



March 2023

Metropolitan Region Scheme Amendment 1400/41 (Major Amendment)



North Fremantle Urban Precinct

Amendment Report

City of Fremantle

**Metropolitan Region Scheme
Amendment 1400/41
(major amendment)**

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March 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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Contents

The Metropolitan Region Scheme	v
Abbreviations	xi
<u>Amendment Report</u>	
1 Planning objective	1
2 Background.....	1
3 Scope and content of the amendment	2
4 Discussion.....	2
5 Aboriginal heritage	6
6 Coordination of local and region scheme amendments	6
7 Substantiality.....	7
8 Sustainability	7
9 Environmental Protection Authority advice	7
10 The amendment process.....	7
11 Submissions on the amendment	8
12 Hearings.....	9
13 Modifications to the amendment.....	9
14 Final outcome.....	9
Amendment Figure – Proposal 1	13
Appendix A	Notice of environmental assessment
Appendix B	List of detail plans supporting the amendment
Appendix C	Your property and the planning system – region schemes
Appendix D	Preparing a submission and hearings committees
Appendix E	Submission form for this amendment (form 41)

The Metropolitan Region Scheme

What it is and how it is amended - major

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 growth 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 to the MRS 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 41 (often referred to as a major amendment).

The major amendment process includes (also see the diagram on page ix):

- 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.
- Consent by the Minister for Planning to call for submissions.
- Proposed amendment is advertised for public comment. Advertisements are placed in local and statewide newspapers and the information is made available on www.dplh.wa.gov.au/mrs-amendments. Landowners directly affected by a proposed amendment are contacted in writing. Where there is an environmental review, this is also made available for comment.
- WAPC receives public submissions over a period of three months.
- WAPC considers submissions. Everyone who made a submission may also choose to present to a hearings committee appointed by the WAPC to consider and report on these submissions.
- 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 a recommendation to the Minister whether to accept, reject or modify the proposed amendment.
- Proposed amendment may be required by the Minister for Planning to be readvertised if the amendment is substantially modified as a result of submissions and planning advice.
- Minister presents the proposed amendment with the WAPC's recommendations to the Governor for approval.
- The proposed amendment, as approved by the Governor, is tabled before each House of State Parliament, where it must remain for 12 sitting days. During this time, the amendment is again on public display.
- In Parliament, a member may introduce a motion to disallow the amendment. If this motion succeeds, the MRS will not be amended. Otherwise, the amendment becomes legally effective in the MRS after 12 sitting days.
- 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 www.dplh.wa.gov.au/your-property-and-region-schemes.

How can my views be heard?

You can lodge a submission during the advertised period:

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

The WAPC will try and make contact with everyone who nominated to attend a hearings committee following the advertised period.

Publications

In the course of each amendment to the MRS, information is 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

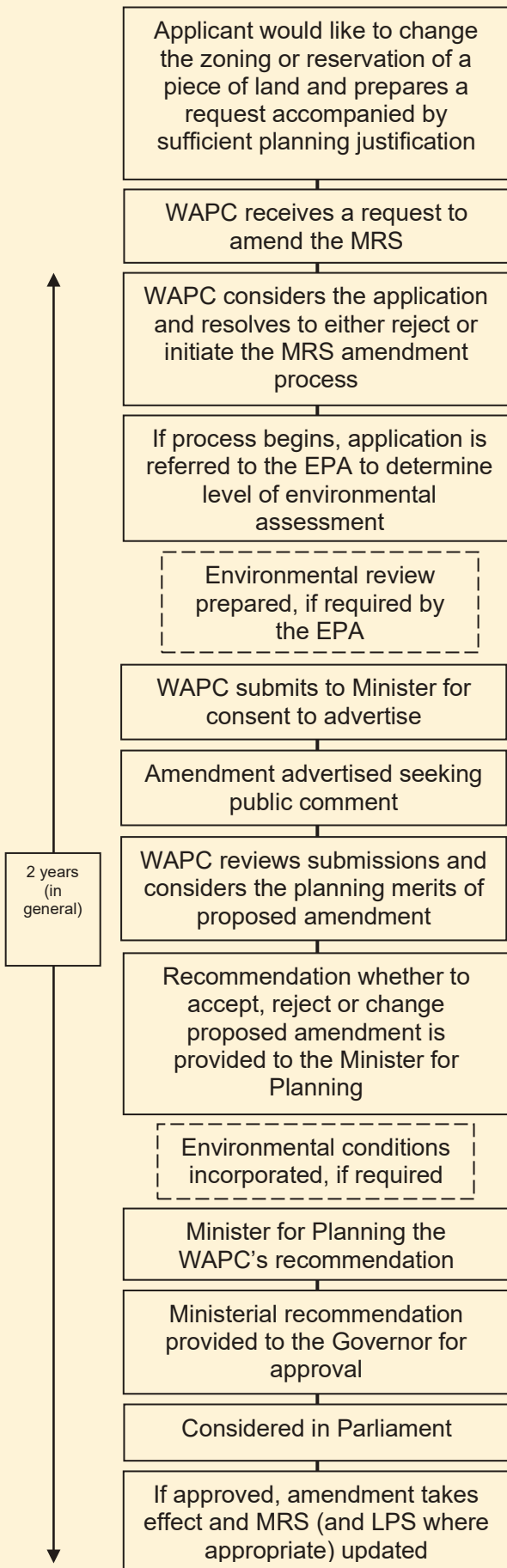
This publication documents the submissions received, the minutes of the hearings and the Hearings committee summary of the proceedings

