



July 2023

# Metropolitan Region Scheme Amendment **1405/57** (Minor Amendment)



## South Mandogalup Urban Precinct

Amendment Report

City of Kwinana



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**Metropolitan Region Scheme  
Amendment 1405/57  
(minor amendment)**

**South Mandogalup Urban Precinct**

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**Amendment Report**

**City of Kwinana**



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

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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](http://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](http://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*.

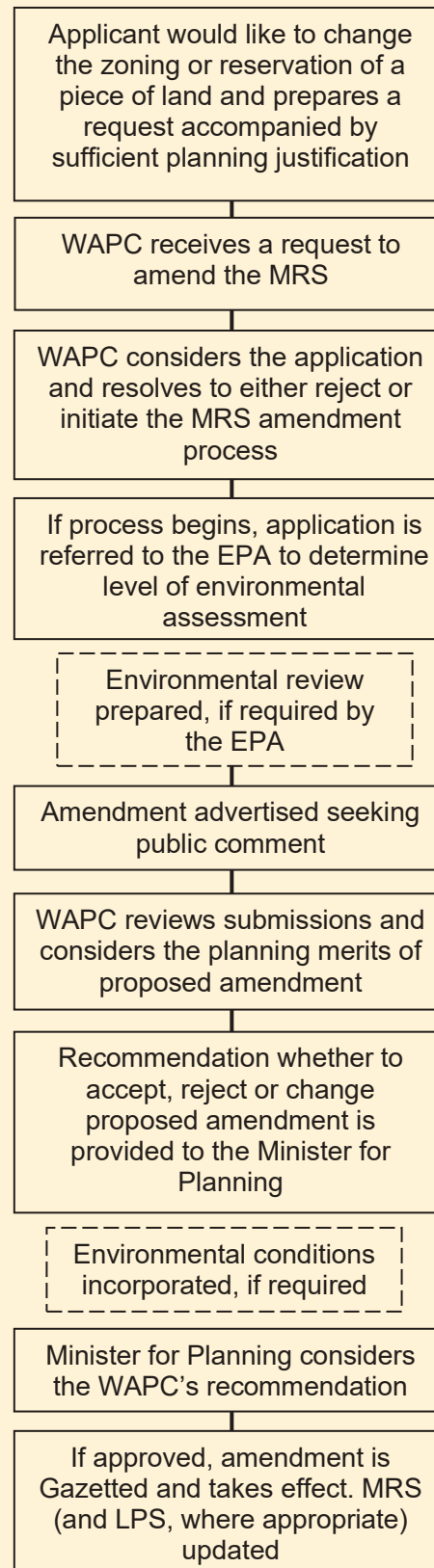
### Report on submissions

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

<b>AHA</b>	Aboriginal Heritage Act
<b>DPLH</b>	Department of Planning, Lands and Heritage
<b>DWER</b>	Department of Water and Environmental Regulation
<b>DWMS</b>	District Water Management Strategy
<b>DAWE</b>	Department of Agriculture, Water and the Environment
<b>EPA</b>	Environmental Protection Authority
<b>IP</b>	Improvement Plan
<b>KAQB</b>	Kwinana Air Quality Buffer
<b>LPP</b>	Local Planning Policy
<b>LPS</b>	Local Planning Scheme
<b>MRS</b>	Metropolitan Region Scheme
<b>PCA</b>	Planning Control Area
<b>RDA</b>	Residue Disposal Area
<b>SPP</b>	State Planning Policy
<b>SWALSC</b>	South West Aboriginal Land and Sea Council
<b>TEC</b>	Threatened Ecological Community
<b>WAPC</b>	Western Australian Planning Commission



**Amendment Report**



# Metropolitan Region Scheme Amendment 1405/57

## South Mandogalup Urban Precinct

### Amendment Report

#### 1 Planning objective

The purpose of the amendment is to rezone approximately 27.8 ha of land in the Mandogalup locality from the Rural zone to the Urban zone under the Metropolitan Region Scheme (MRS), as shown on the Amendment Figure - Proposal 1.

The amendment will allow for the residential development of the subject land, following a local scheme amendment, structure planning and subdivision approval.

