

PORT HEDLAND WEST END IMPROVEMENT SCHEME NO. 1

Scheme Report

Western Australian Planning Commission

(Version Updated August 2020)

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CERTIFICATION OF IMPROVEMENT SCHEME REPORT FOR ADVERTISING

The Western Australian Planning Commission certifies that the Port Hedland West End Improvement Scheme Report complies with the requirements of regulation 11(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, by resolution of the Western Australian Planning Commission on 19 February 2020.



Chairman
Western Australian Planning Commission

Secretary
Western Australian Planning Commission

ENDORSEMENT OF IMPROVEMENT SCHEME REPORT

The Western Australian Planning Commission endorses the Port Hedland West End Improvement Scheme Report in accordance with Part 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, by resolution of the Western Australian Planning Commission on 19 August 2020.



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1.0 Introduction

1.1 Preamble

This Improvement Scheme Report (this Report) has been prepared on behalf of the Western Australian Planning Commission (WAPC) in support of the Port Hedland West End Improvement Scheme No. 1 (the Scheme). The Scheme is the statutory framework providing for land use planning administration and development control within the Scheme area (Figure 1).

Improvement plans and improvement schemes allow the State Government, through the WAPC to become the planning authority for a particular area of land with the intention to advance its planning and development. These planning instruments are established under Part 8 of the *Planning and Development Act 2005* (PD Act).

Improvement plans are strategic instruments used to facilitate the development of land in areas identified by the WAPC as requiring special planning. The WAPC can recommend to the Minister for Planning that an improvement plan is made “for the purpose of advancing the planning, development and use” of land.

An improvement plan comes into effect when it is published in the *Western Australian Government Gazette* (the *Gazette*).

Improvement schemes are similar instruments to local planning schemes, as they provide development control provisions relating to the area subject to an improvement plan. The WAPC generally prefers that improvement schemes conform with the Model and Deemed provisions for local planning schemes set out in Schedules 1 and 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regs), although the PD Act does provide for some flexibility in the format of improvement schemes.

The Minister for Planning is responsible for considering improvement schemes and can either approve or refuse a proposal, or request the WAPC to make modifications before resubmitting it for approval.

An improvement scheme comes into effect when it is published in the *Gazette*.

An outline of the improvement plan and improvement scheme preparation process and associated consultation requirements is included in Figure 2 and Figure 3.

1.2 Purpose of the Improvement Scheme Report

This Report sets out the WAPC’s objectives for future planning and development in the West End of Port Hedland (the West End), and includes a broad strategic framework by which to pursue those objectives. This report provides an outline of the strategic intentions for the West End, site opportunities and constraints and an overview of the statutory provisions of the (the Scheme).

Improvement Plan No. 50: Port Hedland West End was prepared to establish the Scheme objectives:

- to provide a strategic planning framework to determine future land uses, considering all land use options, that takes into consideration physical, economic, social, and environment factors;

- to provide a statutory planning instrument through which to implement the strategic planning framework and effectively guide the preparation of statutory plans, statutory referral documentation and policy (as may be required) to facilitate orderly and proper planning of the area; and
- to implement the State Government response to the *Port Hedland Dust Management Taskforce Report to Government* to prohibit sensitive land uses and restrict population growth in the West End of Port Hedland.

The above objectives are given effect through the statutory framework forming the Scheme described as follows:

- *Scheme text*: the range of statutory provisions necessary to effectively achieve the Scheme's objectives.
- *Scheme map*: spatial representation of zones and reserves.
- *Scheme policies and ancillary plans and documents*: articulate specific objectives and criteria for the exercise of discretion provided by the Scheme including development guidelines and control.

