

April 2025

**Metropolitan Region  
Scheme Amendment  
1395/57 (Minor Amendment)**



**Rationalisation of Midland Brick  
Landholdings**

Amendment Report

City of Swan

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**Metropolitan Region Scheme  
Amendment 1395/57  
(Minor Amendment)**

**Rationalisation of Midland Brick Landholdings**

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City of Swan



April 2025

The Western Australian Planning Commission acknowledges Aboriginal people as the traditional custodians of Western Australia. We pay our respects to the Ancestors and Elders, both past and present, and the ongoing connection between people, land, waters, and community. We acknowledge those who continue to share knowledge, their traditions and culture to support our journey for reconciliation. In particular, we recognise land and cultural heritage as places that hold great significance for Aboriginal people.

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MRS Amendment 1395/57 Amendment Report  
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This document is available in alternative formats on application to the Department of Planning, Lands and Heritage Communications Branch.

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## Abbreviations

<b>ACH</b>	Aboriginal Cultural Heritage
<b>AHA</b>	<i>Aboriginal Heritage Act 1972</i>
<b>ANEF</b>	Australian Noise Exposure Forecast
<b>CBD</b>	Central Business District
<b>DOH</b>	Department of Health
<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>MAR</b>	Mandatory Auditor's Report
<b>MRS</b>	Metropolitan Region Scheme
<b>MRWA</b>	Main Roads Western Australia
<b>SPP</b>	State Planning Policy
<b>SWALSC</b>	South West Aboriginal Land and Sea Council
<b>TEC</b>	Threatened Ecological Community
<b>WAPC</b>	Western Australian Planning Commission

## **Amendment Report**

**Metropolitan Region Scheme Amendment 1395/57**  
**Rationalisation of Midland Brick Landholdings**  
**Amendment Report**

## **1 Planning objective**

The purpose of the amendment is to transfer approximately 23.7 ha of land in Middle Swan from the Rural and Industrial zones to the Urban zone and Regional Open Space reservation in the Metropolitan Region Scheme (MRS), as shown on the ***Amendment Figure – Proposal 1***.

Rationalisation of Bush Forever Site 302 (addition of 0.14 ha, and removal of 0.14 ha) is also proposed.

The amendment defines the boundary between the Urban zone and the new Regional Open Space reservation for the Swan River foreshore. The proposed Urban zoning will allow for primarily residential subdivision following a local scheme amendment, detailed structure planning and subdivision approval.

## **2 Background**

The subject land is located within the City of Swan and primarily comprises part lots 23 and 72 Eveline Road, Middle Swan. The land is approximately 16 km east of the Perth CBD and is approximately 1.5 km from the Midland city centre.

The site contains Midland Bricks operations and is currently used for brickmaking operations and includes a warehouse, workshop buildings and hardstand storage area. The site is bounded by the Swan River to the north, Bassett and Leslie Roads to the east, Urban and Rural zoned land to the south and Regional Open Space reservation to the west. The Cranwood Crescent residential subdivision area is further to the west and the former Swan Districts Hospital, and La Salle College are in close proximity.

The WAPC and the City of Swan have issued subdivision and development approval for the removal and relocation of some Midland Brick structures within the site. The demolition works are to be undertaken in a staged manner as part of the broader strategy to rationalise and consolidate Midland Brick's operations to the north of Bassett Road.

Flora and fauna habitat is limited to scattered trees and small pockets of remnant vegetation subject to historical disturbance. The condition of the vegetation across the subject site ranges from 'completely degraded' to 'excellent'. The site provides potential foraging habitat for Carnaby's, Forest Red-tailed and Baudin's Black Cockatoos. Threatened Ecological Community (TEC) *SCP3c Corymbia calophylla - Xanthorrhoea preissii woodlands and shrublands, Swan Coastal Plain* is located on the site. The TEC and the surrounding vegetation is to be retained for conservation purposes.

The subject site is currently zoned 'General Industrial' and 'Private Clubs and Institutions' under the City of Swan Local Planning Scheme No. 17 (LPS 17). Should part of the site be zoned Urban land use and development would generally be controlled by LPS 17.

## **Swan River Foreshore Reserve**

The amendment defines the boundary between the proposed Urban zone and Regional Open Space reservation along the Swan River. There is currently no foreshore reservation over this portion of the Swan River and the land is privately owned and not accessible to the public. It is proposed to introduce a foreshore reserve along this section of the Swan River which will be accessible to the public. Historically, this area of the Swan River foreshore has been privately owned and inaccessible to the public due to the operations of the brickworks.

The Regional Open Space reservation seeks to retain the most significant remnant vegetation and existing topographical values of the land, this includes the floodway, Conservation Category and Multiple Use Wetlands and Bush Forever Site 302 and is to be ceded free of cost.