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

The final scheme or amendment

This publication documents the planning rationale for the amendment or scheme and the WAPC's recommendation to the Minister for Planning.

A simple diagram of the amendment process.



Abbreviations

AHA	Aboriginal Heritage Act
CBD	Central Business District
DBCA	Department of Biodiversity Conservation and Attractions
DCP	Development Control Area
DPLH	Department of Planning, Lands and Heritage
DWER	Department of Water and Environmental Regulation
DWMS	District Water Management Strategy
EPA	Environmental Protection Authority
LPP	Local Planning Policy
LPS	Local Planning Scheme
MRS	Metropolitan Region Scheme
PCA	Planning Control Area
POS	Public Open Space
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
WAPC	Western Australian Planning Commission

Amendment Report

Metropolitan Region Scheme Amendment 1400/41

North Fremantle Urban Precinct

Amendment Report

1 Planning objective

The purpose of the amendment is to rezone approximately 23.93 ha in North Fremantle from the Industrial zone to the Urban Deferred zone and Parks and Recreation reserve, as shown on the Amendment Figure - Proposal 1.

The intent of the amendment is to facilitate redevelopment of the site for primarily mixed-use commercial and residential uses, with areas of Public Open Space (POS) following the Lifting of Urban Deferment, Local Planning Scheme (LPS) amendment and detailed local structure planning.

Lifting of Urban Deferment Requirements

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

- finalisation or substantial progression of the Future of Fremantle project
- confirmation of regional road and transport requirements in the locality
- confirmation of coastal foreshore reserve requirements
- consideration of the Fremantle Port buffer.

The Western Australian Planning Commission (WAPC) has considered the potential impact of the Future of Fremantle Planning Study and has resolved that this amendment be initiated to an Urban Deferred zone and Parks and Recreation reserve. The Urban Deferred zoning ensures that the Metropolitan Region Scheme (MRS) amendment process does not prejudice or pre-empt the Future of Fremantle Planning Committee (FFPC) outcomes. The WAPC will determine whether to modify the proposal and exclude any land for future MRS regional reserves when the amendment is considered for a final determination.

2 Background

The subject land is located within the City of Fremantle and is approximately 13.3 km south-west of the Perth CBD and 2.5 km north of the Fremantle city centre. The Leighton Shores residential development is to the north, the North Fremantle rail station is to the north-east and Fremantle Ports operations abut to the south. The land is located east of Port Beach.

Most of the land is vacant with the exception of residual industrial buildings in the north-east corner, an industrial building at the eastern end of Barker Street and primarily storage uses over Development WA holdings. The land is bound to the south and east by the regional freight network (rail and road) and is subject to Planning Control Area 158 (PCA 158).

The industrial activity on the amendment land has effectively ceased, with the existing sheds on the former Standard Wool site currently rented for short-term storage, whilst all infrastructure (inclusive of the large petroleum storage tanks) has been removed as part of the remediation works for the former Caltex site. The portion of the Fremantle Port Authority land is primarily vacant.

Land use and development within the proposed amendment area is generally controlled by the City of Fremantle LPS No. 4. The subject land is zoned “Industrial” under the City of Fremantle LPS 4.

Land Use and Movement Plan

The proponent has prepared a land use and movement plan to support the MRS amendment request. The plan proposes areas of Parks and Recreation reserve, Public Open Space (POS), mixed-use/apartments, grouped dwellings/apartments, single/grouped dwellings, mixed-use and commercial uses.

3 Scope and content of the amendment

The amendment proposes to rezone various lots and reserves to facilitate future mixed-use development, as follows:

- Urban Deferred zone: 17.80 ha.
- Parks and Recreation reservation: 6.13 ha.

The total area the subject of this amendment is approximately: **23.93 ha**.

4 Discussion

Strategic Context

Leighton Oceanside Masterplan

In 2007, the WAPC released the *Leighton Oceanside Parklands Master Plan* which provided a vision of revitalising and repurposing the former rail marshalling yards to create a 4 ha development site (Leighton development) and 13 ha of foreshore reserve and POS.

