



Your ref: 109/144
Our ref: TPS/2492
Enquiries: Schemes Team

CITY OF COCKBURN	
DOC Set	
19 NOV 2020	
SUBJECT	109/144
RETENTION	124.2.3 AS
PROPERTY	
APP	
ACTION	LUCIA DUNSTAN

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

TOWN PLANNING SCHEME NO. 3 - AMENDMENT NO. 144

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

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

Yours sincerely

Ms Sam Fagan
Secretary
Western Australian Planning Commission

6/11/2020

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. 144

Ref: TPS/2492

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 4 November 2020 for the purpose of:

1. Insert 'Strategic Industry' zone into Part 3 of the scheme with the following zone objective:

'To provide for Strategic Industrial areas of State or Regional significance; and to provide for a range of industrial activities associated with defence, resource and marine activities.'

2. Update Part 3 Table 1 – Zoning Table to include the 'Strategic Industry' zone and outline the use class permissibility as follows:

Civic Use – D
Educational Establishment - D
Lunch Bar – D
Office – D
Trade Display – D
Industry (General) – D
Industry (General – licensed) – D
Industry (Light) – D
Industry (Service) – D
Fuel Depot – D
Storage Yard – D
Warehouse – D
Transport Depot – P
Marine Engineering – P
Motor Vehicle Repair – D
Motor Vehicle, Boat or Caravan Sales – A
Motor Vehicle Wash – D
Service Station – D
All other uses listed – X
Uses Not Listed – in accordance with Cl. 3.4.2

3. Rezone various lots in Henderson from 'Special Use 2' and 'Special Use 22' to 'Strategic Industry' as depicted on the Scheme amendment map.
4. Delete 'Development Area 15', 'Development Area 17' and 'Development Area 29' as depicted on the Scheme amendment map.
5. Reclassify the road reserves from 'Development' zone to 'Local Road' reserve as depicted on the Scheme amendment map.
6. Zone 'unzoned' areas within the scheme boundary to 'Strategic Industry' as depicted on the Scheme amendment map, unless reserved 'Waterways' pursuant to the Metropolitan Region Scheme
7. Reclassify various lots with a reserve purpose from 'Special Use 2' and 'Special Use 22' to 'Local Reserve' as denoted on the scheme amendment map.

L HOWLETT
MAYOR

S DOWNING
CHIEF EXECUTIVE OFFICER



TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 144

13 June 2019

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

**CITY OF COCKBURN
TOWN PLANNING SCHEME NO 3
AMENDMENT NO. 144**

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 for the following purposes:

1. Insert 'Strategic Industry' zone into Part 3 of the scheme with the following zone objective: 'To provide for Strategic Industrial areas of State or Regional significance.'
2. Update Part 3 Table 1 – Zoning Table to include the 'Strategic Industry' zone and outline the use class permissibility as follows:

Civic Use – P
Office – D
Trade Display – D
Industry (General) – P
Industry (General – licensed) – D
Industry (Light) – P
Industry (Service) – P
Fuel Depot – P
Storage Yard – D
Warehouse – P
Transport Depot – P
Marine Engineering – P
Motor Vehicle Repair – D
Motor Vehicle, Boat or Caravan Sales – A
Motor Vehicle Wash – D
Service Station – D
All other uses – X
Uses Not Listed – in accordance with Cl. 3.4.2

3. Rezone various lots in Henderson from 'Special Use 2' and 'Special Use 22' to 'Strategic Industry' as depicted on the Scheme amendment map.
4. Delete 'Development Area 15', 'Development Area 17' and 'Development Area 29' as depicted on the Scheme amendment map.
5. Reclassify the road reserves from 'Development' zone to 'Local Road' reserve as depicted on the Scheme amendment map.

6. Zone 'unzoned' areas within the scheme boundary to 'Strategic Industry' as depicted on the Scheme amendment map, unless reserved 'Waterways' pursuant to the Metropolitan Region Scheme
7. Reclassify various lots with a reserve purpose from 'Special Use 2' and 'Special Use 22' to 'Local Reserve' as denoted on the scheme amendment map.

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

1. *an amendment that is not addressed by any local planning strategy;*
2. *an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality.*

Dated this 13th day of June 2019


CHIEF EXECUTIVE OFFICER

REPORT

1. LOCAL AUTHORITY City of Cockburn

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

3. SERIAL NO. OF AMENDMENT: Amendment No. 144

4. PROPOSAL: Inclusion of Strategic Industry Zone into the scheme to modernise the Australian Marine Complex planning framework. Update of Zoning Table to provide Strategic Industry permissible land uses and correcting minor scheme anomalies.

