



City of Swan

Local Planning Scheme No.17

Amendment No. 238

Rezone 18 lots in Viveash from 'General Industrial' and 'Local Road' to 'Residential Development' and insert a 'Restricted Use' over this same land.

Planning and Development Act 2005

RESOLUTION TO PREPARE AMENDMENT TO LOCAL PLANNING SCHEME

City of Swan Local Planning Scheme No.17 Amendment No.238

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

- a. Amend the Scheme map to:
 - i. Reclassify 18 lots in Viveash (Lot 167- Lot 169 Surrey Way; Lot 160 and Lot 161 Somerset Street; Lot 162 – Lot 166 and Lot 195 – Lot 198 Harford Avenue; portion of Lot 72 Eveline Road; portion of Lot 9002 Eveline Road; and Lot 9008 and Lot 9010 Eveline Road, Viveash) from 'General Industrial' and 'Local Road' to 'Residential Development'.
 - ii. Insert a Restricted Use 'R [tbc]' over the same land that will be reclassified to the 'Residential Development' zone.
- b. Insert into Schedule No.3 – Restricted Uses the following:

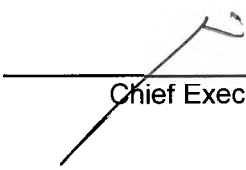
No.	Description of Land	Restricted Use	Conditions
[tbc]	• Lot 167 – Lot 169 on Plan 9113 Surrey Way, Viveash; • Lot 160 – Lot 161 on Plan 9113 Somerset Street, Viveash; • Lot 162 – Lot 166 and Lot 195 – Lot 198 on Plan 9113 Harford Avenue, Viveash; • Portion of Lot 72 on Deposited Plan 408605 Eveline Road, Viveash; • Portion of Lot 9002 on Deposited Plan 421407 Eveline Road, Viveash; • Lot 9008 on Deposited Plan	All conditions of this clause shall be satisfied in order for residential development to be capable of approval on this land.	1. Prior to subdivision, the Applicant shall demonstrate it has scoped, designed, implemented and validated noise mitigation measures from: a. Industrial operations located on Lot 72 Eveline Road, Viveash (which includes the Clay Sheds, and may include other Brickworks and Masonry Facility activities) until decommissioned; and b. Brickworks and Masonry Facility activities located north of Bassett Road, Middle Swan. The Applicant shall demonstrate that noise emissions comply with the Environmental Protection (Noise) Regulations 1997 to the satisfaction of the Western Australian Planning Commission in consultation with the Department of Water and Environmental Regulation to ensure that residential development is not adversely impacted by existing industrial operations in adjoining areas. Subdivision

	400991 Eveline Road, Viveash; and • Lot 9010 on Deposited Plan 428303 Eveline Road, Viveash; As depicted on the Scheme Map.		shall not be permitted within 300m of the Clay Shed while it remains operational. 2. Subdivision and residential uses are prohibited unless the land is appropriately classified under the <i>Contaminated Sites Act 2003</i> for the intended purposes.
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The amendment is complex
under the provisions of the *Planning and Development (Local Planning Schemes)
Regulations 2015* for the following reason(s):

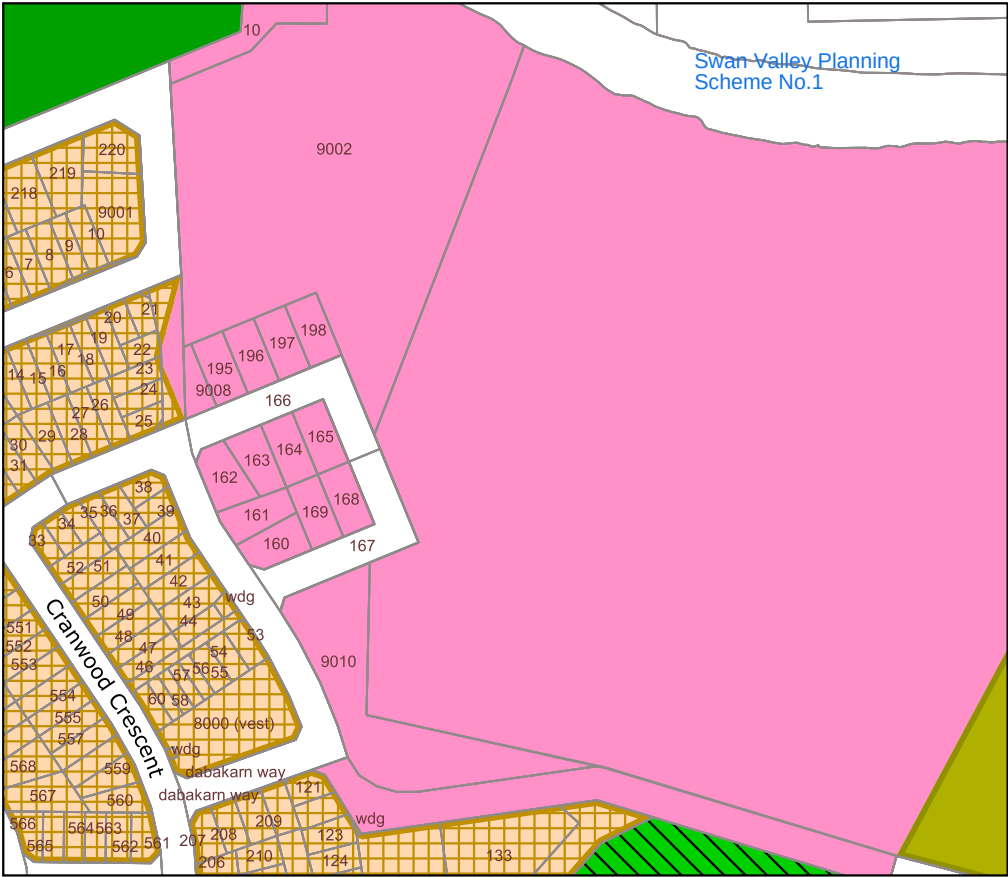
- a. The need to manage the industrial interface along a significant length of the Amendment's boundaries means that it is considered to be of a scale, or will have an impact that is significant, relative to development in the locality;
- b. It is not considered to be a 'standard amendment' because it is considered to have more than a minimal impact on surrounding land and the land's 'potentially contaminated' status in the Department of Water and Environmental Regulation's contaminated site database raises environmental and governance issues; and
- c. It is not considered to be a 'basic amendment' because it is not an administrative exercise.

