



July 2021

**Greater Bunbury
Region Scheme
Amendment 0064/57
(Minor Amendment)**



Lot 562 and Lot 7002
Paris Road, Australind
Kingston Drive Extension

Amendment Report

Shire of Harvey

**Greater Bunbury Region Scheme
Amendment 0064/57
(minor amendment)**

**Rezoning of Lot 562 and Lot 7002 Paris Road,
Australind
from Regional Open Space Reserve to Urban Zone
(Kingston Drive Extension)**

Amendment Report

Shire of Harvey



July 2021

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The Greater Bunbury Region Scheme

What it is and how it is amended

Planning Greater Bunbury's future

The most populous area of the South-West Region of Western Australia is the area encompassed by the Greater Bunbury Region Scheme (GBRS). The GBRS covers the City of Bunbury and the Shires of Capel, Dardanup and Harvey.

The Greater Bunbury locality is one of the fastest growing areas in Australia, with a population projected to exceed 100,000 by 2031. As it grows, change must be well planned and well managed.

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 GBRS provides for this change, and the means by which affected landowners can be compensated for land acquired for regional public purposes.

What is the Greater Bunbury Region Scheme?

The GBRS is a region planning scheme for land use in the Greater Bunbury area. This area stretches from Lake Preston in the north, Peppermint Grove Beach in the south and east to the Darling Scarp.

The GBRS 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 GBRS.

The GBRS 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 November 2007 and provides the legal basis for planning in the Greater Bunbury area.

To plan for changing needs, the GBRS is amended from time to time.

What is an amendment?

An amendment to the GBRS 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 GBRS is advertised to seek comment from the wider community and all levels of government.

The process allows for extensive community consultation and discussion in Parliament before a final decision is made.

How is the Greater Bunbury Region Scheme amended?

The Western Australian Planning Commission (WAPC) is responsible for keeping the GBRS 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 amendment proposed in this report is being made under the provisions of section 57 (often referred to as a minor amendment).

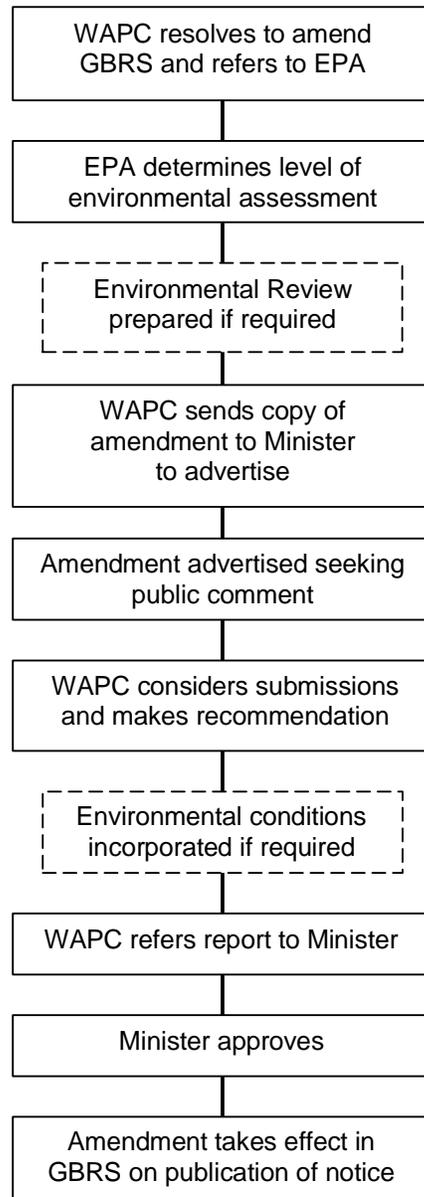
The process of a minor amendment to the GBRS includes the following steps:

- 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 WAPC's 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. 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 GBRS 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 GBRS is amended, local planning schemes must also be amended to match the broad zonings and reservations of the GBRS. Affected local governments provide more detailed planning for each area.

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

Zones and reservations

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

Zones

Urban: to provide for residential development and associated local employment, recreation and open space, shopping, schools and other community facilities.

Urban Deferred: land suitable for future urban development but where there are various planning servicing and environmental requirements which need to be addressed before urban development can take place.

