



TOWN PLANNING SCHEME NO. 4

*NORMALISATION OF LOTS 2, 4853 & 9500
WITHIN FORRESTDALE BUSINESS PARK EAST
PRECINCT FROM DEVELOPMENTWA TO CITY
OF ARMADALE*

AMENDMENT No. 114

CONTENTS

- A. Form 2A - Regulation 35 (1)
- B. Scheme Report
- C. Final adoption and signatures

Planning and Development Act 2005

**RESOLUTION TO PREPARE AMENDMENT TO
LOCAL PLANNING SCHEME**

CITY OF ARMADALE TOWN PLANNING SCHEME NO. 4

AMENDMENT NO. 114

RESOLVED that the local government pursuant to section 75 of the Planning and Development Act 2005, amend the above Local Planning Scheme to:

Initiate Amendment No. 114 to Town Planning Scheme No. 4 as a standard amendment in accordance with Part 5 Clause 34 – standard amendment subsections (b), (c) and (e) of the *Planning and Development (Local Planning Schemes) Regulations 2015* to:

- a. Include Lot 9500 Armadale Road, Forrestdale as designated on the Scheme Amendment Map into the Scheme boundary;
- b. Rezone Lot 9500 Armadale Road, Forrestdale as depicted on the Scheme Amendment Map from unzoned to 'Industrial Development' zone;
- c. Rezone Lot 2 Keane Road, Forrestdale and Lot 4853 Allen Road, Forrestdale from unzoned to 'Parks and Recreation (Regional)' reserve;
- d. Amend Special Control Area Map 3 to designate Development Area No.69 over Lot 9500 Armadale Road, Forrestdale as depicted on the Special Control Area Map 3;
- e. Amend Schedule 8 – Development (Structure Planning) Areas to include the following new Development Area:

No.	Description of Land	Additional provisions applicable to subdivision and development
DA 69	Lot 9500 Armadale Road, Forrestdale.	<p>69.1 Prior to any subdivision or development, comprehensive planning shall be undertaken by the preparation of a Structure Plan to guide subdivision and development.</p> <p>69.2 Any Structure Plan shall be accompanied by detailed environmental studies of the Conservation Category Wetland and its buffers on the subject site including, but not limited to:</p> <ul style="list-style-type: none"> 1. flora assessment; 2. fauna assessment; and

		<p>3. wetland management plan.</p> <p>The recommendations of any environmental studies shall be implemented and any environmental assets protected in the Structure Plan and at the subdivision and/or development stages to the satisfaction of the City of Armadale on advice from the Department of Water and Environmental Regulation and the Department of Biodiversity, Conservation and Attractions.</p>
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f. Amend the Scheme Map accordingly.

The Amendment is standard in accordance with Part 5 Clause 34 standard amendment of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:

- 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;”*
- e) *“an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;”*

Dated this 24th day of August, 2020



 CHIEF EXECUTIVE OFFICER

D52/8/20

**CITY OF ARMADALE
TOWN PLANNING SCHEME NO. 4**

AMENDMENT NO. 114 SCHEME REPORT

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DETAILS OF PROPOSAL

Amendment No.114 proposes to amend the City's Town Planning Scheme No.4 (TPS No.4) to enable the normalisation of Lots 2, 4853 and 9500 (subject lots) within the Forrestdale Business Park East Project Area (FBPE) in order for the City to reassume planning control over the subject lots, which are currently under the control of DevelopmentWA (DWA).

The Amendment proposes to:

- Introduce Lot 9500 into the TPS No.4 boundary to enable TPS No.4 zoning and development requirements to apply to the lot;
- Zone Lot 9500 'Industrial Development' under TPS No.4 and include relevant structure planning provisions into Schedule 8 – Development (Structure Planning) Areas, enabling the preparation of a Local Structure Plan to further investigate the environmental constraints of the land;
- Amend Special Control Area Map 3 to identify Lot 9500 as Development Area No.69; and
- Update the TPS No.4 mapping to reflect the recently approved 'Parks and Recreation' reservations under the MRS for Lots 2 and 4853.

