



CITY OF COCKBURN	
DOC Set	
19 OCT 2023	
SUBJECT 109/157	
RETENTION 124.2.3AS	
PROPERTY	Your ref: 109/57 Our ref: TPS/2957 Enquiries: Local Planning Schemes
APP	
ACTION David Reynolds	

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

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

Dear Sir/Madam

TOWN PLANNING SCHEME NO. 3 - AMENDMENT NO. 157

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 6012. One signed set of the amending documents is returned for your records.

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

Yours sincerely

Ms Sam Fagan
Secretary
Western Australian Planning Commission

10/10/2023

PLANNING AND DEVELOPMENT ACT 2005

APPROVED TOWN PLANNING SCHEME AMENDMENT City of Cockburn

TOWN PLANNING SCHEME No. 3 - AMENDMENT No. 157

Ref: TPS/2957

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 Town Planning Scheme amendment on 9 October 2023 for the purpose of:

1. Modifying Table 1 – Zoning Table of the Scheme Text to include 'Motor Vehicle Wash' as 'A' use in the Local Centre Zone.
2. Modifying Clause 4.9.2 (e) (Commercial and Industrial Uses – Landscaping) of the Scheme Text to be re-worded to state: 'There shall be not less than one (1) shade tree planted for every 10 linear metres of verge frontage or for every 50 square metres of the total landscaped area provided on the lot and within street verge, whichever results in the greater number of trees.'
3. Modifying Clause 4.9.4 (f) (Commercial and Industrial Uses – Landscaping) of the Scheme Text to be re-worded to state: 'There shall be not less than one (1) shade tree planted in the car parking area for every three (3) side-by-side car parking spaces provided on the lot.'
4. Modifying Clause 4.10.1 (b) (Rural Uses) of the Scheme Text to be reworded to state: "Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential uses in the Rural Zone."
5. Introducing Clause 4.10.1 (d) (Rural Uses) to the Scheme Text to state: "Where it is proposed to use the land for residential uses in the Rural Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (of a size and constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)."
6. Introducing Clause 4.10.11 (f) (Resource Zone) to the Scheme Text to state: "Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential uses in the Resource Zone."
7. Introducing Clause 4.10.11 (g) (Resource Zone) to the Scheme Text to state: "Where it is proposed to use the land for residential uses and a potable water

supply is not available, the landowner shall be responsible for providing a rainwater storage tank with a minimum capacity of 90,000 litres in the Resource Zone."

8. Introducing Clause 4.10.11 (h) (Resource Zone) to the Scheme Text to state: "Where it is proposed to use the land for residential uses in the Resource Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)."
9. Introducing Clause 4.10.12 (k) (Rural Living Zone) to the Scheme Text to state "Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential uses in the Rural Living Zone."
10. Introducing Clause 4.10.11 (l) (Rural Living Zone) to the Scheme Text to state: "Where it is proposed to use the land for residential uses and a potable water supply is not available, the landowner shall be responsible for providing a rainwater storage tank with a minimum capacity of 90,000 litres in the Rural Living Zone."
11. Introducing Clause 4.10.12 (m) (Rural Living Zone) to the Scheme Text to state: "Where it is proposed to use the land for residential uses in the Rural Living Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (of a size and constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)."

L HOWLETT, JP
MAYOR

D ARNDT
A/CHIEF EXECUTIVE OFFICER



Town Planning Scheme No.3

Amendment No.157 (Standard)

Omnibus Amendment

including textual modifications relating to landscaping requirements for commercial and industrial developments, adjusting the land use permissibility class for Motor Vehicle Wash in the Local Centre Zone, and clarifying water supply requirements for residential uses and bushfire fighting purposes in the Rural, Resource and Rural Living Zones.