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

Regional Centre: the Bunbury central business district within which commercial, civic, cultural, residential, service and administration activities serving the region are located.

Industrial: to provide for manufacturing industry, the storage and distribution of goods and associated uses.

Industrial Deferred: land suitable for future industrial development but where there are various planning, servicing and environmental requirements which need to be addressed before industrial development can take place.

Rural: to provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for the urban area and accommodate carefully planned rural living developments.

Private Recreation: to accommodate regionally significant open space and recreation activities in private use.

Reservations

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

Regional Open Space: to protect the natural environment, provide recreational opportunities, safeguard important landscapes and provide for public access.

Primary Regional Roads: to provide a regional road network to accommodate current and future transport needs on roads declared under the *Main Roads Act 1930*.

Other Regional Roads: to provide a regional road network to accommodate current and future transport needs on roads for which the planning responsibilities are shared between the Commission and local government.

Railways: to provide for the passage of trains, the marshalling, maintenance and storage of rolling stock, and the conveying of public and freight by rail.

Port Installations: to provide for the current and future expansion needs of the Port of Bunbury.

Waterways: to recognise permanently inundated inland and coastal lands below the high water mark, and existing and proposed water canals.

State Forests: to recognise State forests.

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

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 GBRS 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 Greater Bunbury Region Scheme, a leaflet reproduced at the back of this report and available separately from the Department of Planning, Lands and Heritage.

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 WAPC's website.

Publications

In the course of each substantial amendment to the GBRS, information is 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 GBRS 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.

Lot 562 and Lot 7002 Paris Road, Australind
Location Plan

Greater Bunbury Region Scheme Amendment 0064/57

Lot 562 and Lot 7002 Paris Road, Australind (Kingston Drive Extension)

1. Planning objective

The purpose of this proposal is to amend the Greater Bunbury Region Scheme (GBRS) by rezoning Lot 562 which is already dedicated as part of Paris Road and a portion of Lot 560 (proposed Lot 7002 through DP 420660) Paris Road, Australind from Regional Open Space Reserve to Urban Zone in order to facilitate the completion of Kingston Drive between Paris Road and Ditchingham Place, as provided by the Shire of Dardanup and Shire of Harvey Joint Town Planning Scheme No. 1 (JTTPS).

2. Background

Application is made for an amendment to the GBRS for Lot 562 & part of Lot 560 Paris Road, Australind (the subject land).

The current Kingston Drive missing linkage between Paris Road and Ditchingham Place is approximately 735 metres long which includes the subject land being approximately 200 metres long and a further section of approximately 535 metres long directly south of the subject land which is already dedicated as road but not yet constructed.

Lot 562 is 292m² in size and currently forms part of the existing Paris Road with the portion of Lot 560 in question (proposed Lot 7002) being 5935m² in size and part of the bigger Crown Reserve R35061 (Lot 560) which is 12.6ha in extent and accommodates native vegetation.

The proposal involves the amendment of the existing Regional Open Space Reserve over the subject land to the Urban Zone under the GBRS.

The subject land is located within the local government area of the Shire of Harvey, approximately 12km north-east of the Bunbury City Centre. The site is bounded by Paris Road to the north, Lot 561 to the east and Lot 522 to the south.

The Shire of Harvey purchased the southern portion of Lot 522 from the Water Corporation in 2011, with the purchased portion of land being dedicated as a road and will form the southern portion of the completed Kingston Drive.

The JTTPS was approved by the then Minister for Planning and Infrastructure on 28 February 2006 and gazetted on 17 March 2006. The JTTPS has a number of general objects including making provision for the construction of new roads and/or the upgrading of existing roads.

The JTTPS map demonstrates the alignment of the Kingston Drive Extension and indicates that this extended portion of road would be constructed to a District Distributor Road standard. The JTTPS stipulates that the provision of the land required to widen Kingston Drive to 30 metres between Paris Road and Ditchingham Place is to be excised from Crown Reserve 35061.

The purpose of the JTTPS map is to identify where scheme works are to be undertaken and the location of indicative land use classifications. The map does not envisage the rezoning or reserving of land, hence the proposed amendment under the GBRS.

