

December 2010

# **Metropolitan Region Scheme Amendment 1199/41**



## **West Perth Regeneration Precinct**

Amendment Report

Town of Vincent

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# Contents

The Metropolitan Region Scheme .....	v
Abbreviations .....	ix
Location plan .....	xi
1 Purpose .....	1
2 Background.....	1
3 Scope and content of the amendment.....	3
4 Discussion .....	3
5 Aboriginal heritage.....	8
6 Coordination of local and region scheme amendments.....	9
7 Substantiality .....	9
8 Sustainability appraisal .....	9
9 Environmental Protection Authority advice .....	9
10 The amendment process .....	10
11 Submissions on the amendment .....	10
12 Hearings .....	11
13 Modifications to the amendment.....	11
14 Final outcome .....	11
Figure 1.....	12

Appendix A	Notice of environmental assessment
Appendix B	List of detail plans supporting the amendment
Appendix C	Your property and the Metropolitan Region Scheme
Appendix D	Preparing a submission and for a hearing presentation
Appendix E	Submission form for this amendment (form 41)

# **The Metropolitan Region Scheme**

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

### **Planning Perth's future**

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

In 2001 Perth was home to nearly 1.4 million people. Each year its population is growing by about 20 000 people. By 2031, Perth's population is projected to reach 2.2 million, making up 73 per cent of the population of Western Australia.

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

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

### **What is the Metropolitan Region Scheme?**

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

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

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

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

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

### **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, an amendment to the MRS is advertised to seek comment from the wider community and all levels of government.

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

### **How is the Metropolitan Region Scheme amended?**

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

The amendment process is regulated by the *Planning and Development Act 2005*. The 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 a redevelopment authority.

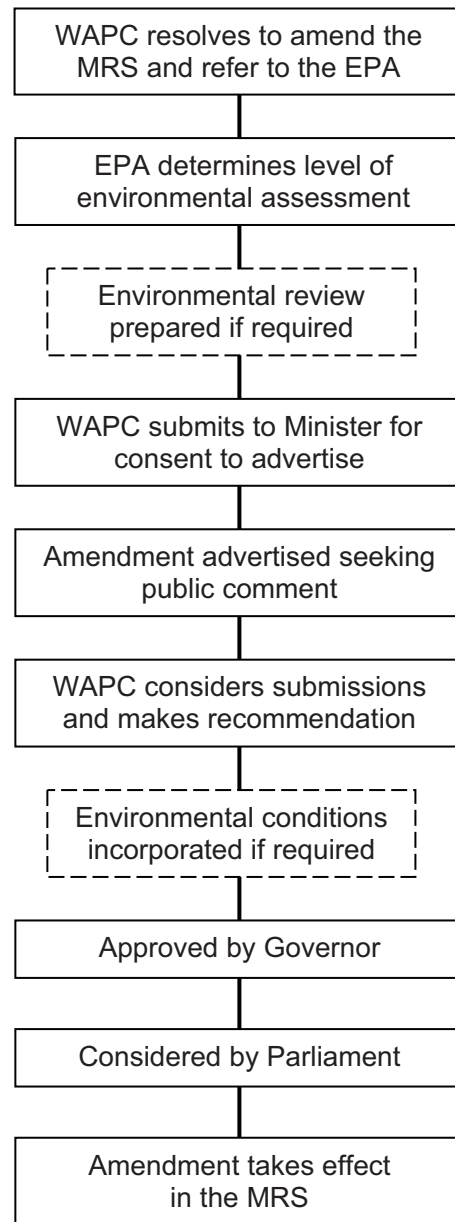
The amendment proposed in this report is being made under the provisions of section 41 (often referred to as a major amendment).

The process of a major amendment to the MRS includes the following steps:

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

- Consent by the Minister for Planning to call for submissions.
- Advertising the amendment for public inspection and inviting submissions. Advertisements are placed in local and statewide newspapers and information is made available on the PlanningWA website. Landowners whose property is directly affected by a proposed change are contacted in writing. Where there is an environmental review, this is also made available for comment.
- WAPC receiving public submissions over a period of three months.
- WAPC considering written submissions. People who have made submissions may, if they wish, also make an oral presentation to a special committee appointed to consider and report on these submissions.
- WAPC reviewing the proposed amendment in light of submissions. The amendment may be modified before proceeding.
- Readvertising for further public submissions may be required by the Minister for Planning if the amendment is substantially modified as a result of submissions.
- Minister presenting the amendment with WAPC recommendations to the Governor for approval.
- Placing of the amendment, as approved by the Governor, before each House of State Parliament, where it must remain for 12 sitting days. During this time, the amendment is again on public display with the WAPC's report on submissions.
- In Parliament, a member may introduce a motion to disallow the amendment. If this motion succeeds, the MRS will not be amended. Otherwise, the amendment becomes legally effective in the MRS.

