



CITY OF COCKBURN
DOC Set
21 AUG 2024
SUBJECT 109/158
RETENTION 124-2-3A5
PROPERTY
APP
ACTION 003/031

Your ref: 109/158
Our ref: TPS/2960
Enquiries: Local Planning Schemes
Email: localplanningschemes@dplh.wa.gov.au

Chief Executive Officer
City of Cockburn
PO Box 1215
BIBRA LAKE WA 6965

Transmission via electronic mail to: stratplanning@cockburn.wa.gov.au

Dear Sir/Madam

TOWN PLANNING SCHEME NO. 3 AMENDMENT NO. 158

The Western Australian Planning Commission (Commission) has considered the amendment and submitted its recommendation to the Minister in accordance with section 87(1) of the *Planning and Development Act 2005* (the Act).

The Minister has approved the amendment in accordance with section 87(2)(a) of the Act. In accordance with section 87(3) of the Act, the Commission will cause the approved amendment to be published in the *Government Gazette*.

The Commission has forwarded notice to the Department of Premier and Cabinet (attached) and it is the local governments' responsibility to make arrangements for the payment of any publication costs. The local government is required under section 87(4B) of the Act, and regulation 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to publish the approved amendment, ensure that it is available to the public, and notify each person who made a submission.

For all payment and purchase order queries, please contact the Department of Premier and Cabinet on (08) 6552 6000. One signed set of the amending documents are returned for your records.

Please direct any queries about this matter to localplanningschemes@dplh.wa.gov.au

Yours sincerely

Sam Boucher

Ms Sam Boucher
Secretary
Western Australian Planning Commission

15/08/2024

Planning and Development Act 2005

APPROVED LOCAL PLANNING SCHEME AMENDMENT

City of Cockburn
Local Planning Scheme No. 3 Amendment No. 158

File: TPS/2960

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the abovementioned amendment to the City of Cockburn Local Planning Scheme No. 3 on 9 August 2024 for the purpose of:

Replace Clause 4.18 with:

4.18 Planning approval is required prior to the removal, destruction of and/or interference with any tree included on the local government Significant Tree Register.

Insert the following into Schedule A - Supplemental provisions to the deemed provisions:

13B (1) The local government may establish and maintain a significant tree register to identify trees within the Scheme area that are worthy of preservation.

(2) The significant tree register -

- a. Must set out a description of each tree, its location and the reason for its entry in the significant tree register; and
- b. Must be available, with the scheme documents, for public inspection during business hours at the offices of the local government; and
- c. May be published on the website of the local government.

(3) The local government must not enter a tree, or remove a tree from the significant tree register unless the local government has received a written nomination from the owner of the land which contains the tree. A written nomination can only be made by the owner of the land which contains the tree.

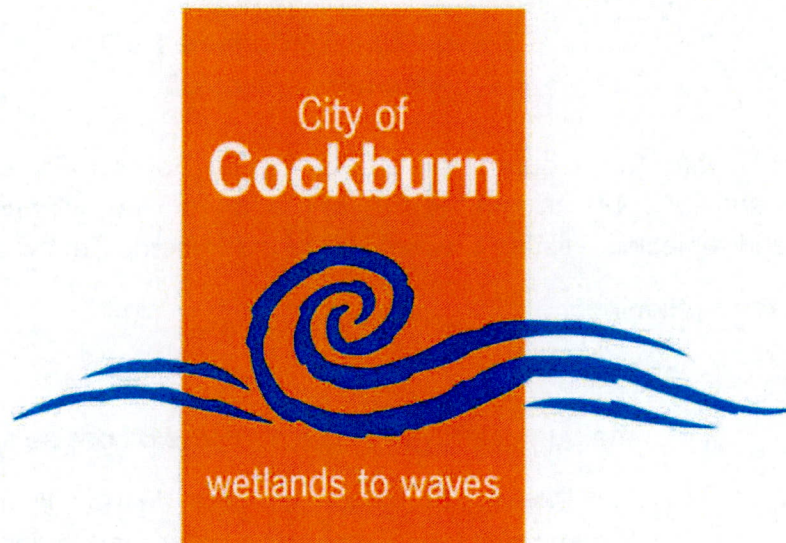
(4) Upon receiving a written nomination in accordance with sub-clause (3), the local government may:

