



July 2024

Metropolitan Region Scheme Amendment **1421** (Standard Amendment)



Brabham and Dayton Urban Precincts

Amendment Report

City of Swan

**Metropolitan Region Scheme
Amendment 1421
(Standard Amendment)**

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July 2024

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 1421 (Standard) Amendment Report
File RLS/1094

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Abbreviations

ACH	Aboriginal Cultural Heritage
AHA	<i>Aboriginal Heritage Act 1972</i>
DPLH	Department of Planning, Lands and Heritage
DWMS	District Water Management Strategy
EPA	Environmental Protection Authority
LPS	Local Planning Scheme
LWMS	Local Water Management Strategy
MRS	Metropolitan Region Scheme
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
WAPC	Western Australian Planning Commission

Amendment Report

Metropolitan Region Scheme Amendment 1421 (Standard)

Brabham and Dayton Urban Precincts

Amendment Report

1 Planning objective

The purpose of the amendment is to transfer approximately:

- a) 11.94 hectares of land in Brabham from the Parks and Recreation reservation to the Urban zone, and remove the designation for Bush Forever Area 200 over approximately 1.22 hectares of this land;
- b) 5.11 hectares of land within Brabham from the Public Purposes - Special Uses reservation to the Urban Deferred zone;
- c) 2.79 hectares of land in Brabham and Dayton from the Public Purposes - Special Uses reservation to the Urban zone; and
- d) 6,363 square metres of land in Brabham from the Primary Regional Roads reservation to the Urban Deferred zone,

in the Metropolitan Region Scheme (MRS), as shown on the ***Amendment Figure - Proposal 1***.

The Urban and Urban Deferred zonings proposed by this amendment will:

- facilitate the planning and development of a transit-orientated development which will be integrated with the Whiteman Park Train Station;
- align the zoning of land in Dayton under the MRS with the Western Australian Planning Commission (WAPC) endorsed Dayton Commercial Centre Structure Plan No. 3; and
- provide for further investigations to be undertaken for the potential alignment of a proposed Water Corporation water trunk main through this area.

Lifting of Urban Deferment Requirements

The amendment area is being partly zoned Urban Deferred as the following matters require resolution prior to the transfer of this land to the Urban zone:

- determination of land requirements within the amendment area for part of the alignment for a proposed Water Corporation water trunk main in this locality; and
- determination of the final extent of regional road requirements for Drumpellier Drive and Youle-Dean Road in Brabham.

2 Background

The amendment area is located within the City of Swan and is approximately 15 kilometres north-east the Perth Central Business District and six kilometres south of the Ellenbrook secondary centre.

Land within the amendment area is reserved Public Purposes - Special Uses, Parks and Recreation and Primary Regional Roads and is identified as being part of Bush Forever Area 200 under the MRS. Land within the amendment area is predominantly cleared and contains scattered areas of remnant vegetation.

Drumpellier Drive located to the west is reserved Primary Regional Roads, and land to the east is zoned Urban, reserved Park and Recreation and identified as being part of Bush Forever Area 200 under the MRS. The Urban zoned land is zoned Special Use in the City of Swan Local Planning Scheme No. 17 (LPS 17) and is subject to the Albion (Brabham) District Structure Plan. The Urban zoned land in Brabham is currently undeveloped and contains remnant vegetation, whilst the Urban zoned land in Dayton is progressively being developed for residential and commercial purposes.

The Public Purposes - Special Uses reserved corridor along the eastern side of Drumpellier Drive was originally reserved to set aside land required for a proposed public transit corridor between the Ellenbrook town centre and the Midland passenger rail line. However, this land is no longer required for this purpose as a result of the Ellenbrook passenger railway line being constructed on the western side of Drumpellier Drive in this locality. This land is now surplus to State Government requirements, and it is considered appropriate for it to be transferred to the Urban and Urban Deferred zones as this would facilitate the planning of this land for residential and related land uses and its divestment.

The use and development of land within the amendment area is currently controlled by the MRS, as it is currently reserved under the MRS, and will be subject to the requirements of LPS 17 in the future should the amendment be approved.

3 Discussion

Strategic Context

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

The *Perth and Peel@3.5million* suite of strategic planning documents have been prepared to guide the strategic planning for the Perth and Peel regions, and make the case for a more considered, connected, consolidated urban form.

