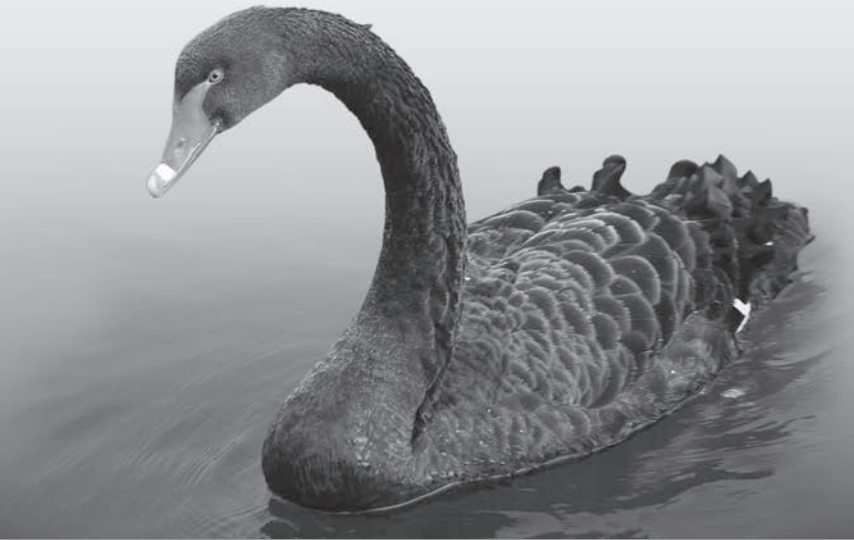




June 2022

Metropolitan Region Scheme Amendment 1396/57 (Minor Amendment)



Rationalisation of Rosehill Estate

Amendment Report

City of Swan

**Metropolitan Region Scheme
Amendment 1396/57
(minor amendment)**

Rationalisation of Rosehill Estate

Amendment Report

City of Swan



June 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.

Disclaimer

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MRS Amendment 1396/57 Amendment Report
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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. Landowners directly affected by a proposed amendment are contacted in writing. Where there is an environmental review, this is also made available for comment.
- WAPC receives public submissions over a period of 60 days.
- WAPC reviews the proposed amendment in light of both the submissions and planning advice provided by the Department of Planning, Lands and Heritage.
- WAPC provides recommendation to the Minister for Planning whether to accept, reject or modify the proposed amendment.
- Minister considers proposed amendment.
- If approved, with or without modification, the amendment becomes legally effective in the MRS with the publishing of a notice in the Government Gazette. If declined, the amendment is discarded.
- Within three months of an MRS amendment being finalised, all affected local governments must initiate an amendment to its local planning scheme to match the new zonings.

Zones and reservations

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

Zones

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

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

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

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

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

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

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

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

Reservations

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

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

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

Port installations: regional maritime shipping facilities.

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

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

Civic and cultural: significant civic precincts and buildings.

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

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

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

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

What if my land is rezoned?

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

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

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

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

What if my land is reserved?

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

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

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

How can my views be heard?

You can lodge a submission during the advertised period:

