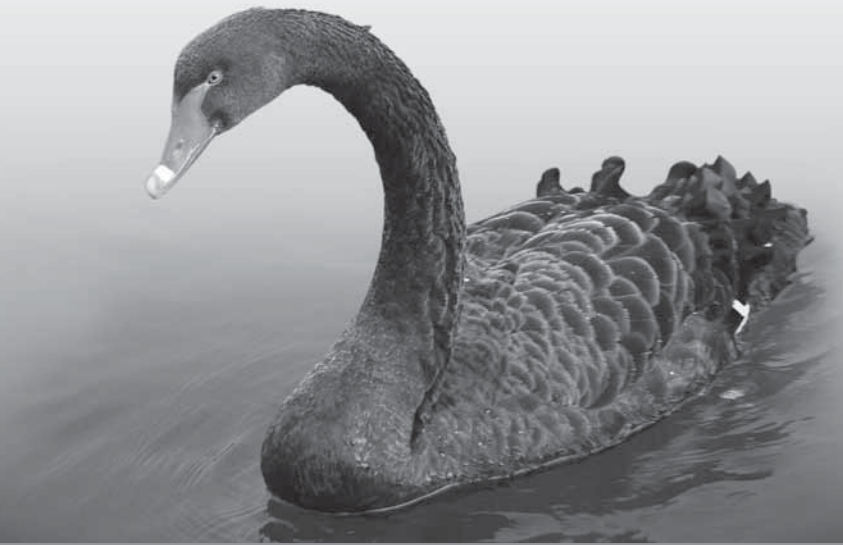


January 2012

**Metropolitan Region
Scheme Amendment
1226/57 (Minor Amendment)**



Freshwater Bay Parks and
Recreation Reservation
Boundary Rationalisation

Amendment Report

City of Nedlands
and Town of Claremont



GOVERNMENT OF
WESTERN AUSTRALIA

**Metropolitan Region Scheme
Amendment 1226/57
(minor amendment)**

**Freshwater Bay Parks and Recreation Reservation
Boundary Rationalisation**

Amendment Report

City of Nedlands and Town of Claremont



January 2012

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MRS Amendment 1226/57 Amendment Report
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The Metropolitan Region Scheme

What it is and how it is amended

Planning Perth's future

Perth has a reputation as one of the world's cleanest and greenest cities. This is largely due to good planning. It is a city anticipated to grow. As it grows, change must be well planned and well managed.

In 2001 Perth was home to nearly 1.4 million people. Each year its population is growing by about 20 000 people. By 2031, Perth's population is projected to reach 2.2 million, making up 73 per cent of the population of Western Australia.

Provision must be made for future housing, employment opportunities and transport needs to meet this growth. It is also necessary to set aside land for conservation and recreation.

The Metropolitan Region Scheme (MRS) provides for this change, and the means by which affected landowners can be compensated for land acquired for regional public purposes.

What is the Metropolitan Region Scheme?

The MRS is a large town planning scheme for land use in the Perth metropolitan area. This area stretches from south of Rockingham to north of Yanchep and east of Mundaring.

The MRS defines the future use of land, dividing it into broad zones and reservations. It requires local government local planning schemes to provide detailed plans for their part of the region. These schemes must be consistent with the MRS.

The MRS uses a set of maps and a scheme text. The scheme text provides planning rules for zones and reservations, which are shown on the maps in different colours and patterns.

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

To plan for changing needs, the MRS is amended frequently.

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, an amendment to the MRS is advertised to seek comment from the wider community and all levels of government.

The process allows for extensive community consultation to review the proposal before a final decision is made.

How is the Metropolitan Region Scheme amended?

The Western Australian Planning Commission (WAPC) is responsible for keeping the MRS under review and initiating changes where they are seen to be 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 a redevelopment authority.