## **Site Contamination**

The proponent has conducted contaminated site investigations over the site, particularly over Lot 72 Eveline Road which is classified as 'Possibly contaminated - investigation required' due to localised areas of elevated petroleum hydrocarbon concentrations in soil and groundwater. In 2021, investigations were undertaken which identified isolated petroleum hydrocarbon soil and groundwater impacts present within Lot 72 Eveline Road.

Therefore, remediation requirements are likely to include the excavation and treatment of affected soils and groundwater remediation. The proponent is undertaking investigations and has engaged a contaminated sites accredited auditor. As the site is progressively subdivided, portions of the site proposed for residential development will be required to clear contamination conditions.

This process is subject to the *Contaminated Sites Act 2003* and requires a Mandatory Auditor's Report (MAR) to be prepared by an accredited Contaminated Sites Auditor based upon the investigations conducted and the MAR is submitted to the Department of Water and Environmental (DWER). If required, validation of any remediation will need to be completed prior to the issuing titles on the advice of the DWER.

## **Existing Environmental Approvals and Licences**

### **Ministerial Statement 1124**

Part IV of the *Environmental Protection Act 1986* (EP Act) regulates the operation of the brickworks through conditions attached to Ministerial Statement 1124 (MS 1124). The boundary of MS 1124 includes the majority of the site. While the brickworks are operational within the site compliance with the MS conditions is required.

MS Condition 5 requires that a Decommissioning and Rehabilitation Plan to be prepared that will outline the processes and legislation to ensure that the demolition of the brickworks' infrastructure will not give rise to any significant environmental impacts. Before any residential dwellings within the site are occupied the MS's boundary is to exclude the area containing the dwellings.

### **Prescribed Premises Licence**

Part V of the EP Act (Licence L4511/1967/13) regulates the emissions from the brickworks. The licence limits the production capacity of the brickworks and the emissions from the stacks of Kilns 9, 10 and 11. Kilns 7 and 8 are being removed from the current licence. Kiln 11 will also be decommissioned and removed from the Licence. Kilns 9 and 10 are to remain.



The licence requires quarterly monitoring of stack emissions and continuous monitoring of ambient levels of hydrogen fluoride at two locations within the brickworks, one of which is within the site. The monitoring results are reported in an Annual Environmental Report. Adherence with the plan's commitments will be documented in an annual compliance report to be submitted to DWER.

### **3 Discussion**

#### **Strategic Planning Context**

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

The *North-East Sub-regional Planning Framework* forms part of the *Perth and Peel@3.5million* strategic suite of planning documents. Future areas for urban development have been determined to avoid and protect areas that have significant regional environmental value.

The *North-East Sub-regional Planning Framework* reflects the sites current Rural and Industrial zoning. However, as the existing brickworks is being consolidated to the north of the site, this provides for the subject land to be considered for alternative uses that are compatible with the surrounding locality and for an appropriate foreshore reserve to be established.

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

*State Planning Policy 2.8 - Bushland Policy for the Perth Metropolitan Region* (SPP 2.8) aims to provide a policy and implementation framework that will ensure bushland protection and management issues are addressed and integrated with broader land use planning and decision-making. In general, the policy does not prevent development where it consistent with policy measures and other planning and environmental considerations.

The site has been used for brick making operations for a number of years and has been significantly cleared of vegetation in parts. However, areas of higher quality vegetation that have conservation value are to be retained for conservation purposes. This includes the minor rationalisation of Bush Forever Site 302 which is to be retained within a new Regional Open Space foreshore reserve. The proposed amendment is considered to be consistent with the intent of SPP 2.8.

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

Draft *State Planning Policy 2.9 - Planning for Water* (draft SPP 2.9) 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. DWER has approved a DWMS for this site. The proposed amendment is considered to be consistent with the intent of draft SPP 2.9.

##### **State Planning Policy 2.10 - Swan-Canning River System**

*State Planning Policy 2.10 - Swan-Canning River System* (SPP 2.10) provides a regional framework for the preparation of precinct plans based on the precincts identified in the Swan River System Landscape Description. It also provides a context for consistent and integrated planning and decision making in relation to the river, and ensures that activities, land use and development maintain and enhance the health, amenity and landscape values of the river, including its recreational and scenic values.

There is currently no foreshore reservation over this portion of the Swan River and the land is privately owned. The amendment proposes to establish a new foreshore reserve which is publicly accessible and retains the most significant remnant vegetation and existing topographical values of the land, this includes the floodway, Conservation Category and Multiple Use Wetlands and Bush Forever Site 302 and is to be ceded free of cost. The proposed amendment is considered to be consistent with the intent of SPP 2.10.

### **State Planning Policy 3.7 - Bushfire**

*State Planning Policy 3.7 - Bushfire* (SPP 3.7) seeks to implement effective, risk-based land use planning and development which in the first instance avoids the bushfire risk, but where unavoidable, manages and/or mitigates the risk to people, property and infrastructure to an acceptable level. The preservation of life and the management of bushfire impact are paramount. A Bushfire Management Plan has been approved by the Department of Fire and Emergency Services for the site. The proposed amendment is considered to be consistent with the intent of SPP 3.7.