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

Publications

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

Amendment report

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

Environmental review report

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

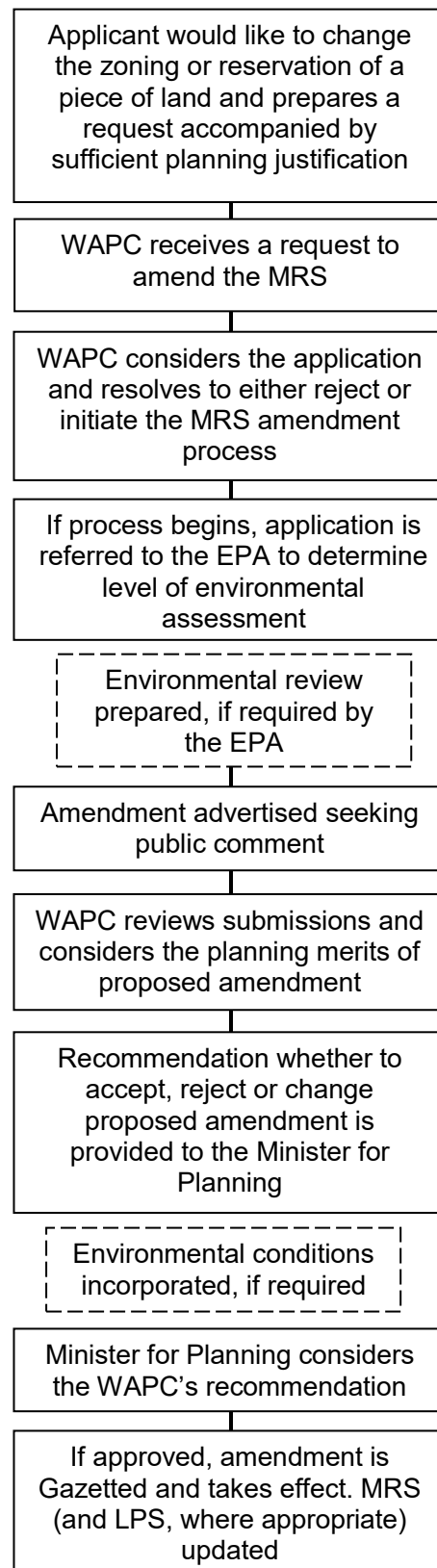
Report on submissions

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

Submissions

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

A simple diagram of the amendment process.



Abbreviations

AHA	Aboriginal Heritage Act
ANEF	Australian Noise Exposure Forecast
CBD	Central Business District
DPLH	Department of Planning, Lands and Heritage
DWER	Department of Water and Environmental Regulation
EPA	Environmental Protection Authority
LPS	Local Planning Scheme
MRS	Metropolitan Region Scheme
MRWA	Main Roads Western Australia
POS	Public Open Space
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
TIA	Traffic Impact Assessment
WAPC	Western Australian Planning Commission

Amendment Report

Metropolitan Region Scheme Amendment 1396/57

Rationalisation of Rosehill Estate

Amendment Report

1 Purpose

The purpose of the amendment is to rezone approximately 6.02 ha in South Guildford from the Rural zone and Parks and Recreation reserve to the Urban zone in the Metropolitan Region Scheme (MRS) and 1.3 ha from the Rural zone to the Parks and Recreation reserve.

The amendment forms part of a land exchange which will facilitate public open space/drainage, conservation and residential development following a local scheme amendment, detailed local structure planning and subdivision approval.

2 Background

The proposed amendment is located in the City of Swan and is approximately 12.5 km north-east of the Perth CBD. The subject land abuts existing Urban zoned land to the south-east and the Helena River foreshore reserve to the north and north-east.

The subject land is generally cleared due to being used for former rural uses, carparking and a golf driving range. The site contains some established trees of native and introduced species and the central portion contains part of a waterway tributary to the Helena River which is to be retained. The amendment area is partly categorised as 'Multiple Use' wetland.

Land use and development within the proposed amendment area is generally controlled by the City of Swan Local Planning Scheme No. 17 (LPS 17). The MRS Rural portion of the subject land is currently zoned "Special Use" under LPS 17, with the remainder reserved for Parks and Recreation consistent with its designation in the MRS.

Proposed Land Exchange

The proposal involves a land exchange between Noahs Rosehill Waters Pty Ltd and the Western Australian Planning Commission (WAPC). The proposal is to rezone 2.27 ha (WAPC owned) from the Parks and Recreation reserve to the Urban zone for public open space/drainage and residential purposes. In exchange for 1.3 ha (Noah's Rosehill Waters Pty Ltd owned) from the Rural zone to the Parks and Recreation reserve adjacent to the Helena River to primarily reflect the 1:100-year flood level. The proponent advises that the land exchange will result in the following benefits:

- The resulting realignment of the foreshore reserve will create a more regular and contiguous foreshore alignment rather than the current variable and angular alignment. This is beneficial from an access, public/private delineation and maintenance perspective.
- The land to be transferred to Urban for public open space/drainage and residential purposes will assist in creating a more regular development boundary and a more logical and functional subdivision design and configuration.

- The subject land is affected by the 1:100-year flood level as it relates to a tributary of the Helena River. Rationalising the drainage and landscape design for the proposed Urban interface between flood levels and residential development will be beneficial from a management perspective.
- The developer will be required to design and maintain the tributary outside of the Parks and Recreation reserve. From a continuity perspective, the design and drainage management for the majority length of the tributary will rest with a single stakeholder. A preliminary Foreshore Management Plan has been prepared for the proposed foreshore reserve.

The proponent advises that it intends to amend the Urban zoned portion to a “Special Use” zone under LPS 17 as per the balance of the Rosehill Waters Estate and to modify the Rosehill Waters Structure Plan to include this area.

