



Western
Australian
Planning
Commission

CITY OF COCKBURN	
DOC Set	
22 JUN 2018	Your ref: 109/123 Our ref: TPS/2206 Enquiries: Heather Brooks (6551 9436)
SUBJECT 109/123	
RETENTION 124.2.3 A5	
PROPERTY	
APP TPS317/0001	
ACTION Tiffany Jan de Lindt	

Chief Executive Officer
City of Cockburn
PO Box 1215
Bibra lake WA 6965

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

Dear Sir

LOCAL PLANNING SCHEME NO. 3 - AMENDMENT NO. 123

I refer to your letter dated 7 June 2018 regarding Amendment No. 123.

The WAPC 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 WAPC will cause the approved amendment to be published in the Government Gazette.

The WAPC has forwarded notice to the State Law Publisher (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 State Law Publisher on (08) 6552 6012 or fax (08) 9321 7536. One signed set of the amending documents is returned for your records.

Please direct any queries about this matter to Heather Brooks on 6551 9436 or schemes@planning.wa.gov.au.

Yours sincerely

Ms Sam Fagan
Secretary
Western Australian Planning Commission
18/06/2018

Postal address: Locked Bag 2506 Perth WA 6001 Street address: 140 William Street Perth WA 6000 Tel: (08) 6551 8002
Fax: (08) 655 19001 Email: info@dplh.wa.gov.au Web: www.dplh.wa.gov.au



wa.gov.au

ABN 35 482 341 493

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME AMENDMENT

City of Cockburn

LOCAL PLANNING SCHEME No. 3- AMENDMENT No. 123

Ref: TPS/2206

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 City of Cockburn Local Planning Scheme amendment on 15 June 2018 for the purpose of:

1. Rezoning portion of Lots 446, 9011 and 9031 Cedarleaf Entrance, Treeby and portion of Cedarleaf Entrance road reserve from no zone to the Development zone.
2. Including a portion of Lots 446, 9011 and 9031 Cedarleaf Entrance, Treeby and a portion of the Cedarleaf Entrance road reserve within the boundaries of 'Development Area No. 37' as shown on the Scheme Amendment Map.
3. Amending the Scheme map accordingly.

L HOWLETT
MAYOR

S CAIN
CHIEF EXECUTIVE OFFICER



TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 123

31 May 2018

**PLANNING AND DEVELOPMENT ACT, 2005
RESOLUTION TO AMEND A TOWN PLANNING SCHEME**

**CITY OF COCKBURN
TOWN PLANNING SCHEME NO 3
AMENDMENT NO. 123**

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:

1. Including a portion of Lots 446, 9011 and 9031 Cedarleaf Entrance, Treeby and a portion of the Cedarleaf Entrance road reserve within the boundaries of 'Development Area No.37' as shown on the Scheme Amendment Map; and
2. Amending the Scheme map accordingly.

The Amendment is basic under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

1. It is an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area and the amendment will have minimal effect on the scheme or landowners in the scheme area.

Dated this 8..... day of February..... 2018



CHIEF EXECUTIVE OFFICER

REPORT

1. LOCAL AUTHORITY City of Cockburn

2. DESCRIPTION OF TOWN
PLANNING SCHEME: Town Planning Scheme No. 3

3. TYPE OF SCHEME: District Zoning Scheme

4. SERIAL NO. OF AMENDMENT: Amendment No. 123

5. PROPOSAL: Including a portion of Lots 446, 9011 and
9031 Cedarleaf Entrance, Treeby and a
portion of the Cedarleaf Entrance road
reserve within the boundaries of
'Development Area No.37'.

AMENDMENT REPORT

1.0 Introduction

The purpose of this amendment to the City of Cockburn Town Planning Scheme No.3 (TPS3) is to include a portion of Lots 446, 9011 and 9031 Cedarleaf Entrance, Treeby and a portion of the Cedarleaf Entrance road reserve within the Development zone and within the boundaries of 'Development Area No.37'.

This amendment will ensure the subject site is included in the overall structure planning landholdings in the locality, being the *Banjup Quarry Local Structure Plan*. This means subdivision and development of the subject site will be coordinated in a consistent manner complementing its surrounds.

2.0 Background

The subject site is located approximately 18 km from the Perth CBD and 1.5 km east of the Cockburn Central Activity Centre and Transit Station. The balance of Lots 446, 9011 and 9031 Cedarleaf Entrance, Treeby and Cedarleaf Entrance road reserve forms part of the *Banjup Quarry Local Structure Plan* area, being developed by Stockland, and referred to as Calleya Estate.