The *North-East Sub-regional Planning Framework* (the Framework), which forms part of this suite of documents, designates the subject land as 'Public Purposes' and 'Open Space' consistent with the current reservation of this land under the MRS. Adjacent land to the east is designated as 'Urban' with a 'Short-medium term (2015-2031)' staging timeframe in the Framework. The proposed Urban and Urban Deferred zonings are not consistent with the 'Public Purpose' and 'Open Space' designation of the subject land in the Framework, but are broadly consistent with the intent of the Framework for the following reasons:

- the 'Public Purposes' designation of part of the amendment area is no longer relevant as this land is no longer required for a public transit corridor;
- the proposed Urban and Urban Deferred zonings are consistent with the 'Urban' designation of adjacent land in the Framework, and would represent the most appropriate land use classification for this land given it is no longer required for a public transit corridor; and

- the 'Open Space' designation over part of the proposed amendment area does not preclude this land from being transferred to the Urban zone under the MRS, and the environmental values of the remnant vegetation on this land are not likely to be significant enough to prevent the transfer of this land to the Urban zone.

State Planning Policy 2.5 - Rural Planning

State Planning Policy 2.5 - Rural Planning (SPP 2.5) seeks to support existing, expanded, and future primary production through the protection of rural land and the avoidance or minimisation of any land use conflicts between agricultural land uses and incompatible sensitive land uses. In this respect, SPP 2.5 states that where an area is transitioning from rural land uses to urban land uses, that appropriate separation distances may be required to manage the transition and allow rural land uses to continue until such time production ceases or relocation occurs.

Part of the amendment area in Dayton is located within a generic 500 metre separation distance to a poultry farm located approximately 400 metres to the west of this area, but this is not likely to create any significant amenity issues given the *Dayton Commercial Centre Structure Plan No. 3* does not identify or propose residential or other sensitive land uses within this area.

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

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 is consistent with policy measures and other planning and environmental considerations.

The amendment area contains scattered remnant vegetation, some of which is identified as being part of native vegetation retention areas (NVRAs) in the environmental approval, which was issued, under the *Environmental Protection Act 1986*, for the construction of the Ellenbrook passenger railway line (Ministerial Statement No. 1156 (Malaga to Ellenbrook Rail Works)). The conditions of this approval require the Public Transit Authority (PTA) to avoid any direct or indirect impacts on the remnant vegetation in the NVRAs arising from the construction of the railway line. As such, consideration may need to be given to the potential retention and protection of this vegetation in subsequent planning stages.

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 resource management measures to achieve optimal water resource outcomes at the various stages of the planning process.

In this respect, the Department of Water and Environmental Regulation advises that a district or local water management strategy (DWMS or LWMS) does not need to be prepared for land in the northern part of the amendment area in Brabham, and that the stormwater management plan prepared in support of the *Dayton Commercial Centre Structure Plan No. 3*, for land in the southern part of the amendment area, meets the requirements of a DWMS.

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 bushfire protection outcomes for planning proposals in bushfire prone areas.

SPP 3.7 is applicable as parts of the proposed amendment area are designated as bushfire prone areas. The amendment is consistent with SPP 3.7 as the bushfire hazard level assessment and bushfire management plan prepared for this area adequately demonstrate how future planning proposals are capable of achieving compliance with the recommendations of SPP 3.7.

State Planning Policy 5.4 - Road and Rail Noise

State Planning Policy 5.4 - Road and Rail Noise (SPP 5.4) aims to minimise the adverse impact of road and rail noise on noise-sensitive land-use and/or development within the specified trigger distance of strategic freight and major traffic routes and other significant freight and traffic routes.

SPP 5.4 is applicable as parts of the proposed amendment area are located within the policy trigger distances for Drumpellier Drive and the Ellenbrook passenger railway line. A noise exposure forecast undertaken for the amendment area, in accordance with the *Road and Rail Noise Guidelines*, indicates that any future sensitive land uses in this area should be capable of achieving compliance with SPP 5.4.

Statutory Context

Water and Wastewater Infrastructure

The Water Corporation advises there is no infrastructure planning in place for the proposed amendment area, and that any future local structure plan prepared for this area will need to provide details on proposed dwelling yields, lot layout and land uses to enable this planning to occur at this later stage of the planning process.

