

February 2022

# **Metropolitan Region Scheme Amendments 1390/57 & 1391/57**

**(Minor Amendments)**



Pt Lot 834 Hurd Road and  
Pt Lots 1288 & 2792 Taylor Road,  
Bullsbrook

Pt Lots 900 & 901 Lage Road and  
Pt Lot 201 Great Northern Highway,  
Bullsbrook

Amendment Report

City of Swan



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

**1390/57**

**Pt Lot 834 Hurd Road and Pt Lots 1288  
& 2792 Taylor Road, Bullsbrook**

**1391/57**

**Pt Lots 900 & 901 Lage Road and  
Pt Lot 201 Great Northern Highway, Bullsbrook**

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**Amendment Report**

**City of Swan**



February 2022

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 Amendment 1390/57 & 1391/57    Amendment Report  
File 833-2-21-137 Pt 1 & 833-2-21-135 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.

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# **The Metropolitan Region Scheme**

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

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

Perth is currently home to more than 2 million people and this is anticipated to grow to 3.5 million by 2050.

To meet this growth, land must be identified for future housing, employment opportunities, transport, conservation and recreation.

The Metropolitan Region Scheme (MRS) provides for this by defining what land can be used for. It is also the means by which landowners can be compensated for land acquired for public purposes.

### **The role of the WAPC?**

The Western Australian Planning Commission (WAPC) has statewide responsibility for planning how land in metropolitan and regional areas can be used and developed. The WAPC comprises a Chair and 16 members, representing industry, government and the community.

The WAPC is a statutory authority and operates in accordance with the *Planning and Development Act 2005*. It is supported by the Department of Planning, Lands and Heritage, which provides professional and technical expertise, administrative services and corporate resources.

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

The MRS is a large town planning scheme which defines how land can be used in the Perth metropolitan area, dividing it into broad zones and reservations. The metropolitan area stretches from south of Rockingham to north of Yanchep and east of Mundaring.

The MRS uses a set of maps and a scheme text to set the planning rules and identify the various zones and reservations.

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

The MRS is amended frequently as the region grows and changes.

### **What is an amendment?**

An amendment to the MRS changes the zoning or reservation of land to allow for a different land use.

When a rezoning or a new reservation is considered, it is classified as either a major or a minor amendment and is advertised to seek comment from landowners, the broader community and all levels of government. Under the Act, the process for proposed major and minor amendments is different.

This process allows for extensive community consultation and discussion in Parliament, prior to a final decision being made.

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

The WAPC is responsible for maintaining the MRS, including reviewing and initiating changes where necessary.

The amendment process is regulated by the *Planning and Development Act 2005*. The Act requires an amendment to be consistent with both the *Swan River Trust Act 1988* and the *Heritage of Western Australia Act 1990* and does not allow for an amendment to occur within the defined area of which a redevelopment scheme applies.

The amendment proposed in this report is being made under the provisions of section 57 (often referred to as a minor amendment).

The minor amendment process includes (also see the diagram on page viii):

- Request submitted and considered by the WAPC.
- WAPC determines to either progress or reject application, classifying it as either a major or minor amendment.

- If progressed, the application is referred to the Environmental Protection Authority (EPA) to set the level of environmental assessment. If the EPA requires an environmental review, this is carried out before the amendment is advertised.
- Proposed amendment is advertised for public comment. Advertisements are placed in local and statewide newspapers and the information is made available on [www.dplh.wa.gov.au/mrs-amendments](http://www.dplh.wa.gov.au/mrs-amendments). Landowners directly affected by a proposed amendment are contacted in writing. Where there is an environmental review, this is also made available for comment.
- WAPC receives public submissions over a period of 60 days.
- WAPC reviews the proposed amendment in light of both the submissions and planning advice provided by the Department of Planning, Lands and Heritage.
- WAPC provides recommendation to the Minister for Planning whether to accept, reject or modify the proposed amendment.
- Minister considers proposed amendment.
- If approved, with or without modification, the amendment becomes legally effective in the MRS with the publishing of a notice in the Government Gazette. If declined, the amendment is discarded.
- Within three months of an MRS amendment being finalised, all affected local governments must initiate an amendment to its local planning scheme to match the new zonings.

## **Zones and reservations**

Zones and reservations in the MRS are broad categories to define how land can be used and developed. The following descriptions are a guide only.

## **Zones**

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

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

The WAPC must be satisfied that these issues have been addressed before rezoning to urban.

Central city area: strategic regional centres for major retail, commercial and office facilities as well as employment, civic, business and residential uses.

Industrial and special industrial: land on which manufacturing, processing, warehousing and related activities are undertaken.

Rural: land on which a range of agricultural, extractive and conservation uses is undertaken.

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

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

## **Reservations**

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

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

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



Port installations: regional maritime shipping facilities.

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

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

Civic and cultural: significant civic precincts and buildings.

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

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

Primary regional roads: important regionally significant roads as part of the planned road network that are currently, or proposed to be declared, under the *Main Roads Act 1930*.

Other regional roads: roads of regional significance in the planned road network for which the planning responsibilities are shared by the WAPC and local governments.

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

Landowners may find that an amendment seeks to rezone their property, for example from rural to urban or urban deferred.

If the zoning is changed, landowners do not have to change their lifestyle or the way they use the land. However, depending on the new zone, there may be opportunities to change the land use, such as seek approval to subdivide or apply to develop it in some way that suits the new zoning.

The WAPC realises that many people choose their properties because they like them as they are and may not want to change from, for example, a rural-residential lifestyle to an urban area. Others are keen to change the land use.

For these reasons, amendments to the MRS are advertised so that all affected landowners and the broader community have time to examine the proposal and provide their comment.

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

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

If your land is proposed to be reserved in an advertised amendment, you can continue to use and enjoy your property. Generally, reserved land can remain in private ownership until it is needed for the purpose for which it is reserved.

To protect landowners, there are procedures for acquisition or compensation by the WAPC. These are outlined in *Your Property and the planning system – region schemes*, a leaflet reproduced at the back of this report and online at <https://www.dplh.wa.gov.au/your-property-and-region-schemes>.

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

You can lodge a submission during the advertised period:

- online at [www.dplh.wa.gov.au/mrs-amendments](http://www.dplh.wa.gov.au/mrs-amendments).
- in writing to Western Australian Planning Commission, Level 2, 140 William Street, Perth 6000 (a submission form is included at the back of this report).

### **Publications**

Amendments made to the MRS using the provisions of section 57 will in most cases have information published under the following titles:

#### Amendment report

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

### Environmental review report

The EPA considers the environmental impact of an amendment to the MRS before it is advertised. Should the EPA require formal assessment, an environmental review is undertaken, and that information is made available for comment at the same time as the *Amendment Report*.

