



January 2024

# Metropolitan Region Scheme Amendment 1410 (Standard Amendment)



Pt Lot 96 Starflower Road  
Henley Brook

Amendment Report

City of Swan

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**Metropolitan Region Scheme  
Amendment 1410  
(Standard Amendment)**

**Pt Lot 96 Starflower Road, Henley Brook**

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**Amendment Report**

**City of Swan**



January 2024

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

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MRS Amendment 1410 (Standard) Amendment Report  
File RLS/1119

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This document is available in alternative formats on application to the Department of Planning, Lands and Heritage Communications Branch.

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## Abbreviations

<b>ACH</b>	Aboriginal Cultural Heritage
<b>DPLH</b>	Department of Planning, Lands and Heritage
<b>DWER</b>	Department of Water and Environmental Regulation
<b>EPA</b>	Environmental Protection Authority
<b>LPS</b>	Local Planning Scheme
<b>MRS</b>	Metropolitan Region Scheme
<b>SPP</b>	State Planning Policy
<b>SWALSC</b>	South West Aboriginal Land and Sea Council
<b>WAPC</b>	Western Australian Planning Commission

## **Amendment Report**

# Metropolitan Region Scheme Amendment 1410 (Standard)

## Pt Lot 96 Starflower Road, Henley Brook

### Amendment Report

#### 1 Planning objective

The purpose of the amendment is to transfer approximately 3.78 hectares of land within Lot 96 Starflower Road, Henley Brook from the Public Purposes – Special Uses 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 further planning and development of the subject land for residential and related land uses, along with adjacent Urban zoned land to the east.

#### 2 Background

The subject land is located in the City of Swan and is located approximately 19 kilometres north-east of the Perth Central Business District, and 1.8 kilometres south of the Ellenbrook activity centre and the future Ellenbrook Train Station.

The subject land is owned by the State Government, is currently undeveloped and contains scattered areas of remnant vegetation. It was transferred to the Public Purposes – Special Uses reservation in 2011 to protect land potentially required for a railway station as part of a future railway within the adjacent Public Purposes – Special Uses reserved corridor. However, the subject land and the adjacent corridor is no longer required for these purposes given that the future Ellenbrook railway line is now located on the other side of Drumpellier Drive.

Land to the east is zoned Urban under the MRS and Residential Development in the *City of Swan Local Planning Scheme No. 17* (LPS 17), and is predominantly undeveloped. Drumpellier Drive, to the west, is reserved Primary Regional Roads under the MRS.

Lots 100 and 101 Barrambie Way, to the north, are reserved Public Purposes – Water Authority of WA and Public Purposes – State Energy Commission respectively under the MRS, and are occupied by a wastewater pumping station and an electrical substation. Approximately 1.02 hectares of the Public Purposes – Special Uses reserved land north of the subject land has not been included in the amendment as this land may be required for a future expansion of the wastewater pumping station site. The reservation of this land will be modified by a future amendment to the MRS, if required.

The use and development of the subject land is currently controlled by the MRS given that this land is currently reserved under the MRS, and will be subject to the requirements of LPS17 in the future should the amendment be approved.

### 3 Discussion

#### Strategic Context

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

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

The *North-East Sub-regional Planning Framework* (the Framework), which forms part of this suite of documents, designates the subject land as 'Public Purposes', consistent with its current reservation under the MRS. The balance of Lot 96 is predominantly designated as 'Urban Expansion' with a 'Medium Term (2022-2031)' staging timeframe in the Framework. The proposed Urban zoning is not consistent with the 'Public Purpose' designation of the subject land in the Framework, but is broadly consistent with the intent of the Framework for the following reasons:

- The proposed Urban zoning is considered to be appropriate given that it is consistent with the 'Urban Expansion' designation and Urban zoning of adjacent land to the east, in the Framework and under the MRS, and that the subject land is no longer required for a public purpose.
- The subject land does not contain any significant environmental values or is subject to any other constraints which would preclude the further planning and development of this land for urban purposes.