The Water Corporation is also undertaking investigations to identify an appropriate alignment for a 1.6 metre diameter water trunk main in this locality, which will connect the proposed Alkimos desalination plant to the proposed Forrestfield reservoir and enable the bulk movement of water across the Metropolitan region. As part of this, it is investigating locating part of the trunk main within an approximate 600 metre long section of the former public transit corridor in Brabham, between Drumpellier Drive and Lot 94 Isoodon Street. As such, this land is proposed to be transferred to the Urban Deferred zone to provide an opportunity for this proposed alignment to be further investigated and resolved prior to this land being transferred to the Urban zone.

4 Aboriginal cultural heritage

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

Nevertheless, in recognition of the importance of having reliable Aboriginal cultural heritage information, the WAPC and the Department of Planning, Lands and Heritage (DPLH) 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 will be formally referred to SWALSC during the public submission period.

5 Co-ordination 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.

In this respect, the WAPC has the option of concurrently amending the City of Swan Local Planning Scheme No. 17, to transfer the amendment area to a zone which is consistent with the objectives of the Urban zone under the Metropolitan Region Scheme. In accordance with standard practice a determination on the concurrent amendment of the respective local planning scheme will be made after the close of the public submission period.

6 Substantiality

The Planning and Development (Region Planning Schemes) Regulations 2023 allows for amendments to a region scheme to be processed as either 'complex', 'standard' or 'basic' amendment depending on the alteration to the MRS. In this regard, the WAPC has resolved to treat the amendment as a standard region scheme amendment for the following reasons:

- The amendment is not complex and does not represent a significant change to the strategic planning for the Metropolitan region.
- The amendment is broadly consistent with the intent of the Framework given that the Public Purposes - Special Uses reserved land is no longer required for a public transit corridor.
- The amendment is not likely to result in significant impacts to the environmental values of the amendment areas and the surrounding localities.
- Key State Government agencies have not raised any matters which would prevent the initiation and advertising of the amendment.

7 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.

8 The amendment process

The procedures for amending the MRS are prescribed by the *Planning and Development Act 2005* and the Planning and Development (Region Planning Schemes) Regulations 2023. In essence the procedure for a standard amendment involves:

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

An explanation of 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](#)

9 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 42 days from the 05 July 2024 to 16 August 2024.

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

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

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

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 16 August 2024.**

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 Department of Planning, Lands and Heritage website at www.dplh.gov.au/regionplanningschemes.

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.