Dated 11th day of March, **20** 26

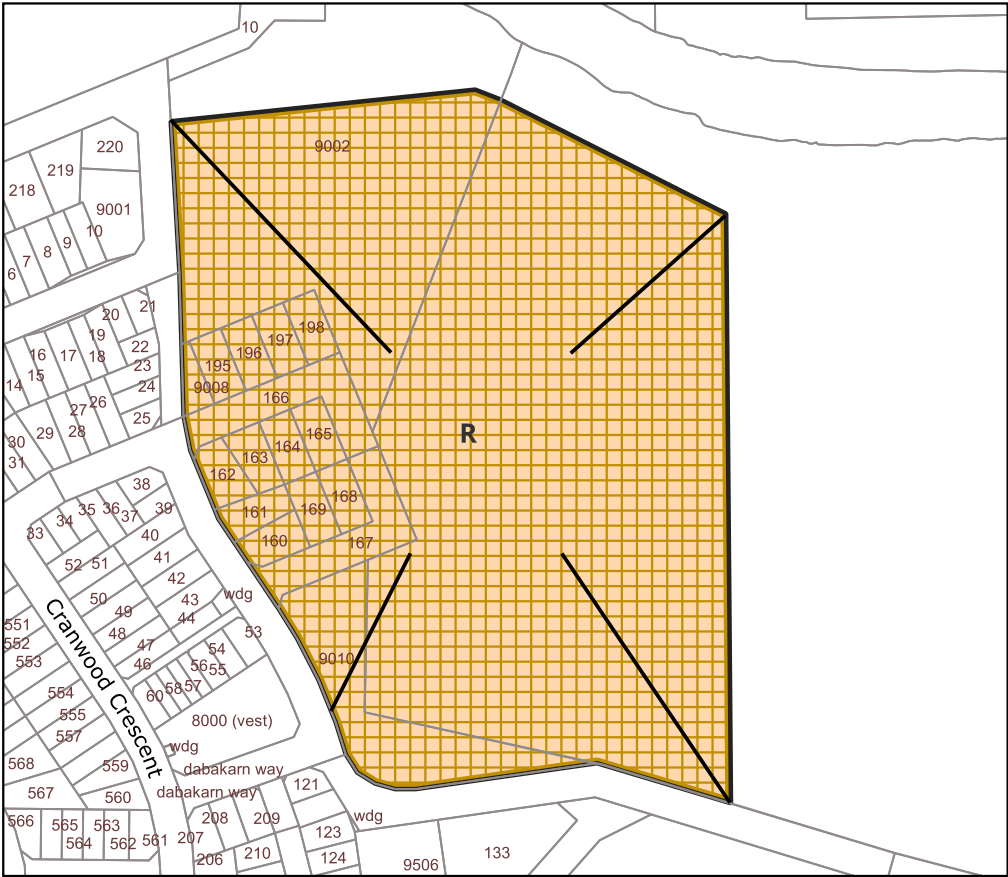


Chief Executive Officer

LOCAL PLANNING SCHEME No.17 - AMENDMENT No. 238



EXISTING ZONING



PROPOSED ZONING

LEGEND

REGIONAL SCHEME RESERVES

 PARKS & RECREATION

LOCAL SCHEME RESERVES

 LOCAL ROAD

 RECREATION

 PRIVATE CLUBS & INSTITUTIONS

LOCAL SCHEME ZONES

 GENERAL INDUSTRIAL

 RESIDENTIAL DEVELOPMENT

OTHER CATEGORIES

 RESTRICTED USE

0 50 100 150 200 250 300 350 400 450 500 m

Scale 1:5000



February 2026

SCHEME AMENDMENT REPORT

CONTENT PAGE

Local Government	City of Swan
Name of Scheme	Local Planning Scheme No.17
Amendment Number	238
Amendment type	Complex
Proposal (at initiation)	Rezone 18 lots in Viveash from 'General Industrial' and 'Local Road' to 'Residential Development' and insert a 'Restricted Use' over this same land.
City of Swan Ref.	LPS17-238

CONTENT

Cover Page

Form 2A **Resolution to prepare / adopt amendment**
• Includes Amendment Map

~~Section 83A changes requested by Minister~~

Report Content and Document Control Pages

1. Introduction
2. Site and context analysis
3. State planning framework
4. Local planning framework
5. Proposal
6. List of appendices
7. Executive Summary

Advertised amendment Key pages that explain how the scheme is changing, as advertised.
• Includes instructions (resolution text) on how the scheme is to be amended - as advertised
• Includes Amendment Map - as advertised

Form 6A Signing page

DOCUMENT CONTROL:

Rev.	Summary	By	Date
00	At initiation	City of Swan	30.03.2026

1. INTRODUCTION

1.1 Purpose of amendment

At initiation, Amendment No.238 to City of Swan Local Planning Scheme No.17 seeks to amend the scheme text and map as follows:

- Reclassify portions of 18 properties in Viveash from 'General Industrial' and 'Local Road' to 'Residential Development' (approx. 11.5758 ha).
- Insert a 'Restricted Use' over this same land to limit the capacity of the land from being subdivided and developed for residential purposes until noise mitigation measures from the Midland Brick operations have been implemented and the land has been rehabilitated from contamination.

At initiation, it involves approx. 11.5758 ha (combined) of land in Viveash that generally borders Eveline Road and is historically associated with the Midland Brick site.

The precise changes proposed are in the resolution pages and the amendment map.

It is an applicant-driven request, submitted by SLR Consulting (Element Advisory) on behalf of the landowner Hesperia. It represents Hesperia's intentions to relinquish the industrial zoning of this land so that the subject site can subsequently be structure planned and subdivided for predominantly residential development purposes, with associated local roads, public open space and the option for a local centre.