The subject site abuts Armadale Road, a 'Primary Regional Road' under the Metropolitan Region Scheme. The subject site was recently subject to MRS Amendment 1297/57, which rezoned the site from 'Primary Regional Roads' to 'Urban' zone. MRS Amendment 1297/57 was gazetted on 15 December 2017.

The WAPC has the option of concurrently rezoning the subject site to 'Development' zone under TPS3 by utilising Section 126(3) of the *Planning and Development Act 2005*. The land was not concurrently zoned in this instance and is therefore not zoned under TPS3.

3.0 Amendment Type

As per Part 5 of the Regulations, there several amendment types: basic, standard and complex. These are defined in Part 5, Division 1, Regulation 34.

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.

This proposed amendment is considered to be a basic amendment, which Regulation 34 describes as:

basic amendment means any of the following amendments to a local planning scheme —

- a) *an amendment to correct an administrative error;*
- b) *an amendment to the scheme so that it is consistent with the model provisions in Schedule 1 or with another provision of the local planning scheme;*

- c) *an amendment to the scheme text to delete provisions that have been superseded by the deemed provisions in Schedule 2;*
- d) *an amendment to the scheme so that it is consistent with any other Act that applies to the scheme or the scheme area;*
- e) *an amendment to the scheme so that it is consistent with a State planning policy;*
- f) *an amendment to the scheme map to include a boundary to show the land covered by an improvement scheme or a planning control area;*
- g) *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 currently includes zones of all the types that are outlined in the plan;*
- h) *an amendment that results from a consolidation of the scheme in accordance with section 92(1) of the Act;*
- i) *an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area if the amendment will have minimal effect on the scheme or landowners in the scheme area.*

This proposed amendment satisfies i) of the above criteria. In particular, it is:

1. Consistent with the 'Urban' zoning under the provisions of the MRS; and
2. Considered to represent a logical extension of the Development zone and the 'Development Area No.37' boundary given its position within the Banjup Quarry Local Structure Plan area.

4.0 Town Planning Context

4.1 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the provisions of the MRS.

4.2 City of Cockburn Town Planning Scheme No. 3

The land was not concurrently zoned under TPS3 when MRS Amendment 1297/57 was gazetted and is therefore currently not zoned under TPS3. The subject site is not currently included in a Development Area.

The purpose of the 'Development' zone is *"to provide for future residential, industrial or commercial development to be guided by a comprehensive Structure Plan prepared under the Scheme"*.

The subject site is located within the Development Contribution Area 13 (DCA13) boundary shown on the Scheme Map.

The purpose of development contribution areas, as outlined in TPS3, is as follows:

- a) *Provide equitable sharing of the costs of infrastructure and administrative costs between owners;*

- b) *Ensure that the cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and*
- c) *Coordinate the timely provision of infrastructure.*

Regulation 34 states that an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan, is classified as a complex amendment.

Clause 5.3.9 of the Scheme excludes Primary Regional Roads (PRR) designated under the MRS from the calculation of the total area of land in a DCA. When the MRS was amended to delete the subject land from the PRR reserve and include the land in the Urban zone, the calculation of the land area under DCA13 increased to include the area of the subject land. That amendment process changed the way that the DCA13 provisions apply to the subject land, but does not alter the DCA13 boundary that is shown on the Scheme map. Accordingly, the amendment is not considered to be a complex amendment as it does not identify or amend a development contribution area or prepare or amend a development contribution plan.

4.3 Banjup Quarry Local Structure Plan

This proposed amendment will allow for the subject site to be included in the *Banjup Quarry Local Structure Plan* area. The *Banjup Quarry Local Structure Plan* notes the ultimate inclusion of the subject land following gazettal of MRS Amendment 1297/57.

The subject site is proposed to be developed for residential purposes under the Structure Plan. An amendment to the Structure Plan to extend the boundary to capture the subject site will be submitted in the near future.

5.0 Proposal

The purpose of this Scheme Amendment is to include a portion of Lots 446, 9011 and 9031 Cedarleaf Entrance, Treeby and a portion of the Cedarleaf Entrance road reserve within the Development zone and within the boundaries of 'Development Area No.37'.

6.0 Conclusion

This Scheme Amendment will ensure the subject site can be developed for urban purposes in accordance with the *Banjup Quarry Local Structure Plan*, as a consequence of the recently gazetted MRS Amendment 1297/57.

Extending the Development zone and 'Development Area No.37' to include the subject site means subdivision and development will be coordinated in a consistent manner complementing its surrounds.

