



September 2023

Metropolitan Region Scheme Amendment **1344/57** (Minor Amendment)



Maida Vale Urban Precinct

Amendment Report

City of Kalamunda

**Metropolitan Region Scheme
Amendment 1344/57
(minor amendment)**

Maida Vale Urban Precinct

Amendment Report

City of Kalamunda



September 2023

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

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MRS Amendment 1344/57 Amendment Report
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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*.

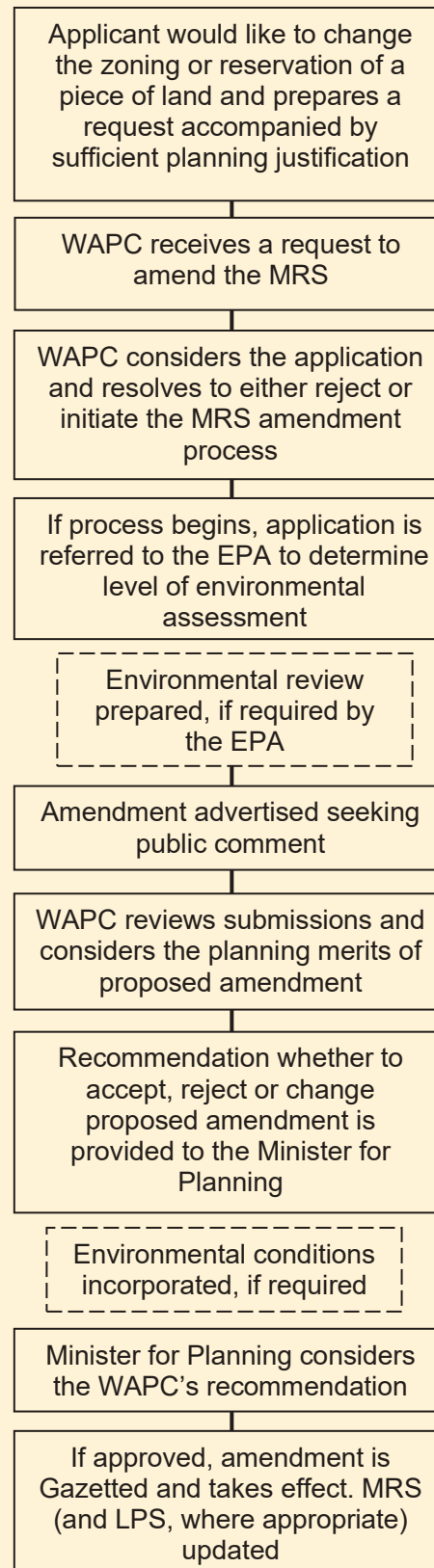
Report on submissions

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

ACH	Aboriginal Cultural Heritage
DoT	Department of Transport
DPLH	Department of Planning, Lands and Heritage
DWER	Department of Water and Environmental Regulation
DWMS	District Water Management Strategy
EPA	Environmental Protection Authority
LPS	Local Planning Scheme
MKSEA	Maddington-Kenwick Strategic Employment Area
MRS	Metropolitan Region Scheme
MRWA	Main Roads Western Australia
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
WAPC	Western Australian Planning Commission

Amendment Report

Metropolitan Region Scheme Amendment 1344/57

Maida Vale Urban Precinct

Amendment Report

1 Purpose

The purpose of the amendment is to rezone approximately 177.53 ha of land in Maida Vale from the Rural zone to the Urban Deferred zone in the Metropolitan Region Scheme (MRS), as shown on the amending figure for Proposal 1.

The proposed Urban Deferred zone will allow for future residential development and areas of public open space, following the lifting of Urban Deferment, a local scheme amendment, detailed structure planning and subdivision approval.

Requirements to Lift the Urban Deferment

The following requirements are to be addressed, prior to the transfer of the land to the Urban zone:

- the Transport Impact Assessment (TIA) being updated to the satisfaction of Main Roads WA (MRWA) and Department of Transport (DoT)
- confirmation on the location of the proposed Roe Highway overpass
- the completion of water and wastewater reviews for the subject land by the Water Corporation.

2 Background

The subject land is located within the City of Kalamunda and is approximately 11.9 km east of the Perth Central Business District and is 3.5 km west of the Kalamunda town centre. The land has access to Roe Highway and is approximately 1.8 km east of the proposed Forrestfield rail station.

The subject land comprises landholdings which are used primarily for rural-residential purposes, with associated dwellings and outbuildings. Small-scale agricultural pursuits, such as orchards and keeping of stock and horses also occur. Western Power high voltage transmission lines also traverse the site.

A number of lots contain mature trees and remnant vegetation. The vegetation within the subject land ranges from “excellent” to “completely degraded”, with the majority of the site being “completely degraded”. The land contains jarrah, marri and wandoo woodland, with areas of flooded gums and swamp paperbarks. The site may contain a number of Threatened Ecological Communities, threatened and priority flora species. Crumpet and Poison Gully Creeks partially traverse the site. The site does not contain any wetlands and is not located within or abuts a Bush Forever area.

The subject land contains Forest Red-tail Black Cockatoo and Carnaby’s Cockatoo foraging habitat and habitat trees. The future development is required to comply with State and Federal environmental requirements.