The following diagram shows the main steps.



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

Within three months of a MRS amendment being finalised, an affected local government must initiate an amendment to its local planning scheme.

## Zones and reservations

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

### Zones

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

Urban deferred: land identified for future urban uses following the extension of urban services, the progressive development of adjacent urban areas and resolution of any environmental and planning requirements relating to development.

The 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 are undertaken.

Private recreation: areas of significance to the region's recreation resource, which are, or are proposed to be, managed by the private sector.

Rural - water protection: rural land over public groundwater areas, where land use is controlled to avoid contamination.

### Reservations

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

Parks and recreation: land of regional significance for ecological, recreation or landscape purposes.

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

Port installations: regional maritime shipping facilities.

State forests: areas of woodland located on Crown land managed, under the *Conservation and Land Management Act 1984*.

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

Civic and cultural: significant civic precincts and buildings.

Waterways: permanent inland and coastal waters including many rivers and reservoirs.

Public purposes: land for public facilities such as hospitals, high schools, universities, prisons, utilities for electricity, water and treatment of wastewater, commonwealth government and other special uses.

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

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

The 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 anyone else have time to examine the proposals and lodge a submission.

### **What if my land is reserved?**

Land is reserved because it will be needed eventually for a public purpose such as parks and recreation or other regional roads.

If your land is marked for a reservation in an advertised amendment, you can continue to use and enjoy your property. Generally, reserved land can remain in private ownership until it is needed for the purpose for which it is reserved. The WAPC has reservations over many areas of land, which are privately owned.

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

### **How can my views be heard?**

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

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

### **Publications**

In the course of each substantial amendment to the MRS, information is published under the following titles:

#### Amendment report

This document is available from the start of the public submission period of the proposed amendment. It sets out the purpose and scope of the amendment, explains why the proposal is considered necessary and informs people how they can comment.

#### Environmental review report

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

#### Transcript of hearings

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



## Abbreviations

<b>AHA</b>	Aboriginal Heritage Act
<b>DoP</b>	Department of Planning
<b>EPA</b>	Environmental Protection Authority
<b>MRWA</b>	Main Roads WA
<b>MRS</b>	Metropolitan Region Scheme
<b>PTA</b>	Public Transport Authority
<b>TOD</b>	Transit Oriented Developments
<b>WAPC</b>	Western Australian Planning Commission
<b>SWALSC</b>	South West Aboriginal Land and Sea Council



## Location of the proposed amendment to the MRS for 1199/41 - West Perth Regeneration Precinct

Proposed:

① amendment 1199/41

### Legend

METROPOLITAN REGION SCHEME LEGEND			
<b>RESERVED LANDS</b>	<b>PUBLIC PURPOSES -</b>	<b>ZONES</b>	
PARKS AND RECREATION	DENOTED AS FOLLOWS:	URBAN	URBAN DEFERRED
RESTRICTED PUBLIC ACCESS	HOSPITAL	CENTRAL CITY AREA	INDUSTRIAL
RAILWAYS	HIGH SCHOOL	SPECIAL INDUSTRIAL	RURAL
PORT INSTALLATIONS	TECHNICAL SCHOOL	PRIVATE RECREATION	RURAL - WATER PROTECTION
STATE FORESTS	CAR PARK		
WATER CATCHMENTS	UNIVERSITY		
CIVIC AND CULTURAL	COMMONWEALTH GOVERNMENT		
WATERWAYS	STATE ENERGY COMMISSION		
	SPECIAL USES		
	WATER AUTHORITY OF WA		
	PRISON		
<b>ROADS:</b>			
PRIMARY REGIONAL ROADS			
OTHER REGIONAL ROADS			

# **Metropolitan Region Scheme Amendment 1199/41**

## **WEST PERTH REGENERATION PRECINCT**

### **Town of Vincent**

#### **1 Purpose**

The purpose of this amendment is to rezone approximately 9.3 ha of land bounded by Loftus Street, Charles Street, Newcastle Street and the Mitchell / Graham Farmer Freeways from the industrial zone to the urban zone in the Metropolitan Region Scheme (MRS), as shown on **figure 1**.

