1. Citation

This is a Development Control Policy prepared under Section 14(b)(ii) of the *Planning and Development Act 2005*.

This policy may be cited as *Development Control Policy 1.9: Amendment to region schemes* (DC 1.9).

2. Policy intent

This policy establishes:

- The range of considerations which the Western Australian Planning Commission (WAPC) or its delegate will take into account when forming an opinion about the substantiality of an amendment to a region planning scheme.

- Procedures and practices for “major” and “minor” amendments.

3. Background

The Planning and Development Act 2005 (P&D Act) provides two procedures by which region planning

follows the procedures observed when preparing a scheme itself, involving among other things, approval by the Governor and tabling in both Houses of Parliament where motions to disallow the amendment may be passed (section 35). This is referred to as a “substantial” or “major” amendment. The second procedure involves matters which in the opinion of the WAPC do not involve a substantial alteration to the region scheme and are referred to as “non-substantial” or “minor” amendments (section 57). The terms “major” and “minor” will be used in this policy for convenience.

The determination as to whether or not an amendment constitutes a substantial or non-substantial alteration to a region scheme is, according to the P&D Act, at the discretion of the WAPC. The P&D Act requires that the WAPC form an opinion that a particular amendment does not constitute a substantial alteration to the scheme which, if so decided, is treated as a “minor” amendment.

The P&D Act provides no guidance to the WAPC as to what matters should be taken into account when forming those opinions. The difference between “major” and “minor” amendments is essentially a matter of degree in terms of the impact on the region as a whole.

The P&D Act contemplates that amendments may be categorised as “major” and “minor”, and it is contrary to the spirit of the legislation to deal with all amendments as if they were substantial. Failing to make the distinction has resource implications for the government and the community. It also leads to unwarranted congestion in the planning

should not be used as a measure to determine the substantiality of a proposed amendment.

In its decision handed down in *Helena Valley/Boya Association v Minister for Planning* (1992), the Full Court of the Supreme Court referred to matters which it believed the WAPC should consider when forming its opinion about the substantiality of an amendment to the Metropolitan Region Scheme

time). These are included in section 4 of this policy and are matters considered by the WAPC to be relevant to region planning schemes in general.

way stemmed largely from its observation that the

which were taken into account when the decision was made to pursue the Helena Valley amendment as a “minor” amendment to the Metropolitan Region Scheme. All such matters were, and continue to be considered when decisions are taken on proposed new amendments.

This policy was originally adopted by the WAPC in November 2003. The policy is amended from time

4. Principal considerations to be taken into account when determining substantiality

The following considerations are those which, where relevant, will be taken into account when opinions are formed by the WAPC or by its delegate as to the substantiality of amendments to a region scheme:

(a) Present land use and character of the land and its relationship to its immediate setting, to the surrounding district, to the sub-region and to the region as a whole as a prelude to evaluation of the impact of new proposals.

(b) The particular purposes for which the land is to be set aside and the proposal for changes to

the Environment. Any appeals on the EPA report are determined and environmental conditions set by the Minister for the Environment after having reached agreement with the Minister for Planning. The environmental conditions are then incorporated as provisions in the region scheme and are binding on the WAPC.

If the Minister for Planning consents to public submissions being sought, the amendment including a statement as to its purpose, objectives and any other relevant information is advertised for a minimum period of not less than three months, during which any person may lodge submissions.

7. Revisions to practice and procedures for major and minor amendments

7.1 Concurrent amendments

The P&D Act provides that:

- where a region scheme is amended by the reservation of land for any public purpose, the local planning scheme is automatically amended without the need for a separate amendment to the local planning scheme, as provided in section 126(1); and

- where a region scheme is amended to include land in an urban zone the local government scheme may be automatically amended where the local government requests such and is proposing a development zone requiring a local structure plan to be approved prior to subdivision approval and the WAPC agree to the automatic amendment, as provided in section 126 (3). Section 126(3) only refers to automatic amendments to a local planning scheme to change the zoning of the land. It

  change to zoning only relates to scheme map changes.

7.2 Parallel amendments

If the WAPC and the local government decide not to proceed with a concurrent amendment under section 126 (3), it is still an option for the local government to initiate a local scheme amendment and progress in the usual way, parallel to the