

WESTERN AUSTRALIAN PLANNING COMMISSION

**METROPOLITAN REGION SCHEME
Amendment No. 1036/33**

**GNANGARA MOUND GROUNDWATER
PROTECTION**

Cities of Swan and Wanneroo

REPORT ON SUBMISSIONS

March 2005

PERTH
WESTERN AUSTRALIA



Government of
Western
Australia



Western
Australian
Planning
Commission

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FOREWORD

The **Metropolitan Region Scheme (MRS)** sets out the broad pattern of land use for the whole Perth metropolitan region. This Scheme is constantly under review to best reflect regional planning and development needs.

The **Western Australian Planning Commission (WAPC)** is the agency responsible for this process.

Amendment proposals are made to change land-use 'reservations' and 'zones' in the MRS when considered necessary. The amendment process is regulated by the *Metropolitan Region Town Planning Scheme Act*. That legislation provides for public submissions to be made on proposed amendments.

For a **substantial amendment** (made under Section 33 of the Act), the WAPC considers all the submissions lodged, and publishes its findings in a *Report on Submissions*. This report is presented to the Minister for Planning and Infrastructure and to the Governor. The Amendment is then scrutinised by both Houses of Parliament before it takes effect.

PUBLICATIONS

In the course of each substantial amendment to the MRS, information is published under the following titles:

Amendment Report

This document is available from the start of the public advertising period of the proposed amendment. It sets out the purpose and scope of the amendment, explains why it is considered necessary, and informs people how they can comment on the proposal.

Environmental Review Report

The Environmental Protection Authority considers the environmental impact of an amendment to the MRS before it is advertised. Should it require assessment an Environmental Review is undertaken, and that information is available at the same time as the *Amendment Report*.

Report on Submissions

Documents the planning rationale, determination of submissions and the WAPC's recommendations for final approval of the Amendment.

Submissions

Comprises a reproduction of all the written submissions received on the proposed amendment.

Transcript of Public Hearings

A person who has made a written submission may also choose to appear before a Hearings Committee to express their views. All hearings are recorded and transcribed. The submitter may choose whether this hearing is conducted in 'private' or in 'public'. Where the person has chosen a private hearing, materials presented remain confidential. The transcripts of public hearings are published in this volume.

List of Acronyms

DoE	Department of Environment
DPI	Department for Planning and Infrastructure
DPS	District Planning Scheme
EPA	Environmental Protection Authority
GLUWMS	Gnangara Land Use and Water Management Strategy
MRPC	Metropolitan Region Planning Committee
MRS	Metropolitan Region Scheme
MRTPS	Metropolitan Region Town Planning Scheme Act 1959
PGTS	Pinjar Gas Turbine Station
PITC	Perth International Telecommunications Centre
SPP	Statement of Planning Policy
UWPCA	Underground Water Pollution Control Area
WAPC	Western Australian Planning Commission

Glossary

buffer

the separation of a wetland from adjacent land uses through either spatial separation or through the use of physical barriers to reduce the potential threats and impacts on its desired values.

Gnangara groundwater mound

a source of underground groundwater of some 2200 square kilometres that extends south from the Gingin Brook to the Swan River, east to Ellen Brook and west to the Indian Ocean.

Karst

a landform type in which extensive areas of limestone and/or limestone cave formations are found.

local structure plan

a local neighbourhood scale plan providing a comprehensive physical framework for the design and location of land use elements in a defined development area; for example, roads, housing areas, schools, open space, commercial centres and special uses. The plan allows for the assessment of subdivision and development applications in relation to specified land uses in the context of an overall plan.

palusplain

a term used to describe a landform, found in south – western Australia, that is flat and seasonally waterlogged.

Rural-Water Protection zone

the name of a category of land, in the Metropolitan Region Scheme, placed over land in an Underground water pollution control area for the purpose of controlling land uses to minimise potential contamination of the groundwater source.

special rural zone

the name of a category of land found in a local government town planning scheme that usually defines an area of land containing 2 ha size rural lots and outlining the objectives and provisions in relation to development and subdivision of land in the area defined as special rural.

underground water pollution control area

an area of land proclaimed under the *Metropolitan Water Supply Sewerage and Drainage Act 1909* for the purpose of protecting groundwater used for public drinking water supplies.

Urban Deferred zone

the name of a category of land found in the Metropolitan Region Scheme used to describe an area of land that has the potential for urban development but has outstanding planning, environmental or other issues to be resolved before it can be zoned as urban in the Metropolitan Region Scheme.

water catchment reservation

the name of a category of land found in the Metropolitan Region Scheme that falls in the physical catchment area of either an underground or surface public water supply area.

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PUBLISHED UNDER SEPARATE COVER

Submissions

Transcript of Public Hearings

AMENDMENT 1036/33 TO THE METROPOLITAN REGION SCHEME GNANGARA MOUND GROUNDWATER PROTECTION

REPORT ON PUBLIC SUBMISSIONS

1. INTRODUCTION

Protection of public drinking water source areas is a high priority for the West Australian government.

The Perth Region planning committee, now the Metropolitan Region Planning Committee agreed to amend the Metropolitan Region Scheme and initiate the Gnangara Mound Groundwater Protection Amendment No 1036/33.

The overall package of government land use controls over the Gnangara Mound public drinking water supply source includes:

- the proposed Scheme Amendment No.1036/33;
- a revised Statement of Planning Policy 2.2 - Gnangara Groundwater Protection to replace the existing Gnangara Mound crown land statement of planning policy No 3;
- an Environmental protection policy - Gnangara Mound crown land (to be prepared); and
- modifications to the priority water source protection areas and gazettal of the new Gnangara underground water pollution control area through the Metropolitan Water Supply, Sewerage and Drainage By-Laws (1992).

2. THE PROPOSED AMENDMENT

The proposed Gnangara Mound Groundwater Protection Amendment No. 1036/33 is to give statutory effect in the Metropolitan Region Scheme to some of the recommendations of the Gnangara land use and water management strategy 2001.

It achieves this by placing a Water Catchments Reservation and a Rural-Water Protection zone over the priority 1 and 2 source protection areas in the Mirrabooka, Wanneroo and Gnangara underground water pollution control areas on the Gnangara groundwater mound.

The proposal is described in the Western Australian Planning Commissions (WAPC) *Amendment Report* published in November 2003.

3. ENVIRONMENTAL PROTECTION AUTHORITY ADVICE

The proposed amendment was referred to the Environmental Protection Authority (EPA) in accordance with Section 33E of the *Metropolitan Region Town Planning Scheme Act 1959*, for advice as to whether environmental assessment of the amendment was required.

After considering the likely environmental impact of the amendment, the EPA decided that its implementation would not impact significantly enough to warrant assessment under Part IV of the *Environmental Protection Act 1986*. Assessment under the Act would have required preparing an environmental review and the subsequent setting of formal conditions by the Minister for the Environment.

However, the Department of Environment (DoE), acting under delegation from the EPA, provided advice to the Commission on the key environmental factors, to assist in the environmentally responsible implementation of the scheme amendment. A copy of the notice from the EPA was included in the *Amendment Report*.

4. CALL FOR SUBMISSIONS

The proposed amendment was advertised for public submissions for a period of three and a half months from Tuesday 25 November 2003 to Friday 5 March 2004.

Copies of the amendment were made available for public inspection at the Department for Planning and Infrastructure, Albert Facey House in Perth, the municipal offices of the Cities of Perth, Fremantle, Swan and Wanneroo and the State Reference Library, Ellenbrook Public Library and Ballajura Public Library.

During the public inspection period, notice of the amendment was published in *The West Australian*, *The Sunday Times* and local papers circulating in the area.

The *Amendment Report* was published and issued free of cost on request.

Owners of land affected by the proposed amendment were forwarded a copy of the report and plans, and advised of the procedure and opportunity for making submissions.

5. SUBMISSIONS AND HEARINGS

There were 135 submissions received and one late submission. Of these, 11 submissions were in support of the proposal, 109 submissions were opposed to it and 15 submissions were making a comment.

An alphabetical list of all persons and organisations that lodged a submission is attached at Schedule 1. A summary of submissions is attached at Schedule 2. A full copy of the original submissions is published under separate cover.

The Metropolitan Region Town Planning Scheme Act 1959 provides that where a submission contains an objection to an amendment, the Commission cannot dismiss the objection until the person making the submission has been given the opportunity of being heard by a committee formed for that purpose. The Act also states that the Commission shall not uphold an objection to an amendment until it has given persons who lodged submissions supporting the proposal the opportunity of being heard by the committee.

Following preliminary consideration of the matters raised in the submissions, the Commission resolved on 8 June 2004 to form a sub-committee to hear submissions.

