



September 2022

# Metropolitan Region Scheme Amendment **1397/57** (Minor Amendment)



## Rationalisation of Mangels Bay Foreshore

Amendment Report

City of Rockingham



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**Metropolitan Region Scheme  
Amendment 1397/57  
(minor amendment)**

**Rationalisation of Mangels Bay Foreshore**

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**Amendment Report**

**City of Rockingham**



September 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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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*.

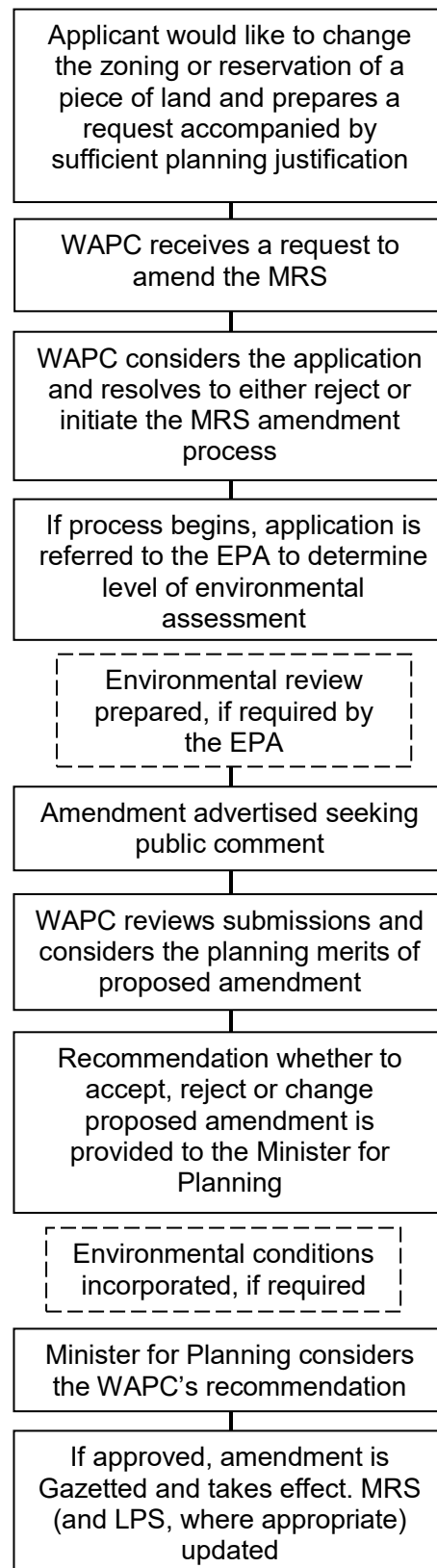
### Report on submissions

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>CBD</b>	Central Business District
<b>CHRMAP</b>	Coastal Hazard Risk Management and Adaptation Plan
<b>DBCA</b>	Department of Biodiversity Conservation and Attractions
<b>DC</b>	Development Control
<b>EPA</b>	Environmental Protection Authority
<b>MRS</b>	Metropolitan Region Scheme
<b>PIA</b>	Planning Investigation Area
<b>SPP</b>	State Planning Policy
<b>SWALSC</b>	South West Aboriginal Land and Sea Council
<b>UCL</b>	Unallocated Crown Land
<b>WAPC</b>	Western Australian Planning Commission



# Amendment Report



# Metropolitan Region Scheme Amendment 1397/57

## Rationalisation of Mangles Bay Foreshore

### Amendment Report

#### 1 Purpose

The purpose of the amendment is to reclassify approximately 19.8 ha of land along the Mangles Bay foreshore from the Port Installations reserve to the Public Purposes - Commonwealth Government and Parks and Recreation reserves in the Metropolitan Region Scheme (MRS), as shown on the Amendment Figure – Proposal 1.

The amendment will allow for the continued use of the land for public foreshore access and leased recreation club purposes, whilst protecting the Commonwealth owned access point to the Garden Island Causeway.

#### 2 Background

The subject land is located within the City of Rockingham. The land is approximately 41 km south of the Perth CBD and is approximately 3 km north-west of the City of Rockingham primary city centre. The subject land is bound by the Mangles Bay foreshore to the north, Hymus Street to the east and existing Parks and Recreation reserves to the south and west towards Cape Peron.