3. Scope and content of the amendment

The amendment proposes to rezone a total of 6227m² (approximately 30 metres in width and 200 metres in length) of land from the Regional Open Space Reserve to the Urban Zone in the GBRS.

4. Discussion

Strategic Planning Context

Greater Bunbury Strategy and Structure Plan 2013

The Greater Bunbury Strategy 2013 has been prepared by the Department to guide urban, industrial and regional land use planning and associated infrastructure delivery in the Greater Bunbury sub-region in the short, medium and long terms.

One of the key outcomes of the Greater Bunbury Strategy is to deliver a compact and connected urban form to protect the Greater Bunbury sub-region's diverse economic base, efficient provision of social services, the efficiency of road and rail infrastructure, productive agricultural land, conservation areas, and important resource lands.

The Greater Bunbury Structure Plan is considered to reflect the principles of a compact and connected city, as it promotes connectivity through the development of key public transport infrastructure, which will encourage urban development along transport and urban corridors through transit-oriented development, and provide better access to services.

The completion of Kingston Drive will assist in providing a more compact and connected city.

The Collie River Bridge was one of the general objects of the JTPS, with the completion and opening of the bridge in 2018, the construction of the 735 metre link between Paris Road and Ditchingham Place became the only remaining unconstructed portion of the road in order to complete the associating road works.

The linkage will complete the 8 kilometre road including Kingston Drive/The Promenade/The Boulevard/Eaton Drive stretching from the Kingston residential area in the north to the Forrest Highway, Eaton in the south.

State Planning Policy 3.0: Urban Growth and Settlement

State Planning Policy 3.0 - Urban Growth and Settlement sets out the principles and considerations that guide the development of new urban growth areas and settlements.

One of its objectives is to coordinate development with the efficient, economic and timely provision of infrastructure and services.

The amendment is not directly linked to any new development but will ensure that access between north and south is appropriately addressed by making the land required for the Kingston Drive linkage available, which has been planned through the JTPS to become a key part of the regional movement network.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP 3.7) guides the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure. It applies to all strategic planning proposals, subdivision and development applications in designated bushfire prone areas, unless exemptions apply.

The amendment area is identified as a bushfire prone area. However, a bushfire management plan is not required as the proposal is exempted from the application of SPP 3.7 by Planning Bulletin 111/2016, given the proposal involves infrastructure only and does not intensify development or land uses.

Statutory Planning Context

EPA Bulletin 1108/Ministerial Statement No. 697

The GBRS was referred to the Environmental Protection Authority (EPA) under the *Environmental Protection Act 1986* (EP Act) by the Western Australian Planning Commission (WAPC) in 1996. The EPA decided to formally assess (under Section 48A of the EP Act) the GBRS. The EPA Bulletin 1108 on the GBRS was issued in September 2003.

The EPA considered the GBRS and concluded that the Scheme could be implemented to meet the EPA's objectives provided certain recommendations and conditions were implemented. This advice was submitted to the Minister for the Environment.

This advice is reflected in Ministerial Statement No 697, subsequently issued on 31 October 2005, which outlined a set of conditions to be imposed on certain properties when the GBRS was approved.

In relation to Reserve 35061 Paris Road, Australind, the EPA recommended the land be reserved for conservation purposes to protect the integrity, function and environmental value of the bushland on the northern and western portions of the property, to the requirements of the WAPC on advice of the EPA, and shall only be used for conservation and complementary purposes.

The recommendation in relation to Reserve R35061 has been fulfilled with the property being Reserved for Regional Open Space purposes under the GBRS.

The Shire of Harvey submitted an application with the Department of Water and Environmental Regulation (DWER) for a Clearing Permit for the construction of the Kingston Drive completion between Paris Road and Ditchingham Place. The Clearing Permit application was supported by a Detailed and Targeted Flora and Vegetation Survey (Survey 2018) of the subject land and the adjoining southern existing road reserve.

In addressing Bulletin 1108 and matters raised in Survey 2018, the Shire has committed to offsetting the required vegetation clearing at a number of locations.

The proposed amendment was referred to the EPA for advice on whether environmental assessment would be required.

Native Title

The State will remove the portion of Reserve 35061 required for the Kingston Drive linkage from consideration for potential inclusion in the Noongar Land Base. The balance of Reserve 35061 (Lot 560) has not been excluded from consideration for potential inclusion in the Noongar Land Base.