The Masterplan outlines the landscape and public realm vision for the 13 ha of foreshore reserve, including the realignment of Curtin Avenue, extensive parklands and coastal revegetation, community infrastructure, beachside parking and other amenities. The 4 ha development site and adjacent foreshore area have been developed however the remainder is to be delivered.

The proposal aligns with the general intent of the Masterplan and expands on the extent of the foreshore reserve adjacent to Port Beach and provides a foreshore width similar to that adopted for Leighton Beach.

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

The *Perth and Peel @ 3.5 Million* document provides a snapshot of the Perth and Peel regions in the future and makes the case for change to a more considered, connected, consolidated urban form. The *Central Sub-regional Planning Framework* focuses on achieving higher densities of employment and residential development (i.e. infill development and urban consolidation) in appropriate locations within a predominantly built-up environment while making better use of established infrastructure in the long term.

The Framework seeks to prevent the encroachment of incompatible urban land uses, such as residential and retail land uses, into industrial areas identified in the *Economic and Employment Lands Strategy – Non-heavy Industrial* in order to ensure a sufficient supply of employment land in the Central sub-region.

The *Central Sub-regional Planning Framework* primarily reflects the sites industrial use. However, a small strip along the northern and eastern boundary of the site is within the *Activity Centre - Frame* around the North Fremantle District Centre.

The Framework states that in frame areas, there is an opportunity to investigate higher residential densities and the potential expansion of the core area (commercial and mixed uses) over time. The proposed Urban Deferred zone and Parks and Recreation reserve is considered to be a logical transition and continuation of the urbanisation of the locality which is consistent with the general intent of the Framework.

Future of Fremantle Planning Committee

The amendment is located within the *Future of Fremantle Planning Committee* (FFPC) area of consideration. The Future of Fremantle project is in the early stages and is estimated to be completed by mid-2024. A multi-disciplinary team is to develop a future focused Land Use Plan incorporating a highly integrated land use, transport and infrastructure response and supporting Economic Development Strategy for bringing economic growth, investment and employment into Fremantle.

In 2021, the State Government established the FFPC as a sub-committee of the WAPC for a period of two years to examine options for the Victoria Quay, North Quay and surrounds and help deliver the Future of Fremantle project. Establishment of the Committee followed on from the State Government's Westport decision to create a business case for a new container port in Kwinana. The Committee is tasked with developing a new vision for Fremantle's inner harbour that will be underpinned by the Economic Development Strategy and Land Use Plan.

Development Control Policy 1.6 - Planning to Support Transit Use and Transit Oriented Development

Development Control Policy 1.6 - Planning to Support Transit Use and Transit Oriented Development (DCP 1.6) seeks a sustainable urban form by maximising the opportunities to integrate land use with public transport and minimise transport via the private motor vehicle. Where possible and appropriate, the policy seeks the intensification of activities and the promotion of uses that make better use of public transport.

DCP 1.6 is applicable as the North Fremantle Rail Station is within a 800 m walking distance of the subject site. Therefore, the proposed amendment seeks to facilitate an urban population within walking distance of a rail station and is consistent with the general principles of DCP 1.6.

State Planning Policy 2.6 - State Coastal Planning Policy

State Planning Policy 2.6 - State Coastal Planning Policy (SPP 2.6) provides for the long-term sustainability of WA's coast. Guidance is provided for land use and development decision-making within the coastal zone including managing development and land use change; establishment of coastal foreshore reserves; and protection, conservation and enhancement of coastal values. The policy also sets minimum finished floor levels at a height above that impacted by a 100-year rainfall event, on top of a 20-year event storm surge, inclusive of allowance for sea level rise forecast over a 100-year time period.

The proponent has prepared a *North Fremantle Coastal Hazard Risk Management and Adaptation Plan* which proposes a full coastal retreat option and has allowed for erosion of between 135 m – 177 m and an inundation level of 3.6 m Above Height Datum for a planning timeframe to 2115. The modelling assumes a full retreat scenario would result in a remaining foreshore reserve after full coastal erosion processes have occurred that varies in width from 28.1 m at its narrowest point to 70.1 m at its widest and is to be reserved as Parks and Recreation.

As the proposed coastal foreshore reserve and any additional recreational area in this location is to be finalised having regard to the FFPC outcomes, this has been included as a requirement to be considered prior to the lifting of Urban Deferment.

State Planning Policy 4.1 - Industrial Interface

State Planning Policy 4.1 - Industrial Interface (SPP 4.1) provides guidance for considering proposals to rezone land for sensitive uses in the vicinity of various industry types. The objectives of draft SPP 4.1 are to protect existing and proposed industry, and infrastructure facilities from encroachment by incompatible land use that would adversely affect efficient operations, avoid land use conflict between existing and proposed industry/infrastructure facilities and sensitive land uses and promote compatible land uses in areas impacted by existing and proposed industry and infrastructure facilities.

