



October 2021

**Metropolitan Region  
Scheme Amendment  
1377/57 (Minor Amendment)**



**Forrestfield North  
Environmental Conservation Areas**

Report on Submissions

City of Kalamunda



---

**Metropolitan Region Scheme  
Amendment 1377/57  
(minor amendment)**

**Forrestfield North  
Environmental Conservation Areas**

---

**Report on Submissions**

City of Kalamunda



October 2021

The Western Australian Planning Commission acknowledges the traditional owners and custodians of this land. We pay our respect to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

**Disclaimer**

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

© State of Western Australia

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

Locked Bag 2506  
Perth WA 6001

MRS Amendment 1377/57      Report on Submissions

File 833-2-24-66 Pt 1

Published October 2021

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

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

## Introduction to Metropolitan Region Scheme minor amendments

The Western Australian Planning Commission (WAPC) is responsible for keeping the Metropolitan Region Scheme under review and initiating changes where they are seen as necessary.

The Metropolitan Region Scheme (MRS) sets out the broad pattern of land use for the whole Perth metropolitan region. The MRS is constantly under review to best reflect regional planning and development needs.

An amendment proposal to change land use reservations and zones in the MRS is regulated by the *Planning and Development Act 2005*. That legislation provides for public submissions to be made on proposed amendments.

For a non-substantial amendment, often referred to as a minor amendment (made under section 57 of the Act), the WAPC considers all the submissions lodged, and publishes its recommendations in a report on submissions. This report is presented to the Minister for Planning for approval. The amendment takes legal effect with Gazettal of the Minister's approval.

In the process of making a non-substantial amendment to the MRS, information is published as a public record under the following titles:

### **Amendment report**

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

### **Environmental review report**

The Environmental Protection Authority must consider the environmental impact of an amendment to the MRS before it can be advertised. While formal assessment would be unlikely for a non-substantial amendment, were it required then an environmental review would be undertaken and made available for information and comment at the same time as the amendment report.

### **Report on submissions**

The planning rationale, determination of submissions and the WAPC's recommendations for final approval of the amendment, with or without modification, is documented in this report.

### **Submissions**

This document contains a reproduction of all written submissions received by the WAPC on the proposed amendment.



# Contents

## Report on Submissions

1	Introduction.....	1
2	The proposed amendment .....	1
3	Environmental Protection Authority advice .....	1
4	Call for submissions .....	1
5	Submissions .....	2
6	Main issues raised in submissions .....	2
7	Determinations .....	3
8	Coordination of region and local scheme amendments.....	3
9	Conclusion and recommendation .....	3
10	Ministers decision .....	3

Schedule 1: Alphabetical listing of submissions

Schedule 2: Summary of submissions and determinations

Schedule 3: The amendment figure – proposal 1 as advertised

Appendix 1: List of detail plans as advertised



## Report on Submissions



# Metropolitan Region Scheme Amendment 1377/57

## Forrestfield North Environmental Conservation Areas

### Report on Submissions

#### 1 Introduction

At its July 2020 meeting, the Western Australian Planning Commission (WAPC) resolved to proceed with this amendment to the Metropolitan Region Scheme (MRS) in accordance with the provisions of Section 57 of the *Planning and Development Act 2005*.

The principal differences between the minor and the major MRS amendment processes are that the former includes a 60 day advertising period while the period for the latter is 90 days, the former is not required to be placed before Parliament (for 12 sitting days) while the latter is and there is not a requirement for submitters to be offered hearings for minor amendments.

#### 2 The proposed amendment

##### Purpose

The amendment proposal was described in the previously published *Amendment Report* and a description of the proposal is repeated below.

The purpose of the amendment is to transfer approximately 10.2 ha of land in High Wycombe from the Urban and Rural zones to the Parks and Recreation reservation in the MRS. The amendment also zones a small Urban area for future Public Open Space (POS) and to reflect an existing road and property.

The amendment facilitates the protection of areas of high biodiversity value for environmental conservation.

#### 3 Environmental Protection Authority advice

On 24 August 2020, the Environmental Protection Authority (EPA) advised that the proposed amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986*, and that it was not necessary to provide any advice or recommendations.

A copy of the notice from the EPA is in Appendix A of the *Amendment Report*.