3 Scope and content of the amendment

The amendment proposes to rezone various properties as described in this report and depicted on the *Amendment Figure - Proposal 1*.

The total area of the land the subject of the rezoning is approximately 7.32 ha, with 6.02 ha to be transferred to the Urban zone and 1.3 ha to be transferred to the Parks and Recreation reservation.

4 Discussion

STRATEGIC CONTEXT

Perth and Peel @ 3.5 Million / North-East Sub-Regional Planning Framework

The *Perth and Peel @ 3.5 Million* document provides strategic guidance to government agencies and local governments on land use, land supply, land development, environmental protection, infrastructure investment and the delivery of physical and community/social infrastructure for the Perth and Peel regions. It links the four Frameworks for each subregion and encourages the consideration of new urban growth opportunities.

The *North-East Sub-Regional Planning Framework* reflects the current zoning/reservation of the South Guildford area. Notwithstanding this, the proposed amendment is not in conflict with the intent and objectives of the Framework which provides for minor logical modifications as proposed by this amendment.

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

State Planning Policy 2.8 - Bushland Policy for the Perth Metropolitan Region (SPP 2.8) aims to provide a policy and implementation framework that will ensure bushland protection and management issues are addressed and integrated with broader land use planning and decision-making. In general, the policy does not prevent development where it consistent with policy measures and other planning and environmental considerations. The subject land has been primarily cleared of vegetation with areas closest to the Helena River foreshore proposed for conservation of vegetation and associated wetland areas. It is considered that the proposed amendment is consistent with the intent of SPP 2.8.

State Planning Policy 3.7 - Planning for Bushfire Risk Management

State Planning Policy 3.7 - Planning for Bushfire Risk Management (SPP 3.7) forms the foundation for land-use planning to address bushfire risk management in Western Australia. It is used to inform and guide decision-makers, referral authorities and proponents to achieve acceptable fire protection outcomes on planning proposals in bushfire-prone areas.

A draft Bushfire Management Plan has been considered by the Department of Fire and Emergency Services and minor modifications are required prior to a final determination being made on the amendment.

State Planning Policy 5.1 - Land Use Planning in the Vicinity of Perth Airport

State Planning Policy 5.1 - Land Use Planning in the Vicinity of Perth Airport (SPP 5.1) seeks to protect Perth Airport from unreasonable encroachment by noise-sensitive land uses, and to minimise the impact of airport operations on existing and future communities. The policy provides guidance for zoning, land uses and densities depending on an areas level of noise exposure as measured by the Australian Noise Exposure Forecast (ANEF) contour system. The amendment area is located within portions of the 20-25, 25-30 and 30-35 ANEF contours, as follows:

20-25 ANEF Contour: Residential development is to be limited to an R20 density, notifications on title, noise insulation and advice being provided to prospective purchasers about the potential for aircraft noise nuisance. The WAPC seeks to impose the same development requirements as those imposed on adjacent MRS Amendment 1266/57 - Rosehill Golf Course Redevelopment. A small area of land is also included in the Parks and Recreation reserve.

25-30 and 30-35 ANEF Contours: These areas are included in the Parks and Recreation reserve with no residential development proposed.

MRS Amendment 1266/57 - Rosehill Golf Course Redevelopment

In 2015, the Minister for Planning approved MRS Amendment 1266/57 subject to the application of a number of requirements. As this amendment is an extension of the abutting area the WAPC supports similar requirements (where applicable) as follows:

- 1) Residential development within the 20 - 25 ANEF contour to be at a maximum density of R20.
- 2) A notification is to be included on all titles and within sale contracts, to be signed and acknowledged by all purchasers, which states as follows:

“This land is subjected to aircraft noise at any time by the 24 hour a day, 7 day a week passenger and freight aircraft flight operations arriving and departing Perth Airport.

The frequency of aircraft movements and the size of aircraft are forecast to increase indefinitely into the future.

It is the responsibility of landowners to noise attenuate their property to ensure their amenity, as Perth Airport will remain curfew free.”

- 3) Noise insulation in accordance with AS2021-2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction is required as a minimum for residential development within the 20 - 25 ANEF contour.

- 4) Signage indicating “Aircraft Noise Area”, similar to those in the vicinity of RAAF Base Pearce, should be erected and maintained to the east and west of the development on West Parade.
- 5) The above requirements are to be complied with by the City of Swan in the subsequent planning stages, such as the Local Planning Scheme amendment and structure planning stage. A notation is to be placed on the Scheme maps showing land to be aircraft noise affected.