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 suggested separation distances in the absence of site-specific modelling. Separation to Port related industry is treated on a case-by-case basis. In this case, the City of Fremantle *Local Planning Policy 2.3 - Fremantle Port Buffer Area Development Guidelines* (LPP 2.3) addresses separation distances, land use and notification processes.

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. The proponent has acknowledged that Port Beach Road, Tydeman Road and the future Curtin Avenue extension, as well as the Fremantle to Perth passenger rail and Fremantle freight lines require consideration under this policy.

Where noise levels are determined to be in excess of the noise targets a Noise Management Plan is required. This specifies mitigating measures such as landscaped easements, noise bunds or noise walls and ongoing maintenance. Specific subdivision and development conditions would ensure noise mitigation measures are put in place. Notification on titles is also required where lots or dwellings are affected. The exact nature of necessary noise attenuation measures is further informed by detailed assessments as planning progresses.

Local Planning Policy 2.3 - Fremantle Port Buffer Area Development Guidelines

This City of Fremantle LPP 2.3 sets land use and building criteria based on risk and amenity considerations for development within three buffer areas defined in Fremantle Ports *Fremantle Inner Harbour Buffer Definition Study*. The study identified the need for an offsite buffer around the port which was determined on the basis of a range of potential amenity impacts and risks including noise, odour and public risk. Three buffer areas around the Port have been identified with separate land use and built form requirements as follows:

- Area 1 - should exclude the establishment of additional sensitive uses other than residential uses and with residential uses having a high level of protective conditions relating to maintaining public safety and ameliorating the impacts of odour and noise.
- Area 2 - allows the establishment of sensitive land uses and with these land uses having a medium level of protective conditions.
- Area 3 - which allows the establishment of sensitive land uses with protective conditions implemented at the discretion of Council.

As the amendment area is partly located within all three buffer areas and port buffer considerations and associated landuses is a matter to be addressed prior to the lifting of Urban Deferment.

Statutory Context

Environment

The Department of Water and Environmental Regulation (DWER) advises as follows:

Contaminated Sites: The DWER's - Contaminated Sites Branch considers the proposal as an interim step in the planning process and does not recommend contamination conditions be imposed at this stage. The current contamination status of the portions of the site classified as "possibly contaminated – investigation required" is unknown. Advice will be required from the DWER as to the suitability of the land for future development, subdivision or amalgamation.

Water Management: In 2017, the DWER endorsed the North Fremantle - District Water Management Strategy (DWMS) subject to endorsement by the City of Fremantle and Department of Biodiversity, Conservation and Attractions (DBCA). Any revised DWMS is best reviewed by the City of Fremantle as the predominate water issues are local government issues and coastal environment impacts. Therefore, support to the DWMS by the City of Fremantle and DBCA will be required prior to a final determination being made by the WAPC.

Noise Management: The DWER's Noise Branch notes that a Noise and Ground Vibration Study was prepared for the site and advises as follows:

Traffic and Rail Noise - The measured and modelled traffic noise levels are reasonable and reliable. The proposed mitigation measures for road traffic noise such as quiet house designs are correct and appropriate. The modelled train noise levels are also correct and may further help inform mitigation measures.

Rail Vibration - The measured and modelled train vibration levels are acceptable. It was concluded that mitigation of ground vibration would be required and that further individual ground vibration assessment would occur for the first row of lots.

Noise from Fremantle Port - It is likely that quiet house designs will meet built form requirements under LPP 2.3. However, *Environmental Protection (Noise) Regulations 1997* also apply to noise from the Port. The amendment will change the noise level from an Industrial to Urban standard. As there is uncertainty regarding port buffer (noise) impacts, further consideration of port buffer issues has been included as a matter to be considered prior to the lifting of Urban Deferment.

Infrastructure

Water and Wastewater: The Water Corporation advises that it may be possible to extend water and sewerage services to the site as a standalone development, provided that the developers fund extensions and upgrades to the surrounding networks. The extent of any upgrades will be determined by the land use mix and development yields in the local structure plan.

Regional Road Matters: The proposed amendment is located within or bounded by Tydeman and Port Beach Roads, Walter Place and Curtin Avenue. The amendment is also affected by PCA No. 158. As there is uncertainty on the regional road network which has yet to be finalised this has been included as a matter to be addressed prior to the lifting of Urban Deferment.

5 Aboriginal heritage

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

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

Proponents of proposals are advised to familiarise themselves with the Aboriginal 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.

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

This amendment was not referred to SWALSC as it was not expected to impact on Aboriginal heritage values. However, the amendment will be referred to SWALSC during the public advertising period.