- a. Carry out any other consultation the local government considers appropriate; and

- b. Following any consultation and consideration of the submissions made on the proposal, resolve that the tree be entered into the significant tree register with or without modifications, or that the tree be removed from the significant tree register.
- (5) If the local government enters a tree in the significant tree register or modifies an entry of a tree in the significant tree register, the local government must give notice of the entry or modification to each owner and occupier of the land which contains the tree.
- (6) The local government may require assessment or certification by an arboriculturist to be carried out prior to the determination of an application for development approval for land which contains a tree identified on the significant tree register.
- (7) Any tree included on the local government's Local Government Inventory and Heritage List prior to clause 13B coming into effect continues under this scheme and is taken to be on the significant tree register.

L HOWLETT
MAYOR

D SIMMS
CHIEF EXECUTIVE OFFICER



Town Planning Scheme No.3

**Amendment No.158
(Standard)**

Tree Preservation Orders

JULY 2024

Planning and Development Act 2005
RESOLUTION TO PREPARE
AMENDMENT TO A LOCAL PLANNING SCHEME

City of Cockburn
Town Planning Scheme No.3
Amendment No.158

RESOLVED that the Council, in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the City of Cockburn Town Planning Scheme No. 3 by deleting and replacing existing Clause 4.18 of the Scheme Text with the following:

"4.18.1 Tree Preservation

4.18.1 Interpretation

For the purposes of this clause, unless otherwise specified:

- a) 'cut' includes prune, lop, damage, destroy, injure or interfere;
- b) 'Emergency Order' means an order made under sub-clause 4.18.4;
- c) 'Order' means a proposed order, an amendment or revocation of an existing Significant Tree List designation order made under sub-clause 4.18.2 and includes an Emergency Order;
- d) 'Protected Tree' includes a tree which is on the Significant Tree List or is the subject of an Order;
- e) 'Significant Tree List' means the Local Government Inventory Heritage List Significant Tree List; and
- f) 'tree' includes a single tree, a group of trees, or other vegetation.

4.18.2 Tree Preservation Orders

In addition to trees included on the Significant Tree List or required to be preserved under a condition of a development approval, pursuant to this clause, the local government may:

- a) serve an order for the preservation and maintenance of a tree growing wholly or partially on land inclusive of any overhang or extension of canopy or root systems, for which the local government considers to be consistent with the adopted significant tree criteria as per the Local Government Inventory Heritage List Significant Tree List (Order); or
- b) order the amendment or revocation of an existing Significant Tree List designation, in relation to a tree which the local government no longer considers to be consistent with the adopted significant tree criteria as per the Local Government Inventory Heritage List Significant Tree List; or
- c) determine that sub-clause 4.18.4 applies to a specified tree.

4.18.3 Notice of Tree Preservation Orders

Subject to sub-clause 4.18.2, the local government must give notice of the proposed Order, for a minimum of 14 days or such other period determined by the local government, to the owners and occupiers of the land on which the tree is located.

Subject to sub-clause 4.18.2, the local government must consider any written submissions received after the notice period specified above and must thereafter advise the owners and occupiers of the land on which the tree is located of its decision in accordance with sub-clause 4.18.7.

Subject to sub-clause 4.18.2 b), where an existing Significant Tree List designation has been amended or revoked, the local government will undertake all reasonable efforts to advise the original nominator(s), and owner(s) of the land on which the tree is located.

4.18.4 Emergency Tree Preservation Orders

Where the local government considers there is a risk of imminent damage to a specified tree, the local government may determine that an emergency tree preservation order (Emergency Order) is appropriate.