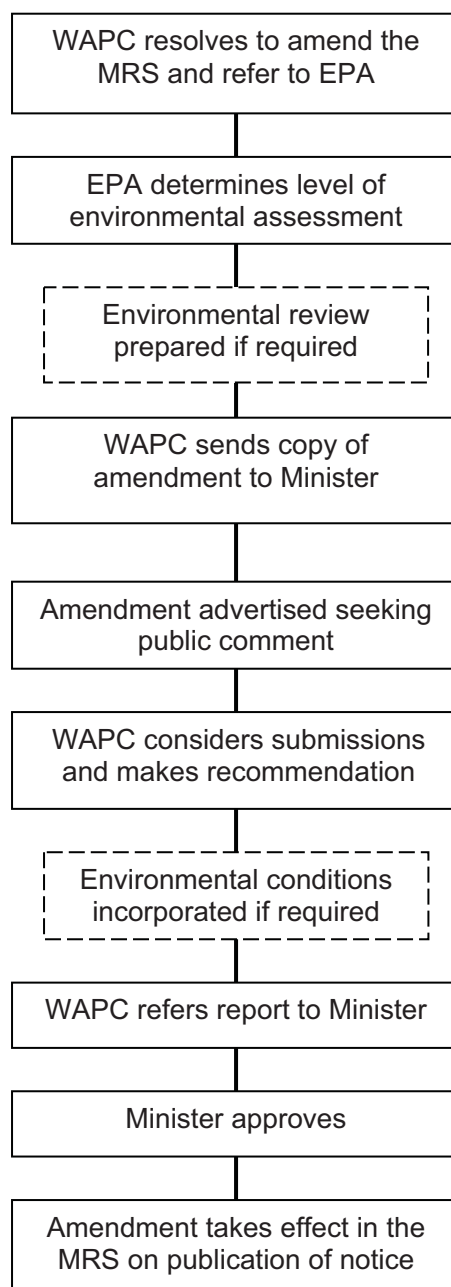
The amendment proposed in this report is being made under the provisions of section 57 (often referred to as a minor amendment).

The process of a minor amendment to the MRS includes the following steps:

- Formulation of the amendment by the WAPC.
- Referral of the proposed amendment to the Environmental Protection Authority (EPA) to set the level of environmental assessment. Where the EPA requires an environmental review, this is carried out before the amendment is advertised.

- Advertising the amendment for public inspection and inviting submissions. Advertisements are placed in local and statewide newspapers, and information is made available on the PlanningWA website. Landowners whose property is directly affected by a proposed change are contacted in writing. Where there is an environmental review, this is also made available for comment.
- WAPC receiving public submissions over a period of 60 days.
- WAPC considering written submissions. People who have made submissions may, if they wish, also make an oral presentation to a special committee appointed to consider and report on these submissions. WAPC recommends whether to modify the amendment or proceed with the original proposal.
- WAPC presenting a report and recommendation to the Minister for Planning.
- Minister approving amendment, with or without modification, which becomes legally effective in the MRS with the publishing of a notice advising of the Minister's approval. Minister may also decline to approve. The approved amendment is placed on public display.

The following diagram shows the main steps.



When the MRS is amended, local planning schemes must also be amended to match the broad zonings and reservations of the MRS. Affected local governments provide more detailed planning for each area.

Within three months of a MRS amendment being finalised, an affected local government must initiate an amendment to its local planning scheme.

Zones and reservations

Zones and reservations in the MRS are broad categories. They are not precisely defined or limited, but the following descriptions are a guide.

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 are 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 is 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 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: these are the most important of the roads of regional significance in the planned road network, and are currently, or proposed to be declared under the *Main Roads Act 1930*.

Other regional roads: these are 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 use of the land or lifestyle. They can stay as they are or they may set about changing their land use. For instance, some may seek approval to subdivide their land 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 anyone else have time to examine the proposals and lodge a submission.

What if my land is reserved?

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

If your land is marked for a reservation 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. The WAPC has reservations over many areas of land, which are privately owned.

To protect landowners, there are procedures for acquisition or compensation by the WAPC. These are outlined in *Your Property and the Metropolitan Region Scheme*, a leaflet reproduced at the back of this report and available separately from the Department of Planning.

How can my views be heard?

You can lodge a written submission on the proposed amendment during the advertised period. A submission form is available at the back of this report, from the display locations for this amendment and from the PlanningWA website.