SEPTEMBER 2023

Planning and Development Act 2005
RESOLUTION TO AMEND A TOWN PLANNING SCHEME

City of Cockburn
Town Planning Scheme No.3
Amendment No.157

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. Modifying Table 1 – Zoning Table of the Scheme Text to reflect an ‘A’ use for a ‘Motor Vehicle Wash’ in the Local Centre Zone.
2. Modifying Clause 4.9.2 (e) (Commercial and Industrial Uses – Landscaping) of the Scheme Text to be re-worded to state ‘There shall be not less than one **(1) shade tree** planted for every **10 linear metres** of verge frontage or not less than one for every **50 square metres** of the total landscaped area provided on the lot and within the street verge, whichever results in the greater number of trees’.
3. Modifying Clause 4.9.2 (f) (Commercial and Industrial Uses – Landscaping) of the Scheme Text to be re-worded to state ‘There shall be not less than one **(1) shade tree** planted in the car parking area for every three **(3) side-by-side car parking spaces** provided on the lot’.
4. Modifying Clause 4.10.1 (b) (Rural Uses) of the Scheme Text to be re-worded to state ‘Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be **responsible** for providing a **potable water supply** where it is proposed to use the land for the agistment of stock or for residential uses in the Rural Zone’.
5. Introducing Clause 4.10.1 (d) (Rural Uses) to the Scheme Text to state ‘Where it is proposed to use the land for residential uses in the Rural Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a **separate water storage tank** (constructed in accordance with the technical requirements of the *Guidelines for Planning in Bushfire Prone Areas*), with a minimum capacity of 10,000 litres per habitable building to be used **for firefighting purposes only**’.
6. Introducing Clause 4.10.11 (f) (Resource Zone) to the Scheme Text to state ‘Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be **responsible** for providing a **potable water supply** where it is proposed to use the land for the agistment of stock or for residential uses in the Resource Zone’.
7. Introducing Clause 4.10.11 (g) (Resource Zone) to the Scheme Text to state ‘Where it is proposed to use the land for residential uses and a potable water supply is not available, the landowner shall be responsible for providing a **rainwater storage tank** with a minimum capacity of 90,000 litres in the Resource Zone’.

8. Introducing Clause 4.10.11 (h) (Resource Zone) to the Scheme Text to state 'Where it is proposed to use the land for residential uses in the Resource Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a **separate water storage tank** (constructed in accordance with the technical requirements of the *Guidelines for Planning in Bushfire Prone Areas*), with a minimum capacity of 10,000 litres per habitable building to be used **for firefighting purposes only**'.
9. Introducing Clause 4.10.12 (k) (Rural Living Zone) to the Scheme Text to state 'Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be **responsible** for providing a **potable water supply** where it is proposed to use the land for the agistment of stock or for residential uses in the Rural Living Zone'.
10. Introducing Clause 4.10.11 (l) (Rural Living Zone) to the Scheme Text to state 'Where it is proposed to use the land for residential uses and a potable water supply is not available, the landowner shall be responsible for providing a **rainwater storage tank** with a minimum capacity of 90,000 litres in the Rural Living Zone'.
11. Introducing Clause 4.10.12 (m) (Rural Living Zone) to the Scheme Text to state 'Where it is proposed to use the land for residential uses in the Rural Living Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a **separate water storage tank** (constructed in accordance with the technical requirements of the *Guidelines for Planning in Bushfire Prone Areas*), with a minimum capacity of 10,000 litres per habitable building to be used **for firefighting purposes only**'.

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

It is an amendment to the local planning scheme that:

- *would have minimal impact on land in the scheme area that is not the subject of the amendment;*
- *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 8th day of December 2022


A | CHIEF EXECUTIVE OFFICER

AMENDMENT REPORT

1.0 INTRODUCTION

The purpose of this standard amendment is to:

- Improve the requirement for landscaping in car parking areas detailed at Clause 4.9.2 in the Scheme Text for commercial and industrial development;
- Modify the land use permissibility classification for Motor Vehicle Wash in the Local Centre Zone from an 'X' (not permitted) to an 'A' (discretionary after advertising) use;
- Clarify the requirement for water supply (water tanks) for potable water and for firefighting purposes for residential development in the Rural, Resource and Rural Living Zones.

