



February 2023

# Metropolitan Region Scheme Amendment **1399/57** (Minor Amendment)



## Hay Road, Ascot

Amendment Report

City of Belmont



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**Metropolitan Region Scheme  
Amendment 1399/57  
(minor amendment)**

**Hay Road, Ascot**

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**Amendment Report**

**City of Belmont**



February 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 1399/57      Amendment Report  
File 833-2-15-16 Pt 1

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

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# The Metropolitan Region Scheme

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

### Planning Perth's future

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

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

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

### The role of the WAPC?

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

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

### What is the Metropolitan Region Scheme?

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

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

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

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

### What is an amendment?

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

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

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

### How is the Metropolitan Region Scheme amended?

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

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

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

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

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

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

## Zones and reservations

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

## Zones

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

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

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

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

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

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

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

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

## Reservations

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

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

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



Port installations: regional maritime shipping facilities.

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

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

Civic and cultural: significant civic precincts and buildings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

You can lodge a submission during the advertised period:

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

### **Publications**

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

#### Amendment report

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

### Environmental review report

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

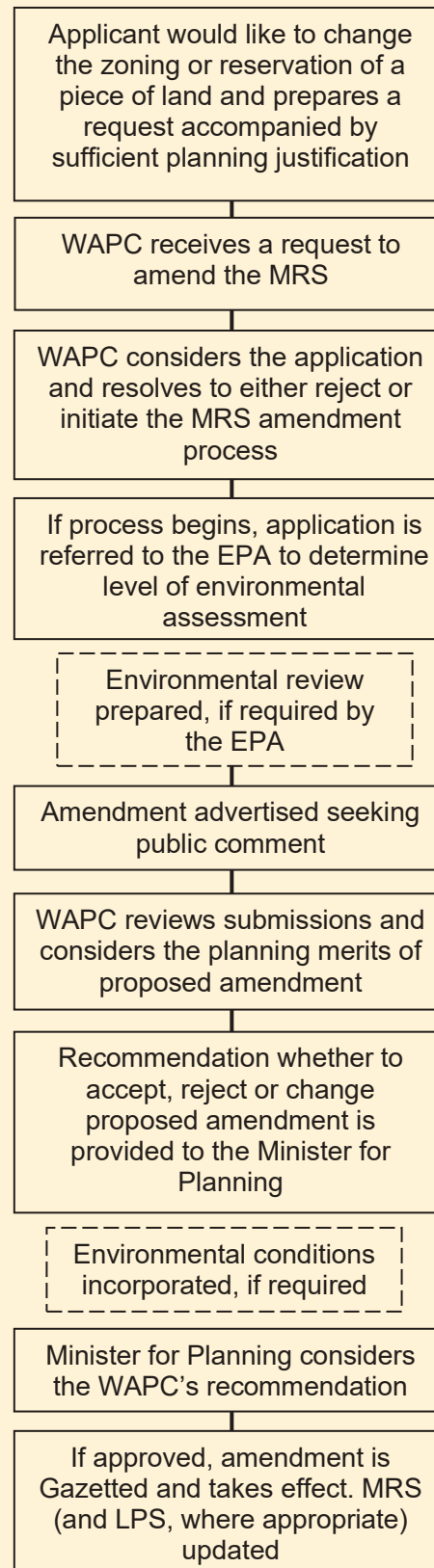
### Report on submissions

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

### Submissions

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

A simple diagram of the amendment process.



## Abbreviations

<b>AHA</b>	Aboriginal Heritage Act
<b>CCW</b>	Conservation Category Wetland
<b>DPLH</b>	Department of Planning, Lands and Heritage
<b>DWER</b>	Department of Water and Environmental Regulation
<b>EPA</b>	Environmental Protection Authority
<b>LPS</b>	Local Planning Scheme
<b>MRS</b>	Metropolitan Region Scheme
<b>SPP</b>	State Planning Policy
<b>SWALSC</b>	South West Aboriginal Land and Sea Council
<b>WAPC</b>	Western Australian Planning Commission



## Amendment Report



# Metropolitan Region Scheme Amendment 1399/57

## Hay Road, Ascot

### Amendment Report

#### 1 Purpose

The purpose of the amendment is to transfer approximately 1.53 hectares of land in Ascot from the Parks and Recreation reservation to the Urban zone in the Metropolitan Region Scheme (MRS), as shown on **Amendment Figure - Proposal 1**.