SUBJECT LAND/LANDOWNERS

The subject site is located within FBPE, which is a DWA Redevelopment Area located within the south-eastern corridor of the Perth Metropolitan Region, approximately 22 kilometres south of the Perth CBD, 2 kilometres south-west of the Kelmscott District Centre and 4 kilometres north-west of the Armadale Strategic Metropolitan Centre. The subject sites are bound by Tonkin Highway, Armadale Road and Hensbrook Way. The particulars of the subject land are as follows:

Lot Number	Address	Plan	Vol	Folio	Area	Landowner
2	Keane Road, Forrestdale	P46467	2655	900	19,1537 ha	State of WA
4853	Allen Road, Forrestdale	P29950	3129	330	1.229 ha	State of WA
9500	Armadale Road, Forrestdale	P56880	2673	256	7.7197 ha	Acacia Brook Pty Ltd

APPLICANT

The City of Armadale has proposed this amendment in response to the DWA's request to normalise the subject lots to transfer planning control back to the City.

CURRENT SCHEME

Armadale Redevelopment Scheme 2 (ARS 2)

PROPOSED SCHEME

City of Armadale TPS No.4

CURRENT ZONING

ARS 2 : Zonings were applied through the Forrestdale Business Park East Structure Plan which expired in September 2019. Currently the Forrestdale Business Park Design Guidelines are relied upon for determining land use categories.

MRS : No zone.
Proposed Industrial (Lot 9500) and Parks and Recreation (Lots 2 and 4853) under the approved MRS Amendment No. 1360/57.

TPS
No.4 : No zone. Not currently within TPS 4 boundary.

PROPOSED ZONING

Amendment No.114 proposes the following zones and reserves:

- 'Industrial Development' zone; and
- 'Parks and Recreation (regional)' reserve.

BACKGROUND

The Forrestdale Business Park East Project Area (FBPE), a DevelopmentWA (DWA) Redevelopment Area bound by Tonkin Highway, Ranford Road and Armadale Road, is one of a number of Redevelopment Areas, DevelopmentWA are currently proposing to normalise to the City of Armadale's planning control. DevelopmentWA's original target date for normalisation of FBPE was 30 June 2020, this target has been delayed and no revised target has been provided to date. Discussions between DWA and the City are ongoing to determine a revised normalisation schedule for the subject lots and a number of other Redevelopment Areas.

MRS Amendment 1360/57 and Amendment 107 were approved in June 2020 to facilitate the normalisation of the majority of lots within FBPE into the Metropolitan Region Scheme (MRS) and Town Planning Scheme No.4 (TPS No.4), excluding the lots subject to this amendment.

Site Description

Amendment No.114 relates to three lots which were excluded from Amendment 107. The subject sites are located in the south-western portion of FBPE being:

- Lot 2 Keane Road, Forrestdale;
- Lot 4853 Allen Road, Forrestdale; and
- Lot 9500 Armadale Road, Forrestdale.

A Conservation Category Wetland (CCW) is located on a large portion of all three subject lots. There are four Threatened Ecological Communities mapped as potentially occurring on the subject sites, and a priority fauna species (Quenda) has been observed on the subject sites. The site is mapped as an Environmentally Sensitive Area and the majority of existing vegetation is mapped as a potential vegetated natural area in the City's Local Biodiversity Strategy.

Since the Armadale Redevelopment Authority (ARA) took over planning control of FBPE in the early 2000's, environmental studies for Lot 9500 have not been progressed, restricting the ability to develop the lot.

Existing DWA Planning Framework

The existing DWA planning framework for Lot 9500 comprises:

- Expired FBPE Structure Plan

The DWA Structure Plan does not provide a consistent approach to this lot. The Structure Plan text states that the Conservation Category Wetland and a 50 metre buffer should be identified as POS on the Structure Plan, however *"the Structure Plan map identifies the lot being subject to further assessment and will be determined upon further advice from the Department of Environment."* DWA have advised that this Structure Plan has now expired and has no status statutorily.

- Forrestdale Design Guidelines

DWA's Design Guidelines for FBPE establish the requirement for a Local Development Plan to be prepared for Lot 9500 prior to development, noting, *"Lot 9500 Armadale Road, Forrestdale requires further environmental assessment and endorsement from Department of Biodiversity Conservation and Attractions prior to the commencement of development."*

Normalisation

At its meeting on 24 June 2019, Council resolved to support the normalisation of FBPE subject to several conditions. Council then initiated Amendment 107 to normalise FBPE at its meeting on 23 September 2019, prior to the corresponding MRS Amendment being advertised. The three subject lots were excluded from Amendment 107, because of the complications with the DevelopmentWA planning framework and their environmental values. The expectation at the time was that two lots would be reserved for Parks and

Recreation in the MRS and Lot 9500 would be introduced into TPS No.4 using s.57 of the *Metropolitan Redevelopment Act 2011 (MRA Act)*, however it is now known that cannot be done. That is primarily an issue for Lot 9500, as the other two lots are State Government owned and will be reserved for Parks and Recreation under the MRS. This is discussed in further detail in subsequent sections of this report.

