

## **FREQUENTLY ASKED QUESTIONS**

### **AMENDMENT NO.97 TO CITY OF ARMADALE TOWN PLANNING SCHEME NO.4 – SPECIAL RURAL ZONE AND LAND USE PERMISSIBILITY CHANGES IN THE RURAL LIVING ZONE**

#### ***“Does Amendment No.97 affect the keeping of animals?”***

The inclusion of selected localities in the new “Special Rural” zone does not alter existing approvals issued by the City that involve the keeping of animals. Neither do the Amendment No.97 modifications to land use permissibility in the “Rural Living” zone alter existing approvals issued by the City involving the keeping of animals.

A ‘rural pursuit’ remains a ‘D’ (discretionary) land use in the “Special Rural” zone and therefore the City can consider new applications for land use/development that include the keeping of animals in the “Special Rural” zone under the ‘rural pursuit’ land use classification.

In the “Rural Living” zone ‘rural pursuit’ is also ‘D’ and the raising of stock (animals) may also be considered for approval under the ‘agriculture-extensive’ land use classification. ‘Agriculture-extensive’ is an ‘A’ (discretionary with advertising) land use in the “Rural Living” zone.

#### ***“Can I run a business from home?”***

The changes to TPS No.4 made by Amendment No.97 do not affect current City approved home based businesses in the new “Special Rural” zone and neither do the modified provisions for the “Rural Living” zone affect current approved home based business.

The City is able to consider new land use/development proposals that would involve running a business or carrying out an occupation by a resident/occupier of a property in the new “Special Rural” zone and “Rural Living” zone. One of the following land use classifications would apply: ‘home office’ - ‘P’ (permitted); ‘home occupation’ - ‘D’ (discretionary); ‘home business’ - ‘A’ (discretionary subject to advertising); or, the new ‘rural home business’ ‘A’ land use classification in the new “Special Rural” and “Rural Living” zones.

Persons considering carrying out a business or occupation from their place of residence should review the City’s TPS No.4, zoning table and land use definitions schedule to identify which of the above land use classifications is most appropriate to their particular proposal and/or seek advice from the City’s Planning Services.

#### ***“How does the Amendment affect the clearing of vegetation from land?”***

Amendment No.97 does not change the scheme provisions (rules) that apply to the clearing of native vegetation; the same Scheme provisions that apply to “Rural Living” zone, also apply to the new “Special Rural” zone. Clearing of native vegetation in these two (2) zones is generally only permitted in certain circumstance detailed in clause “4B.7 Remnant vegetation protection” of TPS No.4, with a number of other Scheme provision also being relevant.

Depending on the details of vegetation type, area to be cleared and location, proposed clearing of native vegetation may also be regulated by the State Government's Department of Water and Environmental Regulation through the clearing permit process. Persons considering clearing of native vegetation should review Clause "4B.7 Remnant vegetation protection" of TPS No.4, or seek advice from the City's Planning Services and/or Environmental Services.

***"What is the difference between the new "Special Rural" zone and the "Rural Living zone"?"***

The two zones have slightly different zone objectives and there are some significant differences in the set of developments/land use classes, which the City can consider new proposals for in these zones.

The Scheme objectives for the "Special Rural" zone focus on providing localities where protection of bushland and/or semi-rural lifestyles is the key consideration. The "Special Rural" zone retains the potential for residents to undertake development incidental to residential use in addition to a range of compatible small-scale agricultural uses. Land use/development in the zone is required to be sited, designed and managed to protect natural values of the locality.

Under the "Special Rural" zoning, any new proposals for land use/developments, which are potentially disruptive/deleterious to local amenity, will no longer be approved/permitted. These primarily relate to a range of commercial/tourism and social/institutional use classes, which have been prohibited to safeguard the amenity of the "Special Rural" zone residents and the local environment. These are discussed further below.

By comparison, the "Rural Living" zone objectives provide for a variety of rural living environments and supports compatible development consistent with the natural values of the site. The "Rural Living" zone has a broader set of land use/development types and includes more commercial/tourism and social/institutional use classes that the City has discretion to consider for approval.

TPS No.4 development requirements for the two zones in Part 4B of the Scheme Text i.e. setbacks, building height, site coverage, car parking, clearing of native vegetation and stocking rates for animals are the same.