Full details of the proposed changes to the TPS3, including justification and history are included throughout this report.

2.0 BACKGROUND

The most recent Omnibus Scheme Amendment that the City undertook, Amendment No.154 (gazetted on 15 July 2022), made a number of minor changes to the Scheme Text and corrected zone mapping anomalies.

Initiated and processed in parallel, Amendment No.155 (gazetted 13 May 2022), also made minor Scheme Text changes that brought the provisions relating to the 'Resource' Zone into alignment with *State Planning Policy 2.3 – Jandakot Groundwater Protection*.

This Scheme Amendment proposes further changes that were not identified or had not been fully considered through the preparation of the above Amendments.

They have been identified through the daily use of the Scheme by City's planning officers, recent planning enforcement cases, and/or where the need for improvements to the existing Scheme provisions have been highlighted through development applications and conditions.

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.

This amendment is considered to be a 'standard' amendment, which Regulation 34 describes as:

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

- (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 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 satisfies parts (e), (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). State Planning Framework documents of relevance, as referenced in section 5.0 of this report, include:

- *State Planning Policy 2.5 – Rural Planning*
- *DRAFT State Planning Policy 2.9 – Planning for Water*
- *State Planning Policy 3.0 – Urban Growth and Settlement*
- *State Planning Policy 3.7 – Planning in Bushfire Prone Areas*
- *Guidelines for Planning for Bushfire Prone Areas*
- *State Planning Policy 4.2 – Activity Centres for Perth and Peel*
- *State Planning Policy 7.0 – Design of the Built Environment*

4.2 City of Cockburn Local Planning and Environmental Framework

City documents are of relevance to the changes proposed by this amendment, as referenced in section 5.0 of this report, include:

- *Strategic Community Plan (2020 – 2030)*
- *Climate Change Strategy (2020 – 2030)*
- *Urban Forrest Plan (2018 – 2028)*
- *Local Planning Policy 3.9 – Industrial Development*
- *Local Planning Policy 5.9 – Rainwater Tanks and Renewable Energy System*
- *Local Planning Policy 5.18 – Subdivision and Development – Street Trees*
- *Commercial Lot Development – Good Practice Guide (2013)*

5.0 PROPOSAL

Proposal 1

Proposal 1 seeks to change the land use permissibility of 'Motor Vehicle Wash' from an 'X' (*not permitted*) to an 'A' (*not permitted unless the local government has exercised its discretion and has granted planning approval after advertising the proposal in accordance with Clause 64(3) of the deemed provisions*) use within the Local Centre Zone within the TPS3.

Such an outcome would be consistent with the Council's resolution to accommodate a Motor Vehicle Wash land use via TPS3 Amendment No.153 for Berrigan Quarter, and Amendment No.5 to the Cell 6 Yangebup / Beeliar Local Structure Plan for the Beeliar Hive Shopping Centre. It would also be consistent with the permissibility that relates to Service Stations on Local Centre zoned land.

The proposed change does not mean that the use is suitable or will be recommended or approved on all Local Centre zoned land but will provide the flexibility for it to be more readily considered in appropriate locations across the broad spectrum of Local Centre zoned properties that currently exist within the City.

Should the amendment be successful, a Local Planning Policy will be prepared (for Council's future consideration) to help guide applicants and decision makers in considering appropriate locations and the information required to accompany such proposals.

For example, the use is unlikely to be considered suitable within immediate proximity to residential use and is expected to trigger the requirement for a Traffic Impact Statement, Acoustic Report / Noise Management Plan and/or an Operation Management Plan, that will be advertised for public comment prior to determination.