#### 2 Background

The subject land is located in south-east Mandogalup, west of the Kwinana Freeway and north of Anketell Road, approximately 8 km south of Cockburn City Centre and 7 km north of Kwinana Town Centre. The land is traversed by portion of the Peel Main Drain and 330 kv powerlines to the south and north of the site. The Western Australian Planning Commission (WAPC) owns land to the south-east of the site.

The subject land has been largely cleared of vegetation given previous agricultural and horticultural uses. A 'degraded' area of Tuart Woodland Threatened Ecological Community (TEC) is located within the southern portion of the site. There is also the potential for limited foraging habitat for Black Cockatoo's. The northern portion of the site contains portion of a Multiple-Use wetland.

The land is primarily zoned "Rural A" and partially located within a "Development Contribution Area" under the City of Kwinana Local Planning Scheme 2 (LPS 2).

#### **MRS Amendment 1114/33 - Jandakot Structure Plan, Cell 1 Mandogalup**

In 2009, MRS Amendment 1114/33 rezoned land in Mandogalup to the Urban Deferred zone, the then Minister for Planning provided the following direction to the WAPC under Section 17 of the *Planning and Development Act 2005*:

*"No decision to transfer land in the Mandogalup locality from the Rural or Urban Deferred zone to the Urban zone is to be made without the approval of Cabinet and the Minister responsible at the time for the Metropolitan Region Scheme and amendments or changes proposed to be made to it. No decision will be made until the Kwinana Air Quality Buffer (KAQB) has been finalised, clearly indicating what land is within a buffer and should remain in the Rural and Urban Deferred zone and what land is outside a buffer area and therefore could be transferred to the Urban zone, subject to whatever other planning circumstances may apply to the site at the time."*

The Minister for Planning and State Cabinet will be required to make a final determination on the amendment.

## **Environmental Protection Authority - Section 16(e) Advice**

In June 2017, the Environmental Protection Authority (EPA) provided the Minister for Environment with section 16(e) advice titled "*Consideration of potential health and amenity impacts of dust in determining the size of a buffer for urban development in the Mandogalup area*".

The subject area consists of four sub-areas (A-D) that have been defined on the basis of air quality and amenity impacts as outlined in the EPA's advice, as follows:

- Area A: located in the eastern area of Mandogalup (abutting the Kwinana Freeway) there are negligible health risks or likelihood of unreasonable amenity impacts from dust produced by the Residue Disposal Area (RDA).
- Area B: health and amenity impacts appear unlikely but further investigations are required.
- Areas C & D: air quality in areas to the north and north-east of the RDA does not appear to currently meet the revised National Environment Protection (Ambient Air Quality) Measure goal for air quality, under both current and planned (reduced) future RDA operation. There is also a potential for amenity impacts.

The subject land is located within "Area A" which is recognised as having negligible health risks or likelihood of unreasonable amenity impacts from dust produced from Alcoa's RDA.

## **Ministerial Statement - Section 16(E) Land Use Planning Response at Mandogalup**

In February 2018, the Minister for Planning released a Statement advising that the State Government had considered the EPA section 16(e) advice on Mandogalup and a land use response to implement the findings and recommendations of the section 16(e) advice. This advice provides greater certainty for Mandogalup landowners with properties affected by a 1.5 km buffer next to Alcoa's RDA.

State Cabinet endorsed the EPA's findings that allow urban development on land to the north-east of the RDA (includes the subject land), as it found negligible health and amenity impact from dust in this area. Urban zoned land can accommodate residential, and other land uses such as commercial, light industrial or other employment activities.

## **Local Planning Policy 12 - Mandogalup Future Development**

In June 2018, the City of Kwinana adopted *Local Planning Policy 12 - Mandogalup Future Development* (LPP 12), which provides guidance to landowners, developers, and Council to ensure that future development, zoning, and structure planning in the area occurs in a manner consistent with Council's vision for the area. LPP 12 identifies the subject land as partly "*Residential Area*", "*Station Precinct Area*" and "*Transition Area*".

### **3 Scope and content of the amendment**

The amendment proposes to rezone approximately 27.8 ha of land in the Mandogalup locality from the Rural zone to the Urban zone under the MRS.