### **State Planning Policy 4.1 - Industrial Interface**

*State Planning Policy 4.1 - Industrial Interface* (SPP 4.1) seeks to protect industry and infrastructure facilities from the encroachment of incompatible land uses and ensure that planning decisions consider the locational constraints of these land uses, the significant investments they represent and their current and future benefits and costs to the community when considering the most appropriate land uses for the surrounding land. The policy seeks to prevent land use conflict between industry/infrastructure facilities and sensitive land uses.

The EPA's *Environmental Protection Guidance Statement No. 3 - Separation Distances Between Industrial and Sensitive Land Uses* provides advice on which land uses require separation and recommends appropriate separation distances. In relation to the manufacture of clay bricks, a generic buffer distance of 300 m - 1,000 m depending on size is recommended unless a site-specific assessment is undertaken.

### **Noise Emissions from Consolidated Brickworks Operations**

Noise from the Midland Brick site to the proposed urban development is governed by the EP Act through the Environmental Protection (Noise) Regulations 1997. The influencing factor, applicable at noise sensitive premises varies depending upon their proximity to commercial and industrial zoned land.

The proponent has undertaken a noise impact assessment given the proposed consolidation of Midland Brick's operations to the north. Due to the staged approach to the decommissioning of the brickworks and the development of the urban area, a number of scenarios were considered until the brickworks operations are fully decommissioned.

The noise assessment determined that in order to achieve compliance with noise requirements a combination of the following is proposed to be undertaken:

- A 5 m high noise bund along Bassett Road to mitigate noise impacts from trucks and the masonry building.
- Engineering noise control of Kilns 9 and 10 as follows:
  - Kilns 9 & 10 roof and parts of the external walls
  - Kiln 10 dehacker vacuum fan

- Acoustic glazing to houses within 450 metres of the industrial site. All external glazing is to comprise of 6 mm thick glass in a commercial frame and closing on compressible seals.

Based on the noise modelling, where the proposed residential development is staged along with the decommissioning of the brickworks operations, the investigations determined that there would be no exceedance of noise guidelines.

#### Air Quality Emissions from Consolidated Brickworks Operations

An Air Quality Impact Assessment and Human Health Risk Assessment have been undertaken and referred to the Department of Health (DOH) and Department of Water and Environmental Regulation (DWER) to understand the potential impacts from the future consolidated Midland Bricks brickworks operations, predominantly Kilns 9 and 10, on the proposed residential land use which is approximately 430 m away. The assessments found that for typical and maximum allowable operations, predicted ground level concentrations of all potential pollutants comply with relevant assessment criteria for urban land uses.

The preparation of an Air Quality Management Plan may be required as part of the future subdivision and development of the site. The maximum predicted concentrations as a result of the ongoing operation of Kilns 9 and 10 were reviewed against guidelines that are protective of human health (for all residents), odour and vegetation effects. There are no exceedances of these guidelines.

The WAPC notes that there are numerous existing residential premises abutting or in close proximity to the east and south-east of the proposed consolidated Industrial area. The future design and location of any brickworks infrastructure must have regard to these existing residential premises and the proposed new Urban area and will be given further consideration in the subsequent planning stages. The proposed amendment is considered to be consistent with the intent of SPP 4.1.

#### **State Planning Policy No. 5.1 - Land use Planning in the Vicinity of Perth Airport**

*State Planning Policy No. 5.1 - Land use Planning in the Vicinity of Perth Airport* (SPP 5.1) acknowledges the fundamental importance of Perth Airport to the continued economic development of Western Australia, and the negative impacts of airport noise on sensitive land uses (i.e. residential development). SPP 5.1 is predicated on the Australian Noise Exposure Forecast (ANEF), which was prepared by Perth Airport in consultation with Airservices Australia.

Part of the proposed amendment area is located within the Perth Airport ANEF as follows:

- 20 - 25 ANEF - The majority of the proposed amendment area is located between the 20 and 25 ANEF contour. SPP 5.1 states that where residential development is proposed a maximum density should be limited to R20 development.

SPP 5.1 states that noise insulation is not mandatory for residential development within this noise exposure zone. However, some areas may experience peak aircraft noise levels in excess of the Indoor Design Sound Levels specified in *Australian Standard 2021*, and noise insulation is recommended in such cases.

A notice on title, advising of the potential for noise nuisance is required as a condition of subdivision, planning or building approval within this noise exposure zone, except where the proposed building type is identified as acceptable with reference to the building site acceptability in SPP 5.1.