Land use and development within the amendment area is generally controlled by the City of Kalamunda Local Planning Scheme No. 3 (LPS No. 3). The majority of the subject land is zoned "Special Rural" under LPS No. 3.

3 Discussion

Strategic Context

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

The *Perth and Peel @ 3.5 Million* document makes the case for a more considered, connected, consolidated urban form. It links four Frameworks and encourages the consideration of new urban growth opportunities. The *North-East Sub-regional Planning Framework* identifies the proposed amendment area as "Urban Expansion" with a "Short-Medium Term (2015-2031)" urban staging timeframe.

City of Kalamunda Local Planning Strategy

In 2013 the WAPC endorsed the City of Kalamunda *Local Planning Strategy* (LPS) which identifies the subject land (and surrounding area) as an *Urban Investigation* area with a possible residential density of R20 and R30. The proposed amendment is consistent with the LPS.

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) recognises the protection and management of significant bushland areas as a fundamental consideration in the planning process and requires the WAPC to protect and manage environmental resources where it has regional significance.

The amendment contains a number of lots with mature trees and remnant vegetation ranging from "excellent" to "completely degraded" and a number of "threatened" and "priority" flora species. The subject land also contains the Forest Red-tail Black Cockatoo and Carnaby's Cockatoo (and associated foraging habitat), Rainbow Bee-eater and the Southern Brown Bandicoot. Therefore, the Environmental Protection Authority (EPA) has determined that an environment review is required to be undertaken for the site. Refer to the "Environment" section below for further discussion on the matter.

Draft State Planning Policy 2.9 - Planning for Water

Draft *State Planning Policy 2.9 - Planning for Water* seeks to ensure that planning and development considers water resource management and includes appropriate water management measures to achieve optimal water resource outcomes at the various stages of the planning process. A draft District Water Management Strategy (DWMS) has been prepared for the site and is with the Department of Water and Environmental Regulation (DWER). The DWMS will need to be finalised as part of Environmental Review 2157.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

State Planning Policy 3.7 - Planning for Bushfire Prone Areas 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 bushfire management plan has been approved by the Department of Fire and Emergency Services.

State Planning Policy 5.4 - Road and Rail Noise

State Planning Policy 5.4 - Road and Rail Noise seeks to minimise the adverse impact of road and rail noise on noise-sensitive land use and/or development within the specified trigger distance of major transport corridors. The Policy also seeks to protect the functionality of the State's transport corridors by protecting them from encroaching incompatible development.

As Roe Highway abuts to the west there is the potential for noise attenuation to be required. The proponent has acknowledged that the exact nature of these measures is to be determined at the detailed structure planning stage.

Statutory Context

Environment

The proposed amendment was referred to the EPA for a decision on whether environmental assessment would be required. The EPA determined that the amendment should be assessed under Part IV Division 3 (48A) of the *Environmental Protection Act, 1986* (EP Act). Accordingly, a formal Environmental Review is required for the purpose of assessing the proposed amendment.

The instructions provided by the EPA for the scope and content of the Environmental Review No. 2157 identify three preliminary environmental factors, with the following objectives:

- Flora and Vegetation - *"To protect flora and vegetation so that biological diversity and ecological integrity are maintained"*.
- Terrestrial Fauna - *"To protect terrestrial fauna so that biological diversity and ecological integrity are maintained"*.
- Inland Waters - *"To maintain the hydrological regimes and quality of groundwater and surface water so that environmental values are protected"*.

Environmental Review Assessment No. 2157 for the proposed amendment is available for comment at: <https://www.dplh.wa.gov.au/mrs-amendments>.

The Environmental Review process for the proposed amendment is to be undertaken concurrently with this amendment. Any submissions received on the amendment that relate to an environmental issue will be provided to the EPA. The WAPC will also provide the EPA its response to environmental issues raised in these submissions.

Under the requirements of the EP Act, the EPA will report to the Minister for Environment on environmental factors relating to the amendment and recommend any conditions that may be necessary. The Minister for Environment will then consult with the Minister for Planning and, if appropriate, give agreement on any conditions imposed and which will become binding on the amendment. This will occur prior to the amendment being considered for a final determination.

Infrastructure

Water Corporation

Water: Reticulated water is currently available to the subject area. But the current planning was based on the subject land being rural. Due to the potential increase in development density, upgrading of the current system may be required to prevent existing customers being affected by any proposed development in the future.

When the proposed demands are understood the Water Corporation would then need to review the planning. The subject land may then require headworks size water mains to be constructed. The headworks mains may be required to be constructed as part of the subdivision process. A route for the headworks mains will also be required, up to 20 metres wide. The route should be in the form of a road reserve.

All water main extensions, if required for the subject site, must be laid within the existing and proposed road reserves, on the correct alignment and in accordance with the Utility Providers Code of Practice.

Strategic water mains are located within the subject area. Pressured water mains shall not be located in private land and should be located in and protected by reserves (i.e. road reserves). The Canning Foothills Trunk Main traverses the whole Maida Vale Urban Precinct. The main needs to be protected. If other infrastructure is required in the same vicinity there could be the possibility to create a service corridor. In such a case the land required could be zoned Public Purposes.