The committee comprised:

Clr Elizabeth Taylor (Chair)	Chairperson of the Eastern District Planning Committee and member of the Metropolitan Region Planning Committee (MRPC)
Clr Judith Tomlinson	Councillor of the Shire of Chittering and member of the MRPC
Clr Glynis Monks	Chairperson of the North-West District planning committee and member of the MRPC;
Mr Colin Sanders	an independent person with environmental/hydrology expertise

All persons who made submissions (whether supporting or objecting to the amendment) were invited to present their submissions to the Committee. A total of 19 hearings were held relating to the amendment.

The hearings were held on 5 and 6 August 2004 at the offices of the Department for Planning and Infrastructure, Albert Facey House, 469 Wellington Street, Perth.

Transcripts of the hearings are published under a separate cover.

6. MAIN ISSUES RAISED IN SUBMISSIONS

Submissions supporting the proposal highlighted the importance of protecting both the public drinking water supplies and ecological values of the Gnangara Mound. Perth relies on the Gnangara Mound for some 60% of its drinking water and submitters saw that the groundwater needs to be protected from inappropriate development. The mound also supports many wetlands, associated vegetation and fauna populations that are dependant on the good quality groundwater. Climatic trends are indicating lower future rainfall; a trend that will exacerbate the lower water table levels now being experienced over the mound. Although a range of mixed land uses occurs in the Underground Water Pollution Control Area (UWPCA) and the impact on private landowners was recognised, the protection of public drinking water supplies was thought to outweigh the impact on private landowners. Submitters noted the need for urgent leadership and action by the Government to protect public drinking water supplies.

The majority of submissions opposed to the proposal were from landowners in the special rural subdivisions of Henley Brook, Lakefarm or other small areas of private land where owners objected to the priority 1 or 2 source protection classifications and the proposed Water Catchments Reservation or Rural-Water Protection zone being placed over their private property.

The submissions from private landowners opposed to the proposal stated that there will be a restriction on land uses proposed under the DoE Water quality protection note table 'Land use compatibility within public water source areas' and the draft Statement of Planning Policy 2.2, Gnangara Groundwater Protection. Some of the concerns raised were that there is already significant urban development in the Ellenbrook, Morgan Fields and areas that were priority 1 and changed to priority 3; there has been an inconsistent and inequitable approach by the government to the protection of the drinking water areas by allowing these localities to be downgraded to priority 3 and in places urbanised.

The Government is now proposing that the southern low-lying palusplain areas of Whiteman Park that are in the control area should be downgraded to priority 3 and urbanised. Also, submitters noted that allowing future development in the Henley Brook or Lakefarm area would not result in an increase in risk and may lower long-term risk to groundwater because the area would be connected to main sewerage and the existing rural land uses phased out.

The majority of submissions requested a downgrading from a priority 2 to priority 3 classification on the affected areas of private land. Some of the specific issues raised in relation to the Henley Brook and Lakefarm area were as follows.

- Most landowners agree with the principle of groundwater protection but disagree with the priority 2 source protection classification for the private lots in the Lakefarm and Henley Brook areas because it is perceived to restrict rural land use activity and will prevent potential urban development.
- The original purpose of the Henley Brook special rural zone was to cater for residents with equestrian lifestyles. The subdivision was designed on this basis with horse trails leading to the State Forest and Whiteman Park. Landowners argue that the original intent and philosophy of the Henley Brook special rural zone has been lost by encroaching development to the north at Morgan Fields and to the south at the proposed Albion townsite. The future Perth - Darwin highway and rapid transit route alignment to the west, together block horse access to Whiteman Park and to the east, Henley Brook Drive will be another barrier.
- As development continues the area will become an isolated island; equestrian uses will be further restricted and the area will no longer serve the requirements of the residents. Therefore the Henley Brook area is more suitable in the long term as an urban area and this should be left as a future option.
- The existing rural land uses and lack of mains sewerage services are more damaging to groundwater than well-designed and managed urban development.
- Henley Brook should be classified as priority 3 to be consistent with adjoining areas to the north and south. Lower groundwater levels have resulted in the death of trees and water availability to rural landowners and urban development to the north and south have destroyed the former rural setting and lifestyle. Adjacent urban areas will cause many problems for rural landowners and the area should be consistent with urban land uses north and south and not left as a small rural enclave.

There was objection to the classification of land use controls on rural land use in priority 2 areas and to the DoE Water quality protection note table 'Land use compatibility within public water source areas' and the Statement of Planning Policy 2.2 - Gngangara Groundwater Protection.

Commission's comments on main issues

The proposed amendment is the result of the recommendations of the Gngangara land use and water management strategy released in January 2001. The strategy outlined the process by which the recommendations for either a water catchments reservation or rural water protection zone were made for individual precincts of land (Table No 2 - Decision-Making process for assigning of groundwater priority classifications and Metropolitan Region Scheme recommendations).

At the time of preparing the strategy, Ellenbrook and Albion were zoned as urban areas and this was acknowledged and classified as a priority 3 area. The strategy's recommendations were based on the best information available at the time.

The Commission is mindful of the need to secure public drinking water source areas and protect them from contamination in accordance with the DoE's priority source protection area classification system. It has been proactively implementing planning protection measures for the Jandakot and Gnangara public drinking water source areas.

However, the Commission also recognises that a large number of submissions raised the concern of inconsistencies in the priority classifications and zonings in the Henley Brook and Ellenbrook area and on the south-east portion of the UWPCA.

The Commission considered the level of risk from these existing land uses and what might be the increase in risk posed to water quality and quantity if submissions are upheld.

In the case of Lakefarm, landowners expressed a preference to remain as a general rural zone and be downgraded from priority 1 to a priority 3 source protection area. The risk of contamination from the Lakefarm area is relatively small. A priority 2, rural water protection zone still allows for many types of rural land uses that the landowners may wish to undertake, such as viticulture and orchards. Since the area to the north, east and west is in public ownership and a priority 1 classification and the area to the south is in an urban zone and a priority 3 classification, the priority 2 classification over Lakefarm is still justified. However, public submissions were acknowledged and the Commission recognises that there may be an opportunity for some future, further rural subdivision in accordance with the guidelines in the Statement of Planning Policy 2.2 - Gnangara Groundwater Protection. This would be subject to support by landowners and local government and would require resolution of all planning, environmental and groundwater protection issues and an amendment to the existing zoning in the City of Swan local government town planning scheme.

Henley Brook is a rural pocket between existing priority 3 and urban zones to the north and south. The area was originally established for landowners to have horses. The encroachment of urban development and the proposed Perth - Darwin highway and rapid transit corridor to the west and proposed Henley Brook Drive to the east severely limits the original intent of the zoning which included allowing equine activities in surrounding rural areas, and access by horses to Whiteman Park bridle trails. Surrounding urban infrastructure is in place and at a regional planning scale and in the overall context of the total UWPCA area and it was considered that Henley Brook should be seen as part of a north-eastern growth corridor. The Commission considers that the area may be downgraded to a priority 3 and remain in the current rural zone. The Shire of Swan also supported this approach. However, any change in the current land use and rural zone would be seen as a long-term option subject to the resolution of all planning, environmental, nutrient management and groundwater protection and other relevant issues. It would require further amendments to the Metropolitan Region Scheme and City of Swan Town Planning scheme and potentially formal environmental assessment to ensure groundwater protection issues are incorporated.

In considering the issues raised in relation to Lot 1497, Wise Road, the Commission considers that the area falls within the same hydrological system as the designated priority 3 rural zoned lots immediately to the south and Lot 1497 should remain as rural land and not be included in the proposed priority 1 Water Catchment Reservation.

Detailed responses to submissions are dealt with in Schedule 2.

7. GOVERNMENT AGENCIES AND LOCAL GOVERNMENT

Submissions were received from the Water Corporation (Submission 125), Department of Conservation and Land Management (Submission 62), Department of Agriculture (Submission 11 - no comment), Main Roads WA (Submission 4 - no comment), Department of Indigenous Affairs (Submission 2 - no comment), Department of Housing and Works (Submission 3), Western Power (Submission 31), Shire of Chittering (Submission 22), City of Wanneroo (Submission 32) and City of Swan (Submission 69).

Some of the submissions also provide advice on various matters. These comments have been noted and can be considered when more detailed planning process is undertaken in the implementation of the proposal.

8. DETERMINATIONS

The determinations of the individual submissions are contained in Schedule 2.

9. CONCLUSION AND RECOMMENDATIONS

This report summarises the history and background to the Amendment and Examines the various submissions made. The Western Australian Planning Commission thanks all those who made submissions.

