



September 2024

Metropolitan Region Scheme Amendment 1409/41 (Major Amendment)



Portion of North Ellenbrook
(West)

Amendment Report

City of Swan

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Amendment 1409/41
(Major Amendment)**

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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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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

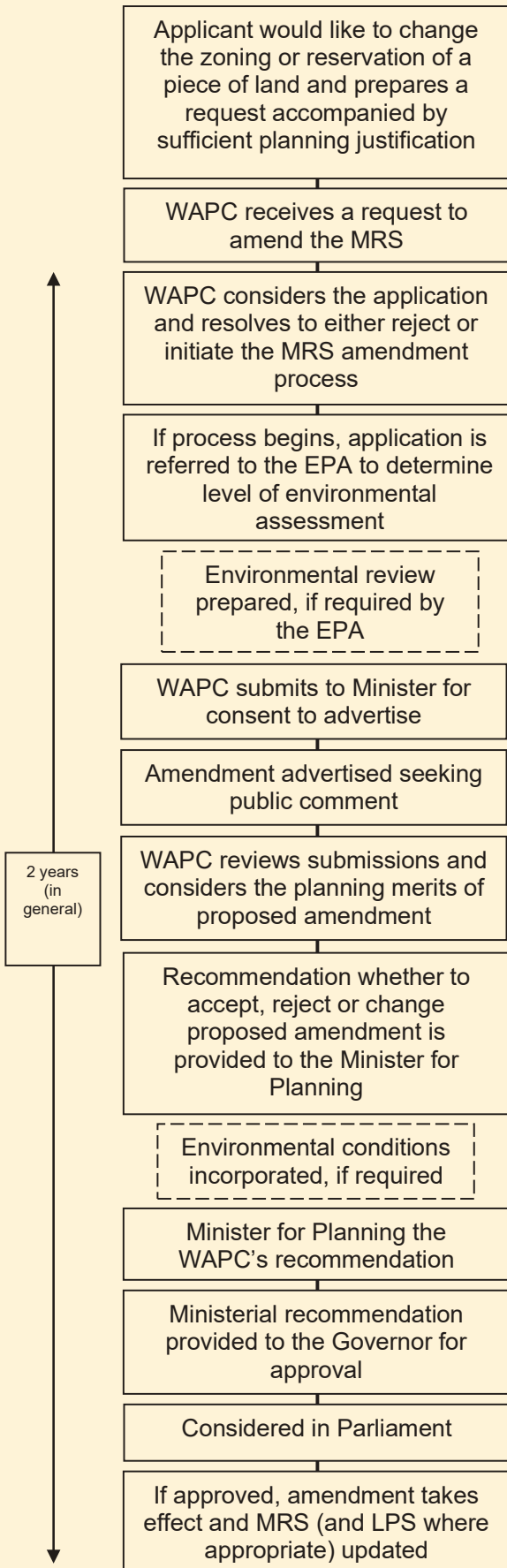
This publication documents the submissions received, the minutes of the hearings and the Hearings committee summary of the proceedings

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

ACH	Aboriginal Cultural Heritage
AHD	Australian Height Datum
AHA	Aboriginal Heritage Act
BFILUPS	Bullsbrook Freight and Industrial Land Use Planning Strategy
BMP	Bushfire Management Plan
CIP	Capital Investment Program
DPLH	Department of Planning, Lands and Heritage
DSP	District Structure Plan
DWER	Department of Water and Environmental Regulation
DWMS	District Water Management Strategy
EPA	Environmental Protection Authority
LPS	Local Planning Scheme
MRS	Metropolitan Region Scheme
MRWA	Main Roads Western Australia
OP	Operational Policy
POS	Public Open Space
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
TIA	Traffic Impact Assessment
WAPC	Western Australian Planning Commission
WC	Water Corporation
WWPS	Waste Water Pump Station

Amendment Report

Metropolitan Region Scheme Amendment 1409/41

Portion of North Ellenbrook (West)

Amendment Report

1 Purpose

The purpose of the amendment is to transfer approximately 393.12 ha in Bullsbrook from the Rural zone to the Urban Deferred zone and Parks and Recreation reservation in the Metropolitan Region Scheme (MRS), as shown on **Amendment Figure - Proposal 1**. The amendment also extends Bush Forever Sites 298 and 399.