Wastewater: The subject land falls within the Gooseberry Hill Scheme. Reticulated sewerage is not immediately available to serve the subject area. The Water Corporation's long-term wastewater planning for the subject area indicates that large, headworks-sized sewerage mains will be required to be extended through the subject or surrounding land to service it. All sewer main extensions required for the subject land should be laid within the existing and future road reserves, on the correct alignment and in accordance with the Utility Providers Code of Practice.

Due to the potential increase in development density, upgrading of the current system may be required to prevent existing customers being affected by any proposed development in the future. When the proposed demands are understood the Water Corporation would then need to review the current planning.

Drainage: The subject area currently falls within the Perth Airport Northern and Southern Drainage Catchments. The Water Corporations drainage system can only take pre-development flows. Future developers will need to compensate any additional flows on their own land.

General Comments: The implementation of Water Corporation planning for the provision of the infrastructure is dependent on the timing of development in this area and may require prefunding of major works (headworks) by the developer, or the provision of temporary works.

Transportation

MRWA and DoT advise as follows:

- Tonkin Highway and Roe Highway form part of MRWA's planned Freeway Network, and no direct access will be permitted.

- The location of the proposed Highway overpass is to be discussed further with MRWA and its impact on traffic, public transport and pedestrian/cycle planning is assessed having regard to the Forrestfield North District Structure Plan.
- Any requirements for notifications on titles being identified at the structure plan stage, to ensure that potential residents are aware of the likely noise and vibration generated from the nearby freight road.
- The structure plan considers cycling connections from the subject land to strategic corridors, in accordance with the Cycling Network Plan for Transport @ 3.5 Million.
- MRWA plans to grade separate Tonkin Highway/Kelvin Road and Tonkin Highway/Welshpool Road. However, these upgrades are not in MRWA's 4-year forward funded construction program.
- An alternative north-south route (i.e. Bickley Road) within the Maddington-Kenwick Strategic Employment Area (MKSEA) for local vehicular trips should be considered, in order to avoid using the Freeway network.
- Access to Welshpool Road will need MRWA's approval before development can begin. Any associated proposed upgrades to Coldwell Street and Brook Road will need MRWA approval at the Local Structure Plan stage.
- Any upgrades to transport infrastructure on the Welshpool Road East route will need to be borne by the developers. MRWA requests that the City of Gosnells considers implementing a Development Contribution Plan for the MKSEA.
- The TIA submitted in support of the proposed amendment is required to be updated.

The WAPC notes that the TIA is to be updated to the satisfaction of MRWA and DoT and confirmation of the Roe Highway overpass prior to the transfer of the land to the Urban zone.

4 Aboriginal cultural heritage

The process of rezoning or reservation of land in a region scheme is broad by nature and does not physically interfere with the land. Consideration of Aboriginal Cultural Heritage (ACH) is addressed more specifically at later stages of the planning process, typically when preparing a local structure plan or at the subdivision and development approval stages. All ACH is protected whether or not it has been previously recorded or reported.

Nevertheless, in recognising the importance of having reliable Aboriginal cultural heritage information, 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 amendment proposals likely to be of interest to Aboriginal persons are pre-referred to SWALSC for comment. 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.

Aboriginal Heritage Site 25023 – Poison Gully Creek partially affects the amendment area and the proposal was pre-referred to SWALSC and no advice was received. However, the amendment will be formally referred to SWALSC during the public submission period.

5 Coordination of local and region scheme amendments

Under section 126(3) of the *Planning and Development Act 2005*, the City of Kalamunda has the option of requesting the WAPC to concurrently rezone land being zoned Urban under the MRS to a "Development" zone or similar in the Local Planning Scheme. As no land is being zoned Urban section 126(3) does not apply.

6 Substantiality

As this MRS amendment was initiated in 2018, former *Development Control Policy 1.9 - Amendment to Region Schemes* set out the criteria for deciding whether the major or minor process should be followed. The amendment is to be processed as a "minor" amendment as follows:

- the 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 and is unlikely to have an adverse impact on the surrounding locality;
- the subject land has been identified in the *Perth and Peel @ 3.5 Million* document and the *North-East Sub-Regional Planning Framework* as an "Urban Expansion" area with a "Short-Medium Term (2015-2031)" urban staging timeframe; and
- the City of Kalamunda and key State Government agencies agree to the initiation of the proposed amendment, subject to resolution of various issues at later stages of the planning and development process.

7 Sustainability

The amendment will provide a sustainable framework for the further planning and development of Maida Vale, providing additional residential development in close proximity to regional transport routes such as Roe Highway and the Forrestfield rail station whilst providing for the protection of environmentally sensitive areas.

8 Environmental Protection Authority advice

The proposed amendment was referred to the EPA for a decision on whether environmental assessment would be required.

The EPA determined that the proposed scheme amendment should be assessed under Part IV Division 3 of the EP Act. A copy of the notice from the EPA is included at Appendix A. Refer to the "Environment" section above for further discussion on the matter.

9 The amendment process

As this MRS amendment was initiated in 2018, 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 the former 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 will be advertised for public submissions for a period of 60 days from Friday 29 September 2023 to Tuesday 28 November 2023.

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

- i) Western Australian Planning Commission, 140 William Street, Perth
- ii) City of Kalamunda
- iii) City of Gosnells
- iv) 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 Tuesday 28 November 2023.