After considering the submissions, the Western Australian Planning Commission is satisfied that the amendment should be approved and finalised with the following modifications as discussed in part 6.

- The Lakefarm area should remain in the proposed priority 2 Rural Water Protection zone as proposed in the Metropolitan Region Scheme.
- The Henley Brook area should be excluded from the Rural-Water Protection zone and remain as a rural area in the scheme. The area may be suitable for a priority 3 classification subject to the resolution of all planning, environmental, nutrient management and groundwater protection and other relevant issues.
- Lot 1497, Wise Road, Bullsbrook, should be excluded from the Water Catchments Reservation and remain as a rural area in the scheme and be classified as priority 3.

In addition to the modifications above, the Commission makes the following comments about future development and planning for the subject areas.

Lakefarm

Landowners are able to carry out agricultural land uses in accordance with the guidelines contained in the draft Statement of Planning Policy 2.2 - Gnamara Groundwater Protection. There may also be some future opportunity for rural subdivision in the Lakefarm area (down to a 2 ha or an average 2 ha lot size) that should be in accordance with the guidelines in the policy. This would be subject to support by landowners and local government and require an amendment to the existing zoning in the City of Swan town planning scheme with provisions to incorporate the retention of remnant native vegetation and control land use activities in accordance with priority 2 source protection area objectives.

It would also need to be supported by a local structure plan and subdivision design to resolve access from the proposed extension of Hepburn Avenue.

Henley Brook

The suitability of the Henley Brook area for future urban development needs to be considered in the context of the surrounding urban areas and available infrastructure, and would require a change in priority classification to priority 3, and a future major Metropolitan Region Scheme amendment, City of Swan town planning scheme amendment and possible formal environmental assessment. Furthermore, it would need to be supported by the landowners, the City of Swan and controlled through a local structure plan that resolves planning, environmental, nutrient management and groundwater protection and other relevant issues.

The Western Australian Planning Commission recommends that the Minister for Planning and Infrastructure present the amendment to His Excellency the Governor for his consideration and approval, and further commends the amendment to the Houses of Parliament.

SCHEDULE 1

ALPHABETICAL LISTING OF SUBMISSIONS

Alphabetical Listing of Submissions

MRS Amendment 1036/33

GNANGARA GROUNDWATER PROTECTION

Submission Number	Name	Submission Number	Name
47	Adam, Delys	120	Dale, Mark
38	Adam, Gregory	12	Deng T heavy& lay, Chhoy
18	Addison, Coreen	45	Denison, Frank
11	Agriculture, Department of	59	Denison, Margaret
98	Anderson, Darren	115	Derosa, Mark
118	Anderson, Judith	116	Derosa, Tony
39	Anderson, Mark	33	DiBlasi, Michelle
124	Anderson, Neville	128	Dickerson, Irad
40	Anderson, Renae	126	Dickerson, Suzanne
34	Antulov, L	131	Diggins, A & G
35	Antulov, S	109	Dorizzi, Louceil
113	Aslett, Andrew	92	Dorizzi, Robert
112	Aslett, Andrew & Julie	99	Field, Bradley
119	Austin, Leslie	133	Field, Tenika
83	Berichon, M, A, L & J	70	Fimmell, L.H
58	Berman, Gail	71	Fimmell, Mavis
37	Blackborrow, Stephen	72	Fimmell, Yvonne
54	Blackborrow, Nicola	13	Goss, Sue & Vince
105	Blayney-Simpson	8	Gratte, Bethwyn
91	Bonivento, J & T	9	Gratte, Daphne
90	Bonivento, T & J	1	Gratte, Harry
88	Brien, Peter	10	Gratte, Henry
75	Brush, Brenda	73	Henderson, Rodney
78	Brush, Gregory	74	Henley Brook Locality Group
76	Brush, Leonard	15	Henson, Max & Jenny
89	Budimulia, Aziz	3	Housing & Works, Department of
102	Burden, Don	49	Howes, Darryl
81	Buxton, Desmond	50	Howes, Tracy
82	Buxton, Karen		Hurt, Suzanne
95	Caie, Keith	2	Indigenous Affairs, Department
94	Caie, Michelle	130	Jasinski, Tanya
106	Cappi, Giancarlo	104	Kelly, Danny
22	Chittering, Shire of	48	Kelly, Mary
122	Cleary, Carla	26	Kimes, Clinton
121	Cleary, David	24	Kimes, Diane
63	Cleary, Donald	25	Kimes, George
46	Collins, P	87	Koch, H
60	Conservation Council	86	Koch, W
62	Conservation and Land Management, Dept of	100	Lazarakis, Les
132	Cowie, Heather	101	Litchfield, Quona
85	Ctercteko, D J	77	Longo, F & W
84	Ctercteko, Neil		
21	Cunnington, Mike & Sam		

Submission Number	Name
4	Main Roads Western Australia
114	Matthews, Catherine
42	Matthews, Thomas
117	Mattioli, Debbie & Tony
79	McKeon, Catherine
80	McKeon, Peter
53	McKinley, Dennis
29	McKinley, Dianne
30	McKinley, Ian
97	Meiklejohn, Alexander
96	Meiklejohn, Margaret
61	Mettam, Erl Bradley
51	Morganti, Robert
52	Morganti, Shirley
41	Muraszko, Catherine
43	Muraszko, Stephen
127	North East Catchment Committee Inc
134	Onofaro, C & R
64	Petit, Brian
67	Petit, Lisette
65	Petit, Marguerite
68	Petit, Roger
66	Petit – Jorre de St Jorre, M
17	Scutti, Tony
19	Severn, Julia
20	Severn, Murray
55	Silberman, Monica Rae
23	Simmonds, Antonella
27	Simmonds, David
36	Simmonds, Michael
28	Simmonds, Trudie
93	Snook, Trevor
69	Swan, City of
110	Sweet, Amanda
111	Sweet, Basil
108	Sweet, M
44	Szewczuk, Michael
16	Tang W T, Ng S W & Yu F G
129	Telstra Land Access
5	The Combined Swan River & Swan Coastal Plains Native Title Claims
103	Thanh Tay, Marie
14	Valcan, I
123	Vervenne, Arnold
32	Wanneroo, City of
135	WA Speleological Group
125	Water Corporation

Submission Number	Name
57	Welburn, Robert & Wendy
31	Western Power Corporation
107	Wilson, Graham
	<u>Late Submission</u>
	Cleary, Christine

SCHEDULE 2

SUMMARY OF SUBMISSIONS AND DETERMINATIONS

SUMMARY OF SUBMISSIONS AND DETERMINATIONS

Lakefarm rural subdivision, submissions 12,13,14,15,16,21, 55,57,58

Lakefarm area is currently in the City of Swan Town Planning Scheme and is in the Mirrabooka underground water pollution control area. It comprises 13 lots of four hectares and was established for rural lifestyle on lots large enough to carry out some rural land uses. The Lakefarm area was gazetted for Priority 2 source protection in 1992.

There were nine submissions from the total of 13 lots in Lakefarm.

Reasons for objections

The main reason for objections to the proposed Priority 2 classification and Rural Water Protection zone are:

- landowners want the area to remain as general rural but importantly want the Priority classification changed to Priority 3 to allow for some future options for development;
- Ellenbrook, and land south of Hepburn Ave are classified Priority 3; Lakefarm should also be Priority 3 to be consistent with these areas; and
- Lakefarm is not on the Gngangara Mound as such but on the Mirrabooka Mound.

Planning comment

- The Lakefarm area is an existing rural zone and Priority 1 protection area, and is in the capture zone of the unconfined and semi-confined production bores in the Mirrabooka control area (UWPCA) on the Gngangara Mound. The Gngangara land use and water management strategy recommended the area be downgraded to Priority 2 to recognise the existing rural type of development and be included in a Rural Water Protection zone.
- Most of the agricultural land uses associated with a rural zone or special rural zone are consistent with Priority 2 objectives and are compatible land uses.
- In proposing a Priority 3 classification for Lakefarm, submissions drew comparison with neighbouring Ellenbrook, Morgan Fields and Albion Town and existing urban areas south of Hepburn Avenue. This comparison is not entirely valid as Lakefarm is more centrally located on the mound and is adjacent to large areas of Priority 1 land to the north.
- In contrast, Albion, Ellenbrook and existing urban areas south of Hepburn Avenue were classified as Priority 3 in recognition of their existing urban and urban deferred zonings in the Metropolitan Region Scheme. This is consistent with the recommendation of the Gngangara strategy report that recommended consideration should be given to changing the Priority 1 and 2 classification to Priority 3 in existing areas zoned for urban development so as to remove any inconsistency with the Priority areas.
- Lakefarm is in the Mirrabooka (UWPCA) but is still on the Gngangara Mound. The mound extends south to the Swan River, west to the ocean and east to Ellen Brook.