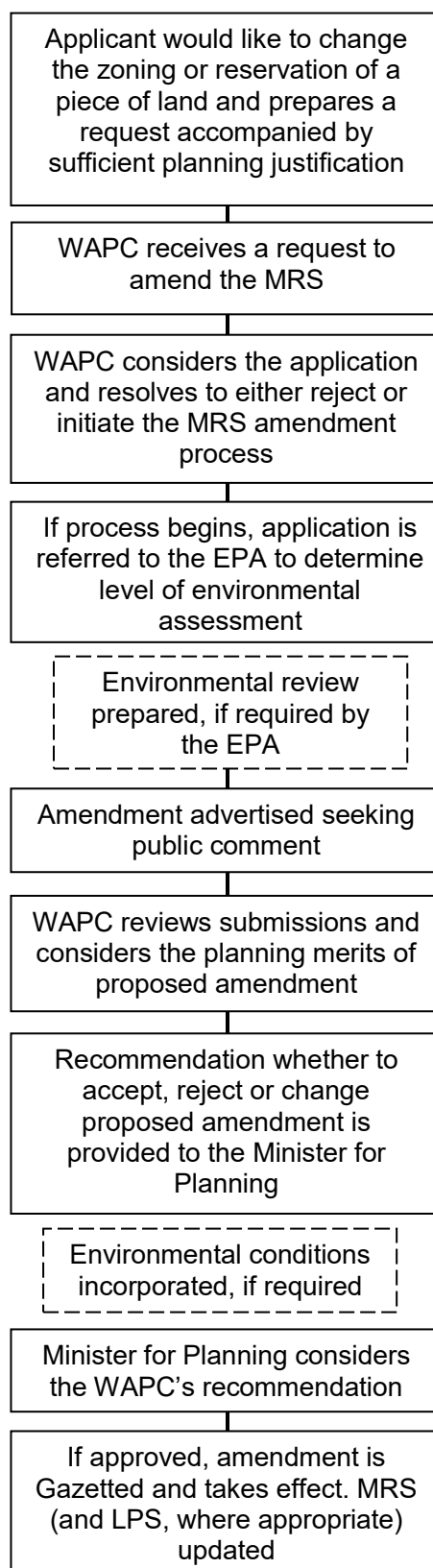
### Report on submissions

This publication documents the planning rationale, determination of submissions received, and the recommendations for final approval of the amendment made by the WAPC.

### Submissions

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

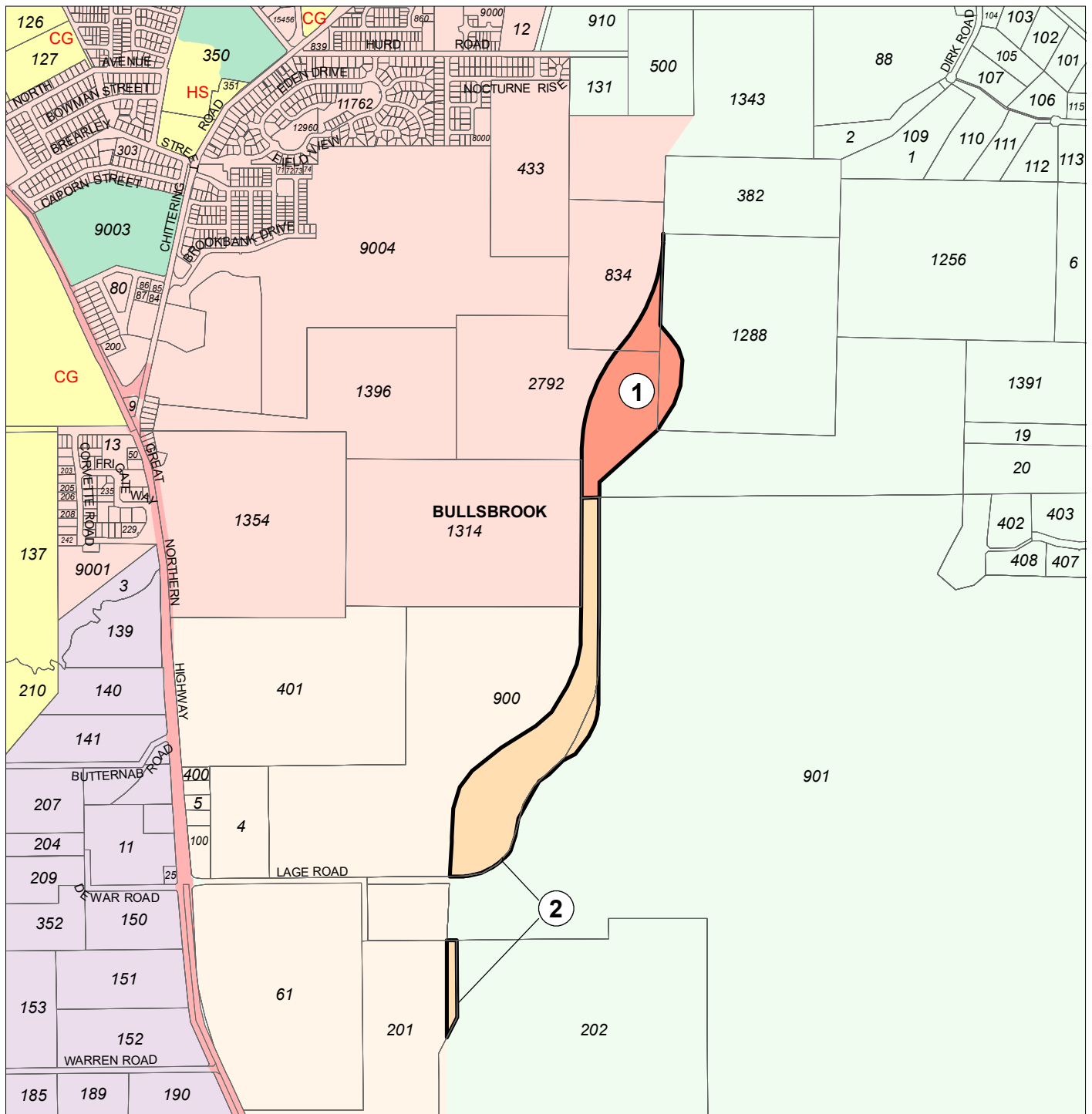
A simple diagram of the amendment process.



## **Abbreviations**

<b>AHA</b>	Aboriginal Heritage Act
<b>DFES</b>	Department of Fire and Emergency Services
<b>DPLH</b>	Department of Planning, Lands and Heritage
<b>EPA</b>	Environmental Protection Authority
<b>LPS</b>	Local Planning Scheme
<b>MRS</b>	Metropolitan Region Scheme
<b>SWALSC</b>	South West Aboriginal Land and Sea Council
<b>WAPC</b>	Western Australian Planning Commission





Location of Bullsbrook Amendments

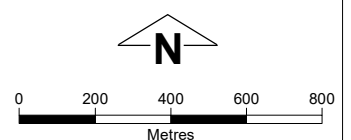
Amendment No. 1390/57 & 1391/57

#### MRS Zones and Reserves

- Industrial
- Parks and recreation
- Primary regional roads
- Public purposes - Commonwealth Government **CG**
- Public purposes - high school **HS**
- Railways
- Rural
- Urban
- Urban deferred
- Proposed Urban zone
- Proposed Urban Deferred zone

#### Proposed amendments

- 1 amendment 1390/57
- 2 amendment 1391/57





## Amendment 1390/57

### **Pt Lot 834 Hurd Road and Pt Lots 1288 & 2792 Taylor Road, Bullsbrook**

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## **Amendment Report**



**Metropolitan Region Scheme Amendment 1390/57**  
**Pt Lot 834 Hurd Road and**  
**Pt Lots 1288 & 2792 Taylor Road, Bullsbrook**

**Amendment Report**

**1 Purpose**

The purpose of the amendment is to transfer approximately 12.66 hectares of land in Bullsbrook from the Rural zone to the Urban zone in the Metropolitan Region Scheme (MRS), as shown on the *Amendment Figure - Proposal 1*.

The proposed amendment will facilitate the future development of land within the amendment area for residential and related land uses. The proposed amendment represents a 'rounding out' of the extent of the Urban zone along the eastern boundary of the Bullsbrook townsite.

**2 Background**

The amendment area is located within the City of Swan and is located approximately 1.5 kilometres east of the existing Bullsbrook townsite, approximately 14 kilometres north-east of the Ellenbrook townsite and approximately 36 kilometres north-east of the Perth central business district.