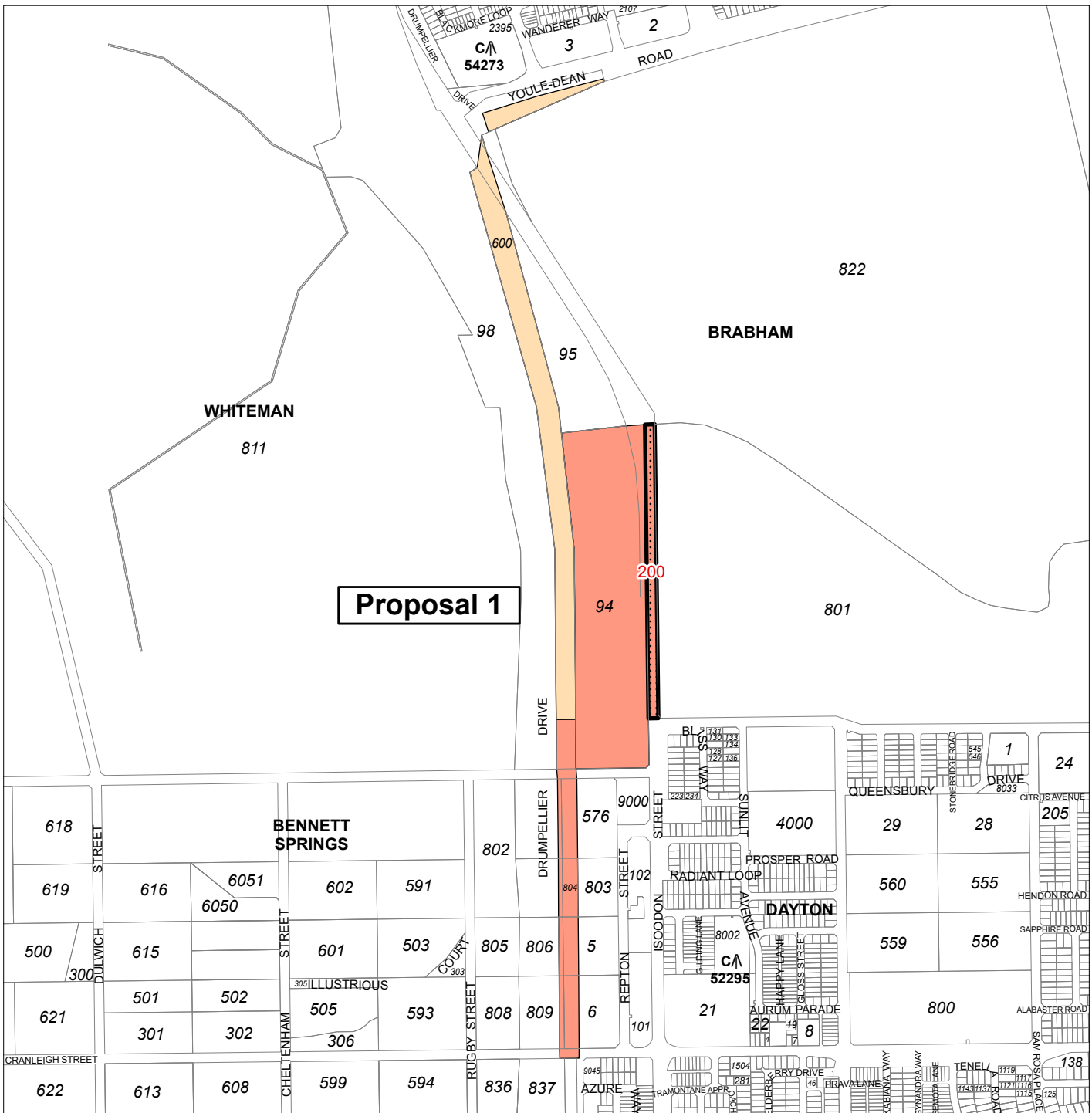
10 Modifications to the amendment

After considering any comments received the WAPC may recommend that the Minister for Planning modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve.

11 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 1421
Brabham and Dayton Urban Precincts
Amendment Figure - Proposal 1**



Brabham and Dayton Urban Precincts Proposed Standard MRS amendment as advertised

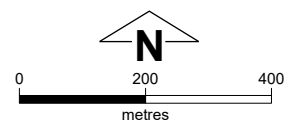
28 February 2024

Proposal 1

Proposed Amendment:

- Excluded from Public Purposes - Special Uses and Parks and Recreation reservations and included in Urban zone
- Excluded from Primary Regional Roads and Public Purposes - Special Uses reservations and included in Urban Deferred zone
- (Site No. 200) Bush Forever area for removal

Reference no: 4519
File no: RLS/1094
Version number: 1



Appendix A

Notice of environmental assessment



Environmental Protection Authority

Sam Fagan
Secretary
Western Australian Planning Commission (WAPC)
Locked Bag 2506
PERTH WA 6000

Our Ref: APP-0025194, REC-0000724
Enquiries: Izzat Hafiz, 6364 7762
Email: izzat.hafiz@dwer.wa.gov.au

Dear Ms Fagan

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

SCHEME	Metropolitan Region Scheme Amendment 1421 – Brabham and Dayton Urban Precincts
LOCATION	Lot 94 and part of Lot 95 Drumpellier Drive, Brabham, and various lots within Dayton
RESPONSIBLE AUTHORITY	Western Australian Planning Commission
DECISION	Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of the EP Act. Advice Given (Not Appealable).

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

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides advice and recommendations.

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 EPA's Determination and advice and recommendations is attached and will be made available to the public via the EPA website.

Yours sincerely

Lee McIntosh
Deputy Chair of the Environmental Protection Authority

6 June 2024

Encl. EPA Determination and Scheme advice and recommendations



GOVERNMENT OF
WESTERN AUSTRALIA

Environmental Protection Authority

s.48A Referrals

Title: Metropolitan Region Scheme (MRS) Amendment 1421 – Brabham and Dayton Urban Precincts

Location: Lot 94 and part of Lot 95 Drumpellier Drive, Brabham, and various lots within Dayton

Description: The amendment proposes to transfer land within Brabham and Dayton from 'Parks and Recreation' reservation to the 'Urban' zone, 'Public Purposes – Special Uses' to the 'Urban' zone, and 'Primary Regional Roads' to the 'Urban Deferred' zone.