For further information on land use permissibility in the two zones please refer to the Zoning Table of TPS No.4 and scheme provisions in Part 4B of the Scheme Text available on the City's web site link below:

<https://www.armadale.wa.gov.au/town-planning-scheme-and-local-planning-strategy>

***"Does Amendment No.97 affect whether I could subdivide my land?"***

No, the change of some localities to "Special Rural" zone does not affect whether land can be subdivided.

The potential to subdivide land generally depends on the land area and the scheme zoning provisions (i.e. minimum lot size requirements). The physical and environmental

characteristics of the site and the availability of utility services such as water are also critical factors. State and local planning policies concerning subdivision of land may also impact subdivision potential.

In terms of potential for subdivision, Amendment No.97 has not changed the minimum lot area requirements in the “Special Rural” zone from that applying previously under the Rural Living zone. The same minimum lot size requirements have been carried over from the former “Rural Living” zone that applied to that locality. A lot that was “Rural Living” RL1 (1 hectare minimum lot size) is now “Special Rural” SR1 (also with a 1 hectare minimum lot size) and the same for SR2 (RL2) and SR4 (RL4). Some RLX (no further subdivision) precinct lots have been allocated SR1 and SR4 to closely match their existing lot size however; this does not alter their subdivision potentials. Amendment No.97 therefore has no significant changes in respect to subdivision potential or minimum lot size requirements as applied on the Scheme map and specified in Part 4B.8 of the Scheme text.

Landowners who believe they may have potential for subdivision may wish to engage the services of a suitably qualified professional for advice, or discuss their proposal with the WAPC and/or the City’s Planning Services.

The State Government’s Western Australian Planning Commission (WAPC) is the responsible authority in respect to subdivision approvals. Local government is one of a number of agencies and service (utility) providers that the WAPC consults and seeks recommendations from in respect to subdivision proposals.

### **Minister for Transport and Planning modifications to Amendment No.97 as gazetted**

The Minister for Transport and Planning required the City to make the following modifications to the Amendment subsequent to Council’s adoption in February 2019. This followed from the WAPC’s recommendation to the Minister to further modify Amendment No.97. Not all aspects of Council’s February 2019 adoption have been incorporated into the final gazetted amendment.

The changes the Minister required prior to gazettal are outlined below.

#### **Special Rural zone**

The “Special Rural” zone was introduced into TPS No.4 for the purpose of safeguarding bushland and/or semi-rural lifestyle amenity in the areas identified to be allocated to the new “Special Rural” zone. The TPS No.4 Zoning Table for the “Special Rural” zone provides for land use/development types incidental to the residence as well as a range of small scale agricultural land uses compatible with the site and locality’s amenity and natural values. Council requested that the more intensive commercial/tourism and social/institutional development types/land uses should not be permitted in this new zone but allowing provision for in other more compatible zones.

### ***Minister's decision/modifications***

The Minister has approved the "Special Rural" zone, however, required minor modifications that two lots in Bedforddale (Lots 201& 291 Admiral Road (South)) and one lot in Champion Lakes (Lot 9001 Allen Road) originally proposed Special Rural are retained in the "Rural Living" zone.

### **Rural Living zone land use permissibility modifications**

Amendment No.97 proposed modifying the permissibility of six land uses in the "Rural Living" zone to prevent potentially disruptive and no compatible uses establishing in the "Rural Living" zone.

### ***Minister's decision/modifications***

The Minister approved modifying the permissibility of the six land uses in the "Rural Living" zone – 'civic use', 'recreation-public', 'display home centre', 'consulting rooms', 'fuel depot' and 'hospital' that are currently 'P' (permitted) or 'D' (discretionary) or 'A' (discretionary with advertising) land uses to 'X' (not permitted).

However, the Minister also required two further minor modifications to the TPS No.4 Zoning Table for the "Rural Living" zone. These alter permissibility of 'agriculture-extensive' and 'veterinary centre' land use classifications, which are changed from 'D' (discretionary) to 'A' (discretionary with advertising). This change means that development applications for these land uses need to be advertised for public comment prior to Council consideration of approval.