- There may be some future opportunity for rural subdivision in the Lakefarm area (down to a 2ha or an average 2 ha lot size) that should be in accordance with the guidelines in the draft Statement of planning policy - Gnangara groundwater protection policy 2.2. This would be subject to support by the landowners, local government and require an amendment to the existing zoning in the City of Swan town planning scheme with provisions to incorporate the retention of remnant native vegetation and control land use activities in accordance with Priority 2 source protection area objectives. It would also need to be supported by a local structure plan and subdivision design to resolve access from the proposed extension of Hepburn Avenue.

Recommendation:

Submissions dismissed.

Henley Brook special rural subdivision, submissions 9,10,18-20,23-30,33-54,56,59,61,63,67-126,128,130,131,133,134,136.

Henley Brook comprises 106, 2 ha lots zoned as special rural in the City of Swan town planning scheme. The total area is some 282 hectares. 103 submissions have been received objecting to the proposed Priority 2 classification and rural water protection zone, including an objection by the City of Swan.

Reasons for objections

- Most landowners agree with the principle of groundwater protection but disagree with the Priority 2 source protection classification for the private lots the Special Rural zone of Henley Brook because it is perceived to restrict rural land use activity and will prevent potential future urban development.
- The original purpose of the Henley Brook Special Rural zone was to cater for residents with equestrian lifestyles. The subdivision was designed on this basis with horse trails leading to the State Forest and Whiteman Park. Landowners argue that the original intent and philosophy of the Henley Brook Special Rural zone is being lost by encroaching development.

Recent planning for the Perth - Darwin Highway, Henley Brook Drive and encroaching urban development for Ellenbrook and the Albion townsites have restricted equestrian use and horse access to Whiteman Park and other rural areas and as a consequence have changed the original intent of the special rural zone.

Development has already encroached to the north and south; therefore, in the long-term, the Henley Brook area is more suitable for urban development, to be consistent with surrounding land uses. Future urban development should be left as an option and in this way residents can benefit from rising land prices, enabling landowners to relocate to more suitable areas over time.

- Existing rural land uses and lack of mains sewerage services are more damaging to groundwater than urban development.

- Henley Brook needs to be Priority 3 to be consistent with adjoining areas to the north and south. Lower groundwater levels have resulted in the death of trees and reduced water availability to rural landowners, and urban development to the north and south have destroyed the rural setting and lifestyle. Furthermore, adjacent residential development will cause many problems for rural landowners and the area should be consistent with urban land uses north and south and not left as a small rural enclave.
- There is objection to the classification of land use and controls on rural land use in Priority 2 areas by DoE in the Land use compatibility table.

Planning comment

During previous public submission periods on the Ellenbrook scheme amendment, and Gngangara land use and water management strategy, most landowners wanted to remain in a special rural zone, to preserve their rural lifestyle. The majority of landowners had previously objected to any urban proposals for the Henley Brook area and the adjacent Ellenbrook and Albion townsites proposals.

The Henley Brook Special Rural Zone No 4A and 4B is in the Mirrabooka UWPCA and was gazetted for Priority 2 source protection in 1992. The City of Swan's special rural zone town planning scheme outlines the special provisions relating to the Henley Brook area and specifically says that the subdivider shall ensure that purchasers of lots acknowledge at the time of purchase of a lot, that a schedule of conditions apply to the subdivision. The conditions contained in the town planning scheme provisions go on to outline permitted uses, refer to the protection of native trees, keeping of animals, irrigation and prevention of dust erosion. Clause 5 refers to the fact that the area is in a public drinking water area and the requirements and regulations of the Water Authority of Western Australia regarding the use of groundwater and the protection of groundwater and effluent disposal conditions shall apply. These original provisions do not appear to have been forwarded on to subsequent purchasers.

In proposing Priority 3 for Henley Brook, submissions drew comparison with neighbouring Ellenbrook, Morgan Fields and Albion Town. The Gngangara strategy recommended the Albion and Ellenbrook areas be classified for Priority 3 protection in recognition of their existing urban and urban deferred zonings in the Metropolitan Region Scheme. This is consistent with the recommendation of the select committee report that consideration should be given to changing the Priority 1 and 2 classification to Priority 3 in areas zoned for urban development so as to remove any inconsistency with the Priority areas.

It is recognised that Henley Brook is situated between two urban zones and that the encroachment of urban development and the proposed Perth / Darwin highway and rapid transit corridor to the west, and along with the proposed Henley Brook Drive to the east will now severely limit both the original intent of the zoning and access by horses to surrounding rural areas and to Whiteman Park bridle trails (by the future Perth - Darwin highway and rapid transit route alignment). Surrounding urban infrastructure is in place and in the overall context of the total UWPCA area and at a regional planning scale it was considered that Henley Brook should be seen as part of a north eastern growth corridor.

The area may be downgraded to Priority 3 and remain in the current rural zone. This approach was also supported by the City of Swan, although any change in the current land use and rural zone would be seen as a long-term option subject to the resolution of all planning, environmental, nutrient management and groundwater protection and other relevant issues.

Recommendation

Submissions upheld

Lot 1497 Wise Road, Bullsbrook, submissions 64,65,66

This is an area of private land, approximately 50 hectares, currently in the Priority 1 protection area on the eastern side of the UWPCA boundary. It has been in the Priority 1 area since gazettal in 1992. The land is used for farming purposes.

Reasons for objections

- The property is on the eastern edge of the Priority 1 area.
- Extensive farm activities are currently being undertaken that have not affected groundwater supplies. Degradation of groundwater is caused by uncontrolled urban development evident by the impact on wetlands in the area.
- There are restrictions on small rural landowners while urban residents at Ellenbrook, Morgan Fields and Albion do as they please and restrictions are overridden by government.
- A Priority 1 and 2 classification places an unacceptable impact ('prison for small landowners') on private use of the land and serves to push out small landowners.
- Both Whiteman Park and the mining of silica less than one kilometre away from the property, can continue to operate despite being in Priority 1 areas. This is seen as unfair application of government policy.

Planning comment

The property is on the western edge of the UWPCA area but has been designated as a Priority 1 source protection area since 1992.

The existing land uses pose a low risk to the groundwater source and can continue to operate without restriction. DoE can advise on how to minimise any potential impacts on groundwater quality.

The area can be compared to the southern lots (Lots 1474 and 1572) that were included in the modelled UWPCA boundary and classified as Priority 3 source protection areas. Lot 1497 Wise Road falls in the same hydrological system as the designated Priority 3 rural-zoned lots immediately to the south and should remain as rural land and not be included in the proposed Priority 1 Water Catchment Reservation.

Lot 1497 is also a Bush Forever site (Site 399) and identified as a possible special control area under the Bush Forever program. Landowners are advised that a Bush Forever Amendment 1082/33 is currently being prepared for public advertising and that an opportunity for a submission objecting to this proposal under the Bush Forever Metropolitan Region Scheme amendment process.

Recommendation

Submission upheld.

City of Swan, submission 69

The City of Swan supports the principle of groundwater protection and the use of the scheme to give statutory implementation of groundwater protection objectives through the placing of a 'Water Catchments Reservation' and a 'Rural Water Protection zone' over the Priority 1 and Priority 2 source protection areas respectively, in the Gnangara UWPCA.

Priority 1 source protection areas

Areas within the City of Swan designated Priority 1 include areas in Whiteman Park, Cullacabardee and Lexia.

The majority of this land is presently reserved in the scheme as Regional Reserve for Parks and Recreation and is owned by the state government. However, in this amendment it is proposed to reserve some private landholdings, including lots along Gnangara Road, in the Water Catchments reservation and progressively acquire these lots. No further details of the acquisition process have been provided in the amendment document.

Priority 2 source protection areas

Areas within the City of Swan designated Priority 2 and proposed to be included in the Rural Water Protection zone consist of special rural-zoned land in Henley Brook and a relatively small area of general rural-zoned land in Lakefarm, Ballajura, north of the proposed Hepburn Avenue extension.

Priority 3 source protection areas

Areas to the north (Ellenbrook), south (Albion) and east of the Henley Brook special rural-zoned area are designated Priority 3, where water supply protection must coexist with other existing land uses through management practices. The area designated in Henley Brook remains the only Priority 2 source protection area in this corridor.

The designation of the different Priority areas is primarily based on land use and zoning constraints. Land in the rural zone, such as in Henley Brook, has been identified within the Priority 2 area, while land zoned as urban, such as Ellenbrook, Morgan Fields and Albion, are designated Priority 3 areas for which urban development is deemed acceptable.

