



September 2023

Metropolitan Region Scheme Amendment **1407/57** (Minor Amendment)



Hamilton Street,
Cannington

Amendment Report

City of Canning

**Metropolitan Region Scheme
Amendment 1407/57
(minor amendment)**

Hamilton Street, Cannington

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September 2023

The Western Australian Planning Commission acknowledges the traditional owners and custodians of this land. We pay our respect to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

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MRS Amendment 1407/57 Amendment Report
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The Metropolitan Region Scheme

What it is and how it is amended - minor

Planning Perth's future

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

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

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

The role of the WAPC?

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

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

What is the Metropolitan Region Scheme?

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

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

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

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

What is an amendment?

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

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

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

How is the Metropolitan Region Scheme amended?

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

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

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

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

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

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

Zones and reservations

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

Zones

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

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

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

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

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

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

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

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

Reservations

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

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

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

Port installations: regional maritime shipping facilities.

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

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

Civic and cultural: significant civic precincts and buildings.

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

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

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

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

What if my land is rezoned?

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

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

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

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

What if my land is reserved?

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

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

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

How can my views be heard?

You can lodge a submission during the advertised period:

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

Publications

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

Amendment report

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

Environmental review report

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

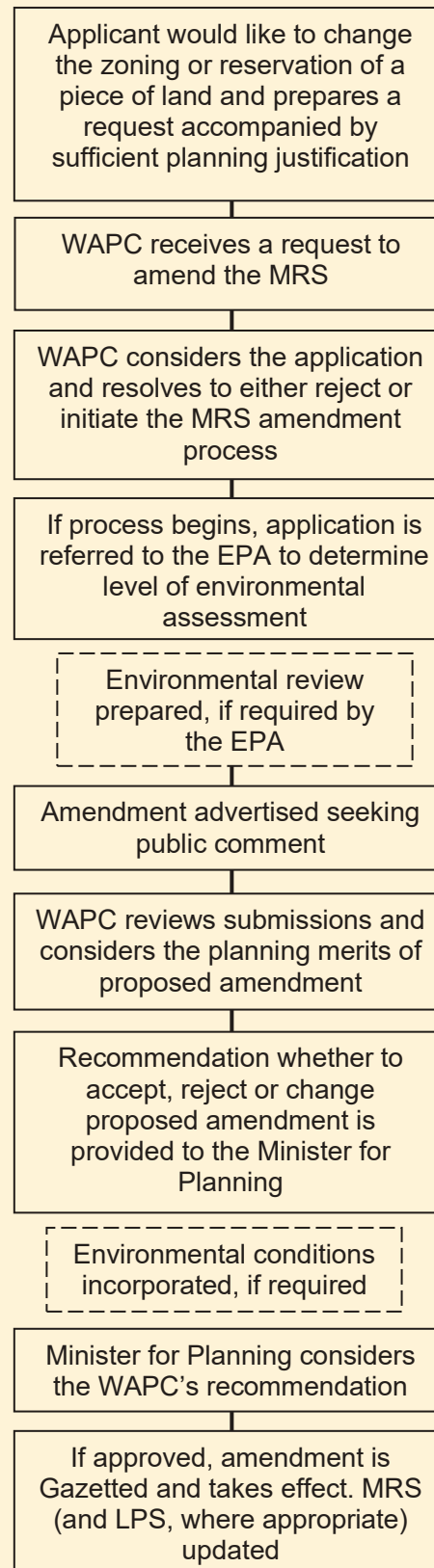
Report on submissions

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

Submissions

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

A simple diagram of the amendment process.



Abbreviations

ACH	Aboriginal Cultural Heritage
ALUA	Armadale Line Upgrade Alliance
DoC	Department of Communities
DPLH	Department of Planning, Lands and Heritage
DWER	Department of Water and Environmental Regulation
EPA	Environmental Protection Authority
LPS	Local Planning Scheme
MRS	Metropolitan Region Scheme
MRWA	Main Roads Western Australia
ORR	Other Regional Roads
PCA	Planning Control Area
PTA	Public Transport Authority
SPP	State Planning Policy
SWALSC	South West Aboriginal Land and Sea Council
WAPC	Western Australian Planning Commission

Amendment Report

Metropolitan Region Scheme Amendment 1407/57

Hamilton Street, Cannington

Amendment Report

1 Purpose

The purpose of the amendment is to transfer approximately 3,800 m² of land from Other Regional Roads (ORR) reservation to the Urban zone under the Metropolitan Region Scheme (MRS), as shown on the *Amendment Figure - Proposal 1*.