POSTSCRIPT: Inclusion of Minister's modifications

Modifications required by the Minister for Planning were outlined in correspondence dated 24 May 2018 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 minor wording changes from what was 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:

Number	Modification	Justification
1.	<p>Modify the Scheme Amendment Report to:</p> <ul style="list-style-type: none"> • delete all references to the subject land being automatically transferred to the Development zone under the City of Cockburn Town Planning Scheme No. 3 (TPS 3) when MRS Amendment 1297/57 transferred the subject land from the Primary Regional Roads reserve to the Urban zone on 15 December 2017; and • replace with statements that the land was not concurrently zoned and is therefore not zoned under TPS 3; and • update 3.0 <i>Amendment Type</i> to refer to the amendment being a Basic amendment as it satisfies criteria i); and • include a paragraph under 4.2 <i>City of Cockburn Town Planning Scheme No. 3</i> to expand on the reference to DCA 13 to explain that the boundary of DCA 13 is not 	<p>The amendment land was not concurrently zoned in TPS 3 pursuant to section 126(3) of the <i>Planning and Development Act 2005</i> when the MRS was amended and therefore the amendment land is not zoned under TPS 3.</p> <p>Amendments to "<i>identify or amend a development contribution area or to prepare or amend a development contribution plan</i>" are Complex amendments (see regulations 34 and 72 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations 2015)</i>). The amendment report should justify why the amendment is a Basic amendment and should not be classified as a Complex amendment by referring to the relevant portions of the Scheme especially clause 5.3 and Table 10 (especially 5.3.9).</p>

	being modified and the amendment is therefore not considered to be a Complex amendment.	
2.	Modify the Scheme Amendment resolution to renumber resolution items 1 and 2 to 2 and 3 respectively.	To enable the insertion of an additional resolution item No. 1 to zone the amendment land to Development as outlined in modification 3 below.
3.	Modify the Scheme Amendment resolution to insert a new resolution item 1 as follows: 1. Rezoning portion of Lots 446, 9011 and 9031 Cedarleaf Entrance, Treeby and portion of the Cedarleaf Entrance road reserve from no zone to the Development zone;	The amendment land was not concurrently zoned in TPS 3 pursuant to section 126(3) of the <i>Planning and Development Act 2005</i> when the MRS was amended and therefore the amendment land is not zoned under TPS 3 and should be zoned Development to be consistent with the abutting land.
4.	Modify the Scheme Amendment Map (Existing Zoning) to replace the 3 as outlined above. Development zone over the amendment land with no colour and insert No Zone in the legend accordingly.	The amendment land is not zoned under TPS 3 as outlined above.
5.	Order the Scheme Amendment Documentation as follows: 1. Cover Page; 2. Form 2A – Resolution to prepare or adopt including the category of the amendment (leave unmodified); 3. Amendment Report; 4. Modified Amendment Resolution; 5. Scheme Amendment Maps (Existing Zoning and Proposed Zoning); and 6. Signatory Page	Form 2A should remain unmodified however it is to also include a statement regarding the amendment category as required by regulation 35 of <i>LPS Regulations 2015</i> . The second amendment resolution page is to be modified as outlined in this schedule. The Scheme Amendment Maps should immediately follow the modified amendment resolution page and be prior to the signatory page.