AMENDMENT REPORT

1.0 Introduction

The purpose of this amendment is to introduce a new zone into the City of Cockburn Town Planning Scheme No. 3 (TPS3) which specifically deals with the modernisation of the planning framework for the Australian Marine Complex (AMC) in Henderson. The necessity to recognise this area within a new 'Strategic Industry' zone originates from the City's investigations into current land use planning matters, various stakeholder input and the importance of continuing to protect the marine industry as an area of strategic importance. The outcome of this amendment will further inform the development of the City's Local Planning Strategy and Local Planning Scheme which are currently being developed in consultation with the Department of Planning, Lands and Heritage.

2.0 Background:

The Australian Marine Complex (AMC) is a leading marine industrial estate located in Henderson. The estate was planned for development by the State Government's land development agency, LandCorp, and since its inception, land use has been restricted to development of marine industry activities and land uses which can support the marine industry. The original development vision for the AMC is now sixteen years old and it is considered prudent to review the existing planning framework for the area. The purpose of this report is to seek Council support to initiate a scheme amendment for the purposes of advertising, to consider updating the planning framework of the AMC. These areas have been subdivided, developed and are mostly in private ownership.

The amendment seeks to maintain the strategic importance of the AMC to the marine industry, while providing more development certainty for landowners and operators. The background to seeking this request came from engagement with affected landowners. The City noted an increase of non-compliant land uses within the AMC, and this led to the identification of land use planning issues within the area. Community concerns were received during a community workshop attended by fifteen landowners and operators. General consensus during the workshop was for greater flexibility of land use permissibility and the recognition of the current problems faced by several landowners.

The City considers that the best course of action for reviewing the planning framework for the area is to amend the scheme by replacing the current Special Use zones with a Strategic Industry zone. The City has discussed the scheme amendment with the Department of Jobs, Tourism, Science and Innovation (DJTSI), Department Planning, Lands and Heritage (DPLH) and LandCorp. The Departments support the protection of the marine industry objectives and have no substantial objection to an amendment which recognises the area as a 'Strategic Industry' zone.

3.0 Amendment Type

As per Part 5 of the Regulations, there are 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 **complex** amendment, which Regulation 34 describes as:

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

- a) *an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- b) *an amendment that is not addressed by any local planning strategy;*
- c) *an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;*
- d) *an amendment made to comply with an order made by the Minister under section 76 or 77A of the Act;*
- e) *an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan;*

This proposed amendment satisfies **b)** and **c)** of the above criteria.

4.0 Town Planning Context:

4.1 City of Cockburn Town Planning Scheme No. 3

The below sections describe the current zoning of the land pursuant to TPS3 and the planning framework which guides the subdivision and development of the AMC.

Special Use Zones

Pursuant to the TPS3, the AMC is zoned 'Special Use 2' and 'Special Use 22', each relating to a different area within the AMC. The purpose of a *Special Use* zone is to ensure that sites with special planning purposes are afforded protection within the scheme. The Scheme requires that land zoned *Special Use* can only undertake development in accordance with Table 8, which sets out the permitted land uses within the zone. To this end, the AMC is a specialised area for the purposes of supporting the Marine Industry and the *Special Use* zones reflect this primary objective.

Development Areas

Pursuant to the TPS3, the AMC is located within three special control areas, namely, 'Development Area 15', 'Development Area 17' and 'Development Area

29'. The purpose of *Development Areas* within the TPS3 is to allocate specific controls, to ensure that no subdivision or development of land can occur outside of what is stipulated in Table 9. *Development Areas* require the preparation of a Structure Plan to orderly guide development in a coordinated way. *Development Areas* are rationalised once development has occurred, and when structure planning is essentially no longer considered necessary.

Structure Plans

The AMC is currently guided by two structure plans; '*15 Quill Way, Henderson*' (SP15) and '*Henderson Support Industry*' (SP29). The structure plans formed the basis for subdivision and development of the land in a coordinated way. They are now considered to have fulfilled their purpose, given the AMC is largely subdivided and developed. Further, the structure plans do not appear to add value to the assessment of development proposals for the area, and generate an unnecessary layer to the process of seeking planning approvals. It is considered that the TPS3 can provide sufficient planning controls for the AMC in a less convoluted way. Should the Scheme Amendment proceed to approval, the structure plans will be revoked pursuant to Regulation 28 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

Other Zoning Matters

The Scheme amendment does not relate to the land north of Russell Road and west of Rockingham Road, which is known as the Research and Development Technology Precinct. As this area is yet to begin development, there is a need to retain the combination of the Special Use 9 zone and Development Area 6 Special Control Area, which enables the current structure plan to remain operative in this area.