The amendment area has historically been the site of a clay extraction pit and then as a landfill facility for inert building and construction waste. The operation of the landfill facility and associated activities has now ceased, and the operator is currently in the process of surrendering the prescribed premises licence for this facility to the Department of Water and Environmental Regulation.

The amendment area and land to the north, east and south is zoned Rural in the MRS, whilst land to the west is zoned Urban in the MRS. The amendment area is designated as Rural in the *North-East Sub-regional Planning Framework* (the Framework), and is located adjacent to the eastern boundary of the *Bullsbrook Town District Structure Plan* (the District Structure Plan). The proposed amendment is consistent with the intent of the Framework and the District Structure Plan.

Land to the south is subject to *MRS Amendment 1391/57: Pt Lots 900 & 901 Lage Road and Pt Lot 201 Great Northern Highway, Bullsbrook*, which proposes to rezone land from the Rural zone to the Urban Deferred zone in the MRS.

Land use and development within the amendment area is generally controlled by the *City of Swan Local Planning Scheme No. 17* (LPS 17). The subject land is currently zoned Rural under the MRS and 'General Rural' and 'Landscape' in LPS 17.

**3 Scope and content of the amendment**

The amendment proposes to rezone approximately 12.66 hectares of land from the Rural zone to the Urban zone under the MRS.

## 4 Discussion

### **Strategic Planning Context**

#### **Perth and Peel@3.5 Million and North-East Sub-regional Planning Framework**

The *Perth and Peel@3.5 Million* suite of planning documents outlines an envisaged development outcome for the Perth and Peel regions in the future. It makes the case for change from a “business-as-usual” perspective to a more considered, connected, consolidated urban form. Future areas for urban development have been determined in conjunction with the State Government’s draft *Strategic Assessment of the Perth and Peel Regions*, in order to avoid and protect areas that have significant regional environmental value.

The *North-East Sub-regional Planning Framework* (the Framework) forms part of the *Perth and Peel@3.5 Million* suite of planning documents. The Framework identifies the amendment area as 'Rural', and land to the immediate west as 'Urban Expansion' with a Medium - long term (2022+) staging timeframe.

The amendment is generally consistent with the intent of the Framework given it is consistent with the key planning framework principles of the Framework, for the following reasons:

- It represents a logical extension to, and 'rounding out' of, the urban zone in the Bullsbrook townsite.
- The amendment area contains part of a former landfill facility site which is currently zoned both Urban and Rural in the MRS. Rezoning the amendment area to the Urban zone would better facilitate the rehabilitation and sequential redevelopment of the former landfill facility site, which would deliver an improved planning outcome for the amendment area and the surrounding locality.
- Any significant environmental values of the amendment area can be appropriately protected in the subsequent local structure planning and subdivision stages of the planning process.

#### **Bullsbrook Townsite District Structure Plan**

The *Bullsbrook Townsite District Structure Plan* (the District Structure Plan) was endorsed by the WAPC on 11 April 2018 and provides guidance on the planning and development of the Bullsbrook townsite, which is located to the west of the amendment area. Adjacent land to the west is designated as 'Future Residential' in the District Structure Plan.

The amendment is generally consistent with the intent of the District Structure Plan as it represents a logical extension to and 'rounding out' of the extent of the Bullsbrook townsite as planned in the District Structure Plan, for the abovementioned reasons.

#### **State Planning Policy 3.0 - Urban Growth and Settlement**

*State Planning Policy 3.0 - Urban Growth and Settlement* (SPP 3.0) sets out the principles and considerations that guide the development of new urban growth areas and settlements. Its objectives include promoting a sustainable and well-planned pattern of development across the State and managing the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community constraints.

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

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

*State Planning Policy 3.7 - Planning in Bushfire Prone Areas* (SPP 3.7) seeks to guide the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure. It applies to all higher order strategic planning documents, strategic planning proposals, subdivision and development applications in designated bushfire prone areas (unless exemptions apply). The accompanying *Guidelines for the Planning in Bushfire Prone Areas* (the Guidelines) provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7. They provide advice on how bushfire risk is to be addressed when planning, designing or assessing a planning proposal within a bushfire prone area.

The Department of Fire and Emergency Services (DFES) advises that the bushfire management plan prepared in support of the amendment requires modification to address the recommendations of the SPP 3.7 and the Guidelines. The amendment is considered to be generally consistent with SPP 3.7 as these modifications can be undertaken prior to finalisation of the amendment or in subsequent stages of the planning process.

### **Statutory Planning Context**

#### **Environment**

There are scattered areas of remnant vegetation located within the amendment area, which are in a 'degraded' to 'completely degraded' condition. No threatened or priority flora or threatened ecological communities or habitat for threatened Black Cockatoo species have been identified within the amendment area. The protection of any significant environmental values can be appropriately provided for in the subsequent local structure planning and subdivision stages of the planning process.

#### **Urban Water Management**

The Department of Water and Environmental Regulation advises that it has previously endorsed a district water management strategy prepared for the amendment area.

#### **Water and wastewater infrastructure**

The Water Corporation advises that the current limit of the gravity supply from the Bullsbrook water storage tank is approximately 90 metres AHD. The Water Corporation may not be able to provide parts of the amendment area above the current water supply limit with a reticulated water service until an additional high-level water tank and associated infrastructure is constructed in Bullsbrook. The sequential subdivision and development of the amendment area can be appropriately controlled in the subsequent local structure planning and subdivision stages of the planning process. This should ensure that residential lots are not created over land which cannot be provided with a reticulated water service.

The Water Corporation also advises that the provision of wastewater infrastructure for the urban expansion of Bullsbrook will require the staged and sequential planning, design and construction of wastewater pump stations, gravity sewers and wastewater pressure mains. This can be appropriately planned for in the subsequent local structure planning and subdivision stages of the planning process.

## 5 Aboriginal Heritage

The *Aboriginal Heritage Act 1972* (AHA) is administered by the Department of Planning, Lands and Heritage and provides for the protection and preservation of Aboriginal heritage and culture throughout Western Australia, including places and objects that are of significance to Aboriginal people. Aboriginal sites and materials are protected whether or not they have been previously recorded or reported.

The process of rezoning or reservation of land in a region scheme is not in itself directly affected by the AHA. Proposed changes to land-use at MRS amendment stage are broad by nature and do not physically interfere with the land. Consideration of any protection that may be required is addressed more specifically at later stages of the planning process, typically being a local planning scheme amendment and when preparing a local structure plan.

Proponents of proposals are advised to familiarise themselves with the *Aboriginal Heritage Due Diligence Guidelines* (the Guidelines). These have been developed to assist proponents to identify any risks to Aboriginal heritage and to mitigate risk where heritage sites may be present. The Guidelines are available electronically at: [https://www.wa.gov.au/system/files/2021-05/AH-Due-diligence-guidelines\\_0.pdf](https://www.wa.gov.au/system/files/2021-05/AH-Due-diligence-guidelines_0.pdf).

Nevertheless, in recognising the importance of having reliable Aboriginal information on land and the values attached to it, the WAPC and the Department of Planning, Lands and Heritage have entered into a Memorandum of Understanding with the South West Aboriginal Land and Sea Council (SWALSC) for the provision of Aboriginal consultative services. All MRS amendment proposals likely to be of interest to Aboriginal persons are referred to SWALSC for comment before being released for public submission. SWALSC is the recognised Native Title Representative Body for Western Australia's southwest region and as such is well placed to provide advice on Aboriginal heritage.

The amendment was not referred to SWALSC as part of preliminary investigations as it was not expected to impact on Aboriginal heritage values. However, the amendment will be referred to SWALSC during the formal advertising period.