#### **2 Background**

The subject land is approximately 1 km from the Perth CBD and is 500 m from the Leederville regional centre. The site's current use is predominantly light industrial/commercial with warehouse/storage areas and showrooms. The largest land holding is a vehicle showroom, while a number of affiliated automotive industries are located within the site. Two residential properties are located along Simpson Street. The site was subject to a municipal boundary change from the City of Perth to the Town of Vincent in July 2007.

There are areas of local public open space located along Simpson Street which are proposed to be retained, no Bush Forever sites are located within or abut the subject land. There are no local or state listed heritage buildings within the subject land.

The subject land is accessible from major road and rail transport networks. The Leederville train station (on the Joondalup train line) and the City West train station (on the Fremantle train line) are approximately 800 m from the subject land. The Mitchell/Graham Farmer Freeways are located in close proximity including Charles, Newcastle and Loftus Streets. In this regard, pedestrian movement is limited by the Freeway, railway line and other major roads. The site is also connected to dedicated cycle paths to and from the Perth CBD.

Although the land is located within the Town of Vincent, it is still subject to the provisions of the City of Perth City Planning Scheme No 2. The Town is currently undertaking a review of its Town Planning Scheme No 1. A draft Local Planning Strategy has also been prepared by the Town of Vincent which anticipates the redevelopment of the land.

#### **West Perth Regeneration Masterplan**

In 2005 the Town of Vincent began developing a Leederville Masterplan to revitalise the Leederville area and better utilise its proximity to the Perth CBD and existing transport services. The Town extended the urban renewal of the Leederville town centre to include the West Perth Regeneration Precinct and is part of a precinct that includes Oxford Close, City West and the Water Corporation, and comprises over 50 ha of inner city land that has a low resident population and a relatively low commercial yield.

The West Perth Regeneration Masterplan includes two development options (European Scale / Tower and Podium) which illustrate the possible nature and scale of development for the site. In support of the revitalisation of the precinct and the wider Leederville Masterplan an access, movement and carparking study (SKM, 2008) and a retail, commercial and expenditure modelling study (JCY, 2008) were undertaken for the Town.

Design Option 1, known as 'European Scale', proposes development of 4-5 storeys in the centre of the masterplan area, encompassing a mix of retail/commercial/showrooms and high density residential. The outer development mainly comprises of office development with some buildings up to 8 storeys in height.

Design Option 2, known as the 'Tower and Podium', proposes a mix of 3-6 storey development, comprising of retail/commercial/showrooms and high density residential. The outer areas propose development of mixed heights varying between 3 and 8 storeys and four towers up to 24 storeys. Much of the outer boundary is made up of offices.

Currently the pedestrian route from Beatty Park to Kings Park involves crossing at the Loftus Street freeway overpass which does not provide adequate levels of pedestrian or cyclist safety or comfort. The masterplan recommends the construction of a foot bridge at the southern end of Cleaver Street, which will provide a pedestrian and cycle connection over the rail/freeway barrier to City West and the West Perth area. This link will join Beatty Park and Kings Park as a dynamic activated pedestrian spine.

The masterplan has the potential to revitalise and generate a significant number of benefits for the area by providing the opportunity for:

- Urban consolidation close to the city and public transport;
- The retention of places of heritage significance (located outside the proposed amendment area);
- The promotion of inner city living;
- The introduction of new community facilities;
- The landscaping of streets and new open space areas;
- The continued renaissance of Newcastle Street and adjacent areas; and
- The introduction of new land uses and businesses.

The masterplan envisages that the subject land has the capacity to provide an additional 80 000 m<sup>2</sup> of commercial office space and between 600 and 800 apartments. The proposed density could sustain local retail uses that would allow future residents to walk to local food and café outlets, whilst also having the option of an eight minute walk to the nearby Oxford Street café strip.

### **Public Consultation**

On 30 September 2008 the Town initiated an information forum with landowners and occupiers of the masterplan area, regarding the two masterplan options and vision for the site. Landowners and tenants attended the forum and overall the forum received positive responses from attendees.

Following the landowners and occupiers forum the masterplan was advertised for 28 days in accordance with the Town's community consultation policy. During this period the Town called upon affected landowners and occupiers, community input and government and non-government authorities to provide comment on the masterplan. In November 2009, the Town supported in principle Design Option 1 (European Scale) as it's preferred development option.