##### **State Planning Policy 2.8 – Bushland Policy for the Perth Metropolitan Area**

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

The subject land contains areas of scatter remnant vegetation, none of which is identified as threatened or priority flora or as potentially being part of a threatened or priority ecological community. Nonetheless, consideration can be given to the potential retention of the remnant vegetation in the preparation and assessment of a future local structure plan for the subject land pursuant to the recommendations of SPP 2.8.

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

Draft State Planning Policy 2.9 – Planning for Water (draft SPP 2.9) seeks to ensure that planning and development considers water resource management and includes appropriate water management measures to achieve optimal water resource outcomes at the various stages of the planning process. In this regard, the Department of Water and Environmental Regulation (DWER) advises it is not necessary to prepare district or local water management strategies for the amendment.



## **State Planning Policy 3.0 - Urban Growth and Settlement**

*State Planning Policy 3.0 - Urban Growth and Settlement* (SPP 3.0) seeks to facilitate sustainable patterns of urban growth and settlement across the State. Its objectives include promoting the growth and development of urban areas in response to the social and economic needs of communities and enhancing the quality of life in those communities. The amendment is consistent with SPP 3.0 as it will contribute to making the most efficient use of land in an existing urban area and providing suitably serviced residential land in an area which will be well serviced by public transport.

## **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 transport noise on sensitive land uses within the specified trigger distance of major transport corridors. It also seeks to protect the functionality of these corridors by protecting them from the encroachment of incompatible development. SPP 5.4 is applicable as the site is located within the 200 metre policy trigger distance for Drumpellier Drive and the Ellenbrook railway line, which is currently under construction. A noise exposure forecast undertaken for the subject land, pursuant to the recommendations of SPP 5.4, indicates that any future sensitive land uses on this land would be capable of achieving compliance with SPP 5.4 through the implementation of noise amelioration measures.

## **Statutory Context**

### **Water and wastewater infrastructure**

The Water Corporation advises that the future subdivision and development of the subject land can be serviced by extensions off the surrounding water and sewerage networks, and provides advice on the proposed staging of development in the area and the odour buffer requirements for its waste water pumping station located adjacent to the northern boundary of the amendment area.

## **4 Aboriginal cultural heritage**

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

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

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

## 5 Coordination of region and local scheme amendments

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

The proponent has requested that the *City of Swan Local Planning Scheme No. 17* be concurrently amended to transfer the subject land to the Residential Development zone. The WAPC will make a final decision on the concurrent amendment of this local planning scheme at the close of the public submission period.

## 6 Substantiality

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

- The amendment is not complex and does not reflect a significant change to the strategic planning for the Metropolitan region.
- The amendment is broadly consistent with the intent of the *North-East Sub-regional Planning Framework*.
- The amendment is not likely to result in significant impacts to the environmental values of the subject land and the surrounding locality.
- The City of Swan and key State Government agencies have not raised any matters which would prevent the initiation of the amendment.

## 7 Environmental Protection Authority advice

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

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

## 8 The amendment process

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

- formulation of the amendment by the WAPC
- referral to the EPA for environmental assessment
- completion of an Environmental Review (if required) in accordance with EPA instructions

- public submissions being sought on the proposed amendment (including Environmental Review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or refusal to approve, by the Minister
- the amendment takes legal effect with Gazettal of the Minister's approval.

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

## 9 Submissions on the amendment

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

The amendment will be advertised for public submissions for a period of 42 days from **23 January 2024 to 5 March 2024**.

The amendment report and plans showing the proposed changes are available for public inspection online at [www.dplh.wa.gov.au/mrs-amendments](http://www.dplh.wa.gov.au/mrs-amendments).

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

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

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

or posted to:

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

and **must be received by 5 March 2024**.