The amendment contains multiple Crown Reserves and Point Peron Road reserve managed by the City of Rockingham. In general, the following land uses and management currently exist:

- Lots 2196, 2956 and 3055 are owned by the Commonwealth and contain Department of Defence facilities and a car park servicing the Garden Island causeway, with Reserve 41965 vested to the Commonwealth for access control.
- Lots 1, 2 and 3 are owned by the Department of Transport and leased to the Mangles Bay Fishing Club and The Cruising Yacht Club, both containing club facilities and boat parking with remnant vegetation either side. Both recreation clubs encroach into Reserve 32771 vested to the Minister for Transport. The Cruising Yacht Club is leased over Reserve 53546 and Lot 5 is owned by the Water Corporation.
- Reserve 27853 (Lot 501 and 2058) are State government owned, vested to Development WA and contains the vacant former RSL Caravan site.
- Reserve 27854 (Lot 2055) is state government owned and managed by the City for the purpose of car parking, predominantly undeveloped with some vegetation.
- Lot 1786 is owned by the Seaside Camp for Children and contains camp facilities for children with disabilities.
- Reserve 32711 contains a public footpath connecting on to the Mangles Bay foreshore.

### 3 Scope and content of the amendment

The amendment includes the following areas:

- Reclassify a portion of Unallocated Crown Land and Commonwealth owned Lots 2196, 2956 and 3055 from the Port Installations reserve to the Public Purposes - Commonwealth Government reserve (3.29 ha).
- Reclassify Lots 1, 2, 3, 5, 501, 2058, 2055 and 1786 and Crown Reserves 32771, 53546, 27853, 27854, and portion of Point Peron Road reserve from the Port Installations reserve to the Parks and Recreation reserve (16.51 ha).

The total area the subject of this amendment is approximately 19.8 ha.

### 4 Discussion

#### **STRATEGIC PLANNING CONTEXT**

##### **Perth and Peel @ 3.5 Million / South Metropolitan Peel Sub-regional Planning Framework**

The *South Metropolitan Peel Sub-regional Planning Framework* (the Framework) forms part of the *Perth and Peel @ 3.5 Million* strategic suite of planning documents. The amendment area primarily falls within the Mangles Bay Planning Investigation Area (PIA), excluding the Commonwealth Government owned land. The Framework also recognises the wider Cape Peron area as forming an ecological linkage with Lake Richmond and the wider regional park network.

##### **Cape Peron Working Group - PIA Investigations and Findings**

The amendment has been informed by the recommendations of the Cape Peron (including Mangles Bay) Working Group (the Working Group) established by the State Government in 2019 to investigate and consider land use and management options for the Mangles Bay PIA and the wider locality known as Cape Peron. The Working Groups investigations concluded that the Port Installations reserve is not required for the purposes of developing a future port at the site.

The Working Group concluded that there is unlikely to be any immediate change to the land use and management in the Mangles Bay precinct, particularly the Commonwealth managed Garden Island access point and the independently owned and well-established Seaside Camp for Children.

Whilst it was identified that the yacht and fishing clubs should remain at Cape Peron, due to identified long term coastal erosion and inundation impacts, the on-going suitability of their existing sites means further detailed investigations are required to identify preferred, long-term locations.

Reserving the land as Parks and Recreation under the MRS allows the clubs to continue operating their existing facilities (subject to on-going lease arrangements) satisfying an identified need for greater certainty about land tenure and uses in the area.

Rationalising the Parks and Recreation reserve also provides an opportunity for the Department of Biodiversity, Conservation and Attractions (DBCA) to include the amendment



area (with the exception of land proposed to be reserved Public Purposes - Commonwealth Government) in the review of the Rockingham Lakes Regional Park Management Plan and Recreation Masterplan for the Cape Peron area.

### **State Planning Policy 2.0 - Environment and Natural Resources Policy**

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

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

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

### **State Planning Policy 2.6 - Coastal Planning**

*State Planning Policy 2.6 - Coastal Planning* (SPP 2.6) provides guidance for decision-making within the coastal zone, including managing land use to protect, conserve and enhance coastal values. The objectives of this Policy are to:

- Ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria.
- Ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities.
- Provide for public coastal foreshore reserves and access to them on the coast.
- Protect, conserve and enhance coastal zone values, particularly in areas of landscape, biodiversity and ecosystem integrity, indigenous and cultural significance.