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

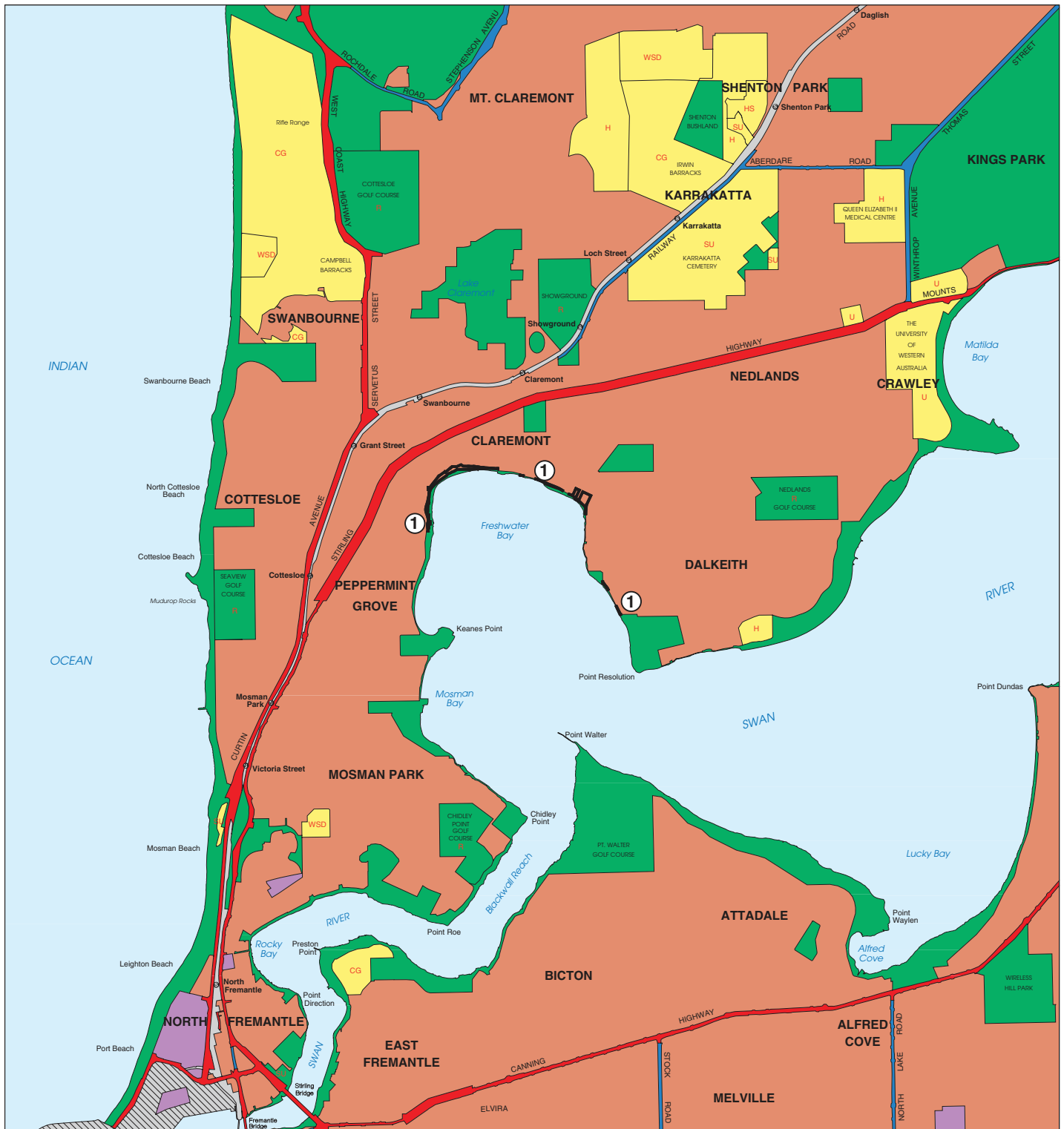
This publication documents the planning rationale, determination of submissions received, and the recommendations for final approval of the amendment made by the WAPC.