PLANNING AND DEVELOPMENT ACT, 2005

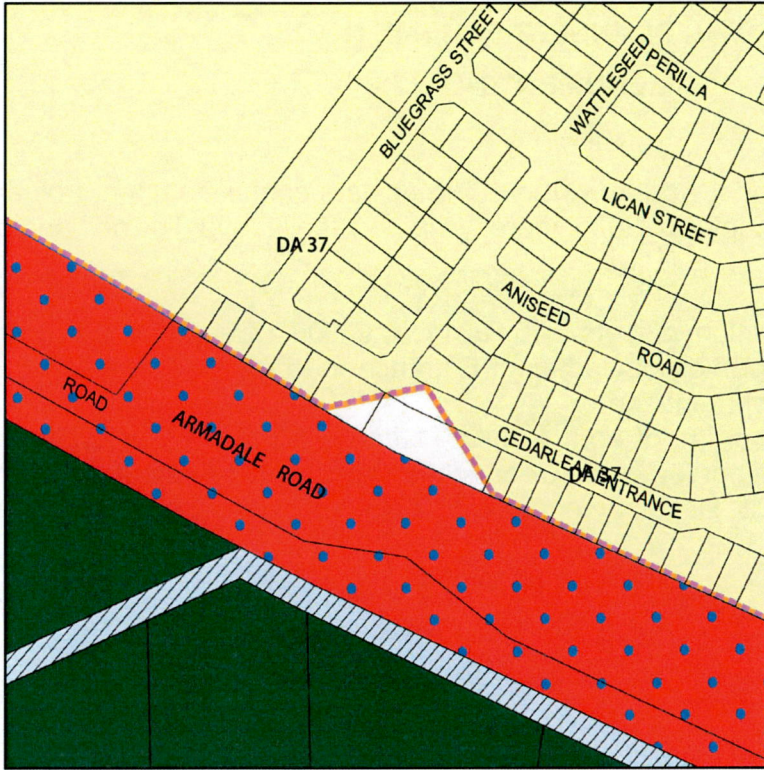
**CITY OF COCKBURN
TOWN PLANNING SCHEME NO 3
AMENDMENT NO. 123**

The City of Cockburn under and by virtue of the powers conferred upon it by the Planning and Development Act 2005, hereby amend the above Town Planning Scheme by:

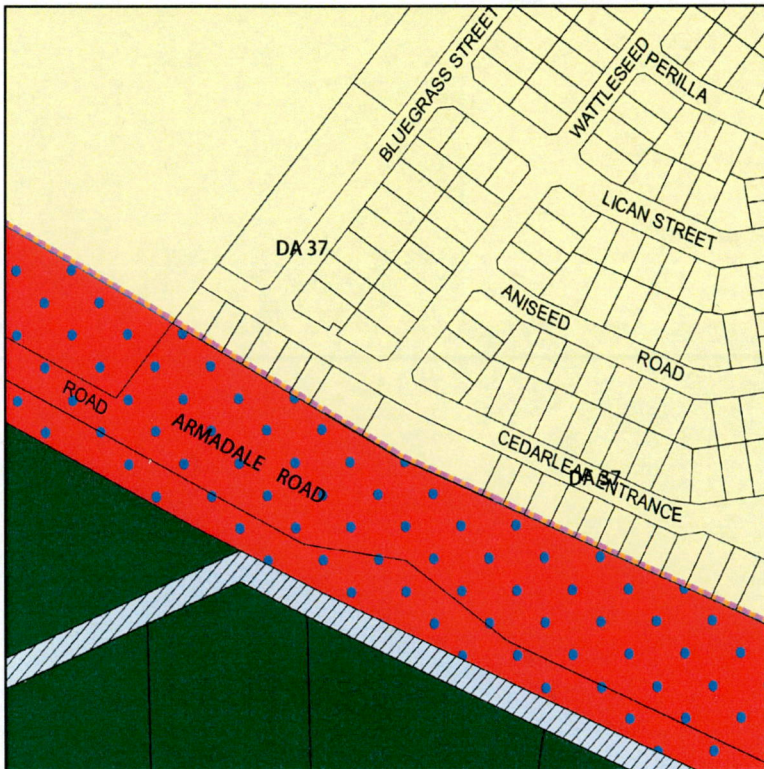
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2. Including a portion of Lots 446, 9011 and 9031 Cedarleaf Entrance, Treeby and a portion of the Cedarleaf Entrance road reserve within the boundaries of 'Development Area No.37' as shown on the Scheme Amendment Map.
3. Amending the Scheme map accordingly.

SCHEME MAP AMENDMENT

City of Cockburn
Town Planning Scheme No.3
Amendment No. 123





EXISTING ZONING



PROPOSED ZONING

LEGEND




REGION SCHEME RESERVES (MRS)

-  PRIMARY REGIONAL ROADS
-  WATER CATCHMENTS

LOCAL SCHEME RESERVES

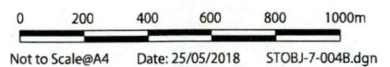
-  LAKES & DRAINAGE

LOCAL SCHEME ZONES

-  DEVELOPMENT
-  RESOURCE
-  NO ZONE

OTHER

-  DA 37 DEVELOPMENT AREA



Not to Scale@A4 Date: 25/05/2018 STOBJ-7-004B.dgn

ADOPTION

Adopted by resolution of the Council of the City of Cockburn at the ordinary meeting of the Council held on ...8... day of February... 2018.

Logan Howett

MAYOR

[Signature]

CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

Adopted for final approval by resolution of the City of Cockburn at the Meeting of the Council held on the8... day of February 2018, 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:

Logan Howett

MAYOR

(Seal)



[Signature]

CHIEF EXECUTIVE OFFICER

Recommended/Submitted for Final Approval

Lee O'Donohue

DELEGATED UNDER S.16 PLANNING AND DEVELOPMENT ACT 2005

DATE... 8 June 2018

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 15/6/18.

Certified by *[Signature]*

MINISTER FOR PLANNING

DATE.....

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.