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form is contained in this report (Appendix D). Additional copies of the form are available from the Department of Planning, Lands and Heritage website at [www.dplh.gov.au/regionplanningschemes](http://www.dplh.gov.au/regionplanningschemes)

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

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

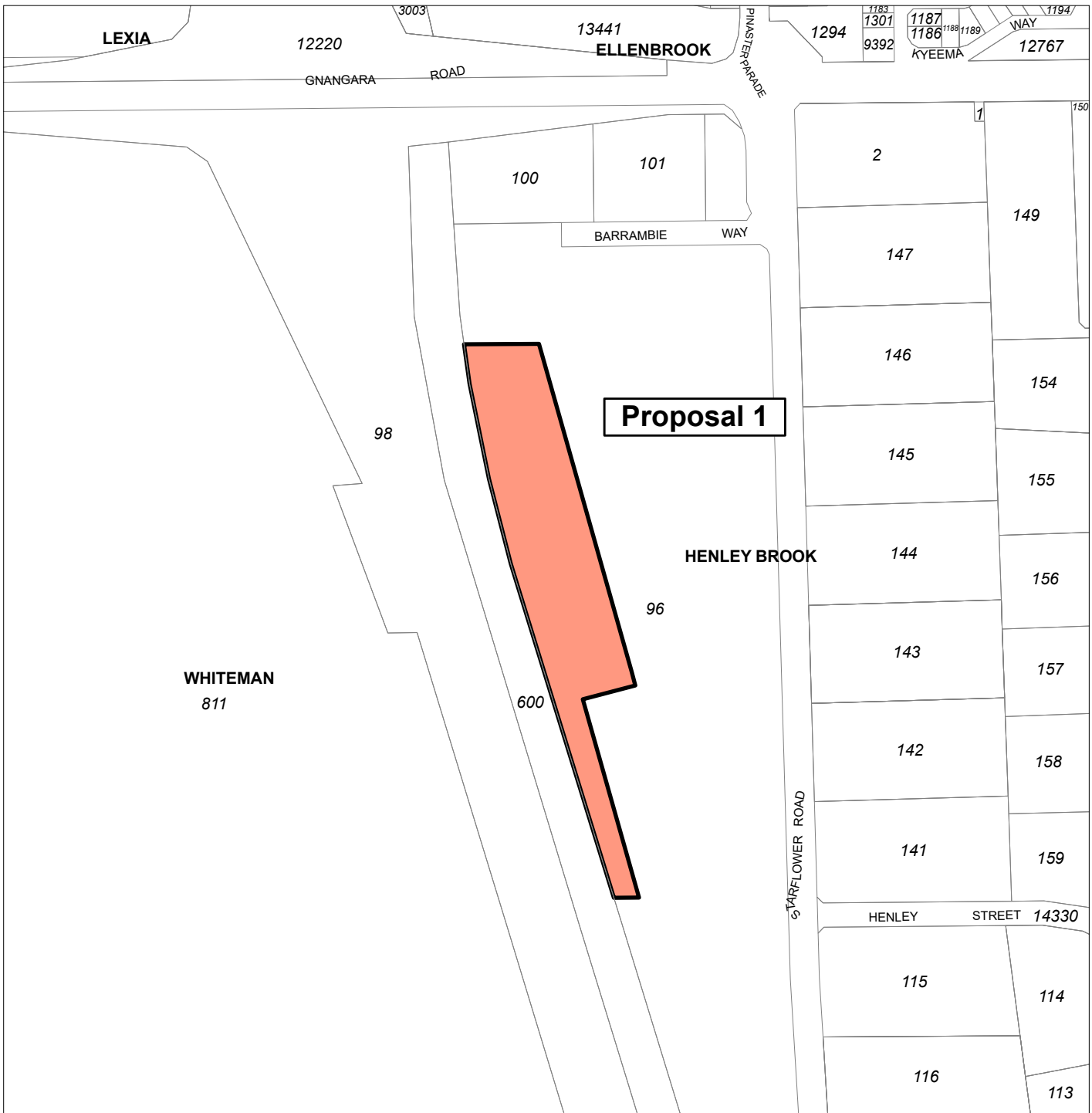
## **10 Modifications to the amendment**