The proposed Urban zoning will facilitate planning of surplus ORR land for other purposes. In this respect, the Department of Communities (DoC) is proposing to construct an Aboriginal short-stay accommodation facility on land within a portion of the amendment area and adjacent to it.

2 Background

The amendment area is located approximately nine kilometres south-east of the Perth Central Business District within the City of Canning's (City) local government boundary. The proposed amendment involves land on the northern side of Hamilton Street, west of Sevenoaks Street.

Hamilton Street is an ORR under the MRS and a District Distributor 'B' under the Main Roads WA (MRWA) road hierarchy. It is an important link connecting Albany Highway and Welshpool Road and serves as an alternative route to Albany Highway. It intersects with Sevenoaks Street which is also an existing ORR and Railway Parade, a Local Distributor road. Hamilton Street forms an at grade rail crossing with Public Transport Authority's (PTA) Armadale Line. The crossing is controlled by traffic signals and boom gates. The ORR was originally planned to allow Hamilton Street to be elevated over the rail corridor, Sevenoaks Street and Railway Parade.

In 2021, the State Government announced that level crossings along the Armadale Line would be removed as part of the Victoria Park-Canning Level Crossing Removal (by METRONET) project by raising the rail over intersecting roads. The Armadale Line Upgrade Alliance (ALUA) was created to remove these level crossings. Its design for raising the rail line shows Hamilton Street will remain at ground level instead of passing over the rail corridor. As a result, portions of the current Hamilton Street ORR reservation previously planned to elevate the road are no longer required.

DoC is working to deliver an Aboriginal short-stay accommodation facility at Lot 801 (110A) Hamilton Street, Cannington. Late 2022, DoC consulted with the Department of Planning, Lands and Heritage (DPLH) on opportunities to integrate ORR surplus land at Lot 800 into its project. In 2023, DPLH in partnership with City of Canning undertook the Hamilton Street ORR reservation study and concluded that:

- lands currently zoned as ORR at Lots 10 and 11 Hamilton Street are no longer required
- a small portion of land currently zoned as ORR at Lot 800 Hamilton Street and former Lot 1 (#143) Sevenoaks St (road isolation), Cannington will be required for ALUA's road upgrade, the remainder is surplus

- the remaining portion of Hamilton Street ORR reservation requires further planning and assessments.

3 Scope and content of the amendment

The amendment proposes to transfer parts of Lots 10, 11 and 800 Hamilton Street and part of a road isolation lot located on the corner of Hamilton and Sevenoaks Streets (former Lot 1) in Cannington from the ORR reservation to the Urban zone under the MRS. The amendment has an approximate area of 3,800 m².

4 Discussion

Strategic Planning Context

Perth and Peel @ 3.5 Million and 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 a case for change to a more considered, connected, consolidated urban form. The *Central Sub-regional Planning Framework* (the Framework) focuses on achieving higher densities of employment and residential development (i.e. infill development and urban consolidation) in appropriate locations with a predominantly built-up environment while making better use of established infrastructure in the long-term. Whilst the Framework does not identify the amendment area as being part of an activity centre, urban corridor or a station precinct, the amendment is considered to be consistent with the intent of the Framework.

Draft State Planning Policy 2.9 – Planning for Water

Draft State Planning Policy 2.9 – Planning for Water 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.

This amendment was not referred to DWER prior to initiation regarding water resource management as it was not expected to impact any water resources in the area. However, the amendment will be referred to DWER during the public advertising period.

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 these from the encroachment of incompatible sensitive land uses.

SPP 5.4 is applicable to the amendment as part of the amendment area is located within the policy trigger distances to the Perth to Armadale passenger railway line and Sevenoaks Street. In this respect, its provisions will apply when urban redevelopment occurs.