Ref ID: APP-0025194

Date Received: 18/03/2024 **Date Sufficient Information Received:** 17/05/2024

Responsible Authority: Western Australian Planning Commission

Contact: Lainy Collisson

Preliminary Environmental Factors: Flora and vegetation, Terrestrial fauna

Potential Significant Effects: Implementation of the amendment may result in the clearing of remnant vegetation that may provide habitat for threatened (black cockatoo) fauna.

Protection: Potential impacts associated with implementation of the scheme amendment are unlikely to be significant and may be mitigated by way of future planning processes. EPA advice is also provided recommending actions to protect environmental values (black cockatoo potential nesting trees with suitable hollows) and manage and mitigate potential environmental impacts and obligations under Ministerial Statement 1156.

Determination: **Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed under Part IV of the EP Act. 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.

Deputy Chair's Initials: *MM/NTA*

Date: 6 June 2024

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

Metropolitan Region Scheme Amendment 1421 – Brabham and Dayton

Location: Lot 94 and part of Lot 95 and 600, Drumpellier Drive, Brabham, and various lots within Dayton

Determination: Scheme Not Assessed – Advice Given (not appealable)

Determination Published: 10 June 2024

Summary

The amendment proposes to transfer land within the Brabham and Dayton urban precincts from 'Parks and Recreation' reservation to the 'Urban' zone, 'Public Purposes – Special Uses' to the 'Urban' zone, and 'Primary Regional Roads' to the 'Urban Deferred' zone.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the referral documentation provided by the Western Australian Planning Commission (WAPC). Having considered this matter, the following advice is provided.

1. Environmental Factors

Having regard to the EPA's (2021) *Statement of Environmental Principles, Factors, Objectives and Aims of Environmental Impact Assessment*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Flora and vegetation
- Terrestrial fauna

2. Advice and Recommendations regarding the Environmental Factors

Flora and vegetation and Terrestrial fauna

The EPA notes that a small area of vegetation within the amendment area is subject to an existing Ministerial Statement (MS 1156) for the Malaga to Ellenbrook Rail Works proposal, assessed by the EPA in Report 1690. The proposal identified land within the amendment area as a Native Vegetation Retention Areas (NVRAs). There are 10 other separate patches of NVRAs identified in MS 1156, which were proposed to be avoided as part of the proponent's mitigation measures for the proposal. The EPA considered the incorporation of the NVRAs to protect, amongst other values, black cockatoo fauna habitat and potential breeding trees. The quantification of residual impacts, and offset requirements, included the retention NVRAs.

The vegetation is remnant eucalyptus and marri vegetation recorded to be in 'degraded' to 'completely degraded' condition'. However, it is likely to be high quality foraging and potential nesting habitat for threatened species of black cockatoo, including because of the location's proximity to Whiteman Park. Several trees contain potentially suitable hollows, and an internal hollow inspection of these trees has not been completed. Should clearing of the habitat be

proposed, an internal hollow inspection by a qualified and experienced ecological/fauna specialist to confirm whether the hollows are suitable for black cockatoo usage should be undertaken.

Whilst the potential impacts of the implementation of the scheme amendment are unlikely to be significant and there is the potential for mitigation, the EPA recommends that the vegetation within the NVRAs is retained. The EPA expects that nesting trees with suitable hollows are also retained and protected.

Furthermore, the MS 1156 conditions require that the Public Transport Authority (PTA) (the proponent) retain and manage the NVRAs to ensure that there are no negative impacts to the native vegetation within these areas attributable to the proposal, compared to the pre-construction baseline condition. Clearing of the vegetation for future development may affect the ability of the PTA to fulfil the requirements of MS 1156. The EPA considers additional offsets should be considered for provision consistent with MS 1156 if any high quality foraging habitat is removed.

The EPA also advises that any future schemes and/or proposals which propose development within NVRAs may be considered significant and will each be considered on their own merits.

Conclusion

The EPA concludes the scheme amendment can be managed to meet the EPA environmental objectives for the above factors through existing and proposed planning controls. In addition, future planning processes and management measures can further manage potential impacts. The EPA recommends its advice is implemented to further mitigate potential impacts to the above environmental factors.

Appendix B

List of plans supporting the amendment

**Metropolitan Region Scheme
Amendment 1421**

Brabham and Dayton Urban Precincts

as advertised

Amending Plan 3.2830

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://consultation.dplh.wa.gov.au>, however, hardcopy submissions can also be accepted (Submission Form - 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