For more information on the West Perth Regeneration Precinct Masterplan please refer to the Town of Vincent website: [www.vincent.wa.gov.au](http://www.vincent.wa.gov.au).

### **3 Scope and content of the amendment**

The amendment relates to various lots bounded by Newcastle Street to the north, the Graham Farmer Freeway to the south, Loftus Street to the west and Charles Street to the east and proposes to rezone the land from the industrial zone to the urban zone to enable a range of uses and scale of development as depicted in the West Perth Regeneration Masterplan.

The total area subject of this amendment is approximately 9.3 ha.

### **4 Discussion**

#### **Directions 2031 – draft Spatial Framework for Perth and Peel**

Directions 2031 balances urban growth needs with the goals to protect our natural ecosystems. The framework provides for different lifestyle choices, vibrant nodes for economic and social activity and proposes to deliver on the aspiration of a more sustainable urban transport network.

Directions 2031 states that it is critical that the provision of infrastructure is fully integrated with land use planning and development. Directions 2031 strongly supports the development of a number of key strategic activity centres well connected by public transport. A focus on activity centres is essential to create more efficient regions which facilitate economic development and reduce the need for travel.

The proposed amendment accords with the intent of Directions 2031 as it will seek to maximise a range of commercial and residential uses in the Perth inner city, which is in close proximity to the existing regional road and rail infrastructure and established social infrastructure.

#### **Draft Industrial Land Strategy**

The draft Industrial Land Strategy states that there has been the gradual erosion of industrial estates by higher uses such as commercial and retail. It is inherent that appropriate measures are put in place to protect and preserve the remaining industrial estates.

The draft strategy states that in rare instances that an industrial area has been demonstrably depleted to such an extent that it no longer has any, or has very little, economic value, rezoning the land to a more suitable use that is reflective of its location may be considered. The criteria that would be applied in considering such an application for rezoning may include a demonstration by the proponent that:

- The land does not meet any of the economic criteria required for industrial use;
- The land is no longer conducive to continuing industrial activities, and alternative uses will provide compelling community or economic benefits;
- Rezoning will not affect (individually or cumulatively) nearby industries by, for example, restricting operating hours, delivery times, or the capacity of the local transport network; and
- Impact on environmental, ecological or drainage systems can be adequately compensated.

In relation to the above criteria, the Town has undertaken a masterplan in consultation with a range of State Government agencies, affected landowners and undertaken related studies. The masterplan concludes that the site is prime for regeneration as it is no longer used for heavy or general industrial purposes, is predominately a mix of commercial/light industrial uses and there is general support for its redevelopment by affected landowners.

### **Network City - Community Planning Strategy for Perth and Peel**

Network City was designed to create a strategic vision for Perth and Peel. Many of the principles outlined in this strategic document have been incorporated in the masterplan.

The Town has advised that the land represents an area in transition and is likely to remain a predominantly commercial area in the foreseeable future, with a trend for inner city living given the proximity to the CBD. Given the above in the context of Network City, the Town proposes that the industrial zone be replaced with an urban zone to facilitate the regeneration of the site.

The Town also advises that the masterplan addresses these key principles of Network City by consolidating urban densities on existing land. The masterplan is likely to alleviate some of the pressures from the Perth CBD by creating new office spaces. It also proposes to maximise inner city accommodation.

### **DC 1.6 - Planning to Support Transit Use and Transit Oriented Development**

Transit oriented developments (TOD) are relatively dense, walkable urban developments about 10-15 minutes walking time, or an 800 m distance, for rail stations, transit interchanges or major bus transfer stations or terminals, and centred around public transport infrastructure. TOD reduces the reliance on vehicles and prioritises alternative transport methods.

Within existing developed areas, there are clear opportunities to intensify existing activities and to promote new uses that will make better use of transit facilities and services. As the public transport system is further refined and extended, there will be emerging opportunities for new development that is focused upon, and maximises the benefits derived from significant new public investments in transit infrastructure.

Although the regeneration precinct is not fully within an 800 m catchment of the Leederville rail station and access to the West Perth rail station is restricted by the existing freeway/rail barrier, the masterplan proposal adheres to the principles of TOD as the following:

- The subject land is approximately 800 – 1000 m from the catchment of a rail station;
- The maximisation of high density residential dwellings, commercial and office developments;
- A new pedestrian/cycle connection north-south across the freeway/rail barrier which provides an improved connection to the West Perth rail station;
- Connection to the Perth bicycle network; and
- A safe and pedestrian-friendly environment within the study area.