4.2 Metropolitan Region Scheme

The change to 'Strategic Industry' aligns the TPS3 with the Metropolitan Region Scheme (MRS) which designates the land for 'Industrial' purposes and continues to recognise the area as an important site for the marine industry.

Introduction of the new 'Strategic Industry' zone will trigger a change to the Scheme's Zoning Table under Part 3. The Table will be updated to include the new zone, and will designate the use class permissibility, or list of permissible land uses that could be considered by Council within the zone. The use classes will either be permitted, discretionary or require advertising prior to obtaining planning approval. It is considered that the use classes outlined within Scheme Amendment No. 144 are those able to be entertained within the AMC, based upon two factors:

1. The ability to support the marine industry, or if not directly, provide some acceptable industrial uses which give landowners additional options for developing or renting their land.
2. An acknowledgment to maintain the strategic importance of the marine industry as supported by the State Planning Framework.

Should the amendment be successful, the City proposes to draft a Local Planning Policy to guide discretionary decision making with respect to 'D' uses within the zoning table.

4.3 South Metropolitan Peel Sub-regional Planning Framework

The South Metropolitan Peel Sub-regional Planning Framework (the Frameworks) was released by the Western Australian Planning Commission in March 2018 and is part of the Perth and Peel @3.5 million suite of documents providing strategic guidance on land use planning from the State level.

The Frameworks refer to the AMC as a critical contributor to the export economy of the sub-region, with unique strategic values. This reinforces the significance of the site and the need to continue to reflect this designation within the local planning framework. As such, the City determined that a standard 'General Industry' zone may not be in line with the Frameworks, given its wide ranging land use permissibility. It is considered that the 'Strategic Industry' zone is appropriate as it can provide for specific land uses that can support both the marine industry and broader industrial purposes.

5.0 Proposal

Local Planning Framework

The multiple layers of planning within the AMC form a convoluted planning framework. The AMC is well progressed and largely developed, having been established in 2003. Strategic Planning are accordingly reviewing this framework prior to the City adopting anew Local Planning Strategy and Scheme, which is set to be delivered later this year. This amendment would inform the new scheme and strategy, as well as other projects identified in the broader locality, including Latitude 32.

Further to this, the community's concerns can be acknowledged and addressed via the advertising process. The planning of the AMC has been based upon clustering businesses with a relationship to ship building, deep sea oil and gas exploration. The TPS3 has imposed a limited breadth of land use options, which has created significant depth and specialisation in this sector. Conversely, the City has a large amount of 'General Industry' zoned land (Bibra Lake and Jandakot), which takes care of industries not needing to be located close to the AMC. Therefore the AMC is the City's only specialised (and preserved) precinct which enables a focussed cluster of businesses that serve the ship building, deep sea oil and gas sectors.

However, with the economic downturn, many current AMC landowners and operators are finding it difficult to attract tenants that are able to abide by the requirements of the TPS3. The Scheme fundamentally does not permit for flexibility in this regard. To date, the TPS3 has been viewed as creating a premium differentiation for the area, which protects market competitiveness by offering a unique focussed precinct. Frequent discussions with landowners reveals an understandable frustration towards why the City cannot (according to the planning law under the Scheme) allow land use or development that is not

specific to the requirements of ship building, deep sea oil and gas exploration. As part of the City's recent *Planning Cockburn 2036*, a series of discussion papers was released to help define the key issues that are critical to be addressed as part of the new Local Planning Strategy and Scheme. The City has also hosted focus groups with select precincts, where a lot of issues were raised in submissions. Clearly, landowners, business operators and developers are finding compliance with the current (focussed) requirements of the Scheme difficult.

The purpose of Scheme Amendment No. 144 is to engage discussion with a variety of stakeholders including State Government agencies, to progress a formal consideration of whether change could be entertained for the AMC, without compromising the marine industry.

In 2015, the Planning and Development (Local Planning Schemes) Regulations (the Regulations) were gazetted which introduced a new zone for strategic industrial areas. The amendment proposes to rezone the AMC from 'Special Use 2' and 'Special Use 22' to 'Strategic Industry' as defined by the Regulations. The purpose and intent of the 'Strategic Industry Zone' is;

'To provide for Strategic Industrial areas of State or Regional significance.'