To inform coastal decision-making, SPP 2.6 requires that coastal hazard risk management and adaptation be appropriately planned for in areas at risk of being affected by coastal hazards. In September 2019, the City adopted its Coastal Hazard Risk Management and Adaptation Plan (CHRMAP). Whilst the Parks and Recreation reserve is appropriate for rationalising the existing fishing and yachting clubs that enhance enjoyment of the coastal reserve, it does not secure their long term operation within the amendment area. Consistent with SPP 2.6, the City's CHRMAP will provide guidance for their preferred long-term location within the locality.

The amendment is consistent with SPP 2.6 in that the Parks and Recreation and Public Purposes reserves effectively rationalise the existing land use and development within this coastal zone, whilst applying an appropriate framework that ensures that any future development and use of the coast, for ocean access and other recreation purposes, is sustainable and located in suitable areas.

## **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 its consistent with policy measures and other planning and environmental considerations.

The amendment area is adjacent to bushland to the west and south that forms part of Bush Forever Site 355. The majority of the amendment land will be reserved Parks and Recreation for recreation and conservation purposes. Further, the Parks and Recreation and Public Purposes - Commonwealth Government reserves are both unlikely to encourage any major increase to land use intensity, nor large scale development that will prejudice the adjacent Bush Forever Site 355. The amendment is therefore consistent with SPP 2.8

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

*State Planning Policy 3.7 - Planning in Bushfire Prone Areas* (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.

The majority of the amendment area is identified as Bushfire Prone under SPP 3.7, due to its existing vegetation and proximity to the adjacent bushland. However, as the amendment does not facilitate nor anticipate any increase in land use intensity or development the provisions of SPP 3.7 are not applicable.

## **Development Control Policy 5.3 - Use of Land Reserved for Parks, Recreation and Regional Open Space**

*Development Control Policy 5.3 - Use of Land Reserved for Parks, Recreation and Regional Open Space* (DC 5.3) provides guidance to determine appropriate land use and development within the Parks and Recreation reserve. Land uses and development considered under DC 5.3 include active sporting pursuits, cultural and or community activities, activities promoting community education of the environment and commercial purposes ancillary and/or compatible to the purpose of the reserve that are likely to enhance the public access to and enjoyment of the reserve.

The fishing and yachting recreation club land uses and associated development that occupy the land proposed to be reserved Parks and Recreation are consistent with the Policy Measures of DC 5.3, in that they comprise the facilities of the fishing and yachting sporting pursuits such as equipment hire, storage and boat-ramp access to the foreshore that enhance the enjoyment of the reserve. The Seaside Camp for Children land use is also consistent with the Policy Measures of DC 5.3 as the facilities provide for community activities and education for youths with disability.

Given these established uses are consistent with DC 5.3 the amendment will not detrimentally impact the present land uses in the proposed Parks and Recreation reserve and any ancillary uses can be appropriately regulated by DC 5.3 to ensure its compatibility with the Parks and Recreation reserve.

## **STATUTORY CONTEXT**

### **Environment**

The Department of Water and Environmental Regulation and the DBCA raise no objections to the proposed amendment.

### **Urban Water Management**

As the amendment does not facilitate future development the requirements of Better Urban Water Management do not apply to this proposal.

### **Infrastructure**

#### *Water and Wastewater*

The Water Corporation advised of existing substantial strategic assets and reserves that are within and in proximity to the amendment area which are to be protected.

#### *Transport*

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

## **5 Aboriginal Heritage**

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

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

This amendment was not pre-referred to SWALSC as it was not expected to impact on Aboriginal heritage values. However, the amendment has been referred to SWALSC during the public advertising period.

## **6 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's *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 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 amendment is consistent with the outcomes of the Mangles Bay PIA, Cape Peron Working Group outcomes which proposed the reservation of the site for Parks and Recreation and Public Purposes – Commonwealth Government purposes.
- The amendment is a rationalisation of the existing land use and development in that; the land does not contain development for Port Installation purposes, however the present land use is consistent with the Parks and Recreation reserve and the Garden Island access point is consistent with the Public Purposes - Commonwealth Government reserve.
- The City of Rockingham and relevant Federal and State Government agencies have not raised matters which prevent the initiation and advertising of the amendment.

## **7. Sustainability**

The proposed amendment will rationalise the existing land use and development under the region scheme. The reserves proposed are appropriate for ensuring that any future development and use in the coastal area is sustainable and located in suitable areas.