#### 4 Call for submissions

The amendment was advertised for public submissions from 29 September 2020 to 4 December 2020. The amendment was made available for public inspection during ordinary business hours at the:

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

During the public inspection period, notice of the amendment was published in *The West Australian* and relevant local newspaper/s circulating in the locality of the amendment.

## **5 Submissions**

Fourteen submissions (includes one late submission) were received on the amendment. An alphabetic index of all the persons and organisations lodging submissions is at Schedule 1.

Two submissions were of support, one was of objection and 11 were of non-objection / comment.

A summary of each submission with WAPC comments and determinations is at Schedule 2. A complete copy of all written submissions is contained in this report.

## **6 Main issues raised in submissions**

### **6.1 Extent of Parks and Recreation Reserve and Bush Forever Site 45**

Submission No. 13 raised issues regarding the extent of the Parks and Recreation reserve and Bush Forever site 45 over Lot 82 (No. 80) Brae Road, High Wycombe.

*WAPC Response: The intent of the amendment is to reserve as Parks and Recreation those areas identified for conservation in the WAPC endorsed Forrestfield North Local Structure Plan (LSP). The amendment also zones a small Urban area for future POS purposes and to reflect an existing road and property.*

*The Forrestfield North LSP was supported by a Strategic Conservation Management Plan (and associated management agreement) and ensures that Bush Forever sites 45 and 123 are protected as a 'green link'. Once all POS and Parks and Recreation reserves are in public ownership further modification of Bush Forever sites 45 and 123 may need to be undertaken to align with these conservation areas.*

*Extensive consultation was undertaken with the Department of Water and Environmental Regulation (DWER), Department of Biodiversity, Conservation and Attractions (DBCA) and the City of Kalamunda as part of the Forrestfield North LSP. The EPA advised that protecting the Wavy-Leaved Smokebush is a priority with a 'green link' connecting Bush Forever site 123 on Sultana Road West with the environmental values adjacent to Brand Road with Poison Gully Creek (Bush Forever site 45). This 'green link' represents the area where all environmental values best overlap and is the key reason for the distribution of the POS and conservation areas. A minimum 50 m width was applied to the 'green link' to allow for a consolidated ecological corridor, and the POS surrounding the conservation areas provides a buffer around these sites.*

*In relation to portion of Bush Forever site 45 (to be reserved Parks and Recreation) within Lot 82 Brae Road. The DBCA, DWER and the Department of Planning, Lands and Heritage (DPLH) confirm that the land (and surrounding lots) forms part of an important ecological linkage between the Sultana Road West bushland to Poison Gully Creek. Any intact native vegetation on-site is to be retained and enhanced. The intent of POS areas in the Forrestfield North LSP was to provide buffers and linkages to the environmental conservation areas, with the majority of the POS areas proposed for revegetation and conservation management irrelevant of their current vegetation condition. Portion of the site also forms part of a foreshore area to Poison Gully Creek.*

Therefore, given the above, it is not intended that the portion of Bush Forever site 45 and/or the Parks and Recreation reserve within Lot 82 Brae Road be further modified as part of this amendment process. However, the WAPC notes that the finalisation of the amendment will give landowners statutory rights to claim compensation for injurious affection for land to be reserved as Parks and Recreation in the MRS.

*Submission Dismissed.*

## **7 Determinations**

The responses to all submissions are detailed in Schedule 2 - *Summary of submissions and determinations*. It is recommended that the amendment be adopted for finalisation as advertised.

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

Under section 126(3) of the *Planning and Development Act 2005*, the WAPC has the option of concurrently rezoning land that is being zoned Urban under the MRS, to a “Development” zone (or similar) in the corresponding Local Planning Scheme (LPS).

If the amendment is finalised the MRS Parks and Recreation areas will be reflected in the City of Kalamunda LPS 3. The WAPC also supports portion of the Urban zoned land (Pt Lot 2 Milner Road, High Wycombe) being concurrently rezoned from the “Special Rural” zone to the “Urban Development” zone pursuant to section 126(3) of the *Planning and Development Act 2005*.

## **9 Conclusion and recommendation**

This report summarises the background to minor amendment 1377/57 and examines the various submissions made on it.

The WAPC, after considering the submissions, is satisfied that the amendment as shown generally on the Amendment Figure – Proposal 1 in Schedule 3 and in detail on the MRS amendment plan listed in Appendix 1 should be approved and finalised.