Tracked changes											Reason for proposed change							
Proposal 1											Update Table 1 – Zoning Table: To provide the flexibility to consider 'Motor Vehicle Wash' in appropriate location within the 'Local Centre' Zone, consistent with: <ul style="list-style-type: none"> the land use and diversity principles set out in <i>State Planning Policy 4.2 – Activity Centres for Perth and Peel</i>; the permissibility of Service Stations; & recent Council decisions within the same zone. 							
USE CLASS	RESIDENTIAL	REGIONAL CENTRE (See Note 4)	DISTRICT CENTRE	LOCAL CENTRE	MIXED BUSINESS	MIXED USE AMD 96 GG 23/6/15	LIGHT AND SERVICE INDUSTRY	INDUSTRY	RURAL LIVING	RURAL			RESOURCE	SPECIAL USE	DEVELOPMENT	CONSERVATION	STRATEGIC INDUSTRY AMD 144 GG 17/11/2020	
COMMERCIAL USES (Cont'd)																		
Transport	Home Store AMD 96 GG 23/6/15	A	P	P	P	X	X	X	X	A			X				X	X
	Commercial Vehicle Parking	D	P	P	A	P	X	P	P	D			D				X	X
	Motor Vehicle, Boat or Caravan Sales	X	P	P	X	P	X	P	D	X			X				X	A
	Motor Vehicle Hire Premises	X	D	D	X	P	X	P	P	X			X				X	X
	Motor Vehicle Wash	X	D	D	A	P	X	P	P	X			X				X	D
	Petrol Filling Station	DELETED AMD 116 GG 06/01/17																
	Service Station	X	D	D	A	D	X	P	P	X			X				X	D

Proposals 2-3

Current TPS3 development standards are not achieving the expected and desired landscaping outcomes on verges and in car parking areas for commercial and industrial development throughout the City. Proposals 2 and 3 seek to improve these outcomes.

Specifically, Clause 4.9.2 (e), which currently requires one shade tree to be planted for every 50 square metres of total landscaped area (on the lot and within the street verge), is overly simplistic and fails to adequately address scenarios such as narrow verge and/or garden bed depths that often apply in commercial and industrial development sites.

Similarly, Clause 4.9.2 (f), which currently requires only one shade tree to be planted for every 10 car parking spaces, often results in shade tree spacings (trunk to trunk) of up to 25m. This fails to adequately shade expansive paved areas or cars that park on them for extended periods, thereby doing little to improve employee/customer comfort and exacerbates problems associated with the local urban heat island effect.

As landscaping in commercial and industrial areas is largely limited to within or adjacent public verges or involves the provision of shade trees for consolidated car parking areas, a more practical and easily understood arrangement would be to specify tree requirements based on the linear lot width to a public reserve, and spacing between a specific number of adjoining car parking bays, as per the recommended modifications outlined in the table below:

Tracked changes	Reason for proposed change
Proposals 2-3	
<p>4.9.2 Landscaping</p> <p>a) A minimum on-site provision of ten percent (10%) of the total area of the lot or of a defined portion of the lot, the subject of an Application for Planning Approval, shall be set aside, developed and maintained as a landscaped area.</p> <p>b) Despite clause 4.9.2 a) the local government may reduce the minimum on-site provision to not less than five percent (5%) of the total area of the lot to be set aside, developed and maintained as a landscaped area where the owner agrees in writing either as part of the Application for Planning Approval or separately that all of the street verge abutting the lot shall be included in the landscape area in accordance with clause 4.9.2 c).</p> <p>c) Where the street verge is included in the landscaped area it shall be developed and maintained by the owner as an integral part of the on-site provision referred to in clause 4.9.2 b).</p> <p>d) The landscaped area provided on the lot shall have a minimum width of not less than 1.5 metres and distributed in areas of not less than 4.0 square metres.</p> <p>e) There shall be not less than one (1) shade tree planted for every 10 linear metres of frontage to a public reserve, or not less than one for every 50 square metres of the total landscaped area provided on the lot and within the street verge, whichever results in the greater number of trees.</p> <p>f) There shall be not less than one (1) shade tree planted in the car parking area for every three (3) side-by-side 10-car parking spaces provided on the lot.</p> <p>g) The landscaping is to be confined to the area of the lot between the building or the use of the land and the boundaries of the lot adjoining the public road reserve, or other public reserve, unless the local government agrees otherwise in any special circumstance.</p>	<p>Update clause 4.9.2 (e) and (f):</p> <p>To improve worker and customer comfort and reduce the urban heat island affect, consistent with the climate change objectives of the City's:</p> <ul style="list-style-type: none"> • <i>Strategic Community Plan (2020-2030);</i> • <i>Climate Change Strategy (2020-2030); &</i> • <i>Urban Forrest Plan (2018-2028).</i> <p>To improve the landscaping outcome on commercial and industrial zoned land consistent with the Landscape Quality, sustainability and Amenity design principles set out in:</p> <ul style="list-style-type: none"> • <i>State Planning Policy 7.0 – Design of the Built Environment.</i> <p>To improve consistency with the standards set out in the City's:</p> <ul style="list-style-type: none"> • <i>Local Planning Policy 3.9 – Industrial Development;</i> • <i>Local Planning Policy 5.18 – Subdivision and Development – Street Trees); &</i> • <i>Commercial Lot Development – Good Practice Guide (2013).</i>