## 6 Coordination of local and region scheme amendments

Under Section 126(3) of the *Planning and Development Act 2005*, the City of Swan has the option of requesting the WAPC to concurrently rezone land being zoned Urban under the MRS to a "Development" zone (or similar) in its LPS. In this regard, the WAPC will make a decision on the concurrent MRS amendment of the site following the public submission period.

## 7 Substantiality

The *Planning and Development Act 2005* allows for amendments to the MRS to be processed as either "minor" or "major" amendments depending on whether they are considered to constitute a substantial alteration to the MRS or not. *Development Control Policy 1.9 – 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 a "minor" amendment as follows:

- The size and scale of the amendment is not regionally significant and does not reflect a significant change to the strategic planning for the Metropolitan region.
- The amendment is generally consistent with the key planning framework principles of the Framework.
- Rezoning land in the amendment area to the Urban zone constitutes a logical extension to the extent of these zone under the MRS for this locality.
- The City of Swan and key State Government agencies agree to the initiation of the amendment.

## **8 Sustainability appraisal**

The proposed amendment will allow for further planning to facilitate the residential development of the site, generally consistent with the intent of the *Perth and Peel@3.5 Million* document and the Framework.

## **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 57 of that Act.

In essence, the procedures 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 being sought on the proposed amendment (including environmental review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or refusal to approve, by the Minister
- the amendment takes legal effect with Gazettal of the Minister's approval.

An explanation of this process entitled *The Metropolitan Region Scheme, what it is and how it is amended*, can be found in the front of this report.

## 11 Submissions on the amendment

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

The amendment will be advertised for public submissions for a period of 60 days from Friday 4 February 2022 to Friday 8 April 2022.

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

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

Online submissions are encouraged via: <https://consultation.dplh.wa.gov.au>.

Written submissions commenting on the amendment should be sent to:-

The Secretary  
Western Australian Planning Commission  
Locked Bag 2506  
PERTH WA 6010

or by email to:

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

**and must be received by 5 pm Friday 8 April 2022.**

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 via [www.dplh.wa.gov.au/mrs-amendments](http://www.dplh.wa.gov.au/mrs-amendments).

You should be aware that calling for public 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 submissions received from Government agencies and the public, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve.



## **13 Final outcome**

The recommendations of the WAPC, including any modifications, along with the determination of the Minister, are published in a report on submissions. Anyone who has made a submission, along with affected landowners, will be notified of the outcome when the amendment is gazetted to give it legal effect.

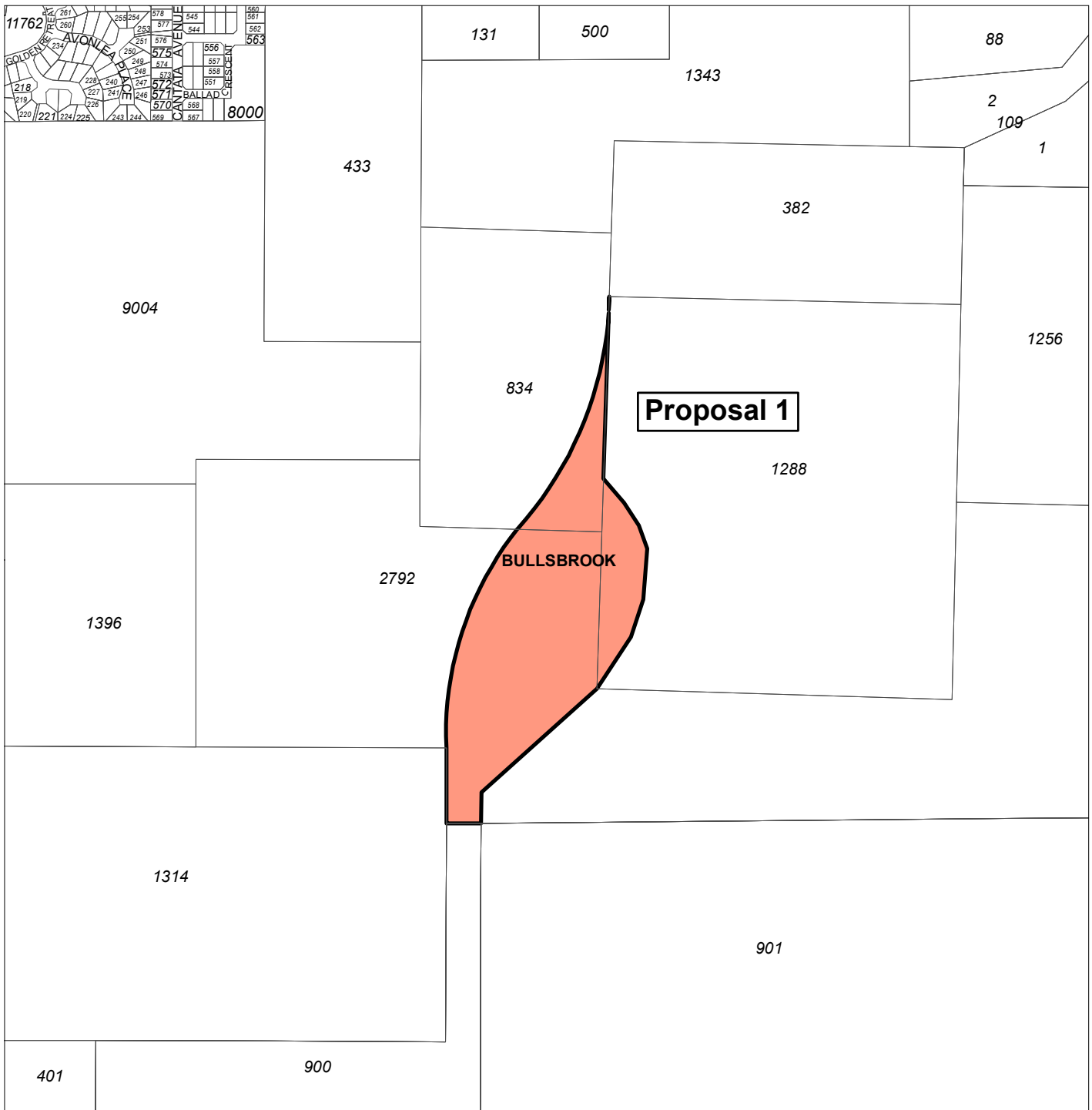


**MRS Amendment 1390/57**

**Pt Lot 834 Hurd Road and  
Pt Lots 1288 & 2792 Taylor Road, Bullsbrook**

**Amending Figure  
Proposal 1**





**Pt Lot 834 Hurd Road and Pt Lots 1288 & 2792 Taylor Road, Bullsbrook**  
**Proposed minor amendment**  
**as advertised**

27 October 2021

Proposal 1

Proposed Amendment:

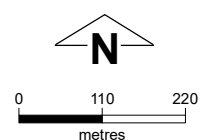
 Urban zone

Oracle reference no: 3447

Version number: 2



Date: 29/10/2021  
 Produced by Data Analytics, Department of Planning, Lands and Heritage, Perth WA  
 Base information supplied by Western Australian Land Information Authority SLIP 1180-2020-1





## **Appendix A**

### **Notice of environmental assessment**





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

Our Ref: CMS 18102  
Enquiries: Amy Cowdell, 6364 6499  
Email: [Amy.Cowdell@dwer.wa.gov.au](mailto:Amy.Cowdell@dwer.wa.gov.au)

Dear Ms Fagan

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

<b>SCHEME</b>	<b>Metropolitan Region Scheme Amendment 1390/57</b>
<b>LOCATION</b>	<b>Portion of Lot 834 Hurd Road and portion of Lots 1288 &amp; 2792 Taylor Road, Bullsbrook</b>
<b>RESPONSIBLE AUTHORITY</b>	<b>Western Australian Planning Commission</b>
<b>DECISION</b>	<b>Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of the EP Act. Advice Given. (Not Appealable)</b>

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 Chair'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 Chair'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 black ink, reading 'Dehlia Goundrey' in a cursive style.

