP 2.8 as it proposes to reserve land as Parks and Recreation which is to be used for recreation and conservation purposes.

State Planning Policy 3.7 - Planning for Bushfire Risk Management

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 located in designated bushfire prone areas (unless exemptions apply).

As no land use intensification is proposed the amendment is not considered to increase the risk of bushfire for the area. The amendment is consistent with SPP 3.7.

STATUTORY CONTEXT

Environment

The Department of Water and Environmental Regulation has verbally advised that it raises no objections to the proposal.

The Department of Biodiversity, Conservation and Attractions advises that the proposal will ensure that all vegetation within Lots 23, 24 & 50 Schmitt Road is retained, and enable the lots to be added to the existing Old Railway Reserve to be managed by the City of Kalamunda. The proposed reservation of the lots comprising the existing and proposed Crown Reserves is appropriate and in accordance with the future purpose of the local open space.

Urban Water Management

As no development is proposed a District Water Management Strategy is not applicable.

Infrastructure

Water and Wastewater

The Water Corporation has no water or wastewater infrastructure within the site. As no development is proposed the provision of water and wastewater services is not applicable.

Transport

The Department of Transport, Public Transport Authority and Main Roads WA raise no objections to the proposed amendment.

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 LPS 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 (DPLH) 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 Coordination of local and region scheme amendments

Under section 126(3) of the *Planning and Development Act 2005* the WAPC has the option to concurrently rezone land being zoned Urban under the MRS to a "Development" zone (or similar) in the LPS. As no land is being zoned Urban in the MRS, section 126(3) does not apply.

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. In this regard, the amendment is proposed to be processed as "minor" amendment as follows:

- The size and scale of the proposed amendment is not considered regionally significant. It does not reflect a regional change to the planning strategy or philosophy for the metropolitan region.
- The proposal will ensure that all vegetation within Lots 23, 24 & 50 Schmitt Road is retained, and enable the lots to be added to the existing Old Railway Reserve to be managed by the City of Kalamunda.
- The proposed reservation of the lots comprising the existing and proposed Crown Reserves is appropriate and in accordance with the future purpose of the local open space.
- The City of Kalamunda and relevant State Government agencies have not raised matters which prevent the initiation and advertising of the amendment.

8 Sustainability appraisal

The amendment seeks to facilitate the protection of land that contains (or will contain) part of the Old Railway Reserve. This land is more appropriately reserved as Parks and Recreation given its recreation and conservation use and is consistent with the remainder of the reservation in the MRS.

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 is being advertised for public submissions for a period of 60 days from Tuesday 21 July 2020 to Friday 25 September 2020.

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

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

and must be received by 5pm Friday 25 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 C*). 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 II* 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 1373/57

Old Railway Reserve, Kalamunda & Surrounds

**Amending Figure
Proposal 1**




Old Railway Reserve, Kalamunda and Surrounds Proposed minor amendment as advertised

06 May 2020

Proposal 1

Proposed Amendment:

 Parks and recreation reservation

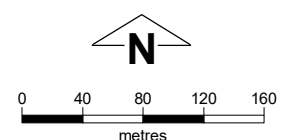
Oracle reference no: 3027

File number: 833/02/24/0068

Version number: 1



Date: 26/05/2020
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



Appendix A

Notice of environmental assessment

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

Our Ref: CMS 17833
Enquiries: Steve Pavey, 6364 7259
Email: steve.pavey@dwer.wa.gov.au

Dear Ms Fagan

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

SCHEME	Metropolitan Region Scheme Amendment 1373/57
LOCATION	Old Railway Reserve Kalamunda and Surrounds
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. No Advice Given. (Not Appealable)

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

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) and that it is not necessary to provide any advice or recommendations. I have 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 will be made available to the public via the EPA website.

Yours sincerely

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

26 June 2020

Encl. Chairman's Determination

Appendix B

List of plans supporting the amendment

Proposed Minor Amendment 1373/57

Old Railway Reserve, Kalamunda & Surrounds

as advertised

Amending Plan 3.2772

Detail Plans

1.6375, 1.6392

Appendix C

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

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- In the course of the WAPC assessing submissions, or making its report on these submissions, copies of your submission or the substance of that submission, may be disclosed to third parties.

Signature Date

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

Appendix I

**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 II

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 <https://consultation.dplh.wa.gov.au>, however, hardcopy submissions can also be accepted (form 57 – appendix D (1372/57) & appendix C (1373/57)).

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

The closing date for submissions and how to lodge them is shown on form 57 and in the submissions on the amendment section of the amendment report.

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

You should be aware that all submissions lodged with the WAPC are subject to regulations on disclosure and access, and your submission will become a public document.

