

Your ref: 109/052
Our ref: TPS/1839
Enquiries: Heather Brooks (6551 9436)

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

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

Dear Sir

**LOCAL PLANNING SCHEME No. 3
AMENDMENT No. 116**

**MINISTERIAL DECISION FOR LOCAL PLANNING SCHEME AMENDMENT -
APPROVAL**

Pursuant to clause 87(2) of the *Planning and Development Act 2005* (the Act), the Minister for Planning has granted final approval to amendment 116 to the City of Cockburn Local Planning Scheme No. 3 on 12 December 2016.

In accordance with clause 87(3) of the Act, the Western Australian Planning Commission (Commission) will cause the amendment to be published in the Government Gazette.

The Commission has forwarded the notice to State Law Publisher and it is the Council's responsibility to make arrangements for the payment of any publication costs. Council is required under clause 87(4B) of the Act, and clause 62(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to advertise and make copies of the amendment available to the public.

For all payment and purchase order queries, please contact State Law Publisher on (08) 6552 6012 or fax (08) 9321 7536. One signed set of the amending documents is returned herewith.

Yours sincerely



Kerrine Blenkinsop
Secretary
Western Australian Planning Commission
21 December 2016

CITY OF COCKBURN	DOC Set	03 JAN 2017	SUBJECT 109/052	RETENTION 124.2.3 AS	PROPERTY GLILLEY	APP	ACTION GLILLEY
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PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME AMENDMENT

CITY OF COCKBURN

LOCAL PLANNING SCHEME No. 3 - AMENDMENT No. 116

Ref: TPS/1839

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 1839 Local Planning Scheme amendment on 21 December 2016 for the purpose of:

1. Modifying the Scheme Text by replacing the term 'Ancillary Accommodation' where used throughout, with 'Ancillary Dwelling';
2. Modifying the Scheme Text by correcting the definition 'Storage' included in the Schedule Dictionary of Defined Words and Expressions to read 'Storage Yard', to accord with the Land Use Table;
3. Deleting the definition of 'Region Scheme – Metropolitan' from the Schedule – Dictionary of Defined Words and Expressions;
4. Relocating the definition of 'Vehicle – Disused' from the General Definitions section of the Schedule titled Dictionary of Defined Words and Expressions, to the Land Use Definitions section of the same schedule;
5. Modifying the Scheme Text by amending the 'Tourist Accommodation' definition in the Schedule titled Dictionary of Defined Words and Expressions to read:

"tourist accommodation: means land and buildings used for the purpose of short term accommodation primarily for tourists visiting the district and includes cabins, chalets, short stay self-contained accommodation and similar forms of tourist accommodation, together with uses ancillary to the primary use, but does not include a caravan park, hotel, bed and breakfast or motel. "

6. Modifying the Scheme Text by replacing the current SU23 related to Lot 100 and 101 Cockburn Road, Hamilton Hill with the new number SU29 in the Schedule of Special Use Zones;
7. Modifying the Scheme Text by amending the Convenience Store definition in the Schedule titled Dictionary of Defined Words and Expressions to read:

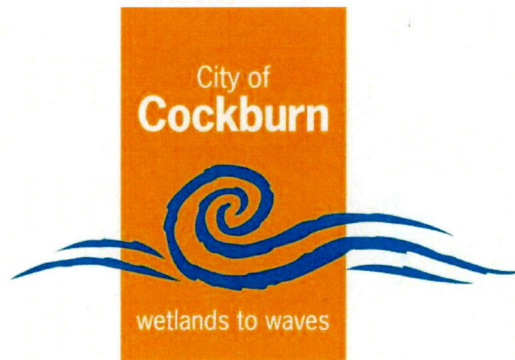
"convenience store: means premises –

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and

- (b) operated during hours which include, but may extend beyond, normal trading hours; and
 - (c) the floor area of which does not exceed 300 m² net lettable area”.
8. Modifying the Scheme Text by amending the Service Station definition in the Schedule titled Dictionary of Defined Words and Expressions to read:
- “service station: means premises other than premises used for a transport depot, panel beating, spray painting, major repair or wrecking, that are used for–
- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or
 - (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles”.
9. Deleting the definition of ‘Petrol Filling Station’ from the Schedule – Dictionary of Defined Words and Expressions.
10. Amending the Scheme Map accordingly.
11. Delete reference to Petrol Filling Station in Fuel Depot land use in Land Use Definitions.
12. Delete Petrol Filling Station from Table 1 – Zoning Table.
13. Delete Petrol Filling Station from Special Use Columns SU22, SU24, SU26 and SU27 from the Special Use Zones Schedule.
14. Remove reference to Retail Filling Station from Table 3.