## 4 Discussion

### Strategic Planning Context

#### **Perth and Peel @ 3.5 Million / South Metropolitan Peel Sub-regional Planning Framework**

The *South Metropolitan Peel Sub-regional Planning Framework* forms part of the *Perth and Peel @ 3.5 Million* strategic suite of planning documents. Future areas for urban development have been determined in order to avoid and protect areas that have significant regional environmental value. The subject land is identified as “*Urban Expansion*” with a “*Short-Term (2015-2021)*” staging timeframe in the *South Metropolitan Peel Sub-regional Planning Framework*.

#### **State Planning Policy 2.8 - Bushland Policy for the Perth Metropolitan Region**

*State Planning Policy 2.8 - Bushland Policy for the Perth Metropolitan Region* 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 consistent with policy measures and other planning and environmental considerations.

The subject land is largely cleared of vegetation apart from a patch of Tuart Woodland TEC assessed to be in a “Degraded” condition. The proponent confirms that the proposal will be referred to the Department of Agriculture, Water and the Environment (DAWE) under the Environment Protection and Biodiversity Conservation Act. Appropriate protection and design responses will be confirmed through the detailed design and structure planning process having regard to all environmental requirements. The proposed amendment is considered to be consistent with State Planning Policy 2.8 (SPP).

#### **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 subject site. The proposed amendment is considered to be consistent with draft SPP 2.9.

#### **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 has been approved by the Department of Fire and Emergency Services. The proposed amendment is considered to be consistent with SPP 3.7.

#### **State Planning Policy 4.1 - Industrial Interface**

*State Planning Policy 4.1 - Industrial Interface* (SPP 4.1) seeks to ensure planning decisions consider the locational constraints of land uses, the significant investments represented, and the current and future benefits and costs to communities when assessing proposals where land use conflict may exist or result.

The amendment is consistent with the position of State Cabinet and the Minister for Planning for development within the Mandogalup 'Area A' precinct based on EPA findings. On this basis, any amenity impacts arising from industrial activity within the Improvement Plan 47 (IP 47) area is to be addressed through transitional land use arrangements within the IP 47 area. The proposed amendment is considered to be consistent with SPP 4.1.

#### **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.

Given the proximity of the subject land to the Kwinana Freeway and Anketell and Mandogalup Roads, the proponent undertook a Transport Noise Assessment to determine the impact of transport noise and any potential management measures. The noise assessment concluded that compliance with SPP 5.4 can be achieved through the

implementation of mitigation measures, such as separation distances, sound wall construction and housing packages.

Such measures will be given further detailed consideration in the subsequent local structure planning stage in consultation with the City of Kwinana and relevant State Government agencies. The proposed amendment is considered to be consistent with SPP 5.4.

#### **Improvement Plan 47 - Mandogalup**

In April 2019, *Improvement Plan 47 - Mandogalup* came into effect and provides for an Improvement Scheme to be prepared for the Mandogalup area to the west of the subject land. The WAPC considered a suite of draft land use scenarios in November 2022 and selected a preferred scenario that will inform the draft Improvement Scheme.

The scenario being progressed is predominately industrial, providing for light industrial land uses in the core of the improvement plan area and with some residential land uses planned at the eastern periphery of the IP 47 boundary to coordinate with adjacent urban/residential cells including South Mandogalup.

The interface of the IP 47 boundary with the Urban zoned land (existing and proposed) to the east is an important consideration for both the DPLH and the proponents and will be given consideration through the drafting and structure planning processes respectively.

#### **Planning Control Area 168 - Anketell Road – Mandogalup**

*Planning Control Area 168 - Anketell Road – Mandogalup* (PCA 168) seeks to ensure the protection of the proposed road freight transport access corridor along Anketell Road, between the Kwinana Freeway and Rockingham Road. This corridor is related to the future regional freight planning and the establishment of a land backed port at Kwinana and is being guided by the Westport Taskforce. The proposed amendment is located outside PCA 168.

## **Statutory Planning Context**

### **Environment**

The DWER verbally advised that the proposed amendment contains remnant vegetation which may potentially be part of the Tuart Woodland TEC and associated Black Cockatoo habitat and additional environmental information may be required.