It is also a scheme amendment that seeks to make City of Swan Local Planning Scheme No.17 compliant with the region scheme, recognising the existing 'General Industrial' zone does not conform with the land's 'Urban' classification in the Metropolitan Region Scheme and needs review.

1.2 Reason for type of amendment

At initiation, Amendment No.238 is considered 'complex' for reasons explained in Form 2A resolution pages of this document and in the relevant Council minutes.

See the Form 2A resolution pages at the front of this document for more information.

The 'complex amendment' process entails a 60-day public consultation period following the receipt of comments and consents from the WAPC and the EPA.

2. SITE AND CONTEXT ANALYSIS

2.1 Location, spatial area and ownership

At initiation, the spatial area is approx. 11.5758ha (combined) with the location depicted on the following page. In October 2025, Amendment No.238 involves eighteen (18) properties in Viveash with the land's details and ownership described in Table 1 below.

Table 1: Land details and ownership

Street Address	Lot no.	Vol/Folio	Owner(s)	Gross Area (ha)
Lot 167 Surrey Way, Viveash	167	1366/686	Lots 159 To 197 Middle Swan Pty Ltd	0.2766
Lot 168 Surrey Court, Viveash	168	1336/327	Lots 159 To 197 Middle Swan Pty Ltd	0.0810
Lot 169 Surrey Way, Viveash	169	1336/328	Lots 159 To 197 Middle Swan Pty Ltd	0.0810
Lot 160 Somerset Street, Viveash	160	1336/619	Lots 159 To 197 Middle Swan Pty Ltd	0.0840
Lot 161 Somerset Street, Viveash	161	1336/320	Lots 159 To 197 Middle Swan Pty Ltd	0.0835
Lot 162 Harford Avenue, Viveash	162	1336/321	Lots 159 To 197 Middle Swan Pty Ltd	0.0906
Lot 163 Harford Avenue, Viveash	163	1336/322	Lots 159 To 197 Middle Swan Pty Ltd	0.0906
Lot 164 Harford Avenue, Viveash	164	1336/323	Lots 159 To 197 Middle Swan Pty Ltd	0.0810
Lot 165 Harford Avenue, Viveash	165	1336/324	Lots 159 To 197 Middle Swan Pty Ltd	0.0810
Lot 166 Harford Avenue, Viveash	166	1336/685	Lots 159 To 197 Middle Swan Pty Ltd	0.2889
Lot 195 Harford Avenue, Viveash	195	1336/334	Lots 159 To 197 Middle Swan Pty Ltd	0.0809
Lot 196 Harford Avenue, Viveash	196	1336/335	Lots 159 To 197 Middle Swan Pty Ltd	0.0810
Lot 197 Harford Avenue, Viveash	197	1336/336	Lots 159 To 197 Middle Swan Pty Ltd	0.0810
Lot 198 Harford Avenue, Viveash	198	1336/337	Lots 198 To 221 Middle Swan Pty Ltd	0.0810
Lot 9008 Eveline Road, Viveash	9008	4023/985	Lots 159 To 197 Middle Swan Pty Ltd	0.0504
Lot 9010 Eveline Road, Viveash	9010	4037/315	Lot 9000 Middle Swan Pty Ltd	0.6913
Portion of 44 Eveline Road, Viveash	72	1710/782 1920/915	Lot 72 Middle Swan Pty Ltd	30.4274**
Portion of Lot 9002 Eveline Road, Viveash	9002	2898-388	Lot 23 Middle Swan Pty Ltd	3.7143**

***Note this value represents the gross area of the lot and not the rezoning area.*

2.2 Current zones and land uses

At initiation, the subject site is zoned 'Urban' in the Metropolitan Region Scheme (MRS). 16 of the 18 lots are zoned 'General Industrial' in LPS 17 with the remaining two (2) lots (Lot 167 Surrey Way and Lot 166 Harford Avenue) reserved as a 'Local Road'.

The subject site consists of surplus industrial buildings, structures and hardstands previously used for the storage of bricks, brickmaking and other incidental industrial or office activities. Note the subject site is no longer located in Midland Brick's licensed area and is located approx. 308m from its boundaries.

2.3 Geology, topography and landscapes (existing situation)

These were assessed as part of earlier and wider studies that have informed the Metropolitan Region Scheme Amendment, which also considered the subject site within the context of the wider redevelopment of the Midland Brick land south of Bassett Road.

In summary, the applicant advises that these studies and reports find no restricted landforms or unique geological features within the subject site, limiting the potential rezoning of the subject land for structure planning purposes.

Topographical features were found to vary between 3 m AHD to 16 m AHD. The site has been modified for industrial use to have flat areas at 5mAHD in locations nearer to the Swan River but note proposed Amendment No.238 area does not include or abut the Swan River or include land the subject of MRS Amendment No.1395/57.

Further information can be found in the technical appendices, like the LWMS.

2.4 Water (existing situation)

The applicant contends there are no surface water features have been identified within the site, however, the subject site is located adjacent to the Swan River and a tributary of the Blackadder Creek. The current stormwater system of this industrial land comprises various storage ponds for attenuation and settlement of stormwater and a series of outlets to Swan River and Blackadder Creek Tributary.

Further information and responses can be found within 3.2.6 of this report and in the technical appendices, specifically the LWMS, including details of groundwater.

2.5 Heritage (existing situation)

The subject site is outside but near the boundary of the registered Aboriginal Heritage Site 'Swan River' (ID 3536) where future disturbance to the banks or beds of the Swan River will require consent under Section 18 of the *Aboriginal Heritage Act 1972*.

Disturbances will require consent but note that Amendment No.238 does not propose to rezone land that immediately abuts the Swan River. It is further observed that the adjoining MRS Amendment No.1395/57 area provides additional separation between the subject site and the heritage values of the Swan River. Further investigations will be ongoing and monitored at the subsequent planning stages, having regard to whatever is the outcome of MRS Amendment No.1395/57.

