



Shire of Capel
Local Planning Scheme No. 8

Amendment No. 3

Summary of Amendment Details

Omnibus Amendment

Planning and Development Act 2005

RESOLUTION TO ADOPT AMENDMENT TO LOCAL PLANNING SCHEME

Shire of Capel Local Planning Scheme No.8 Amendment 3

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. Amend Table 3 – Zoning Table by:

- i) inserting a new use “Residential Building with the following permissibility designations as follows:

Land Use Class	Residential	Rural Residential	Rural	Priority Agriculture	Light Industry	General Industry	District Centre	Commercial	Mixed-Use Residential	Service Commercial	Private Community Purposes	Cultural and Natural Resource Use	Urban Development
Residential Building	D	D	D	A	X	X	X	X	D	X	X	X	Refer to clause 18 (6)

- ii) Amending “Restricted Premises in the “Mixed Use Residential” zone from “A” to “X”.

2. Delete clauses 26 (3) and (4).

3. Delete clauses 27 and 28.

4. Delete clauses 29 and 30 and replace with the following:

“29. Other planning codes to be read as part of Scheme

There are no other planning codes that are to be read as part of the Scheme.

30. Modification of planning codes

There are no modifications to a planning code that, under clause 29, is to read as part of the Scheme.”

5. Amend Schedule 3, DR2 Building Envelopes,

- i. At 1, by deleting the words “R2.5/5” in the first line of clause 1 and replacing with the words “zone, on lots greater than 4000m²”,
- ii. At 3(b), replacing the words “2(a)” with “3(a)”.

6. Amend Schedule 7 Special Control Areas as follows:

- i) Delete Additional Provision 1 in SCA4 and replace with the following:

“Notwithstanding any other provisions in this Scheme, development approval is required for any development that is noise sensitive. This clause does not apply for variations to setbacks, or if provisions of another Special Control Area apply.”

7. Amend Schedule 7 Special Control Areas as follows”

“Delete Additional Provision 2 in SCA6 and renumber subsequent Provision 3 accordingly.”

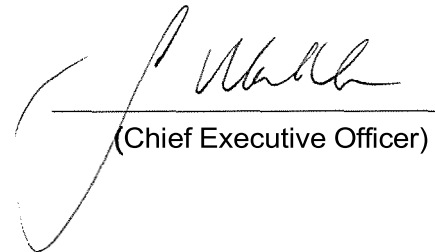
8. Amend Schedule 4 – Additional site and development requirements by zone by inserting the following clause in the District Centre zone as follows:

“7) Notwithstanding the maximum height of 12m listed above, building heights for multiple dwellings/mixed use development in accordance with the R-AC3 Code.”

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

- The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
- An amendment to the scheme to provide a modification of planning code that is to be read as part of the scheme.

Dated this 30 day of October 2024



(Chief Executive Officer)

1.0 INTRODUCTION

The Shire is seeking to initiate a standard scheme amendment for text modifications. The text changes proposed are a result of applying the scheme and seeking to remove unintended consequences and inconsistencies.

2.0 BACKGROUND

The Shire of Capel Local Planning Scheme No.8 was gazetted 17 July 2023. Since this time, a few issues have been identified and changes are proposed to improve focus and remove unnecessary impediments based on practical experience.

2.1 Process

This amendment is a Standard Amendment for the reasons that:

- The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
- An amendment to the scheme to provide a modification of planning code that is to be read as part of the scheme.

The amendment is not considered exempt from advertising to the Environmental Protection Authority (EPA) as not all components of the amendment (specially components 5 and 7) meet at least one prescribed classes of the Environmental Protection Amendment Regulations 2024 – sections 33B and 33C, specially components 5 and 7.

3.0 LOCAL PLANNING CONTEXT

The proposed changes are minor in nature and are restricted to a local implementation focus. No impacts are identified from a state and regional planning context. Further, the proposed changes have no implications for the Local Planning Strategy or for any adopted Local Planning Policies.

4.0 PROPOSAL

The proposal contains several text changes. Each element will be explained and justified in the following sections.

4.1 Amending the Zoning table

Two amendments are proposed to Table 3 (zoning table). The first is to introduce the use class “Residential Building”. This use class was left off in error and inserting the use class will resolve this. The proposed permissibility designations reflect the relationship of the proposed use with the intent of the zone objectives. Please refer to the table below that indicates the proposed permissibility designations.

Land Use Class		Residential	Rural Residential	Rural	Priority Agriculture	Light Industry	General Industry	District Centre	Commercial	Mixed-Use Residential	Service Commercial	Private Community Purposes	Cultural and Natural Resource Use	Urban Development
Residential Building	D	D	D	A	X	X	X	X	X	D	X	X	X	Refer to clause 18 (6)

The second proposed amendment is to change the use class designation of “Restricted Premises” in the “Mixed Use Residential” zone from “A” to “X”.

This is to acknowledge that this land use has potential to create unnecessary conflicts within this zone. The Mixed-Use Residential zone is likely to contain a significant proportion of residential uses.

The use “Restricted Premises” will not align with the objectives of the “Mixed-Use Residential” zone which seeks to allow a range of uses that are compatible with residential uses and not generate nuisances detrimental to the amenity, health, welfare and safety of its residents.

On this basis, it is proposed to amend the land use designation to “X” in the “Mixed-Use Residential” zone.

4.2 Modifications to R-Codes

It is proposed to delete clauses 26 (3) and (4). These clauses are worded as follows:

“(3) Within areas coded R15, the other/rear setback shall be assessed in accordance with the R20 Code.

“(4) For lots coded Residential R2.5 and R5, the minimum setback from side boundaries shall be 6 metres.”