### **Urban Water Management**

The DWER reviewed the Mandogalup DWMS which is suitable for this site. A Local Water Management Strategy will be required in the subsequent local structure plan stage. The DWER advises there is a groundwater licence held by QUBE Mandogalup Development Pty Ltd for 724,935 kL for multiple properties in the vicinity, which is sufficient for the proposed change in land use to Urban. The licence includes an allocation for irrigating public open space and dust suppression for earthworks and construction purposes.

### **Infrastructure**

#### **Regional Roads**

Main Roads WA raises no objections to the proposed amendment. Noting the ongoing Westport investigations for the Anketell Road corridor.

#### **Water and Wastewater**

The Water Corporation advises the developers of this land will need to extend water and sewerage from the north. The Corporation has previously prepared conceptual water and wastewater planning based on land use and dwelling yield from the district structure plan for this area. This infrastructure planning can be adapted, revised, and staged by the proponents in consultation with the Corporation at the subdivision stage.

Integration of ground levels, water, sewerage and drainage infrastructure and development timing with adjoining subdivisions to the north will need to be addressed as part of the local structure plan and in subsequent subdivision works.

The proponents draft wastewater catchment plan includes proposed wastewater pump station 'J' which is not funded on the Corporation's capital investment program. The subject land is distant from the development front and there are large areas of land to the north to be developed to extent water and sewerage services.

## **5 Aboriginal heritage**

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

The process of rezoning or reservation of land in a region scheme is not in itself directly affected by the AHA. Proposed changes to land-use at MRS amendment stage are broad by nature and do not physically interfere with the land.

Consideration of any protection that may be required is addressed more specifically at later stages of the planning process, typically being a local planning scheme amendment and when preparing a local structure plan.

Proponents of proposals are advised to familiarise themselves with the *Aboriginal Heritage Due Diligence Guidelines* (the Guidelines). These have been developed to assist proponents to identify any risks to Aboriginal heritage and to mitigate risk where heritage sites may be present. The Guidelines are available electronically at: [https://www.wa.gov.au/system/files/2021-05/AH-Due-diligence-guidelines\\_0.pdf](https://www.wa.gov.au/system/files/2021-05/AH-Due-diligence-guidelines_0.pdf).

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

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

## **6 Coordination of region and local planning scheme amendments**

Under Section 126(3) of the *Planning and Development Act 2005* the WAPC has the option of concurrently rezoning land being zoned Urban under the MRS to a 'Development' zone (or equivalent) in a LPS. In accordance with standard practice the WAPC will make a decision on the concurrent LPS amendment of the site at the final determination stage.

## **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. *Development Control Policy 1.9 – Amendment to Region Schemes* sets out the criteria for deciding whether the major or minor process should be followed. The amendment is proposed to be processed as a "minor" amendment as follows:

- The size and scale of the proposed amendment is not considered regionally significant. It does not reflect a regional change to the planning strategy or philosophy for the Metropolitan region.
- The subject land has been identified in the *Perth and Peel @ 3.5 Million / South Metropolitan Peel Sub-Regional Planning Framework as Urban Expansion* with a *Short-Term (2015-2021)* staging timeframe.
- The proposed amendment is a continuation of the recent urbanisation of the Mandogalup locality to the north where detailed local structure planning is progressing.
- The amendment is consistent with the position of State Cabinet and the Minister for Planning for development within the Mandogalup 'Area A' precinct based on EPA findings.

## 8 Sustainability appraisal

The proposed amendment will allow further planning and development to occur to facilitate residential development in close proximity to existing road and urban infrastructure in accordance with the general intent of *Perth and Peel @ 3.5 Million / South Metropolitan Peel Sub-regional Planning Framework*.

## 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 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) to EPA instructions
- public submissions sought on the proposed amendment (including environmental review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or decline 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 is being advertised for public submissions for a period of 60 days from **Friday 7 July 2023 to Friday 8 September 2023**.

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

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

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

Written submissions commenting on the amendment should be sent to:

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

or by email to:-

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

**and must be received by 5 pm Friday 8 September 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 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 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.