Land Tenure

Reserve 35061 is currently Crown land without a management order. Upon confirmation of the land not being subject to the Native title claim and amendment of the GBRS, the subject land can be created as a separate lot for dedication for road purposes.

A deposited plan has been prepared to amend Crown Reserve 35061 by creating a lot that would support dedication as a road, when required. The area in question will be known as Lot 7002 as identified on DP 420660.

Lot 562 was dedicated for road purposes in 2011 as identified on DP 68322.

5. Aboriginal Heritage

The *Aboriginal Heritage Act 1972* provides for the protection and preservation of Aboriginal heritage and culture in Western Australia, including places and objects of significance to Aboriginal people, whether previously recorded or not.

The process of rezoning land in a region scheme is not itself directly affected by the *Aboriginal Heritage Act 1972*, as the proposed land use changes are very broad in nature and do not, themselves, physically interfere with the land. The protection of Aboriginal heritage sites is specifically addressed during later stages of the planning process, usually when a local structure plan is being developed.

Nevertheless, in recognising the importance of having reliable Aboriginal information on land and the values attached to it, the proposed amendment will be assessed against the provisions of the *Aboriginal Heritage Act 1972* during the consultation phase of the amendment process.

6. Coordination of Region and Local Scheme amendments

The Shire of Harvey's District Planning Scheme No. 1 is required to be consistent with the GBRS. Under Sections 126(1) & 126(3) of the *Planning and Development Act 2005* concurrent amendment of a Local Planning Scheme is allowed to reserve for any public purpose or rezone to an Urban zone by these sections and without any further action under the Act.

The subject land is currently not zoned under the Local Planning Scheme and only reflects the Regional Open Space Reserve under the Region Scheme. Once the Regional Open Space Reserve is amended to the Urban Zone under the Region Scheme, the Local Scheme will remain with No Zone which is correct for roads. Section 126(3) of the *Planning and Development Act 2005* is therefore not applicable.

7. Substantiality

The *Planning and Development Act 2005* allows for amendments to the GBRS to be processed as either 'minor' or 'major' amendments depending on whether they are considered to constitute a substantial alteration to the GBRS or not.

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

- The subject land forms part of the Kingston Drive/Eaton Drive linkage identified in the JTPS as a district distributor road to link Australind and Eaton over the recently opened Collie River Bridge. The JTPS specifically mentions that the provision of the land required for Kingston Drive between Paris Road and Ditchingham Place be excised from Reserve 35061.
- The JTPS was recommended for approval by the then Department of Planning and Infrastructure and subsequently approved by the then Minister for Planning and Infrastructure on 28 February 2006.
- The amendment would facilitate the construction of an efficient and effective regional movement network consistent with the intent of the JTPS.
- The proposed amendment is not considered complex and is generally consistent with the Greater Bunbury Strategy and Structure Plan, SPP 3.0 and SPP 3.7.
- The proposed amendment is considered to represent a logical rationalisation of the zoning and reservation of land in the GBRS for the locality.
- The local authority is the proponent and subsequently in support of the amendment.

As such it is considered appropriate for this amendment to be processed as a minor amendment to the GBRS.

8. Sustainability appraisal

The proposed amendment will facilitate the development and finalisation of the Kingston Drive linkage between Paris Road and Ditchingham Place in accordance with the intent of the Greater Bunbury Strategy and Structure Plan, the JTPS and SPP 3.0.

9. Environmental Protection Authority advice

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

The EPA has advised that the proposed amendment does not require formal assessment under Part IV of the *Environmental Protection Act 1986*. However, it has provided advice on the key environmental factors for the amendment. (Appendix A).

10. The Amendment Process

The procedures for amending the GBRS are prescribed by the *Planning and Development Act 2005*.

Section 57 of the *Planning and Development Act 2005* sets out the procedure for processing amendments which the WAPC considers do not constitute a substantial alteration to the Scheme.

In essence this process involves:

- preparation of the proposed amendment by the WAPC
- referral to the Environmental Protection Authority for environmental assessment
- completion of an Environmental Review (if required) in accordance with the Environmental Protection Authority's instructions
- public submissions being sought on the proposed amendment (including Environmental review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or decline to approve by the Minister
- publication of a notice in the Government Gazette advising of the approved amendment and giving it effect in the Scheme.