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.

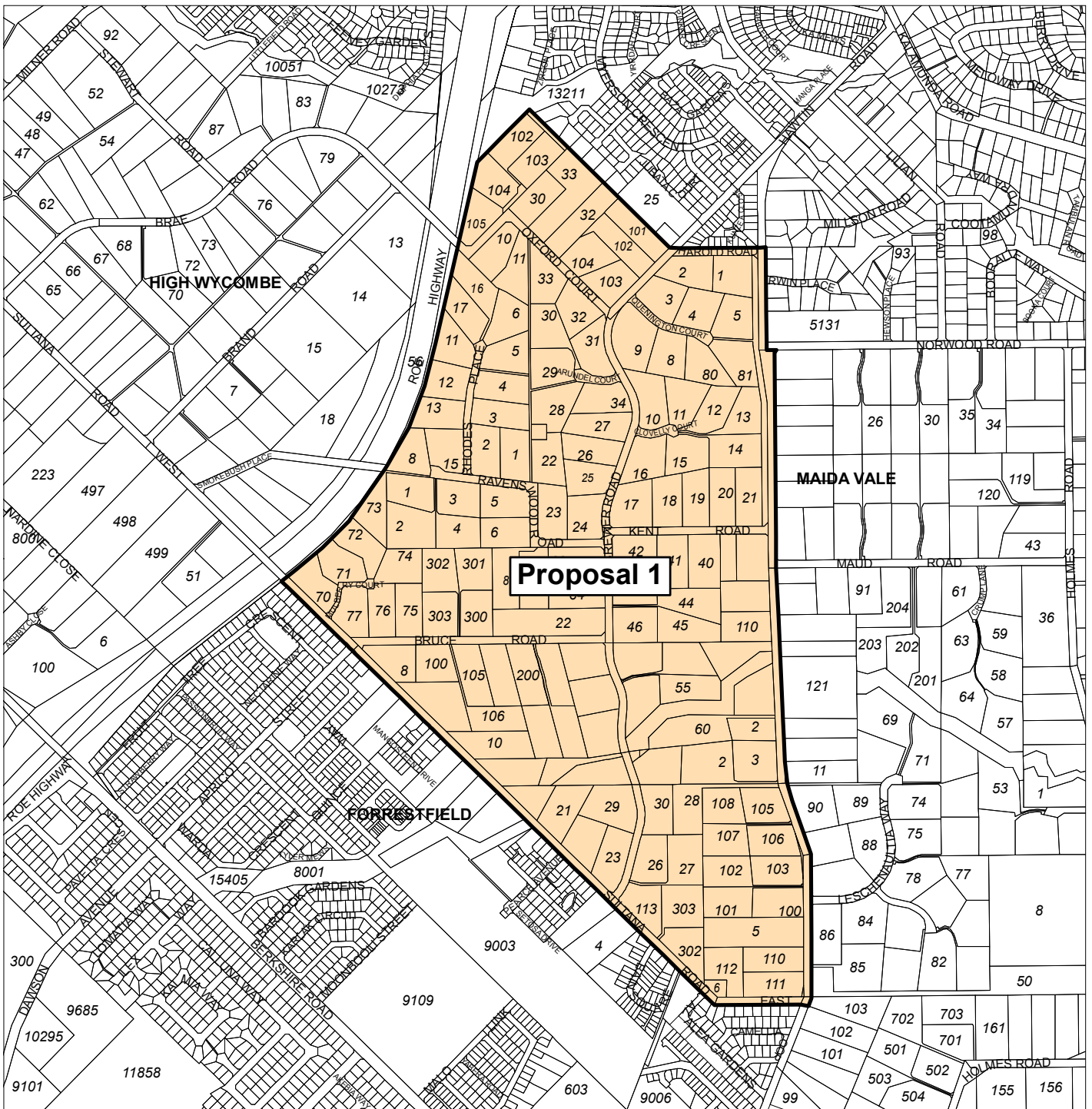
11 Modifications to the amendment

After considering any 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.

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 1344/57
Maida Vale Urban Precinct
Amendment Figure
Proposal 1




**Maida Vale Urban Precinct
Proposed Minor Amendment
as advertised**

31 May 2018

Proposal 1

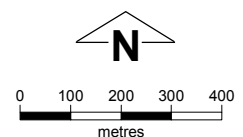
Proposed Amendment:

 Urban deferred zone

Oracle reference no: 2877
File number: 833/02/24/0063
Version number: 3



Date: 20/06/2018
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Appendix A

Notice of environmental assessment

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

Our Ref: CMS17412 DWERA-001293
Enquiries: Stephen Pavey, 6364 7259
Email: steve.pavey@dwer.wa.gov.au

Dear Ms Fagan

Metropolitan Region Scheme Amendment 1344/57 – Assessment No: 2175

Please find attached the Instructions for the Environmental Review of the above scheme amendment. These Instructions specify the scope and content of the Environmental Review and provide for the preparation of the Environmental Review Document (ERD).

During the preparation of the ERD you are encouraged to consult with the Department of Water and Environmental Regulation assessment officer for the proposal, Stephen Pavey, who can be contacted on telephone number 6364 7259. Please quote the above "Our Ref" on any further correspondence.