Planning Control Area 165

Planning Control Area (PCA) 165 applies to Sevenoaks Street, Railway Parade and the rail corridors between Mills Street and Grose Avenue/Gibbs Street, Cannington. The PCA came into effect in June 2022 and its purpose is to facilitate development of the Victoria Park-Canning Level Crossing Removal project (LXR), and to allow (if required) the future reservation of land in the MRS.

The LXR project includes the removal of level crossings along the Armadale Line by raising the rail over Hamilton Street. The WAPC considers that the PCA is required to ensure that no development occurs which might prejudice this outcome. There are no proposed changes within the PCA 165 boundary.

Statutory Planning Context

Environment

The amendment area does not contain any remnant vegetation which is identified as threatened or priority flora or being as potentially being part of any threatened ecological community or being habitat for threatened black cockatoo species. Nonetheless, the Department of Water and Environmental Regulation (DWER) advises that consideration should be given to the retention of remnant trees in the subsequent development stage of the planning process.

Infrastructure

Water and Wastewater: The Water Corporation advises that any future development within the amendment area can be connected to the existing reticulated water and wastewater networks in this locality.

This amendment was not referred to Water Corporation prior to initiation as it was not expected to impact any water infrastructure in the area. However, the amendment will be referred to Water Corporation during the public advertising period.

Regional Roads: The City of Canning, DoC and the ALUA have been consulted on the future intersection layout and its footprint. No objections were raised.

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 proposed amendment was not referred to SWALSC as it is not located within or abuts an existing Aboriginal heritage site. However, the amendment will be formally referred to SWALSC during the public submission period.

6 Coordination of local and region scheme amendments

Approved Queens Park Structure Plan (2016) classifies land on the northern side of the ORR reservation as Residential Precinct A R30-60. Land on the southern side is classified as Residential Precinct B R40-60.

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. It is considered logical to use this provision in this instance and apply the Centre zone to the subject land under the local planning scheme, consistent with the zoning that applies to the surrounding area. City supports a concurrent amendment.

The WAPC will make a final decision on the concurrent amendment of LPS 42 at the close of the public submission period.

7 Substantiality

The *Planning and Development Act 2005* allows for amendments to the MRS to be processed as either "minor" or "major" amendments depending on whether they are considered to constitute a substantial alteration to the MRS or not. 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. In this regard, the amendment is proposed to be processed as a "minor" amendment as follows:

- The amendment is not complex. Its size and scale are not considered to be regionally significant, and it does not reflect a significant change to the strategic planning for the Metropolitan region.
- The amendment constitutes a logical rationalisation of the ORR reservation for this section of Hamilton Street, given that land within the amendment area is no longer required for regional road purposes.
- The proposed amendment provides clarity and certainty for future road planning and adjacent developments and allows orderly land use planning to occur along this corridor.
- The amendment is not likely to result in significant adverse impacts to the environmental values of the amendment area and its surrounding locality.
- The City of Canning and key State Government agencies have not raised any matters of concern which prevent the initiation and advertising of the amendment.

8 Sustainability appraisal

The proposal is consistent with the goals and objectives of the WAPC's *Central Sub-Regional Planning Framework* which addresses the sustainability of proposed development in general, and with the recommendations and objectives of *State Planning Policy 2.0 – Environmental and Natural Resources Policy*, *draft State Planning Policy 2.9 – Planning for Water and State Planning Policy 3.0 – Urban Growth and Settlement*.

9 Environmental Protection Authority advice

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

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

10 The amendment process

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

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

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

An explanation of 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 will be advertised for public submissions for a period of 60 days from **Friday 15 September 2023 to Tuesday 14 November 2023**.

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

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

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

Written submissions commenting on the amendments 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 Tuesday 14 November 2023.

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form (form 57) is contained in this report (appendix E). Additional copies of the form are available from the display locations and the Department of Planning, Lands and Heritage website <https://www.dplh.wa.gov.au/mrs-amendments>.

You should be aware that calling for submissions is a public process and all submissions lodged will together become a public document. The document will be published and made available when the Minister for Planning has made a determination on the amendment. Advice of disclosure and access requirements is shown on side two of the submission form.

Before making your submission, it is recommended that you read the information in Appendix D of this report regarding preparing a submission.

