

14.1.2 Initiation of (Standard) Amendment No.163 to Town Planning No.3 - Rationalisation of Development Area 11 (Aubin Grove Centre)

Responsible Executive	A/Chief of Built and Natural Environment
Author(s)	Strategic Planning Officer
Attachments	1. Draft Scheme Amendment No.163 Report
Location	Aubin Grove
Owner	Various
Applicant	City of Cockburn
Application Reference	109/163

RECOMMENDATION

That Council:

- (1) INITIATES, pursuant to section 75 of the *Planning and Development Act 2005*, an amendment to the City of Cockburn Town Planning Scheme No.3 (Scheme) for the following purposes:
- Rezoning various lots within 'Development Area 11' from 'Development' to 'Residential (R20)', 'Residential (R40)', 'Local Centre', 'Mixed Use (R30)', 'Special Use' and/or 'No Zone' as depicted on the Scheme Amendment Map.
 - Reclassifying land within 'Development Area 11' from the 'Development' zone to a local 'Parks and Recreation' and/or 'Local Road' reservation as depicted on the Scheme Amendment Map.
 - Amending the Scheme Maps and 'Table 7 – Restricted Uses' to include Restricted Use No.16 (RU16), as follows:

No.	Description of Land	Restricted Use	Conditions
RU16	Lots 620 (No.155) and 621 (No.171) Gaebler Road, Aubin Grove	Aged and Dependant Person Dwelling	Development Approval

- Amending the Scheme Maps and 'Table 8 – Special Use Zones' to include Special Use No.31 (SU31), as follows:

No.	Description of Land	Special Use	Conditions
SU31	Lot 622 (No.173) Gaebler Road, Aubin Grove	Medical Centre and/or Child Care Premises	Development Approval

- Reducing the extent of 'Development Area 11' (DA 11) special control area as depicted on the Scheme Amendment Map.

- (2) DETERMINES the amendment is 'standard' under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as it satisfies the following criteria of Part 5, Division 1, Regulation 34:
- *an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission*
 - *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*
 - *an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment*
 - *an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.*

and REFERS the Amendment to the Western Australian Planning Commission, pursuant to Part 5, Division 1, Regulation 58 of the *Planning and Development (Local Planning Schemes) Regulations 2015* for its consideration.

- (3) REFERS the Amendment to the Environmental Protection Authority (EPA), pursuant to Section 81 of the *Planning and Development Act 2005*, by giving to the EPA written notice of this resolution and such written information about the amendment as is sufficient to enable the EPA to comply with Section 48A of the *Environmental Protection Act 1986* in relation to the proposed scheme amendment.
- (4) REFERS the Amendment to the Minister for Planning, pursuant to Section 83A of the *Planning and Development Act 2005*, for permission to advertise the proposed Scheme Amendment.
- (5) Upon compliance with Sections 81, 82 and 83A of the *Planning and Development Act 2005*, ADVERTISES the proposed Amendment pursuant to the details prescribed within Part 5, Division 3, Regulation 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Regulation 47 specifies advertising must not be less than a period of 42 days.
- (6) NOTES the intention to revoke the following Structure Plans, pursuant to Schedule 2, Part 4, Regulation 35A of the *Planning and Development (Local Planning Schemes) Regulations 2015*, upon approval of Amendment No.163:

Structure Plan #	Address	Endorsement Date	WAPC Reference
11A	Lot 199 Gaebler Road, Aubin Grove	18/05/2004	801/2/23/0014P 1V
11G	Lot 18 and 19 Gaebler Road, Aubin Grove	04/05/2009	801/2/23/36PV

Background

Structure plans are important planning instruments, regularly used to coordinate the subdivision and development of land, particularly in new, greenfield locations.

Reflective of its rapid urbanisation over the past 20+ years, the City currently has over 150 local structure plans operating within its scheme area, many of which are substantially subdivided and/or have been built out.

When the *Planning and Development (Local Planning Scheme) Regulations* were released in 2015, a key change involved the introduction of a 10-year time limit to the validity of structure plans.

Plans approved prior to this date were automatically given a 10-year timeframe from when the regulations were adopted.

Under the State Planning Framework, once a structure plan has served its purpose (typically once all the lots have been subdivided and physically created), the zones and reserves are to be transferred into the local planning scheme and the applicable structure plan revoked.

This process, commonly referred to as structure plan ‘rationalisation’, ensures the City retains appropriate planning mechanisms to guide and control future use and/or redevelopment of the land (including the same range of permissible land uses and associated development standards as currently apply) into the future, consistent with community expectations.

This proposal is the third of a series of Scheme Amendments required to rationalise large portions of the City’s urban areas ahead of a number of existing Structure Plans expiring upon the 10-year anniversary of the Regulations’ coming into effect (19 October 2025).