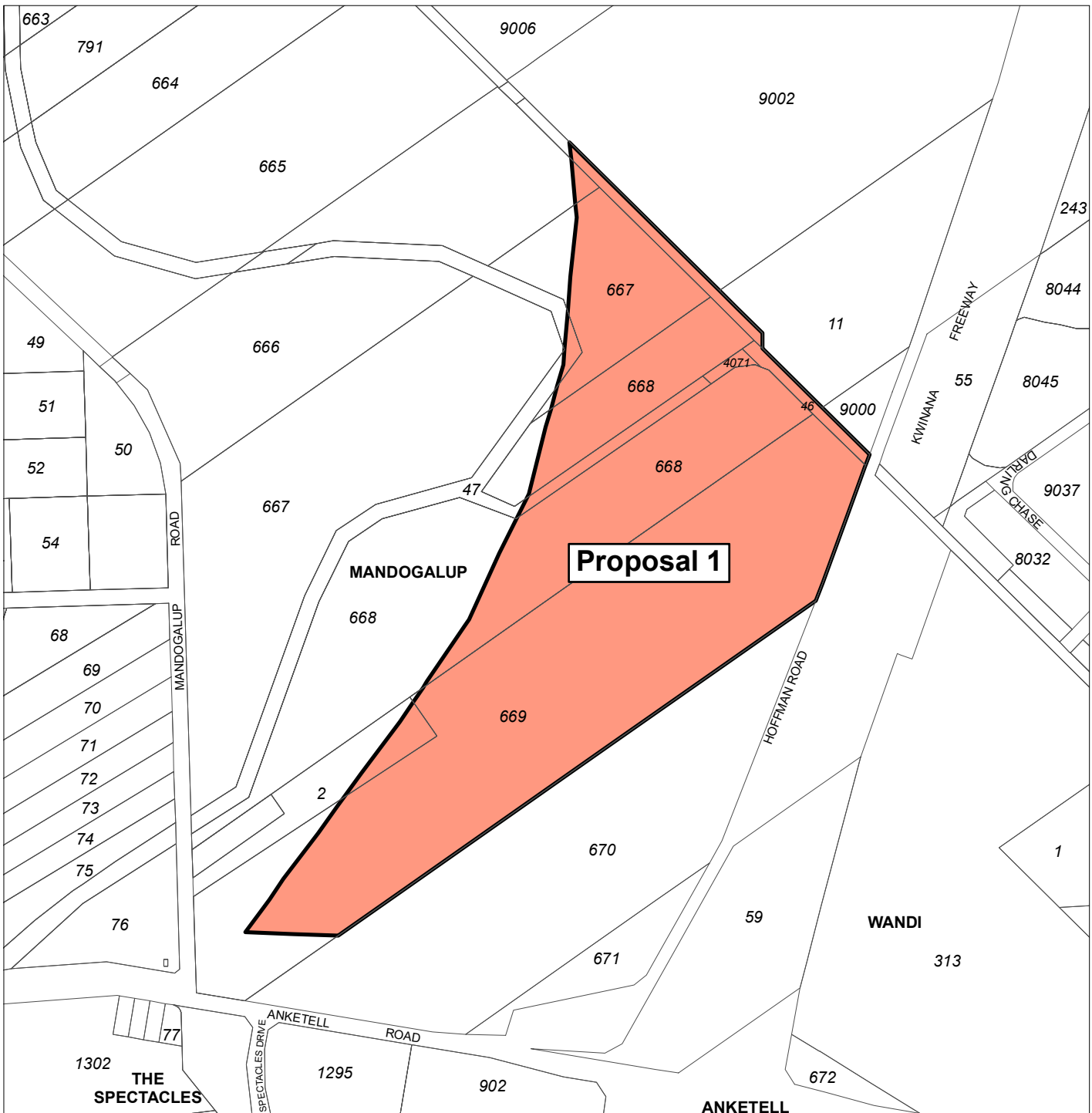
## **13 Final outcome**

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 1405/57**  
**South Mandogalup Urban Precinct**  
**Amending Figure**  
**Proposal 1**







**South Mandogalup Urban Precinct  
Proposed minor amendment  
as advertised**

29 March 2023

Proposal 1

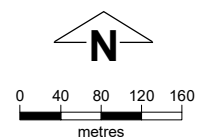
Proposed Amendment:

 Urban zone

Oracle reference no: 3059  
File number: 833/02/26/0025  
Version number: 3



Date: 7/02/2023  
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## **Appendix A**

### **Notice of environmental assessment**



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

Our Ref: APP-0000335  
Enquiries: Liz Stewart  
Email: [liz.stewart@dwer.wa.gov.au](mailto:liz.stewart@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 1405/57</b>
<b>LOCATION</b>	<b>South Mandogalup Urban Precinct</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**

10 May 2023

Encl. EPA Determination  
Scheme advice and recommendations

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

**Metropolitan Region Scheme Amendment 1405/57**

**Location: South Mandogalup Urban Precinct**

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

**Determination Published: 15 May 2023**

**Summary**

Metropolitan Region Scheme (MRS) Amendment 1405/57 proposes to rezone land in the Mandogalup locality from the Rural zone to the Urban zone. The amendment will allow for future residential development.