Yours sincerely



Dr Tom Hatton
CHAIRMAN

24 October 2018

INSTRUCTIONS FOR ENVIRONMENTAL REVIEW

Proposed scheme amendment:	Metropolitan Region Scheme Amendment 1344/57 – Maida Vale Urban Precinct
Responsible Authority:	Western Australian Planning Commission
Assessment number:	2175
Location:	Maida Vale – land generally bounded by Hawtin Road, Sultana Road East, Roe Highway, Lot 104, Lot 102, Reserve 12564, Lot 33 and Lot 32 Oxford Court, Lot 101 Brewer Road, and Harold Road.
Local Government Area:	City of Kalamunda
Public review period:	Environmental Review Document – timing and procedure in accordance with the <i>Planning and Development Act 2005</i>

Environmental Review Instructions (Instructions) are provided to the responsible authority (RA) to define the scope and content of the Environmental Review (ER) required by s.48C(1)(a) of the *Environmental Protection Act 1986* (EP Act). These instructions have been prepared by the Environmental Protection Authority (EPA) in consultation with interested agencies.

These instructions are available on the EPA website (www.epa.wa.gov.au)

1. Introduction

The EPA has determined that the above Metropolitan Region Scheme (MRS) amendment is to be assessed under Division 3 of Part IV of the EP Act.

This MRS amendment is being assessed because development permitted by the proposed urban zoning has the potential to have a significant effect on the environmental values known to exist within the amendment area, including:

- Poorly represented vegetation complexes (Forrestfield and Southern River);
- Threatened Ecological Communities (TECs) listed as Critically Endangered and Endangered under the *Wildlife Conservation Act 1950* (WC Act) and Endangered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act);
- *Conospermum undulatum* (listed as Vulnerable flora under the WC and EPBC Acts);
- Habitat for threatened species of fauna; and
- Two waterways, known as Crumpet Creek and Poison Gully, that support some of the above vegetation.

Procedure

The EPA requires the responsible authority to undertake the environmental review according to these instructions.

Scope and Content

The scope and content of the environmental review is outlined in sections 2 to 6 of these instructions. The EPA requires that the attached Environmental Review Document template to be used to complete the report on the environmental review required under s. 48C(1)(a) of the EP Act.

Timing

Table 1 sets out the timeline for the assessment of the scheme amendment.

Table 1 Assessment timeline

Key assessment milestones
EPA issues instructions to the responsible authority (60 days after referral)
Responsible authority submits Environmental Review to EPA
EPA authorises advertising of Environmental Review and scheme for public review (30 days from RA submission of ERD)
Responsible authority advertises scheme and Environmental Review for public review in accordance with the <i>Planning and Development Act 2005</i>
Close of public review period
Responsible authority provides copies of submissions related to environmental issues to the EPA (7 days from close of public review period)
Responsible authority provides Response to Submissions to EPA (42 days from close of public review period)
EPA reports to the Environment Minister on environmental factors and recommended scheme conditions (60 days after end of public review period or 30 days after receiving RA's Response to Submissions, whichever is longer)

2. The scheme amendment

The subject of these instructions is the WAPC's proposed amendment to the MRS to rezone approximately 178 ha of land in Maida Vale from the Rural zone to the Urban Deferred zone. The land is currently developed for rural residential purposes. The proposed Urban Deferred zone will allow for future residential development and areas of public open space following the lifting of Urban Deferment, a local scheme amendment, structure planning and subdivision approval.

The location of the scheme amendment is shown in Figure 1 and a summary of the scheme amendment is set out in Table 2.

Table 2 Summary of the scheme amendment

Scheme amendment	Metropolitan Region Scheme Amendment 1344/57
Responsible authority	Western Australian Planning Commission
Location	Land in Maida Vale generally bounded by Hawtin Road, Sultana Road East, Roe Highway, Lot 104, Lot 102, Reserve 12564, Lot 33 and Lot 32 Oxford Court, Lot 101 Brewer Road, and Harold Road.
Short description	Rezoning of approximately 178 hectares of land from the Rural zone to the Urban Deferred zone to allow for future urban development which includes residential development, associated infrastructure and areas of public open space.

3. Preliminary key environmental factors and required work

The preliminary key environmental factors for the environmental review are:

1. Flora and Vegetation
2. Terrestrial Fauna
3. Inland Waters

Table 3 outlines the work required for each preliminary key environmental factor and contains the following elements for each factor:

- **EPA factor** and **EPA objective** for that factor.
- **Relevant activities** – the development activities that may have a significant impact on that factor.
- **Potential impacts and risks** to that factor.
- **Required work** for that factor.
- **Relevant policy and guidance** – EPA (and other) guidance and policy relevant to the assessment.