STATUTORY CONTEXT

Environment

The Department of Water and Environmental Regulation (DWER) verbally advised that the MRS amendment request be modified in order to include the central Public Open Space (POS) area (containing remnant vegetation and a creek) within a consolidated management area. This would ensure consistent management arrangements across the entire central POS area. This modification has been undertaken to the proposal.

Urban Water Management

The DWER has approved a District Water Management Strategy for the site.

Water, Wastewater and Drainage Infrastructure

The Water Corporation raises no objections to the proposed amendment and advises that future investigations may be required regarding the provision of sewerage to portion of Lot 82 West Parade.

Transportation

Main Roads WA (MRWA) raises no objections and advises as follows:

- The City of Swan has previously been advised of increases in development density within the Rosehill Waters Structure Plan area and the impact on the intersection of Great Eastern Highway/Queens Road, particularly at peak periods.
- MRWA in consultation with the City of Swan has previously identified an appropriate intersection layout to resolve right turning movements from Queens Road to Great Eastern Highway. To date these works have not occurred and intensification of land uses has the potential to exacerbate traffic issues. It is requested that the City continue to liaise with MRWA to achieve an acceptable upgrade treatment for this intersection.
- It is recommended that the Traffic Impact Assessment (TIA) dated April 2021 be revised to address the following:
 - a) Based on the 2013 trip distribution in the 2016 TIA it was assumed that 30% of traffic would travel on the section of West Parade to the west of the development. The latest TIA demonstrates that closer to 75% of traffic movements are to/from the west section of West Parade. If this trend continues during future stages of development, the turning volumes at the intersection of Great Eastern Highway/Queens Road will be greater than those forecast in the latest TIA. It is requested that trip distributions referenced in the latest version of the TIA are updated to be based on the 2021 traffic survey.

- b) The latest TIA does not address safety or crash history. MRWA data indicates there is a high proportion of right-angle crashes at the intersection of Great Eastern Highway/Queens Road. The TIA should be revised to include this information and an evaluation of the impact of traffic generated by the proposal. SIDRA modelling results also indicated significant delays for traffic utilising the intersection of Great Eastern Highway/Queens Road.
- c) Vehicle Calibration Lengths should be updated, rather than adopting default SIDRA values. A non-default Peak Flow Factor of 100% has been used, which is considered contrary to SCATS data along Great Eastern Highway. It is recommended that the default value of 95% should be used.
- d) Mitigation measures to address potential impacts on the intersection of Great Eastern Highway/Queens Road should be identified and evaluated.

The WAPC notes MRWA's comments and has since received an updated TIA which will require approval prior to a final determination being made on the amendment.

5 Aboriginal Heritage

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

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

Proponents of proposals are advised to familiarise themselves with the State's *Cultural Heritage Due Diligence Guidelines* (the Guidelines). These have been developed to assist proponents identify any risks to Aboriginal heritage and to mitigate risk where heritage sites may be present. The Guidelines are available electronically at: https://www.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 now referred to SWALSC for comment before being released for public submission. SWALSC is the recognised Native Title Representative Body for Western Australia's south west region and as such is also well placed to provide advice on Aboriginal heritage.

This amendment was not referred to SWALSC prior to initiation as it was not expected to impact on Aboriginal heritage values. However, the amendment will be referred to SWALSC during the public advertising period.

6 Coordination of local and region scheme amendments

Under section 126(3) of the *Planning and Development Act 2005* the City of Swan has the option of recommending to the WAPC to concurrently rezone land that is being zoned Urban

under the MRS to a "Development" zone (or similar) in its LPS. The proponent has confirmed that a separate LPS amendment to a "Special Use" zone for the Urban zone is proposed to be undertaken for the site.

7 Substantiality

The *Planning and Development Act 2005* allows for amendments to the MRS to be processed as either "minor" or "major" amendments depending on whether they are considered to constitute a substantial alteration to the MRS or not. WAPC *Development Control Policy 1.9 - Amendment to Region Schemes* sets out the criteria for deciding whether the major or minor process should be followed. The criteria relate to a variety of matters, not all of which relate to every amendment. This amendment is recommended to be processed as a 'minor' amendment for the following reasons:

- The size and scale of the proposed amendment is not considered regionally significant. It does not reflect a regional change to the planning strategy or philosophy for the metropolitan region.
- The rationalisation of the Urban zone and Parks and Recreation reserve provides for a more logical on-site boundary and management arrangements and constitutes a minor rationalisation in the locality.
- The proposal is consistent with the requirements for land within the 20-25 and 25+ ANEF contours within *SPP 5.1 - Land Use Planning in the Vicinity of Perth Airport*.
- Similar planning requirements to those applied to abutting MRS Amendment 1266/57 - Rosehill Golf Course Redevelopment will apply to the subject land.