Where the local government makes an Emergency Order for a specified tree, notwithstanding sub-clause 4.18.3, the Emergency Order is effective from the date that written notice of the Emergency Order is given to the owner or owners of the land on which the specified tree is located and remains in effect until the local government gives notice in writing of its decision as to whether the Order is made in accordance with sub-clause 4.18.3.

4.18.5 Destruction of trees

A person shall not, otherwise than in accordance with any written consent of the local government:

- a) cut, remove or otherwise destroy any Protected Tree; or
- b) cause or permit to be cut, removed or otherwise destroy any Protected Tree.

4.18.6 Biosecurity of trees

Sub-clause 4.18.5 does not apply to any Protected Trees which are cut, removed or otherwise destroyed in accordance with an express written direction or requirement of a State Government Department in response to plant biosecurity issues.

4.18.7 Notice of decision

Where a local government makes a decision under sub-clause 4.18.2, 4.18.3, or 4.18.4, that decision must:

- a) be in writing;
- b) specify the tree to which the decision applies;
- c) specify the date from which the decision is to take effect; and
- d) specify any conditions or works required for the specified tree.

The local government must update the Significant Tree List accordingly following any decision under sub-clause 4.18.2 or sub-clause 4.18.4.

4.18.8 Register of Tree Preservation Orders


The register of Orders shown on the Significant Tree List is available for public inspection:

- a) at the local government offices during work hours; and
- b) on the local government website at any time.”

The Amendment is standard under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 on the basis that it is an amendment that:

- *does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and*
- *would not constitute a complex or basic amendment as defined in Part 5 Division 1 Regulation 34.*

Dated this 9th day of February 2023



CHIEF EXECUTIVE OFFICER

AMENDMENT REPORT

1.0 INTRODUCTION

The purpose of this amendment is to update the City's existing 'Significant Tree' provisions with modern standards that introduce the ability to impose tree preservation orders into the City of Cockburn Town Planning Scheme No.3 (TPS3).

Once implemented, the tree preservation orders will be able to be applied to trees considered to meet the criteria for having historical, commemorative, cultural, social, scientific visual, aesthetic, landmark or significant ecological value, to best ensure their preservation, considered maintenance and the prosecution of actions that lead to their damage or destruction.

Applications for significant trees will be assessed by City officers internally to ensure that the tree is not located on public land and has been provided with the landowner's consent to progress. Each application will be placed on notice to allow for the opportunity for submissions to be made and will be determined by Council before a tree is included, amended or revoked from the significant tree list.

The tree preservation order provisions allow for emergency orders to be applied. An emergency order will be applied to the tree where there is an immediate risk of removal, or damage. A tree with an emergency order will be afforded protection from the time the order is applied rather than a regular tree preservation order to be protected from the date the significant tree list is updated.

2.0 BACKGROUND

The City's current framework for protecting Significant Trees originated from the identification of trees with cultural heritage significance when the City's first Local Heritage Survey, the Municipal Heritage Inventory, was prepared in 1998. Trees in this Inventory were not given statutory protection at that time.

Trees were identified for inclusion on the Heritage List, however the local planning scheme provisions and Heritage Act at this time only referred to the protection of buildings and structures meaning that trees were not able to be protected under this provision.

Amendment No.86 to the Scheme (which was gazetted 14 September 2012) introduced protection for Significant Trees via the requirement for planning approval prior to their removal or major pruning currently included at Clause 4.18 of the TPS3. Alongside Amendment No.86, the City's Significant Tree list criteria were adopted in 2012 based on National Trust criteria for significant trees and Office of Heritage criteria for heritage places.

On 8 September 2022, Council updated its Significant Tree list criteria for tree which could be included, amended or revoked from the significant tree list.