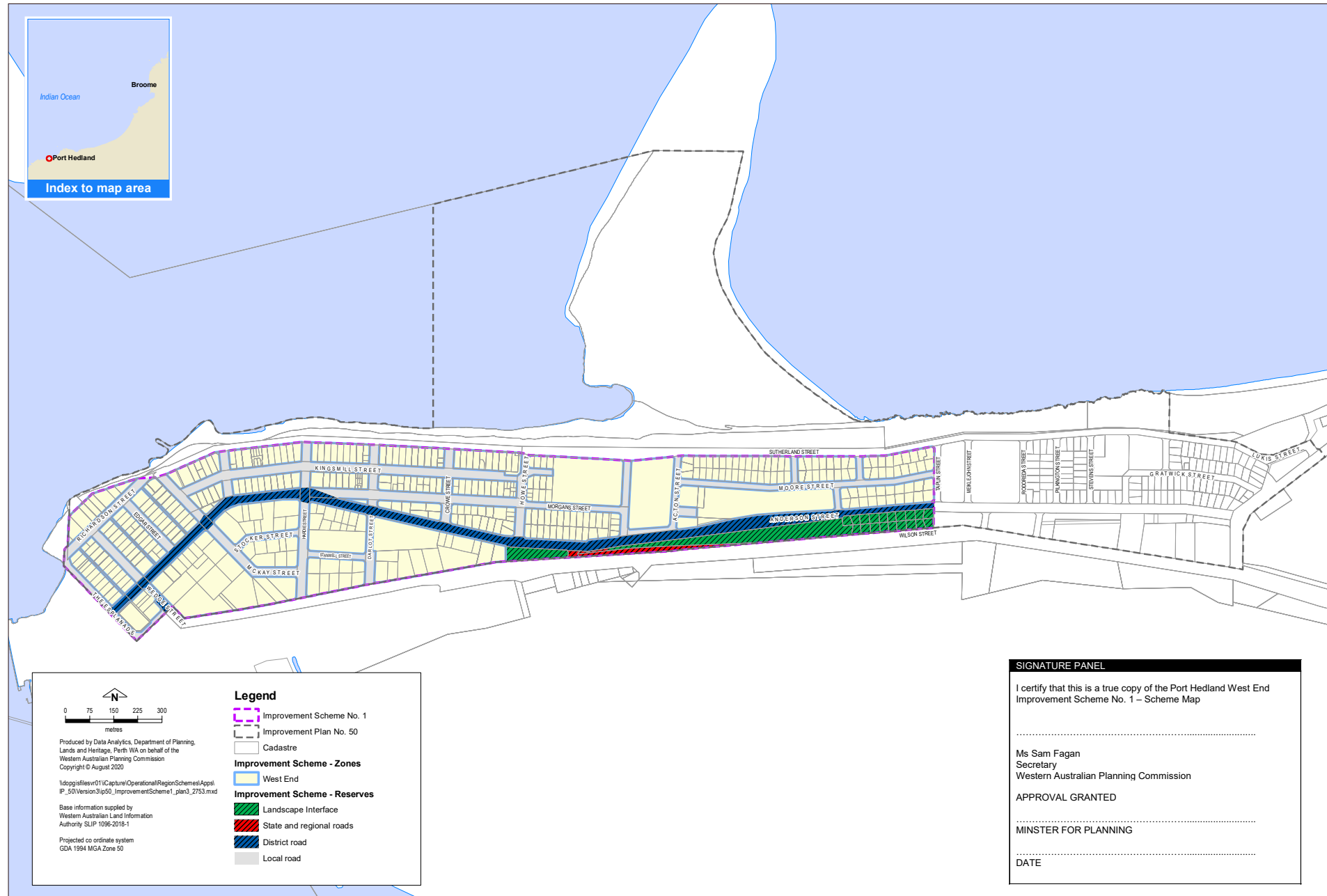


Figure 1: Location Plan – Improvement Scheme area

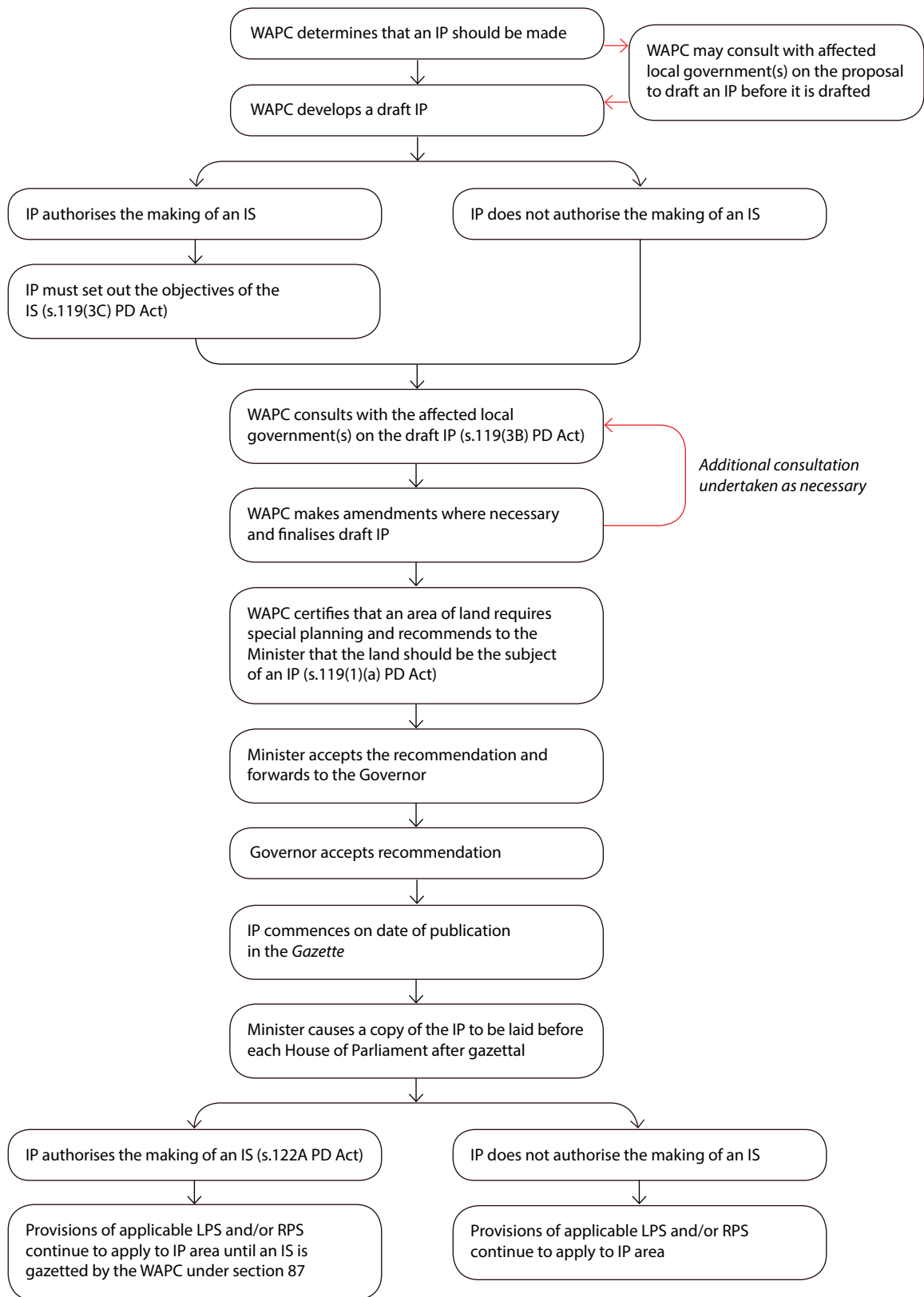


Figure 2: Improvement plan (IP) – statutory preparation

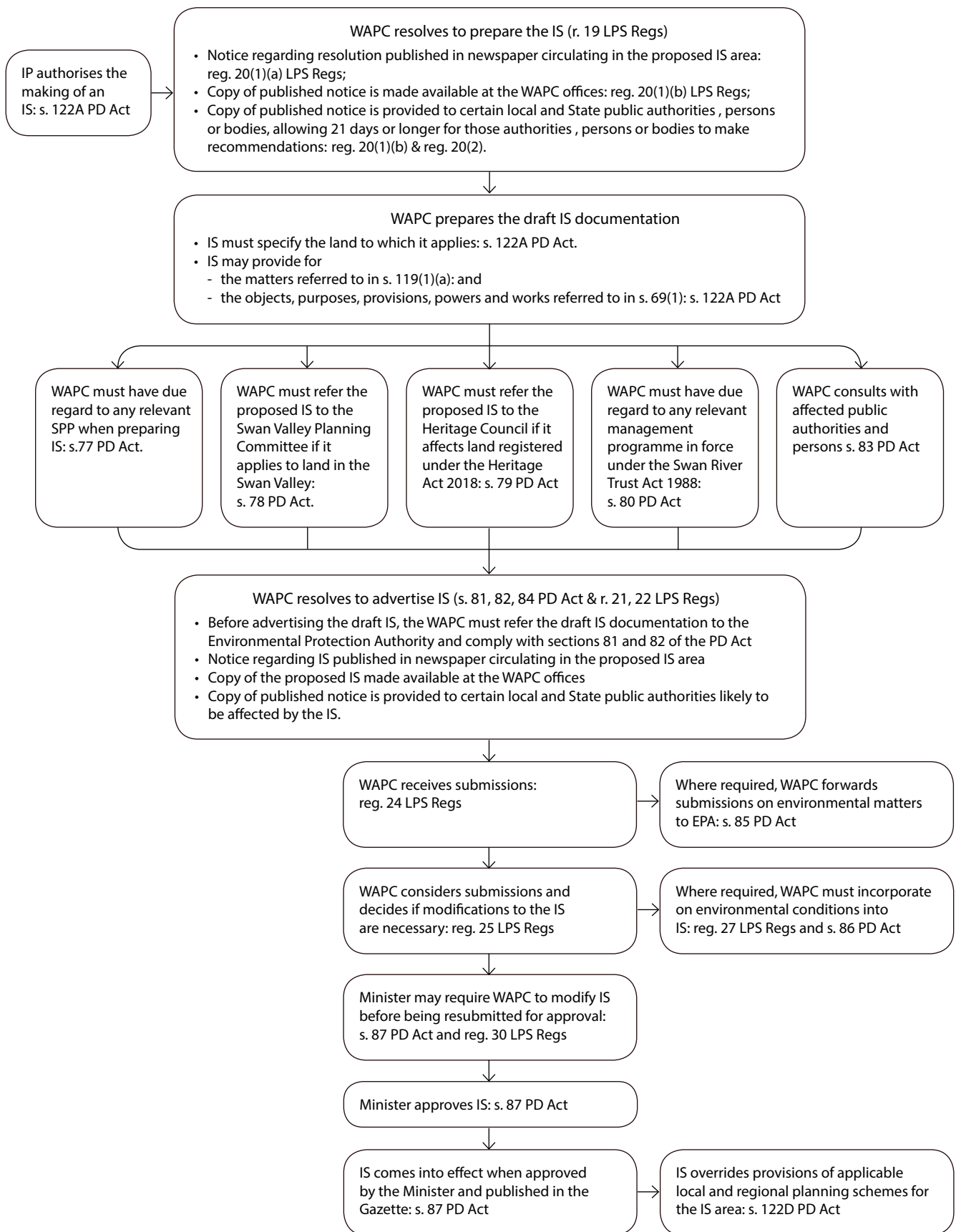


Figure 3: Improvement scheme (IS) – statutory preparation

1.3 Content and structure

This Report outlines the key issues and objectives for planning and development in the Scheme area, and provides the basis for planning provisions in the Scheme. This Report includes spatial plans, and sets out further details of the mechanisms by which the Report's objectives will be followed and the Scheme implemented.

1.4 Relationship to Town of Port Hedland local planning scheme

Section 122D of the *PD Act* provides that, once it comes into effect, an improvement scheme will replace any other planning scheme that applies to land in the improvement scheme area. As such, for the duration of the improvement scheme, the Town of Port Hedland local planning scheme will cease to apply to the land bound by the Scheme.

1.5 Community and stakeholder consultation

The *PD Act* and the LPS Regs outline specific mandatory consultation and notification requirements for the process of preparing improvement plans and improvement schemes, for example, the Minister for Planning must table a copy of the improvement plan before each House of Parliament (s.119 (5A) – *PD Act*) and the WAPC must:

- consult with affected local governments before making a recommendation on whether land should be made subject to an improvement plan (s.119 (3B) – *PD Act*);
- publish a notice of the acceptance of the recommendation of the Governor, and a summary of the improvement plan, in the *Gazette* (s.119 (4) – *PD Act*);
- publish a notice of a resolution to prepare an improvement scheme in the *Gazette* and provide a copy of the notice to bodies and persons affected by the improvement scheme (Reg. 20 – LPS Regs);
- forward a copy of a proposed improvement scheme to the Environmental Protection Authority (EPA) for assessment pursuant to s. 48 of the EP Act (s. 80 and s. 81 – *PD Act*);
- advertise a proposed improvement scheme for public inspection and consider all submissions (Part 4 Division 2 – LPS Regs);
- publish a notice of an improvement scheme in the *Gazette* (s. 87(3) – *PD Act*); and
- publish a notice of an improvement scheme in the *Gazette* and local newspaper, and provide a copy of the notice to each person who made a submission to the improvement scheme (Reg. 33 – LPS Regs).

1.6 Traditional Owners

This report recognises the Traditional Owners of Country and the Traditional Owner groups, including the Kariyarra people.

1.7 Technical documentation

This Report has been prepared having regard for a series of technical reports (appended). These reports and the matters addressed by each are summarised as follows:

- *Port Hedland Air Quality Health Risk Assessment for Particulate Matter* (Department of Health, 2016) – provides an independent health risk assessment of air quality in Port Hedland (Appendix 1)