Information should also be given to prospective purchasers of noise-sensitive premises about the potential for aircraft noise nuisance. Such advice should be provided by local government in conjunction with the issue of zoning certificates and/or property inquiries. The proposed amendment is considered to be consistent with the intent of SPP 5.1.

### **Draft Development Control Policy 4.3 - Planning for High-Pressure Gas Pipelines**

*Draft Development Control Policy 4.3 - Planning for High-Pressure Gas Pipelines* (draft DCP 4.3) seeks to protect people from unacceptable levels of risk from high-pressure gas pipelines by protecting high-pressure gas pipelines from unregulated encroachment.

The western portion of the amendment area is located within the 300 m referral area of the Dongara - Pinjarra Gas Pipeline, further consideration of this matter will be undertaken at the more detailed local structure plan stage, such as the inclusion of appropriate land uses and setbacks as required. The proposed amendment is considered to be consistent with the intent of draft DCP 4.3.

### **Statutory Planning Context**

#### **Environment**

DWER advised that the following matters are relevant to the site:

- Previous Ministerial Statement relating to the site
- Air quality
- Contamination
- Environmental noise; and
- Water management.

The WAPC notes that some of the above matters have been addressed or will need further consideration as the more detailed planning of the site progresses.

#### **Infrastructure**

The Water Corporation advises the following:

##### **Water**

Reticulated water is currently available to the site. All water main extensions (if required) must be laid within the existing and proposed road reserves, on the correct alignment and in accordance with the Utility Providers Code of Practice.

The proposed water reticulation extensions/strategy outlined in the proponent's amendment request will need to be further refined by the future developer's consultant engineers at the subdivision stage in consultation with the Water Corporation's land servicing section.

Due to the change in land use, upgrading of the current system may be required to prevent existing customers being affected. When the proposed demands are provided, the Water Corporation will need to review the current scheme planning.

Existing water mains are located within the site. Pressured water mains are not to be located on private land and should be located in and protected by reserves (i.e. road reserves) as no development. The developer is required to fund the full cost of protecting, relocating or modifying any existing infrastructure which may be affected by the proposal.

## Wastewater

Current planning indicates that the site falls within three catchments. The southern portion of the site can gravitate to the existing pump station near the corner of Eveline Street/Great Northern Highway. The western portion of the site can gravitate to the existing reticulation sewers in the residential area to the west. The remaining portion of the site falls within a catchment with no permanent pump station. This pump station is to be located near the river.

Consideration must be made for the location of the proposed pump station, which will require land to be provided for the works (and odour buffer). The proposed pump station is planned to be a Type 40, therefore the buffer should be 20 m in radius. A route 20 m wide for the headworks mains will also be required. The route should be in the form of a road reserve.

The proposed sewer reticulation extensions/strategy outlined in the proponent's amendment request will need further refinement by the developer's consultant engineers at the subdivision stage in consultation with the Water Corporation's land servicing branch.

Due to the change in land use, upgrading of the current system may be required to prevent existing customers being affected. When the proposed demands are provided, the Water Corporation will need to review the current planning.

## Drainage

Some of the site falls within the Blackadder Creek main drain scheme. The Water Corporation's drainage system can only take predevelopment flows. The future developer will need to compensate any additional flows on their own land.

## General Comments

The Water Corporation has easements and land matter issues within the subject site. This proposal will require the Water Corporation's procurement and property branch approval prior to any future development taking place.

The future developer is expected to provide all water and sewerage reticulation. A contribution for headworks may also be required. The developer may be required to fund new works or the upgrading of existing works and protection of works. The Water Corporation may also require land being ceded free of cost for works.

## **Transport**

Main Roads Western Australia (MRWA) raises no objections to the proposed amendment and advises that:

- Plans undertaken by the former Department of Planning and Infrastructure identified that the future grade separation of the Reid Highway/Roe Highway/Great Northern Highway interchange will impact the northern area of the Midland Brick site (outside the amendment area). The exact configuration of the future interchange design is still to be finalised as the Eastlink planning review is underway with refined plans to be issued.
- The additional land requirement is not protected in the MRS or by a Planning Control Area (PCA). MRWA requests that a PCA be created as an interim measure once the Eastlink plan review has confirmed the land required.

- The applicant will need to demonstrate how the current brickwork operations will continue, taking into account the proposed amendment and the land required for the future grade separation of the Reid Highway/Roe Highway/Great Northern Highway interchange.
- Early stages of liaison with the applicant have commenced to identify access and operational constraints that will need to be addressed. MRWA will share information on local network upgrades, land requirements and access solutions as it becomes publicly available.

#### **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.

The amendment was pre-referred to SWALSC with no advice received, however the amendment will be formally referred to SWALSC during the public advertising period.

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

Pursuant to section 126(3) of the *Planning and Development Act 2005* (the Act), where land is being transferred to the Urban zone under a region scheme, the WAPC can resolve to concurrently amend the respective local planning scheme to transfer this land to a zone which is consistent with the objective of the Urban zone.