Submissions

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

Abbreviations

AHA	Aboriginal Heritage Act
EPA	Environmental Protection Authority
MRS	Metropolitan Region Scheme
SWALSC	South West Aboriginal Land and Sea Council
WAPC	Western Australian Planning Commission



Location of the proposed amendment to the MRS for 1226/57 - Freshwater Bay Parks and Recreation Reservation Boundary Rationalisation

① amendment 1226/57

Metropolitan Region Scheme Legend

<p>Reserved Lands</p> <ul style="list-style-type: none"> parks and recreation restricted public access railways port installations state forests water catchments civic and cultural waterways <p>Roads :</p> <ul style="list-style-type: none"> primary regional roads other regional roads 	<ul style="list-style-type: none"> public purposes - denoted as follows : <ul style="list-style-type: none"> H hospital HS high school TS technical school CP car park U university CG commonwealth government SEC State Energy Commission SU special uses WSD Water Authority of WA P prison 	<p>Zones</p> <ul style="list-style-type: none"> urban urban deferred central city area industrial special industrial rural private recreation rural - water protection
---	---	---

Metropolitan Region Scheme Amendment 1226/57

FRESHWATER BAY PARKS AND RECREATION RESERVATION BOUNDARY RATIONALISATION

City of Nedlands and Town of Claremont

1 Purpose

This proposal seeks to adjust the alignment of the parks and recreation reservation boundary along part of the foreshore of Freshwater Bay, acknowledging long standing urban development at some locations, extending protection of the escarpment in the Claremont area and providing for better foreshore access and protection at other locations.

2 Background

The establishment of foreshore reservations along the banks of the Swan-Canning river system has long been a public policy objective of state and local governments for landscape and river bank protection and to facilitate community access. In particular, public access for recreational activities such as picnicking, swimming, boating and fishing has been a key consideration in the creation of such reserves.

In 1912 the Melville Water and Freshwater Bay Road Act provided for a public foreshore and esplanade reserve in the subject area of the Swan River (Reserve 24523), essentially for the purpose of a road but also to ensure community access. In 1928 the Town Planning and Development Act regulations provided for the setting aside of 30 metre foreshore reserves in the subdivision and development of land adjoining the rivers, although this was not universally applied, such as, for example, at Freshwater Bay.

The Stephenson-Hepburn Report of 1955, which proposed the introduction of the Metropolitan Region Scheme (MRS), espoused the landscape value and recreational amenity of the river system, describing it as "... a vast and magnificent wedge of open space driving right into the heart of the metropolis and... it provides the framework upon which the regional open space system is based." It also acknowledged the long standing planning objective of providing river foreshore community access, a policy which has been continued under the MRS by the acquisition and reservation of significant areas of riverfront land from Fremantle to Guildford along the Swan River and down to Southern River and Gosnells along the Canning River.

At some locations, absolute foreshore access has been neither practicable nor desirable, either at the waterline or the top of the bank, such as where there are particular environmental or cultural sensitivities, and/or where very steep embankments are combined with long standing private development.

In 1999 the former Ministry of Planning commissioned a comprehensive study into the parks and recreation reservation along the foreshore of Freshwater Bay, from Keane's Point to Sunset Hospital ('the Everall Report'). The study considered a range of matters relevant to the purpose and function of the reservation, including foreshore protection, landscape and conservation values, and community access.

A key recommendation of the study proposed adjustment of the reservation boundary at certain locations that took account of existing long-standing urban development, particularly in the Bindaring Parade precinct of the study area, and the need at other locations to add to the reservation to facilitate public access along the foreshore and to provide better protection from wind and wave erosion.

3 Scope and content

This amendment proposes the following adjustments to the parks and recreation reservation boundary:

Proposal 1 (figure 1)

For transfer to the parks and recreation reservation

- Portion of the cul-de-sac end of Osborne Parade and portions of 20 consecutive lots from lot 7 Bindaring Parade (house number 2) eastwards to lot 13 Queenslea Drive (House no 25) Claremont as shown in figure 1.

This adjustment will extend the reservation as close as possible to the top of the escarpment without impinging on any structures on the subject properties.

For transfer to the urban zone

- Portions of 16 consecutive lots northwards along Bindaring Parade, Claremont from house number 22 to house number 104 as follows - lots 56, 3, 2, 86, 4, 3, 842, 3, 6, 5, 200, 78, 51, 5, 4 and 3 as shown in figure 1.

This adjustment acknowledges the extent of existing residential development and realigns the reservation as close as possible to the top of the bank without impinging on private infrastructure.