- *Port Hedland Dust Management Taskforce Report to Government – August 2016* (2016 Taskforce Report): the 2016 Taskforce Report considered the findings of the Health Risk Assessment, and provided further recommendations on dust management in Port Hedland (Appendix 2)

Other reports referred to include:

- the *Port Hedland Air Quality and Noise Management Plan* (Department of State Development, 2010), which included interim measures to limit exposure to dust by groups considered most at risk of health effects
- the *Port Hedland Regional Land Supply Assessment* (WAPC, unpublished draft), which assessed the stock of land available for residential, industrial and commercial purposes, and identified key land use planning and infrastructure provision required to meet demand across the Town of Port Hedland.

2.0 Background and planning framework

2.1 Background

The Pilbara region contributes significantly to the State's economy, with iron ore being the largest export commodity. Although more than 50 mines are presently either operating, committed or under consideration in the Pilbara, private ownership of key infrastructure, combined with logistical and capacity limitations, serve to constrain the realisation of iron ore export potential.

The Pilbara region accounts for approximately 94 per cent of Australia's iron ore production. Iron ore constitutes approximately 99 per cent of Port Hedland's total export volume with other commodities including salt, manganese ore, chromite ore, copper concentrate, spodumene concentrate and cattle also exported from the port¹.

Port Hedland is home to the largest bulk export port in the world, with a total annual throughput of 513Mt in 2018-19². Annual shipping capacity in Port Hedland increased to 617Mt in 2019 due to investment in port dredging, marine technology and other port efficiencies³ cementing the port's supply chain as the core of the Port Hedland economy for the foreseeable future.

Historical urban growth in the West End (defined as west of Taplin Street) and port expansion has resulted in land use conflict. Port Hedland's West End is home to about 600 residents as well as numerous sensitive land uses. Being adjacent to the port, the West End is the most dust affected urban area in Port Hedland, with bulk commodity exports occurring to the south and west. Census figures indicate that 41 per cent of private dwellings in the area are unoccupied and 82 per cent of occupied private dwellings are rented.

The issue of air quality in the West End of Port Hedland, and in particular the potential impacts from dust on human health, has been of concern to Port Hedland residents, business owners, the Environmental Protection Authority (EPA) and State Government agencies for many years.

2.1.1 Port Hedland Dust Management Taskforce (2009)

The Port Hedland Dust Management Taskforce (the Taskforce) was established in 2009 to plan for and provide effective dust management strategies in Port Hedland, particularly for the West End locality. The Taskforce was chaired by the (former) Department of State Development and comprised representatives from relevant State Government departments (including Planning, Lands and Heritage), industry and the Town of Port Hedland.