Proposals 4-11

Proposals 4-11 seek to clarify the requirements for water tanks for both potable and fire-fighting purposes within the Rural, Resource and Rural Living Zones.

It should be noted that these provisions for both potable and fire-fighting water supply in the Rural, Resource and Rural Living Zones will not be applied retrospectively.

Recent legal advice obtained by the City has cast doubt over its ability to rely on Clauses 4.10.1 (b) and (c) to require that a potable water tank be provided for residential uses / dwellings located in the Resource and Rural Living Zones that aren't capable of connection to a reticulated water supply. To ensure enforceable

measures are included within the Scheme it has been recommended that Clause 4.10.1 (b) be adjusted to specify application to the Rural zone and additional provisions be specifically inserted into Clauses 4.10.11 (Resource Zone) and 4.10.12 (Rural Living Zone) mandating the requirement for a 90,000 litre rainwater tank for any residential use within those zones.

This change also ensures compliance with the City of Cockburn Heath Local Laws 2000, Division 3 which carries penalties if found to be in contravention.

In reviewing the change, it was further identified that in the Explanatory Notes relating to Element 4: Water of the latest *Guidelines for Planning in Bushfire Prone Areas (Version 1.4 – December 2021)*, the use of a combined tank for drinking and fire-fighting purposes is no longer recommended.

Separation in accordance with section 4.2.3 of AS/NZS 3500.1:2018 is necessary, as stagnant water may alter the quality of the drinking water and the emergency services, by law, may not be able to take water from the water supply to suppress a bushfire. The use of household potable drinking water for firefighting purposes is prohibited under the *Bushfires Act 1954*.

To address this limitation and reflect latest best practice, it is proposed that an additional clause inserted to require the provision of a separate water tank with a minimum capacity of 10,000 litres per habitable building, specifically for fire-fighting purposes.

To avoid any uncertainty identically worded provisions are also proposed for the Resource and Rural Living zones as per the recommended modifications outlined in the table below:

Tracked changes	Reason for proposed change
Proposals 4-5	
<p>4.10 Rural Uses</p> <p>4.10.1 Water Supply</p> <p>a) The use and development of land within the Rural Zone shall be in accordance with the provisions of The Statement of Planning Policy No. 2.5 – Agricultural and Rural Land Use Planning.</p> <p>b) Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential purposes<u>uses in the Rural Zone</u>.</p> <p>c) Where it is proposed to use the land for residential purposes and a potable water supply is not available then the landowner shall be responsible for providing a rainwater storage tank with a minimum capacity of 90,000 litres.</p> <p><u>d) Where it is proposed to use the land for residential uses in the Rural Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a separate water storage tank (constructed in accordance with the technical</u></p>	<p>Update clause 4.10.1 (b):</p> <p>To clarify the requirements for potable water tanks in the Rural Zone where a reticulated water supply is not available, consistent with the principles and requirements of:</p> <ul style="list-style-type: none"> • <i>Draft State Planning Policy 2.9 – Planning for Water;</i> • <i>State Planning Policy 2.5 – Rural Planning;</i> & • <i>Development Control Policy 3.4 – Subdivision of Rural Land.</i> <p>Introduce clause 4.10.1 (d):</p> <p>To introduce the requirement for a separate water tank for fire-fighting purposes consistent with the requirements and guidance provided in</p> <ul style="list-style-type: none"> • <i>State Planning Policy 3.7 -Planning in Bushfire Prone Areas;</i> & • <i>Guidelines for Planning in Bushfire Prone Areas.</i>