The WAPC recommends that the Minister for Planning approves the amendment.

## **10 Ministers decision**

Amendments to the Metropolitan Region Scheme using the provisions of section 57 of the *Planning and Development Act 2005* require the WAPC to provide a report and recommendation to the Minister for Planning for approval. The Minister may approve, approve with modification or decline to approve the proposed amendment.

The Minister, after considering the amendment, has agreed with the recommendation of the WAPC and approved the amendment.

MRS Amendment 1377/57 is now finalised as advertised and shown on WAPC Amending Plan 3.2775 and has effect in the Metropolitan Region Scheme from the date of notice in the *Government Gazette* on 15 October 2021.



## Schedule 1

### Alphabetical listing of submissions



## Alphabetical Listing of Submissions

MRS Amendment 1377/57

### Forrestfield North - Environmental Conservation Areas

<b>Submission Number</b>	<b>Name</b>
8	ATCO Gas Australia Pty Ltd
13	De Reggi, Lynette & Miles, Peter
6	DoCouto Azcarate, Andrea
12	Education, Department of
4	Health, Department of
1	Jobs, Tourism, Science and Innovation, Department of
10	Kalamunda, City of
9	Main Roads WA
5	Mines, Industry Regulation and Safety, Department of
7	Public Transport Authority
3	Transport, Department of
11	Water and Environmental Regulation, Swan Avon Region, Department of
2	Water Corporation

  

<b>Late Submissions</b>	<b>Name</b>
14	Biodiversity, Conservation and Attractions, Swan Region, Department of



## Schedule 2

### Summary of submissions and determinations



---

**REFER TO THE SUBMISSIONS SECTION FOR A FULL COPY OF EACH WRITTEN SUBMISSION AND SUPPORTING INFORMATION**

---

**Submission:** 1, 2, 3, 4, 5, 7, 8, 9, 11, 12

**Submitted by:** Department of Jobs, Tourism, Science and Innovation, Water Corporation, Department of Transport, Department of Health, Department of Mines, Industry Regulation and Safety, Public Transport Authority, ATCO Gas, Main Roads WA, Department of Water and Environmental Regulation, Department of Education

**Summary of Submission:** COMMENT

The above State Government agencies and infrastructure providers raise no objections, no comment or provide general comments on the amendment.

**Planning Comment:** Comments noted.

**Determination:** Submissions noted.

---

**Submission:** 6

**Submitted by:** Andrea DoCouto Azcarate (interested resident)

**Summary of Submission:** SUPPORT

The amendment is supported.

**Planning Comment:** Support noted.

**Determination:** Submission noted.

---

**Submission:** 10

**Submitted by:** City of Kalamunda

**Summary of Submission:** SUPPORT

Interim Submission

The City has invested significantly in the local structure planning process for the Forrestfield North project area and subsequently ensuring the environmental values within the area are appropriately protected at the highest level through MRS reservation.

The WAPC approved Forrestfield North LSP identifies portions of land that contain significant biodiversity values as Environmental Conservation. The Forrestfield North Strategic Conservation Management Plan (SCMP) and Agreement prepared as supporting documents to the LSP outline the mechanisms to enable protection of the environmental

values in the area. This includes the reservation of the areas identified as Environmental Conservation as Parks and Recreation in the MRS.

The City appreciates the support and co-ordination from the relevant State Government agencies in facilitating the mechanisms in which the values are to be protected. The City supports the initiation of the MRS Amendment, content of the *Amendment Report* and recommends the amendment is progressed as a matter of priority to achieve the intended environmental protection of Environmental Conservation land, to align with the Forrestfield North LSP and to provide landowners with greater certainty on the future of their land.

In regard to the portion of land proposed to be rezoned to Urban under the MRS. The City requests a concurrent LPS amendment to rezone this portion of land from the “Special Rural” zone to the “Urban Development” zone.

### Final Submission

In December 2020, the Council considered the City of Kalamunda’s officer comments on the MRS amendment. However, further information was provided to Council by landowners who are in negotiations with the WAPC for the purchase of their land. In the context of the information provided, the Council unanimously resolved to:

- Request that the WAPC defer consideration of the amendment for a minimum of six months for the following reasons:
  - Enable landowners within the amendment area sufficient time to consider information received from the DPLH/WAPC in relation to their land.
  - Enable landowners within the amendment area to further engage with the DPLH/WAPC without the amendment influencing the timeliness or otherwise of those discussions.
  - Enable landowners within the amendment area to seek their own independent advice prior to the amendment progressing through the consideration and statutory process.
- In accordance with Council’s resolution the City requests that consideration of the MRS amendment be deferred for a minimum of six months.