8 Sustainability appraisal

The proposed amendment will allow further detailed planning to facilitate the development of the South Guildford locality, consistent with the goals and objectives of the WAPC's *North-East Sub-Regional Planning Framework* which addresses the sustainability of proposed urban development in general.

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 procedure for an amendment not constituting a substantial alteration to the MRS (often referred to as a minor amendment) involves:

- formulation of the amendment by the WAPC
- referral to the EPA for environmental assessment
- completion of an Environmental Review (if required) in accordance with EPA instructions
- public submissions being sought on the proposed amendment (including Environmental Review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or refusal to approve, by the Minister
- the amendment takes legal effect with Gazettal of the Minister's approval.

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

11 Submissions on the amendment

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

The amendment is being advertised for public submissions for a period of 60 days from Friday 17 June 2022 to Friday 19 August 2022.

Copies of the amendment 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 6001

or by email to:-

RegionPlanningSchemes@dplh.wa.gov.au

and must be received by 5 pm Friday 19 August 2022.

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form (form 57) is contained in this report (appendix E). Additional copies of the form are available from the display locations and the Department of Planning, Lands and Heritage website <https://www.dplh.wa.gov.au/mrs-amendments>.

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

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

12 Modifications to the amendment

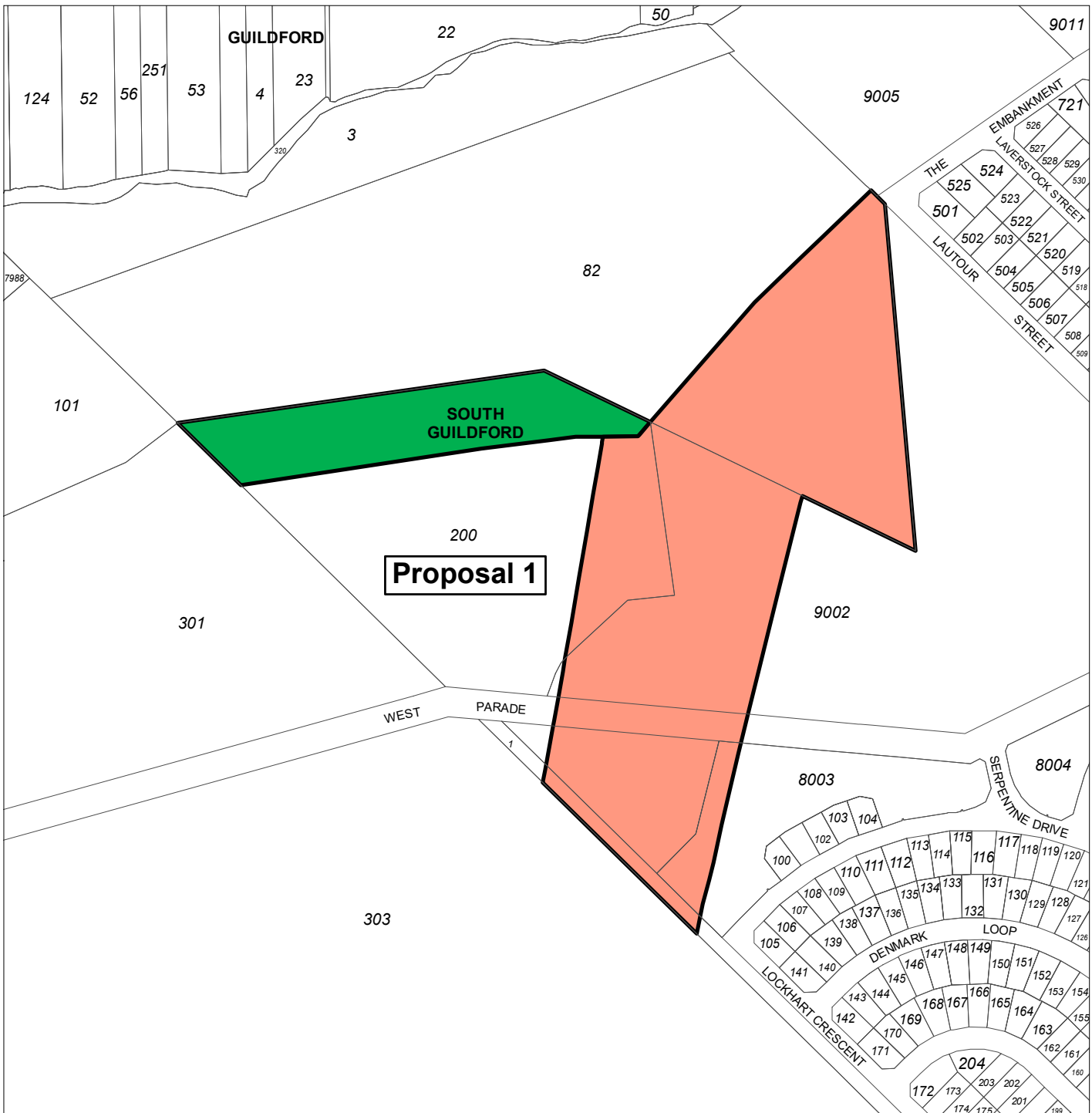
After considering any submissions received from Government agencies and the public, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve.