As part of the review of the criteria, Council also examined current arrangements for significant trees, and investigated possible alternative approaches that may better align with community expectations. Through this analysis, it was identified that Tree Preservation Order provisions would offer the following benefits:

- Provide for the local planning scheme to include a more comprehensive framework for Significant Trees
- Allow for criteria to not just be confined to cultural heritage matters
- Allow for immediate protection of the tree, thereby reducing the risk that trees will be removed prior to being included on list
- Provide a more robust legal framework, including for prosecution of unauthorised removal of 'Significant Trees'.

3.0 AMENDMENT TYPE

Part 5, Division 1, Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, identifies different amendment types: basic, standard and complex.

Regulation 35(2) requires the local government to specify in their resolutions to prepare or adopt an amendment what type of amendment it is, as well as the explanation for forming that opinion. It has been considered that this amendment is to progress as a 'standard' amendment, in which Regulation 34 describes as:

- (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;*
- (b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- (c) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is a basic amendment;*
- (d) an amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme does not currently include zones of all the types that are outlined in the plan;*
- (e) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;*
- (f) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;*
- (g) any other amendment that is not a complex or basic amendment.*

This proposed amendment, which seeks to formalise and provide statutory rigour to the assessment and preservation of trees on private land satisfies parts (f) and (g) of the above criteria.

4.0 TOWN PLANNING CONTEXT

4.1 State Planning Framework

This amendment does not propose any changes to Town Planning Scheme No.3 (TPS3) which would contravene or be inconsistent with the State Planning Framework or Metropolitan Region Scheme (MRS).

On the contrary, the research undertaken by the City during its 2022 review of the Significant Tree List criteria identified that partly as a result of a lack of State Guidance on the matter, there is no consistent approach to either ensuring the long-term protection of culturally significant trees, or of ensuring the preservation of urban tree canopy via the protection or incentivisation of retaining trees on private land via the subdivision and development process (a matter separate to this proposal).

4.2 City of Cockburn Local Planning and Environmental Framework

Recently advertised between 22 September and 21 November 2022, the City's draft Local Planning Strategy encourages the continued protection of trees with cultural heritage value via retention of the Significant Tree List.

Currently empowered by a supplemental scheme provision that does not exist within the Deemed or Model Scheme Text, a similar provision will need to be inserted into the new scheme that will follow final adoption of the Local Planning Strategy.

Introduced in 2012, the current clause is in need of updating to reflect the City's learnings during operation and to ensure a robust planning framework is in place that accords with the community's expectations.

More broadly, the proposal also aligns with the cultural heritage objectives, and will work favourably in combination with the general amenity, sustainability and environmental objectives of the following City adopted documents:

- *Strategic Community Plan (2020 – 2030)*
- *Climate Change Strategy (2020 – 2030)*
- *Urban Forrest Plan (2018 – 2028)*

5.0 PROPOSAL

To achieve the benefits identified in Section 2.0 above, the proposed amendment seeks to replace Clause 4.18 in the Scheme Text with an expanded subset of clauses (4.18.1 to 4.18.8). The provisions are broadly based on those that currently appear in the City of South Perth's local planning scheme and have been reviewed by legal counsel to ensure their suitability (particularly as it relates to subsequent enforceability).

The intent and/or purpose of each new scheme provision, and any critical aspects that went into its drafting is briefly explained beside each clause in the table that follows:

Tracked changes	Explanation for draft wording:
<p>4.18 Planning approval is required prior to the removal, destruction of and/or interference with any tree included on the local government Inventory Significant Tree list.</p> <p><u>Tree Preservation</u></p> <p>4.18.1 Interpretation</p> <p><u>For the purposes of this clause, unless otherwise specified:</u></p> <p>a) <u>'cut' includes prune, lop, damage, destroy, injure or interfere;</u></p> <p>b) <u>'Emergency Order' means an order made under sub-clause 4.18.4;</u></p> <p>c) <u>'Order' means a proposed order, an amendment or revocation of an existing Significant Tree List designation order made under sub-clause 4.18.2 and includes an Emergency Order;</u></p> <p>d) <u>'Protected Tree' includes a tree which is on the Significant Tree List or is the subject of an Order;</u></p> <p>e) <u>'Significant Tree List' means the Local Government Inventory Heritage List Significant Tree List; and</u></p> <p>f) <u>'tree' includes a single tree, a group of trees, or other vegetation.</u></p>	<p>The interpretation clause is critical to aiding general understanding and subsequent enforcement of the new provisions.</p> <p>The terms defined are supplemental to those covered under Part 6 of TPS3 or the Planning and Development Act (Local Planning Scheme) Regulations.</p>
<p>4.18.2 Tree Preservation Order</p> <p><u>In addition to trees included on the Significant Tree List or required to be preserved under a condition of a development approval, pursuant to this clause, the local government may:</u></p> <p>a) <u>serve an order for the preservation and maintenance of a tree growing wholly or partially on land inclusive of any overhang or extension of canopy or root systems, for which the local government considers to be consistent with the adopted significant tree criteria as per the Local Government Inventory Heritage List Significant Tree List (Order); or</u></p> <p>b) <u>order the amendment or revocation of an existing Significant Tree List designation, in relation to a tree which the local government no longer considers to be consistent with the adopted significant tree criteria as per the Local Government Inventory Heritage List Significant Tree List; or</u></p> <p>c) <u>determine that sub-clause 4.18.4 applies to a specified tree.</u></p>	<p>This clause introduces the ability for the City to grant and revoke orders to best ensure the preservation and appropriate maintenance of significant trees. Importantly:</p> <ul style="list-style-type: none"> the clause acknowledges that there are other approval processes that can also result or be contingent upon the retention of existing trees); the wording specifically limits the use of TPO's to trees adopted onto City's the Significant Tree List; and the ability to modify or revoke listings is not currently available under current scheme provisions.
<p>4.18.3 Notice of Tree Preservation Orders</p> <p><u>Subject to sub-clause 4.18.2, the local government must give notice of the proposed Order, for a minimum of 14 days or such other period determined by the local government, to the owners and occupiers of the land on which the tree is located.</u></p> <p><u>Subject to sub-clause 4.18.2, the local government must consider any written submissions received after the notice period specified above and must thereafter</u></p>	<p>The clause sets out the process by which the City will consult when seeking to issue an order.</p> <p>14-days is a reduction to the City's current practice of 21-days but is consistent with provisions under other local schemes.</p> <p>The extent and timeframe specified are minimum standards only and (as per current practice) advertising will extend to surrounding</p>