The proponent has advised that a separate local planning scheme amendment under LPS 17 is proposed for the site. This will enable specific provisions to be incorporated which respond to the site's unique characteristics and constraints as well as provide for structure planning to occur prior to subdivision and development.

#### **6 Substantiality**

As the amendment was initiated under the provisions of former *Planning and Development Act 2005* previously allowed for amendments to a region scheme to be processed as either 'minor' or 'major' amendments depending on whether they are considered to constitute a substantial alteration to the region scheme or not. 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.

In this regard, the WAPC resolved to treat this amendment as a minor region scheme amendment for the following reasons:

- The transfer of the amendment land to the Urban zone constitutes a logical consolidation of the existing lots, which are already partially zoned Urban and in close proximity to existing urban development.
- The Regional Open Space reserve seeks to establish a foreshore reserve which is a continuation of the existing Swan River foreshore and will be publicly available to the community and ceded free of cost.
- The City of Swan and relevant State Government agencies have not raised matters which prevent the initiation and/or advertising of the amendment, or which can't be resolved in subsequent planning stages.

## **7 Sustainability appraisal**

The proposed amendment will facilitate the consolidation of the existing Midland Brick operations to the north. This provides for the remaining area of land to be considered for compatible urban uses.

The amendment defines the boundary between the Urban zone and Swan River foreshore and provides for this area to be reserved as Regional Open Space and made publicly accessible to the community.

The proposed amendment includes land that has been primarily cleared of vegetation, however where vegetation exists it is proposed to be retained as POS wherever possible.

## **8 Environmental Protection Authority advice**

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

The EPA has advised that the proposed amendment does not require formal assessment under Part IV of the *Environmental Protection Act 1986*. However, it has provided advice on the key environmental factors for the amendment. A copy of the notice from the EPA is included at Appendix A.

## **9 The amendment process**

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

In essence, the procedure for an amendment not constituting a substantial alteration to the region scheme (previously 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; and
- the amendment takes legal effect with gazettal of the Minister's approval.

An explanation of the [region scheme amendment process](#) can be found on the Department of Planning, Lands and Heritage's website, along with further information for [your property and planning region schemes](#)

## 10 Submissions on the amendment

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

The amendment is being advertised for public submissions for a minimum of 60 days from Friday 11 April 2025 until Friday 13 June 2025.

The amendment report and plans showing the proposed changes are available for public inspection [online](#).

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

However, written submissions commenting on the amendment can be sent to:

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

or posted to:

The Secretary  
Western Australian Planning Commission  
Locked Bag 2506  
PERTH WA 6001

**and must be received by Friday 13 June 2025.**

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form is contained in this report (Appendix D). Additional copies of the form are available from the display locations and the Department of Planning, Lands and Heritage [website](#)

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 C of this report regarding preparing a submission.