**Dehlia Goundrey**  
**Delegate of the Environmental Protection Authority**  
A/Executive Director  
EPA Services

07 January 2022

Encl. Chair's Determination  
Scheme Advice and Recommendations

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

Metropolitan Region Scheme 1390/57

**Location:** Portion of Lot 834 Hurd Road and portion of Lots 1288 & 2792 Taylor Road, Bullsbrook

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

**Determination Published:** 10 January 2022

**Summary**

The Western Australian Planning Commission (WAPC) proposes to transfer approximately 12.42 hectares of land in Bullsbrook from the Rural zone to the Urban zone.

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**

Having regard to EPA's *Statement of Environmental Principles, Factors and Objectives* (EPA 2021), the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

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

**Advice and Recommendations regarding Environmental Factors**

**Flora and Vegetation; Terrestrial Fauna**

The proposed amendment area has been substantially cleared to facilitate agricultural land uses (livestock farming).

The amendment area borders the Ki-it Monger Brook to the north. The vegetation along the Ki-it Monger Brook and in the southern portion of Lot 2792 is also potential black cockatoo habitat. All species of black cockatoos are protected under both the *Biodiversity Conservation Act 2016* and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Any proposed development may require referral

to the Commonwealth Department of Agriculture, Water and the Environment under the EPBC Act due to potential impacts to black cockatoo habitat.

The EPA supports the retention of remnant vegetation within the amendment area through the future stages of planning, particularly black cockatoo habitat. An assessment of potential habitat trees and water sources for species of black cockatoo should be undertaken prior to structure planning to inform compliance to relevant legislation.

## **Social Surroundings**

Two Aboriginal heritage sites, mythological site 3525 and ceremonial, modified tree, mythological site 3583, are registered over the scheme amendment area. The EPA notes the proposed amendment outlines the amendment will be referred to South West Aboriginal Land and Sea Council during the formal advertising period. The EPA also recommends consultation with the Traditional Owner group and investigations into the extent of the mythological sites be undertaken prior to structure planning.

An existing Class 1 inert landfill facility is located within the amendment area, which has ceased waste acceptance. The EPA understands and is supportive of the requirement under Environment Licence L9162/2018/1 for the licence holder to develop a landfill closure plan and post-closure management plan for submission to the Department of Water and Environmental Regulation (DWER).

Future development of the site should continue to consider the EPA's Guidance Statement No. 3 Separation Distances between Industrial and Sensitive Land Uses (June 2005) to manage potential impacts to surrounding land uses prior to progressing urban development. The EPA supports that there will be no urban development permitted within the amendment area during the planning approvals process, and that urban development in the adjacent western area (Kingsford) will be staged with development commencing well outside the minimum separation distance area.

## **Inland Waters**

The amendment area is located within the proclaimed Swan Groundwater Area (DoW 2009) and borders the Ki-it Monger Brook to the north.

The EPA notes that both a Local Water Management Strategy Revision 4 (RPS 2018) and District Water Management Strategy Revision 3 (RPS 2017) have been endorsed by DWER and that both strategies consider the management and protection of the Ki-it Monger Brook.

## **Conclusion**

The EPA concludes that implementation of Metropolitan Region Scheme Amendment 1390/57 can be managed to meet the EPA's environmental objectives for the above factors through standard planning requirements and statutory processes. The EPA supports the preparation of future local planning scheme provisions and structure planning to manage and protect the environmental values. The EPA recommends its advice is implemented to mitigate potential impacts to Flora and Vegetation, Terrestrial Fauna and Social Surroundings.

References:

Department of Water 2009 Gnamara Groundwater Areas Allocation Plan. Government of Western Australia

RPS 2017 District Water Management Strategy Bullsbrook Landholding Prepared for Amex Corporation Pty Ltd

RPS 2018 Local Water Management Strategy Bullsbrook Landholding Prepared for Amex Corporation Pty Ltd



## Environmental Protection Authority

### S48A Referrals

**Title:** Metropolitan Region Scheme Amendment 1390/57

**Location:** Portion of Lot 834 Hurd Road and portion of Lots 1288 & 2792 Taylor Road, Bullsbrook

**Description:** The Western Australian Planning Commission proposes to rezone the above land (12.42 hectares) from the Rural zone to the Urban zone.

**Ref ID:** CMS18102

**Date Received:** 12/11/2021 **Date Sufficient Information Received:** 14/12/2021

**Responsible Authority:** Western Australia Planning Commission, Locked Bag 2506 Perth WA 6001

**Contact:** Brett Pye

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


**Potential Significant Effects:** Implementation of the scheme amendment may impact the above factors through future development.

**Management:** Impacts can be managed through existing planning processes. EPA advice is provided regarding remnant vegetation retention, water planning and social surroundings.

**Determination:** **Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)**

The EPA has carried out some investigations and inquiries before deciding not to assess this scheme. In deciding not to formally assess schemes, the EPA has determined that no further assessment is required by the EPA.

This Determination is not appealable.

Chairman's Initials: 

Date: 5 January 2022

## **Appendix B**

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





**Metropolitan Region Scheme  
Amendment 1390/57**

**Pt Lot 834 Hurd Road and  
Pt Lots 1288 & 2792 Taylor Road, Bullsbrook**

**as advertised**

**Amending Plan 3.2784**

**Detail Plans**

1.5830, 1.5831



## **Appendix C**

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





[illegible]

- 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: [RegionPlanningSchemes@dplh.wa.gov.au](mailto:RegionPlanningSchemes@dplh.wa.gov.au) Website: <http://www.dplh.wa.gov.au/mrs-amendments>

## Amendment 1391/57

### Pt Lots 900 & 901 Lage Road and Pt Lot 201 Great Northern Highway, Bullsbrook

## Contents

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Appendix A Notice of environmental assessment

Appendix B List of detail plans supporting the amendment

Appendix C Submission form for this amendment (form 57)





## **Amendment Report**



**Metropolitan Region Scheme Amendment 1391/57**  
**Pt Lots 900 & 901 Lage Road and**  
**Pt Lot 201 Great Northern Highway, Bullsbrook**

**Amendment Report**

## **1 Purpose**

The purpose of the amendment is to transfer approximately 19.04 hectares of land in Bullsbrook from the Rural zone to the Urban Deferred zone in the Metropolitan Region Scheme (MRS), as shown on the *Amendment Figure - Proposal 1*.

The proposed amendment will facilitate the future development of land within the amendment area for residential and related land uses, and represents a 'rounding out' of the extent of the Urban Deferred zone along the eastern boundary of the Bullsbrook townsite.

### **Lifting of Urban Deferment Requirements**

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

- The southern portion of the amendment area is located within a 500 metre separation buffer to an existing clay quarry. The extraction of the clay resource is to be completed prior to this land being transferred to the Urban zone.
- Confirmation of road upgrading requirements to support the proposed scale of development in the locality.

## **2 Background**

The subject land is located within the City of Swan and is located approximately 1.5 kilometres south-east of the existing Bullsbrook townsite, approximately 13 kilometres north-east of the Ellenbrook townsite and approximately 35 kilometres north-east of the Perth central business district.

The subject land has historically been used for agricultural purposes and is predominantly cleared of native vegetation, apart from scattered areas of remnant vegetation.