The proposed amendment will primarily facilitate future residential and light industrial/service commercial development and areas for Public Open Space (POS) and environmental conservation.

Requirements to lift the Urban Deferment

The majority of the subject land is being zoned Urban Deferred as the following requirements are to be addressed prior to lifting of Urban Deferment:

- A mesoscopic transport model and subsequent transport assessment being prepared and undertaken by Main Roads WA (MRWA) in collaboration with the Department of Planning, Lands and Heritage and the City of Swan. The Traffic Impact Assessment (TIA) that accompanies the *North Ellenbrook (West) District Structure Plan* (DSP) is to be updated to reflect the outcomes of the State Government transport assessment. The updated TIA will inform subsequent stages of planning, specifically TIA's that accompany local structure plans.
- Confirmation on the location and land requirements for a road interchange with Tonkin Highway.
- Agreement with the Water Corporation regarding the funding of water and wastewater headworks to service the site.
- Consideration of the existing sand mining buffer and/or suitable transitional arrangements.

2 Background

The amendment proposes to rezone approximately 393.12 ha in Bullsbrook from the Rural zone to the Urban Deferred zone and Parks and Recreation reservation in the MRS. The amendment also extends Bush Forever Sites 298 and 399. The amendment will primarily facilitate future residential and light industrial/service commercial development and areas of POS and environmental conservation.

The proposed amendment is approximately 30 km north-east of the Perth CBD and is approximately 6.5 km north of the Ellenbrook town centre. The site is immediately west of the Tonkin Highway and is generally bound by Chitty Road to the north, the Gngangara-Moore River State Forrest to the west and rural land to the south.

The subject site is currently used for a range of rural land pursuits. A small number of existing dwellings and associated outbuildings are located within the area. The majority of the subject site was previously cleared of native vegetation and subdivided for rural land uses including pasture paddocks. A silica and sand quarry operates to the south of the amendment area.

The subject land has State (CPS 5981/2) and Federal (EPBC 2014/7120) environmental approvals. The site is partly located within Conservation Category and Resource Enhancement Wetlands and partly contains Bush Forever Sites 298 and 399. These areas (including Environmentally Sensitive Areas) are to be retained as future POS or reserved as Parks and Recreation in the MRS.

Land use and development within the amendment area is generally controlled by the City of Swan Local Planning Scheme No. 17 (LPS 17). The subject land is currently zoned 'General Rural' under LPS 17.

3 Scope and content of the amendment

The amendment proposes to rezone approximately 16 properties and road reserves bounded by Stock Road to the south, Great Northern Highway to the west and existing Rural zoned properties to the north and east. The areas subject of the amendment are as follows:

- Urban Deferred zone 336.31 ha
- Parks and Recreation reservation 56.81 ha (includes 33.48 ha extension of Bush Forever Sites 298 and 399)

The total area subject of this amendment is approximately 393.12 ha.

4 Discussion

Strategic Context

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

The *Perth and Peel@3.5million* 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 *North-East Sub-regional Planning Framework* identifies the subject site as partly 'Urban Investigation' with a 'Medium-Long Term (2022+)' staging timeframe, and partly "Industrial Expansion". The key considerations of the 'Urban Investigation' area are as follows (noting it includes matters that only relate to the abutting North Ellenbrook - East area):

- Protection of Bush Forever areas and Conservation Category Wetlands
- Protection of high value Carnaby's Black Cockatoo habitat and vegetation with 10-30% remaining in Perth and Peel regions
- Protection of Threatened Ecological Communities and flora populations
- Offsite impacts on Western Swamp Tortoise habitat (EPP)
- Best practice drainage and nutrient management
- Impacts, risks and management of Gngangara groundwater resources (existing Priority 3 Source Protection Area)
- Pearce Airbase operations (Department of Defence)

- Transition/interface with regional open space areas
- Bushfire risk
- Access to the regional road network
- Basic Raw Materials - sequential land use allowing for extraction of sand resources

The WAPC endorsed North Ellenbrook (West) DSP, and the assessment of this MRS amendment has considered the above requirements.

North Ellenbrook (West) District Structure Plan

The North Ellenbrook (West) DSP was approved by the WAPC in August 2022 and provides for approximately 4,000 - 4,500 new dwellings and accommodates a population of 12,000 - 13,500 people. The DSP establishes four local structure plan precincts.