**Planning Comment:** Support noted. Refer to part “8. *Co-ordination of Region and Local Scheme Amendments*” of the Report on Submissions.

The WAPC notes that the final consideration of the proposed amendment was deferred for a minimum of six months after the close of the public submission period. This has enabled further consideration of the proposed amendment and associated matters by affected landowners.

**Determination:** Submission noted.

---

**Submission:** 13

**Submitted by:** Peter Miles & Lynette De Reggi (affected residents)

**Summary of Submission:** OBJECTION

The submitters purchased Lot 82 (No. 80) Brae Road, High Wycombe 16 years ago. They advise they did their due diligence with the Shire, now City of Kalamunda, who failed to inform them of the Bush Forever overlay on their property. The seller did not inform them, nor the real estate agent and it is not on their Certificate of Title. The submitters paid full price for the property. They advise that they never would have purchased the property if it was known to have Bush Forever.

In a meeting with a Bush Forever representative, the submitters were informed the Department failed to check with Landgate as to who the owners of the property were, and all correspondence was addressed to the previous owner of the property.

This area is known as Forrestfield North which 50 years ago consisted of 2 blocks of 5 acres, one being all bush and one being a combination of bush and a passion fruit/citrus orchard, it was zoned Rural, the remaining area was all bush. In the mid-1970's, a subdivision approval changed the zoning to "Special Rural" to allow for development. Many properties were completely cleared for orchards, small holdings of stock, chickens, horses also homes and sheds, creating hobby farms now referred to and sold as lifestyle properties. Other properties, such as the submitters, were partly cleared leaving some natural bushland.

In the last 16 years, the area been subject to two zoning changes, once as industrial development and now as an Urban/residential development, but regardless of the whether the zoning is industrial or residential, the subject land continues to be Bush Forever/environmental conservation. The majority of properties in Forrestfield North are zoned Urban, but not the submitters which is Rural. Even though its 13 km from the Perth CBD and is considered of a lesser value.

There are 17 landowners affected by this amendment, they average in age from 60 to 90 and should be enjoying their senior years, but are not due to the planning of their properties, landowners are unable to sell their land on the open market, nobody will buy it when it is clouded by the uncertainty of development. Developers won't buy the land as they cannot profit from it. This has resulted in extreme stress and caused many health issues, both mentally, physically and financially.

If this amendment is finalised, approximately 50% of the land becomes a Parks and Recreation reserve and the remaining 50% will be POS. Should the land be Bush Forever, no, not 50% of it. The submitter attached an environmental report commissioned by the City of Kalamunda which states that their land is degraded and should not be Bush Forever other than a very small section. Most of the Bush Forever portion consists of a very denuded chicken run and an olive grove.

The Bush Forever overlay was deemed by a Government Department approximately 20 years ago. Bush Forever has a small budget and few staff to administer it. Due to the lack of staff, the submitter has been unable to have the property assessed to see if it still should be Bush Forever. The property was deemed Bush Forever because of an aerial photo from approximately 20 years ago. The submitter understands that a Bush Forever representative has never inspected the property. At the request of the submitter, the DBCA inspected the Bush Forever area and they did not find a chicken run or an olive grove to have conservation value.

In June 2020, the submitter received a letter from the WAPC offering to purchase the whole of the land at an agreed value. The WAPC contracted two independent Licensed Valuers from their Board of Valuers to value the whole of the land and home. The valuers were instructed to value the land taking into account the environmental constraints on the land to be reserved as Parks and Recreation. This is contrary to the Australian Property Institute's manual. How can it be lawful or right for a Government Department to deem the land Bush

Forever approximately 20 years ago and then another Department to influence its value for purchase.

In 2015, the submitter commissioned an expert (at a considerable fee) in the field regarding their property. Nothing has changed, except, due to fire mitigation requirements from the City of Kalamunda the land is now more degraded of natural bush.

If this amendment is finalised, the land becomes a Parks and Recreation reserve, and the WAPC/State Government is withdrawing their offer to purchase the entire property. The submitter provided an email informing them of the reasons.