### **Home Occupation definition additional provision**

The City's proposal was to introduce the following provision into the 'home occupation' definition of the Scheme text:

*"h) One (1) health consultant shall not be deemed to be excluded from the Home Occupation definition by reason of the operations of Clause 3.4.1 of the Scheme Text;*

This provision was adopted by Council as a modification following advertising. The provision responded to community concerns that if 'consulting rooms' (businesses of up to 2 health consultants) became 'X' (not permitted) in the "Rural Living" and "Special Rural" zones, these zones could become deficient in health services provision. The intent of the additional provision in the 'home occupation' definition was to allow a health consultant to establish as a 'home occupation' and thereby allow potential for a small scale service that would not be detrimental to the locality.

### ***Minister's Decision/Modifications***

The Minister did not support proposed modification of the 'home occupation' definition to include reference to one (1) health consultant in the definition. The 'home occupation'

definition therefore remains unchanged by Amendment No.97 and ‘consulting rooms’ (businesses of up to 2 health consultants) became ‘X’ (not permitted) in the “Rural Living” and “Special Rural” zones in the gazetted amendment.

### **Introduction of ‘Rural Home Business’ land use to the Scheme**

This proposal introduces the ‘rural home business’ land use definition into TPS No.4 and designating the use ‘A’ (discretionary with advertising) in the “Rural Living”, “General Rural” and “Special Rural” zone of TPS No.4 and ‘X’ (not permitted) in all other zones.

### ***Minister’s Decision/Modifications***

The Minister required modifications to the ‘rural home business’ land use definition to be consistent with the land uses’ definition in State planning legislation. The main modifications were to increase the allowable area for the ‘rural home business’ activity from 100m<sup>2</sup> as proposed by the City, to 200m<sup>2</sup>, and to increase the number of vehicles servicing the business on site at any one time from 1 to 3 vehicles. The new ‘rural home business’ definition is as follows:

***rural home business*** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation —

- (a) does not involve employing more than 2 people who are not members of the occupier’s household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 200 m<sup>2</sup>; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight;

### **Rural Living Zone - additional Scheme Text provisions for ‘A’ use classes**

Amendment No.97 proposed to introduce development requirements into the Scheme Text (Clause 4B.10 ‘A’ uses in the Rural Living zone) including: ‘child care premises’, ‘club premises’, ‘community purpose’, ‘educational establishment’, ‘exhibition centre’, ‘garden centre–retail’, ‘holiday accommodation’, ‘place of worship’, ‘reception centre’, ‘recreation–private’, ‘restaurant’ and ‘winery’. These provisions proposed that the ‘A’ land use/development types in the “Rural Living” zone meet the following location specifications:

- “(a) For lots that abut or have vehicle access within 100 metres of a Primary Regional Road and/or Other Regional Road reservation under the Scheme, a minimum lot size of 2 hectares is required.
- (b) For all other locations not referred to in (a) above, a minimum lot size of 4 hectares is required.”

Council also proposed Scheme Text provisions that required applications for the above mentioned 'A' use classes to be accompanied by acoustic, traffic impact and visual impact assessment reports.

### ***Minister's Decision/Modifications***

The Minister did not support the lot size and location criteria in (a) and (b) above and the final gazettal of Amendment 97 substituted new 4B.10 provisions in their place. These include a range of matters that the City is required to now have regard to when assessing development applications for 'A' land uses. These matters, which will form part of any assessment, include the following considerations: availability of public transport, cycling and walking, out-door noise criteria, built form criteria, setbacks and separation to sensitive land uses, road capacity, on-site car parking and potential impacts from incidental and ancillary land uses.

The Minister also included the use class of 'veterinary centre' to the list of 'A' uses under clause 4B.10 in accordance with the decision to designate this land use an 'A' (discretionary with advertising), as discussed above under the heading '*Rural Living zone land use permissibility modifications*'.

Notwithstanding the Minister's modifications, the City will still be able to require submission of acoustic, visual impact and traffic impact assessment reports for development applications of 'A' land uses where these are appropriate considerations.

Further information on the final gazettal of Amendment 97 and the modifications made by the Minister and WAPC after Council's February 2019 adoption, can be found in the documents listed on the website and in Council reports. If you require more information please email [info@armadale.wa.gov.au](mailto:info@armadale.wa.gov.au) or contact the City's Planning Information Services on 9394 5000.