DevelopmentWA's original target date for normalisation of FBPE was 30 June 2020. This target has been delayed and no revised target has been provided to date. Discussions between DWA and the City are ongoing to determine a revised normalisation schedule for the subject lots and a number of other Redevelopment Areas.

State Solicitors Office Advice

In early June 2020 DevelopmentWA advised the City about advice it had received from the State Solicitors Office (SSO) that s.57 of the *MRA Act* cannot be used to normalise its planning framework in Armadale, due to the *Armadale Redevelopment Act 2001* having repealed rather than 'suppressed' the local planning scheme. Because s.57 was the planned method of normalising the subject lots, the City is now being requested to determine an alternative approach.

One option remains, to normalise the subject lots utilising s.58 of the *MRA Act*, which enables the City to prepare an Amendment to TPS No.4 whilst the land is still included within a Redevelopment Area. S.58 of the *MRA Act* provides that the Amendment does not take effect until the land is removed from Schedule 1 of the *Metropolitan Redevelopment Authority Regulations 2011 (MRA Regs)*. This is the method used for the recently finalised Amendments 105, 107 and 108.

MRS Amendment No. 1360/57

A MRS Amendment for a number of Redevelopment Areas including FBPE was formally advertised from 6 December 2019 to 28 February 2020, with Council resolving at its meeting on 28 January 2020 to recommend to the WAPC that it supported the Amendment subject to the entirety of Lot 2 Keane Road and Lot 4853 Allen Road and the portion of Lot 9500 Armadale Road affected by the Conservation Category Wetland (CCW) and its buffer be reserved for 'Parks and Recreation' under the MRS. The WAPC resolved to partially support the City's recommendation, to reserve Lots 2 and 4853 under the MRS, however did not reserve Lot 9500, instead zoning the entire lot 'Industrial' in the MRS.

As part of the MRS Amendment process, the MRS Amendment application was formally referred to the Environmental Protection Authority (EPA) for consideration and DWA held discussions with the Department of Water and

Environmental Regulation (DWER) relating to the CCW located partially within Lot 9500. DWA acknowledged that Lot 9500 contains a mapped CCW, however advised that the required environmental studies have not yet been completed. DWA and DWER considered it inappropriate to reserve the entire lot 'Parks & Recreation' under the MRS given Lot 9500 has some development potential.

DWA Proposal for Lot 9500 Armadale Road

DWA and DWER agreed a recommended pathway to progress the normalisation of Lot 9500, which was subsequently supported by the WAPC in June 2020. Specifically, the following approach was proposed:

- Applying an 'Industrial' zoning under the MRS;
- Applying an 'Industrial Development' zone under TPS No.4 to Lot 9500. The Industrial Development zone would require a structure plan/local development plan to be prepared and approved, in consultation with DWER and the Department of Biodiversity, Conservation and Attractions (DCBA) and other stakeholders prior to development taking place;
- Identification of the symbol 'EC' on the TPS No.4 map to indicate that environmental conditions apply to the land; and
- Environmental Conditions be embedded into TPS No.4 requiring the preparation of environmental studies and a Structure Plan/Local Development Plan prior to any development taking place.

WAPC and DWER considered the above approach appropriate being consistent with the requirements identified by the expired FBPE Structure Plan and Design Guidelines.

City of Armadale Legal Advice Regarding Environmental Conditions

The above approach agreed by DWA, DWER and WAPC indicates that Environmental Conditions and the associated 'EC' symbol can be embedded into TPS No.4 in relation to environmental studies required for Lot 9500. The City obtained legal advice on this subject, which stated that any Environmental Conditions inserted into Schedule 6 – Environmental Conditions of TPS No.4 need to have been drafted by the EPA following a referral and assessment under s.38 of the Environmental Protection Act 1986. No environmental conditions have been drafted by the EPA for Lot 9500.

PROPOSAL

Amendment No.114 proposes the following amendments to the Scheme Map:

- Introduce Lot 9500 into the TPS No.4 boundary;
- Zone Lot 9500 'Industrial Development' under TPS4;

- Amend Special Control Area Map 3 to identify Lot 9500 as Development Area No. 69; and
- Update the TPS4 mapping to reflect the recently approved 'Parks and Recreation' reservations under the MRS for Lots 2 and 4853.