## **11 Modifications to the amendment**

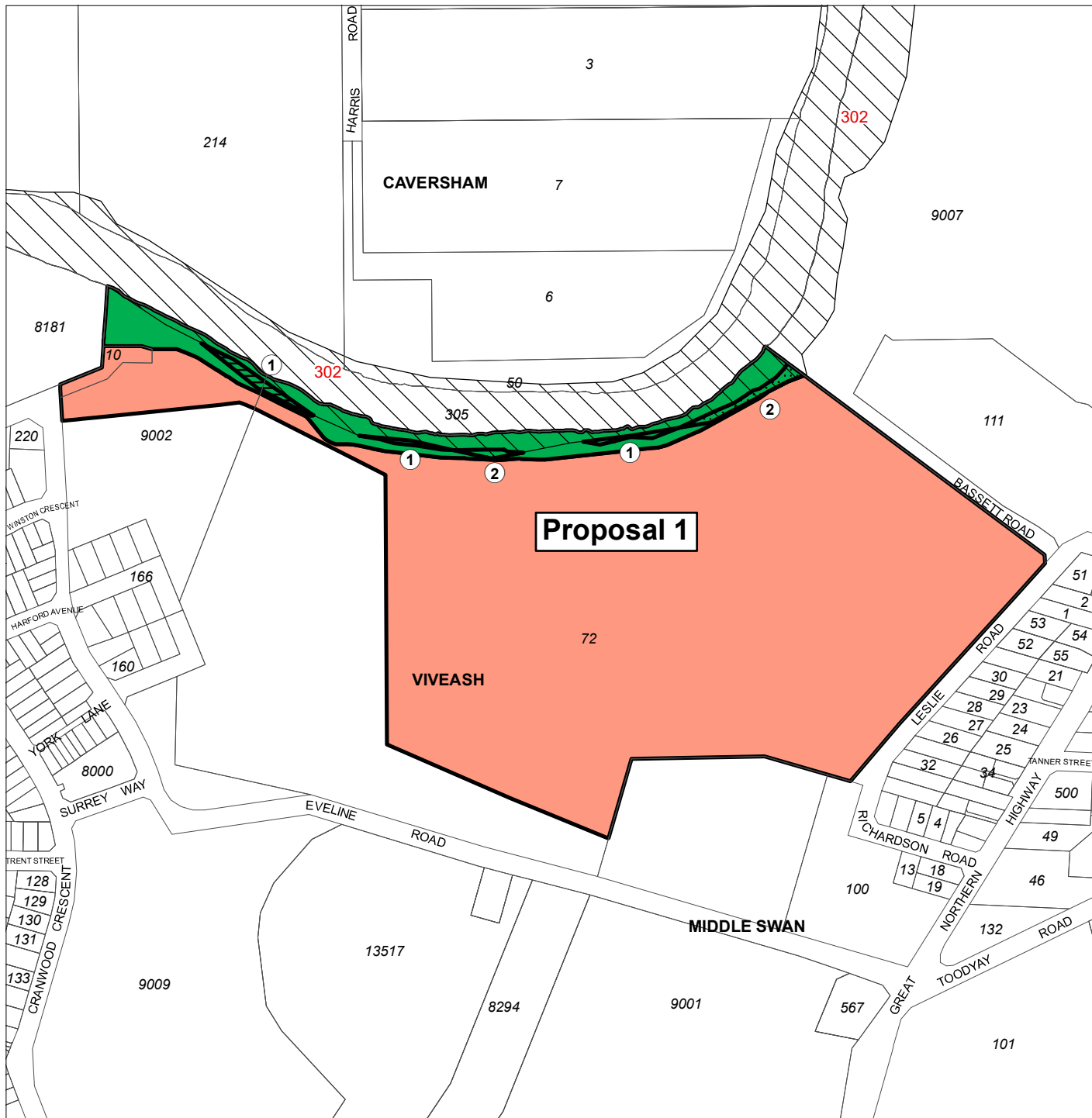
After considering any comments received from the public and government agencies, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve.

## **12 Final outcome**

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

**Metropolitan Region Scheme Amendment  
1395/57 (Minor)  
Rationalisation of Midland Brick Landholdings**

**Amendment Figure - Proposal 1**





## Rationalisation of Midland Brick Landholdings Proposed minor amendment as advertised



16 February 2022

Proposal 1


### Proposed Amendment:

-  Rural and Industrial zones to Regional open space reservation
-  Rural and Industrial zones to Urban zone

### Notice of Delegation:

-  Bush Forever area addition
-  Bush Forever area removal

### Existing Region Scheme:

-  (Site No. 302) Bush forever areas

Oracle reference no: 3043  
File number: 833/02/21/0132  
Version number: 3

## **Appendix A**

### **Notice of environmental assessment**



GOVERNMENT OF  
WESTERN AUSTRALIA

## Environmental Protection Authority

### S48A Referrals

**Title:** MRS Amendment 1395/57 – Rationalisation of Midland Brick Landholdings

**Location:** Pt Lots 23 and 72 Eveline Road, Middle Swan

**Description:** The Western Australian Planning Commission (WAPC) has initiated Amendment 1395/57 to the Metropolitan Region Scheme (MRS) to rezone land within Pt Lots 23 and 72 Eveline Road Middle Swan to enable a change in land use from the current brickworks to urban development. The proposed amendment area is 24.32ha and includes rezoning from 'Rural' and 'Industrial' to 'Urban', and rezoning from 'Rural' and 'Industrial' to 'Parks and Recreation' of land adjacent to the Swan River.

**Ref ID:** CMS18167/APP-0023347

**Date Received:** 09/03/2022 **Date Sufficient Information Received:** 23/10/2024

**Responsible Authority:** Western Australian Planning Commission

**Contact:** Anthony Muscara

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

**Potential Significant Effects:** Potential impact to future sensitive land uses from existing nearby General Industrial land uses, from noise, dust and odour emissions and reduced air quality. Potential impacts to local hydrology including water quality discharging to the Swan River and impact nearby threatened ecological community (TEC). Potential impact to a Registered Aboriginal Heritage Site (Swan River). Potential clearing of vegetation and habitat trees, including a TEC.

**Management:** Impacts can be managed through future local scheme planning controls and statutory processes. EPA advice is also provided.

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

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

This Determination is not appealable.