However, the approach adopted has not been entirely consistent in that there is rural-zoned land to the east of the Henley Brook Priority 2 area designated as Priority 3, despite the fact that this land is used solely for rural or rural-residential purposes and is not earmarked for residential development. This area has not previously been included in the Mirrabooka UWPCA and is proposed to be added as part of this process.

The approach of using land use zoning largely as the basis for applying the different Priority areas is open to criticism, due to land use changes over recent years which have resulted in Priority designations changing. An obvious example is the Ellenbrook, Morgan Fields and Albion areas to the north and south of Henley Brook. These areas were previously identified as Priority 2; however, because of their urban zoning they are now identified as Priority 3. The Henley Brook area, due to it being in the rural zone in the MRS, is to be included within the Priority 2 area and rezoned to the 'Rural Water Protection Zone' in the MRS.

Although there has never been any firm intention to urbanise Henley Brook (currently rural under the Metropolitan Region Scheme and special rural under the City's Town Planning Scheme 9), the constraint of a Priority 2 designation on future land uses in this area needs to be considered.

Landowners in the Henley Brook area attended a public meeting convened by the Department for Planning and Infrastructure (DPI) in December 2003, to discuss the proposed scheme amendment and statement of planning policy. During this meeting strong objections were expressed by many landowners towards the rezoning of land to a rural water protection zone given the likelihood that this zoning would preclude urban development in this area. Many landowners in the area expected urban development to occur at some stage given the urban zoning on land to both the north and south. These landowners have expressed their dissatisfaction that the urban areas to the north and south have been developed despite their previous designations as Priority 2 areas.

Similarly, the approach of removing the southern part of Whiteman Park from a Priority 1 designation (corresponding with the advertising of an associated scheme amendment) for the rezoning and disposal of this area for urban development is questioned.

It is considered appropriate that the City request the WAPC to designate the proposed Henley Brook Rural Water Protection zone as 'Priority 2 - possible future Priority 3', to allow for future land use planning flexibility. This 'dual Priority' approach is proposed for land in the City of Wanneroo in the Landsdale area to the west of Whiteman Park, which is currently, zoned rural under the Metropolitan Region Scheme. A substantial area of this land is currently used for intensive agricultural purposes in the form of market gardening, and studies are underway with the aim of demonstrating that the objectives of the statement of planning policy are better achieved through the urban development of this land in an environmentally sensitive manner.

Reasons for objection

Both the proposed scheme amendment and the draft Statement of planning policy 2.2 have broad strategic implications for the community as outlined above. Primarily these will:

- The amendment and policy will place constraints on the ability of land in an identified growth corridor to be used for urban development. This may impact on the ability of the City to grow in areas already identified for corridor development;
- At an organisational level, a review of roles and responsibilities will be needed to ensure implementation of the amendment and policy. Although there will be no direct financial implications for the City of Swan, there are indirect costs associated with amendment of the City's town planning scheme to accommodate the Metropolitan Region Scheme amendment. These costs include officer time required to assess future development proposals against the proposed Land use compatibility guidelines.

The City of Swan resolved unanimously to:

- (1) Advise the Commission that the City generally supports the measures proposed to protect public drinking water sources on the Gnangara Mound, with the exception of the comments below.
- (2) Advise the Commission that Council does not support the component of the amendment that proposes to apply the "Rural Water Protection Zone" over Rural zoned land located within the Priority 2 water source protection area of Henley Brook on the grounds that:

1. The application of this zone constrains future urban land use options in the Henley Brook area and is inconsistent with surrounding urban development (such as Ellenbrook, Morgan Fields and Albion) that has occurred within an identified growth corridor; and
 2. the designation of the area as Priority 2 appears to reflect current land uses rather than water protection criteria; and
 3. It has no consideration of future urban land pressures in the area nor recognises the opportunity for the provision of future scheme water infrastructure as a means by which to achieve identified water mound protection objectives in preference to retention of rural activities and septic systems.
- (3) Request that the Commission designate the area currently proposed to be rezoned as a Rural Water Protection Zone in Henley Brook to a Priority 3 water source protection area;
 - (4) Advise the Commission that the City has concerns regarding the Water and Rivers Commission's ability to provide local government with timely advice on applications referred to it as outlined in Statement of Planning Policy 2.2;
 - (5) Request that the Commission prepare clear guidelines for the assessment of 'incompatible' and 'conditional' uses so that local government can carry out informed assessment of development proposals to meet the objectives of Statement of Planning Policy 2.2;
 - (6) Advise the Commission that the 'dual Priority' (future Priority 3) approach that has been adopted for land in the City of Wanneroo in the Landsdale area that does reflect intended future land use development, would be an appropriate mechanism to protect the groundwater mound but also allow for future land use planning options in the Henley Brook area;
 - (7) It should be noted that Council does not at this stage support a proposal to initiate an MRS amendment for the Henley Brook area from the current 'rural' zoning to that of 'urban' or 'urban deferred' as this is considered premature at this time; and
 - (8) Record that the reason for changing the staff recommendation is to further clarify the Council's intent to preserve future land use planning options for the Henley Brook area.

Planning comment

- Henley Brook is zoned rural in the Metropolitan Region Scheme and is located between urban land to the north and south and, on a regional planning scale, may be considered to be within a 'growth corridor'.

The City of Swan already bears the costs of administering the town planning scheme in relation to the Henley Brook Special Rural zone. Planning applications are presumably already referred to the DoE (as necessary) to enable the City to properly determine the applications.

The draft Statement of planning policy 2.2 only requires that the City refer those applications to the DoE for advice where an application is made for a 'conditional land use' as defined in the Land use table 1 in Priority 1, 2, and 3 areas. Since the Henley Brook area is mostly already developed and existing land uses well entrenched there would seem to be very little potential for substantial land use change to occur under the current zoning and only a very small number of planning applications that may need to be referred to the DoE for advice. Therefore, there would seem to be little or no extra indirect costs for the City of Swan to administer the draft policy since the processes are already in place. and only a very small number of applications would be dealt with.

- The Priority 2 classification is based on the consideration of existing Priority classification, an assessment of the existing land use risks and consistency with existing Priority classification and water value to current land use and risk values. The Gngangara strategy concluded that the current land uses are consistent and compatible with the existing Priority 2 classification and that there is a moderate water value and a low to medium land use risk. The strategy recommended a Priority 2 classification remain.

Recommendation

Submission partly upheld.

Telstra. Submission 129

The Perth International Telecommunications Centre (PITC), operated by Telstra, lies immediately to the east of the Landsdale area; this area is proposed to be changed from a Priority 2 to a Priority 3 source protection area. Telstra supports the groundwater protection measures but objects to the change in Priority classification. Telstra's view is that the change in classification constitutes an initial step towards subsequent urban development of the Landsdale Precinct 64 area. The consequent development of housing may result in increased electromagnetic background noise in the area, which Telstra believe would severely affect the capability of Telstra's telecommunication equipment.

Reasons for objections

- Telstra has consistently objected to any proposals to change the zoning of the Landsdale area to an urban zone, claiming that it will cause electromagnetic interference with sensitive telecommunications equipment related to satellite tracking, communication and spacecraft control and monitoring systems for the European Space Agency.
- Telstra submits that Landsdale Precinct 64 should remain as a rural area and be classified as a Priority 2 source protection area and be zoned as a Rural - Water Protection zone.
- Landsdale is currently in a rural Priority 2 area and in the UWPCA. The existing land use is rural and compatible with a Priority 2 classification. A change from Priority 2 to 3 will allow for urban development.
- A Priority 2 classification for Landsdale is consistent with other WAPC policies such as the Statement of planning policy No 8, WAPC Development Control policy 1.2.

Planning comment

- It is recognised that there may be potential conflict between the operations of Telstra's PITC and future urbanisation of the Landsdale area. However, Telstra has only recently provided technical information to the potential interference problems that may occur.
- Under Metropolitan Region Scheme Amendment No.1036/33, no changes to the zoning of the Landsdale area are proposed. It is more appropriate for the issues relating to potential threats to the PITC, from electromagnetic interference be investigated and resolved during the current MRS Amendment No. 1089/33 - East Landsdale Precinct 64.
- MRS Amendment No. 1089/33 which seeks to transfer Precinct 64 from Rural to Urban is currently being progressed and one of the issues being addressed is the potential impact of urban development on Telstra's operations. The Commission is awaiting external analyses of the technical information provided on this matter. The Commission expects to be in a position to make a recommendation on the amendment in the near future.