The following changes are proposed to the TPS No.4 text:

- Including provisions into Schedule 8 of TPS4 requiring the preparation of a structure plan for Lot 9500 prior to any subdivision or development.

ANALYSIS

Scheme Map

The 'Industrial Development' zone of TPS No.4 is the closest aligned zone to the current classification for Lot 9500 under the DWA planning framework. The 'Industrial Development' zone provides for future industrial development, subject to the preparation of a structure plan to guide development and determine site features and constraints, effectively replicating DWA's requirement for further environmental assessment as a structure planning requirement in Schedule 8 of TPS No.4. The zoning of Lot 9500 as 'Industrial Development' is consistent with the future MRS zoning and advice received from the Department of Planning, Lands and Heritage (DPLH) and DWA.

Amendment No. 114 also proposes to update TPS No.4 mapping to reflect the recently approved 'Parks and Recreation' reservations under the MRS, for Lots 2 and 4853. As a result, the City proposes to maintain consistency by reflecting the 'Parks and Recreation' reservations on the TPS No.4 mapping for Lots 2 and 4853.

Special Control Area Map 3

It is proposed to amend SCA Map 3 to identify Lot 9500 as Development Area No.69. The inclusion of Lot 9500 into this Development Area enables the City to introduce provisions guiding the preparation of a structure plan for the lot into Schedule 8 - Development (Structure Planning) Areas of the Scheme.

Scheme Text

Following discussions with DWA, the City recommended that the required environmental/structure planning provisions be included in Schedule 8 - Development (Structure Planning) Areas, rather than Schedule 6 – Environmental Conditions, to enable the City to progress the Amendment without requiring formal assessment of the Amendment by the EPA.

The TPS No.4 text is therefore proposed to be modified by including provisions into Schedule 8 requiring the preparation of a structure plan for Lot 9500 prior

to any subdivision or development. The preparation of a structure plan for the site will enable the environmental values/constraints and the extent of the site not affected by these values/constraints to be determined. The provisions proposed to be included within Schedule 8 of TPS No.4 more specific requirements than DWA's current requirements for the site.

The Amendment proposes the use of a structure plan to undertake further planning for this site, rather than an Local Development Plan (LDP), as is indicated under the current DWA framework. The *Planning and Development (Local Planning Schemes) Regulations 2015* do not allow for LDPs to include environmental conditions. LDPs are designed to be used for more detailed stages of planning, addressing built form and usually where a structure plan and subdivision have already been approved for a site. The City does not consider an LDP is appropriate in this situation, with the Scheme provisions a better option.

Standard Amendment

Amendment No.114 is proposed as a standard amendment as it meets the following standard amendment criteria (r.34) identified in the *Planning and Development (Local Planning Schemes) Regulations 2015 (PD Regs)*:

- (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; and
- (e) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment.

The Amendment will facilitate the normalisation of the subject lots and is consistent with the normalisation strategy of the City's Local Planning Strategy. The Amendment is consistent with the approved MRS Amendment 1360/57 over the subject lots. The City's officers consider the Amendment will have a minimal impact on the surrounding land.

The City's officers do not consider the proposal meets the basic amendment criteria. This criteria indicates that amendments consistent with another Act which applies to the Scheme area can be considered basic amendments. In this instance, the Amendment is not wholly consistent with the DevelopmentWA planning framework (prepared under the *MRA Act* which applies to the Scheme area) therefore City officers do not consider the Amendment can be classified as basic. The City considers engagement with affected parties is necessary and appropriate as part of the proposed amendment. This is a best practise approach and will ensure future planning

stages (structure planning, subdivision and development) are managed more efficiently as the landowner will be engaged at the scheme amendment stage.

CONCLUSION

Amendment No.114 will assist DWA's request to normalise FBPE. Advice from the State Solicitor's Office advises that the subject lots are no longer able to be normalised via s. 57 of *MRA Act*. The subject lots were not subject to Amendment 107 and are required to be appropriately zoned/reserved prior to normalisation occurring. Amendment No.114 will facilitate the normalisation of the three subject lots within FBPE into TPS No.4, appropriately zoning the subject lots and enabling a process for the protection of the Conservation Category Wetland. The normalisation of FBPE will see the City reassume planning control over the area and provide the opportunity to update the planning framework governing this precinct.