## **8. Environmental Protection Authority advice**

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

The EPA has advised that the proposed amendment does not require formal assessment under Part IV of the *Environmental Protection Act 1986*. A copy of the notice from the EPA is included at appendix A.

## 9. The amendment process

The procedures for amending the MRS are prescribed by the *Planning and Development Act 2005*. The amendment proposed in this report is being made under the provisions of section 57 of that Act.

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

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

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

## 10. Submissions on the amendment

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

The amendment is being advertised for public submissions for a period of 60 days from Tuesday 13 September 2022 to Friday 18 November 2022.

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

- i) Western Australian Planning Commission, 140 William Street Perth
- ii) City of Rockingham
- ii) 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](mailto:RegionPlanningSchemes@dplh.wa.gov.au)

**and must be received by 5 pm Friday 18 November 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.

## **11 Modifications to the amendment**

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

## **12 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.

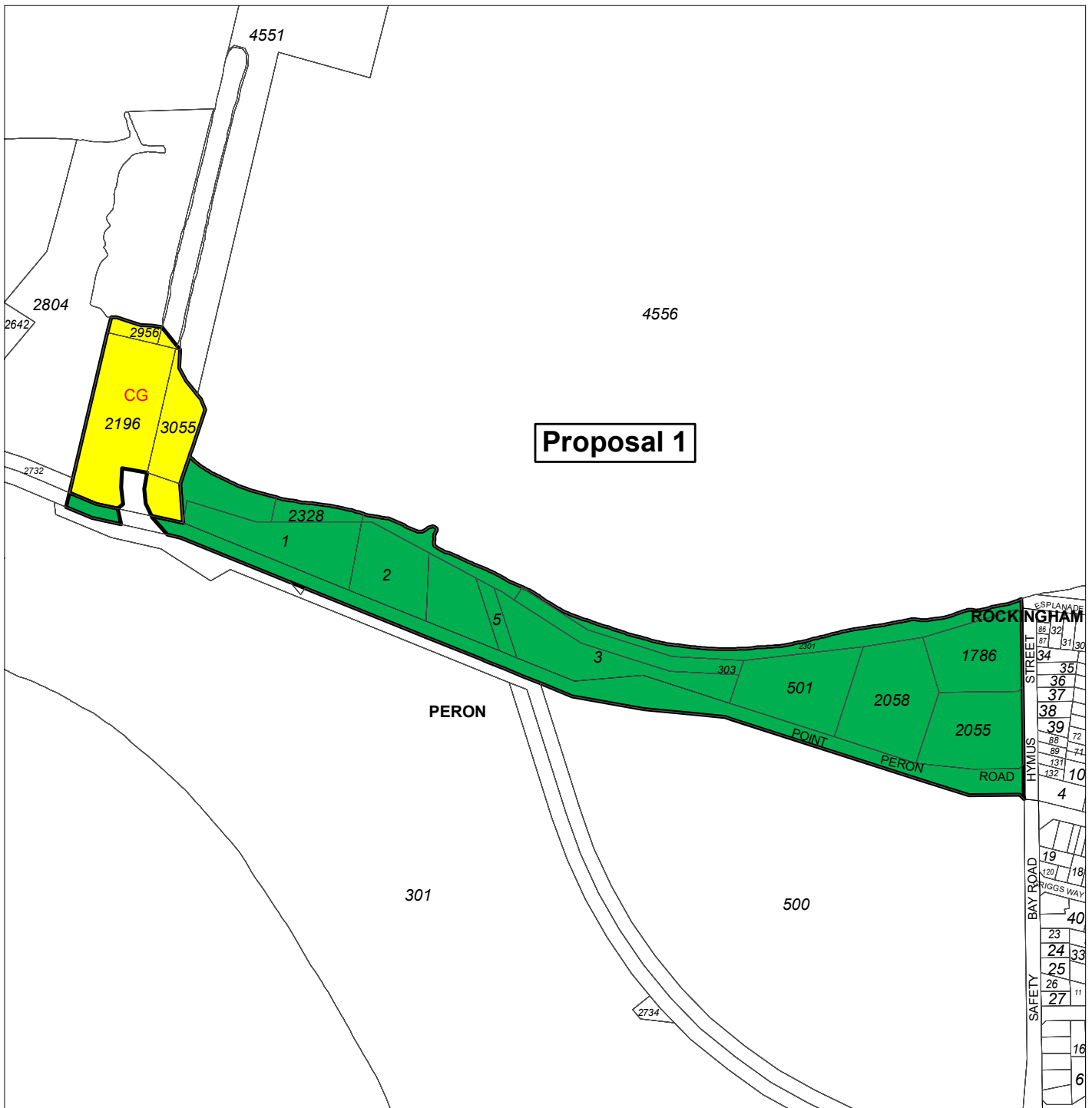
**MRS Amendment 1397/57**

**Rationalisation of Mangles Bay Foreshore**

**Amending Figure  
Proposal 1**









**Rationalisation of Mangles Bay Foreshore  
Proposed minor amendment  
as advertised**

29 June 2022

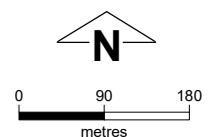
Proposal 1

Proposed Amendment:

-  Parks and recreation reservation
-  CG Public purposes reservation - Commonwealth Government

Oracle reference no: 3633

Version number: 1





## **Appendix A**

### **Notice of environmental assessment**



Ms Sam Fagan  
Chief Executive Officer  
Western Australian Planning Commission  
Locked Bag 2506  
PERTH WA 6001

Our Ref: CMS18233  
Enquiries: Angela Coletti, 6364 6424  
Email: [Angela.Coletti@dwer.wa.gov.au](mailto:Angela.Coletti@dwer.wa.gov.au)

Dear Ms Fagan

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

<b>SCHEME</b>	<b>Metropolitan Region Scheme (MRS) Amendment 1397/57: Rationalisation of Mangels Bay Foreshore</b>
<b>LOCATION</b>	<b>Portion of Unallocated Crown Land and Commonwealth owned Lots 2196, 2956, 3055 and 41965 Port Installations reserve; Lots 1, 2, 3, 5, 501, 2058, 2055 and 1786 and Crown Reserves 32771, 53546, 27853, 27854 and portion of Point Peron Road reserve. City of Rockingham.</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. No 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) and that it is not necessary to provide any advice or recommendations. I have 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 will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Hans Jacob', is positioned above the printed name and title.