It should be noted that the WAPC endorsement of the GLUWMS report recommendation for the Landsdale area to be changed from Priority 2 to Priority 3 is only on the condition that Priority 3 is subject to the resolution of all planning issues and constraints and the approval of an agreed structure plan by government which removes identified contamination risks. GLUWMS further states that any amendments to the current Rural zoning of the east Landsdale area (Precinct 64) would be subject to the resolution of all environmental and planning constraints, including the land use compatibility issues with the Telstra facility, monitoring and the approval of a Structure Plan which removes identified contamination risks. Future land use change is also subject to the normal planning and environmental approval process.

- Advice from DoE is that the existing rural uses on the Landsdale area pose a contamination risk to the public drinking water source. The existing rural land use risks are higher than would be considered for a Priority 2 source protection area. A Priority 3 classification is more appropriate. With advice from DoE, well-designed and managed urban development, connected to the main sewerage system, would result in a lower land use risk and a lower risk of contamination to the groundwater source than the continuation of existing intensive market gardening, nursery and other land uses. Therefore, a Priority 2 classification and rural water protection zone is considered **not to be** appropriate for the Landsdale precinct 64 area.
- Development Control policy 1.2 refers to overhead cabling and mobile phone towers and is not referring to facilities such as the PITC. The PITC site is held in private ownership of Telstra but is reserved for a public purpose under the Metropolitan Region Scheme and therefore development requires approval from the WAPC.

Other WAPC policies such as Statement of Planning Policy - State industrial buffer policy No 4.1 only provide very general statements and may not apply directly to the PITC facility or site.

- Under Metropolitan Region Scheme Amendment No.1036/33, no changes to the zoning of the Landsdale area are proposed. It is more appropriate for the issues relating to potential threats to the PITC, from electromagnetic interference be investigated and resolved during the current MRS Amendment No. 1089/33 - East Landsdale Precinct 64.

Further discussion

A large area of land (230 hectares) and some 70 private owners of rural lots (some are under purchase agreements with the development company Stocklands Property Trust) have been severely impacted by the location of the Telstra facility over a long period of time, and the implementation of a 'buffer' around the Telstra site.

As part of the Gnangara strategy process the issues were investigated by its land use working party and negotiations held with Telstra and the landowners. The conclusion was that Telstra claims for a 'buffer' around the Telstra site have not been technically justified and that there may be opportunity for land use change from rural to urban in the Landsdale area.

The strategy recommended that the Landsdale area be classified as Priority 2/3 subject to the resolution of all planning issues and constraints and approval of an agreed structure plan by government which removes identified contamination risks regarding the impact on groundwater and the operations of the Telstra site. If all the issues were satisfactorily resolved then the area could be classified as a Priority 3 source protection area facilitating future urban development.

The necessary technical investigations and negotiations between the landowners and Telstra were facilitated by the DPI through the establishment of a technical working group. However, the responsibility of providing the relevant technical information, resolving the conflicting land use issues and reaching agreement to the satisfaction of all parties is also the responsibility of the landowners and Telstra. It is clear that this is a requirement before the WAPC would agree to a Priority 3 classification and an urban zone over the Landsdale area.

The changing of the Priority classification from Priority 2 to Priority 3 and any subsequent urban development must take into account groundwater protection issues. Detailed land use, management of run-off and stormwater must be considered in the structure planning and in the detailed subdivision design to ensure there is no detrimental impact on the groundwater resource.

Furthermore, the committee makes the comment that the Landsdale area remain as rural land in the scheme and in a Priority 2/3 source protection area until finalisation of the MRS and TPS amendments, as well as adoption of a Structure Plan by the Commission. This will allow for resolution of all planning issues including those relating to land use compatibility.

The DoE, under the *Metropolitan Water Supply, Sewerage and Drainage By-Laws (1992) Act*, is responsible for changing the Priority source protection area classification when all issues are fully resolved.

Recommendation

Submission noted

Landowner Lot 32 Hawkins Road, Jandabup. Submission 132

Lot 32 Hawkins Road is a 6 ha lot currently zoned as general rural in the City of Wanneroo District Planning Scheme No 2 and is in the current Priority 2 UWPCA. The Gnangara strategy recommended the adoption of a new UWPCA boundary with the western front portion of Lot 32 falling outside of the new UWPCA boundary, and as such is not included in the scheme amendment. The rear eastern portion of the lot, 3.397 ha, is included in the proposed Priority 2 Rural Water Protection zone.

Reasons for objections

The owner has lived on the property for many years and the changes will cancel potential future earnings and result in financial hardship. The owner wants to subdivide the property into smaller rural blocks.

Planning comment

All of Lot 32 Hawkins Road is in the current Priority 2 UWPCA. The front western portion of the lot, 2.695 ha, falls outside of the proposed Priority 2 Rural Water Protection zone and is not part of Scheme Amendment 1036/33. The front portion of the lot remains as general rural and the normal subdivision policies relating to rural land under the City of Wanneroo District Planning Scheme No 2 for general rural zones, will apply to this land.

The Priority 2 rural water protection zone does not prohibit rural subdivision down to 2 ha lot sizes or an average of 2 ha. The DoE table, Land use compatibility in public drinking water source areas, states that subdivision down to 2 ha is a conditional use in Priority 2 areas.

The East Wanneroo land use and water management strategy is currently being prepared by DPI and the future land use of this lot and surrounding area will be considered in this strategy. There will be an opportunity for further landowner public comment when a final draft strategy is released for formal public comment.

However, currently the general rural zone of the City of Wanneroo District Planning Scheme 2 applies to this land and has a minimum lot size requirement of 5 ha. Proposals for subdivision would need to comply with current City of Wanneroo requirements and WAPC policy.

Recommendation

Submission dismissed

Western Power submission 31

Although Western Power agreed with the intent of the amendment objectives, the following comments were made.

- Western Power Pinjar Gas Turbine Station (PGTS) is in a Priority 1 source protection area and falls in the proposed Water Catchment Reservation.
- The PGTS is an essential part of the power generation infrastructure for the state and will continue to operate for the foreseeable future.

- Land is currently reserved for public purposes and it has existing EPA approval for current and proposed future electricity generation on the site
- Western Power request the excision of the PGTS site from the proposed Water Catchment Reservation and retention of the Public Purpose Reservation and confirmation of the existing use and approvals for future uses that are in place.

Planning comment

The Western Power PGTS is acknowledged as essential existing infrastructure and it is operating under existing approval and in accordance with an approved environmental management system.

The PGTS will be able to continue to operate and develop further power generation on the site in accordance with all approvals.

Section 16 of the *Metropolitan Region Scheme Act* defines the approval process for public works on reserved land owned or vested in a public authority, for example, Western Power. The Act states;

- 16 (1) *Reserved land owned by or vested in a public authority may be used without the written approval of the Commission referred to in Clause 13 if the land is used:*
- (a) *for the purpose for which it is reserved under the Scheme;*
 - (b) *for any purpose for which it was lawfully used before the coming into force of the Scheme; or*
 - (c) *for any purpose for which the land may be lawfully used by the public authority.*
- (1a) *Development on reserved land owned by or vested in a public authority may be commenced or carried out without the written approval of the Commission if the development is -*
- (a) *permitted development that does not involve the clearing of regionally significant vegetation on a site specified as a Bush Forever site in the Bush Forever Final Report published by the Commission in December 2000; or*
 - (b) *expressly authorized under an Act to be commenced or carried out without the approval of the Commission.*
- (2) *Reserved land owned by or vested in a public authority may be used or developed for any other purpose approved by the Commission with or without conditions.*
- (3) *In this clause -*

'permitted development' means -

- (a) *works on land reserved for Primary Regional Roads or Other Regional Roads for the purpose of or in connection with a road within the meaning of the Main Roads Acts 1930;*
- (b) *works on land reserved for Port Installations for the purpose of or in connection with a port;*
- (c) *works for the purpose of or in connection with the supply of water, electricity or gas, or the drainage or treatment of waste, water or sewerage;*
- (d) *works on land reserved for Railways for the purpose of or in connection with a railway, but this does not include the construction or alteration of a railway station or any related car parks, public transport interchange facilities, or associated means of pedestrian or vehicular access;*
- (e) *works on land reserved for Parks and Recreation where the works are in accordance with a management plan endorsed by the Commission;*
- (f) *works on land reserved for Public Purposes - High School for the purpose of or incidental to a high school; and*
- (g) *operational works on land reserved for State Forests for the purpose of or incidental to a State Forest;*

'reserved land owned by or vested in a public authority' includes reserved land in relation to which a public authority has an easement, right of way, right of occupation, or any other interest or right, privilege or concession'.

The Western Power site is also a Bush Forever site (Site 380) and identified as a possible special control area under the Bush Forever program. In accordance with Clause 1a) (a), any future development not included as part of current approvals will need to be approved by the Commission and be subject to a negotiated planning solution process and the preparation of an approved management plan to ensure Bush Forever values of the site are maximised.