Land to the north-west and west of the amendment area is zoned Urban and Urban Deferred in the MRS, respectively. Land to the north and east is currently zoned Rural in the MRS, some of which is subject to MRS Amendment 1390/57 which proposes to rezone land from the Rural zone to the Urban zone. Land to the north, east and south is zoned Rural under the MRS and is designated as Rural in the *North-East Sub-regional Planning Framework* (the Framework).

Land to the east and south of the site is subject to the WAPC endorsed *Lot 301 Stock Road and Lot 302 Lage Road Bullsbrook Local Structure Plan*, which proposes the development of this adjacent land for rural living purposes.

Land use and development within the amendment area is generally controlled by the *City of Swan Local Planning Scheme No. 17* (LPS 17). The subject land is currently zoned 'Landscape' in LPS 17.

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

The amendment proposes to rezone approximately 19.04 hectares of land in Bullsbrook from the Rural zone to the Urban Deferred zone in the MRS.

### **4 Discussion**

#### **Strategic Planning Context**

##### **Perth and Peel@3.5 Million and North-East Sub-regional Planning Framework**

The *Perth and Peel@3.5 Million* suite of planning documents outlines an envisaged development outcome for the Perth and Peel regions in the future. It makes the case for change from a “business-as-usual” perspective to a more considered, connected, consolidated urban form. Future areas for urban development have been determined in conjunction with the State Government’s draft *Strategic Assessment of the Perth and Peel Regions*, in order to avoid and protect areas that have significant regional environmental value.

The Framework forms part of the *Perth and Peel@3.5 Million* suite of planning documents, and designates the amendment area as 'Rural', and land to the west as 'Urban Expansion' with a Medium - long term (2022+) staging timeframe.

The amendment is consistent with the intent of the Framework as it is consistent with the key planning framework principles of the Framework, for the following reasons:

- It represents a logical extension to, and 'rounding out' of, the Urban Deferred zone in the Bullsbrook townsite.
- The eastern boundary of the amendment area aligns with the proposed alignment of a local road identified in the WAPC endorsed *Lot 301 Stock Road and Lot 302 Lage Road, Bullsbrook Local Structure Plan* and in a recently approved subdivision application for the amendment area and adjacent land to the east. This rationalisation of the Urban Deferred zoning will facilitate planning to provide an improved interface along this road between future residential development within the amendment area and rural residential development to the east.
- Any significant environmental values of the amendment area can be appropriately protected in the subsequent local structure planning and subdivision stages of the planning process.

##### **Bullsbrook Townsite District Structure Plan**

The *Bullsbrook Townsite District Structure Plan* (the District Structure Plan) was endorsed by the WAPC on 11 April 2018 and provides guidance on the planning and development of the Bullsbrook townsite, which is located to the west of the amendment area. Land to the west of the amendment area is designated as 'Future Residential' and 'Conservation' in the District Structure Plan.

The amendment is consistent with the intent of the District Structure Plan as it represents a logical extension to, and 'rounding out' of, the extent of the Bullsbrook townsite as planned in the District Structure Plan, for the reasons outlined above. Furthermore, any future urban development of the amendment area is not likely to result in significant environmental impacts.

#### **State Planning Policy 2.4 - Basic Raw Material**

*State Planning Policy 2.4 - Basic Raw Materials* sets out the matters which are to be taken into account by the WAPC and local governments in considering zoning, subdivision and development applications in the vicinity of identified basic raw material resource areas.

The southern portion of the amendment area is located within a 500 metre separation buffer from an existing clay quarry located on Lot 202 Great Northern Highway. The extraction of this clay resource will need to be completed prior to any land within the 500 metre separation distance being transferred to the Urban zone in the MRS.

#### **State Planning Policy 3.0 - Urban Growth and Settlement**

*State Planning Policy 3.0 - Urban Growth and Settlement* (SPP 3.0) sets out the principles and considerations that guide the development of new urban growth areas and settlements. Its objectives include promoting a sustainable and well-planned pattern of development across the State and managing the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community constraints.

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

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

*State Planning Policy 3.7 - Planning in Bushfire Prone Areas* (SPP 3.7) seeks to guide the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure. It applies to all higher order strategic planning documents, strategic planning proposals, subdivision and development applications in designated bushfire prone areas (unless exemptions apply). The accompanying *Guidelines for the Planning in Bushfire Prone Areas* provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7. They provide advice on how bushfire risk is to be addressed when planning, designing or assessing a planning proposal within a bushfire prone area.

The Department of Fire and Emergency Services (DFES) advises that the bushfire management plan prepared in support of the amendment requires modification to address the recommendations of the SPP 3.7 and the Guidelines. However, the amendment is generally consistent with SPP 3.7 as the bushfire management plan can be modified to achieve consistency with SPP 3.7 and the Guidelines prior to finalisation of the amendment, or in subsequent stages of the planning process.

#### **Statutory Planning Context**

##### **Environment**

The amendment area contains scattered areas of remnant vegetation, but there are no identified threatened or priority flora or threatened ecological communities located within the

amendment area. Nonetheless, the protection of any significant environmental values can be appropriately provided for in the subsequent local structure planning and subdivision stages of the planning process.

### **Urban water management**

A district water management strategy has been submitted with the Department of Water and Environmental Regulation (DWER) for its review and endorsement, which will need to be endorsed by DWER prior to the finalisation of this amendment.

### **Water and wastewater infrastructure**

The Water Corporation advises that the current limit of the gravity limit of supply from the Bullsbrook water storage tank is approximately 90 metres AHD, and that it may not be able to provide parts of the amendment area above this limit with a reticulated water service until an additional high-level water tank is constructed. In this respect, the subdivision of the amendment area can be appropriately controlled in the subsequent local structure planning and subdivision planning stages, in order to ensure that residential lots are not created over land which cannot be provided with a scheme water service.

The Water Corporation also advises that the provision of wastewater infrastructure for the urban expansion of Bullsbrook will require the staged and sequential planning, design and construction of wastewater pump stations, gravity sewers and wastewater pressure mains. This can be appropriately planned for in the subsequent local structure planning and subdivision stages of the planning process.

## **5 Aboriginal heritage**

The *Aboriginal Heritage Act 1972* (AHA) is administered by the Department of Planning, Lands and Heritage and provides for the protection and preservation of Aboriginal heritage and culture throughout Western Australia, including places and objects that are of significance to Aboriginal people. Aboriginal sites and materials are protected whether or not they have been previously recorded or reported.

The process of rezoning or reservation of land in a region scheme is not in itself directly affected by the AHA. Proposed changes to land-use at MRS amendment stage are broad by nature and do not physically interfere with the land. Consideration of any protection that may be required is addressed more specifically at later stages of the planning process, typically being a local planning scheme amendment and when preparing a local structure plan.

Proponents of proposals are advised to familiarise themselves with the *Aboriginal Heritage Due Diligence Guidelines* (the Guidelines). These have been developed to assist proponents to identify any risks to Aboriginal heritage and to mitigate risk where heritage sites may be present. The Guidelines are available electronically at: [https://www.wa.gov.au/system/files/2021-05/AH-Due-diligence-guidelines\\_0.pdf](https://www.wa.gov.au/system/files/2021-05/AH-Due-diligence-guidelines_0.pdf).

Nevertheless, in recognising the importance of having reliable Aboriginal information on land and the values attached to it, the WAPC and the Department of Planning, Lands and Heritage have entered into a Memorandum of Understanding with the South West Aboriginal Land and Sea Council (SWALSC) for the provision of Aboriginal consultative services. All MRS amendment proposals likely to be of interest to Aboriginal persons are referred to SWALSC for comment before being released for public submission. SWALSC is the recognised Native Title Representative Body for Western Australia's southwest region and as such is well placed to provide advice on Aboriginal heritage.