Proposal 2 (figure 2)

For transfer to the parks and recreation reservation

- Portions of lot 1 and Crown Reserve 10716 Jetty Road, and portions of Crown Reserves 2026 (Alex Prior Park), 885 (Mrs Herbert's Park) and 23209 Victoria Avenue, Claremont, as shown in figure 2.

This proposal essentially brings the boundary of the reservation into alignment with the cadastral boundaries of the subject lots.

For transfer to the urban zone

- Portions of lots 10, 13 and 8 Victoria Avenue, portions of lots 10 and 54 Chester Road, portions of lots 1 (house number 42), 5, 3, 72, 21 and 2 (house number 60) and portions of lots 1 and 2 (house numbers 64 and 62 respectively) eastwards along Victoria Avenue, Claremont as shown in figure 2.

This adjustment primarily removes or reduces the reservation from certain lots east of Chester Road where the existing boundary intersects residential buildings and where the foreshore reservation is considered to be of adequate width to accommodate the adjustment.

Proposal 3 (figure 3)

For transfer to the parks and recreation reservation

- Portions of Lots 1, 2, 3 and 100 Victoria Avenue adjacent to Bishop Road Reserve and portions of lots 27, 109, 107 and 105 Victoria Avenue adjacent to Point Resolution Reserve, Dalkeith as shown in figure 3.

This proposal makes a minor adjustment to provide a straighter reservation boundary immediately south of Bishop Road Park and widens the reservation adjacent to Point Resolution Reserve.

For transfer to the urban zone

- Portion of Lot 100 Victoria Avenue, Dalkeith

This proposal maintains a straight line for the reservation boundary at lot 100 and marginally reduces the reservation on this property.

The list of detail plans supporting the amendment are included at appendix B.

4 Discussion

When the MRS was introduced in 1963, the boundaries of the parks and recreation reservation at some locations were apparently established through a 'broad brush' approach, and in the case of some subsequent amendments, adopted the boundary of adjoining zones or reservations, rather than any reference to geophysical features (e.g. top of the river bank). In Freshwater Bay, along the Esplanade the boundary is closely aligned with the top of the bank but this is not the case along Bindaring Parade, where the boundary in the vicinity of Anstey Street inexplicably juts inland, and east of Osborne Parade to the Claremont Yacht Club, the boundary drops half way down the escarpment.

The escarpment is well vegetated and offers an outstanding landscape amenity and backdrop to the river at this location. This amendment proposes aligning the reservation more closely with the top of the escarpment thereby providing a more clearly defined boundary, and for better protection of the landscape values of the escarpment without constraining the developable area of private property nor impeding landowner access to the river.

Below Victoria Avenue, Claremont, from Chester Road to Mrs Herbert's Park, development has been allowed to encroach into the reservation, albeit marginally, and this amendment proposes adjusting the boundary accordingly at this location.

Conversely, in the vicinity of Jetty Road, Claremont and below Victoria Avenue adjacent to Point Resolution Reserve, the reservation is quite narrow and the amendment proposes widening it slightly with minimal adverse impact on property owners. It is also proposed to include Alex Prior and Mrs Herbert's Parks in the parks and recreation reservation.

5 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.

6 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. It is administered by the Department of Indigenous Affairs. 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 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.

Nevertheless, in recognising the importance of having reliable Aboriginal information on land and the values attached to it, the WAPC/Department of Planning has 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 have Aboriginal interest are now referred to SWALSC for comment before being released for public submission. SWALSC is the recognised native title representative body for Western Australia's south west region, and as such is also well placed to provide advice on Aboriginal heritage.

In this regard, this amendment has not been referred to SWALSC as it was not considered to impact on Aboriginal heritage values. However, the amendment will be referred to SWALSC during the advertising period.

7 Coordination of local and region scheme amendments

Under section 126(3) of the *Planning and Development Act 2005* the WAPC has the option to concurrently rezone land being zoned urban under the MRS to a 'development' zone (or similar) in the local planning scheme. In this regard, given the size and scale of the proposed urban areas, it would not be appropriate to concurrently amend these areas to a 'development' zone as an approved structure plan would be required. It is therefore proposed that the affected local governments zone these areas appropriately under their local planning schemes.