The site should not be excluded from the proposed Water Catchment reservation. The inclusion of the site in a water catchment reservation recognises the additional factor of the site being in the Priority 1 source protection area of the UWPCA. Since the site is already reserved for a public purpose, the addition of the water catchment reserve does not hinder the existing or future approved operations of the PTGS.

Recommendation

Submission partly upheld

Combined Swan River and Swan Coastal Plains Native Title Claims, submission 5

Reasons for objections

- The pine plantation should be removed and replaced with natural indigenous vegetation.
- The area should be given back to the care and control of the Nyungah People of the Swan River and Swan Coastal Plains.
- Bore water should not be used and pumped for domestic, industrial and private use without permission.
- Full and proper consultation with the Nyungah Circle of Elders and Combined Native Title Claimants of the Swan River and Swan Coastal Plains Native Title Claims needs to occur.

Planning Comment

The Forest Products Commission is planning to harvest the pine plantations over a period of time and has entered into arrangements to commence a clearing and thinning program. The area will become the Gnangara Park and be returned to native vegetation cover over a period of time. CALM, as the proponent for the proposed Gnangara Park, will need to consult with Aboriginal groups in the appropriate manner in accordance with CALM consultation policy.

The Metropolitan Region Scheme Amendment is a statutory planning mechanism and as such is not actual physical works and therefore does not come under the requirements of the Aboriginal Heritage Act. Consultation with the appropriate Aboriginal groups will occur by the responsible agencies at the appropriate time when works are proposed in areas of Aboriginal significance in accordance with the Act.

Any issues in relation to the current claim for native title over the area will need to be resolved by the appropriate processes established under native title legislation.

Recommendation

Submission noted

WA Speleological Group, submission 135

Reasons for objections

- The Group requests acknowledgement of the karst systems overlaying the Gnangara Mound and their relationship with groundwater systems.
- A Priority 1 classification should be extended to the west to include the karst systems and also the 'Pinjar' area.
- The Group wants government policy to deal with their concerns over the loss of subterranean ecosystems and the threat to fauna and subterranean wetlands.

- There is concern that the Metropolitan Region Scheme Amendment plan shows the location of caves which will become public knowledge and result in damage and public safety risks.

Planning comment

Karst features and landscapes may have some significance but they are not the subjects of the scheme amendment, which deals with the protection of public drinking water areas.

Recommendation

Submission noted

City of Wanneroo, submission 32

The City of Wanneroo generally supports the amendment and draft Statement of planning policy - Gnangara groundwater protection policy 2.2 but seeks clarification of several issues as follows.

1. The Gnangara land use and water management strategy recommended placing a Parks and Recreation reservation over those portions of land that were identified as Bush Forever sites. Now a separate Bush Forever Amendment 1082/33 is being proposed for the Bush Forever sites.
2. There may be a situation where areas will be reserved for water catchments or zoned as Rural Water Protection in the Metropolitan Region Scheme and zoned in District Planning Scheme (DPS) 2 as rural. As a result, dual zoning will occur between the MRS and DPS. The City is obliged to amend its district planning scheme but in the interim what takes precedence, the MRS or DPS?
3. The draft Statement of planning policy requires that development applications be referred to the Department of Environment for determination. Is Council approval under the district planning scheme also required?
4. What prevails in determining land use permissibility? Council approval under the Metropolitan Region Scheme or the land use table in the draft statement of planning policy?
5. How should the City technically describe dual reservation/zoning in the MRS and DPS?

Planning comment

- The proposed Parks and Recreation reservation for Bush Forever sites that fall in the UWPCA will be dealt with under the proposed Bush Forever Metropolitan Region Scheme Amendment 1082/3.

- There will be cases where there will be a reservation or zone in the scheme and a different zone in the district planning scheme. The *Metropolitan Region Town Planning Scheme Act 1959*, Section 35(A), requires the local government to initiate a local town planning scheme amendment within a 3-month period to make the district planning scheme consistent with the Metropolitan Region Scheme. In the interim, the draft Statement of planning policy - Gnamangara groundwater protection policy 2.2 outlines development control measures and responsibilities for the determination of planning applications.
- The Commission will determine planning applications regarding land reserved for water catchments. The Council will determine planning applications regarding land in Priority 2 - rural water protection zones in the Metropolitan Region Scheme, and the current zone in the district planning scheme and, in accordance with draft policy 2.2, 'may refer' applications to the DoE for advice prior to determination. Since local government has only to take due regard of there is no legal requirement for Council to refer all applications to the DoE for their advice or to take such advice if provided. Council must make a determination after considering all relevant matters and statutes, including WAPC and DoE policies. In the scheme, land can be reserved for parks and recreation, public purposes and/or water catchments as occurs in the surface catchments areas where state forest land is reserved for public purposes and for water catchments.
- The Land use table 1 in the draft Statement of Planning Policy 2.2 is based on the DoE's *Water quality protection note - Land use compatibility within public drinking water source areas*. Although planning policies are statutory, the *Town Planning Development Act 1928* states that local authorities shall 'have due regard' of statement of planning policies and that they may be included in the scheme as a provision of the scheme. As such, it would appear that the district planning scheme land use table and provision would prevail. Legal advice may need to be sought to confirm this.
- Land would need to be described citing both the current zoning in the district planning scheme and the reservation or zoning in the Metropolitan Region Scheme.

Recommendation

Submission noted

Other Issues

Lots, 96,100,101. West Australian Planning Commission, Water Corporation and Western Power.

The Whiteman Park Amendment No.1027/33 proposes to reserve an area of land abutting the Perth to Darwin Highway alignment, in the Henley Brook area, for Public Purposes.

The subject land is required for essential public infrastructure services such as a sewerage pump station, power sub station and drainage sites to service the growing adjoining development in the Ellenbrook/Albion area.

The land is owned by the WAPC (Lot 96 – 24ha), the Water Corporation (Lot 100 – 1.3 ha) and Wester Power (Lot 101 – 1.2 ha), is within the existing Priority 2 source protection area and was proposed to be in a Rural Water Protection zone in the Gnamangara Groundwater Protection Amendment No.1036/33.

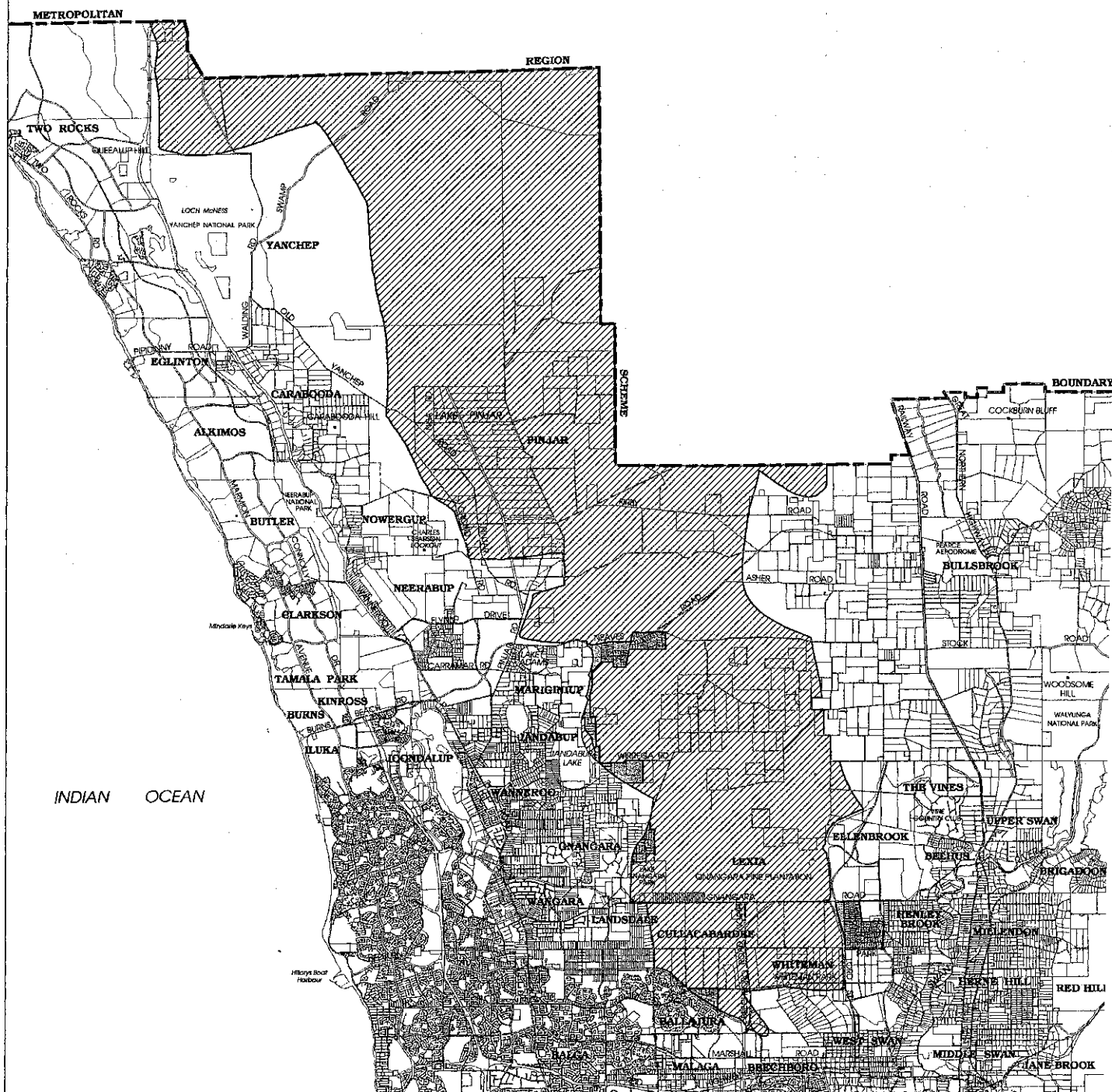
To accommodate this requirement a minor modification is proposed, whereby an area of some 7.33 ha would be excised and remain as rural land in this amendment 1036/33 and be reserved as Public Purposes under the Whiteman Park Amendment No.1027/33.