<p><u>requirements of the Guidelines for Planning in Bushfire Prone Areas), with a minimum capacity of 10,000 litres per habitable building to be used for firefighting purposes only.</u></p>	
Tracked changes	Reason for proposed change
Proposals 6-8	
<p>4.10.11 Resource Zone</p> <p>a) The use and development of land within the Resource Zone shall be in accordance with the provisions of -</p> <p>(i) The relevant State Planning Policy for water.</p> <p>(ii) The relevant State Planning Policy for basic raw materials.</p> <p>b) Despite the provisions of clause 4.10.11(a)(i) the Use Classes of Cattery, Dog Kennels and Poultry Farm (housed) are uses not permitted 'X' in the Resource Zone, except that a Cattery and Dog Kennels may be permitted in part of the Resource Zone in accordance with Table 6 - Additional Uses - No. AU7.</p> <p>c) Use Classes of Plant Nursery (wholesale and retail) are to comply with Water Quality Protection Note No. 25: Land use compatibility tables for public drinking water source areas and are not be permitted on lots within the Resource Zone which have an area less than 4 hectares.</p> <p>d) Uses that are identified as 'incompatible' or which are not listed in Water Quality Protection Note No. 25: Land use compatibility tables for public drinking water source areas are 'X' uses in the Resource Zone.</p> <p>e) All uses which are not listed as prohibited ('X') uses in Water Quality Protection Note No. 25: Land use compatibility tables for public drinking water source areas shall be treated as 'D' uses, unless otherwise specified in this Scheme, and shall be referred to the Department of Water and Environmental Regulation for advice and any other authority considered relevant to the application by the local government prior to the local government making its determination.</p> <p><u>f) Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential uses in the Resource Zone.</u></p> <p><u>g) Where it is proposed to use the land for residential uses and a potable water supply is not available then the landowner shall be responsible for providing a rainwater storage tank with a minimum capacity of 90,000 litres in the Resource Zone.</u></p> <p><u>h) Where it is proposed to use the land for residential uses in the Resource Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a separate water storage tank (constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas), with a minimum capacity of 10,000 litres per habitable building to be used for firefighting purposes only.</u></p>	<p>Insert clauses 4.10.11 (f)-(h):</p> <p>To clarify the requirements for potable water tanks in the Resource Zone where a reticulated water supply is not available, consistent with the principles and requirements of:</p> <ul style="list-style-type: none"> • <i>Draft State Planning Policy 2.9 – Planning for Water;</i> • <i>State Planning Policy 2.5 – Rural Planning; &</i> • <i>Development Control Policy 3.4 – Subdivision of Rural Land.</i> <p>To introduce the requirement for a separate water tank for fire-fighting purposes consistent with the requirements and guidance provided in</p> <ul style="list-style-type: none"> • <i>State Planning Policy 3.7 - Planning in Bushfire Prone Areas; &</i> • <i>Guidelines for Planning in Bushfire Prone Areas.</i>