Planning and Development Act 2005

CITY OF ARMADALE TOWN PLANNING SCHEME NO. 4

AMENDMENT NO. 114

RESOLVED that the local government pursuant to Part 5 of the *Planning and Development Act 2005*, to adopt, with modification, Amendment No.114 to Town Planning Scheme No.4 to:

- a. Include Lot 9500 Armadale Road, Forrestdale as designated on the Scheme Amendment Map into the Scheme boundary;
- b. Rezone Lot 9500 Armadale Road, Forrestdale as depicted on the Scheme Amendment Map from unzoned to 'Industrial Development' zone;
- c. Amend Special Control Area Map 3 to designate Development Area No.69 over Lot 9500 Armadale Road, Forrestdale as depicted on the Special Control Area Map 3;
- d. Amend Schedule 8 – Development (Structure Planning) Areas to include the following new Development Area:

No.	Description of Land	Additional provisions applicable to subdivision and development
DA 69	Lot 9500 Armadale Road, Forrestdale.	<p>69.1 Prior to any subdivision or development, comprehensive planning shall be undertaken by the preparation of a Structure Plan to guide subdivision and development.</p> <p>69.2 Any Structure Plan shall be accompanied by detailed plans and environmental studies of the Conservation Category Wetland and its buffers on the subject site including, but not limited to:</p> <ol style="list-style-type: none">1. flora assessment;2. fauna assessment;3. wetland management plan;4. local water management strategy; <p>and</p> <ol style="list-style-type: none">5. bushfire management plan. <p>The recommendations of the above plans and environmental studies shall be</p>

		<p>implemented and any environmental assets protected in the Structure Plan and at the subdivision and/or development stages to the satisfaction of the determining authority on advice from the Department of Water and Environmental Regulation and the Department of Biodiversity, Conservation and Attractions.</p> <p>Any necessary fire management requirements should be provided for within the industrial portion of the lot and should not impact the wetland or its buffers.</p>
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- e. Amend the Scheme Map accordingly.

Dated this 14th day of December, 2020
D85/12/20

EXISTING ZONING



ZONES

- RESIDENTIAL Including Residential Planning Density Codes
- URBAN DEVELOPMENT ZONE
- RURAL LIVING - 1,2,4,10,20,X
- GENERAL RURAL
- SPECIAL RURAL
- SPECIAL RESIDENTIAL
- MIXED BUSINESS / RESIDENTIAL
- LOCAL CENTRE
- DISTRICT CENTRE
- STRATEGIC REGIONAL CENTRE
- GENERAL INDUSTRY
- INDUSTRIAL BUSINESS
- INDUSTRIAL DEVELOPMENT
- SPECIAL USE
- No.1 ADDITIONAL USE
- No.7 RESTRICTED USE
- DENSITY CODE BOUNDARY
- SCHEME BOUNDARY

RESERVATIONS

- MRPS PARKS & RECREATION (Region)
- PARKS & RECREATION (Local)
- RAILWAYS
- STATE FOREST
- WATERWAYS
- WATER CATCHMENTS
- PRIMARY REGIONAL ROADS
- OTHER REGIONAL ROADS
- PUBLIC PURPOSE (Local)
- (MRS) PUBLIC PURPOSE (Region)
- PUBLIC PURPOSE Miscellaneous Sub Categories
- CG Commonwealth Government
- TS Technical School
- HS High School
- PS Primary School
- H Hospital
- WSD Water Authority of WA
- SU Special Use
- SEC State Energy Commission
- T Telstra

NOTE: The reservations are shown diagrammatically and do not purport to represent the road reservations shown in the Metropolitan Region Scheme and information in respect to road widening requirements for these roads should be obtained from the Department of Planning