Supporting the sustainable development of this community, the DSP provides for district and local centres, school locations and areas of POS that respond to key environmental, heritage and hydrological features. The DSP has also further refined the industrial and urban boundaries of this area.

The sites close proximity to Ellenbrook provides the opportunity for the integration of public transport options and provides a population base to support the Ellenbrook station catchment.

On 10 July 2024, the WAPC adopted Amendment No.1 to the North Ellenbrook (West) DSP and included abutting Lot 5892 Maralla Road, Bullsbrook in the DSP. The inclusion of Lot 5892 would provide for an additional 2,200 - 2,500 dwellings. Development would be supported by a primary school, POS and a road network linking with the existing DSP to the north and to Tonkin Highway.

The North Ellenbrook (West) DSP is available on the Department's [website](#).

Draft Bullsbrook Freight and Industrial Land Use Planning Strategy

The draft *Bullsbrook Freight and Industrial Land Use Planning Strategy* (BFILUPS) covers land identified as 'Industrial Investigation' in the *North-East Sub-regional Planning Framework*. The strategy provides a long-term strategic vision for future industrial development with service infrastructure and transport requirements supporting a proposed intermodal terminal.

The amendment is located within the southern part of the draft BFILUPS (Precinct C) where large portions are identified as 'Potential Inclusion in Urban Investigation'. The WAPC has since approved the North Ellenbrook (West) DSP which has further refined the industrial and urban boundaries of this area.

State Planning Policy 2.4 - Basic Raw Materials

State Planning Policy 2.4 - Basic Raw Materials (SPP 2.4) sets out the matters which are to be taken into account in considering zoning, subdivision and development applications for extractive industries in the vicinity of identified basic raw material resource areas.

The amendment area is partly located within a sand mining buffer from a 'Priority Resource Location' under SPP 2.4 to the south of the amendment area.

The Environmental Protection Authority's (EPA) *Environmental Protection Guidance Statement No. 3 - Separation Distances Between Industrial and Sensitive Land Uses* recommends a minimum 300 - 500 metre buffer distance.

The North Ellenbrook (West) DSP requires consideration of transitioning and staging land uses. The conclusion of mining operations is expected to coincide with the first stages of development with extractive industry operations to cease prior to landholdings being developed for residential use. The existing extraction operations are likely to provide fill, supporting development minimising the transportation of material.

The amendment zones the subject land Urban Deferred with the requirement to address the buffer to sand mining operations and/or suitable transitional arrangements prior to the lifting of Urban Deferment.

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. The policy does not prevent development where it consistent with policy measures and other planning and environmental considerations.

The subject land has State (CPS 5981/2) and Federal (EPBC 2014/7120) environmental approvals. As part of these approvals the vegetated portion of Lot 2294 Della South Road, Bullsbrook is an 'area to be retained' with the Commonwealth approval and protected under clearing instrument conditions with a revegetation plan through the WA clearing permit process.

Two of the proposed Parks and Recreation reservation areas are within Lot 1808 Halden Road and Lot 2294 Della South Road (also within Bush Forever areas 298 and 399). Conservation covenants exist over Lots 1808 and 2294 and extensive areas of POS are proposed within the amendment area.

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. The Department of Water and Environmental Regulation (DWER) has approved a District Water Management Strategy (DWMS) for the site.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP 3.7) forms the foundation for land-use planning to address bushfire risk management in Western Australia. It is used to inform and guide decision-makers, referral authorities and proponents to achieve acceptable fire protection outcomes on planning proposals in bushfire-prone areas.

A Bushfire Management Plan (BMP) has been prepared and the Department of Fire and Emergency Services advises that the amendment can proceed, as minor modifications to the BMP can be undertaken in subsequent planning stages.

State Planning Policy 5.4 - Road and Rail Noise

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

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

Operational Policy 2.4 - Planning for School Sites

Operational Policy 2.4 - Planning for School Sites (OP 2.4) sets out general locational criteria, configuration requirements and design standards for the provision of school sites and provides clarity on the methodology and application of developer contributions for public primary schools. OP 2.4 requires one primary school (4 hectares) to be provided for every 1,500 dwellings and one secondary school (8 hectares) for every four-five primary schools.