In 2017, the Environmental Protection Authority (EPA) published advice to the Minister for Environment under s16(e) of the *Environmental Protection Act 1986* (EP Act) titled *Consideration of potential health and amenity impacts of dust in determining the size of a buffer for urban development in the Mandogalup area*. The EPA concluded that the investigation area consists of four sub areas, areas A-D. The proposed amendment area is located within Area A, where it is located sufficiently far away from Alcoa's Residue Disposal Area (RDA) to have negligible health risk and a low likelihood of unreasonable amenity impacts for urban development.

The EPA has considered the scheme amendment in accordance with the requirements of the 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, s16(e) advice and additional information provided by the Western Australian Planning Commission 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:

- Inland waters
- Flora and vegetation
- Terrestrial fauna.

**Advice and Recommendations regarding the Environmental Factors**

**Inland waters**

The amendment area is situated within the northwest corner of the Peel-Harvey Catchment and is in the *Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1992* area. The upper half of the site has been mapped as Multiple Use Wetland and the area is traversed by a section of the Peel Main Drain, which flows eventually to Peel Inlet-Harvey Estuary. The EPA expects that the drainage systems are retained, ecosystem health is protected, and environmental value(s) are improved by creating living streams and ephemeral storage areas, consistent with the approved District Water Management Strategy and other guiding

documents, including the *Jandakot drainage and water management plan - Peel main drain catchment*.

Water management should maintain or improve groundwater and surface water quality and maintain pre-development hydrology. The Department of Water and Environmental Regulation should be consulted regarding any water management planning documents.

### **Flora and vegetation; Terrestrial fauna**

The amendment area contains a small patch of vegetation in the north-western corner and scattered vegetation in the southern part of the amendment area. The vegetation could be potential habitat for threatened and conservation significant black cockatoo species. The EPA expects that remnant vegetation is retained (where possible) and the environmental function and linkages to surrounding areas are enhanced during later stages of planning and development.

### **Conclusion**

The EPA concludes the scheme amendment can be managed to meet the EPA's environmental objectives for the above factors. In addition, future planning processes and management measures can manage potential impacts. The EPA recommends its advice and recommendations are implemented to mitigate potential impacts to the above environmental factors.



# Environmental Protection Authority

s.48A Referrals

**Title:** Metropolitan Region Scheme Amendment 1405/57

**Location:** South Mandogalup Urban Precinct

**Description:** Amendment 1405/57 proposes to rezone approximately 27.8 ha of land in the Mandogalup locality from the 'Rural' zone to the 'Urban' zone under the Metropolitan Region Scheme.

**Ref ID:** APP-0000335

**Date Received:** 18/04/2023      **Date Sufficient Information Received:** 18/04/2023

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

**Contact:** Anthony Muscara

**Preliminary Environmental Factors:** Inland waters, Flora and vegetation, Terrestrial fauna, Social surroundings

**Potential Significant Effects:** Impacts to water quality and quantity from development in the Peel-Harvey Catchment. Clearing of native vegetation that may support black cockatoo habitat. Noise impacts from surrounding strategic freight and major traffic roads.

**Protection:** Potential impacts to the preliminary environmental factors can be managed through the proposed amendment and future planning controls. EPA advice has been provided recommending additional consultation with relevant responsible authorities for the inland water environmental factor, and the expectation for the retention and enhancement of potential fauna habitat during future development.

**Determination:** **Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme/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:

10 May 2023



## **Appendix B**

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



**Metropolitan Region Scheme  
Amendment 1405/57**

**South Mandogalup Urban Precinct**

**as advertised**

**Amending Plan 3.2806**



## **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](http://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](http://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, 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 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)**