The Taskforce prepared the *Port Hedland Air Quality and Noise Management Plan* (Department of State Development, 2010; 2010 Taskforce Plan), the recommendations of which were adopted by the former State Government in January 2010. The 2010 Taskforce Plan was a comprehensive management plan for ongoing air quality and noise management in Port Hedland including an implementation strategy and governance framework.

¹ Town of Port Hedland Strategic Community Plan 2018 - 2028

² Pilbara Ports Authority Annual Report 2018-19

³ Western Australia Iron Ore Profile November 2019: Department of Jobs, Tourism, Science and Innovation

In relation to land use planning the 2010 Taskforce Plan recommended a precautionary approach that residential development should occur predominantly in the eastern areas of Port Hedland. Subsequently, Amendment No. 22 (gazetted on 27 April 2012) to the Town of Port Hedland Local Planning Scheme No. 5 introduced provisions applying to existing residential areas in the West End, to promote housing redevelopment that discouraged long-term residency by those more at risk from exposure to dust (aged persons and families, for example).

The 2010 Taskforce Plan also recommended that further work be undertaken to establish the health impacts of the dust and acknowledged this may take three to five years.

During 2011 and 2012, the Town prepared its local planning strategy: the Pilbara's Port City Growth Plan which reflected the recommendations of the 2010 Taskforce Plan.

2.1.2 Health Risk Assessment (2016)

In February 2016, the Western Australian Department of Health published the *Port Hedland Air Quality Health Risk Assessment for Particulate Matter* report (refer Appendix 1), which concluded that there is sufficient evidence of possible negative effects on human health from dust in the West End of Port Hedland to warrant dust management controls and planning measures to reduce community exposure to dust.

2.1.3 Port Hedland Dust Management Taskforce Report to Government (2016)

During 2016, the Port Hedland Dust Management Taskforce considered the findings of the Department of Health's *Port Hedland Air Quality Health Risk Assessment for Particulate Matter* report and provided recommendations through the Port Hedland Dust Management Taskforce Report to Government August 2016 (the 2016 Taskforce Report).

In relation to land-use planning, the 2016 Taskforce Report (refer Appendix 2) recommended:

- an amendment to the Town of Port Hedland's local planning scheme to:
 - prohibit new permanent residential development and other sensitive land uses, including aged care and child care premises, west of Taplin Street; and
 - apply the land uses described in the Town of Port Hedland Local Planning Strategy's West End Precinct, taking into consideration the findings of the Health Risk Assessment.
- that low-density (R20) residential development be permitted in the predominantly residential area between Taplin Street and McGregor Street, but higher-density residential development and other sensitive land uses be prohibited.

2.1.4 State Government response to the Dust Management Taskforce Report (2018)

After considering the 2016 Taskforce Report, and the submissions received, on 15 October 2018 the State Government adopted the following land use planning position in relation to the management of dust in Port Hedland:

- The Government supports the Taskforce recommendation that appropriate planning controls be implemented to prohibit sensitive land uses and restrict population growth in the West End of Port Hedland. To give effect to this, the Western Australian Planning Commission will be requested to prepare an improvement plan and improvement scheme designed to achieve the land use outcomes described in Recommendation 5 of the Taskforce Report.
- In response to community concerns raised in the consultation process, the Government will act to ensure that any future West End planning controls will not prevent the redevelopment of residential properties - provided that the redevelopment would not result in an intensification or expansion of a non-conforming use - should they be more than 75 per cent damaged by a natural disaster such as fire or a cyclone.

2.1.5 Improvement Plan No. 50: Port Hedland West End (2019)

The WAPC considered the State Government's position on the 2016 Taskforce Report and through the Minister for Planning and the Governor, established Improvement Plan No 50: Port Hedland West End (IP 50), gazetted on 30 July 2019.

IP 50 was prepared to advance the planning, development and use of land in the West End precinct of Port Hedland in response to the State Government's consideration of the 2016 Taskforce Report.

The area subject to IP 50 (refer to Figure 1) comprises landholdings west of McGregor Street and Lukis Street and is located adjacent to the port of Port Hedland, where bulk commodity stockpiling and handling, as well as the bulk import and export of other materials such as fuel, occurs to the south and west. The West End precinct is the most dust, noise and hazard-affected urban area in Port Hedland.

The primary objectives of IP 50 are to provide a strategic and statutory land use framework, based on investigation and consideration of all development scenarios for the area under the improvement plan, taking into account the State Government's response to the recommendations of the 2016 Taskforce Report.

IP 50 includes the necessary provisions authorising the preparation of the Scheme with the key objective of reducing public exposure to dust.

2.1.6 Potential Port Hedland Voluntary Buy-Back Scheme

On 13 September 2019, the State Government announced the appointment of an independent consultant tasked with investigating the potential establishment of an industry-funded voluntary buy-back scheme. Following the completion of a three-month consultation process between September to November 2019, a report detailing recommendations on a potential buy-back scheme will be submitted to the State Government in early 2020.

The main objectives of a potential buy-back scheme would be to:

- provide an opportunity for residential property owners in the West End to exit their properties at reasonable values prior to restrictions on land use that will arise from planning permissibility changes;
- reduce regulatory risk to the operations and future expansion of iron ore exports through the port of Port Hedland; and
- stimulate new land uses in the West End which will increase the amenity and viability of the West End.

2.2 Current local planning framework

Preparation of the Scheme over the West End precinct has considered the strategic guidance and statutory development controls currently provided through the Town of Port Hedland's local planning strategy and local planning scheme.

2.2.1 Town of Port Hedland Local Planning Scheme

The Town's current Local Planning Scheme No. 5 (TPS 5) was gazetted on 31 August 2001, and covers a larger portion of the local government area surrounding settlements on the coast, where the majority of the Town's population is located.

Prior to the Department of Health's risk assessment being completed, the 2010 Taskforce Plan recommended that a precautionary approach to residential development in the West End precinct should be taken in the short-term, to encourage redevelopment or retrofitting of existing residential premises in such a way as to mitigate dust and noise, while discouraging occupancy by "at-risk" individuals (that is, those with clinical respiratory and cardiovascular disease, the elderly, babies and young children).

The Taskforce recommended the progression of an amendment to TPS 5 (Amendment No. 22, gazetted 27 April 2012) to establish the 'West End Residential' zone over existing residential land. The EPA set a formal level of assessment for Amendment 22. As a result of the Environmental Review process and to reduce human exposure to dust, the Minister for Environment required a number of environmental conditions to be incorporated into the amendment to prescribe specific building design and performance standards for development in the zone. The Taskforce considered the 'West End Residential' zone's residential density code range from a minimum of R30 to a maximum of R80 (applied through Amendment 22) was appropriate to provide an incentive for redevelopment or retrofitting of existing housing stock to mitigate dust/noise and discourage occupancy by families and the elderly.