6 Coordination of local and region scheme amendments

Under section 126(3) of the *Planning and Development Act 2005* the WAPC has the option to concurrently rezone land being zoned Urban under the MRS to a "Development" zone (or similar) in the local planning scheme. As no land is being zoned urban section 126(3) is not applicable.

7 Substantiality

The proposed amendment seeks to transition one of the remaining industrial zoned areas in North Fremantle to create a future urban area and associated coastal foreshore reserve which is considered to provide for sustainable environmental, social and economic outcomes.

8 Sustainability

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.

The amendment is to be processed as a "major" amendment given it seeks to rezone established Industrial zoned land in North Fremantle to facilitate new urban development and the establishment of a coastal foreshore reserve which is considered a substantial/regional change in the locality.

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 41 of that Act.

In essence, the procedure for a substantial alteration to the Scheme (often referred to as a major 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 on the proposed amendment (including environmental review if required)
- consideration of submissions (including hearings where requested)
- referral of WAPC recommendations, with or without any modifications in response to submissions, to the Minister for Planning
- approval by the Governor

- consideration by both Houses of Parliament, who can disallow the amendment
- amendment takes legal effect when no longer subject to disallowance after 12 sitting days
- where the WAPC has agreed to the parallel amendment of a local planning scheme under section 126(3) of the Planning and Development Act, the local planning scheme amendment becomes effective upon gazettal of the MRS amendment.

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

11 Submissions on the amendment

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

The amendment is being advertised for public submissions for a period of three months from Tuesday 28 March 2023 to Friday 30 June 2023.

Copies of the amendment will be available for public inspection at the:

- i) Western Australian Planning Commission, 140 William Street, Perth
- ii) City of Fremantle
- iii) City of Kwinana
- iv) City of Cockburn
- v) City of Perth
- vi) State Reference Library, Northbridge.

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

Written submissions on the amendment should be sent to:

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

or by email to:-

RegionPlanningSchemes@dplh.wa.gov.au

and must be received by 5 pm Friday 30 June 2023.

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form (form 41) 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 amendment is presented to both Houses of Parliament. 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 Hearings

Any person making a written submission has the opportunity to personally present the basis of their submission to a sub-committee of the WAPC. Details required for attending the hearings are on side two of the submission form.

Presentations made to the hearings committee are an extension of the submission process and the minutes of all hearings will become a public document. The minutes will be published and made available when the amendment is presented to both Houses of Parliament.

Before completing your submission form, please refer to the information regarding hearings in appendix D of this report.

13 Modifications to the amendment

After considering any comments received from the public and government agencies, the WAPC may make modifications to the amendment.

The recommendations of the WAPC, including any modifications, are published in a report on submissions. The report will be available on the Department of Planning, Lands and Heritage website <https://www.dplh.wa.gov.au/mrs-amendments>. Anyone who has made a submission will be notified when the amendment is tabled in Parliament.