8 Substantiality

The *Planning and Development Act 2005* allows for amendments to the MRS to be processed as either 'major' or 'minor' amendments, depending on whether they are considered to constitute a substantial alteration to the MRS or not. WAPC Policy 1.9 - Amendment to region schemes, sets out the criteria for deciding whether the major or minor process should be followed.

This amendment is proposed as a 'minor' amendment because *inter alia*:

- it does not involve extensive parcels of land;
- it does not impact adversely on the environment or on the MRS;
- it does not reflect any significant change to the planning strategy for the region.

9 Sustainability statement

By regularising the parks and recreation boundary at this part of the Swan River, an additional area of the escarpment will be included within the reservation, further protecting its landscape amenity. Minor extensions of the urban zone acknowledge existing development and remove impediments from privately owned land. Including two existing Crown Reserves in the parks and recreation reservation recognises their local heritage significance and their value as part of the regional open space of the river foreshore.

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; and
- 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 Tuesday 31 January 2012 to Friday 13 April 2012.

Copies of the amendment are available for public inspection at:

- i) Western Australian Planning Commission, 140 William Street, Perth;
- ii) City of Nedlands and the Town of Claremont; and
- iii) the State Reference Library, Northbridge.

Written submissions commenting on the amendment should be sent to:

The Secretary
Western Australian Planning Commission
Locked bag 2506
Perth WA 6001

and must be received by 5 pm Friday 13 April 2012.

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 PlanningWA website www.planning.wa.gov.au.

You should be aware that calling for submissions is a public process and all submissions lodged will become a public document. 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

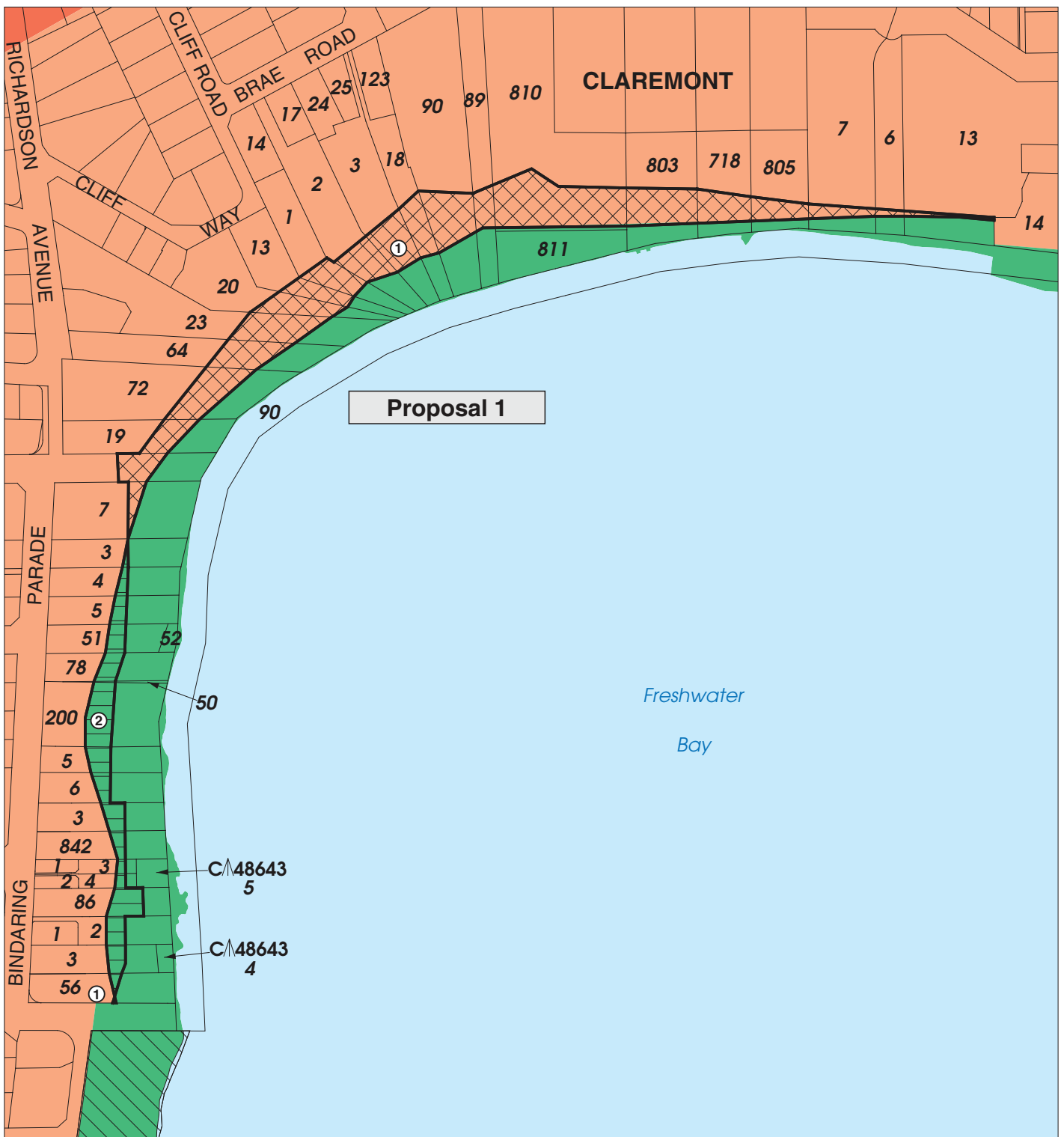
After considering any comments received from the public and government agencies, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve it.