13 Final outcome

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

MRS Amendment 1396/57
Rationalisation of Rosehill Estate

Amending Figure
Proposal 1





**Rationalisation of Rosehill Estate
Proposed minor amendment
as advertised**

23 March 2022

Proposal 1

Proposed Amendment:

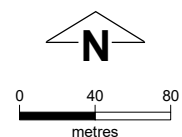
-  Parks and recreation reservation
-  Urban zone

Oracle reference no: 3367

Version number: 2



Date: 28/03/2022
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 18183
Enquiries: Maddison Howard, 6364 6424
Email: Maddison.Howardi@dwer.wa.gov.au

Dear Ms Fagan

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

SCHEME	MRS Amendment 1396/57 – Rosehill Waters Estate
LOCATION	Part Lots 9002, 82, 200, and 1 West Parade, South Guildford (Rosehill Waters Estate)
RESPONSIBLE AUTHORITY	Western Australian Planning Commission
DECISION	Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of the EP Act. Advice Given. (Not Appealable)

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

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

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

20 April 2022

Encl. Chair's Determination
Scheme Advice and Recommendations

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

Metropolitan Region Scheme Amendment 1396/57 – Rosehill Waters Estate

Location: Portion of Lots 9002, 82, 200, 1 West Parade, South Guildford

Determination: Scheme Not Assessed – Advice Given (Not Appealable)

Determination Published: 26 April 2022

Summary

The Western Australian Planning Commission (WAPC) has initiated Metropolitan Region Scheme (MRS) Amendment 1396/57 which proposes to rezone portions of Lots 9002, 82, 200 and 1 West Parade, South Guildford to facilitate the final stages of the Rosehill Waters Estate development. The total proposed amendment area is 7.32 hectares (ha). The proposal includes rezoning a 3.7ha portion of the amendment area from 'Rural' to 'Urban', and facilitating a land exchange between the developer and the WAPC to rezone 1.3 ha from 'Rural' to 'Parks and Recreation' reserve, and 2.3 ha from 'Parks and Recreation' reserve to 'Rural'.

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 original referral documentation provided by the WAPC for this amendment. Having considered this matter, the following advice is provided.

Environmental Factors

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

- Terrestrial Fauna
- Inland Waters
- Social Surroundings

Advice and Recommendations regarding the Environmental Factors

Terrestrial Fauna

It is noted that vegetation within the amendment area is regrowth or planted. A patch of riparian vegetation occurs over the drainage line within the floodplain fringe, located in the eastern portion of the lot. The riparian vegetation is to be retained as 'public open space'.

The Environmental Assessment Report Addendum (Coterra Environment 2022) identified two Eucalypt trees that could provide breeding habitat to black cockatoos within the amendment area. Both trees are included in the portion of the amendment area already subject to the approved Rosehill Waters Structure Plan. As such, no additional fauna habitat trees are to be removed as part of the proposed amendment.

Noting the likely presence of black cockatoos in the locality of the amendment area, the EPA recommends:

- Potential fauna habitat trees within the proposed subdivision area are retained as part of future development.
- The existing Fauna Management Plan is applied to the portion of the proposed amendment area sited outside the current structure plan boundary.