Table 3 Preliminary key environmental factors and required work

Flora and Vegetation	
EPA objective	To protect flora and vegetation so that biological diversity and ecological integrity are maintained.
Relevant activities	Clearing of vegetation for urban development.
Potential impacts and risks	<ul style="list-style-type: none"> • Clearing of poorly represented vegetation complexes (Forrestfield and Southern River); • Clearing of TECs FCT20a and 20b (both Endangered on the list of TECs endorsed by the WA Minister for environment), TEC FCT20c (ranked Critically Endangered in WA and may also meet the description of the umbrella type 'Banksia woodlands of the Swan Coastal Plain', ranked Endangered under the EPBC Act);

	<ul style="list-style-type: none"> • Direct and indirect impacts to <i>Conospermum undulatum</i> (Vulnerable flora under the WC and EPBC Acts) including direct loss of individual plants; and • Direct and indirect impacts to other significant flora species or ecological communities found during survey to be present.
Required work	<ol style="list-style-type: none"> 1. Identify and describe the vegetation and flora species present and likely to be present within the amendment area. Demonstrate how surveys are consistent with current EPA policy and guidance set out below. Include a summary of survey findings and an analysis of the significance of flora and vegetation in local and regional contexts as appropriate in accordance with relevant guidance set out below. Note: if surveys were undertaken at the referral stage, survey results and a demonstration of how the guidance has been followed are to be included in the environmental review. Ensure species database searches and taxonomic identifications are current. 2. Provide a map depicting the recorded locations of significant flora, ecological communities and vegetation in relation to the amendment area in accordance with the relevant guidelines set out below. Clearly show any areas/lots unable to be surveyed. 3. Provide a map depicting areas of vegetation and flora to be retained and protected from future urban development. Assess the potential direct and indirect impacts of future urban development on the identified environmental values. Include a quantitative assessment of levels of impact on significant flora, listed ecological communities and all vegetation units. Describe and assess the extent of any cumulative impacts within local and regional contexts as appropriate. 4. Describe any proposed avoidance, mitigation and management measures to reduce the potential impacts of urban development. Include any proposed management and/or monitoring plans that will be implemented pre- and post-construction to ensure residual impacts are not greater than predicted. 5. Identify, describe and quantify the potential residual impacts (direct, indirect and cumulative) that may occur following completion of urban development after considering and applying avoidance and minimisation measures.
Relevant policy and guidance	<p><i>EPA Policy and Guidance</i></p> <p><i>Statement of Environmental Principles, Factors and Objectives</i>, EPA, 2016</p> <p><i>Environmental Factor Guideline – Flora and vegetation</i>, EPA, December 2016</p> <p><i>Technical Guidance: Flora and vegetation surveys for environmental impact assessment</i>, EPA, December 2016</p> <p><i>Instructions and Form: IBSA Data Packages</i>, EPA, June 2018</p>

Terrestrial Fauna	
EPA objective	To protect terrestrial fauna so that biological diversity and ecological integrity are maintained.
Relevant activities	<ul style="list-style-type: none"> • Clearing of fauna habitat for future urban development, including for the construction of roads and other infrastructure; • Movement of machinery and vehicles; and • Increased presence of artificial light, noise and human activity.
Potential impacts and risks	<ul style="list-style-type: none"> • Permanent loss of fauna habitat, including up to 36 hectares of black cockatoo habitat and 485 potential black cockatoo breeding trees identified on site; • Fragmentation of fauna habitat and loss of ecological connectivity; • Degradation of habitat and habitat modification from the introduction and increased spread of weeds and/or disease, altered surface water flows and edge effects; and • Altered fauna behavior due to noise, lighting and human presence.
Required work	<p>6. In accordance with the requirements of EPA Guidance:</p> <p>(a) conduct a Level 1 (basic) terrestrial fauna survey, including a desktop study that incorporates existing regional terrestrial fauna surveys and databases; and</p> <p>(b) as required based on the outcomes of the Level 1 (basic) survey undertake terrestrial fauna surveys, including targeted surveys for significant species, to identify and characterise terrestrial fauna and fauna habitat, at a local and regional scale, that may be impacted directly and indirectly by urban development. This should include sampling inside and outside the impact areas and consideration of cumulative impacts. For significant species, this must include information on:</p> <ol style="list-style-type: none"> I. the abundance, distribution, ecology and habitat preferences, together with baseline information and mapping of local and regional occurrences. II. a population size and importance of the population from a local and regional perspective; and III. information on conservation value of each habitat type (e.g. breeding, migration, feeding, resting) from a local and regional perspective, including the percentage representation of each habitat site in relation to its local and regional extent. <p>Note: Surveys should include both Terrestrial Vertebrate Fauna and Short-range Endemic (and/or other significant) Invertebrate Fauna. Survey results and a demonstration of how the requirements have been met are to be included in the ER. If multiple surveys have been undertaken to support the assessment, a consolidated report should be provided including the integrated results of the surveys. Where</p>