The amendment was not referred to SWALSC as part of preliminary investigations as it was not expected to impact on Aboriginal heritage values. However, the amendment will be referred to SWALSC during the formal advertising period.

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

Under Section 126(3) of the *Planning and Development Act 2005*, the City of Swan have the option of requesting the WAPC to concurrently rezone land being zoned Urban under the MRS to a "Development" zone (or similar) in the respective Local Planning Schemes (LPS). As no land is being zoned Urban in the MRS, section 126(3) of the *Planning and Development Act 2005* is not applicable.

## **7 Substantiality**

The *Planning and Development Act 2005* allows for amendments to the MRS to be processed as either "minor" or "major" amendments depending on whether they are considered to constitute a substantial alteration to the MRS or not. *Development Control Policy 1.9 - 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 a "minor" amendment as follows:

- The size and scale of the amendment is not regionally significant and does not reflect a significant change to the strategic planning for the Metropolitan region.
- The amendment is generally consistent with the intent and key planning framework principles of the Framework.
- Rezoning land in the amendment area to Urban Deferred zone constitutes a logical extension of the extent of this zone under the MRS for this locality.
- The City of Swan and key State Government agencies do not object to the initiation of the amendment.

## **8 Sustainability appraisal**

The proposed amendment will allow for further planning to facilitate the residential development of the site, generally in accordance with the intent of the *Perth and Peel@3.5 Million* document and the *North-East Sub-regional Planning Framework*.

## **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 57 of that Act.

In essence, the procedures 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 being sought on the proposed amendment (including environmental review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or refusal to approve, by the Minister
- the amendment takes legal effect with Gazettal of the Minister's approval.

An explanation of this process entitled *The Metropolitan Region Scheme, what it is and how it is amended*, can be found in the front of this report.

## 11 Submissions on the amendment

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

The amendment will be advertised for public submissions for a period of 60 days from Friday 4 February 2022 to Friday 8 April 2022.

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

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

Online submissions are encouraged via: <https://consultation.dplh.wa.gov.au>.

Written submissions commenting on the amendment should be sent to:-

The Secretary  
Western Australian Planning Commission  
Locked Bag 2506  
PERTH WA 6010

or by email to:

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

**and must be received by 5 pm Friday 8 April 2022.**

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 via [www.dplh.wa.gov.au/mrs-amendments](http://www.dplh.wa.gov.au/mrs-amendments).

You should be aware that calling for public 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 submissions received from Government agencies and the public, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve.

## **13 Final outcome**

The recommendations of the WAPC, including any modifications, along with the determination of the Minister, are published in a report on submissions. Anyone who has made a submission, along with affected landowners, will be notified of the outcome when the amendment is gazetted to give it legal effect.

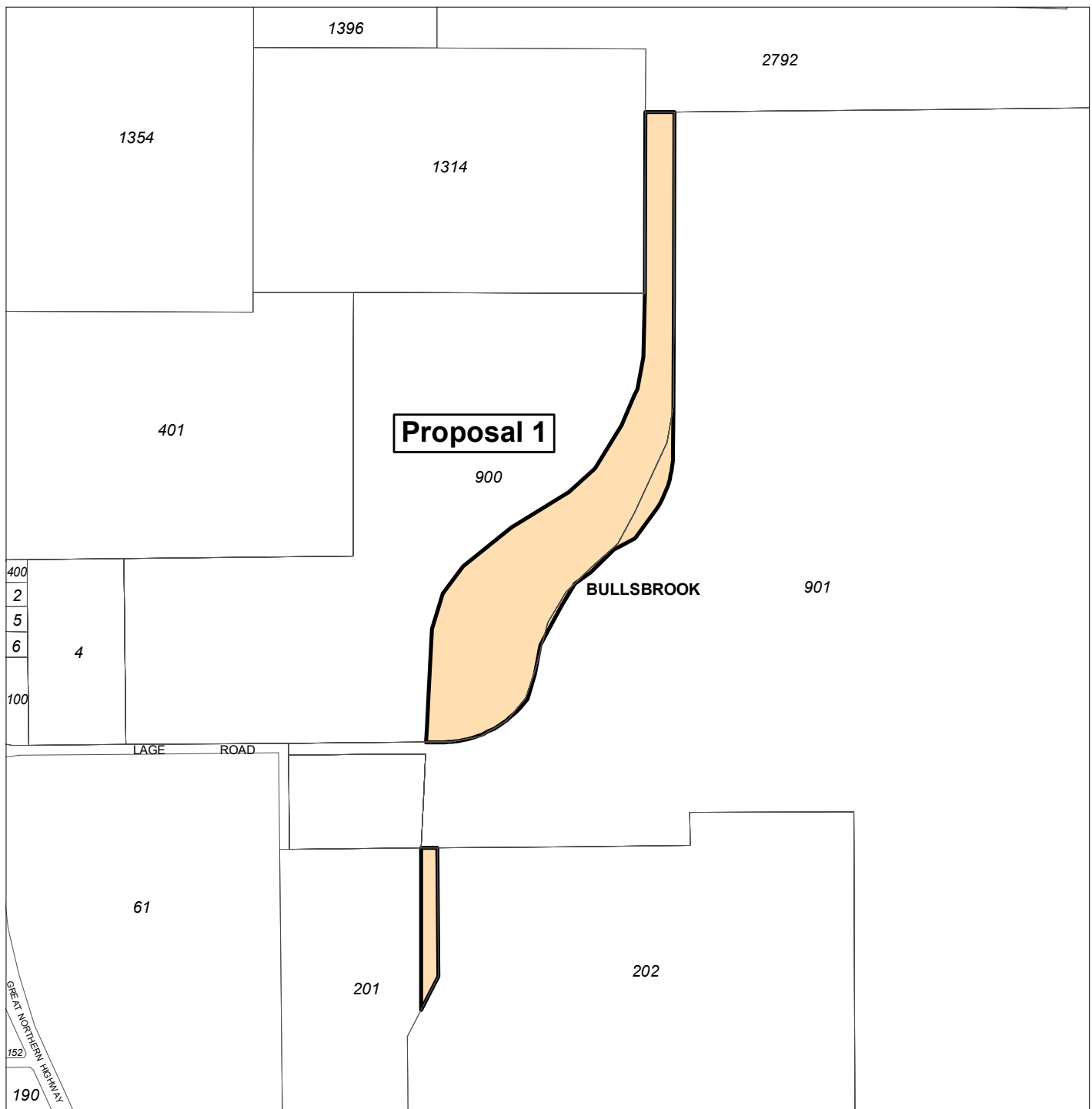


**MRS Amendment 1391/57**

**Pt Lots 900 & 901 Lage Road and  
Pt Lot 201 Great Northern Highway, Bullsbrook**

**Amending Figure  
Proposal 1**






**Pt Lots 900 & Lot 901 LAGE Road and Pt Lot 201 Great Northern Highway, Bullsbrook**  
**Proposed minor amendment**  
**as advertised**

27 October 2021

Proposal 1

Proposed Amendment:

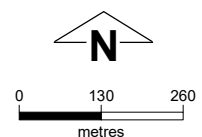
 Urban deferred zone

Oracle reference no: 3306

Version number: 2



Date: 2/11/2021  
 Produced by Data Analytics, Department of Planning, Lands and Heritage, Perth WA  
 Base information supplied by Western Australian Land Information Authority SLIP 1180-2020-1





## **Appendix A**

### **Notice of environmental assessment**





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

Our Ref: CMS 18104  
Enquiries: Amy Cowdell, 6364 6499  
Email: [Amy.Cowdell@dwer.wa.gov.au](mailto:Amy.Cowdell@dwer.wa.gov.au)

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Dear Ms Fagan

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

<b>SCHEME</b>	<b>Metropolitan Regional Scheme Amendment 1391/57</b>
<b>LOCATION</b>	<b>Portion of Lots 900 and 901 Lage Road and portion of Lot 201 Great Northern Highway, Bullsbrook</b>
<b>RESPONSIBLE AUTHORITY</b>	<b>Western Australian Planning Commission</b>
<b>DECISION</b>	<b>Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of the EP Act. Advice Given. (Not Appealable)</b>

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 Chair'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 Chair'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 blue ink, appearing to read 'Shaun Meredith', with a stylized flourish at the end.