The proposed Urban zoning will facilitate further planning to provide for the future development of part of the amendment area for residential and related land uses.

#### 2 Background

The amendment area is located within the City of Belmont and is located approximately eight kilometres north-west of the Perth Central Business District, five kilometres south-west of the Midland strategic metropolitan centre and four kilometres north-west of the Belmont secondary centre.

The amendment area, and adjacent land to the north and north-east, is currently reserved Parks and Recreation in the MRS. Land within the amendment area is predominantly cleared undeveloped, with a number of remnant native trees scattered throughout the area.

Adjacent land to the east is zoned Urban in the MRS and is predominantly developed for commercial purposes, whilst land to the south-west is zoned Urban in the MRS and is generally developed for residential purposes.

Lots 185 to 196 Hay Road are owned by the Western Australian Planning Commission (WAPC), which is currently in the process of selling part of this land to an adjacent landowner. The intent of this land sale is to facilitate the development of this part of the amendment area and adjacent Urban zoned land for residential and related purposes. The balance of the amendment area is located within the Ivy Street road reserve or is occupied by the constructed extent of Hay Road.

Land use and development within the amendment area is controlled by the MRS given it is reserved Parks and Recreation in the MRS. Should the amendment be approved and finalised, the future use and development of the site would be subject to the requirements of the *City of Belmont Local Planning Scheme No. 15* (LPS 15).

#### 3 Scope and content of the amendment

The amendment proposes to transfer parts of Lot 185 to 196 Hay Road and part of the road reserves for Hay Road and Ivy Street in Ascot from the Parks and Recreation reserve to the Urban zone in the MRS. The amendment has an area of approximately 1.53 hectares.

## 4 Discussion

### **Strategic Planning Context**

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

The *Central Sub-regional Planning Framework* (the Framework) forms part of the *Perth and Peel @ 3.5 Million* suite of strategic planning documents. Future areas for urban development have been determined in conjunction with the State Government's draft *Strategic Assessment of the Perth and Peel Regions* in order to avoid and protect areas that have significant regional environmental value.

The Framework identifies the site, and adjacent land to the north and north-west as "Green Network" consistent with the current reservation of this land under the MRS. Adjacent land to the south and south-west is designated as "Urban Corridor" in the Framework.

Whilst the amendment area is not designated as being part of an "Urban Corridor" in the Framework, the amendment is broadly consistent with the intent of the Framework for the following reasons:

- Whilst land within the amendment area is designated as "Green Network" in the Framework, it does not contain any significant environmental values which warrant it being retained within the Parks and Recreation reservation.
- The proposed Urban zoning is consistent with the "Urban Corridor" designation of adjacent land along Great Eastern Highway in the Framework.
- Rezoning the amendment area to the Urban zone, will provide for an appropriate rationalisation of the boundary between the Parks and Recreation reservation and Urban zone along the constructed alignment of Hay Road in this location.

#### **State Planning Policy 2.0 – Environmental and Natural Resources Policy**

*State Planning Policy 2.0 – Environmental and Natural Resources Policy* (SPP 2.0) provides guidance on the integration of the consideration of environmental matters into the land use planning system. In this respect, SPP 2.0 states that planning schemes and decision-making should avoid development that may result in unacceptable environmental damage and recognise and consider land that is degraded or contaminated and facilitate its rehabilitation for appropriate future use.

The amendment is consistent with SPP 2.0 as:

- Consideration will be given to the protection of any significant environmental values of the amendment area and the surrounding locality in the subsequent stages of the planning process.
- The Department of Planning, Lands and Heritage is currently in the process of remediating contaminated land within the amendment area to make it suitable for residential and related land uses.

#### **Draft State Planning Policy 2.9 – Planning for Water**

*Draft State Planning Policy 2.9 – Planning for Water* (draft SPP 2.9) outlines how water resource management should be integrated into the various stages of the planning system.



Its objectives include ensuring that the environmental, social, cultural and economic values of the State's water resources are protected and improved through the planning system and managing the risk of riverine flooding to people, property and infrastructure.

The amendment is consistent with draft SPP 2.9 as the environmental values of the Swan River and adjacent land can be appropriately protected in subsequent stages of the planning process, and it being likely that any future development on the site can be appropriately protected from the risk of riverine flooding.

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

*State Planning Policy 3.0 – Urban Growth and Settlement* (SPP 3.0) sets out the principles and considerations that guide the development of new urban growth areas and settlements. Its objectives include promoting the growth and development of urban areas in response to the social and economic needs of communities, enhancing the quality of life in those communities, and creating an identifiable sense of place for each community.