The development control provisions incorporated under Amendment 22 apply to a relatively small proportion of the West End. Currently there are no statutory provisions in TPS 5 that require residential development in the majority of the West End to conform to building design and performance standards to reduce human exposure to dust and noise.

2.2.2 Town of Port Hedland Local Planning Strategy

The Town of Port Hedland's local planning strategy, the 'Pilbara's Port City Growth Plan' was endorsed by the WAPC in 2012 following comprehensive community and stakeholder consultation during its preparation over the period from 2010 to 2012.

Consistent with the recommendations of the 2010 Taskforce Plan, the Town's local planning strategy promotes future residential development in the eastern precinct of Port Hedland (Pretty Pool and Cooke Point), and recommends the progressive transition from permanent residential uses under the current 'West End Residential' zone towards a longer-term land use scenario with no permanent residential uses (short-stay accommodation only) west of Acton Street.

To accommodate future population growth, the local planning strategy also identifies land in Port Hedland and South Hedland suitable for development, with the potential to achieve an estimated 23,000 residential dwellings over the coming decade. The strategy attributes less than 3 per cent of those new dwellings to the West End Residential zone between Acton Street and Taplin Street, while promoting over 5,500 new dwellings in Port Hedland's eastern precinct.

3.0 Key issues and strategic objectives

The Scheme will address a number of planning matters that arise out of the State Government's response to the 2016 Taskforce Report, and takes into consideration findings and recommendations of the Department of Health's *Port Hedland Air Quality Health Risk Assessment for Particulate Matter* (2016).

3.1 Sensitive land uses

Port Hedland is home to the largest bulk export port in the world. Total throughput increased from 247 million tonnes in 2011/12 to 519 million tonnes in 2017/18. The Port Hedland Industries Council forecasts volume to increase to 700 million tonnes by 2027.

With port operations predominantly consisting of bulk iron ore stockpiling and handling, the expansion of the port has seen a commensurate increase in airborne dust emissions, creating a conflict in land use for Port Hedland. As at the 2016 Census, there were approximately 600 residents living in Port Hedland's West End (west of Taplin Street).

A Department of Health assessment of the risks of exposure to dust emissions in Port Hedland found that:

- exposure to coarse dust at levels of up to 70 mgpcm (measured as an average over any 24-hour period) generates an acceptable health risk, equivalent to health risks associated with the National Environment Protection (Ambient Air Quality) Measure (NEPM) standard of 50 mgpcm for coarser airborne particles, noting that some individuals with particular susceptibility to respiratory diseases have higher risks of negative health outcomes at lower levels, as they would in any other part of Australia
- according to annual reports published by the Port Hedland Industries Council, daily and annual average concentrations of finer particulates (PM_{2.5}) have not met NEPM standards in Port Hedland since the 2014/15 reporting period
- where dust levels are likely to exceed this level on a regular basis, long-term exposure based on permanent residence presents an unacceptable community health risk generally, and particularly to sensitive receptors such as young children and the elderly.

Existing development in the West End provides for occupation by groups within the general population who are more vulnerable to the effects of air pollution⁴, such as:

- older people (greater than 65 years old);
- children;
- people with pre-existing cardiovascular or respiratory disease; and
- children and adults with pre-existing respiratory conditions (asthma, bronchitis, and chronic obstructive pulmonary disease).

⁴ *Port Hedland Air Quality Health Risk Assessment for Particulate Matter: Department of Health, 2016*

The Scheme will give effect to the State Government response to the 2016 Taskforce Report by prohibiting:

- any form of residential development which provides for permanent occupancy (for example, single, grouped and multiple dwellings, residential aged care facilities)
- other land uses deemed to be sensitive receptors for human health impacts from dust (for example: aged persons centres, child care premises, schools, medical centres).

Daily activities associated with regular employment, short-stay accommodation, and other commercial or leisure activities, including those of tourists and other visitors in dust affected areas, are not assessed to present an unacceptable health risk other than for particularly sensitive individuals.

It is noted that the health risk assessment may change in the future, based on the further development of medical scientific understanding of the health effects of ambient air quality, particularly with respect to dust particles both fine and coarse, but also any other emissions, associated with the transportation, storage and handling of iron ore.

Strategic objectives

- Facilitate implementation of the State Government response to the Port Hedland Dust Management Taskforce Report to Government, through clearly defining sensitive land uses in the context of Port Hedland's West End..
- Prevent further land use conflict within the West End, considering all land use options that take into consideration physical, economic, social, and environmental factors.
- Consider and plan for land use transitions that may cause temporary land use conflict with non-conforming land uses.

3.2 Port operations

As the world's largest bulk minerals export port, the Port of Port Hedland is a major driver that underpins local, regional, state and national economic growth and prosperity.

According to the 2016 Census, iron ore mining employed 1522 people in the Town of Port Hedland local government area. Employment growth will not only be experienced as a direct result of trade growth, but in creating the infrastructure and support services network to support industrial activities.

The West End presently facilitates general industrial land uses and the supply of essential services associated with Port of Port Hedland operations. Development within the West End provides for a range of industries of regional, state, national and global economic significance, and supply chain infrastructure that supports the operation of the port and industry. For example, uses in this precinct include marine services and logistics, manufacturing and fabrication, warehouses, wholesale trade, transport services, distribution centres and associated storage and waste management facilities.

The West End also provides infrastructure required for the daily operation of the port including security, customs and quarantine requirements, parking facilities, utility installations, and materials transportation infrastructure to support industry.

The Pilbara Ports Authority has identified the construction of additional cargo berths and layby areas in Port Hedland as a priority. These upgrades will allow for direct maritime freight services, which are a key enabler for reducing the cost of doing business in the region. Port upgrades are also necessary to accommodate the imports and exports of emerging industries⁵.

There is a need to provide the community and industry with greater certainty about the future of Port Hedland port and surrounding areas. Property and business owners in the West End remain uncertain about the future of their assets and investments, while the broader community faces uncertainty about the future of the West End as a potential tourism and recreational area.

Dust remains a major development challenge. The *Port Hedland Port Authority Port Development Plan* (2012-2016) (Pilbara Ports Authority) identifies air quality and dust as a major environmental issue affecting the future growth of the port. Similarly, port users may find it increasingly difficult to expand iron ore exports through the port in the absence of planning controls to separate conflicting or incompatible land uses.