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 receive a copy of this document when the amendment is gazetted to give it legal effect.

MRS Amendment 1226/57
Freshwater Bay Parks and Recreation Reservation
Boundary Rationalisation

Figures 1 - 3





Freshwater Bay parks and recreation reservation boundary rationalisation proposed minor amendment - as advertised

18 October 2011






Figure 1

Proposed:

-  parks and recreation reservation
-  urban zone

Legend

Existing:

-  urban zone
-  parks and recreation reservation
-  waterways reservation
-  primary regional roads reservation
-  Bush Forever area



Freshwater Bay parks and recreation reservation boundary rationalisation

18 October 2011

proposed minor amendment - as advertised

Figure 3

Proposed:



parks and recreation reservation



urban zone

Legend

Existing:



urban zone



parks and recreation reservation



waterways reservation



Bush Forever area

Appendix A

Notice of environmental assessment



Secretary
Western Australian Planning Commission
Locked Bag 2506
PERTH WA 6001

Your Ref 833-2-1-54
Our Ref A448971
Enquiries Angela Coletti
Phone 6467 5490

Attn: Mr Ross Parker

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

SCHEME AMENDMENT TITLE: Metropolitan Regional Scheme Amendment
1226/57 - Freshwater Bay Parks and
Recreation Reservation Boundry
Rationalisation
LOCATION: City of Nedlands and Town of Claremont
RESPONSIBLE AUTHORITY: Western Australian Planning Commission
DECISION: Scheme Amendment Not Assessed -
Advice Given (no appeals)

Thank you for referring the above scheme amendment to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the Environmental Protection Authority (EPA) considers that the proposed scheme amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the following advice and recommendations.

ADVICE AND RECOMMENDATIONS

1. Environmental Issues

- Freshwater Bay Parks and Recreation Reservation Boundry Rationalisation.

2. Advice and recommendations regarding Environmental Issues

Freshwater Bay Parks and Recreation Reservation Boundry Rationalisation

The Office of the Environmental Protection Authority (OEPA) previously provided advice (see attached) concerning the proposed Freshwater Bay Foreshore Rationalisation and considers it to still be valid.

The OEPA requests that significant environmental issues be adequately addressed to the satisfaction of the Swan River Trust, Department of Planning and any relevant agencies prior to the Western Australian Planning Commission's consideration of the amendment for final approval.

3. General Advice

- For the purposes of Part IV of the EP Act, the scheme amendment is defined as an assessed scheme amendment. In relation to the implementation of the scheme amendment, 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 on the level of assessment of scheme amendments.
- A copy of this advice will be sent to relevant authorities and made available to the public on request.