#### **SPP 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning**

Road and rail transport corridors play a vital role in moving people and goods safely, efficiently and effectively, and they provide wide-ranging economic and social benefits to the community. Growing volumes of general traffic and freight, and a greater community awareness of amenity and quality of life issues, have led to transport noise becoming an increasingly important consideration in land use planning.

As the Mitchell / Graham Farmer Freeways and other major roads abut the subject land, the Environmental Protection Authority (EPA) has advised that 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 (MRWA).

Noise reduction strategies will be designed and implemented in conjunction with local government recommendations and government agency guidelines. Where practicable, management measures will be incorporated into the future development to minimise the impact of noise.

#### **Environment**

The office of Environmental Protection Authority has advised that the main environmental issues relevant to the change in the zoning of the site from industrial to urban are:

##### *Contamination*

As the subject area has a mix of landuses which include industrial, commercial and residential, the soil and groundwater is considered to be potentially contaminated. It is recommended that a subdivision condition be imposed which requires the undertaking of a site investigation, prior to any ground disturbing activities to determine the extent and severity of contamination of the proposed lots.

If the site is found to be contaminated then a site remediation and validation report is to be produced in consultation with the Department of Environment and Conservation.



## Noise & Vibration

The subject land is bounded by Newcastle Street, Graham Farmer Freeway, Loftus Street and Charles Street which may create the potential for noise, vibration and light spill to impact upon future residential development. It is recommended that noise and vibration site specific studies or at least predictions be carried out prior to subdivision to determine noise levels on the site, the extent of noise affected areas and management measures which can be implemented through development of the site.

Notification in the form of a memorial is to be placed on the Certificate of Title of all residential lots advising of the existence of a hazard or other factor, the notification should read as follows:

*"The subdivider making arrangements satisfactory to the WAPC to ensure that prospective purchasers of the proposed lots will be advised of the potential for amenity issues from Newcastle, Loftus and Charles Street and the Graham Farmer Freeway, and that a memorial is placed on title advising of the impacts and measures that should be taken to mitigate the impacts."*

At the detailed planning stage the EPA advises that a combination of measures would be required to efficiently treat noise exposure and meet accepted guidelines such as:

- Providing barriers or adjusting the site layout to create separation distances between sources and receivers;
- Noise mitigation measures incorporated during the construction of residential dwellings; and
- Provision of suitably detailed information to prospective purchasers to allow them to make informed decisions on noise issues.

## Urban water management

The Department of Water (DoW) has considered the proposed MRS amendment and raises no objections. The DoW has advised that any stormwater runoff from any future development may have an impact on the ecological features of the receiving system. The stormwater management system should be designed to conform with the DoW *Stormwater Management Manual for WA (2004 - 2007)*.

## Summary - Environment and urban water management

The environmental issues referred to above are matters which are routinely addressed by the proponent and local government as part of the detailed local structure planning process. Some of the matters may also be subject to subdivision and/or development conditions to ensure implementation of state and local government agency requirements.



## Infrastructure

### Water Corporation

The Water Corporation has advised that it is preferable for an infrastructure planning timetable be discussed so that review's can be included on the Corporation's State-wide Planning Program which is updated annually. Since redevelopments of such a large scale require case by case assessment, there may be land servicing and funding concepts that also need review. In summary, the Corporation has advised as follows regarding water and wastewater infrastructure and land resumption requirements:

*Water supply:* The Leederville Masterplan and West Perth regeneration areas are served by a 500 mm distribution water main crossing the Freeway. Some level of increased development can be accommodated by upgrading or duplicating the local reticulation water mains at the developers cost however there is a limit to the extent that can be served from the existing distribution main and its source.

*Wastewater:* Changes to landuses leading to higher density development will increase the sewer design flows in the area of the Leederville Masterplan and West Perth regeneration areas. Increased development can be accommodated by upgrading the local reticulation wastewater gravity main at the developers cost, however, there is a limit to the extent that can be accommodated without affecting the overall system and the Shenton Park wastewater treatment plant;

*Land requirements:* If any of the existing road reserves, public open space areas and other land containing existing Corporation infrastructure require modification, new infrastructure may need to be constructed and appropriate land acquired.