<p><u>advise the owners and occupiers of the land on which the tree is located of its decision in accordance with sub-clause 4.18.7.</u></p> <p><u>Subject to sub-clause 4.18.2 b), where an existing Significant Tree List designation has been amended or revoked, the local government will undertake all reasonable efforts to advise the original nominator(s), and owner(s) of the land on which the tree is located.</u></p>	<p>landowners, such as in instances where a tree overhangs or is located within close proximity to one or a number of shared boundaries.</p> <p>An internal procedure (inclusive of appropriate delegations) will be prepared to provide further guidance on this and other matters.</p> <p>Notice to the previous significant tree nominator is a process in which will alert the previous landowner or occupier of the amendment or revocation of the protected tree at such time.</p>
<p>4.18.4 Emergency Tree Preservation Orders</p> <p><u>Where the local government considers there is a risk of imminent damage to a specified tree, the local government may determine that an emergency tree preservation order (Emergency Order) is appropriate.</u></p> <p><u>Where the local government makes an Emergency Order for a specified tree, notwithstanding sub-clause 4.18.3, the Emergency Order is effective from the date that written notice of the Emergency Order is given to the owner or owners of the land on which the specified tree is located and remains in effect until the local government gives notice in writing of its decision as to whether the Order is made in accordance with sub-clause 4.18.3.</u></p>	<p>This clause will allow the City the ability to provide immediate protection to trees during the Significant Tree assessment process.</p> <p>It is not automatic and should only applied where considered necessary.</p> <p>This protection is not available to nominated trees under current scheme provisions.</p>
<p>4.18.5 Destruction of trees</p> <p><u>A person shall not, otherwise than in accordance with any written consent of the local government:</u></p> <ul style="list-style-type: none"> <u>a) cut, remove or otherwise destroy any Protected Tree; or</u> <u>b) cause or permit to be cut, removed or otherwise destroy any Protected Tree.</u> 	<p>This clause outlines the extent of work that triggers the need for assessment and enables the City to prosecute offenders who remove or harm 'Protected Trees' without consent.</p> <p>The current scheme provision relates only to 'significant' pruning. This is a deliberate change reflecting a more conservative approach to future management of the select trees that obtain 'protected' status, by requiring an assessment of the proposal (and its impact on the tree) ahead of any works being undertaken.</p>
<p>4.18.6 Biosecurity of trees</p> <p><u>Sub-clause 4.18.5 does not apply to any Protected Trees which are cut, removed or otherwise destroyed in accordance with an express written direction or requirement of a State Government Department in response to plant biosecurity issues.</u></p>	<p>This clause provides an exemption from this process (or subsequent compliance). Exemptions have been deliberately kept to this one instance to minimise the risk of misuse.</p> <p>In particular, the City has deliberately resisted the use of broader terms relating to emergency need (noting that there are instances where other emergency legislation would intervene or override), in favour of only exempting agencies such as the Department of Primary Industries and Regional Development where removal is necessary to address an urgent need to the broader community or industry like outbreaks of the European House Borer etc.</p>
<p>4.18.7 Notice of decision</p> <p><u>Where a local government makes a decision under sub-clause 4.18.2, 4.18.3, or 4.18.4, that decision must:</u></p> <ul style="list-style-type: none"> <u>a) be in writing;</u> 	<p>This is an essential element that concludes the assessment process. A decision is not final until the notice is properly issued.</p> <p>The level of detail specified is also important to</p>

<p>b) <u>specify the tree to which the decision applies;</u> c) <u>specify the date from which the decision is to take effect; and</u> d) <u>specify any conditions or works required for the specified tree.</u></p> <p><u>The local government must update the Significant Tree List accordingly following any decision under sub-clause 4.18.2 or sub-clause 4.18.4.</u></p>	<p>informing future actions relating to compliance orders issued under section 214 and/or prosecution of offences under sections 214(7) or 218 of the <i>Planning and Development Act</i>.</p>
<p><u>4.18.8 Register of Tree Preservation Orders</u></p> <p><u>The register of Orders shown on the Significant Tree List is available for public inspection:</u></p> <p>a) <u>at the local government offices during work hours;</u> <u>and</u> b) <u>on the local government website at any time.</u></p>	<p>This clause clarifies where the information will be stored in accordance with current practice and modern standards.</p> <p>To best achieve broad community understanding and compliance, it is critical that this information be stored in readily accessible locations to landowners, purchasers, developers, government authorities, service agencies and the public at large.</p> <p>Significant Trees are currently depicted on the Heritage module of the City's online mapping systems.</p>

6.0 CONCLUSION

The proposed amendment will provide certainty, guidance and enforceable provisions for the protection of significant trees, in particular those located on private land throughout the City.

Planning and Development Act 2005
RESOLUTION TO ADOPT
AMENDMENT TO A LOCAL PLANNING SCHEME

City of Cockburn
Town Planning Scheme No.3
Amendment No.158

RESOLVED that the Council, in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the City of Cockburn Town Planning Scheme No. 3 by deleting and replacing existing Clause 4.18 of the Scheme Text with the following:

“4.18.1 Tree Preservation

4.18.1 Interpretation

For the purposes of this clause, unless otherwise specified:

- a) 'cut' includes prune, lop, damage, destroy, injure or interfere;
- b) 'Emergency Order' means an order made under sub-clause 4.18.4;
- c) 'Order' means a proposed order, an amendment or revocation of an existing Significant Tree List designation order made under sub-clause 4.18.2 and includes an Emergency Order;
- d) 'Protected Tree' includes a tree which is on the Significant Tree List or is the subject of an Order;
- e) 'Significant Tree List' means the Local Government Inventory Heritage List Significant Tree List; and
- f) 'tree' includes a single tree, a group of trees, or other vegetation.