14 Final outcome

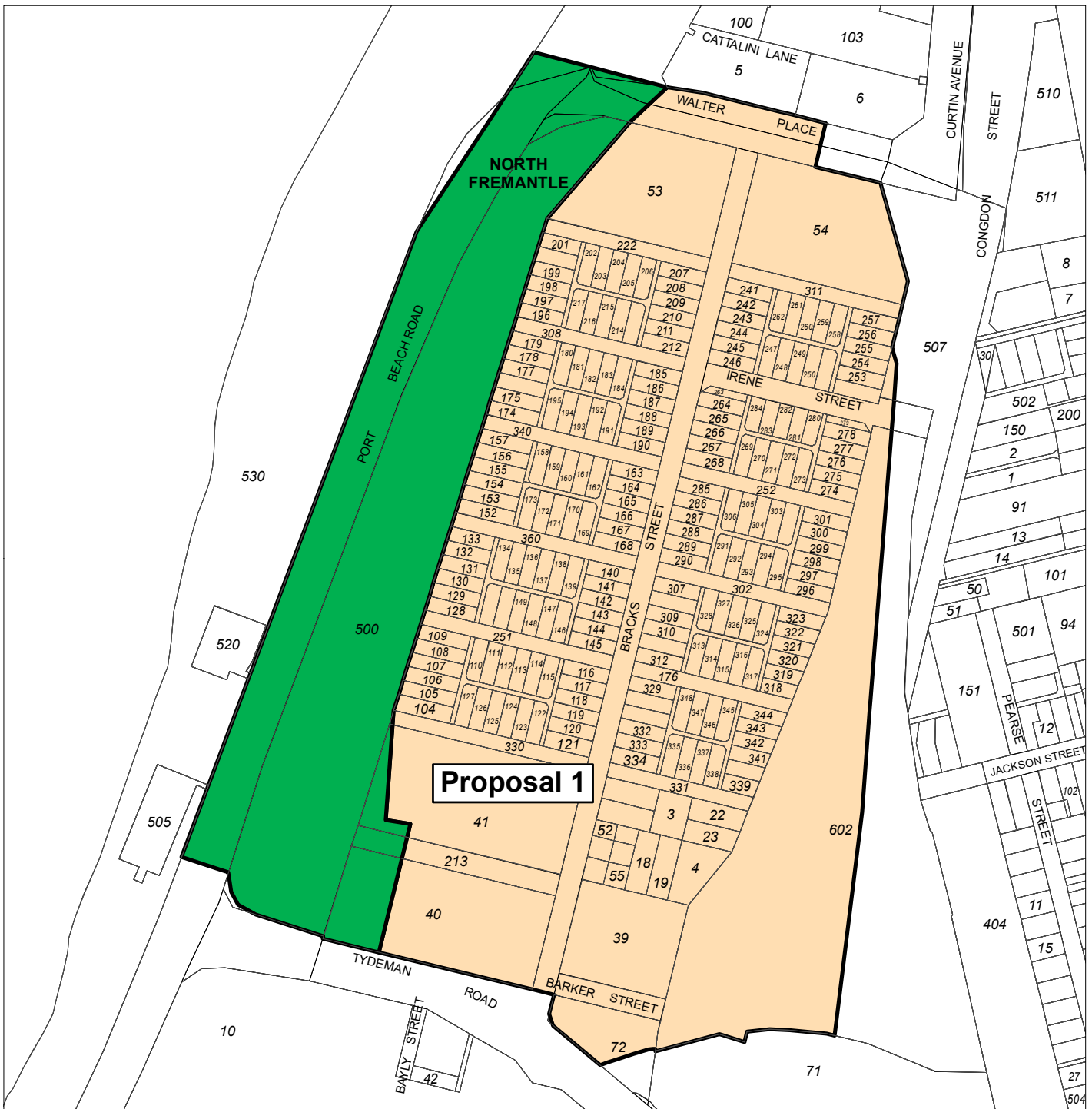
After considering the submissions, the WAPC may make modifications to the amendment. The WAPC will then submit the amendment plans, together with a *Report on Submissions* and a copy of all written submissions, to the Minister for Planning for presentation to the Governor.

If the Governor approves, a copy of the plans of the amendment together with the *Report on Submissions* will be laid before each House of Parliament for twelve sitting days. Either House may, by resolution, disallow an amendment within that time. As soon as the amendment is no longer subject to disallowance it becomes legally effective in the MRS.

People who have made submissions will be kept advised on the progress of the amendment, and along with all affected landowners, will be notified of the final outcome.

**MRS Amendment 1400/41 North
Fremantle Urban Precinct**

**Amending Figure
Proposal 1**



North Fremantle Urban Precinct Proposed major amendment as advertised

26 October 2022

Proposal 1

Proposed Amendment:

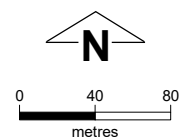
- Parks and recreation reservation
- Urban deferred zone

Oracle reference no: 3693

Version number: 1



Date: 27/10/2022
 Produced by Data Analytics, Department of Planning, Lands and Heritage, Perth WA
 Base information supplied by Western Australian Land Information Authority SLIP 1180-2020-1



Appendix A

Notice of environmental assessment

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

Our Ref: APP-0000123
Enquiries: Katrina Cooper, 6364 6828
Email: Katrina.cooper@dwer.wa.gov.au

Dear Ms Fagan

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

SCHEME	Metropolitan Region Scheme Major Amendment 1400/41- North Fremantle Urban Precinct
LOCATION	Various Lots, Port Beach Road and Walter Place, North Fremantle (North Fremantle Urban Precinct). City of Fremantle.
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. No 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) and that it is not necessary to provide any advice or recommendations. I have attached a copy of the Chair's determination of the scheme.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.

- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of the Chair's determination will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'MAT TONTS', with a stylized 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 Region Scheme (MRS) Amendment 1400/41
- Location:** Various Lots, Port Beach Road and Walter Place, North Fremantle (North Fremantle Urban Precinct). City of Fremantle.
- Description:** The proposed amendment seeks to rezone the North Fremantle Urban Precinct from Industrial zone to Urban Deferred zone and Parks and Recreation reservation. The intent of the amendment is to facilitate redevelopment of the land for primarily mixed-use commercial and residential uses, with areas of public open space (POS) following the Lifting of Urban Deferment, Local Planning Scheme (LPS) amendment and detailed local structure planning.
- Ref ID:** APP-0000123
- Date Received:** 11/11/2022 **Date Sufficient Information Received:** 11/11/2022
- Responsible Authority:** Western Australian Planning Commission, Locked Bag 2506 Perth WA 6001
- Contact:** Marija Bubanic
- Preliminary Environmental Factors:** Terrestrial environmental quality, Coastal processes and Social surroundings.
- Potential Significant Effects:** Groundwater contamination, coastal hazards and inundation, noise emissions, vibration and air quality from road and rail, industrial interface and buffers.
- Management:** Potential impacts can be managed by future planning processes/controls and other statutory processes such as 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 amendment. In deciding not to formally assess scheme amendments, the EPA has determined that no further assessment is required by the EPA.