### MRWA

Main Roads WA (MRWA) advised that it was unable to support the West Perth Regeneration Masterplan and MRS amendment until a number of transport related issues were satisfactorily resolved as follows:

- A Strategic Impact Assessment will need to be undertaken with ROM modelling and Sidra analysis for the anticipated land use options. The masterplan needs to resolve the combined transport impacts and implications of both redevelopments on the regional road network;
- The capacity of the existing road network is limited. Planning documents should recognise priority access to other regional developments including access to QEII medical centre;
- Planning should demonstrate how both masterplan redevelopments will fit into the regional context, including the Perth CBD;
- What is the target mode shift for non-private vehicle trips and how this will be achieved; and
- Main Roads WA has a similar view to the PTA in that it does not support the proposed Cleaver Street train station.

## PTA

The Public Transport Authority (PTA) raises no objections to the amendment but objects to the suggestion that a new railway station be provided to service the development. The land in question is already well serviced by public transport with direct links to Leederville Station, as well as Transperth bus routes along Newcastle Street. Also the provision of a new station which is less than 1 km from Perth Central is not justified and has no support from the PTA.

### **Parallel local planning scheme amendment**

In order to address the Water Corporation and MRWA requirements raised above (amongst other issues), it is proposed that the Town of Vincent undertake a separate parallel local scheme amendment in which the following issues should be addressed:

- a strategic transport assessment being undertaken to the satisfaction of MRWA;
- the provision for cycle and pedestrian connectivity;
- the nature and scale of future land uses including some provision for service industrial land uses;
- noise abatement issues being addressed; and
- the provision for developer contributions towards upgrading of road and servicing infrastructure (i.e. Water Corporation requirements).

The local scheme amendment should be undertaken in consultation with service providers, the Department of Planning and City of Perth, and sufficient progress towards the progression of the local scheme amendment will be required to be demonstrated prior to the finalisation of the MRS 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. It is administered by the Department of Indigenous Affairs. 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 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.

Nevertheless, in recognising the importance of having reliable Aboriginal information on land and the values attached to it, the WAPC / DoP has 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 have Aboriginal interest are now referred to SWALSC for comment before being released for public submission. SWALSC is the recognised native title representative body for Western Australia's south west region, and as such is also well placed to provide advice on Aboriginal heritage.

In this regard, this amendment has not been pre-referred to SWALSC as the amendment was submitted prior to the Memorandum of Understanding between the SWALSC and the WAPC. However, it will be referred to SWALSC during the formal advertising period.

## **6 Coordination of local and region scheme amendments**

Under section 126(3) of the *Planning and Development Act 2005* the Town of Vincent has the option of requesting the WAPC to concurrently rezone the subject land to an urban development zone or similar. In this regard, the Town has not requested the concurrent amendment of the Local Planning Scheme as the land is still subject to the City of Perth City Planning Scheme No 2. The Town will be required to undertake a separate local planning scheme amendment for the site as discussed above.

## **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 Policy DC 1.9 Amendment to region schemes sets out the criteria for deciding whether the major or minor process should be followed. The criteria relate to a variety of matters, not all of which relate to every amendment. In this regard, the amendment is proposed to be processed as a major amendment given it replaces industrial zoned land with an urban zoning in the Perth inner city in which the scale and impact is of regional significance.

## **8 Sustainability appraisal**

The proposed urban zone will provide an opportunity for infill residential and commercial development and overall regeneration of the subject land. The Town of Vincent advises that the West Perth Regeneration Masterplan will guide future development in a manner that meets the communities changing needs and is more receptive to transit oriented design and green building design. The masterplan's close proximity to the Perth CBD and Leederville rail station (and other nearby stations) encourages the efficient and sustainable use of public transport.

## **9 Environmental Protection Authority advice**

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

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

## 10 The amendment process

The procedures for amending the MRS are prescribed by the *Planning and Development Act 2005*. The amendment proposed in this report is being made under the provisions of section 41 of the Act.

In essence, this procedure for a substantial alteration to the scheme (often referred to as a major amendment) involves:

- formulation of the amendment by the WAPC;
- referral to the EPA for environmental assessment;
- completion of an environmental review (if required) to EPA instructions;
- public submissions on the proposed amendment (including the environmental review if required);
- consideration of submissions (including hearings where requested);
- referral of WAPC recommendations, with or without any modifications in response to submissions, to the Minister for Planning
- approval by the Governor
- consideration by both Houses of Parliament, who can disallow the amendment,
- amendment takes legal effect when no longer subject to disallowance after 12 sitting days
- where the WAPC has agreed to the parallel amendment of a local planning scheme under section 126(3) of the Planning and Development Act, the local planning scheme amendment becomes effective upon gazettal of the MRS amendment.