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

## **11 Final outcome**

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

**Metropolitan Region Scheme  
Amendment 1410  
Pt Lot 96 Starflower Road, Henley Brook  
Amendment Figure - Proposal 1**



**Pt Lot 96 Starflower Road, Henley Brook  
Proposed Standard MRS amendment  
as advertised**

13 September 2023

Proposal 1

Proposed Amendment:

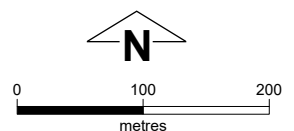


Public Purposes - Special Uses reservation to Urban zone

Reference no: 4478

File no: RLS/1090

Version number: 1



## **Appendix A**

### **Notice of environmental assessment**

## Environmental Protection Authority

Ms Sam Fagan  
Secretary  
Western Australian Planning Commission  
140 William Street  
PERTH WA 6000

Our Ref: APP-0000544, REC-0000402  
Enquiries: Maddison Howard, 6364 6424  
Email: [maddison.howard@dwer.wa.gov.au](mailto:maddison.howard@dwer.wa.gov.au)

Dear Ms Fagan

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

<b>SCHEME</b>	<b>Metropolitan Region Scheme Amendment 1410</b>
<b>LOCATION</b>	<b>Part Lot 96 Starflower Road, Henley Brook</b>
<b>RESPONSIBLE AUTHORITY</b>	<b>Western Australian Planning Commission</b>
<b>DECISION</b>	<b>Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of the EP Act. Advice Given (Not Appealable)</b>

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



**Prof. Matthew Tonts**  
**Chair of the Environmental Protection Authority**

15 December 2023

Encl. EPA Determination  
Scheme advice and recommendations





GOVERNMENT OF  
WESTERN AUSTRALIA

## Environmental Protection Authority

s.48A Referrals

**Title:** Metropolitan Region Scheme Amendment 1410

**Location:** Part Lot 96 Starflower Road, Henley Brook

**Description:** The amendment proposes to transfer a 3.77 hectare portion of Lot 96 Starflower Road, Henley Brook from 'Public Purposes – Special Uses' reserve to the 'Urban' zone, to facilitate future residential development and related land uses.

**Ref ID:** APP-0000544

**Date Received:** 20/09/2023      **Date Sufficient Information Received:** 28/11/2023

**Responsible Authority:** Western Australian Planning Commission, 140 William Street PERTH WA 6000

**Contact:** Brett Pye

**Preliminary Environmental Factors:** Flora and Vegetation, Terrestrial Fauna, Inland Waters

**Potential Significant Effects:** Implementation of the scheme amendment may result in the clearing of mature trees and potential habitat for priority and threatened species, and impacts to a priority 2 Public Drinking Water Source Area.

**Protection:** Potential impacts associated with implementation of the scheme amendment are unlikely to be significant and may be mitigated through future planning processes. Future development of the amendment area should retain potential black cockatoo habitat trees as part of open space design. 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 Amendment Not to be Assessed under Part IV of the EP Act. Advice Given. (Not Appealable).**

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

This Determination is not appealable.

Chair's Initials:

Date:

15 December 2023

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

**Metropolitan Region Scheme Amendment 1410**

**Location: Part Lot 96 Starflower Road, Henley Brook**

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

**Determination Published: 18 December 2023**

**Summary**

The amendment proposes to transfer a 3.77 hectare (ha) portion of Lot 96 Starflower Road, Henley Brook from 'Public Purposes – Special Uses' reserve to the 'Urban' zone, to facilitate future residential development and related land uses. The proposed amendment area is located over lands previously reserved to facilitate the development of the Malaga to Ellenbrook rail works proposal.

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) 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**

**Flora and vegetation, Terrestrial fauna**

The amendment area contains some remnant vegetation described as open marri woodland in 'completely degraded' to 'degraded-good' condition but which provides habitat for threatened species of black cockatoo and priority listed quenda. Implementation of the amendment may result in the removal of remnant vegetation and potential fauna habitat to facilitate future residential development and related land uses.