Tracked changes	Reason for proposed change
Proposals 9-11	
<p>4.10.12 Rural Living Zone</p> <p>a) Every lot created in the Rural Living Zone shall have located on it a building envelope.</p> <p>b) Where an existing lot in the Rural Living Zone does not have assigned to it a building envelope then the local government shall prescribe a building envelope in accordance with clause 4.10.12 c).</p> <p>c) Despite clause 4.10.2 d) a building envelope within the Rural Living Zone shall not exceed 50% of the lot area or 2000m², which ever is the lesser, and shall have a primary street setback of not less than 6 metres and a side setback of not less than 2.5 metres.</p> <p>d) DELETED BY AMD 72 GG 07/09/10</p> <p>e) Subject to clause 4.10.12 f), a person shall not clear or cause, permit or suffer to be cleared any existing vegetation except for the construction of a vehicular accessway and for the purpose of complying with the requirements of the Bush Fires Act unless the local government has in its discretion granted planning approval.</p> <p>f) A person shall not clear or cause, permit or suffer to be cleared any existing vegetation nearer to a boundary of a Lot than the minimum Building Setback distances referred to in clause 4.10.2 d) and 4.10.2 e) from any road reserve except for the construction of a vehicular accessway and for the purpose of complying with the requirements of the Bush Fires Act.</p> <p>g) The local government, in considering any application for planning approval to clear existing vegetation outside the building envelope on any Land shall have regard to the effects of the proposed clearing on erosion, water quality and other elements of the physical environment and may refer such applications to the Department of Water and Environmental Regulation or the Department of Primary Industries and Regional Development or both for investigation and recommendation, and shall have due regard to those recommendations in its determination of the application for planning approval.</p> <p>h) The local government may, by notice served upon any Owner or occupier of Land to require the preservation of specified trees or groups of trees whether located within or outside the building envelope and thereafter no Owner or occupier shall cut remove or otherwise destroy or cause or suffer to be cut removed or otherwise destroyed any tree or trees so specified unless the local government rescinds the requirement.</p> <p>i) The local government may by notice served upon any Owner or occupier of Land to require that person within the time limited by the notice to plant trees on that Land where in the opinion of the local government the land has been degraded, neglected or allowed to erode to the extent that the condition of the land detracts from the amenity of the locality.</p> <p>j) The erection of buildings and structures shall be of a design and scale and built of materials which will result in the buildings and structures being, in the opinion of the local government, in harmony with the natural environment or rural surroundings in which they are situated.</p>	<p>Insert clauses 4.10.12 (k)-(m):</p> <p>To clarify the requirements for potable water tanks in the Rural Living Zone where a reticulated water supply is not available, consistent with the principles and requirements of:</p> <ul style="list-style-type: none"> • <i>Draft State Planning Policy 2.9 – Planning for Water;</i> • <i>State Planning Policy 2.5 – Rural Planning;</i> & • <i>Development Control Policy 3.4 – Subdivision of Rural Land.</i> <p>To introduce the requirement for a separate water tank for fire-fighting purposes consistent with the requirements and guidance provided in</p> <ul style="list-style-type: none"> • <i>State Planning Policy 3.7 - Planning in Bushfire Prone Areas;</i> & • <i>Guidelines for Planning in Bushfire Prone Areas.</i>

Tracked changes	Reason for proposed change
<p>k) <u>Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential uses in the Rural Living Zone.</u></p> <p>l) <u>Where it is proposed to use the land for residential uses and a potable water supply is not available, the landowner shall be responsible for providing a rainwater storage tank for drinking water purposes only with a minimum capacity of 90,000 litres in the Rural Living Zone.</u></p> <p>m) <u>Where it is proposed to use the land for residential uses in the Rural Living Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a separate water storage tank (constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas), with a minimum capacity of 10,000 litres per habitable building to be used for firefighting purposes only.</u></p>	

5.0 CONCLUSION

The proposed amendment will provide for corrected and improved planning controls for specific land use and development throughout the City as detailed in the report.