12 Modifications to the amendment

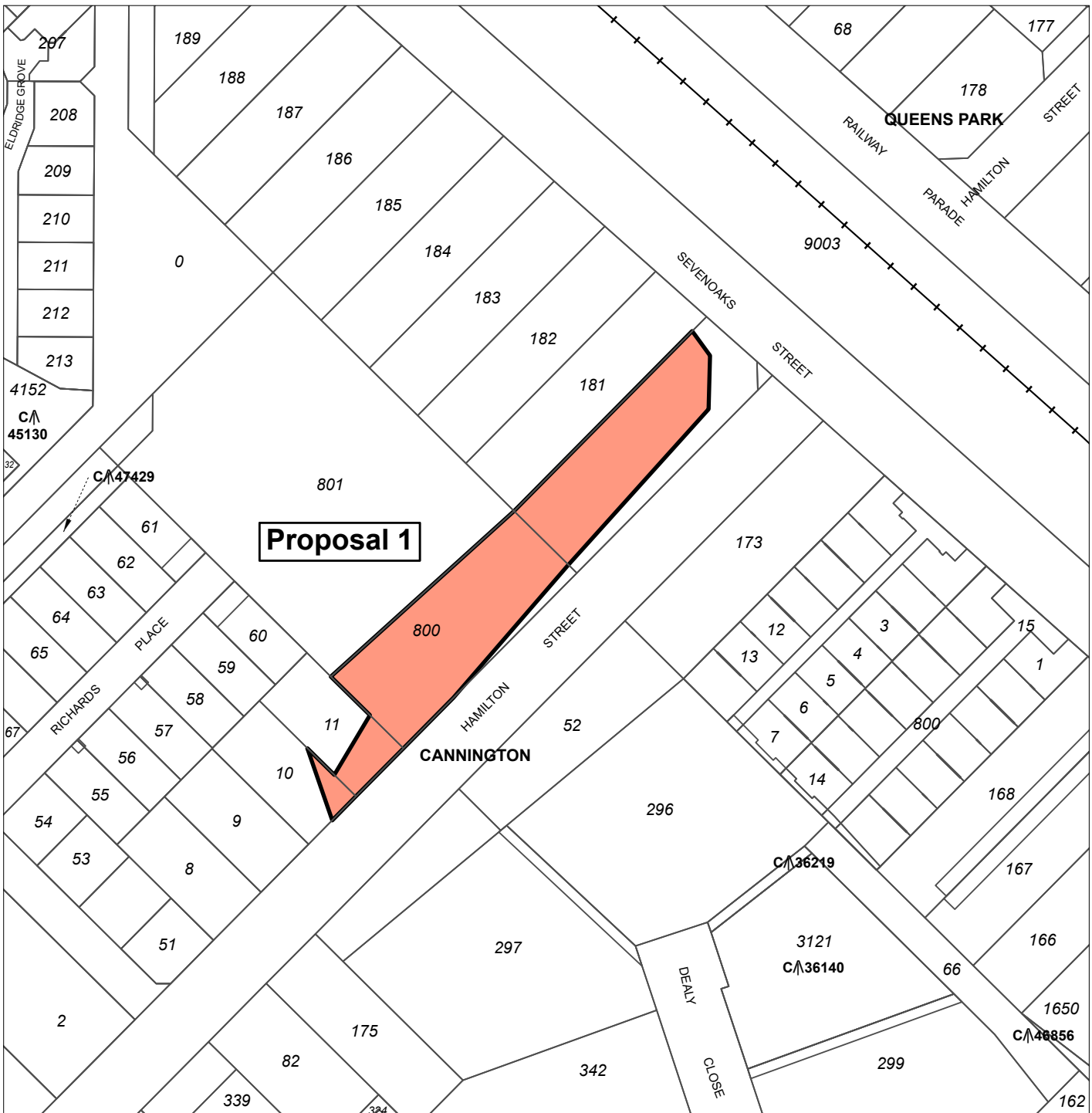
After considering any comments received from the public and government agencies, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve.