The EPA notes that the land within the proposed amendment area is subject to an existing Ministerial Statement (MS 1156) for the Malaga to Ellenbrook Rail Works proposal, assessed by the EPA in Report 1690. The proposal identified lands within Lot 96 as Native Vegetation Retention Areas (NVRAs). Whilst implementation of Amendment 1410 may result in the disturbance and/or removal of vegetation within a NVRA identified in MS 1156, the EPA notes

- there are 10 separate patches of NVRAs identified in MS 1156, which were provided as part of the proposal mitigation measures, not a recommendation of the EPA

- the NVRA within the amendment area are generally degraded, relatively small and fragmented,

therefore the impacts are unlikely to be significant, and there is the potential for mitigation and retention of some values through future planning processes.

Furthermore, the MS 1156 conditions require that the Public Transport Authority (PTA) (the proponent) retains and manages the NVRAs to ensure that there are no negative impacts to the native vegetation within these areas attributable to the proposal, compared to the pre-construction baseline condition. Clearing of the vegetation for future development may affect the proponent's ability to fulfill the requirements of MS 1156. In view of this, an amendment to MS 1156 may be required to align MS 1156 with future development.

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

The EPA also notes that the MRS amendment includes a proposal for a concurrent amendment to the City of Swan Local Planning Scheme 17 (LPS 17), to transfer the subject portion of Lot 96 to the 'Residential Development' zone. The provisions of LPS 17 require the preparation of a structure plan to guide any future subdivision and/or development, and to address environmental or planning issues within the 'Residential Development' zone. Should a concurrent amendment be pursued, the EPA recommends that the retention of threatened fauna habitat be prioritised as part of future structure planning and subdivision processes.

### **Inland waters**

The amendment area is located within a priority 2 Public Drinking Water Source Area (PDWSA) of the Gnamara Underground Water Pollution Control Area. With reference to the Department of Water and Environmental Regulation's (DWER) [Water Quality Protection Note 25](#) (2021), the EPA notes that higher density urban or residential development is generally considered an incompatible land use within priority 2 PDWSAs.

Accordingly, in consideration of the potential impacts to the PDWSA, the EPA recommends that the implementation of the amendment is subject to appropriate water management planning at the local structure planning stage, in consultation with DWER.

### **Conclusion**

The EPA concludes the scheme amendment can be managed to meet the EPA's environmental objectives for the above factors through existing and proposed planning controls. The EPA notes that further impacts may be mitigated through future planning requirements. The EPA recommends its advice is implemented to further mitigate potential impacts to the above factors.

## **Appendix B**

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

**Metropolitan Region Scheme  
Amendment 1410**

**Pt Lot 96 Starflower Road, Henley Brook**

**as advertised**

**Amending Plan 3.2817**

## **Appendix C**

### **Preparing a submission**

## Preparing a Submission

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

### What is a submission?

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

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

### What should I say?

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

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

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

### Before lodging your submission

The WAPC prefers to receive submissions online at <https://consultation.dplh.wa.gov.au>, however, hardcopy submissions can also be accepted (Submission Form - Appendix D).

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

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

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

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

## **Appendix D**

**Submission form for this amendment**



**Amendment (Standard)**  
Submission Form

**Submission**

**Metropolitan Region Scheme Amendment 1410**

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**Pt Lot 96 Starflower Road, Henley Brook**

Secretary  
Western Australian Planning Commission  
Locked Bag 2506  
PERTH WA 6001

**FILE**  
RLS/1119

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

Surname ..... (PLEASE PRINT CLEARLY)

Address ..... Postcode .....

Contact Number ..... Email Address .....

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*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**

(Please attach additional pages if required)

Dotted lines for attachment or additional text.

You should be aware that:

- The Western Australian Planning Commission (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 5 MARCH 2024. Late submissions will NOT be considered.**