This Determination is not appealable.

Chair's Initials:

Date: 29 November 2022

Appendix B

List of detail plans supporting the amendment

Proposed Major Amendment 1400/41

North Fremantle Urban Precinct

as advertised

Amending Plan 3.2801

Detail Plans

1.6410, 1.6411, 1.6432, 1.6433

Appendix C

Your property and the planning system - region schemes

Your property and the planning system – region schemes

Rights to compensation in relation to reserved land

The Western Australian Planning Commission (WAPC) has statewide responsibility for planning how land in metropolitan and regional areas can be used and developed. It does this by reserving and zoning land for immediate and future development through region schemes and/or planning control areas.

Region schemes

The WAPC administers three region schemes which classify land into zones and reservations:

- Metropolitan Region Scheme
- Peel Region Scheme
- Greater Bunbury Region Scheme.

Zones are large areas identified for purposes such as industry (industrial zone) and residential (urban zone).

Reservations are required for public purposes such as schools, railways, major roads, and parks and recreation.

How do you amend a region scheme?

Schemes can be amended as regions grow and change. This process begins with the local government, landowner, State Government or WAPC making a request to amend a scheme. The WAPC considers the request and can either refuse or approve the initiation of an amendment.

The amendment process is lengthy and in general, takes between 12 to 24 months to complete and includes extensive consultation with landowners and the broader community. In some cases amendments are subject to assessment by the Environmental Protection Authority. Amendments can be classified as Major or Minor, in accordance with *Development Control Policy 1.9 – Amendment to Region Schemes*.

Planning Control Area

In some instances, the WAPC will use a planning control area (PCA) to protect land required for a particular purpose from development until it may be reserved in one of the region schemes. A PCA acts in a similar manner as a region scheme but can be applied as a temporary measure to enable an amendment to be progressed. This also provides affected landowners with rights to claim compensation while a decision is made to reserve land or not. A PCA is valid for up to five years.

This means the WAPC is the decision-making authority for any development applications on land within a PCA. A person must not commence and carry out development within the PCA area without the prior approval of the WAPC. There are penalties for failure to comply with this requirement.

The same compensation and alternative purchase rules apply as with a region scheme. However, if compensation is paid and the PCA or reservation is reduced or removed in the future, the compensation is repayable in whole or part upon the subsequent sale or subdivision of the property.

What if your land is proposed to be reserved?

The WAPC approaches landowners on land proposed to be reserved and invites them to comment through the amendment process.

The Government will ultimately acquire reserved land, but as the reservations are strategic and long-term requirements, the land can generally remain in private ownership until it is needed for the public purpose. Several options are available to the owners of reserved land:

- **Retain ownership of your property** and continue quiet enjoyment until it is needed for the public purpose. You may complete any development or subdivision approved prior to the reservation taking effect. Under non-conforming use rights, you may continue to use the property for the purpose for which it was legally being used immediately before the reservation came into effect.
- **Sell the property on the open market** to another person(s). The WAPC recognises that the reservation may make this difficult. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider purchasing a reserved property if an owner is unable to achieve a private sale on the open market. This does affect your right to otherwise claim statutory compensation (outlined in the compensation section below).
- **Offer the property for sale** to the WAPC. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider purchasing a reserved property. The WAPC purchases a property at its current market value, ignoring the impact of the reservation and proposed public purpose. The WAPC obtains two independent valuations to provide it with advice on the value of the property.

Am I entitled to claim compensation?

If your land is reserved in a region scheme or subject to a PCA and **you are the owner of the land when it was first reserved or the PCA was declared**, you may be able to make a claim for compensation for injurious affection if:

1. **Private Sale** – you sell the property on the open market at a reduced price (due to the effect of the reservation or PCA);
or
2. **Refused development** – the WAPC has either refused a development application over the property or approved it subject to conditions that are unacceptable to you.

What is injurious affection?

Injurious affection occurs when the value of a piece of land is affected by the application of a reservation or restriction for a public purpose.

How do I claim compensation?

1. Private sale

If you wish to sell your property on the open market at a reduced price (affected value), you will need to complete a *Notice of Intention to Sell* form, which is available online at www.dplh.wa.gov.au. The Department of Planning, Lands and Heritage will establish the extent of the reservation and forward the notice to the Board of Valuers.