Minor Anomalies

Scheme Amendment No. 144 also proposes to rectify some minor scheme anomalies within the AMC area, as follows:

1. Ensure local reserves are reclassified with the Local Reserve provisions of the TPS3 and consistent with the reserve purpose and in accordance with the management orders (where applicable).
2. Ensure Lots 15 to 17 Cockburn Road are included within the scheme boundary and 'Strategic Industry' zone.
3. Zone 'unzoned' areas (portions of Lot 301-303, Lot 6, 16, 19, 9001, 305-307 Cockburn Road) to 'Strategic Industry', whilst continuing to protect the 'Waterways' reservation under the MRS.

6.0 Conclusion

Proposed Scheme Amendment No. 144 will modernise the planning framework surrounding the Australian Marine Complex by aligning the objectives of a new zone with the expectations of numerous landowners. Further, the new 'Strategic Industry' zone acknowledges the strategic importance of the marine industry as supported by the WAPC's South Metropolitan Peel Subregional Planning Framework. The City has therefore initiated the amendment to TPS3 and respectfully requests the WAPC permit advertising.

POSTSCRIPT: Inclusion of Minister's modifications

Modifications required by the Minister for Planning were outlined in correspondence dated 23rd September, 2020 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. Replacing Point 1. with:

"1. Insert 'Strategic Industry' zone into Part 3 of the scheme with the following zone objectives:

*To designate industrial sites of State or regional significance; and
To provide a range of industrial activities associated with defence, resource and marine industries."*

2. Replacing Point 2. with:

"2. Update Part 3 Table 1 - Zoning Table to include the 'Strategic Industry' zone and outline the use class permissibility as follows:

*Civic Use - D
Educational Establishment - D
Lunch Bar - D
Office - D
Trade Display - D
Industry (General) - D
Industry (General- licensed) - D
Industry (Light) - D
Industry (Service) - D
Fuel Depot - D
Storage Yard - D
Warehouse - D
Transport Depot - P
Marine Engineering - P
Motor Vehicle Repair - D
Motor Vehicle, Boat or Caravan Sales - A
Motor Vehicle Wash - D
Service Station - D
All other uses listed - X
Uses Not Listed - in accordance with Cl. 3.4.3"*

PLANNING AND DEVELOPMENT ACT, 2005

**CITY OF COCKBURN
TOWN PLANNING SCHEME NO 3
AMENDMENT NO. 144**

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 for the following purposes:

1. Insert 'Strategic Industry' zone into Part 3 of the scheme with the following zone objective:

'To designate industrial sites of State or regional significance; and To provide for a range of industrial activities associated with defence, resource and marine activities.'

2. Update Part 3 Table 1 – Zoning Table to include the 'Strategic Industry' zone and outline the use class permissibility as follows:

Civic Use – D
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Storage Yard – D
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Transport Depot – P
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Motor Vehicle Repair – D
Motor Vehicle, Boat or Caravan Sales – A
Motor Vehicle Wash – D
Service Station – D
All other uses listed – X
Uses Not Listed – in accordance with Cl. 3.4.2

3. Rezone various lots in Henderson from 'Special Use 2' and 'Special Use 22' to 'Strategic Industry' as depicted on the Scheme amendment map.
4. Delete 'Development Area 15', 'Development Area 17' and 'Development Area 29' as depicted on the Scheme amendment map.

5. Reclassify the road reserves from 'Development' zone to 'Local Road' reserve as depicted on the Scheme amendment map.
6. Zone 'unzoned' areas within the scheme boundary to 'Strategic Industry' as depicted on the Scheme amendment map, unless reserved 'Waterways' pursuant to the Metropolitan Region Scheme
7. Reclassify various lots with a reserve purpose from 'Special Use 2' and 'Special Use 22' to 'Local Reserve' as denoted on the scheme amendment map.

ADOPTION

Adopted by resolution of the Council of the City of Cockburn at the ordinary meeting of the Council held on 13 day of June 2019.