A more detailed explanation of this process, entitled 'The Greater Bunbury Region Scheme - What it is and how it is amended' can be found in the front of this report.

11. Submissions on the amendment

The WAPC invites people to comment on the proposed amendment to the GBRS. The amendment is being advertised for public submissions for a period of **60 days** from **13 July 2021 to 10 September 2021**.

Copies of the amendment will be available for public inspection at:

- the Western Australian Planning Commission - 140 William Street, Perth
- the Department of Planning, Lands and Heritage - L6 - 61 Victoria Street, Bunbury
- the Shire of Harvey; and
- the State Library of WA, Perth Cultural Centre, Northbridge.

Written submissions or comments on the amendment should be sent to:

The Secretary
Western Australian Planning Commission
Level 6, 61 Victoria Street
Bunbury WA 6230

email: gbrs@dplh.wa.gov.au

and must be received by 5 pm 10 September 2021.

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 WAPC's website www.dplh.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

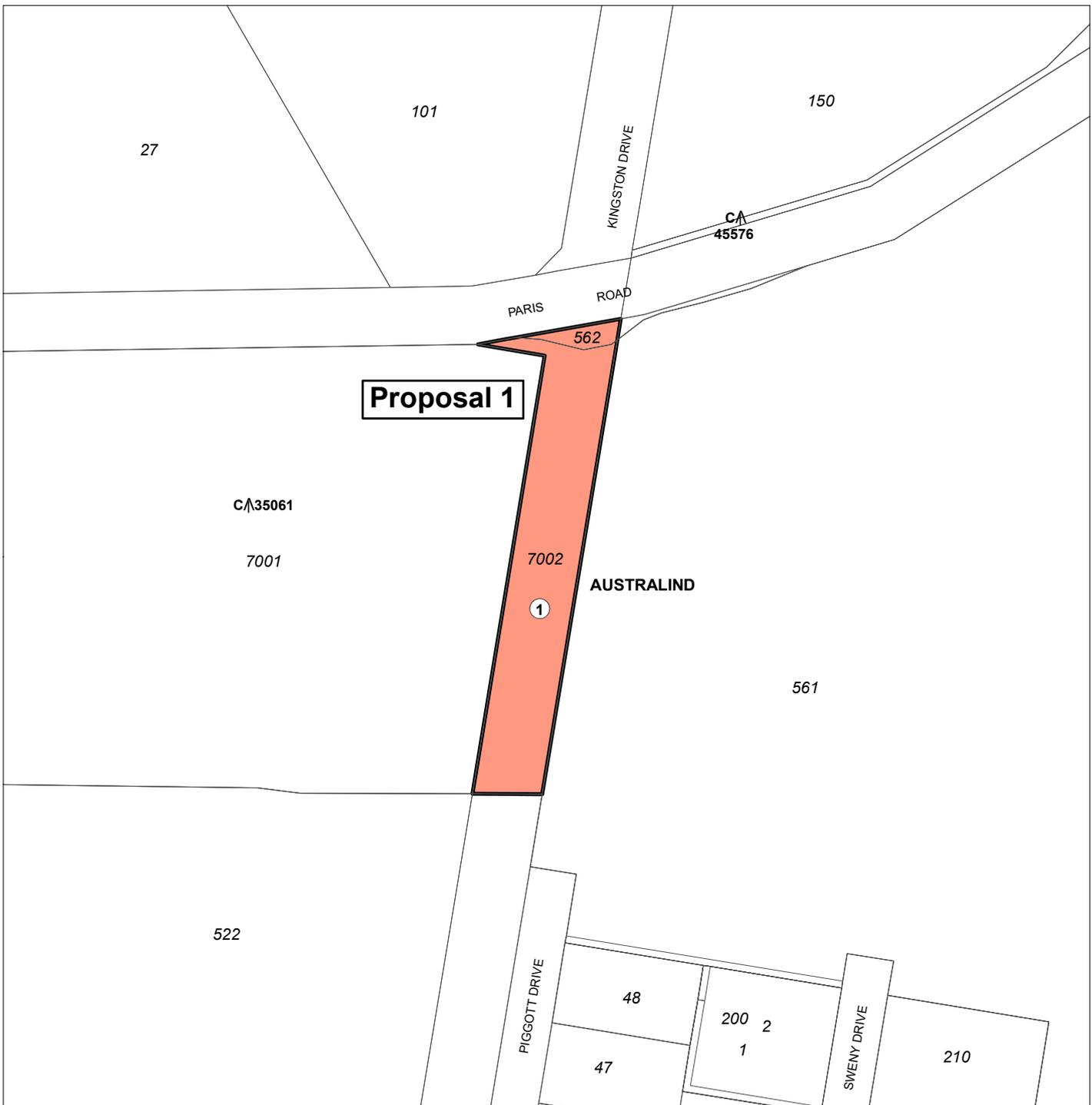
After considering any comments received from the public and government agencies, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without modifications in response to submissions, or may decline to approve the amendment.