Chair's Initials:

Date: 25 November 2024

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

**Metropolitan Region Scheme Amendment 1395/57 – Rationalisation of Midland Brick  
Landholdings**

**Location:** Pt Lots 23 and 72 Eveline Road, Middle Swan

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

**Determination Published:** 25 November 2024

**Summary**

The Western Australian Planning Commission (WAPC) has initiated Amendment 1395/57 to the Metropolitan Region Scheme (MRS) to rezone land within Pt Lots 23 and 72 Eveline Road Middle Swan to enable a change in land use from the current brickworks to urban development. The proposed amendment area is 24.32 hectares (ha) and includes the following two components:

- Rezone 22.296ha from 'Rural' and 'Industrial' to 'Urban' to facilitate future residential development, public open space, and drainage.
- Reclassify 2.024ha from 'Rural' and 'Industrial' to 'Parks and Recreation' associated with a portion of land immediately adjacent to the Swan River foreshore.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment as set out is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the scheme amendment documentation provided by the WAPC.

Having considered this matter, the following advice is provided.

**Environmental Factors**

Having regard to the EPA's (2021) *Statement of environmental principles, factors, objectives and aims of EIA*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Social surroundings
- Air quality
- Flora and vegetation
- Terrestrial fauna
- Inland waters
- Terrestrial environmental quality

**Advice and Recommendations regarding Environmental Factors**

The EPA considers that this amendment in itself would be unlikely to have a significant impact on the environment. However, several conflicting land use issues are raised by the amendment (in particular the issues of dust, noise and air quality) from the adjacent 'Industrial' zoned land and operating brickworks.

The EPA recommends that the future local scheme amendment, structure planning and subdivision design take into consideration the factor specific advice below. A concurrent local scheme amendment is not supported.

### **Social surroundings and Air quality**

The existing Midland Brick brickworks operates across and adjacent to the proposed MRS amendment area under a Part V EP Act Licence L4511/1967/14. The brickworks within the amendment area will be decommissioned to enable residential development. The adjacent brickworks is proposed to continue operations.

Implementation of the scheme amendment may result in impacts on sensitive receptors, such as residential development, from the operating elements of the brickworks. Future residents may be impacted by reduced air quality, and noise, dust and odour emissions from the adjacent existing industrial land use.

The nitrogen oxide (NO<sub>x</sub>) modelling assessment report provided with the amendment shows that the potential of NO<sub>x</sub> emissions to contribute to exceedances of the National Environment Protection Measure ambient air criteria is low. It was noted that the assessment had some limitations as it did not consider upset conditions or cumulative impacts, however, the incremental risk of these is unlikely to materially change the outcome.

As part of structure planning the air quality studies for the amendment area should be updated in consultation with Department of Health to adequately identify and describe all non-prescribed emission sources, and with Department of Water and Environmental Regulation (DWER) to provide evidence to support any conclusions regarding emissions during potential upset conditions.

Information provided as part of the referral indicates that the future local scheme amendment will include text provisions to manage potential amenity impacts. The EPA expects that the future local planning scheme amendment and structure planning will consider buffer requirements to the future residential development that are consistent with the EPA's *Environmental Protection Guidance Statement No.3 Separation Distances Between Industrial and Sensitive Land Uses* and *State Planning Policy No. 4.1 – Industrial Interface* (SPP 4.1). The EPA expects that appropriate interfaces/transitional development will be considered within the buffer to the brickworks, and the EPA expects that these land uses would be appropriately zoned/reserved as part of the future local planning scheme.

Further planning controls can be captured through the subdivision process, including the setting of subdivision conditions and notifications on title.

The amendment area is situated under Perth Airport's flight paths and is affected by the 20-25 ANEF aircraft noise exposure contour. Future development should be consistent with *State Planning Policy 5.1 - Land Use Planning in the Vicinity of Perth Airport*.

The amendment area is directly adjacent to the boundary of the registered Aboriginal Heritage Site 3536 'Swan River'. The EPA recommends appropriate consultation (further to that already undertaken), investigation and relevant management plans be undertaken prior to subsequent stages of planning to address potential impacts to Aboriginal heritage values. Future development should be consistent with the *Aboriginal Heritage Act 1972*.

### **Flora and vegetation and Terrestrial fauna**

The amendment area has been largely cleared and developed, with the exception of an area of bushland adjacent to the south-eastern boundary of the existing brickworks operation, and

the foreshore vegetation between the brickworks and the Swan River. The area of foreshore vegetation within the proposed amendment area is also part of Bush Forever Site 302 and is proposed to be retained as 'Parks and Recreation'.

The amendment area contains 0.93 ha of 'Very Good' and 'Excellent' condition vegetation commensurate with the threatened ecological community (TEC) '*Corymbia calophylla* – *Xanthorrea preissii* woodlands and shrublands, Swan Coastal Plain' (floristic community type SCP3c). It also contains 0.71 ha of potential foraging habitat for three threatened black cockatoo species (Carnaby's black cockatoos, Baudin's black cockatoo and Forest red-tailed black cockatoos). A total of five potential black cockatoo habitat trees were recorded in the site, with three of these trees observed to contain potentially suitable nesting hollows. Department of Biodiversity, Conservation and Attractions (DBCA) mapping for black cockatoo habitat and TEC on and adjacent to the site differs from the site specific studies completed by the consultant. It is recommended DBCA be consulted during the structure planning process to ensure the accurate delineation and protection of any areas of TEC.