The North Bullsbrook (West) DSP has considered the need for education facilities and provides for two primary schools and one high school site within the amendment area.

Statutory Context

Environment

DWER advises that further environmental information may be required if the amendment is referred to the EPA given the presence of Banksia Woodlands, Cockatoo Habitats and associated cumulative impacts from surrounding future development.

Urban Water Management

DWER has approved a DWMS for the site.

Water and Wastewater Infrastructure

The Water Corporation advises that new water and wastewater headworks will need to be planned and capital funding for major infrastructure assigned through the Corporation's Capital Investment Program (CIP).

Major headworks infrastructure is not presently funded on the Corporation's 5-year CIP. The various proponents in North Ellenbrook may have the option to individually or collectively fund any water and wastewater headworks infrastructure to suit their timeframes.

Wastewater

The Water Corporation has adopted conceptual planning to guide wastewater over the longer term. An option is for the proponents to extend a large gravity sewer from the Barrambie Way Main Waste Water Pump Station (WWPS) northwards alongside Drumpellier Drive to a topographical high point to achieve a discharge point around 60 m AHD.

This main gravity sewer is not funded on the Corporation's CIP, and it would be efficient to install this sewer in stages as part of the future subdivision and development.

Water

The most likely source of drinking water is from the Corporation's Ellenbrook storage tank approximately 4-5 km to the west. Water infrastructure planning will need to examine how the development can be serviced and to determine the likely route and funding of future water distribution mains.

The WAPC notes the Water Corporation's requirements have been included as matters to be addressed prior to the lifting of Urban Deferment.

Transport Infrastructure

MRWA raises no objections and advises of the following lifting of Urban Deferment requirements:

- A cumulative TIA to be undertaken for the greater area comprising Bullsbrook and North Ellenbrook. The capacity of the road network to accommodate the scale of land uses proposed in the North Ellenbrook (West) and other adjacent structure plans requires further investigation and additional connectivity to these areas will need to be considered and planned for as part of the planning for these areas.
- The planning for the new interchange with Tonkin Highway needs to be progressed and the required land identified for the interchange.
- Suitable local road network connectivity being provided to access the Ellenbrook Secondary Activity Centre.

The WAPC notes MRWA's requirements and have been included as matters to be addressed prior to the lifting of Urban Deferment.

5 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 area partly contains registered Aboriginal Heritage Sites 3525 - Ellenbrook Tributary and 4143 (yet to be registered) and was pre-referred to SWALSC and no advice received. However, the amendment will be formally referred to SWALSC during the public advertising period.

6 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.

As no land is being zoned Urban, section 126(3) of the Act is not applicable to this amendment.

7 Substantiality

The amendment was initiated under the former *Planning and Development Act 2005* which allowed 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. Former *Development Control Policy 1.9 - Amendment to Region Schemes* sets out the criteria for deciding whether the major or minor process should be followed.

This amendment is to be processed as a 'major' amendment given the size and scale of the proposal and the establishment of a new urban area is considered a substantial/regional change in the North Ellenbrook/Bullsbrook locality.

8 Sustainability appraisal

The proposed amendment will facilitate the future urban and industrial development of the site in accordance with the North Ellenbrook (West) DSP, has regard to the protection of the environment and has access to the regional road network e.g., Tonkin Highway.

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*. 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.

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 former provisions of section 41 of that Act.

In essence, the procedure for a substantial alteration to the Metropolitan Region 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 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](#).

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 **Friday 13 September 2024 to Friday 13 December 2024**.

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

- i) Western Australian Planning Commission
- ii) City of Swan
- iii) City of Perth
- iv) City of Fremantle
- v) City of Wanneroo
- vi) State Reference Library

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

or posted to:

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

and must be received by Friday 13 December 2024.

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form is contained in this report as Appendix E. 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 amendment is presented to both Houses of Parliament. Advice of disclosure and access requirements are shown on side two of the submission form.

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.

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 the WAPC may make modifications to the amendment. The recommendations of the WAPC, including any modifications, are published in a report on submissions which will be available on the Department of Planning, Lands and Heritage [website](#).