Logan Hewitt
MAYOR

Aimee
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 12 day of March 2020, 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 Hewitt
MAYOR

Aimee
CHIEF EXECUTIVE OFFICER

Recommended/Submitted for Final Approval

Callums

DELEGATED UNDER S.16 PLANNING AND DEVELOPMENT ACT 2005

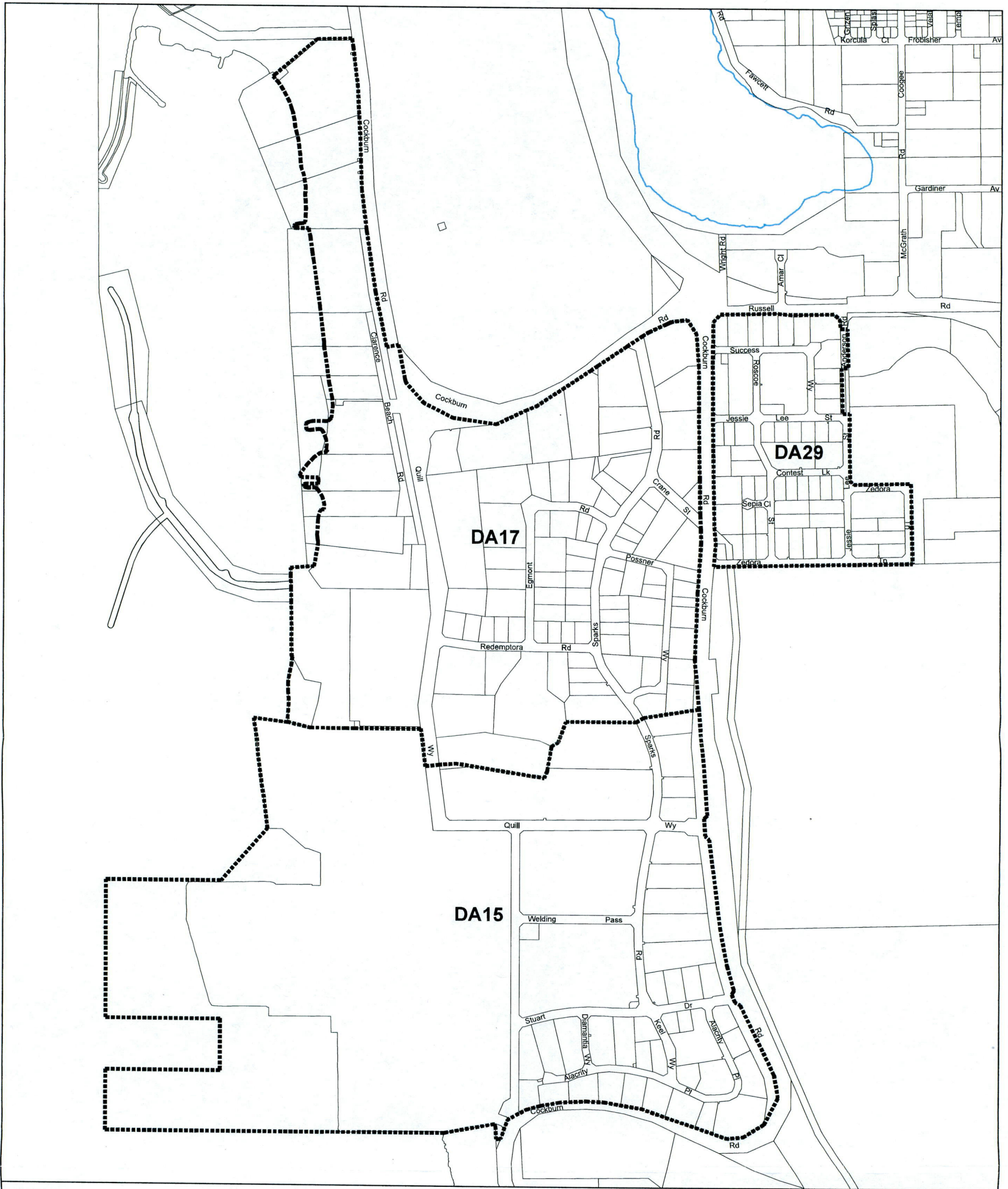
DATE *21/10/20*

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 *4/11/2020*

ABCrooks
Certified by

MINISTER FOR PLANNING
DATE

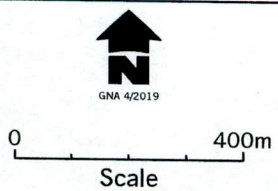
Officer of the Commission Duty authorised pursuant to Section 24 of the Planning and Development Act 2005 and Regulation 32(3) Scheme and Regulation 63(3) (Amendment) of the Planning and Development (Local Planning Scheme) Regulations 2015.