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 three months from Friday 10 December 2010 to Friday 18 March 2011.

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

- i) Western Australian Planning Commission, 469 Wellington Street, Perth;
- ii) Cities of Perth, Fremantle and Subiaco and the Town of Vincent;
- iii) the State Reference Library, Northbridge.

Written submissions on the amendment should be sent to:

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

**and must be received by 5pm Friday 18 March 2011.**

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form (form 41) for this Amendment 1199/41 is attached to this report (appendix E). Additional copies of this form are available from the display locations and the PlanningWA website [www.planning.wa.gov.au](http://www.planning.wa.gov.au).

You should be aware that the calling for submissions is a public process, and all submissions lodged will become public. All submissions are published and made available when the amendment is presented to both Houses of Parliament. Advice of disclosure and access requirements is shown on side two of the submission form.

Before making your submission, it is recommended that you read the information in appendix D of this report regarding preparing a submission.

## **12 Hearings**

Any person making a written submission also has the opportunity to personally present the basis of their submission to a sub-committee of the WAPC. Details required for attending the hearings are on side two of the submission form.

Presentations made to the hearings committee are an extension of the submission process, and the transcript of all hearings will become a public document. The transcript is published and made available when the amendment is presented to both Houses of Parliament. Before completing your submission form, please refer to the information regarding hearings in appendix D of this report.

## **13 Modifications to the amendment**

After considering any comments received from the public and government agencies, the WAPC may make modifications to the amendment.

The recommendations of the WAPC, including any modifications, are published in a report on submissions. Anyone who has made a submission will receive a copy of this document when the amendment is tabled in Parliament. The report will also be available on the PlanningWA website [www.planning.wa.gov.au](http://www.planning.wa.gov.au).

## **14 Final outcome**

After considering the submissions, the WAPC may make modifications to the amendment. The WAPC will then submit the amendment plans, together with a *Report on Submissions* and a copy of all written submissions, to the Minister for Planning for presentation to the Governor.

If the Governor approves, a copy of the plans of the amendment together with the *Report on Submissions* will be laid before each House of Parliament for twelve sitting days. Either House may, by resolution, disallow an amendment within that time. As soon as the amendment is no longer subject to disallowance it becomes legally effective in the MRS.

People who have made submissions will be kept advised on the progress of the amendment, and along with all affected landowners, will be notified of the final outcome.

**MRS Amendment 1199/41  
West Perth Regeneration Precinct**

**Figure 1**



## West Perth Regeneration Precinct - proposed major amendment as advertised

24 August 2010

Figure 1

Proposed:



urban zone

Legend

## **Appendix A**

### **Notice of environmental assessment**





# Environmental Protection Authority

The Atrium,  
Level 8, 168 St Georges Terrace,  
Perth, Western Australia 6000.  
Telephone: (08) 6467 5000.  
Facsimile: (08) 6467 5557.

Postal Address: Locked Bag 33,  
Cloisters Square, Perth, Western Australia 6850.  
Website: [www.epa.wa.gov.au](http://www.epa.wa.gov.au)

Director General  
Department of Planning  
469-489 Wellington Street  
PERTH WA 6000

Our Ref A336269  
Enquiries Karen Fearby 6467 5245

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

**SCHEME AMENDMENT TITLE:** Metropolitan Region Scheme Amendment  
1201/57 Rezoning from rural to urban  
**LOCATION:** Lots 1 and 2 Flynn Drive  
**LOCALITY:** Carramar  
**RESPONSIBLE AUTHORITY:** Western Australian Planning Commission  
**DECISION:** Scheme Amendment Not Assessed -  
Advice Given (no appeals)

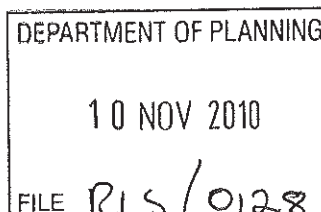
The above scheme amendment has been referred to the Environmental Protection Authority (EPA) for assessment.

Please find enclosed a copy of the EPA's letter to the Western Australian Planning Commission dated 8 November 2010 for your information and records.

Colin Murray  
Director  
Assessment and Compliance Services

8 November 2010

Enc.