4.18.2 Tree Preservation Orders

In addition to trees included on the Significant Tree List or required to be preserved under a condition of a development approval, pursuant to this clause, the local government may:

- a) serve an order for the preservation and maintenance of a tree growing wholly or partially on land inclusive of any overhang or extension of canopy or root systems, for which the local government considers to be consistent with the adopted significant tree criteria as per the Local Government Inventory Heritage List Significant Tree List (Order); or
- b) order the amendment or revocation of an existing Significant Tree List designation, in relation to a tree which the local government no longer considers to be consistent with the adopted significant tree criteria as per the Local Government Inventory Heritage List Significant Tree List; or
- c) determine that sub-clause 4.18.4 applies to a specified tree.

4.18.3 Notice of Tree Preservation Orders

Subject to sub-clause 4.18.2, the local government must give notice of the proposed Order, for a minimum of 14 days or such other period determined by the local government, to the owners and occupiers of the land on which the tree is located.

Subject to sub-clause 4.18.2, the local government must consider any written submissions received after the notice period specified above and must thereafter advise the owners and occupiers of the land on which the tree is located of its decision in accordance with sub-clause 4.18.7.

Subject to sub-clause 4.18.2 b), where an existing Significant Tree List designation has been amended or revoked, the local government will undertake all reasonable efforts to advise the original nominator(s), and owner(s) of the land on which the tree is located.

4.18.4 Emergency Tree Preservation Orders

Where the local government considers there is a risk of imminent damage to a specified tree, the local government may determine that an emergency tree preservation order (Emergency Order) is appropriate.

Where the local government makes an Emergency Order for a specified tree, notwithstanding sub-clause 4.18.3, the Emergency Order is effective from the date that written notice of the Emergency Order is given to the owner or owners of the land on which the specified tree is located and remains in effect until the local government gives notice in writing of its decision as to whether the Order is made in accordance with sub-clause 4.18.3.

4.18.5 Destruction of trees

A person shall not, otherwise than in accordance with any written consent of the local government:

- a) cut, remove or otherwise destroy any Protected Tree; or
- b) cause or permit to be cut, removed or otherwise destroy any Protected Tree.

4.18.6 Biosecurity of trees

Sub-clause 4.18.5 does not apply to any Protected Trees which are cut, removed or otherwise destroyed in accordance with an express written direction or requirement of a State Government Department in response to plant biosecurity issues.

4.18.7 Notice of decision

Where a local government makes a decision under sub-clause 4.18.2, 4.18.3, or 4.18.4, that decision must:

- a) be in writing;
- b) specify the tree to which the decision applies;
- c) specify the date from which the decision is to take effect; and
- d) specify any conditions or works required for the specified tree.

The local government must update the Significant Tree List accordingly following any decision under sub-clause 4.18.2 or sub-clause 4.18.4.

4.18.8 Register of Tree Preservation Orders

The register of Orders shown on the Significant Tree List is available for public inspection:

- a) at the local government offices during work hours; and
- b) on the local government website at any time.”

The Amendment is standard under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 on the basis that it is an amendment that:

- *does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and*
- *would not constitute a complex or basic amendment as defined in Part 5 Division 1 Regulation 34.*

POSTSCRIPT: Inclusion of Minister's modifications

Modifications required by the Minister for Planning were outlined in correspondence dated 5/06/2024 sent to the City of Cockburn and are set out further below.