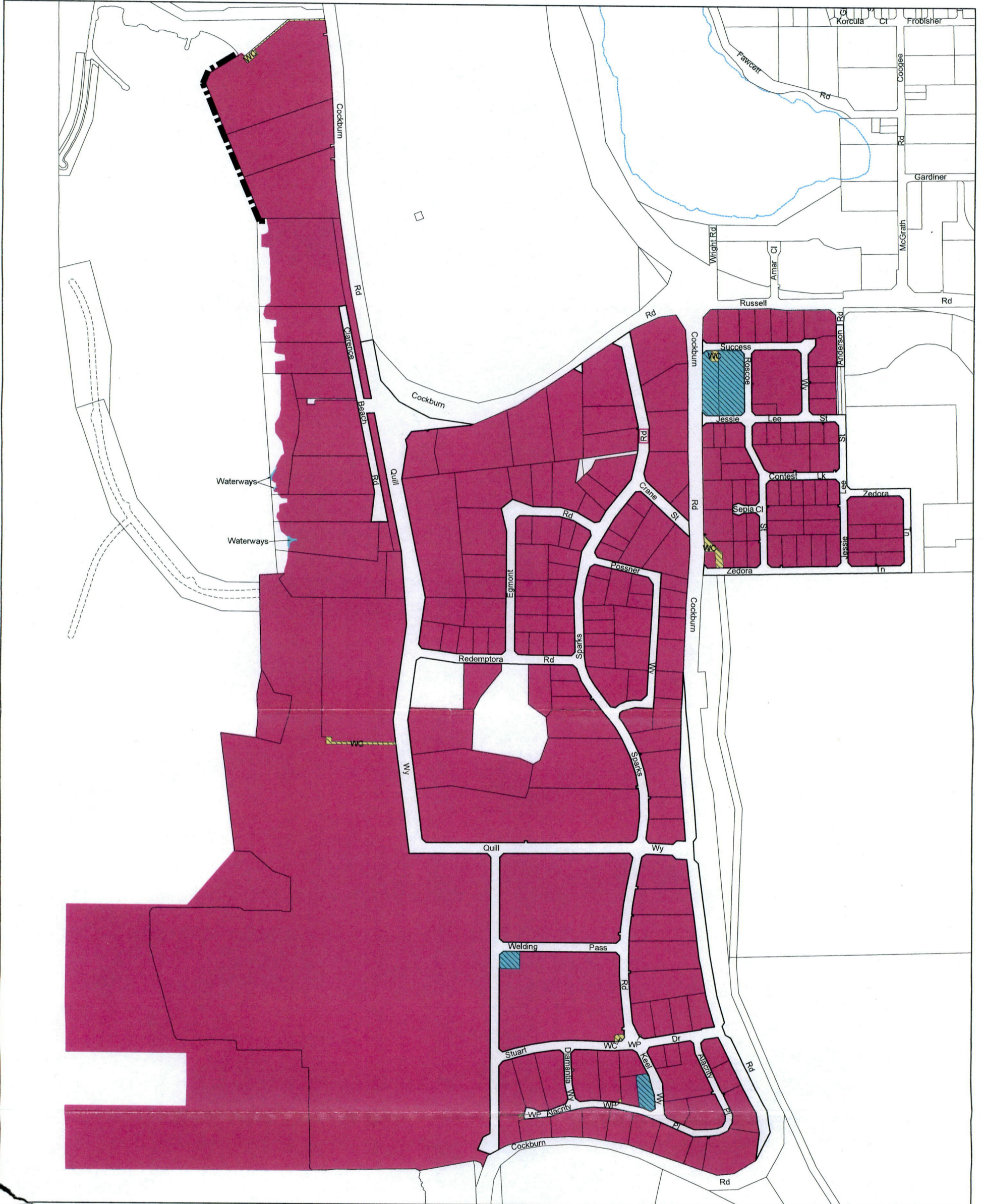
GENERAL







SPECIAL CONTROL AREAS:

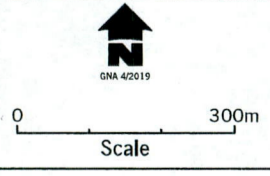
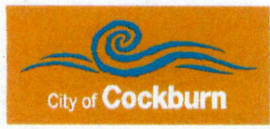
 DA1 Development Areas