**Hans Jacob**  
**Delegate of the Environmental Protection Authority**  
A/Director  
EPA Services

29 July 2022

Encl. Chair's Determination



GOVERNMENT OF  
WESTERN AUSTRALIA

# Environmental Protection Authority

S48A Referrals

- Title:** Metropolitan Region Scheme (MRS) Amendment 1397/57: Rationalisation of Mangels Bay Foreshore
- Location:** Portion of Unallocated Crown Land and Commonwealth owned Lots 2196, 2956, 3055 and 41965 Port Installations reserve; Lots 1, 2, 3, 5, 501, 2058, 2055 and 1786 and Crown Reserves 32771, 53546, 27853, 27854 and portion of Point Peron Road reserve. City of Rockingham.
- Description:** Amendment 1397/57 proposes to reclassify approximately 19.8 hectares of land along the Mangels Bay foreshore from the 'Port Installations' reserve to the 'Public Purposes-Commonwealth Government' and 'Parks and Recreation' reserves under the MRS.

**Ref ID:** CMS18233

**Date Received:** 15/07/2022

**Date Sufficient Information Received:** 15/07/2022

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

**Contact:** Emily Berry

**Preliminary Environmental Factors:** Social surroundings (Aboriginal heritage); Flora and vegetation; Terrestrial fauna; Marine Environmental Quality

**Potential Significant Effects:** Potential impacts to vegetation and fauna habitat; registered Aboriginal heritage site.

**Management:** Potential impacts can be managed through proposed amendment, in that, Parks and Recreation reservation reflects land of regional significance for ecological, recreation or landscape purposes. Consideration of environmental and social values that require retention and management can be addressed at later stages of the planning process. The *State Environmental (Cockburn Sound) Policy* should also be considered in this regard.

**Determination:** **Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. No Advice Given. (Not Appealable)**

The Environmental Protection Authority (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: 27 July 2022





## **Appendix B**

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



**Metropolitan Region Scheme  
Amendment 1397/57**

**Rationalisation of Mangles Bay Foreshore**

**as advertised**

**Amending Plan 3.2788**

**Detail Plans**

1.6798, 1.6799



## **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](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 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)**