The Residential Design Codes provides scope for these variations to be addressed through a Local Planning Policy. Using a Local Planning Policy provides improved flexibility and adaptability.

4.3 References to State Planning Policy

It is proposed to:

- a) remove clauses 27 and 28; and
- b) amend clauses 29 and 30 to reflect model provisions.

These changes are to reflect the wording and intent of Planning and Development (Local Planning Schemes) Regulations 2015.

4.4 Amend Schedule 3

Several changes are proposed to Schedule 3. These will be discussed separately below.

4.4.1 Item 1 – removing the need for building envelopes for lots below 4000m²

Significant areas of R5 coded properties contain historical development and do not have a building envelope. These lots are usually of a limited scale (primarily around 2000m²). The building envelope restrictions for lots of these sizes are overly restrictive (maximum 25% of lot) and serve limited benefit, when accounting for setbacks.

The proposed changes are to remove the need for a building envelope for lots under 4000m². This is intended to remove unnecessary restrictions and delays in the assessment process. The wording is to only require building envelopes for lots above 4000m² where there the property size provides potential to contain development and preserve remnant vegetation.

It is considered reasonable that built form outcomes for lots below 4000m² can be addressed through setback standards and a local planning policy that specifies specific outcomes that are to be achieved.

In instances for new subdivisions that will result in lots 4000m², there is potential to introduce site specific controls through a Local Development Plan to address environmental features are protected or streetscape outcomes achieved. This will enable site appropriate application of controls where necessary as opposed to a blanket approach.

4.4.2 Item 2 – correcting reference error

It is proposed to remove a reference error, as per the following:

Amend Schedule 3, DR2 Building Envelopes by replacing the words “2(a)” in clause 3(b) with “3(a)”.

This is to ensure that the correct reference is detailed.

4.5 Amendment to Special Control Area 4 – Transport Corridors

This proposed change to SCA4 is to amend Provision 1 by deleting it and replacing with the following:

“Notwithstanding any other provisions in this Scheme, development approval is required for any development that is noise sensitive and/or uses that directly increase potential traffic generation on a key traffic route. This clause does not apply for variations to setbacks, or if provisions of another Special Control Area apply.”

This change is to refine the nature and type of development that the Special Control Area requires to be called in for approval. This will ensure that the objective of the Special Control Area is satisfied without the need to capture all land use and development.

4.6 Amendment to Special Control Area 6 – Strategic Minerals and Basic Raw Materials

This proposed change to SCA 6 is to delete Additional Provision 2.

This change is to focus referrals to state agencies on development that is of a scale and nature that has potential to adversely impact on future or existing extraction areas. This will enable smaller scale extensions to outbuilding and like to not require referral.

Amending this provision will remove unnecessary assessment requirements and allow focus on applications that require scrutiny to ensure that they will not constrain extraction of basic raw materials.

4.7 Amendment to Schedule 5 – Additional Site and Development Requirements

It is proposed to insert the following provision relating to the District Centre zone:

- “7) Notwithstanding the maximum height of 12m listed above, building heights for multiple dwellings/mixed use development in accordance with the R-AC3 Code.”

This change is proposed to align with the R-AC3 Code which allows for a maximum height of 6 stories or 21m. This is intended to act to encourage multiple dwellings/mixed use development in the District Centre with the goal to promote development opportunities, housing diversity and activating the locality.

5.0 CONCLUSION

The proposed changes to the scheme text are minor in nature and will assist in streamlining processes and removing the need for unnecessary approvals for minor development that do not generate adverse land use or amenity impacts.

Support for the text changes is requested.

Planning and Development Act 2005

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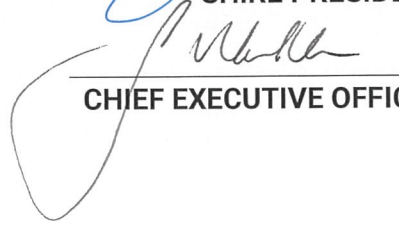
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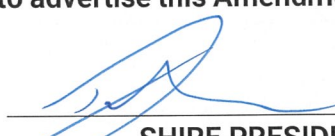
COUNCIL ADOPTION

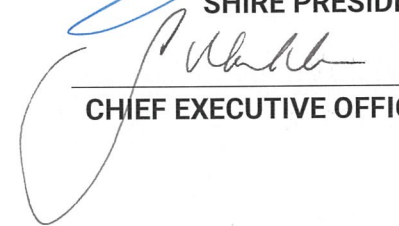
This Standard Amendment was adopted by resolution of the Council of the Shire of Capel at the Ordinary Council Meeting of the Council held on the 30 day of OCTOBER 2024.


 SHIRE PRESIDENT


 CHIEF EXECUTIVE OFFICER
COUNCIL RESOLUTION TO ADVERTISE

By resolution of the Council of the Shire of Capel at the Ordinary Council Meeting of the Council held on the 30 day of OCTOBER 2024, proceed to advertise this Amendment.


 SHIRE PRESIDENT


 CHIEF EXECUTIVE OFFICER
COUNCIL RECOMMENDATION

This Amendment is recommended _____ by resolution of the Shire of Capel at the _____ Meeting of the Council held on the _____ day of _____ 20__ and the Common Seal of the Shire of Capel was hereunto affixed by the authority of a resolution of the Council in the presence of:

 SHIRE PRESIDENT

 CHIEF EXECUTIVE OFFICER
WAPC ENDORSEMENT (r.63)

 DELEGATED UNDER S.16 OF
 THE P&D ACT 2005

DATE _____

APPROVAL GRANTED

 MINISTER FOR PLANNING

DATE _____