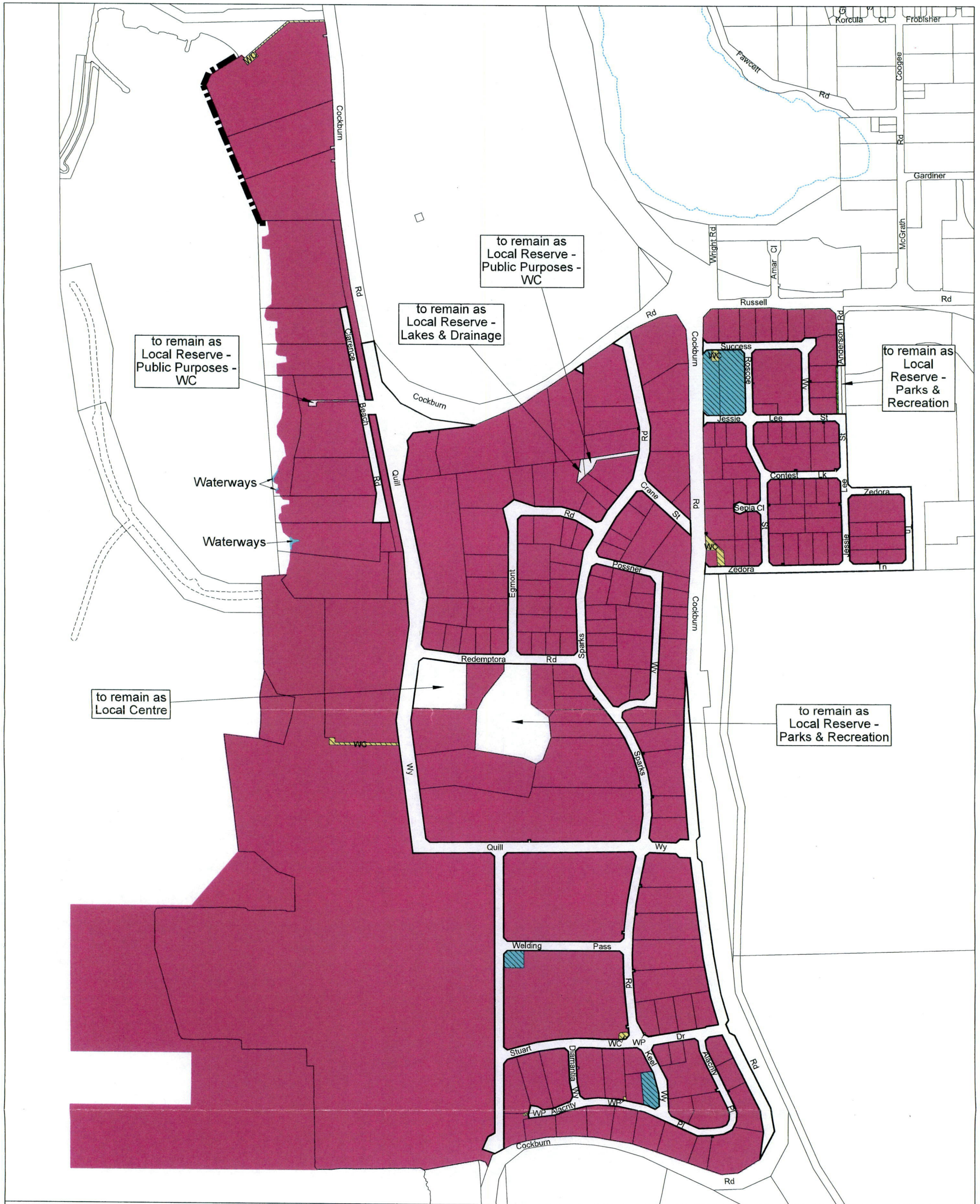
Existing DA To Be Deleted
Town Planning Scheme No.3
Amendment No.144



<p>GENERAL</p> <p> Scheme Boundary</p>	<p>REGION RESERVES</p> <p> Waterways</p>	<p>LOCAL RESERVES</p> <p> Lakes & Drainage</p> <p> Local Road</p> <p> Public Purposes</p> <p>DENOTED AS FOLLOWS:</p> <p>WC - Water Corporation</p> <p>WP - Western Power</p>	<p>ZONES</p> <p> Strategic Industry</p>
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Scheme Amendment Map
Town Planning Scheme No.3
Amendment No.144