L HOWLETT JP
MAYOR

S CAIN
CHIEF EXECUTIVE OFFICER



TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 116

September 2016

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

**CITY OF COCKBURN
TOWN PLANNING SCHEME NO 3
AMENDMENT NO. 116**

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 the Scheme Text by replacing the term 'Ancillary Accommodation' where used throughout, with 'Ancillary Dwelling';
2. Modifying the Scheme Text by correcting the definition 'Storage' included in the Schedule Dictionary of Defined Words and Expressions to read 'Storage Yard', to accord with the Land Use Table;
3. Deleting the definition of 'Region Scheme – Metropolitan' from the Schedule – Dictionary of Defined Words and Expressions;
4. Relocating the definition of 'Vehicle – Disused' from the General Definitions section of the Schedule titled Dictionary of Defined Words and Expressions, to the Land Use Definitions section of the same schedule;
5. Modifying the Scheme Text by amending the 'Tourist Accommodation' definition in the Schedule titled Dictionary of Defined Words and Expressions to read:

"tourist accommodation: means land and buildings used for the purpose of short term accommodation primarily for tourists visiting the district and includes cabins, chalets, short stay self-contained accommodation and similar forms of tourist accommodation, together with uses ancillary to the primary use, but does not include a caravan park, hotel, bed and breakfast or motel. "

6. Modifying the Scheme Text by replacing the current SU23 related to Lot 100 and 101 Cockburn Road, Hamilton Hill with the new number SU29 in the Schedule of Special Use Zones;
7. Modifying the Scheme Text by amending the Convenience Store definition in the Schedule titled Dictionary of Defined Words and Expressions to read:

*"convenience store: means premises –
(a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and*

*(b) operated during hours which include, but may extend beyond, normal trading hours; and
(c) the floor area of which does not exceed 300 m2 net lettable area”.*

8. Modifying the Scheme Text by amending the Service Station definition in the Schedule titled Dictionary of Defined Words and Expressions to read:

“service station: means premises other than premises used for a transport depot, panel beating, spray painting, major repair or wrecking, that are used for–

(a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or

(b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles”.

9. Deleting the definition of ‘Petrol Filling Station’ from the Schedule – Dictionary of Defined Words and Expressions.

10. Amending the Scheme Map accordingly.

Dated this 12th day of May 2016



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. 116
5. PROPOSAL: Omnibus Amendment to TPS3

AMENDMENT REPORT

1.0 Introduction

Scheme Amendment No. 116 to the City of Cockburn Town Planning Scheme No. 3 ("the Scheme") proposes modifications to correct anomalies and ensure that the definitions in the Schedule of the Scheme Text are appropriately updated to align both within the Scheme and with the Planning and Development (Local Planning Schemes) Regulations 2015.

2.0 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 **THREE** of the above criteria. In particular, it is:

- 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;*

3.0 Proposal

A summary of changes that are intended to be implemented through the Omnibus Amendment are summarised below:

Proposed Amendment	Rationale
Modifying the Scheme Text by replacing the term 'Ancillary Accommodation' where used throughout, with 'Ancillary Dwelling'.	To accord with the updated R-Codes.
Modifying the Scheme Text by correcting the definition 'Storage' included in the Schedule titled Dictionary of Defined Words and Expressions to read 'Storage Yard', to accord with the Land Use Table.	To apply consistent terminology between the Land Use Table and the Schedule titled Dictionary of Defined Words and Expressions.
Deleting the definition of 'Region Scheme – Metropolitan' from the Schedule – Dictionary of Defined Words and Expressions.	The definition is now redundant and has been effectively been replaced by the Deemed Provision definition 'Region Scheme'.
Relocating the definition of 'Vehicle – Disused' from the General Definitions section of the Schedule titled Dictionary of Defined Words and Expressions, to the Land Use Definitions section of the same schedule.	This is a Land Use Class prescribed in the Land Use Table and requires definition.