	<p>surveys were undertaken prior to scoping, justification should be provided to demonstrate that they are relevant and consistent with EPA Guidance. IBSA data packages should be provided in accordance with EPA guidance. Multiple surveys should be combined in one report. Separate reports are required for Short-range Endemic Invertebrate Fauna and Vertebrate Fauna.</p> <ol style="list-style-type: none"> 7. Describe the values and significance of fauna and fauna habitat that maybe impacted directly and indirectly by urban development and describe the significance of these values in a local and regional context. Habitats that are important to significant species, and the reasons for their importance, should be identified. Discussions of habitats should quantify the absolute and relative areas of the habitats in question, and that these discussions should be supported by tables and figures that illustrate the extents of habitats. 8. Provide a map illustrating the known recorded locations of conservation significant species, other significant fauna and fauna habitat in relation to the amendment area. Clearly show any areas/lots unable to be surveyed. 9. Provide a map depicting areas of fauna habitat to be retained and protected from future urban development. Describe and assess the extent of direct and indirect impacts as a result of future urban development to terrestrial fauna taking into consideration cumulative impacts and the significance of fauna and fauna habitat. This should include an assessment of the risk posed to any significant species as a result of urban development. For significant species, this should be done on a species-by-species basis. Significant species discussed should include short-range endemic and other significant invertebrates. 10. Predict the residual impacts to terrestrial fauna after considering and applying avoidance and minimisation measures. 11. Discuss proposed management, monitoring and mitigation methods to be implemented to ensure residual impacts (direct and indirect) are not greater than predicted.
<p>Relevant policy and guidance</p>	<p><i>EPA Policy and Guidance</i></p> <p><i>Statement of Environmental Principles, Factors and Objectives</i>, EPA, 2016</p> <p><i>Environmental Factor Guideline – Terrestrial Fauna</i>, EPA, December 2016</p> <p><i>Technical Guidance: Sampling methods for terrestrial vertebrate fauna</i>, EPA, December 2016</p> <p><i>Technical Guidance: Terrestrial fauna surveys</i>, EPA, December 2016</p> <p><i>Technical Guidance: Sampling of short range endemic invertebrate fauna</i>, EPA, December 2016</p> <p><i>Instructions and Form: IBSA Data Packages</i>, EPA, June 2018</p>

	<p><i>Other policy and guidance</i></p> <p>Relevant recovery plans, conservation advices and/or threat abatement plans for conservation significant species that are known to occur, or are likely to occur in the vicinity of the amendment area.</p>
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Inland Waters	
EPA objective	To maintain the hydrological regimes and quality of groundwater and surface water so that environmental values are protected.
Relevant activities	Clearing of vegetation and alteration of natural drainage regimes for urban development.
Potential impacts and risks	<ul style="list-style-type: none"> • Loss of foreshore vegetation; • Impacts to natural surface and groundwater regimes; and • Impacts to water quality.
Required work	<p>12. Identify and assess the values and significance of hydrological and soil characteristics within the amendment area and immediate adjacent area and describe these values in a local and regional context.</p> <p>13. Describe and assess the potential impacts (direct and indirect) as a result of future urban development on water quantity and quality in relation to ground water, surface water and waterways.</p> <p>14. Predict the extent, severity and duration of potential impacts, including changes to local and regional groundwater flows and levels, drawdown, local water quality and impacts to other groundwater users as a result of urban development.</p> <p>15. Prepare a foreshore area report to determine the extent of the waterway foreshore areas to be protected, in accordance with Operational policy 4.3: Identifying and establishing waterways foreshore areas (DoW, 2012).</p> <p>16. Based on the outcomes of the above and taking into consideration the principles of avoidance and minimisation, identify an environmentally acceptable area for development.</p> <p>17. Provide a summary of residual impacts of future urban development within the amendment area.</p> <p>18. Describe any proposed avoidance, mitigation and management measures that demonstrate the EPA's objectives can be met.</p> <p>19. Prepare a district water management strategy in accordance with the Guidelines for district water management strategies (DoW, 2013).</p>