14 Final outcome

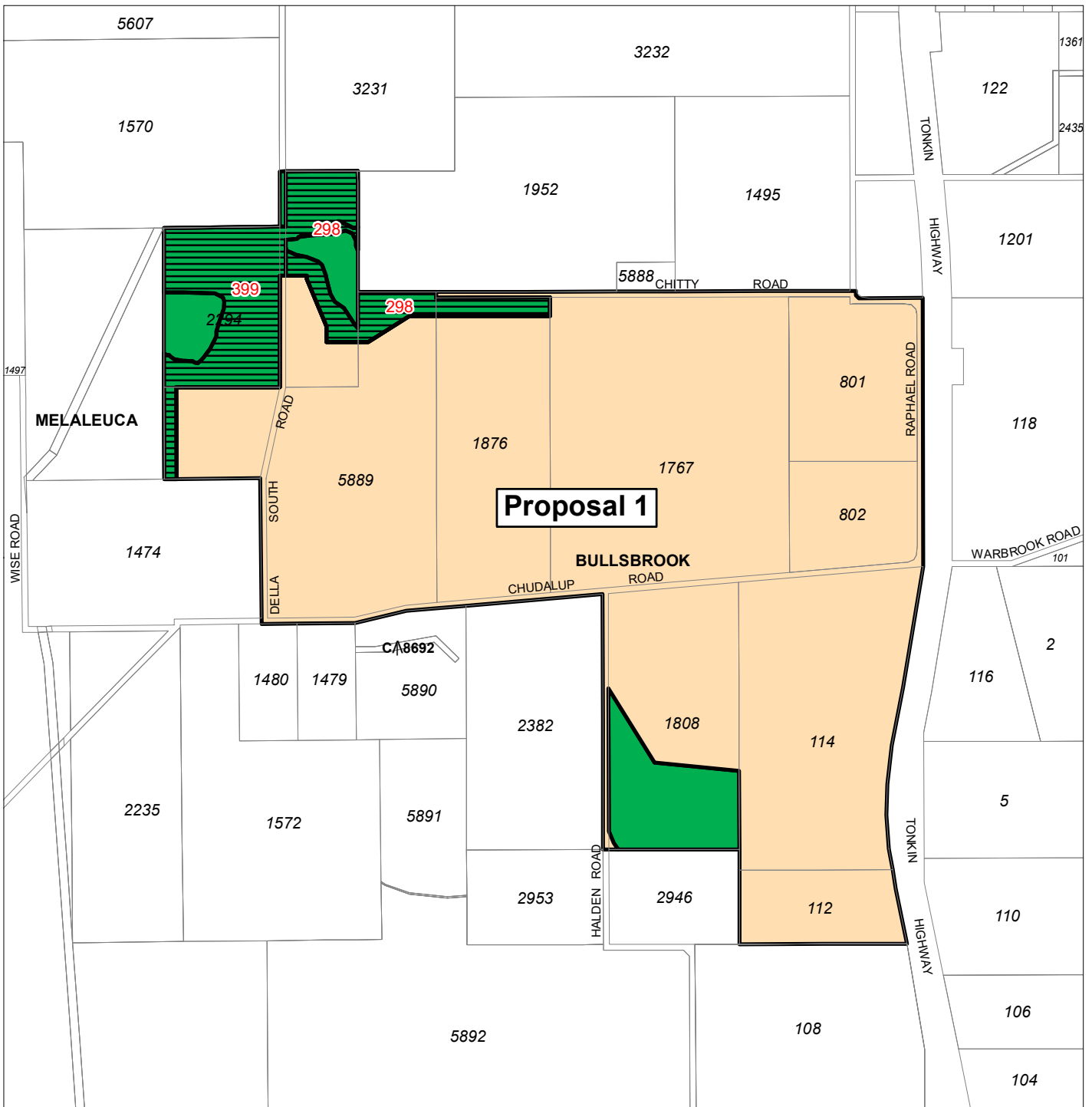
After considering the submissions, the WAPC may make modifications to the amendment. The WAPC will then submit the amendment plans, together with a *Report on Submissions* and a copy of all written submissions, to the Minister for Planning for presentation to the Governor.

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 the 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.