13 Final outcome

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

**MRS Amendment 1407/57
Hamilton Street, Cannington**


**Amendment Figure
Proposal 1**




**Hamilton Street, Cannington
Proposed minor amendment
as advertised**

28 June 2023

Proposal 1

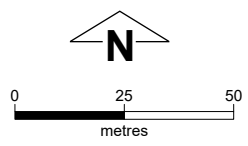
Proposed Amendment:
 Urban zone

Legend
 Railway

Ref no: 4256
 Version number: 2



Date: 10/07/2023
 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-0000435
Enquiries: Angela Coletti, 6364 6430
Email: angela.coletti@dwer.wa.gov.au

Dear Ms Fagan

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

SCHEME	Metropolitan Region Scheme Amendment 1407/57
LOCATION	Hamilton Street, Cannington
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).

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 is attached and will be made available to the public via the EPA website.

Yours sincerely



Prof. Matthew Tonts
Chair of the Environmental Protection Authority

9 August 2023

Encl. EPA Determination



Environmental Protection Authority

s.48A Referrals

Title: Metropolitan Region Scheme 1407/57

Location: Portion of Lots 10, 11 and 800 Hamilton Street and former Lot 1 Sevenoaks Street, Cannington

Description: The amendment proposes to transfer approximately 3,800 m² of land from 'Other Regional Roads' reservation to the 'Urban' zone under the Metropolitan Region Scheme.

Ref ID: APP-0000435

Date Received: 17/07/2023 **Date Sufficient Information Received:** 17/07/2023

Responsible Authority: Western Australian Planning Commission, Locked Bag 2506, PERTH WA 6001

Contact: Lainy Collisson

Preliminary Environmental Factors: Flora and vegetation.

Potential Significant Effects: Future development may result in clearing of isolated trees.

Protection: Future planning processes, including development application, should manage potential impacts to environmental values by retaining mature trees, where possible.

Determination: **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).**

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

This Determination is not appealable.

Chair's Initials:

Date: 9 August 2023

Appendix B

List of plans supporting the amendment

**Metropolitan Region Scheme
Amendment 1407/57**

Hamilton Street, Cannington

as advertised

Amendment Plan 3.2812

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

Preparing a submission

The WAPC welcomes comment on proposed amendments to the MRS from interested individuals, groups and organisations.

What is a submission?

A submission is a way to express your opinion and provide information. It is an opportunity to explain why the amendment should be supported, withdrawn or modified. Suggestions of alternative courses of action are also welcomed.

Making a submission is not the same as voting in an election. The number of submissions received for or against a proposal will not in itself determine the result. Rather, it is the reasoned argument of why a particular thing should or should not be done. Your submission will assist the WAPC in reviewing its planning proposal before proceeding. Advertised proposals are often modified in response to the public submission process.

What should I say?

Your comments should focus on the particular issues that arise from the proposed amendment. If there are a number of components in the amendment, please indicate exactly which ones you are addressing.

It is important that you state your point of view clearly and give reasons for your conclusions and recommendations. These may include an alternative approach or other ways for the WAPC to improve the amendment or make it more acceptable. Indicate the source of your information or argument where applicable.

If you prefer not to write your own comments, you may consider joining a group interested in making a submission on similar issues. Joint submissions can increase the pool of ideas and information.

Before lodging your submission

The WAPC prefers to receive submissions online at <https://consultation.dplh.wa.gov.au>, however, hardcopy submissions can also be accepted (form 57 – appendix E).

Please remember to complete all fields in the submission form including your name and contact details. Please limit the number of attachments, where possible, ensuring they are directly relevant to the proposed amendment you are commenting on.

The closing date for submissions and how to lodge them is shown on form 57 and in the submissions on the amendment section of the amendment report.

Some amendments may be subject to an environmental review. Under these circumstances, the WAPC will forward a copy of any submission raising environmental issues to the EPA.

You should be aware that all submissions lodged with the WAPC are subject to regulations on disclosure and access, and your submission will become a public document.

Appendix E

**Submission form for this amendment
(form 57)**

Section 57 Amendment (Minor)

Form 57

Submission

Metropolitan Region Scheme Amendment 1407/57

Hamilton Street, Cannington

OFFICE USE ONLY

SUBMISSION NUMBER

RLS/1108

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

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

(Submission continued. Please attach additional pages if required)

Dotted lines for writing content.

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 on 14 NOVEMBER 2023. Late submissions will NOT be considered.