The applicant advises that early Aboriginal cultural heritage engagement has commenced with The Whadjuk Elder Design Guidance Outcomes Report (2022) prepared by Karrda and The Fulcrum Agency for the entirety of the Rivermark project (including the subject land). The report provides research and backgrounding to the site and develops a series of built environment outcomes and cultural narratives for the Rivermark residential development to inform future planning stages. The applicant advises that opportunities have been identified as part of this engagement with the Whadjuk Elders including cultural verge gardens across the Rivermark project.



Data Credits: Landgate, MRWA, City of Swan, DPLH, ...

LEGEND:

- Subject site
- Cadastre

SCHEME AMENDMENT 238

Location Plan (LPS17-238)

0 50 100 150 200 m



3. STATE PLANNING FRAMEWORK

3.1 Metropolitan Region Scheme

The subject site has been zoned 'Urban' in the Metropolitan Region Scheme (MRS) since 30 October 1964. The 'Residential Development' proposed by this local planning scheme amendment is clearly more compliant with the land's underlying MRS 'Urban' zone and this is the key motivation for this amendment. Further rationale and justifications are given in Section 5.2.1 and in the headings below.

3.1.1 Why is it noncompliant?

The reason why the local planning scheme is inconsistent with the MRS (since 30 October 1964) is due to the historical industrial use of the land as part of Midland Brick wider operations. The landowner of these lands (and of the wider Midland Brick site) now seeks to relinquish their industrial zoning rights to facilitate urban residential development and are consolidating industrial operations on land east and north-east of the site, with the intent to reduce Midland brick's footprint to land north of Basset Road.

The applicant submitted this request to rezone this land in October 2025 and this has prompted the need to review the current 'General Industrial' to a local zone more compatible with the land's 'Urban' zoning in the Metropolitan Region Scheme.

3.1.2 Does it seek to rezone land within MRS Amendment No.1395/57, as advertised?

No.

Proposed Amendment No.238 only seeks rezone those portions of the 18 properties that are already appropriately zoned 'Urban' in the Metropolitan Region Scheme (MRS) in February 2026 to achieve conformity. This is approx. 11.5758 ha in area (combined).

For context, MRS Amendment No.1395/57 (Rationalisation of Midland Brick Landholdings), proposes to transfer approximately 23.7 ha of land (outside but adjoining the Amendment No.238 area) from the 'Rural' and 'Industrial' to the 'Urban' zone and 'Regional Open Space' reserve in the Metropolitan Region Scheme (MRS). It has been advertised and it is still under consideration by the WAPC in February 2026. Whether or when MRS Amendment No.1395/57 is finalised is beyond the scope of this scheme amendment but it is considered that the proposed 'Residential Development' zone and 'Restricted Use' can integrate with whatever is decided on that other proposal.

In proceeding, it is noted that the applicant's initial request of October 2025 did seek to rezone a small strip of MRS 'Rural' land located north of the subject site on part of Lot 72 and 9002 Eveline Road, Viveash (approx. 1.0475ha), contending that this land is proposed to be rezoned from MRS 'Rural' to 'Urban' in the advertised version of MRS Amendment No.1395/57. The approx. 1.0475 ha of MRS 'Rural' zoned land was excluded on the grounds that MRS Amendment No.1395/57 was under assessment in February 2026 and its outcome less than certain. As such, including this 1.0475 ha area was considered contrary to orderly and proper planning. For more details, see the relevant Council minutes of its 11 March 2026 Ordinary Meeting that initiated proposed Amendment No.238. This was raised with the applicant and proponent before Council made its decision, of which the applicant accepted at the time.

3.2 State Planning Policies

3.2.1 Industrial Interface considerations **State Planning Policy No.4.1 – Industrial Interface**

State Planning Policy 4.1 - Industrial Interface (SPP 4.1) seeks to protect industry and infrastructure facilities from the encroachment of incompatible land uses and ensure that planning decisions consider the locational constraints of these land uses. The policy seeks to prevent conflict between industries and sensitive land uses.

The EPA's Environmental Protection Guidance Statement No. 3 - Separation Distances Between Industrial and Sensitive Land Uses, provides guidance on which land uses require separation and recommends appropriate separation distances. In relation to the manufacture of clay bricks, a generic buffer distance of 300m - 1,000m (depending on size) is recommended unless a site-specific assessment is undertaken. At its closest point at initiation, the subject site is 308m from the prescribed licensed area boundary (i.e. within the 300-1,000m generic buffer distance); therefore SPP 5.1 is an active consideration for this scheme amendment but it is noted that it is outside 300m (308m) from the Prescribed Premise boundary (Existing licence ref: L4511/1967/14).

It is considered that this amendment's textual control provisions best demonstrate this scheme amendment's compliance with SPP 4.1. The potential impact of emissions from ongoing and transitional industrial operations is proposed to be managed by the textual control proposed. At initiation this is in the form of a Restricted Use overlay, which is considered the optimal tool to limit land use permissibility, compared to alternatives.

The suitability of the proposal is further explained in section 5 of this report. The mandatory referral to the EPA will give the state's leading environmental agencies the opportunity to review this approach and give advice before the amendment is advertised. If the EPA is unsatisfied with the textual controls or the land's readiness for urban uses, it has powers to require an environmental review, further investigations and/or changes before it makes a decision, or they may provide advice with their decision.

3.2.2 Bushfire considerations **State Planning Policy No.3.7 – Bushfire**

State Planning Policy 3.7 - Bushfire (SPP 3.7) seeks to implement effective, risk-based land use planning and development which in the first instance avoids the bushfire risk, but where unavoidable, manages and/or mitigates the risk to an acceptable level.

A small northern portion of the subject site is identified as bushfire prone in the state's mapping. While the applicant has not submitted a Bushfire Management Plan (BMP) specific to the subject site area, it is noted that a BMP was prepared in support of the adjoining MRS Amendment No.1395/57, which assessed the same vegetation and risks. The WAPC advised in their report for this MRS amendment that the BMP had been approved by DFES.