The EPA supports the information provided during the amendment referral which proposes the future local scheme amendment will include scheme text provisions to ensure that the TEC is identified (to the satisfaction of DBCA), retained, buffered and managed through the local scheme amendment. It is understood that the WAPC intends this will mean the TEC occurrence, which currently occurs on land in private ownership and zoned 'Industrial' pursuant to the MRS, will have a management framework agreed to facilitate the associated land being transferred to public ownership. The future local scheme text should incorporate the requirement for future buffers to and management of the TEC to consider ecological water requirements. The EPA notes and supports that the amendment proposes to retain the TEC as restricted POS as part of the future City of Swan Local Planning Scheme amendment and ultimately ceded and managed as a City of Swan reserve.

The proposed MRS amendment will include the foreshore (and associated black cockatoo habitat) in 'Parks and Recreation' reserve. The future structure plan for the amendment area should require the retention of potential fauna habitat trees outside of this reserve.

Future planning should have regard for the EPA's 2021 *Guidance for planning and development: Protection of naturally vegetated areas in urban and peri-urban areas*. Road layout, and fire, noise, and drainage management should all be managed through the planning process to minimise impact surrounding native vegetation.

### **Inland waters and Terrestrial environmental quality `**

Implementation of the scheme amendment may result in changes to the local groundwater and surface water hydrology, quantity and quality and ultimately impact quality of water discharging to the Swan River.

The *Corymbia calophylla* – *Xanthorrhoea preissii* woodlands and shrublands 2000-2003, Interim Recovery Plan No 60 (English and Blyth 2000) notes hydrological changes is a threat to the TEC. Future development may have impacts to the TEC within the amendment area through changes to local hydrology.

A District Water Management Strategy (DMWS) has been prepared in support of the MRS amendment, and a biophysical assessment of the Swan River and associated foreshore was undertaken to inform the foreshore and buffer to future development edge, to be incorporated into the 'Parks and Recreation' reserve. A 50m buffer is proposed to be achieved from the edge of the Swan River Conservation Category Wetland to future residential lots, however this buffer will consist of a road reserve and Public Open Space (POS) as well as retained vegetation.



Future water management planning for the site should maintain or improve surface water and groundwater quality and consider the hydrological requirements of the surrounding environment (including the TEC), and consider appropriate buffers to the Swan River, to avoid and manage impacts to these values. A Foreshore Management Plan should be prepared as part of future stages of planning, in consultation with DWER and DBCA. A Construction Environment Management Plan is recommended to be prepared as part of future stages of planning to manage direct and indirect impacts (including erosion) to environmental values within and adjacent to the area from sources such as earthworks and vehicle movement. The EPA expects the future local scheme amendment will include scheme text provisions consistent with this advice.

The amendment is not considered likely to have a significant effect on inland waters, provided appropriate capture and treatment of stormwater during and post-development, and subject to an appropriate treatment response in the foreshore reserve post-development. Future water management plans should be endorsed by DWER and DBCA as applicable, to the satisfaction of the City. The amendment area is part of the Swan River Trust Development Control Area and is therefore subject to the provisions of the Swan and Canning Rivers Management Act 2006 and associated regulations.

Due to the historical industrial use (brick manufacturing) of the site, several contaminated sites investigations have been undertaken which have identified a number of known and potential sources of contamination, primarily due to historical fuel and oil storage. Concerns around potential contamination of the site should be addressed through remediation of the site in accordance with the *Contaminated Sites Act* (2003), for approval by an accredited Contaminated Sites Auditor and DWER.

## **Conclusion**

The EPA notes the ability of future planning processes to assist in mitigating impacts and concludes the scheme amendment can be managed to meet the EPA's environmental objectives for the above factors. Future local planning scheme requirements, and other statutory processes are also able to manage potential impacts. The EPA recommends its advice is implemented to mitigate potential impacts to the environmental factors.

## **Appendix B**

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

**Metropolitan Region Scheme Amendment  
1395/57 (Minor)**

**Rationalisation of Midland Brick Landholdings**

**as advertised**

**Amending Plan 3.2789**

Detail Plans: 1.6140 & 1.6141

## **Appendix C**

### **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://haveyoursay.dplh.wa.gov.au>, however, hardcopy submissions can also be accepted (Appendix D).

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 the submission form 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 D**

**Submission form for this amendment**



This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the width of the page, providing a guide for handwriting practice. There are no margins, text, or other markings on the page.

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

Signature ..... Date .....

Contacts: Tel - (08) 6551 8002 Email: [RegionPlanningSchemes@dplh.wa.gov.au](mailto:RegionPlanningSchemes@dplh.wa.gov.au) Website: <http://www.dplh.wa.gov.au/mrs-amendments>