Strategic objectives

- Facilitate industrial land uses and services within the West End that are associated with port of Port Hedland operations.
- Support the safe and efficient operation and management of the port of Port Hedland, and its associated infrastructure.
- Provide for other development that does not compromise current and future expansion of port operations, port-related industry and supply chain infrastructure.
- Provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.
- Accommodate industry that would not otherwise comply with the performance standards of light industry.
- Manage impacts such as noise, dust and odour within the West End zone.
- Create an environment that is conducive to attracting and retaining skilled workers.
- Provide opportunities for the expansion of local workforce training schemes and facilities.
- Increase local workforce participation, in particular for the Aboriginal population.
- Prioritise planning for port-related infrastructure to support the growth and diversification of the regional economy.

⁵ *Pilbara Economic Development Consultation Paper* (Department of Jobs, Tourism, Science and Innovation, 2019)

3.3 Commercial and tourism activation

The existing West End commercial area – generally bound by The Esplanade, Richardson Street, McKay Street and Wilson Street – provides goods and services associated with the port while offering retail, entertainment and cultural experiences for Port Hedland residents and visitors.

Plans are progressing for development of a new marina on the west side of the Spoilbank which will add a significant attraction to the area. In addition, significant development opportunities also exist for ocean-front short-term accommodation development supported by strong connections to the proposed marina, recreation areas of the Spoilbank and the Port Hedland town centre. This may potentially include a hotel, restaurants, various holiday accommodation, and cultural interpretive facilities, all lining a waterfront promenade. In addition, there may be mixed retail and office uses with good visibility from the Anderson Street entry, and supporting commercial development centrally located.

There is demand for a viable commercial centre in the West End which leverages its positioning to service port operations (including maritime, training and education and research activities), as well as the development of tourist, cultural, and recreational attractions in the proposed Spoilbank Marina precinct.

Although the cost of operating a commercial business has, on average, declined in Pilbara towns since 2013, the absolute level of costs remains one of the highest in Australia, with significantly higher wages, rents and other operating expenditures. The high cost structure in the Pilbara, combined with difficulties associated with the availability of appropriate staff and commercial, retail and industrial land and floorspace, will continue to be a challenge for business growth in the Town and the Pilbara region⁶.

A diversified local economy will be an important measure to soften the shocks of resource cycles, and to build a more resilient local business community. Ongoing investment in established and emerging industries provides opportunities for economic development and diversification in the Pilbara. Continuing to attract skilled workers to the Pilbara is central to attracting investment in the region, and to avoid potential skilled labour shortages. This in turn will help reduce business costs and make local industry more competitive, thereby supporting economic diversification⁷.

The West End also provides opportunities for the temporary accommodation of workforces linked to the establishment of local businesses and infrastructure projects in the region. Land to be used for this purpose should be identified, with the potential for this type of development to be later converted for tourism purposes or short-term accommodation for employees.

A related issue is the need to provide short-term accommodation for people visiting Port Hedland from remote areas to access government support services.

⁶ *Pilbara Regional Investment Blueprint (Pilbara Development Commission, 2015)*

⁷ *Pilbara Economic Development Consultation Paper (Department of Jobs, Tourism, Science and Innovation, 2019)*

Strategic objectives

- Facilitate commercial development that provides services and activities to support the ongoing operation and growth of the Port of Port Hedland.
- Provide for a 'Tourist Esplanade': a vibrant short-term accommodation node, with supporting mixed-use facilities (where it does not limit the ability of the port's key industries or associated infrastructure to achieve their ultimate capacity and operating efficiency).
- Facilitate short-term tourist accommodation located to the north of Kingsmill Street and Moore Street, to maximize on coastal views, and northerly site orientation.
- Provide for the development of a mix of varied but compatible land uses such as short-term accommodation, offices, showrooms, hospitality establishments and recreational and cultural facilities that enhance the amenity of the West End.
- Support commercial development central to this precinct and close to the Spoilbank Marina.
- Promote and provide for tourism opportunities.
- Provide for a variety of holiday accommodation styles, including retail and service facilities, where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area.
- Encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural and cultural features, and urban facilities.

3.4 Environmental management

Coastal hazards

Low lying and coastal areas of the Port Hedland townsite are subject to erosion and storm surge inundation hazards, due to its urban form and location on a narrow headland.

The Town of Port Hedland has prepared a Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) (2018) which identifies and considers coastal hazards and risks for the Port Hedland townsite. The CHRMAP identifies areas that are particularly vulnerable to coastal erosion and flooding over the next 100 years.

Residential properties and public infrastructure (beaches, roads and playgrounds) within the foreshore bounding the Scheme area to the north are vulnerable to erosion. The West End is also shown to be at high risk of coastal inundation for so-called 'one-in-100-year events'. The CHRMAP report states a detailed storm-water drainage assessment is required as "protection against inundation is not considered viable". Therefore, the key item for management of the issue appears to be improvement of direct drainage connection to the ocean.

The current foreshore reserve in Port Hedland is insufficient in width to maintain the social and environmental functions of the reserve once erosion risk has been taken into account,⁸ and potential adaptation measures will impact on land use outside the current foreshore reserve, including portions of the Scheme area.

Flora and fauna

The Town of Port Hedland is known to contain many significant flora, vegetation, and fauna values that are identified under both State and Federal legislation and policy. The Port Hedland coastline provides vital habitat for the flatback sea turtle, which is a threatened species. Cemetery Beach (located north of the Scheme area) and Pretty Pool Beach are key nesting sites. The turtle-nesting season is a significant environmental and tourism event.

Lighting from coastal development can disrupt the behaviour of nesting adult turtles and hatchlings, as well as other animals. Avoidance and management of light impacts on coastal and marine fauna can be applied using a risk-based approach and by applying best practice methods to development.

Bushfire hazard

The majority of the Town of Port Hedland is declared a 'bushfire prone area' under the *Map of Bush Fire Prone Areas* prepared by the Office of Bushfire Risk Management (OBRM 2019), including around areas of existing urban development within the localities of Port Hedland and South Hedland. In accordance with State Planning Policy 3.7 - Planning in Bushfire Prone Areas and the Guidelines for Planning in Bushfire Prone Areas Version 1.3, the identification of a site within an area declared as bushfire prone necessitates that a further assessment of the determined bushfire risk affecting the site is carried out as part of detailed planning and design.

None of the identified key environmental factors alone present a significant environmental impact which would preclude development within the Scheme area. Notwithstanding, a responsible environmental management approach is required to satisfactorily address these environmental factors.

Strategic objectives

- Ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria.
- Ensure the identification of appropriate areas for the sustainable use of the coast, including for housing, tourism, recreation, ocean access, maritime industry, and commercial activities.
- Provide for public coastal foreshore reserves and access to them on the coast.
- Protect, conserve and enhance coastal zone values, particularly in areas of landscape, biodiversity and ecosystem integrity, and cultural significance.
- Protection of known turtle nesting areas within the Port Hedland townsite area.