In carrying out these modifications, the Council resolution dates are not modified, although in this case there are changes to the proposed scheme text from what was set out originally in those Council decisions.

In the interests of posterity and to provide some clarity to persons who may compare the original recommendation and/or Council minutes to these documents and/or the amended version of Town Planning Scheme No. 3, below are the Minister modifications:

Replace Clause 4.18 with:

4.18 Planning approval is required prior to the removal, destruction of and/or interference with any tree included on the local government Significant Tree Register.

Insert the following into Schedule A - Supplemental provisions to the deemed provisions:

- 13B (1) The local government may establish and maintain a significant tree register to identify trees within the Scheme area that are worthy of preservation.
- (2) The significant tree register -
- a. Must set out a description of each tree, its location and the reason for its entry in the significant tree register; and
 - b. Must be available, with the scheme documents, for public inspection during business hours at the offices of the local government; and
 - c. May be published on the website of the local government.
- (3) The local government must not enter a tree, or remove a tree from the significant tree register unless the local government has received a written nomination from the owner of the land which contains the tree. A written nomination can only be made by the owner of the land which contains the tree.
- (4) Upon receiving a written nomination in accordance with sub-clause (3), the local government may:
- a. Carry out any other consultation the local government considers appropriate; and
 - b. Following any consultation and consideration of the submissions made on the proposal, resolve that the tree be entered into the significant tree register with or without modifications, or that the tree be removed from the significant tree register.

- (5) If the local government enters a tree in the significant tree register or modifies an entry of a tree in the significant tree register, the local government must give notice of the entry or modification to each owner and occupier of the land which contains the tree.
- (6) The local government may require assessment or certification by an arboriculturist to be carried out prior to the determination of an application for development approval for land which contains a tree identified on the significant tree register.
- (7) Any tree included on the local government's Local Government Inventory and Heritage List prior to clause 13B coming into effect continues under this scheme and is taken to be on the significant tree register.

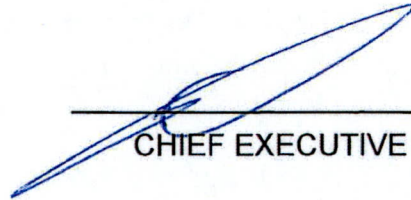
If a copy of this is a true copy of the
2024 Amendment, that approval to which was
referred by the Minister for Planning on 17/11/2023
Certified by the Registrar of Planning
17/11/2023
Officer of the Registrar of Planning
to Section 44 of the Planning and Development Act
2005 and Regulation 25(7) of the Planning and Development
Act (Amendment of the Planning and Development
Act (Local Planning Scheme) Regulations 2015)

ADOPTION

Adopted by resolution of the Council of the City of Cockburn at the Meeting of the Council held on 9th day of February 2023.



MAYOR



CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

Adopted for final approval by resolution of the City of Cockburn at the Meeting of the Council held on the 13th day of July 2023, and the Common Seal of the City of Cockburn was hereunto affixed by the authority of a resolution of the Council in the presence of:



(Seal)

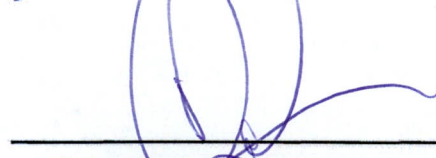
Recommended/Submitted for Final Approval



MAYOR



CHIEF EXECUTIVE OFFICER



DELEGATED UNDER S.16 OF THE P&D ACT 2005

DATE 29 July 2024

Final Approval Granted

It is hereby certified that this is a true copy of the ~~Scheme~~ Amendment, final approval to which was endorsed by the Minister for Planning on 9/8/2024

Certified by MS Brooks

Officer of the Commission Duty authorised pursuant to Section 24 of the Planning and Development Act 2005 and Regulation 32(3) Scheme and Regulation 63(3) (Amendment) of the Planning and Development (Local Planning Scheme) Regulations 2015.

MINISTER FOR PLANNING

DATE _____