The Board of Valuers will determine the value of the property as if there was no reservation or PCA (unaffected value). You may wish to attend the board's meeting to present any matters you believe are relevant to the value of your property.

Following the board's decision:

- The board will advise you of the unaffected value of the property.
- You pay the board's valuation fee to the department and you will be advised of the affected value of the property (as determined by the WAPC) – the minimum price for which you can sell the property and receive the full amount of compensation (the difference between the affected and unaffected values). The valuation fee is refundable upon the sale of the property and the payment of compensation.
- You then arrange the sale of the property (either privately or through an agent) – the sale price must not be less than the affected value.

You (and your agent) must inform prospective purchasers that you are selling the property at a reduced price and that you will be claiming compensation for injurious affection from the WAPC. You must also include a special condition in the offer and acceptance.

- After you sell the property, you can make a claim for compensation for injurious affection through the WAPC **within six months** of the property being sold (registered at Landgate).
- After the WAPC pays compensation, the WAPC will lodge a notification on the Certificate of Title to identify that it has paid compensation, which is only payable once.
- If the property does not sell within one year of the board's valuation, you may ask the board to revalue the property. The sale process is then repeated.
- Alternatively, you may wish to ask the WAPC to purchase the property, as you have been unable to sell it privately. The WAPC will purchase the property at its then fair market value (unaffected value).

2. Refused development

If the WAPC refused your development application or approved it subject to unacceptable conditions, you may make a claim for compensation for injurious affection **within six months** of the WAPC's decision.

The WAPC will either pay compensation or may elect to purchase the property instead of paying compensation. If the WAPC elects to purchase the property, it obtains valuations for the fair market value (unaffected value) as at the date of the election to purchase.

What is compulsory acquisition?

If land is required for a reservation and has not been previously acquired or compensation has been claimed, the Government may compulsorily acquire the property. The WAPC will obtain independent valuations and make an offer of compensation, in accordance with the *Land Administration Act 1997*.

How can I view a region scheme?

- online at www.dplh.wa.gov.au/your-property-and-region-schemes
- office of the WAPC and the Department of Planning, Lands and Heritage Level 2, 140 William Street, Perth
- any local government office.

The WAPC operates in accordance with the *Planning and Development Act 2005* and receives administrative support from the Department of Planning, Lands and Heritage.

This information is correct as at January 2019.

Appendix D

Preparing a submission and hearings committees

Preparing a submission and hearings committees

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 41 – 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 41 and in the submissions on the amendment section of the amendment report. To be eligible to make a presentation to the hearing committee, your written submission must be received by the closing date.

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. Presentations made to the hearings committee are an extension of the submission process.

Do you want a hearing?

The *Planning and Development Act 2005* provides the opportunity for people who have made a submission to personally present the basis of their submission to a sub-committee of the WAPC. You do not have to attend a hearing. The comments presented by you in your submission will be considered in determining the recommendation for the proposed amendment.

Hearings are arranged so a person can explain or expand on their written submission to the WAPC in person. A hearing is for listening to points of view and planning rationale and is not a forum for general public debate. In the case of a group, a spokesperson must be appointed to represent the group. The time allocated for each presentation is five minutes.

The hearings committee is appointed by the WAPC and is usually comprised of two WAPC committee members and one other person with planning knowledge and expertise related to issues raised in submissions.

You may choose to have your presentation conducted in public or private. A public hearing allows other persons, including the media, to attend. In a private hearing only those persons nominated by you and by the hearings committee may attend.

Appendix E

**Submission form for this amendment
(form 41)**

Hearing of submissions

Anyone who has made a written submission on the amendment has the opportunity to personally present the basis of their submission to a sub-committee of the WAPC. **You do not have to attend a hearing.** The comments presented by you in this written submission will be considered in determining the recommendation for the proposed amendment.

For information about the submission and hearings process, please refer to the amendment report and in particular appendix D.

Please choose one of the following:

No, I do not wish to speak at the hearings. (Please go to the bottom of the form and sign)

OR

Yes, I wish to speak at the hearings. (Please complete the following details)

I will be represented by:

Myself – My telephone number (business hours):

or

A spokesperson

Name of spokesperson:

Contact telephone number (business hours):

Postal address:

I would prefer my hearing to be conducted in:

Public (members from the general public may attend your presentation)

OR

Private (only the people nominated by you or the hearings committee will be permitted to attend)

You should be aware that:

- 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.
- Hearings may be recorded and transcribed. The minutes of all hearings, along with all written submissions, are tabled in Parliament and published as public records should the Governor approve the proposed amendment. The WAPC recommendations are similarly published in a report on submissions and tabled in Parliament.

To be signed by person(s) making the submission

Signature Date

Note: Submissions MUST be received by the advertised closing date, being close of business (5pm) on 30 JUNE 2023. Late submissions will NOT be considered.