In light of the above, the risk of bushfire is not considered an impediment for this type of scheme amendment, as well as because:

- the site is capable of providing at least 2 access routes in the event of emergencies;
- most of the subject sites are cleared (consisting of industrial hardstands) with vegetation posing a risk generally located on land in control of landowner; and

- detailed investigations can be undertaken at the structure planning stage, which is when the street-lot layout, access points and densities can be interrogated. It is a mandatory requirement at all subsequent planning stages for bushfire risks to be addressed, thereby ensuring the risk of bushfire will be continually assessed and appropriately managed.

3.2.3 Aircraft Noise considerations

State Planning Policy 5.1 - Land Use Planning in the Vicinity of Perth Airport

State Planning Policy No. 5.1 - Land use Planning in the Vicinity of Perth Airport (SPP 5.1) acknowledges the fundamental importance of Perth Airport to the continued economic development of Western Australia, and the impacts of airport noise on sensitive land uses (i.e. residential development). SPP 5.1 is predicated on the Australian Noise Exposure Forecast (ANEF), which was prepared by Perth Airport in consultation with Airservices Australia.

Previously, under Perth Airport's 2020 mapping of aircraft noise exposure levels, the majority of the site was affected by the 20-25 Aircraft Noise Exposure Contour (ANEF) and therefore it would need to be assessed against the requirements of SPP 5.1. This policy stipulates that residential development within the 20-25 ANEF contours are conditionally acceptable and recommends a maximum residential density of R20.

The latest 2026 endorsed mapping for forecast aircraft noise exposure levels now shows the site is outside and below the 20 ANEF contour, where SPP 5.1 recommends no restrictions on density or the development of the land. Landowners may or will have to install noise mitigation measures for other noise emission sources (such as nearby industrial land uses) but for the purposes of SPP 5.1 and aircraft noise, it is considered the proposal is compliant with this state planning policy.

3.2.5 Remnant vegetation considerations

RE: State Planning Policy No.2.8 – Bushland policy for the Perth Metropolitan Region

State Planning Policy 2.8 - Bushland Policy for the Perth Metropolitan Region (SPP 2.8) aims to provide an implementation framework that will ensure bushland protection and management issues are addressed and integrated with broader land use planning and decision-making. In general, the policy does not prevent development where it is consistent with policy measures and other planning and environmental considerations.

Amendment No.238 is considered to be compliant with the intent of SPP 2.8 as the vast majority of the subject site consists of industrial hardstands and is cleared of vegetation. What vegetation exists within the subject site (being land zoned 'Urban' in the MRS in Feb 2026) is located to the western and northern edges of the site, with more significant vegetation located outside the scheme amendment's boundaries in the adjoining MRS Amendment No.1395/57 area and broader Rivermark Area 4 location. The applicant reports that vegetation exists within the subject site is 'completely degraded' vegetation, with no identified Threatened Ecological Communities (TEC) or significant flora or fauna.

The need to retain remnant vegetation in either public open space or future road reserves will be investigated and addressed at the subsequent planning stages. The requirement for a structure plan will ensure that further investigations can take place and will inform the design and subsequent planning.

3.2.6 Water management considerations
RE: State Planning Policy 2.9 - Water

State Planning Policy 2.9 - Planning for Water (SPP 2.9) seeks to ensure that planning and development considers water resource management to achieve optimal water resource outcomes at the various stages of the planning process.

Relationship to wider higher-level district water management reporting:

The WAPC reports through the MRS Amendment No.1395/57 report (which involves land outside but immediately north and east of the subject site) that the Department of Water and Environmental Regulation has endorsed a District Water Management Strategy (DMWS), which plans and encompasses the subject site as well as the MRS Amendment No.1395/57 area. In this respect the proposed Amendment No.238 complies with the intent of State Planning Policy 2.9 to holistically manage water across the wider Midland Brick site and redevelopment area.

Water management reporting submitted by the applicant in support of this proposal:

The applicant has submitted a Local Water Management Strategy (LWMS), which is included as an appendix of this report. It reports that due to onsite clay soils, infiltration across the subject site is limited with stormwater primarily managed through offsite discharge. The LWMS identifies that the staging of stormwater changes will be key to ensure site infiltration, detention areas and post-development flow rates, water quality and sediment controls from outlets are best practice and fit-for-purpose.

In reading this LWMS, it must be noted that:

- At initiation the rezoning area was reduced in size from 12.6233 ha to 11.5758 ha (i.e. it only involves land that is zoned 'Urban' in the MRS in February 2026);
- Amendment No.238 area does not include any land that adjoin the Swan River, its foreshore area, land the subject of MRS Amendment No.1395/57, as advertised.
- This technical document is considered to provide district-level guidance due to the changes in the site area. Further investigations and reporting can and will be done at the subsequent structure plan stage as well as at the subsequent planning stage to ensure the LWMS is recalibrated to reflect the final rezoning and structure plan area.

Findings

It is considered that proposed Amendment No.238 doesn't result in any water management issues that cannot be overcome at the subsequent planning stages. More detailed investigations and reporting are required, which can and will take place at the structure planning stage (which is a requirement of the proposed zone to inform subdivision and development) and subsequent subdivision stages.

4. LOCAL PLANNING FRAMEWORK

4.1 Local planning strategy

Proposed Amendment No.238 is compatible with overall intent of the Local Planning Strategy by enabling urban development (through a structure plan) on land that has historically been zoned 'Urban' in the Metropolitan Region Scheme in a location near employment opportunities and the Midland Strategic Metropolitan Activity Centre.

While not identified on City of Swan's Local Planning Strategy's maps for rezoning these maps were prepared and endorsed at the time the land was used for brickworks operations. With landowner now seeking urban development opportunities (and consolidating industrial activity east of the site), this brings into question the need to keep it industrial; especially when it is classified 'Urban' in the MRS.

4.2 Consideration of Local Planning Scheme

The proposed 'Residential Development' zone and restricted uses are compliant with the existing scheme. At initiation, the numbering of the restrict use is "TBC" which will be updated nearer to a final decision.

4.3 Consideration of the status of the local planning scheme review

The City of Swan is advancing a draft replacement Local Planning Scheme No.18, which in mid-February 2026 was awaiting consent to advertise. While the replacement scheme is in draft form and has yet to be advertised, it is considered that Amendment No.238 is compatible and can be easily incorporated when that replacement scheme is finalised.