⁸ Port Hedland Coastal Hazard Risk Management and Adaptation Plan (GHD, 2019)

3.5 Cultural and historic heritage

The Scheme recognises areas where Traditional Owners may seek access to undertake customary practices and traditional uses. Other land uses may be considered including those that would assist in the economic development of the region and may provide for structures and/or activities associated with traditional Aboriginal law and culture, and resource development.

The *Aboriginal Heritage Act 1972* provides for the identification and protection of Aboriginal heritage sites throughout Western Australia. There are three registered Aboriginal heritage sites in the West End, particularly in areas that have been disturbed through urban activity.

European settlement in the Port Hedland region has a history of only about 150 years, dating from the first pastoral leases established on the De Grey River in the 1860s. Most of the remnants of this early European settlement history are concentrated in the West End, which was virtually the extent of the town until the 1960s.

The West End contains four places on the Heritage Council of Western Australia's Register of Heritage Places:

- Dalgety House
- St Mathews Church site
- (Former) Medical Officer's Quarters (now Dome Coffee)
- (Former) Lock Hospital site

Additionally, there are various landholdings within the West End included in the Town of Port Hedland's Local Heritage Survey prepared under the *Heritage Act 2018*, that are of considerable cultural heritage significance to the community and worthy of recognition and protection through provisions of the Scheme.

Strategic objectives

- Development that recognises that Traditional Owners maintain a cultural and strategic interest in Port Hedland and their economic, cultural, and land use aspirations are acknowledged.
- Development appropriately recognises the importance of, and opportunities associated with, sites registered on the State Register of Heritage Places, in addition to sites identified in the Town of Port Hedland's Local Heritage Survey prepared under the *Heritage Act 2018*.

4.0 Port Hedland West End Improvement Scheme No. 1

4.1 Improvement Scheme arrangements

The Scheme depicts the intended land use and development scenario arising out of the State Government's response to the 2016 Taskforce Report, and extensive engagement with key stakeholders from State and local government, community and industry.

Improvement schemes are not bound to reflect the Model and Deemed provisions set out in the LPS Regulations, as sections 256, 257A and 257B of the PD Act do not apply. This Scheme has been prepared, however, to reflect the Model and Deemed provisions as relevant to the requirements of the West End.

4.2 Land use

4.2.1 Sensitive land uses

Key to implementing the State Government's response to the 2016 Taskforce Report, the Scheme provides a definition of 'sensitive land use' in accordance with the findings of the Department of Health's *Port Hedland Air Quality Health Risk Assessment for Particulate Matter*, which noted that certain groups within the general population have been determined to be more vulnerable to the effects of air pollution. These include:

- older people (over 65 years);
- people with pre-existing cardiovascular or respiratory disease;
- people with pre-existing respiratory conditions (asthma, bronchitis, chronic obstructive pulmonary disease); and
- children.⁹

The Scheme provides aims, and West End zone objectives, to give effect to the State Government response to the 2016 Taskforce Report that sensitive land uses be prohibited, and population growth restricted, in the West End.

4.2.2 'West End' zone

The Scheme sets out a singular West End zone across all land west of Taplin Street, excluding the Spoilbank and foreshore areas. The West End zone will apply the State Government response to the 2016 Taskforce Report within the Scheme by prohibiting:

- any form of residential development which provides for permanent occupancy (for example: single, grouped and multiple dwellings, residential aged care facilities)
- other land uses deemed to be sensitive receptors for human health impacts from dust (for example: aged persons centres, child care premises, schools, medical centres).

⁹ *Health Risk Assessment Port Hedland* (Toxicos, 2015)

The provision of predominantly discretionary land use permissibility within the zoning table is intended to provide the WAPC with the ability to properly consider proposals for non-sensitive land uses on their merits against the objectives of the zone and of the aims and purposes of the Scheme (among other matters). Additionally, it is considered that there is general merit and consistency with the principles of orderly and proper planning in establishing appropriate uses as discretionary in order to provide for planning and investment flexibility into the future, without the need for future amendments to the Scheme.

The approach to populating the permissible uses within the Scheme zoning table is specific to the West End context, having regard to the findings of the Department of Health's *Port Hedland Air Quality Health Risk Assessment for Particulate Matter* and the State Government's response to the 2016 Taskforce Report.

The Scheme includes a 'use not listed' clause in respect of uses that do not fall within the use classes outlined within the zoning table. Given the evolving nature of the resources sector and technological advancements it is considered appropriate to incorporate such a clause into this Scheme in order to 'future-proof' it and allow flexibility within the West End. The clause requires that the WAPC determine that the use is consistent with the objectives of the zone prior to approval, providing a framework for the exercise of discretion.

4.2.3 Non-conforming uses

The Scheme applies the model non-conforming use provisions as detailed in Schedule 1 of the LPS Regs.

Provisions have been incorporated into the Scheme to reflect the State Government's commitment to ensuring that any future West End planning controls will not prevent the redevelopment of existing residential properties – provided that the redevelopment would not result in an intensification or expansion of a non-conforming use – should they be more than 75 per cent damaged by a natural disaster such as fire or cyclone.

4.2.4 'Landscape Interface' reserve

A 'Landscape Interface' reserve is provided within the Scheme for the public open space corridor along Anderson Street to interface with adjacent industrial land uses, south of the Scheme boundary. The reserve will also continue to serve townsite drainage functions.

4.2.5 Roads

The Scheme identifies primary distributor, local distributor and local road reserves to distinguish the main heavy vehicle route along Wilson Street accessing the port from local traffic routes in the West End.

Further to the road classifications detailed in the Scheme, there is potential for future upgrades to the intersection, and realignment of Anderson Street and Short Street. Aimed at creating a unique sense of arrival to the West End, while focusing heavy vehicle traffic along Wilson Street; and with only limited access along Anderson Street, it will minimise conflicts between visitor traffic and industrial traffic.

4.3 Implementation of Improvement Scheme controls

The Scheme represents a staged, iterative approach to applying the State Government response to the 2016 Taskforce Report.

4.3.1 Land use planning changes to the area between Taplin Street and McGregor Street

Contemporary dust monitoring data indicate that Taplin Street, the eastern boundary of the Scheme area, remains the most appropriate boundary for limiting residential and sensitive land uses in proximity of the port.

However, the 2016 Taskforce Report supported the extension of the development controls to cap residential densities and limit population growth eastwards to McGregor Street, as a precautionary measure, allowing for possible increases in dust levels associated with future port expansion. Within the Taplin Street to McGregor Street precinct, the Taskforce supported low-density (R20) residential development, but higher-density residential development and other sensitive land uses (for example, aged persons centres, child care premises, schools, medical centres) will be prohibited).