## **Appendix B**

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

**WEST PERTH REGENERATION PRECINCT**

**PROPOSED MAJOR AMENDMENT**

**AMENDMENT 1199/41**

**AS ADVERTISED**

**3.2380**

**DETAIL PLAN**

3.2389 - WEST PERTH URBAN

## **Appendix C**

### **Your property and the Metropolitan Region Scheme**

# **Your Property and the Metropolitan Region Scheme**

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

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

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

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

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

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

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

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

**or**

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

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

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

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

Following the determination by the board:

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

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

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

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

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

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

## **What is compulsory acquisition?**

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

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

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

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

**Should you have any queries concerning the matters raised in this brochure, please do not hesitate to contact the Department of Planning, WAPC Property Management Services.**

## **Appendix D**

### **Preparing a submission and for a hearing presentation**

## **Preparing a submission and for a hearing presentation**

The WAPC welcomes comment on proposed amendments to the MRS from interested individuals, groups and organisations.

### **What is a submission?**

A submission is a way to express your opinion and provide information. It is an opportunity to explain why the amendment should be supported, withdrawn or modified. Suggestions of alternative courses of action are also welcomed.

Making a submission is not the same as voting in an election. The number of submissions received for or against a proposal will not in itself determine the result. Rather, it is the reasoned argument of why a particular thing should or should not be done. Your submission will assist the WAPC in reviewing its planning proposal before proceeding. Advertised proposals are often modified in response to the public submission process.

### **What should I say?**

Your comments should focus on the particular issues that arise from the proposed amendment. If there are a number of components in the amendment, please indicate exactly which ones you are addressing.

It is important that you state your point of view clearly and give reasons for your conclusions and recommendations. These may include an alternative approach or other ways for the WAPC to improve the amendment or make it more acceptable. Indicate the source of your information or argument where applicable.

If you prefer not to write your own comments, you may consider joining a group interested in making a submission on similar issues. Joint submissions can increase the pool of ideas and information.

### **Before lodging your submission**

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

The closing date for submissions and where they should be lodged is shown on form 41 and in the submissions on the amendment section of the amendment report. To be eligible to make a presentation to the hearing committee, your written submission must be received by the closing date.

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

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



## **Do you want a hearing?**

The *Planning and Development Act 2005* provides the opportunity for people who have made a written submission to personally present the basis of their submission to a sub-committee of the WAPC. You do not have to attend a hearing. The comments presented by you in your submission will be considered in determining the recommendation for the proposed amendment.

Hearings are arranged so that the WAPC can listen to a person, should they wish to explain or expand on their written submission. A hearing is for listening to points of view and planning rationale, it is not a forum of general public debate. In the case of a group, a spokesperson must be appointed to represent the group. The time allocated for a hearing is usually 15 minutes, which includes time for questions the committee may have of the presenter.

The hearings committee is appointed by the WAPC and is usually comprised of two WAPC committee members and one other person with planning knowledge and expertise related to issues raised in submissions.

You may choose to have your presentation conducted in public or private. A public hearing allows other persons, including the media, to attend. In a private hearing only those persons nominated by you and by the hearings committee may attend.

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

## **Appendix E**

**Submission form for this amendment  
(form 41)**

**turn over to complete your submission**

## Hearing of submissions

Anyone who has made a written submission on the amendment has the opportunity to personally present the basis of their submission to a sub-committee of the WAPC. **You do not have to attend a hearing.** The comments presented by you in this written submission will be considered in determining the recommendation for the proposed amendment.

For information about the submission and hearings process, please refer to the amendment report and in particular appendix D.

### Please choose one of the following:

☐ **No**, I do not wish to speak at the hearings. (Please go to the bottom of the form and sign)

OR

☐ **Yes**, I wish to speak at the hearings. (Please complete the following details)

**I will be represented by:**

☐ Myself – My telephone number (business hours): .....

**or**

☐ A spokesperson

Name of spokesperson: .....

Contact telephone number (business hours): .....

Postal address: .....

**I would prefer my hearing to be conducted in:**

☐ Public (members from the general public may attend your presentation)

**OR**

☐ Private (only the people nominated by you or the hearings committee will be permitted to attend)

You should be aware that:

- The 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.
- All hearings are recorded and transcribed. The transcripts of all hearings, along with all written submissions, are tabled in Parliament and published as public records should the Governor approve the proposed amendment. The WAPC recommendations are similarly published in a report on submissions and tabled in Parliament.

### **To be signed by person(s) making the submission**

Signature ..... Date .....

**Note: Submissions MUST be received by the advertised closing date, being close of business (5pm) on 18 March 2011. Late submissions will NOT be considered.**