The status of the draft replacement scheme is the main reason why the Restricted Use number was vacant or "tbc" (to be confirmed) when initiated by Council; to minimise the need for renumbering and / or further administrative changes.

It is noted that the draft replacement scheme seeks to replace the 'Residential Development' zone with the 'Urban Development' zone. Both the 'Urban Development' and 'Residential Development' zones require structure planning and the differences between the two zones are superficial. The assessment question here is whether Amendment No.238 should use the replacement scheme's 'Urban Development' zone or employ the existing scheme's 'Residential Development' zone.

Given the status of the draft replacement scheme in February 2026 and that this is an amendment the existing scheme, at initiation Amendment No.238 proposes to use the existing scheme's 'Residential Development' zone.

Whether and when 'Residential Development' zoned lands are converted to 'Urban Development' has scheme-wide implications, affecting mapping changes beyond the subject land. Such a change ought to be being contemplated through draft replacement Local Planning Scheme No.18 and not this site-specific scheme amendment. Initiation is the start of the process so decision makers will have the opportunity to invite comment on this matter and monitor this position, if required, should draft Local Planning Scheme No.18 sufficiently advance before a final decision is made on Amendment No.238.

5. PROPOSAL

5.1 Detailed description of the amendment

Proposed Amendment No.238 to City of Swan Local Planning Scheme No.17 is an applicant-driven request submitted by Element Advisory Pty Ltd, on behalf of Hesperia. It entails approx. 11.5758 ha of land (combined) in Viveash, located north of Eveline Road.

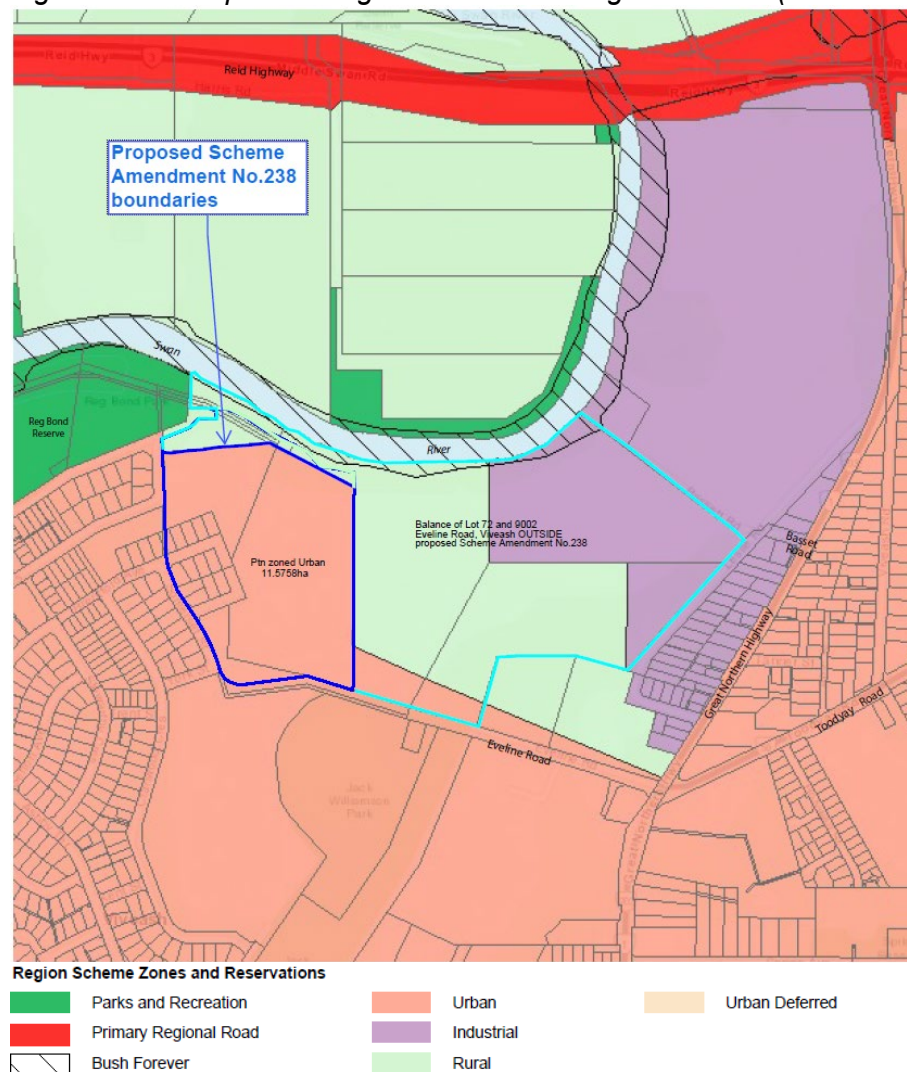
At initiation, it seeks to reclassify parts of 18 properties in Viveash from 'General Industrial' and 'Local Road' to 'Residential Development' and apply a 'Restricted Use' over this same land. The 'Restricted Use' is proposed to limit the capacity of the land to be developed for residential purposes until mitigation measures from noise from the industries have been affected and the land has been rehabilitated of any contamination.

See the advertised amendment pages for the specific details on how the scheme is changing, at the time this Scheme Amendment is advertised for public comment

It is landowner's intentions to rezone the subject land so it can subsequently be structure planned and subdivided for predominantly residential development, with associated local roads, public open space and the option for a local centre.

If approved, it will resolve an anomaly between the local planning scheme and the state's Metropolitan Region Scheme (MRS) by reviewing the existing 'General Industrial' zone to a local zone that conforms with the land's 'Urban' zoning in the MRS.

Figure 1 – Metropolitan Region Scheme zoning of the land (in February 2026)



5.2 Planning justifications

See the advertised amendment pages for the specific details on how the scheme is changing, at the time this Scheme Amendment is advertised for public comment

5.2.1 It is a requirement under *Planning and Development Act 2005* for a Local Planning Scheme to conform with Metropolitan Region Scheme (MRS)

Clause 124 of the *Planning and Development Act 2005* requires that a local planning scheme conforms with a Region scheme. The current 'General Industrial' zoning of the lands under the City of Swan Local Planning Scheme No.17 does not conform with the lands zoning as 'Urban' under the Metropolitan Region Scheme. This needs to be amended and this is the primary motivation & need for proposed Amendment No.238.