**Metropolitan Region Scheme
Amendment 1409/41
Portion of North Ellenbrook (West)**

**Amendment Figure
Proposal 1**





**Portion of North Ellenbrook (West)
Proposed major amendment
as advertised**

19 July 2023


Proposal 1

Proposed Amendment:

 Parks and recreation reservation

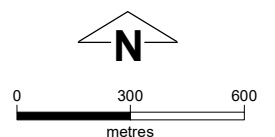
 Urban deferred zone

Notice of Delegation

 (Sites 298 & 399) Bush forever area addition

Oracle reference no: 4377

Version number: 3



Appendix A

Notice of environmental assessment



Environmental Protection Authority

Ms Sam Boucher
Secretary
Western Australian Planning Commission
Locked Bag 2506
PERTH WA 6000

Our Ref: APP-0000506, REC-0000266
Enquiries: Maddison Howard, 6364 6424
Email: maddison.howard@dwer.wa.gov.au

Dear Ms Boucher

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

SCHEME	Metropolitan Region Scheme Amendment 1409/41
LOCATION	Portion of North Ellenbrook (West)
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

20 June 2024

Encl. EPA Determination
Scheme advice and recommendations



Environmental Protection Authority

s.48A Referrals

Title:	Metropolitan Region Scheme Amendment 1409/41		
Location:	Portion of North Ellenbrook (West)		
Description:	The amendment proposes to reclassify approximately 393 hectares (ha) in North Ellenbrook from the 'Rural' zone to 'Urban Deferred' zone and 'Parks and Recreation' reservation, to facilitate future residential, light industrial and commercial development. The proposed amendment is consistent with the North Ellenbrook (West) District Structure Plan.		
Ref ID:	APP-0000506		
Date Received:	05/09/2023	Date Sufficient Information Received:	05/06/2024
Responsible Authority:	Western Australian Planning Commission, 140 William Street PERTH WA 6000		
Contact:	Anthony Muscara		
Preliminary Environmental Factors:	Flora and vegetation; Terrestrial fauna; Inland waters		
Potential Significant Effects:	Implementation of the scheme may result in the clearing of native vegetation, including a priority flora species, vegetation representative of the Banksia Woodlands of the Swan Coastal Plain ecological community, and habitat for threatened species of black cockatoo. Implementation of the scheme may also result in local hydrological changes.		
Protection:	Potential impacts may be mitigated through the proposed rezoning of areas to 'Parks and Recreation' reserve and through future planning and statutory processes. EPA advice is also provided recommending actions to protect and restore environmental values and manage and mitigate potential environmental impacts.		
Determination:	Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme 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: *MMA*

20 June 2024

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

Metropolitan Region Scheme Amendment 1409/41

Location: Portion of North Ellenbrook (West)

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

Determination Published: 24 June 2024

Summary

Metropolitan Region Scheme Amendment 1409/41 proposes to transfer approximately 393 hectares (ha) in North Ellenbrook (West) from 'Rural' to 'Urban Deferred' zone and 'Parks and Recreation' reserve, to facilitate future residential, light industrial and commercial development.

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 original referral documentation and additional information provided by the Western Australian Planning Commission (WAPC) and the proponent to this amendment. 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 Environmental Impact Assessment*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Flora and vegetation
- Terrestrial fauna
- Inland waters

Advice and Recommendations regarding the Environmental Factors

The referral documentation states that a concurrent amendment to the City of Swan local planning scheme (LPS) may be requested from the WAPC as part of a future request to lift the MRS 'Urban Deferred' zoning. The concurrent amendment would facilitate the transfer of the subject lands from the 'General Rural' zone to the 'Development' zone under LPS. The EPA considers opportunities to further mitigate and manage impacts to abovementioned environmental values may become available through a future LPS amendment process and should be adopted. Including, for example, through insertion of scheme text and/or refinement of proposed Public Open Space (POS) areas.

Further advice regarding specific environmental factors is provided below.

Flora and vegetation; Terrestrial fauna

The amendment area contains some remnant vegetation representative of the Banksia Woodlands of the Swan Coastal Plain (SCP) ecological community (State Priority Ecological Community (PEC) and Commonwealth Threatened Ecological Community (TEC)). The amendment area also contains habitat for threatened species of black cockatoo and occurrences of a state-listed priority 3 flora species.