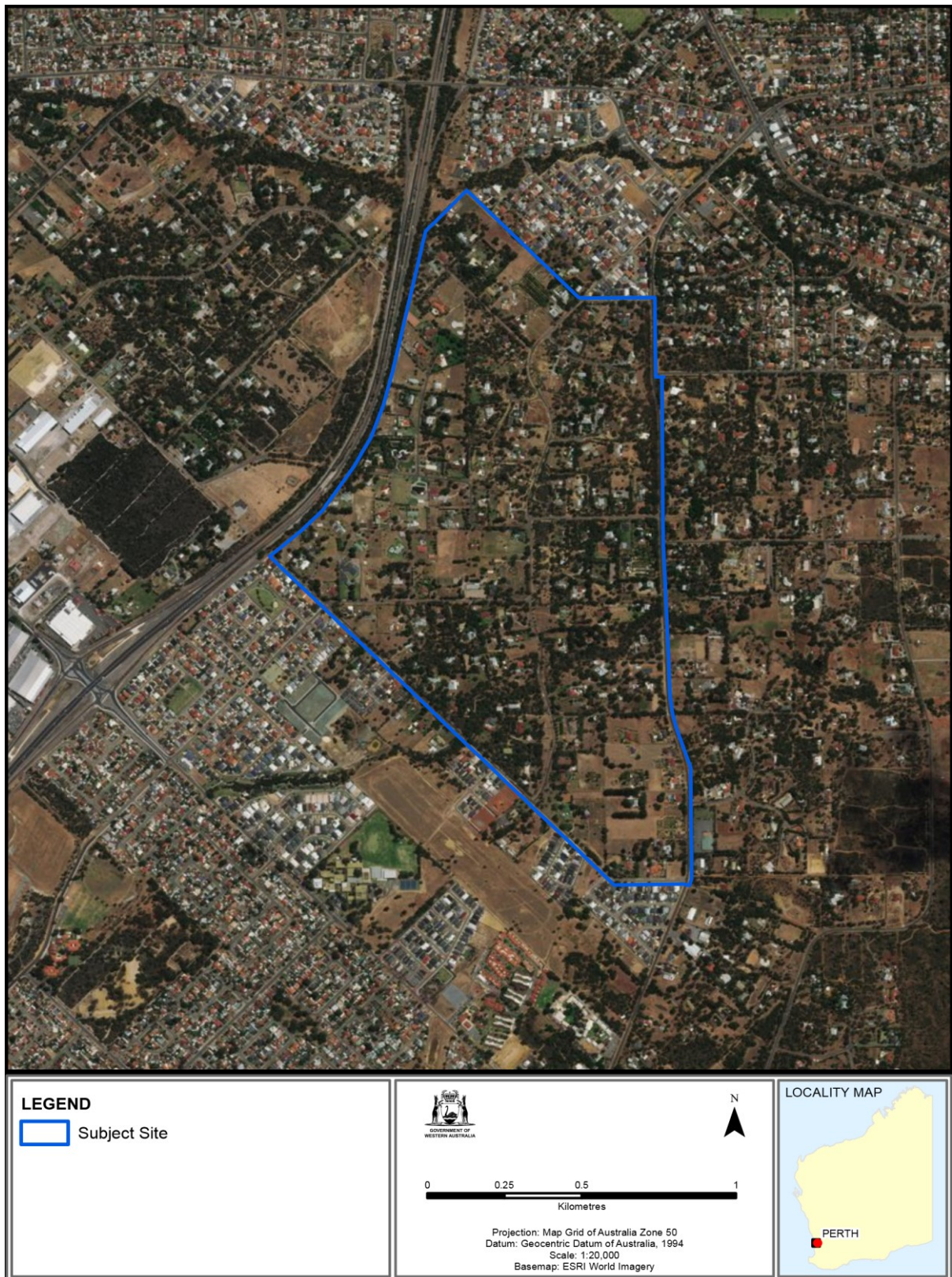
Relevant policy and guidance	<p><i>EPA Policy and Guidance</i></p> <p><i>Statement of Environmental Principles, Factors and Objectives</i>, EPA, 2016</p> <p><i>Environmental Factor Guideline – Inland Waters</i>, EPA, June 2018</p> <p><i>Other policy and guidance</i></p> <p><i>Better Urban Water Management</i>, Western Australian Planning Commission, October 2008</p> <p><i>Guidelines for district water management strategies</i>, Department of Water, December 2013</p> <p><i>Identification and investigation of acid sulphate soils and acidic landscapes</i>, Department of Environment Regulation, June 2015</p> <p><i>Operational policy 4.3: Identifying and establishing waterways foreshore areas</i>, Department of Water, September 2012.</p> <p><i>Treatment and management of soil and water in acid sulphate soil landscapes</i>, Department of Environment Regulation, June 2015</p>
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These preliminary key environmental factors must be addressed by the ER for the public to consider the impacts of future urban development resulting from the scheme amendment, and proposed management, and make comment to the EPA. All technical reports, modelling and referenced documents (not currently in the public domain) used in the preparation of the ER document should be included as appendices to the ER document. Documents used in the preparation of the ER must not contain disclaimers that preclude their public availability. The EPA anticipates addressing these factors in its report to the Minister for Environment.

4. Other environmental factors or matters

It is important that the responsible authority be aware that other factors or matters may be identified during the course of the environmental review that were not apparent at the time that these instructions were prepared. If this situation arises, the responsible authority must consult with the EPA to determine whether these factors and/or matters are to be addressed in the ER, and if so, to what extent.

Figure 1 – Location





GOVERNMENT OF
WESTERN AUSTRALIA

S48A Referrals

Environmental Protection Authority

Title: Metropolitan Region Scheme Amendment 1344/57 Maida Vale Urban Precinct

Location: Maida Vale

Description: The Western Australian Planning Commission proposes to rezone approximately 178 hectares of land in Maida Vale from the Rural zone to the Urban Deferred zone in order to facilitate future residential development.

Ref ID: CMS17412

Date Received: 27/6/2018

Date Sufficient Information Received: 15/8/2018

Responsible Authority: Western Australian Planning Commission

Contact: Anthony Muscara

Preliminary Environmental Factors: Flora and Vegetation, Terrestrial Fauna, Inland Waters

Potential Significant Effects: Clearing of poorly represented vegetation complexes, threatened ecological communities, the threatened flora *Conospermum undulatum* and black cockatoo habitat. Impacts to waterways and associated foreshores.

Determination: Assess – Environmental Review Required

In response to the original referral, the EPA has sought sufficient information to determine whether to assess this scheme amendment. The amendment area contains a number of known environmental values which require specific protection at the early stages of land use planning. As a result, the proposed scheme amendment merits formal assessment. In deciding to formally assess the scheme amendment, the EPA has determined that an Environmental Review is required. The EPA notes the Environmental Review will be publicly advertised by the WAPC with the scheme documentation.

This Determination is not appealable.

Chairman's Initials:

Date: 5 Sept 2018

Appendix B

List of detail plans supporting the amendment

**Metropolitan Region Scheme
Amendment 1344/57**

Maida Vale Urban Precinct

as advertised

Amending Plan 3.2686/1

Detail Plans

1.6303, 1.6318, 1.6335

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 and contact details. 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)**