Also see Section 3.1 of the report for more discussions on the MRS and rationale.

5.2.2 Suitability of the proposed 'Residential Development' zone

'Residential Development' is an existing zone in Local Planning Scheme No.17 that requires the preparation and adoption of a structure plan to guide development. This zone is considered fit-for-purpose as it will allow further detailed investigations into bushfire risk, water, interface and access to take place to inform the layout and design.

The subject site also has a number of locational advantages for future urban development and uses through a structure plan. These include:

- The subject land is opposite residential dwellings located west of Eveline Road and land approved for residential subdivision south of Eveline Road. In this respect it represents a logical location to expand urban development in Viveash.
- Compared to other urban growth areas on the urban fringe, the subject land comparatively close to Perth CBD (approx. 16 km) and is closer to Midland Strategic Regional Centre (approx. 1.5 km south of the subject site).
- The subject land is located on the western-most edge of Midland Brick's site and is outside the prescribed licensed brickwork area, which is at its closest point the subject site is approx. 308m west and away from the prescribed licensed area.
- The subject land is already zoned 'Urban' in the Metropolitan Region Scheme (MRS) so does not need the MRS to be reviewed.

This is not to ignore the need to manage the interface with remaining industrial activities. These controls are addressed via other changes to the scheme map and text that are in addition to the proposed zone. These controls are discussed in the following headings.

Also see Section 4.3 of the report for more justification on the suitability of this zone, having regard to the progress and content of a draft replacement local planning scheme.

5.2.3 Consideration of noise emissions from industrial operations east of the site

As with an earlier local planning scheme amendment that rezoned another portion of the Midland Brick site for residential development, control provisions are necessary to ensure that noise levels from industrial activity from Midland Brick operations are mitigated so that noise levels experienced in the Amendment area are within acceptable levels and comply with the *Environmental Protection (Noise) Regulations 1997*.

When Hesperia sought to rezone nearby land (south of Eveline Street and east of Cranwood Crescent) as part of the now approved Amendment No.209 (Gazetted 21 May 2024) it contained noise mitigation measures expressed as conditions that restricted the use of the land. These were incorporated as part of a Restricted Use No.19 designation listed in Schedule 3 of Local Planning Scheme No.17 (see Restricted Use No.19 of Local Planning Scheme No.17 for details). Similar provisions are proposed here for Proposed Amendment No.238 in its Restricted Use provisions.

It is considered that there is sufficient evidence and precedence to suggest the industrial interface can be managed and the proposed control can be employed here.

See the advertised amendment pages for specific wording of this control at the time the proposal is advertised. It is proposed Restricted Use Condition 1.

5.2.4 Consideration of potential contamination of Lot 72

At initiation, Lot 72 Eveline Road, Viveash is classified as 'Possibly Contaminated – Investigation Required' in the Department of Water and Environmental Regulations (DWER) database due to elevated petroleum hydrocarbons in the soil and groundwater. Lot 72 roughly represents a third of proposed Amendment No.238 site area so it is considered a relevant planning issue to address for this proposal.

The land should be determined as being free from contamination before it is developed for residential purposes. Accordingly, a condition is proposed to restrict the subdivision and residential purposes unless the land is appropriately classified under the *Contaminated Sites Act 2003* for the intended purposes.

See the advertised amendment pages for specific wording of this control at the time the proposal is advertised. It is proposed Restricted Use Condition 2.

5.2.5 Suitability of introducing a 'Restricted Use' over the subject site

At initiation, the controls discussed in Section 5.2.5 and 5.2.6 are proposed to be introduced into the scheme text and map by way of a new Restricted Use entry. A 'Restricted Use' is recommended as it is considered the surest and legally binding mechanism to limit land use permissibility as well as avoid premature subdivision.

See the advertised amendment pages for the specific wording, mapping and details of this Restricted Use, as advertised. Also see Sections 3.2.1, 5.2.5 and 5.2.6 of this report for more justifications on industrial interface considerations and the proposed controls.

5.2.6 Access considerations

A Traffic Impact Assessment (TIA) was submitted to support the applicant's proposal which contains preliminary findings and illustrates one way the land can be accessed. It is appendix to this report. In reading this appendix, readers are advised that proposed Amendment No.238 is only considering the merits of rezoning the land to allow a structure plan to be prepared, where further investigations and reporting will take place. Further TIA's will be required at subsequent planning stages. This is recommended as it will allow the reevaluation and estimation of traffic volumes, impact and management at a time when the lot yield, design and street lot layout is better known and refined.

It is considered that the potential estimated traffic volumes that could be generated by future urban development of the land (conservatively estimated to be in the order of approx. 219 residential dwellings with a commercial café) could be accommodated, with upgrades, by the surrounding street network, intersections and footpaths. On this basis, the proposed Amendment No.238 itself doesn't raise red flags to warrant its refusal or its postponement, based on traffic and access considerations.

Further detailed reporting of the traffic impact and the specific requirements for upgrades will be provided and assessed at the subsequent structure planning stage, if proposed Amendment No.238 is approved.

5.2.7 Servicing considerations

An Engineering Infrastructure Report was submitted to support the applicant's proposal, which contains preliminary findings on how the land can be serviced. It is appendix to this report but note that this scheme amendment is only considering the merits of rezoning the land to allow a structure plan to be prepared, where further investigations and reporting will take place.

The land is capable of being serviced. The need to upgrade and extend services is not considered an impediment to this type of local scheme amendment proposal, which primarily seeks to make our scheme compliant with the Metropolitan Region Scheme. Further detailed reporting of how the land is serviced and what upgrades are required will be provided and assessed at the subsequent structure planning stages. This will allow for servicing needs to be reviewed in more detail at a time when the design and fill requirements will be better known and further investigated.

5.2.8 No variations to the Model Provision

No supplemental provisions to the deemed provisions are proposed.