The Department of Water and Environmental Regulation (DWER) has proposed a nominal five-year timeframe for the implementation of the State Government's industry regulation response to coordinate dust management in the West End (the Port Hedland Dust Management Program www.dwer.wa.gov.au/port-hedland). At the completion of the five years, DWER will report on the final outcomes, along with any recommendations for required future investigations, and additional actions.

To accommodate this potential uncertainty over the outcome of the State Government's industry regulation response to dust in the West End, the Scheme is initially applied to cover only those landholdings west of Taplin Street.

4.3.2 Environmental assessment of the proposed Spoilbank Marina development

The State Government's proposed Spoilbank Marina development project intends to provide public access to the waterfront and the harbour (including boat ramps, marina boat pens, public open space and community facilities) where it does not compromise public safety or the security of port operations, or result in adverse impacts on environmental values.

Development opportunities adjacent to the proposed marine within the Scheme area includes marine support industries, coastal rescue services, tourism, commercial, light industry, educational facilities, public open space and public access to the waterfront and marina.

The Spoilbank Marina project is progressing to detailed design stage, with the necessary information to support an application to the Environmental Protection Authority (EPA) for consideration to the proposed development works being prepared.

The timeframe for the formal development proposal to be submitted to the EPA could be impacted by changes to the marina design and dredged basin layout. This may in turn impact on the EPA's consideration of an improvement scheme which proposes to apply development controls that would facilitate the proposed Spoilbank Marina development.

To accommodate this potential uncertainty over the outcome of the EPA's consideration of the Spoilbank Marina development, the Scheme will initially be prepared to exclude the proposed Spoilbank Marina development and landside activation areas. Once the marina has been constructed, if appropriate, the Scheme may be amended to extend over this area.

4.3.3 Subdivision and development proposals

Development, including construction work and carrying out of activities, will require the approval of the WAPC, the responsible authority administering the Scheme. The WAPC, supported by the Department of Planning, Lands and Heritage, will receive, assess and determine applications for development.

4.3.4 Improvement Scheme policies and ancillary matters

It is intended that development controls within the Scheme will be guided by structure planning, or Scheme planning policies that supplement the Scheme through generally accommodating the present spatial arrangement of uses and precincts within the West End, including:

- retention of the existing town (commercial – retail) centre and general industry areas;
- expansion of tourism uses adjacent to the coast to take advantage of coastal views and the proposed Spoilbank Marina;
- expansion of the central commercial area to provide additional land supply for service commercial uses associated with the port; and
- rationalisation and reservation of various landholdings to form a vegetation corridor separating industrial uses south of Anderson Street from expanded tourism uses to the north.

Ancillary planning documents ensure planning decisions consider the locational constraints of land uses, the significant investments represented, and the current and future benefits and costs to communities. The broad aims of these documents are to:

- implement the State Government response to the 2016 Taskforce Report
- interpret the permissibility of land uses, including incidental or ancillary uses, in accordance with the aims of objects of the Scheme; and
- place no constraints on the operation of the port of Port Hedland.

Development proponents within the West End will be expected to undertake due diligence in consultation with the Department of Planning, Lands and Heritage to ascertain the specific requirements that will apply to their development proposal, which are likely to vary depending on the nature of the development and its spatial response to site constraints.

The realisation of land use synergies within the West End is dependent on the type and location of development, as determined by proponents' own independent feasibility studies, which may or may not be in line with structure planning or improvement scheme planning policies. Such documents are therefore ancillary to the provisions of the Scheme, intended to provide a broad framework and be flexible in nature, enabling applications to be considered on merits by the WAPC, having regard to the advice of relevant authorities.

5.0 Administration and review

The facilitation of development within the Scheme area is governed through the statutory administration and approvals processes.

5.1 Administration

The WAPC is the authority responsible for implementing the Scheme and any improvement scheme policies that are prepared. The WAPC will ensure that the statutory planning framework aligns with both State and local government broader strategic objectives for Port Hedland's West End.

Decisions made within the Scheme area will have regard for inter-relationships with the administration of the port by Pilbara Ports Authority under the *Port Authorities Act 1999*, as well as development control for the balance of the Port Hedland townsite under the Town of Port Hedland's local planning scheme.

5.2 Review

Periodic review of the operation of the Scheme will provide the opportunity to assess the effectiveness of the Scheme in implementing the State Government's response to the 2016 Taskforce Report. It also allows assessment of the efficiency of the provisions from an operational point of view.

The PD Act requires improvement schemes to be reviewed after each five-year period of operation. This ensures they remain current, and are appropriately serving strategic objectives. The outcomes of a Scheme review may lead to three possible scenarios:

- (1) The Scheme is adequately serving the strategic objectives of the project and no changes are required.
- (2) With appropriate amendments to reflect emerging industry needs, the Scheme will continue to meet the strategic objectives; or
- (3) The circumstances associated with the Scheme area have changed significantly, requiring amendments to the Scheme.

Each of the potential review outcomes requires referral to the Minister for Planning for determination.

List of abbreviations

AEP	Annual Exceedance Probability (flooding)
AHD	Australian Height Datum (sea level)
ARI	Average recurrence interval (flooding)
ASS	Acid Sulfate Soils
DOH	Department of Health
DMP	Department of Mines, Industry Regulation and Safety
DPLH	Department of Planning, Lands and Heritage
DWMS	District Water Management Scheme
EAG	Environmental Assessment Guidelines
EAR	Environmental Assessment Report
EPA	Environmental Protection Authority
EP Act	<i>Environmental Protection Act 1986</i>
EPBC Act	<i>Environmental Protection and Biodiversity Conservation Act 1999</i>
GIA	General Industry Area
HIA	Heavy Industry Area
ILUA	Indigenous Land Use Agreement
IP 50	Improvement Plan No. 50: Port Hedland West End
JTSI	Department of Jobs, Technology, Science and Innovation
LA Act	<i>Land Administration Act 1997</i>
MCC	Metallurgical Company of China Australia Sanjin Mining Pty Ltd
MDP	Model and Deemed Provisions
Mgpcm	Micrograms per cubic metre
Mtpa	Million tonnes per annum
OEPA	Office of the Environmental Protection Authority
PD Act	<i>Planning and Development Act 2005</i>
LPS Regs	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
PAA	<i>Port Authorities Act 1999</i>
PEC	Priority Ecological Community
PPA	Pilbara Ports Authority
SIA	Strategic Industrial Area
TEC	Threatened Ecological Community
ToPH	Town of Port Hedland
WAPC	Western Australian Planning Commission

APPENDIX 1

Port Hedland Air Quality Health Risk Assessment for Particulate Matter

(Department of Health, 2016)

APPENDIX 2

Port Hedland Dust Management Taskforce Report to Government

**(Department of Jobs, Tourism, Science and Innovation,
August 2016)**