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.

Lot 562 and Lot 7002 Paris Road, Australind

Proposal 1



**Proposed Amendment to Greater Bunbury Region Scheme
Lot 562 & 7002 Kingston Drive, Australind**

31 March 2021

Proposal 1

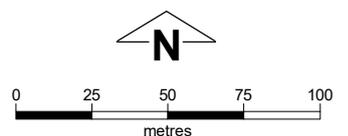
Proposed Amendment:

 Urban zone

Oracle reference no: 3205
File number: RLS/0958
Version number: 1



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Appendix A

Notice of environmental assessment

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

Our Ref: CMS18009
Enquiries: Teresa Bryant, 6364 6421
Email: Teresa.Bryant@dwer.wa.gov.au

Dear Ms Fagan

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

SCHEME	Greater Bunbury Region Scheme Amendment 0064/57
LOCATION	Lot 562 and portion of Lot 560 Paris Road, Australind.
RESPONSIBLE AUTHORITY	Western Australian Planning Commission
DECISION	Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of the EP Act. Advice Given. (Not Appealable)

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

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations. I have also attached a copy of the Chair's determination of the scheme.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.
- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of the Chair's determination, this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Sutton', with a horizontal line extending to the right.

Anthony Sutton
Delegate of the Environmental Protection Authority
Executive Director
EPA Services

21 June 2021

Encl. Chair's Determination
Scheme Advice and Recommendations



GOVERNMENT OF
WESTERN AUSTRALIA

S48A Referrals

Environmental Protection Authority

Title: Greater Bunbury Region Scheme Amendment 0064/57

Location: Lot 562 and portion of Lot 560 Paris Road, Australind.

Description: Rezoning of Lot 562 and portion of Lot 560 Paris Road, Australind from Regional Open Space Reserve to Urban Zone.

Ref ID: CMS18009

Date Received: 18/05/2021 **Date Sufficient Information Received:** 26/05/2021

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

Contact: Mr Matthew Selby

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

Potential Significant Effects: There are potential impacts on Flora and Vegetation and Terrestrial Fauna from the clearing of up to 0.6 hectares (ha) of native vegetation. Inland Waters are potentially impacted by changes to the hydrological regime adjacent to the proposed road.

Management: The amendment area is small, and part of a larger 2 ha area required for construction of Kingston Drive. No impacts to Inland Waters is expected and other statutory processes, including the clearing of native vegetation in accordance with a permit under Part V Division 2 (Clearing) of the *Environmental Protection Act 1986*, will be required and is considered appropriate to mitigate impacts to Flora and Vegetation and Terrestrial Fauna.

Determination: **Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)**

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

This Determination is not appealable.

Chairman's Initials: 

Date: 16 June 2021

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

Greater Bunbury Region Scheme 0064/57 – Kingston Drive Extension

Location: Lot 562 and portion of Lot 560 Paris Road, Australind

Determination: Scheme Not Assessed – Advice Given (Not Appealable)

Determination Published: 22 June 2021

Summary

The Western Australian Planning Commission (WAPC) proposes to rezone Lot 562 and portion of Lot 560 Paris Road, Australind from Regional Open Space to Urban to facilitate the completion of Kingston Drive between Paris Road and Ditchingham Place, Australind.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment as set out is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the scheme amendment documentation provided by the Western Australian Planning Commission (WAPC). Having considered this matter, the following advice is provided.