If the submitters do not sell to the WAPC until after 50% of their land becomes a Parks and Recreation reserve, they will have to trigger the MRIF to be purchased. The POS land will then have to be purchased by the City of Kalamunda through a Development Contribution Plan. The City of Kalamunda has stated on many occasions, the POS land will not be required to be purchased for the next 10 to 20 years. The submitters do not feel they are given any real choice in the matter as the Government 'holds all the cards'.

This proposal has been going for 16 years, if the land is not required for another 20 years, the submitters would have had their land confiscated/land banked for 36 years. If the submitters are still alive, they will be 90 and 86 years old which is past the age of being able to maintain a 1ha property. Why have the submitters rights to sell their land, when they wish too, been taken away. Where is the legislation that makes this legal, there isn't any. It happens due to a practice legal professionals and many land compensation businesses call planning blight or legal precedent and is immoral.

Private landowners suffer significant financial loss and mental anguish when land is confiscated for environmental reasons. Why should private landowners who have been the caretakers of the natural bush and endangered flora and fauna on their land be impacted negatively for doing so? Why should a very small number of private landowners, 17 in this area, fund reserves for the whole community?

Private landowners should be financially rewarded for taking care of the environment, if they are not, the desired environmental outcomes and the EPA work is jeopardised.

Most landowners do not understand the complex planning process or have the finances to fight planning decisions, unlike the Government who have funds readily available. The Government funds would be better spent paying private landowners a fair price for environmental land rather than paying legal professionals.

There have been two public administration inquiries into private property rights, 15 years apart. The Standing Committee made recommendations for change in both of these enquiries, yet nothing changes. The submitters have attached the findings.

It is arguable, if it was not for the State's desire to preserve the bushland, there is nothing that would stand in the way of the land being zoned Urban/residential instead of environmental conservation/Bush Forever and the submitters could negotiate a sale in the open market for a fair price, rather than being valued under instruction from the WAPC.

The submitters object to the amendment on the grounds of the percentage of their land it covers and the loss of value which will occur. The submission was supported by the following documents which have been considered:

- 2015 submission from Altus Planning & Appeals on MRS Amendment 1282/57 – Forrestfield-High Wycombe Precinct 3.

- Spring Flora and Vegetation Survey, March 2016 (North Forrestfield District Structure Plan). Prepared for the Shire of Kalamunda by Stratagen.
- Report 33, Standing Committee on Public Administration - Private property rights: the need for disclosure and fair compensation.
- Information from the Shire of Kalamunda.

**Planning Comment:** Comments noted. Refer to “*Part 6.1 – Extent of Parks and Recreation Reservation and Bushforever Site 45*” of the Report on Submissions.

**Determination:** Submission dismissed.

---

**Submission:** 14 (Late)

**Submitted by:** Department of Biodiversity, Conservation and Attractions

**Summary of Submission:** COMMENT

The DBCA notes that the areas proposed to be rezoned to the Parks and Recreation reserve appear consistent with the Environmental Conservation areas shown in the approved Forrestfield North LSP. During the preparation of the Forrestfield North LSP, the location of the Environmental Conservation areas and adjacent areas of supporting POS were determined by the City of Kalamunda in consultation with DBCA, DPLH and the DWER. The resulting strategic ‘ecological corridor’ was designed to retain and protect the highest conservation value bushland remnants in a consolidated conservation area.

The proposed amendment is also consistent with the management approach outlined within the Forrestfield North SCMP which provides guidance and outlines the protection mechanisms to be implemented to manage the future development of the North Forrestfield area, while protecting and managing the areas of highest environmental value.

Following the reservation of areas of Parks and Recreation and allocation of POS, detailed environmental management plans should be prepared and implemented to ensure the management and enhancement of the biodiversity values within regional and local open space. In addition, tenure protection of these areas should be achieved through Crown reservation vested with the City of Kalamunda for the primary purpose of conservation.

**Planning Comment:** Comments noted.

**Determination:** Submission noted.

---



### Schedule 3

The amendment figure - proposal 1  
as advertised







## **Appendix 1**

**List of detail plans as advertised**



Proposed Minor Amendment 1377/57

Forrestfield North  
Environmental Conservation Areas

as advertised

**Amending Plan 3.2775**

**Detail Plans**

1.6302, 1.6303, 1.6317, 1.6318