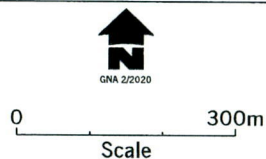
GENERAL
 Scheme Boundary

REGION RESERVES
 Waterways

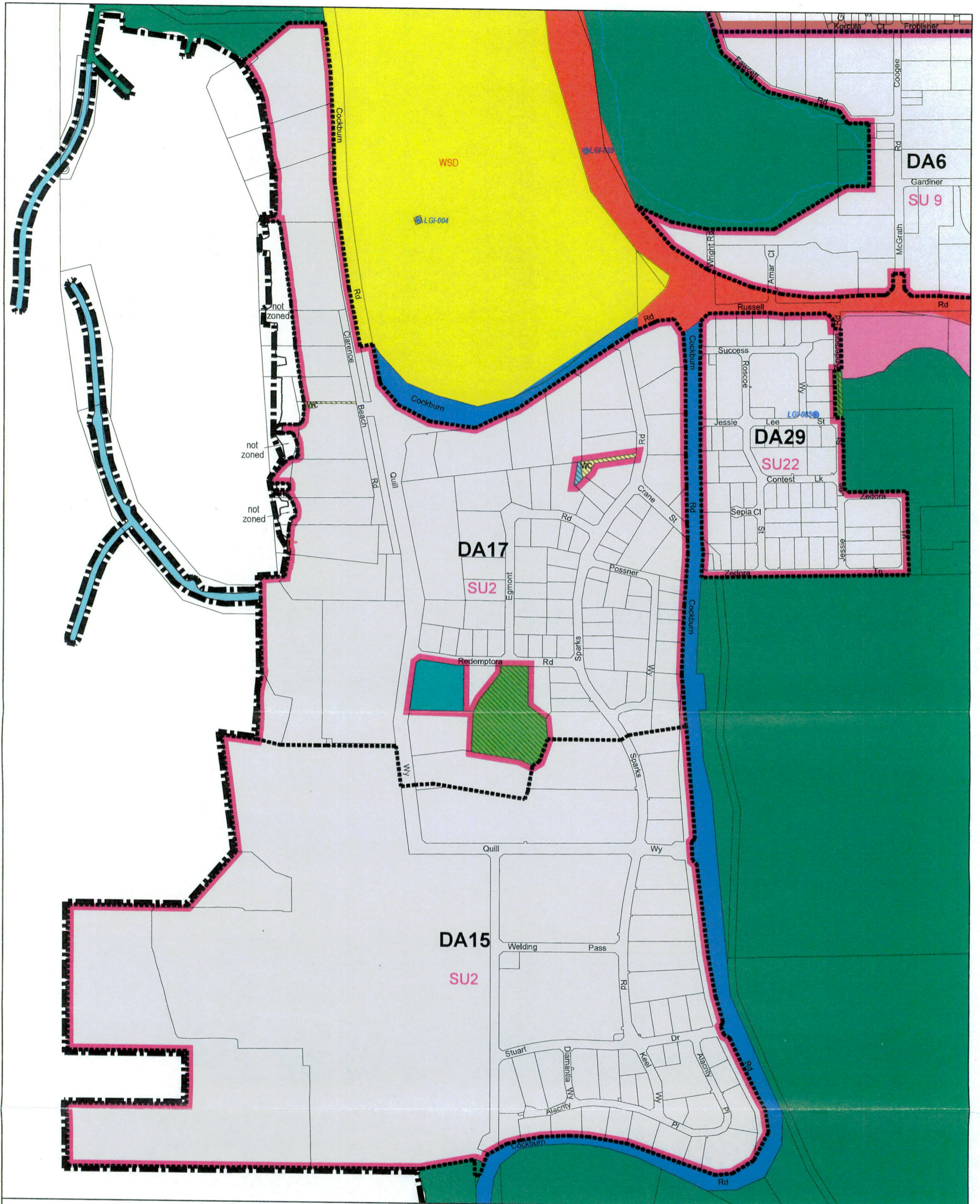
LOCAL RESERVES
 Parks & Recreation
 Lakes & Drainage
 Local Road
 Public Purposes

ZONES
 Strategic Industry

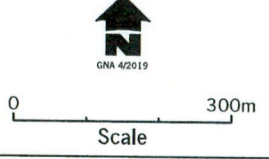
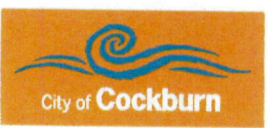
DENOTED AS FOLLOWS:
 WC - Water Corporation
 WP - Western Power



Scheme Amendment Map (Including Notations)
Town Planning Scheme No.3
Amendment No.144



GENERAL	REGION RESERVES	LOCAL RESERVES	ZONES
Scheme Boundary	Parks & Recreation	Parks & Recreation	Local Centre
LGI-001 Heritage Place	Waterways	Lakes & Drainage	Light & Service Industry
SPECIAL CONTROL AREAS:	Primary Regional Roads	Public Purposes DENOTED AS FOLLOWS: WC - Water Corporation	Development
DA1 Development Areas	Other Regional Roads		SU1 Special Use
DCA1 Development Contribution Areas	Public Purposes DENOTED AS FOLLOWS: WSD - Water Authority of WA		



Current Scheme Map
Town Planning Scheme No.3
Amendment No.144