<p>Modifying the Scheme Text by amending the Tourist Accommodation definition in the Schedule titled Dictionary of Defined Words and Expressions to read:</p> <p><i>"tourist accommodation: means land and buildings used for the purpose of short term accommodation primarily for tourists visiting the district and includes cabins, chalets, short stay self-contained accommodation and similar forms of tourist accommodation, together with uses ancillary to the primary use, but does not include a caravan park, hotel, bed and breakfast or motel".</i></p>	<p>To remove contradiction within the original definition which referred to activities within caravan parks, but then specifically excluded caravan parks. Current definition reads:</p> <p><i>"tourist accommodation: means land and buildings used for the purpose of short term accommodation primarily for tourists visiting the district and includes cabins, chalets, camping grounds, caravan parks, short stay self-contained accommodation and similar forms of tourist accommodation, together with uses ancillary to the primary use, but does not include a caravan park, hotel, bed and breakfast or motel".</i></p>
<p>Modifying the Scheme text by replacing the current SU23 related to Lot 100 and 101 Cockburn Road, Hamilton Hill with the new number SU29 in the Schedule of Special Use Zones.</p>	<p>To correct a <u>duplication</u> in the current numbering within the Schedule of Special Use Zones inadvertently created by earlier Scheme Amendments 42 and 88.</p>
<p>Modifying the Scheme Text by amending the Convenience Store definition in the Schedule titled Dictionary of Defined Words and Expressions to read:</p> <p><i>'convenience store: means premises –</i></p> <p><i>(a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and</i></p> <p><i>(b) operated during hours which include, but may extend beyond, normal trading hours; and</i></p> <p><i>(c) the floor area of which does not exceed 300 m2 net <u>lettable</u> area'.</i></p>	<p>To align the definition with the Schedule 1 definition for convenience store contained in the Planning and Development (Local Planning Schemes) Regulations 2015, Model Provisions for local planning schemes.</p>

<p>Modifying the Scheme Text by amending the Service Station definition in the Schedule titled Dictionary of Defined Words and Expressions to read:</p> <p><i>'service station: means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for —</i></p> <p><i>(a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or</i></p> <p><i>(b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles'.</i></p>	<p>To align the definition with the Schedule 1 definition for service station contained in the Planning and Development (Local Planning Schemes) Regulations 2015, Model Provisions for local planning schemes.</p>
<p>Deleting the definition of 'Petrol Filling Station' from the Schedule – Dictionary of Defined Words and Expressions.</p>	<p>The definition is now redundant (being sufficiently covered by the definition of Service Station) and there is no such definition contained in the Planning and Development (Local Planning Schemes) Regulations 2015, Model Provisions for local planning schemes.</p>
<p>Amending the Scheme map accordingly.</p>	<p>To reflect changes which also affect the Scheme map.</p>

4.0 Conclusion

The amendments to the Town Planning Scheme that are proposed in this amendment are relatively minor, however, all changes will have an impact on the efficiency in which the Scheme operates. Therefore it is requested that the proposed amendment to modify the Scheme Text and Scheme Map accordingly be supported.

POSTSCRIPT: Inclusion of Minister's modifications

Modifications required by the Minister for Planning were outlined in correspondence dated 28th September 2016 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:

City of Cockburn Town Planning Scheme No.3 - Amendment No.116 Attachment 3- Schedule of Modifications

- Modify the amendment resolution to include the following additional points:
 11. Delete reference to Petrol Filling Station in Fuel Depot land use in Land Use Definitions.
 12. Delete Petrol Filling Station from Table 1 - Zoning Table.
 13. Delete Petrol Filling Station from Special Use Columns SU22, SU24, SU26 and SU27 from the Special Use Zones Schedule.
 14. Remove reference to Retail Filling Station from Table 3.

- Under Point 8 of the amendment resolution, replace 'major repair' with 'major repairs' within the definition of 'Service Station'.

PLANNING AND DEVELOPMENT ACT, 2005

**CITY OF COCKBURN
TOWN PLANNING SCHEME NO 3
AMENDMENT NO. 116**

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:

1. Modifying the Scheme Text by replacing the term 'Ancillary Accommodation' where used throughout, with 'Ancillary Dwelling';
2. Modifying the Scheme Text by correcting the definition 'Storage' included in the Schedule Dictionary of Defined Words and Expressions to read 'Storage Yard', to accord with the Land Use Table;
3. Deleting the definition of 'Region Scheme – Metropolitan' from the Schedule – Dictionary of Defined Words and Expressions;
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- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or*
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles”.*

9. Deleting the definition of ‘Petrol Filling Station’ from the Schedule – Dictionary of Defined Words and Expressions.
10. Amending the Scheme Map accordingly.
11. Delete reference to Petrol Filling Station in Fuel Depot land use in Land Use Definitions.
12. Delete Petrol Filling Station from Table 1 – Zoning Table.
13. Delete Petrol Filling Station from Special Use Columns SU22, SU24, SU26 and SU27 from the Special Use Zones Schedule.
14. Remove reference to Retail Filling Station from Table 3.