Inland Waters

The amendment area is within a mapped Multiple Use Wetland and the 1 in 100-year AEP Floodplain Development Control Area for the Helena River. The Swan River Trust Development Control Area also partially overlaps the site.

The existing District Water Management Strategy and Local Water Management Strategy (LWMS) for the broader Rosehill Waters Estate structure plan area include a portion of the amendment area. It is noted an LWMS addendum has been prepared, that includes the balance of the amendment area, and contains measures to manage potential impacts to the Helena River and floodplain. The EPA recommends that the addendum be endorsed by DWER prior to approval of the rezoning.

It is noted that a preliminary Foreshore Management Plan (Coterra Environment 2022) has been prepared, and proposes an 11.7ha foreshore reserve for the area between the Helena River and the Rosehill Waters Estate. The EPA recommends that the Department of Biodiversity, Conservation and Attractions, Rivers and Estuaries (DBCA) is consulted in the preparation of the final Foreshore Management Plan, and for advice regarding requirements for development in the Swan River Development Control Area.

Social Surroundings

Portions of three registered Aboriginal heritage sites are mapped over part of the amendment area.

- Bridge Camps (Site 3608) – Camp.
- Bennett Brook Camp Area (Site 3840) – Camp area (ceremonial, mythological, skeletal material/burial, manmade structure, fish trap, artefact scatter, historical).
- Helena River (Site 3758) - Ceremonial, mythological, repository/cache.

It is noted that in 2014, the former Department of Aboriginal Affairs provided advice regarding potential impacts to Aboriginal heritage values within the structure plan area. Noting that the proposed amendment area extends beyond the current structure plan boundary, the EPA recommends that the proponent considers any obligations under the *Aboriginal Heritage Act 1972* regarding potential impacts of the amendment to Aboriginal heritage sites and/or values.

The EPA also recommends that following finalisation of the region scheme amendment, a local planning scheme amendment is prepared and referred to the EPA for its consideration under section 48A of the EP Act.

Conclusion

The EPA concludes the scheme amendment can be managed to meet the EPA's environmental objectives through existing planning controls. The EPA recommends its advice is implemented to mitigate potential impacts to the above environmental factors.



GOVERNMENT OF
WESTERN AUSTRALIA

S48A Referrals

Environmental Protection Authority

Title: MRS Amendment 1396/57 – Rosehill Waters Estate

Location: Part Lots 9002, 82, 200, and 1 West Parade, South Guildford (Rosehill Waters Estate)

Description: Amendment 1396/57 proposes to rezone portions of Lots 9002, 82, 200 and 1 West Parade, South Guildford from 'Rural' to 'Urban'. The proposal is to facilitate the final stages of residential development for the Rosehill Waters Estate. The proposal also includes a land exchange between the developer and the Western Australian Planning Commission, requiring a rezone of 1.3ha from 'Rural' zone to 'Parks and Recreation' reserve, and 2.3ha from 'Parks and Recreation' reserve to 'Urban' zone.

Ref ID: CMS18183

Date Received: 04/04/2022 **Date Sufficient Information Received:** 04/04/2022

Responsible Authority: Western Australian Planning Commission, 140 William Street, PERTH 6000

Contact: Anthony Muscara

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

Potential Significant Effects: Clearing of native vegetation that may provide habitat for threatened species of black cockatoo.

Management: Potential impacts to the preliminary environmental factors can be managed through the proposed amendment and future planning controls. EPA advice has been provided recommending additional consultation with relevant responsible authorities for the inland water environmental factor, and retention of potential fauna habitat during future development.

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: 20 April 2022

Appendix B

List of detail plans supporting the amendment

**Metropolitan Region Scheme
Amendment 1396/57**

Rationalisation of Rosehill Estate

as advertised

Amending Plan 3.2791

Detail Plans

1.6221

Appendix C

Your property and the planning system - region schemes

Your property and the planning system – region schemes

Rights to compensation in relation to reserved land

The Western Australian Planning Commission (WAPC) has statewide responsibility for planning how land in metropolitan and regional areas can be used and developed. It does this by reserving and zoning land for immediate and future development through region schemes and/or planning control areas.

Region schemes

The WAPC administers three region schemes which classify land into zones and reservations:

- Metropolitan Region Scheme
- Peel Region Scheme
- Greater Bunbury Region Scheme.

Zones are large areas identified for purposes such as industry (industrial zone) and residential (urban zone).

Reservations are required for public purposes such as schools, railways, major roads, and parks and recreation.