The Priority 2 classification would not change, as the proposed uses are “conditional uses” within a Priority 2 area as outlined in the DoE table Land Use Compatibility Guidelines in Public Drinking Water Source Areas. An environmental management plan would need to be prepared to demonstrate that the proposed land uses can be managed in accordance with DoE conditions and requirements to protect the public drinking water source area. Plan 1 shows the detailed proposal.

Recommendation

The subject area of some 7.33 ha remain rural in the Gnamangara Groundwater Protection Amendment No.1089/33 and be reserved for Public Purposes in the Whiteman Park Amendment No.1027/33.

SCHEDULE 3
AMENDMENT FIGURES AS ADVERTISED



GNANGARA MOUND GROUNDWATER PROTECTION PROPOSED MAJOR AMENDMENT - AS ADVERTISED

8th MAY 2001

AMENDMENT No. 1036/33

FIGURE 1

LEGEND

PROPOSED:

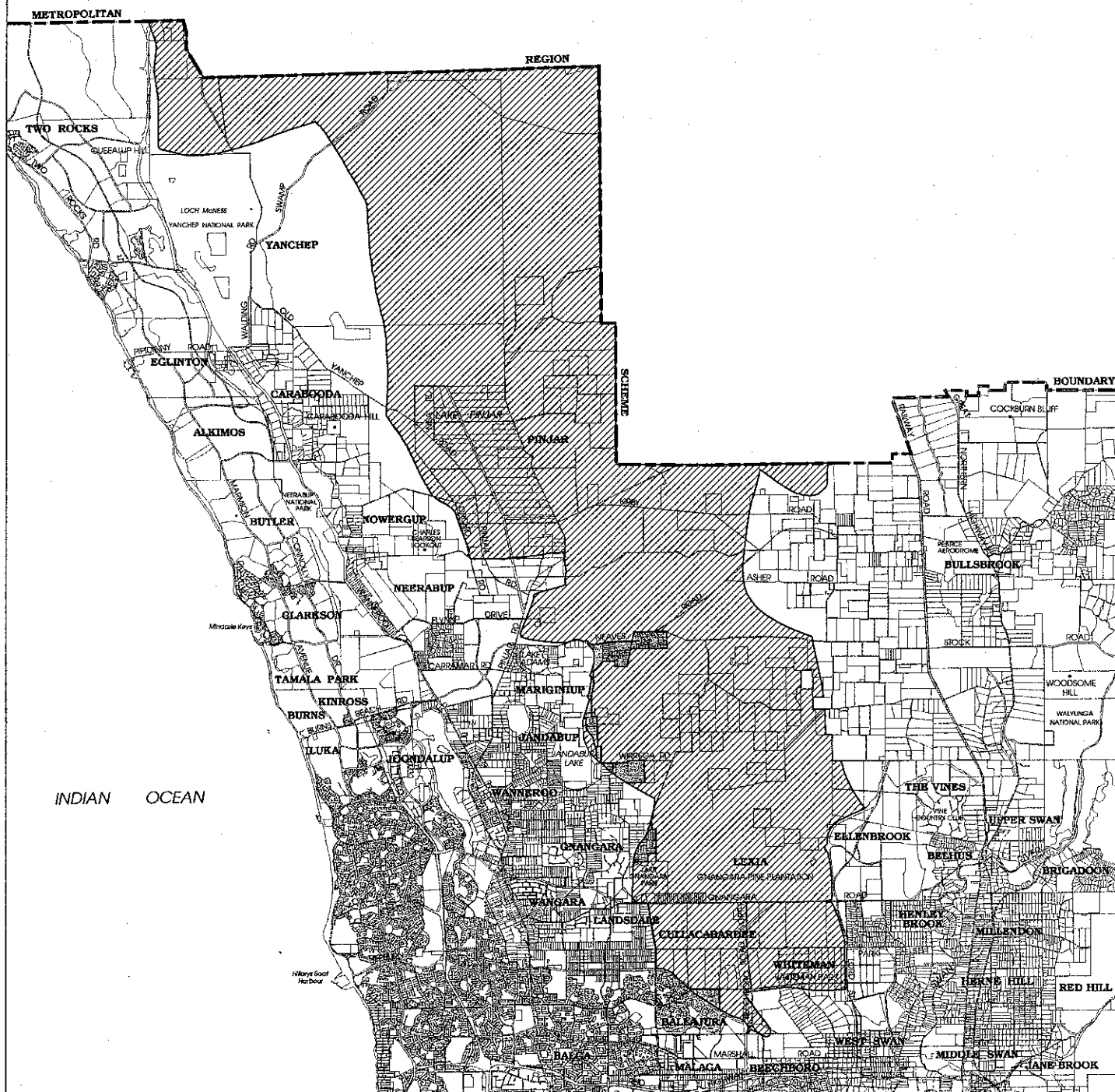


RURAL - WATER PROTECTION ZONE



WATER CATCHMENTS RESERVATION

SCHEDULE 4
AMENDMENT FIGURES AS MODIFIED



12 October 2004

FIGURE 1

APPENDIX 1

LIST OF DETAILED PLANS AS ADVERTISED

GNANGARA MOUND GROUNDWATER PROTECTION

PROPOSED MAJOR AMENDMENT

AS ADVERTISED

0.0725/1, 0.0726/1, 0.0727/1

DETAIL PLANS

3.1520	-	JANDABUP RURAL – WATER PROTECTION
3.1521	-	GNANGARA RURAL – WATER PROTECTION
3.1523	-	GNANGARA RURAL – WATER PROTECTION
3.1526	-	HENLEY BROOK RURAL – WATER PROTECTION
3.1527	-	CULLACABARDEE RURAL – WATER PROTECTION
1.5169	-	MARIGINIUP RURAL – WATER PROTECTION
1.5115	-	NORTHERN AREA WATER CATCHMENTS RESERVATION
1.5229	-	CENTRAL AREA WATER CATCHMENTS RESERVATION
1.5230	-	EASTERN AREA WATER CATCHMENTS RESERVATION
1.5279	-	SOUTHERN AREA WATER CATCHMENTS RESERVATION

APPENDIX 2

LIST OF DETAILED PLANS AS MODIFIED

GNANGARA MOUND GROUNDWATER PROTECTION

PROPOSED MAJOR AMENDMENT

AMDT No. 1036/33 - AS MODIFIED

0.0725/1, 0.0726/1, 0.0727/2

DETAIL PLANS

3.1520	-	JANDABUP RURAL – WATER PROTECTION
3.1521	-	GNANGARA RURAL – WATER PROTECTION
3.1523	-	GNANGARA RURAL – WATER PROTECTION
3.1527	-	CULLACABARDEE RURAL – WATER PROTECTION
1.5169	-	MARIGINIUP RURAL – WATER PROTECTION
1.5115	-	NORTHERN AREA WATER CATCHMENTS RESERVATION
1.5229	-	CENTRAL AREA WATER CATCHMENTS RESERVATION
1.5230/1	-	EASTERN AREA WATER CATCHMENTS RESERVATION
1.5279	-	SOUTHERN AREA WATER CATCHMENTS RESERVATION