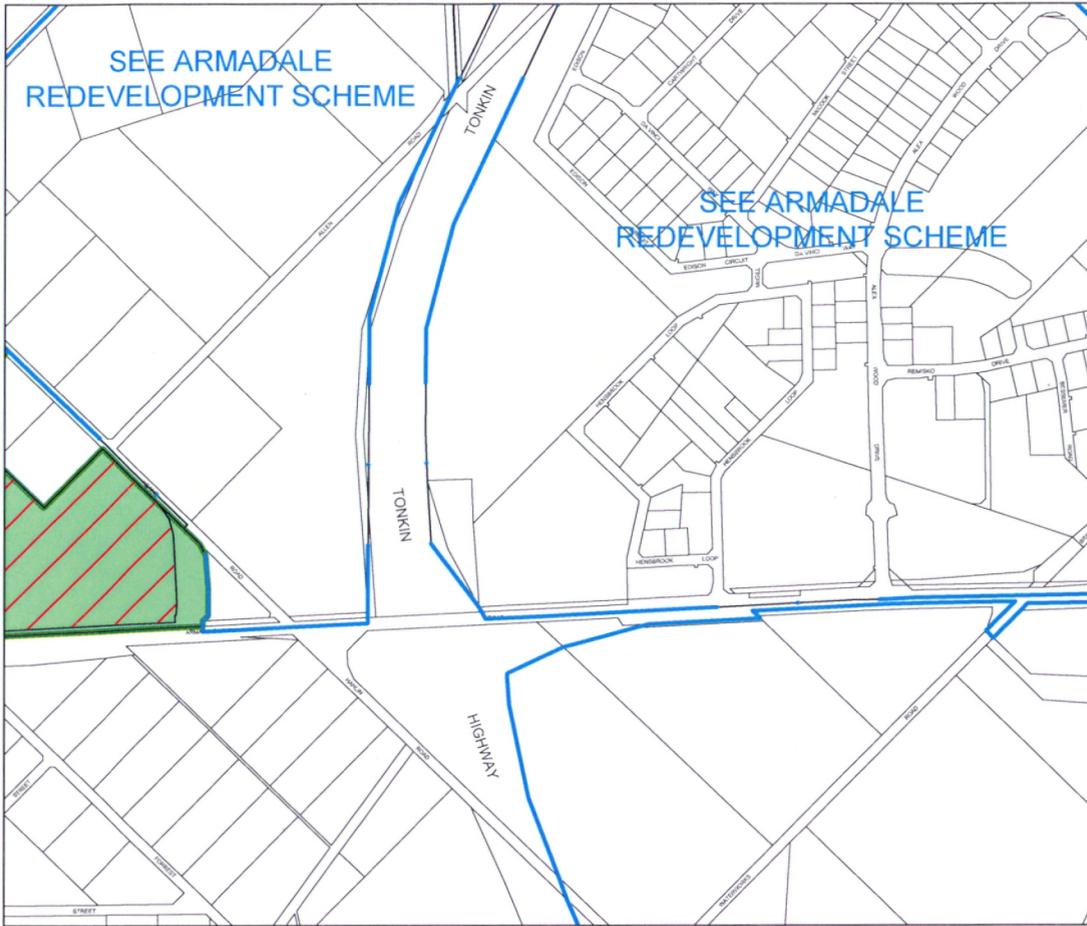
PROPOSED ZONING



AMENDMENT No. 114
City of Armadale Town Planning Scheme No. 4



EXISTING ZONING - SPECIAL CONTROL AREA MAP 3



LEGEND

-  Development Area (Structure Plan) (Schedule 8)
-  Development Contribution Area (Schedule 9A & 9B)
-  Environmental Conditions (Schedule 8)
-  Armadale Redevelopment Area Boundary

PROPOSED ZONING - SPECIAL CONTROL AREA MAP 3



NOTE: The reservations are shown diagrammatically and do not purport to represent the road reservations shown in the Metropolitan Region Scheme and information in respect to road widening requirements for these roads should be obtained from the Department of Planning

AMENDMENT No. 114

City of Armadale Town Planning Scheme No. 4
Special Control Area Map 3

DATE 5 April 2018 - REVISION 1801
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SCALE 1 : 10000

Based on information provided by and with the permission of the Western Australian Land Information Authority trading as Landgate (2012). Aerial photograph supplied by Landgate. Photomaps by NewMap.



COUNCIL ADOPTION

This Standard Amendment was adopted by Resolution D52/8/20 of the Council of the City of Armadale at the Ordinary Meeting of the Council held on the 24th day of August 2020.

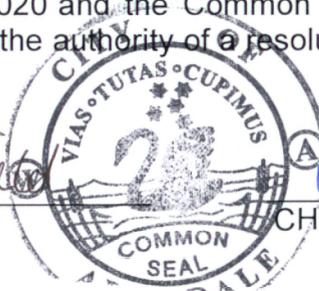

MAYOR


CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended **for support** by Resolution D85/12/20 of the City of Armadale at the Ordinary Meeting of the Council held on the 14th day of December 2020 and the Common Seal of the City of Armadale was hereunto affixed by the authority of a resolution of the Council in the presence of: (seal)


MAYOR




CHIEF EXECUTIVE OFFICER

WAPC RECOMMENDATION FOR APPROVAL


DELEGATED UNDER S.16 OF
THE PD ACT 2005

Date:- 3/5/2021

APPROVAL GRANTED

MINISTER FOR PLANNING

Date:- _____