ADOPTION

Adopted by resolution of the Council of the City of Cockburn at the ordinary meeting of the Council held on the 12th day of May 2016.

Logan Howlett

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 the 12th day of May 2016, 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)

Logan Howlett

MAYOR

[Signature]
CHIEF EXECUTIVE OFFICER

Recommended/Submitted for Final Approval

DELEGATED UNDER S.16 PLANNING AND DEVELOPMENT ACT 2005

DATE.....

Final Approval Granted

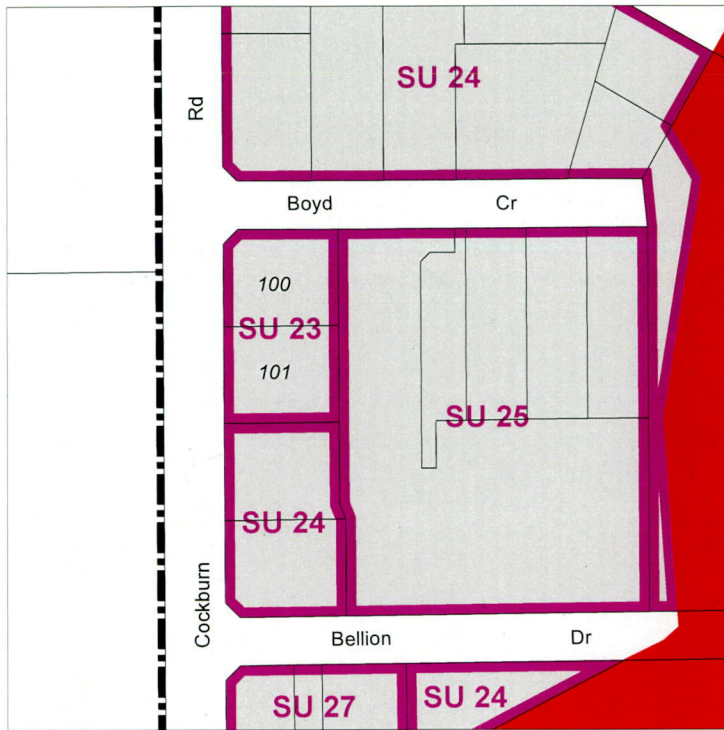
It is hereby certified that this is a true copy of the Scheme/Amendment, final approval to which was endorsed by the Minister for Planning on 12/12/16.

MINISTER FOR PLANNING

DATE.....


Certified by *[Signature]*

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.



EXISTING ZONING

GENERAL

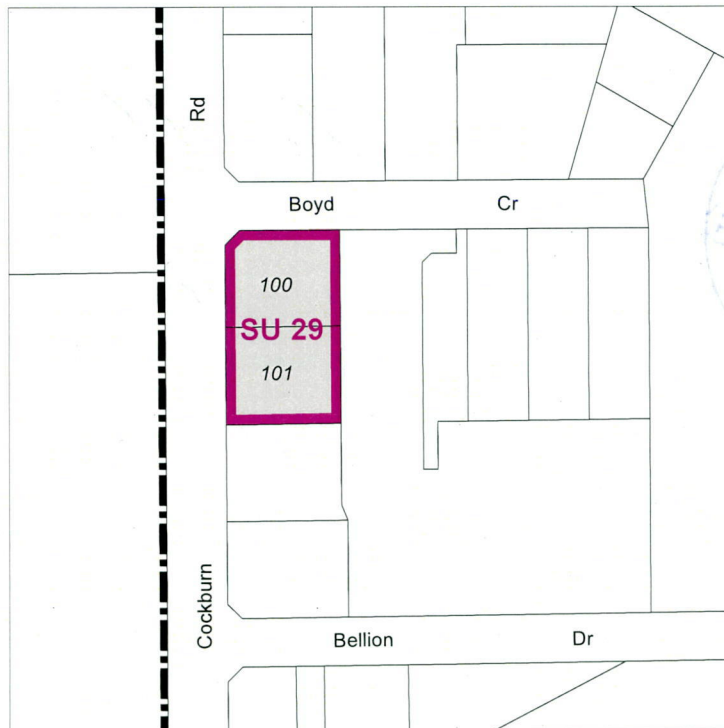
 Scheme Boundary

REGION RESERVES

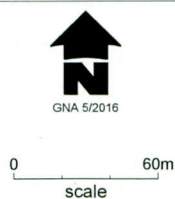
 Primary Regional Roads

ZONES

 Special Use



PROPOSED ZONING



**TOWN PLANNING SCHEME No.3
AMENDMENT No.116**