The difference between this proposal and Amendment No.162 (that also involves Development Area 11 on this same agenda), is that this proposal will need to be advertised due to rationalising Structure Plan zonings that either don’t exist in TPS3 or need updating to meet the intended outcome.

Submission

N/A

Report

The following Structure Plans have been fully implemented:

- Lot 199 Gaebler Road, Aubin Grove (11A)
- Lot 18 and 19 Gaebler Road, Aubin Grove (11G)

The purpose of this amendment is simply to:

- transfer the zones and reserves shown on the structure plans for these areas into Town Planning Scheme No.3 (TPS3);
- revoke the structure plans (assuming the balance of 11A has been rationalised via completion of Scheme Amendment No.162); and
- adjust the boundary of the Development Area No.11 (DA11) special control area to match the above outcome.

Development Area 11

Development Area 11 (DA11) was initially created when TPS3 was first gazetted in December 2002.

Its current extent is the result of three separate scheme amendments (133, 136 and 137) gazetted between November 2018 and July 2019 rationalising developed areas at its southern end (roughly between Chile Way and Rowley Road).

The special provisions (for DA11) included in Table 9 of TPS3 are basic, simply reinforcing the requirement for structure plans to first be prepared to guide future subdivision and development, anticipating the development outcome will principally be for residential purposes.

As there remain portions of DA11 yet to be structure planned or developed (in particular, portion of Lot 11 and Lot 74 Beenyup Road), deletion of DA11 and/or its special provisions are not proposed at this time, rather just a reduction to the extent of the DA11 special control area boundary to reflect the outcome of this proposal.

This includes the exclusion of a large drainage basin located in the northwest corner of DA11 (servicing the Kwinana Freeway), pending a future MRS Omnibus Amendment to reserve the land as part of an expanded 'Primary Regional Road' reservation.

This will have the effect of applying no zoning in the interim under TPS3. Further detail is provided in the Draft Standard Scheme Amendment No.163 Report (refer Attachment 1).

Local Structure Plans

The structure plans collectively identify local roads, a public open space reserve and low-to-medium density (R20-R60) residential development, serviced by local level commercial and community facilities.

The reason these structure plans do not form the subject of Amendment No.162, is they include zonings that do not directly match existing zonings contained within TPS3, and thus their reinterpretation needs to be advertised prior to Council Adoption and the Minister's final determination.

Notwithstanding the above, the proposed zonings (including the introduction of 'Special' and 'Restricted' uses over select areas), are consistent with the intended outcome of the Structure Plans, as discussed in further detail in the Draft Standard Scheme Amendment No.163 Report (refer Attachment 1).

Type of Amendment

This amendment is considered a 'Standard' Amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, chiefly on the basis that it involves zoning of land consistent with an approved structure plan or local development plan, but the scheme does not currently include zones of all the types outlined on those plans.

Strategic Plans/Policy Implications

Local Economy

A sustainable and diverse local economy that attracts increased investment and provides local employment.

- A City that is 'easy to do business with'.

Listening & Leading

A community focused, sustainable, accountable and progressive organisation.

- Best practice Governance, partnerships and value for money.

Budget/Financial Implications

Not applicable - the Amendment documentation has been prepared, and the proposal will be progressed by the administration under its FY24 budget allocation.

Legal Implications

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

As of 1 August 2023, changes to the *Planning & Development Act 2005* came into force. Newly inserted Section 83A requires all new Scheme Amendments to obtain the Minister's consent prior to advertisement, to ensure proposals that don't align with the State Planning Framework are stopped as early in the process as possible.

Community Consultation

The *Planning and Development (Local Planning Schemes) Regulations 2015* identifies three amendment types: basic, standard and complex.

Amendment No.163 meets the definition of 'Standard' Scheme Amendment. Part 5, Regulation 47 requires such proposals to be advertisement for a minimum period of 42 days.

Risk Management Implications

The officer recommendation considers the relevant planning matters associated with the proposal.

In terms of the drainage basin land which will have no zoning pending a change to the Metropolitan Region Scheme, there is low risk given the land is State government land and currently in use for drainage.

It is considered that the officer recommendation is appropriate. If the Amendment does not proceed (or is ultimately refused by the Minister for Planning):

- an opportunity will be missed to simplify the planning framework and remove additional layers of planning (structure plans) that have served their purpose
- the City will need to consider alternatives to ensure an appropriate local planning framework is in place to guide future land use and/or redevelopment proposals in the area ahead of the structure plans expiring on 19 October 2025.

Advice to Proponent(s)/Submitters

N/A

Implications of Section 3.18(3) *Local Government Act 1995*

Nil