The proposed amendment area is part of an area zoned for Regional Open Space following the EPA's assessment of the Greater Bunbury Region Scheme (GBRS) and the issuing of Ministerial Statement (MS) 697. MS 697 required that Lot 560 (Reserve 35061) Paris Road be reserved for conservation purposes. The recommendation in relation to Reserve R35061 was fulfilled with the property being reserved for Regional Open Space purposes under the GBRS.

Environmental Factors

Having regard to the EPA's *Statement of Environmental Principles, Factors and Objectives*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Flora and Vegetation;
- Terrestrial Fauna;
- Inland Waters.

Advice and Recommendations regarding Environmental Factors

Flora and Vegetation; Terrestrial Fauna

The portion of Lot 560 (0.59 hectares) contains vegetation representing *Eucalyptus marginata* Open Woodland (10 - 30m) over *Banksia ilicifolia* Low Woodland and *Eucalyptus marginata* Low Woodland to Woodland over *Banksia ilicifolia*, *Acacia longifolia* Low Open Forest and may be representative of the Banksia Woodlands of the Swan Coastal Plain Threatened

Ecological Community. Vegetation condition is considered Good to Completely Degraded. A population of the Priority 4 listed species *Acacia semitrullata* was identified.

The vegetation is utilised as habitat by the western ringtail possum (WRP) and species of black cockatoo (BC). A fauna assessment (Greg Harewood, 2018) identified two WRP dreys, and sightings of WRP. Evidence of black cockatoo foraging and 4 habitat trees, 3 with small hollows, unlikely to be suitable for BC, were also recorded. According to Harewood, the adjacent 42 hectares (ha) Wardandi Flora Reserve contains suitable habitat for WRP and BC.

The EPA notes the Shire of Harvey has submitted to the Department of Water and Environment Regulation a clearing application for 2.1 ha for the construction of Kingston Road, which includes the amendment area.

The EPA considers the amendment area is small and has been defined to only zone the land required for construction of Kingston Drive. The amendment area is located on the boundary of Reserve R35061 and therefore will not result in fragmentation of Reserve R35061. The EPA advises that in addition to the clearing permit application, that normal clearing protocols for fauna be implemented.

Inland Waters

The amendment area is part of an extensive Palusplain wetland identified as Multiple Use. Any changes to the hydrological regime are likely to be minor and localised. Water management should be considered during detailed planning to ensure potential impacts to the adjacent Reserve are minimised pre and post road construction.

Recommendation

The EPA concludes that implementation of the amendment can be managed to meet the EPA's environmental objectives for the above factors through standard planning requirements and other statutory processes including the clearing of native vegetation in accordance with a permit under Part V Division 2 (Clearing) of the EP Act. The EPA recommends its advice is implemented to mitigate potential impacts to Flora and Vegetation, Terrestrial Fauna and Inland Waters.

Appendix B

List of plans supporting the amendment

Lot 562 and Lot 7002 Paris Road, Australind

Proposed minor amendment

Amendment 0064/57

as advertised

Legal plan

3.2779

Detail plans

1.4658

1.4661

Appendix C

Your Property and the Greater Bunbury Region Scheme



Your Property and Regional Planning Schemes

Your land is reserved in a Regional Planning Scheme

The Western Australian Planning Commission (WAPC) administers three Regional Planning Schemes (RPS's). The Metropolitan Region Scheme, the Peel Region Scheme and the Greater Bunbury Region Scheme.

RPS's are town planning schemes that cover the Perth metropolitan area, the Peel region and the Greater Bunbury region. They classify land into broad zones and reservations. As these regions develop, so the WAPC must amend the RPS's. The RPS's are available for inspection at a local authority office, the Department of Planning, Lands and Heritage, and the WAPC.

Zones are large areas identified as being suitable for purposes such as industry (Industrial zone) and residential (Urban zone). Reservations are areas required for public purposes such as school sites, railways, major roads and parks and recreation areas.

Before rezoning or reserving land, the WAPC approaches affected landowners and invites them to make submissions on the changes proposed through the amendment process.