The amendment is consistent with SPP 3.0 as the proposed Urban zoning will contribute to making the efficient use of under-utilised land and would support higher density residential development in a more accessible location adjacent to a high amenity foreshore area.

### **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 Department of Fire and Emergency Services has reviewed a bushfire management plan prepared for the site and advises that it adequately considers how compliance with the bushfire protection criteria of the *Guidelines for Planning in Bushfire Prone Areas* can be achieved in subsequent planning stages. On this basis, the amendment is consistent with SPP 3.7.

## **Statutory Planning Context**

### **Environment**

The amendment area contains a number of remnant native trees, some of which are within the area intended to be developed. It is anticipated that consideration will be given to potentially retaining and protecting these remnant trees in the subsequent stages of the planning process.

Part of the amendment area (approximately 3,400 m<sup>2</sup>) is located within 50 metres of the Swan River which is classified as a Conservation Category Wetland (CCW). The Environmental Protection Authority *Guidance Statement 33 – Environmental Guidance for Planning and Development* recommends a minimum 50 metre buffer distance for wetlands which are to be protected. The need to provide an appropriate buffer to the CCW and to protect the significant environmental values of the Swan River can be appropriately addressed in the subsequent stages of the planning process.

## **Site Contamination**

The land within the amendment area is registered as a potentially contaminated site pursuant to the requirements of the *Contaminated Sites Act 2003* (the CS Act), with a classification of “Possibly contaminated – investigation required”. This classification of the site is a result of the dumping of fill on the site, which was contaminated with asbestos-containing material and polyfluoroalkyl substances.

The Department of Planning, Lands and Heritage has undertaken remediation works to remove contaminated fill from the amendment area and detailed site investigations to confirm that this land is capable of being developed for residential purposes. The detailed site investigations undertaken to date indicate it is likely that the site will be suitable for residential or commercial land uses, and that the contaminated site classification of the site can be updated to allow for this.

A mandatory auditor’s report is currently being prepared for submission to the Department of Water and Environmental Regulation (DWER) to seek the reclassification of the site pursuant to the requirements of the CS Act, and it is anticipated that this process will be completed by mid-2023. On this basis, it is likely that any outstanding site contamination issues can be appropriately resolved prior to the finalisation of the amendment and the site being developed for residential and related purposes.

## **Urban Water Management**

The DWER advises that there is no requirement for a district water management strategy to be prepared in support of the amendment.

## **Floodway and Flood Fringe**

Part of the amendment area is located within the floodway and flood fringe of the Swan River. In this respect, part of the constructed extent of Hay Road which is located within the floodway, and part of the amendment area which is intended to be sold as a development site is located in the flood fringe. Draft SPP 2.9 and associated Guidelines provide appropriate guidance on how the risk of riverine flooding to development within flood fringe areas should be managed in the subsequent stages of the planning and development process.

## **Water and wastewater infrastructure**

The Water Corporation advises that capacity exists in the nearby water and wastewater networks to service any future development within the amendment area, but that these networks will require significant upgrades and extensions to provide these services to future development within the amendment area. In this respect, these upgrades and will need to be further investigated by the proponent in the subsequent stages of the planning and development process, and that the proponent will need to fund any extensions or connection to these networks.

## **Swan Canning Development Control Area**

The amendment area is located within the Swan Canning Development Control Area which was established under the *Swan and Canning Rivers Management Act 2006*. It is likely that the amendment area will be removed from this development control area in the future, should it be transferred to the Urban zone.

## 5 Aboriginal heritage

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

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

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

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

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

## 6 Coordination of local and region scheme amendments

Under Section 126(3) of the *Planning and Development Act 2005*, the City of Belmont has the option of requesting the WAPC to concurrently rezone land being zoned Urban under the MRS to a "Development" zone (or similar) in its LPS 15.

The proponent has requested that LPS 15 be concurrently amended to rezone the amendment area to the "Development" zone. However, the City of Belmont advises this is not possible as LPS 15 does not contain a "Development" zone, and that it does not support the concurrent amendment of its LPS 15 as there is a need to undertake further planning for the site.

The WAPC will make a final decision on the concurrent amendment of LPS 15 at the close of the public submission period.