POSTSCRIPT: Inclusion of Minister's modifications

Modifications required by the Minister for Planning were outlined in correspondence dated 15 September 2023 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:

1. In Point 2 of the amendment: delete the phrase '*not less than one*'
2. In Point 5 of the amendment: modify the phrase 'the landowner shall be responsible for providing a separate water storage tank (constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas), with a minimum capacity of 10,000 litres per habitable building to be used for firefighting purposes only' to '*the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (of a size and constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)*'
3. In Point 8 of the amendment: modify the phrase 'the landowner shall be responsible for providing a separate water storage tank (constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas), with a minimum capacity of 10,000 litres per habitable building to be used for firefighting purposes only' to '*the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (of a size and constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)*'
4. In Point 11 of the amendment: modify the phrase 'the landowner shall be responsible for providing a separate water storage tank (constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas), with a minimum capacity of 10,000 litres per habitable building to be used for firefighting purposes only' to '*the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (of a size and constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)*'

Planning and Development Act 2005
RESOLUTION TO AMEND A TOWN PLANNING SCHEME

City of Cockburn
Town Planning Scheme No.3
Amendment No.157


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. Modifying Table 1 - Zoning Table of the Scheme Text to include 'Motor Vehicle Wash' as 'A' use in the Local Centre Zone.
2. Modifying Clause 4.9.2 (e) (Commercial and Industrial Uses - Landscaping) of the Scheme Text to be re-worded to state: "There shall be not less than one (1) shade tree planted for every 10 linear metres of verge frontage or for every 50 square metres of the total landscaped area provided on the lot and within the street verge, whichever results in the greater number of trees."
3. Modifying Clause 4.9.2 (f) (Commercial and Industrial Uses - Landscaping) of the Scheme Text to be re-worded to state: "There shall be not less than one (1) shade tree planted in the car parking area for every three (3) side-by-side car parking spaces provided on the lot."
4. Modifying Clause 4.10.1 (b) (Rural Uses) of the Scheme Text to be reworded to state: "Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential uses in the Rural Zone."
5. Introducing Clause 4.10.1 (d) (Rural Uses) to the Scheme Text to state: "Where it is proposed to use the land for residential uses in the Rural Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (of a size and constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)."
6. Introducing Clause 4.10.11 (f) (Resource Zone) to the Scheme Text to state: "Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential uses in the Resource Zone."
7. Introducing Clause 4.10.11 (g) (Resource Zone) to the Scheme Text to state: "Where it is proposed to use the land for residential uses and a potable water supply is not available, the landowner shall be responsible for providing a rainwater storage tank with a minimum capacity of 90,000 litres in the Resource Zone."
8. Introducing Clause 4.10.11 (h) (Resource Zone) to the Scheme Text to state: "Where it is proposed to use the land for residential uses in the Resource Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)."

9. Introducing Clause 4.10.12 (k) (Rural Living Zone) to the Scheme Text to state "Where reticulated water supply is not provided to a lot the landowner, or the subdivider shall be responsible for providing a potable water supply where it is proposed to use the land for the agistment of stock or for residential uses in the Rural Living Zone."
10. Introducing Clause 4.10.11 (l) (Rural Living Zone) to the Scheme Text to state: "Where it is proposed to use the land for residential uses and a potable water supply is not available, the landowner shall be responsible for providing a rainwater storage tank with a minimum capacity of 90,000 litres in the Rural Living Zone."
11. Introducing Clause 4.10.12 (m) (Rural Living Zone) to the Scheme Text to state: "Where it is proposed to use the land for residential uses in the Rural Living Zone and the land is in a Bushfire Prone Area, the landowner shall be responsible for providing a water tank(s) dedicated for firefighting purposes (of a size and constructed in accordance with the technical requirements of the Guidelines for Planning in Bushfire Prone Areas)."

ADOPTION

Adopted by resolution of the Council of the City of Cockburn at the Meeting of the Council held on 8th day of December 2022


MAYOR



A/ 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 11th day of May 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)


MAYOR


A/ CHIEF EXECUTIVE OFFICER

Recommended/Submitted for Final Approval


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

DATE 4/10/2023

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 9/10/2023

Certified by 

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 _____