The EPA supports the proposed reservation of 51.3 ha of the amendment area to 'Parks and Recreation' reserve, which includes:

- All vegetation identified as being representative of the *Banksia* Woodlands of the SCP ecological community
- Both identified populations of *Cyathochaeta teretifolia* (state-listed priority 3 flora)
- 40.88 ha of Carnaby's Black Cockatoo foraging habitat
- 5.16 ha Forest Red-tailed Black Cockatoo foraging habitat
- 32 potential habitat trees for black cockatoos

The EPA also supports the addition of a further 4.95 ha of land along Chitty Road to 'Parks and Recreation' reservation as proposed in the post-referral information provided by the proponent. The area contains Black cockatoo habitat and its addition to the adjacent proposed 'Parks and Recreation' reservation area will support a consistent management approach across the site.

The amendment area is subject of the *North Ellenbrook (West) District Structure Plan (DSP)*, which has been approved by the WAPC. The DSP identifies lands within the amendment area as 'Public Open Space' (POS) areas to be realised through future planning processes. The EPA notes the identification of POS areas and considers that the POS areas may provide for increased protection and management of environmental values, particularly black cockatoo habitat. The EPA recommends that future planning stages prioritise revegetation in POS areas, surplus cleared areas, wetland buffers, and landscaped and drainage areas/corridors with locally endemic species (that provide foraging for species of black cockatoo) and include the installation of water drinking stations for black cockatoos. Designs should be informed by current research and guidelines.

The EPA also notes the information provided in the *Tree Retention Strategy* (Rowe Group Design, 2024) which indicates that refined concept planning and landscape design at future planning stages can provide for the retention of 206 of the 300 potential black cockatoo habitat trees identified in the proposed 'Urban Deferred' portions of the amendment area. The EPA supports retention of these habitat trees consistent with the strategy.

The EPA also notes that a portion of the amendment area is currently subject to assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), and that the outcomes of this process may also assist in mitigating and managing potential impacts to black cockatoo values. Decision-making authorities have, and proponents also may have, an obligation to refer future significant proposals within the amendment area to the EPA for environmental impact assessment under Part IV of the EP Act. The EPA may then take into account the potential for other decision making processes, including EPBC Act and planning processes, to mitigate potential impacts on the environment, in deciding whether or how to assess the proposal.

Inland waters

The amendment area contains inland water values including minor watercourses, two conservation category wetlands (CCWs) and two resource enhancement wetlands (REWs).

The EPA supports the retention of the CCWs and REWs in 'Parks and Recreation' reserves and recommends that appropriate buffers to the wetlands are established through future planning processes, as informed by wetland assessments. The EPA also recommends the preparation of a local water management strategy as part of local structure planning, to be finalised in consultation with the Department of Water and Environmental Regulation and the Department of Biodiversity, Conservation and Attractions.

Conclusion

The EPA concludes that the scheme amendment can be managed to meet the EPA's environmental objectives for the above factors through the scheme mechanisms, particularly the proposed retention of values within 'Parks and Recreation' reserves. The EPA notes that further impacts may be mitigated through existing and proposed planning controls and implementation of future planning processes and legislative requirements, specifically implementation of the amendment in accordance with the approved DSP and proposed *Tree Retention Strategy*. The EPA recommends its advice is implemented to further mitigate potential impacts to the above factors.

Appendix B

List of detail plans supporting the amendment

Proposed Major Amendment 1409/41

Portion of North Ellenbrook (West)

as advertised

Amending Plan 3.2815

Detail Plans

1.5864, 1.5893

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 [Statutory Matters | Have Your Say, WA! \(dplh.wa.gov.au\)](https://www.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)**

Planning and Development Act 2005
Section 41 Amendment (Major)
Form 41

Submission

Metropolitan Region Scheme Amendment 1409/41

Portion of North Ellenbrook (West)

To: Secretary
Western Australian Planning Commission
Locked Bag 2506
Perth WA 6001

OFFICE USE ONLY

SUBMISSION NUMBER
RLS/1112

Title (*Mr, Mrs, Miss, Ms*) First Name

Surname (PLEASE PRINT CLEARLY)

Address Postcode

Contact phone number Email address

Submissions may be published as part of the consultation process. Do you wish to have your name removed from your submission? Yes No

Submission (Please attach additional pages if required. It is preferred that any additional information be loose rather than bound)

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turn over to complete your submission

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.

To be signed by person(s) making the submission

Signature Date

Note: Submissions MUST be received by the advertised closing date, being 13 DECEMBER 2024. Late submissions will NOT be considered.