## 7 Substantiality

The *Planning and Development Act 2005* allows for amendments to the MRS to be processed as either "minor" or "major" amendments depending on whether they are

considered to constitute a substantial alteration to the MRS or not. *Development Control Policy 1.9 – Amendment to Region Schemes* sets out the criteria for deciding whether the major or minor process should be followed. In this regard, the amendment is proposed to be processed as a "minor" amendment as follows:

- The amendment is not complex, and its size and scale is not regionally significant and does not reflect a significant change to the strategic planning for the Metropolitan region.
- The amendment is broadly consistent with the intent of the *Central Sub-regional Planning Framework*.
- The amendment is not likely to result in significant impacts to the environmental values of the amendment area and the surrounding locality.
- The City of Belmont and key State Government agencies have not raised any matters which would prevent the initiation and advertising of the amendment.

## **8 Sustainability appraisal**

The proposed Urban zoning will facilitate the development of part of the amendment area for residential and related purposes consistent with the intent of the *Central Sub-regional Planning Framework*, which addresses the sustainability of proposed urban development in general, and with the intent and objectives of SPP 2.0, draft SPP 2.9 and SPP 3.0.

## **9 Environmental Protection Authority advice**

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

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

## **10 The amendment process**

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

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

- formulation of the amendment by the WAPC
- referral to the EPA for environmental assessment
- completion of an Environmental Review (if required) to EPA instructions
- public submissions being sought on the proposed amendment (including environmental review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or refusal to

- approve, by the Minister
- the amendment takes legal effect with Gazettal of the Minister's approval.

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

## 11 Submissions on the amendment

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

The amendment will be advertised for public submissions for a period of 60 days from Friday 17 February 2023 to Friday 28 April 2023.

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

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

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

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

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

or by email to:-

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

**and must be received by 5 pm Friday 28 April 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.

## **12 Modifications to the amendment**

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

## **13 Final outcome**

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

**MRS Amendment 1399/57**

**Hay Road, Ascot**

**Amending Figure  
Proposal 1**







**Hay Road, Ascot  
Proposed minor amendment  
as advertised**

26 October 2022

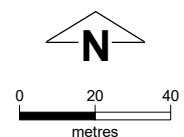
Proposal 1

Proposed Amendment:

 Urban zone

Oracle reference no: 3648

Version number: 1





## **Appendix A**

### **Notice of environmental assessment**



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

Your Ref: 833-2-15-16 Pt 1 (RLS/1050)  
Our Ref: APP-000122  
Enquiries: Liz Stewart, 6364 6468  
Email: [liz.stewart@dwer.wa.gov.au](mailto:liz.stewart@dwer.wa.gov.au)

Dear Ms Fagan

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

<b>SCHEME</b>	<b>Metropolitan Region Scheme Amendment 1399/57</b>
<b>LOCATION</b>	<b>Part Lots 185-196 Hay Road and part of the road reserves for Hay Road and Ivy Street, Ascot</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) but nevertheless provides the attached advice and recommendations. I have also attached a copy of the Chair's determination of the scheme.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.
- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of the Chairs' determination, this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. Tonts', with a long horizontal flourish extending to the right.

**Prof. Matthew Tonts**  
**Chair of the Environmental Protection Authority**

29 November 2022

Encl. Chair's Determination



GOVERNMENT OF  
WESTERN AUSTRALIA

S48A Referrals

## Environmental Protection Authority

**Title:** Metropolitan Regional Scheme (MRS) Amendment 1399/57

**Location:** Lots 185-196 Hay Road Ascot

**Description:** Amendment 1399/57 proposes to transfer approximately 1.53 hectares of land in Ascot, City of Belmont, from the Parks and Recreation reservation to the Urban zone.

**Ref ID:** APP-0000122

**Date Received:** 11/11/2022                      **Date Sufficient Information Received:** 11/11/2022

**Responsible Authority:** Western Australian Planning Commission

**Contact:** Brett Pye

**Preliminary Environmental Factors:** Inland Waters and Terrestrial Environmental Quality.

**Potential Significant Effects:** Altering the hydrological regime and quality of water into the Swan River; impacts due to historical dumping of potentially contaminated matter.

**Management:** Potential impacts can be managed through future planning processes and requirements under the *Swan and Canning Rivers Management Act 2006* and the *Contaminated Sites Act 2003*.

**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 Initials: 

Date: 29 November 2022





## **Appendix B**

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



**Metropolitan Region Scheme  
Amendment 1399/57**

**Hay Road, Ascot**

**as advertised**

**Amending Plan 3.2800**

**Detail Plans**

1.6237, 1.6263



## **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)**