How do you amend a region scheme?

Schemes can be amended as regions grow and change. This process begins with the local government, landowner, State Government or WAPC making a request to amend a scheme. The WAPC considers the request and can either refuse or approve the initiation of an amendment.

The amendment process is lengthy and in general, takes between 12 to 24 months to complete and includes extensive consultation with landowners and the broader community. In some cases amendments are subject to assessment by the Environmental Protection Authority. Amendments can be classified as Major or Minor, in accordance with *Development Control Policy 1.9 – Amendment to Region Schemes*.

Planning Control Area

In some instances, the WAPC will use a planning control area (PCA) to protect land required for a particular purpose from development until it may be reserved in one of the region schemes. A PCA acts in a similar manner as a region scheme but can be applied as a temporary measure to enable an amendment to be progressed. This also provides affected landowners with rights to claim compensation while a decision is made to reserve land or not. A PCA is valid for up to five years.

This means the WAPC is the decision-making authority for any development applications on land within a PCA. A person must not commence and carry out development within the PCA area without the prior approval of the WAPC. There are penalties for failure to comply with this requirement.

The same compensation and alternative purchase rules apply as with a region scheme. However, if compensation is paid and the PCA or reservation is reduced or removed in the future, the compensation is repayable in whole or part upon the subsequent sale or subdivision of the property.

What if your land is proposed to be reserved?

The WAPC approaches landowners on land proposed to be reserved and invites them to comment through the amendment process.

The Government will ultimately acquire reserved land, but as the reservations are strategic and long-term requirements, the land can generally remain in private ownership until it is needed for the public purpose. Several options are available to the owners of reserved land:

- **Retain ownership of your property** and continue quiet enjoyment until it is needed for the public purpose. You may complete any development or subdivision approved prior to the reservation taking effect. Under non-conforming use rights, you may continue to use the property for the purpose for which it was legally being used immediately before the reservation came into effect.
- **Sell the property on the open market** to another person(s). The WAPC recognises that the reservation may make this difficult. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider purchasing a reserved property if an owner is unable to achieve a private sale on the open market. This does affect your right to otherwise claim statutory compensation (outlined in the compensation section below).
- **Offer the property for sale** to the WAPC. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider purchasing a reserved property. The WAPC purchases a property at its current market value, ignoring the impact of the reservation and proposed public purpose. The WAPC obtains two independent valuations to provide it with advice on the value of the property.

Am I entitled to claim compensation?

If your land is reserved in a region scheme or subject to a PCA and **you are the owner of the land when it was first reserved or the PCA was declared**, you may be able to make a claim for compensation for injurious affection if:

1. **Private Sale** – you sell the property on the open market at a reduced price (due to the effect of the reservation or PCA);
or
2. **Refused development** – the WAPC has either refused a development application over the property or approved it subject to conditions that are unacceptable to you.

What is injurious affection?

Injurious affection occurs when the value of a piece of land is affected by the application of a reservation or restriction for a public purpose.

How do I claim compensation?

1. Private sale

If you wish to sell your property on the open market at a reduced price (affected value), you will need to complete a *Notice of Intention to Sell* form, which is available online at www.dplh.wa.gov.au. The Department of Planning, Lands and Heritage will establish the extent of the reservation and forward the notice to the Board of Valuers.

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

Following the board's decision:

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

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

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

2. Refused development

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

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

What is compulsory acquisition?

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

How can I view a region scheme?

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

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

This information is correct as at January 2019.

Appendix D

Preparing a submission

Preparing a submission

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

What is a submission?

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

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

What should I say?

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

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

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

Before lodging your submission

The WAPC prefers to receive submissions online at <https://consultation.dplh.wa.gov.au>, however, hardcopy submissions can also be accepted (form 57 – appendix E).

Please remember to complete all fields in the submission form including your name, contact details and whether you would like to attend a hearing. 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.

Appendix E

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

Section 57 Amendment (Minor)

Form 57

Submission

Metropolitan Region Scheme Amendment 1396/57

Rationalisation of Rosehill Estate

OFFICE USE ONLY

SUBMISSION NUMBER

RLS/1024

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

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

Surname (PLEASE PRINT CLEARLY)

Address Postcode

Contact phone number Email address

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

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

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You should be aware that:

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

To be signed by person(s) making the submission

Signature Date

Note: Submissions MUST be received by the advertised closing date, being close of business (5pm) on 19 AUGUST 2022. Late submissions will NOT be considered.