Yours faithfully



Anthony Sutton
Director
Assessment and Compliance Division

5 December 2011

Att

Appendix B

List of detail plans supporting the amendment

**Freshwater Bay Parks and Recreation Reservation
Boundary Rationalisation**

Proposed minor amendment

Amendment 1226/57

As advertised

3.2457/1

Detail Plan

3.2477	-	Claremont	Urban & Parks and Recreation
3.2478	-	Claremont	Urban & Parks and Recreation
3.2478	-	Dalkeith	Urban & Parks and Recreation

Appendix C

Your property and the Metropolitan Region Scheme

Your Property and the Metropolitan Region Scheme

Landowners rights to compensation in relation to reserved land

If land is reserved in the Metropolitan Region Scheme

Land which is affected by a reservation in the Metropolitan Region Scheme (MRS) will ultimately be acquired by the government, but generally can remain in private ownership until it is actually needed for the public purpose.

There are several options available to the owners of reserved land:

- Retain ownership and continue with the quiet enjoyment of the property until it is needed for the public purpose. You may complete any development or subdivision of the property that was approved prior to the reservation coming into effect.
- Sell the property on the open market to another person(s). The Western Australian Planning Commission (WAPC) recognises that due to the reservation this may be difficult and, subject to acquisition priorities and the availability of funds, would be willing to consider the purchase of a reserved property if an owner is unable to achieve a private sale on the open market.
- Offer the property for sale to the WAPC. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider the early acquisition of a reserved property. In such cases the property is purchased at the current market value had the property not been affected by the reservation, with the value being determined by independent valuations of the property.
- Make a claim for compensation for injurious affection following the WAPC's refusal of a development application or approval of a development application subject to conditions that are unacceptable. In such cases the WAPC may elect to purchase the property instead of paying compensation with the purchase price being determined in the same way as a negotiated purchase.

Am I entitled to compensation?

If your land is reserved in the MRS, you may be able to make a claim for compensation for injurious affection if:

- you are the owner of the property when it is first reserved in the MRS and you wish to sell the property on the open market at a reduced price;

or

- the WAPC has either refused a development application over the property or has approved a development application over the property subject to conditions that are unacceptable to the applicant.

How do I claim compensation?

1 If you have chosen to sell the property on the open market at a reduced price, complete a notice of intention to sell form which is available from the Department of Planning. The department will establish the extent of the reservation and forward the notice to the Board of Valuers.

The Board of Valuers will determine the sworn unaffected and affected values of the property. You may wish to meet with the board to raise any matters you believe are relevant to the value of the property.

Following the determination by the board:

- You will be notified of the unaffected value of the property.
- You pay a valuation fee to the WAPC, after which you will be notified of the affected value of the property - this will represent the minimum sale price.
- You then arrange the sale of the property (either privately or through an agent). Note the sale price must not be less than the affected value determined by the board.

- When the property is sold, you may make a claim for compensation for injurious affection for the difference between the sale price and the unaffected value as determined by the board.
- If the property does not sell within one year of the board's valuation, you may ask the board for a revaluation of the property. The sale process is then repeated.
- Once compensation has been paid, a caveat will be lodged on the certificate of title to identify that compensation has been paid. Please note that compensation is only payable once.

Alternatively, you may ask the WAPC to purchase the property, as you have been unable to sell the property privately.

2 If the WAPC has refused your development application or approved it subject to unacceptable conditions **and** the property is reserved in the MRS, you may make a claim for compensation for injurious affection within six months of the WAPC's decision on the application.

In such a case the WAPC will either pay compensation or may elect to purchase the property in lieu of paying compensation.

If the WAPC elects to purchase the property, valuations are obtained for the market value of the property as at the date of the election to purchase had the property not been reserved in the MRS. Please note that the date of valuation is fixed at the date of election to purchase.

What is compulsory acquisition?

A situation may arise where a property is needed as a priority for a public purpose and the owner is unwilling to sell the property to the WAPC.

In such a case, the property may be compulsorily acquired (or resumed) for that public purpose.

Where a property has been resumed by the WAPC, you have the right to make a claim for compensation in respect of the land resumed.

The WAPC will have the resumed land valued and following the checking of the compensation claim will make you an offer of compensation for the resumed land.

Should you have any queries concerning the matters raised in this brochure, please do not hesitate to contact the Department of Planning, WAPC Property Management Services.

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

Please remember to complete the submission form (form 57 – appendix E). Include your name and full postal address. It is preferred that any attachments be loose rather than bound.

The closing date for submissions and where they should be lodged 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 will become a public document.

Appendix E

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