**Dr Shaun Meredith**  
**Delegate of the Environmental Protection Authority**  
Executive Director  
EPA Services

20 December 2021

Encl. Chair's Determination  
Scheme Advice and Recommendations

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

Metropolitan Regional Scheme 1391/57

**Location:** Portion of Lots 900 and 901 Lage Road and portion of Lot 201 Great Northern Highway, Bullsbrook

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

**Determination Published:** 20 December 2021

**Summary**

The Western Australian Planning Commission (WAPC) proposes to transfer approximately 18.1 hectares of land in Bullsbrook from the Rural zone to the Urban Deferred zone.

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**

Having regard to EPA's *Statement of Environmental Principles, Factors and Objectives*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

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

**Advice and Recommendations regarding Environmental Factors**

**Flora and Vegetation; Terrestrial Fauna**

The proposed amendment area has historically been used for agricultural purposes, with only scattered poorly represented remnant vegetation remaining providing potential habitat for threatened species of black cockatoo. The EPA supports the retention of remnant vegetation within the amendment area through the future stages of planning, particularly black cockatoo foraging species. An assessment of potential habitat trees and water sources for species of black cockatoo should be undertaken prior to structure planning.

## **Social Surroundings**

An Aboriginal heritage site, mythological site 3525, is registered over the scheme amendment area. The EPA notes the proposed amendment outlines that the amendment will be referred to South West Aboriginal Land and Sea Council during the formal advertising period. The EPA also recommends consultation with the Traditional Owner group and investigations into the extent of the mythological site be undertaken prior to structure planning.

The southern position of the proposed amendment boundary is located within a 500 metre separation distance from an existing clay quarry located on Lot 202 Great Northern Highway. The EPA supports that extraction of this clay resource will be completed prior to any land within the separation area being transferred to the Urban zone. Future development of the site should continue to consider the EPA's Guidance Statement No. 3 *Separation Distances between Industrial and Sensitive Land Uses* to manage potential impacts to surrounding land uses prior to progressing urban development.

## **Inland Waters**

The amendment area is located within the proclaimed Swan Groundwater Area and Swan River Systems Surface Water Area.

The EPA notes and supports that a draft District Water Management Strategy has been submitted with the Department of Water and Environmental Regulation for its review and endorsement.

## **Conclusion**

The EPA concludes that implementation of Metropolitan Region Scheme Amendment 1391/57 can be managed to meet the EPA's environmental objectives for the above factors through standard planning requirements and statutory processes. The EPA supports the preparation of future local planning scheme provisions and structure planning to manage and protect the environmental values. The EPA recommends its advice is implemented to mitigate potential impacts to Flora and Vegetation, Terrestrial Fauna and Social Surroundings.



## Environmental Protection Authority

### S48A Referrals

**Title:** Metropolitan Regional Scheme Amendment 1391/57

**Location:** Portion of Lots 900 and 901 Lage Road and portion of Lot 201 Great Northern Highway, Bullsbrook

**Description:** The Western Australian Planning Commission proposes to rezone a portion of Lots 900 and 901 Lage Road and portion of Lot 201 Great Northern Highway, Bullsbrook (18.1 hectares) from the Rural zone to the Urban Deferred zone.

**Ref ID:** CMS181804

**Date Received:** 12/11/2021      **Date Sufficient Information Received:** 26/11/2021

**Responsible Authority:** Western Australia Planning Commission, Locked Bag 2506 Perth WA 6001

**Contact:** Brett Pye

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

**Potential Significant Effects:** Implementation of the scheme amendment may impact the above factors through future development.

**Management:** Impacts can be managed through existing planning processes. EPA advice is provided regarding remnant vegetation retention, water planning and social surroundings.

**Determination:** **Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)**

The EPA has carried out some investigations and inquiries before deciding not to assess this scheme. In deciding not to formally assess schemes, the EPA has determined that no further assessment is required by the EPA.

This Determination is not appealable.

Chair's Initials:

Date: 16 December 2021



## **Appendix B**

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





**Metropolitan Region Scheme  
Amendment 1391/57**

**Pt Lots 900 & 901 Lage Road and  
Pt Lot 201 Great Northern Highway, Bullsbrook**

**as advertised**

**Amending Plan 3.2785**

**Detail Plans**

1.5830, 1.5866



## **Appendix C**

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





[illegible]

- 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: [RegionPlanningSchemes@dplh.wa.gov.au](mailto:RegionPlanningSchemes@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](http://www.dplh.wa.gov.au). The Department of Planning, Lands and Heritage will establish the extent of the reservation and forward the notice to the Board of Valuers.

The Board of Valuers will determine the value of the property as if there was no reservation or PCA (unaffected value). You may wish to attend the board's meeting to present any matters you believe are relevant to the value of your property.

Following the board's decision:

- The board will advise you of the unaffected value of the property.
- You pay the board's valuation fee to the department and you will be advised of the affected value of the property (as determined by the WAPC) – the minimum price for which you can sell the property and receive the full amount of compensation (the difference between the affected and unaffected values). The valuation fee is refundable upon the sale of the property and the payment of compensation.
- You then arrange the sale of the property (either privately or through an agent) – the sale price must not be less than the affected value.

**You (and your agent) must inform prospective purchasers that you are selling the property at a reduced price and that you will be claiming compensation for injurious affection from the WAPC. You must also include a special condition in the offer and acceptance.**

- After you sell the property, you can make a claim for compensation for injurious affection through the WAPC **within six months** of the property being sold (registered at Landgate).
- After the WAPC pays compensation, the WAPC will lodge a notification on the Certificate of Title to identify that it has paid compensation, which is only payable once.
- If the property does not sell within one year of the board's valuation, you may ask the board to revalue the property. The sale process is then repeated.
- Alternatively, you may wish to ask the WAPC to purchase the property, as you have been unable to sell it privately. The WAPC will purchase the property at its then fair market value (unaffected value).

### 2. Refused development

If the WAPC refused your development application or approved it subject to unacceptable conditions, you may make a claim for compensation for injurious affection **within six months** of the WAPC's decision.

The WAPC will either pay compensation or may elect to purchase the property instead of paying compensation. If the WAPC elects to purchase the property, it obtains valuations for the fair market value (unaffected value) as at the date of the election to purchase.

## What is compulsory acquisition?

If land is required for a reservation and has not been previously acquired or compensation has been claimed, the Government may compulsorily acquire the property. The WAPC will obtain independent valuations and make an offer of compensation, in accordance with the *Land Administration Act 1997*.

## How can I view a region scheme?

- online at [www.dplh.wa.gov.au/your-property-and-region-schemes](http://www.dplh.wa.gov.au/your-property-and-region-schemes)
- office of the WAPC and the Department of Planning, Lands and Heritage Level 2, 140 William Street, Perth
- any local government office.

The WAPC operates in accordance with the *Planning and Development Act 2005* and receives administrative support from the Department of Planning, Lands and Heritage.

*This information is correct as at January 2019.*

## **Appendix 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 C).

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.