The government will ultimately acquire reserved land, but the land can generally remain in private ownership until the government needs it for the public purpose.

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

- Retain ownership of your property and continue quiet enjoyment of the property until the government needs it for the public purpose. You may complete any development or subdivision of the property approved before the reservation came into effect.

Under non-conforming use rights, you may continue to use the property for purpose it was legally being used immediately before the reservation came into effect.

- Sell the property on the open market to another person(s). The WAPC recognises that due to the reservation this may be difficult. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider purchasing a reserved property if an owner is unable to achieve a private sale on the open market.
- Offer the property for sale to the WAPC. Subject to acquisition priorities and the availability of funds, the WAPC would be willing to consider purchasing a reserved property. The WAPC purchases a property at its current market value ignoring the effect of the reservation. The WAPC obtains two independent valuations to provide it with advice on the value of the property.
- If the WAPC refuses a development application on reserved land, or approves a development application subject to conditions that are unacceptable to the applicant, the applicant can make a Claim for Compensation for Injurious Affection. However, you must be the owner of the property when it was first reserved to be eligible to make a claim

In such cases, the WAPC may elect to purchase the property instead of paying compensation. The purchase price can be determined by negotiation, by reference to the State Administrative Tribunal or by arbitration.

Am I entitled to compensation?

If your land is reserved in a RPS and you are the owner of the land when it was first reserved, you may be able to make a Claim for Compensation for Injurious Affection if:

- You wish to sell the property on the open market at a reduced price; **or**
- The WAPC either has 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. Private Sale

If wish 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. 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 value of the property as unaffected by the reservation. You may wish to attend the Board's meeting to present any matters you believe are relevant to the value of your property.

Following the Board's decision:

- The Board will advise you of the unaffected value of the property.
- You pay the Board's valuation fee to the Department. The Department will advise you of the affected value of the property. This is the minimum price for which you can sell the property and receive the full amount of compensation. The valuation fee is refundable upon the sale of the property.
- You then arrange the sale of the property (either privately or through an agent). The sale price must not be less than the affected value.

You (and your agent) must inform prospective purchasers that you are selling the property at a reduced price and that you will be claiming compensation for injurious affection from the WAPC. You must also include a special condition in the Offer and Acceptance.

- After you sell the property, you 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 to revalue the property. The sale process is then repeated.
- After the WAPC pays compensation, the WAPC will lodge a Notification on the Certificate of Title to identify that it has paid

compensation. 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. Refused Development

If the WAPC refused your development application or approved it subject to unacceptable conditions **and** the property is reserved in a RPS, 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 either will pay compensation or may elect to purchase the property instead of paying compensation.

If the WAPC elects to purchase the property, it obtains valuations for the market value of the property as at the date of the election to purchase. The date of valuation is fixed at the date of election to purchase.

What is compulsory acquisition?

A situation may arise where the government urgently requires a property for a public purpose and the owner is unwilling to sell the property to the WAPC. In such a case, the government may compulsorily acquire ("resume" or "take") the property for that public purpose.

When the WAPC takes a property, you have the right to make a Claim for Compensation for the land taken. The WAPC will obtain valuations of the taken land and, after checking of the compensation claim, will make you an offer of compensation.

Should you have any queries about the information in this brochure, please contact the Department's WAPC Property Management Services branch.

Appendix D

Preparing a submission

Preparing a submission

The WAPC welcomes comment on proposed amendments to the Greater Bunbury Region Scheme (GBRS) 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 on side one. 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)**

You should be aware that:

- The WAPC is subject to the *Freedom of Information Act 1992* and as such, submissions made to the WAPC may be subject to applications for access under the Act.
- In the course of the WAPC assessing submissions, or making its report on these submissions, copies of your submission or the substance of that submission, may be disclosed to third parties.
- Should the Minister approve the proposed amendment the WAPC recommendations are published in a report on submissions.

To be signed by person(s) making the submission

Signature Date

Note: Submissions MUST be received by the advertised closing date, being close of business (5pm) on 10 September 2021. Late submissions will NOT be considered.

Contacts: Telephone - (08) 9791 0577; Fax - (08) 9791 0576; Email – gbrs@dplh.wa.gov.au; Website - <http://www.dplh.wa.gov.au>