5.2.9 No supplemental provisions to the Deemed Provisions

No supplemental provisions to the deemed provisions are proposed.

5.2.10 Considerations of the proposal's compatibility with its surrounds

For context, the lands surrounding the subject site consist of the following elements:

- South: South of the subject site is Eveline Road, which is local road managed by the City. This road is designed and constructed to a neighbourhood connector standard and services the residential area of Viveash. Further south of Eveline road are recently created lots or land approved for residential subdivision with the density code of 'R20'. At initiation, these residential lands are zoned 'Residential Development'.
- West: West of the subject site is also Eveline Road, which is still a local road but is designed and constructed to carry less vehicles compared to where it is south of the site. Further west of Eveline Road are existing residential dwellings constructed to a Residential Density Code of 'R20' or 'R25'.
- North: North of the subject site is the remaining portion of Lot 9002 Eveline Road and part of Lot 72 Eveline Road. In this location they are zoned 'General Industrial' but 'Rural' in the Metropolitan Region Scheme (MRS). This land is being considered by the WAPC for reclassification via MRS Amendment No.1395/57. They contain recently demolished buildings and hardstands previously used for the storage of bricks, brickmaking and other incidental industrial activities. There are some pockets of vegetation north of the site nearer to the Swan River and its foreshore, which is located further north.
- East: East of the subject site is the remaining portion of Lot 72 Eveline Road. It is zoned 'General Industrial' and is being considered for reclassification through MRS Amendment No.1395/57. It is mostly consists of industrial hardstands but also includes other industrial buildings, a clay shed, drainage ponds, outdoor storage yards and a pocket of vegetation identified for retention. At its closest point, the distance between the proposed Amendment No.238 and licensed area of Midland Brick's prescribed brickworks operations is approx.. 308m east of the subject site.

The proposed zone and textual controls are considered to provide the right planning framework to structure plan (i.e. masterplan) the redevelopment this portion of the former Midland Brick site into a vibrant residential community in a way that is complementary to its urban surrounds, is respectful to remaining industrial operations and with the potential to deliver a variety of housing choice and local amenities.

6. LIST OF APPENDICES

Supporting this scheme amendment request are the following supporting material and technical reports submitted by the Applicant to justify or support their proposal. These appendices are separate documents to this amendment report.

Appendix A	Council minutes that initiated this scheme amendment (13.03.2026)
Appendix B	Noise Management Plan <i>Prepared by Lloyd George Acoustics/Herring Storer</i>
Appendix C	Transport Impact Assessment <i>Prepared by PTG Consulting</i>
Appendix D	Local Water Management Strategy <i>Prepared by Hyd2o</i>
Appendix E	Engineering Infrastructure Report <i>Prepared by Tabec</i>

6.1 Disclaimer on Appendix B – Appendix E

In reading Appendix B – Appendix E (i.e. the technical reports submitted by the applicant) readers should have regard to the following disclaimers and advice:

<i>Disclaimer 1</i>	<i>In reading and interpreting any appendices, readers should always cross reference the resolution text and key pages of this scheme amendment for what is the current and latest proposal.</i>
<i>Disclaimer 2</i>	<i>This scheme amendment is <u>only</u> considering the merits of rezoning the land to allow a structure plan to be prepared. The specifics of any layout and design are <u>not</u> being finalised now. As such any concepts or details within these appendices are <u>indicative only</u>, illustrating one way the land could potentially be developed, if the rezoning proceeds.</i>
<i>Disclaimer 3</i>	<i>Any technical reports included were submitted by the applicant and are not to be misconstrued as being approved by the City of Swan. They are included primarily to assist key agencies in their review and understanding of this proposal. In reading these note</i> <i>• subject site <u>is smaller</u> compared to what is often depicted or reported on in these technical reports;</i> <i>• these reports may include land <u>outside</u> the Amendment area that is not yet zoned or capable of urban development;</i> <i>• these reports can often include land that is the subject of the proposed Metropolitan Region Scheme (MRS) Amendment No.1395/57, which is not yet finalised in February 2026;</i> <i>• these reports can often include recommendations on land <u>outside</u> proposed Amendment area that is at odds with Council's 9 July 2025 Ordinary Meeting resolution on MRS Amendment No.1395/57, where it recommended these others lands be 'Urban Deferred' (not 'Urban') and it recommended reviewing the extent of the foreshore land that should be regionally reserved.</i> <i>The recalibration of these technical reports can and will be done at the subsequent planning stages (principally at the structure plan stage) if this scheme amendment is approved.</i>

7. EXECUTIVE SUMMARY

Proposal	Amendment No.238 to City of Swan Local Planning Scheme No.17
Applicant	SLR Consulting (Element Advisory) on behalf of Hesperia
Subject land	18 properties in Viveash (approx. 11.5758 ha combined) that collectively represent the western portion of the Midland Brick site.
What is changing	To amend Local Planning Scheme No.17 (map and text) to: 1. Reclassify (rezone) approx. 11.5758 ha of land in Viveash from 'General Industrial' and 'Local Road' to 'Residential Development'. 2. Insert a 'Restricted Use' over this same land to limit and condition the capacity of the land from being subdivided and developed for residential purposes until noise mitigation measures from the Midland Brick operations have been implemented and the land has been rehabilitated from contamination.
Motivation	The landowner seeks to relinquish their industrial zoning rights so that the subject land can be structure planned for future residential development with associated local roads, public open spaces and the option for a small local centre.
Rationale	Clause 24 of the <i>Planning and Development Act 2005</i> requires that a local planning scheme conforms with a region scheme. The current 'General Industrial' zoning of these lands in Local Planning Scheme No.17 does not conform with the land's zoning as 'Urban' under the Metropolitan Region Scheme. This needs amending.
<u>Advice:</u>	<i>This scheme amendment is only considering the merits of rezoning the land to allow a structure plan to be prepared and approved. As such the specifics of its layout and design are <u>not</u> being finalised now. Rather if this scheme amendment is approved, further detailed investigations and reporting of water, environment, interface, access, bushfire risk and servicing can and will be submitted for approval as part of the future structure plan stage to inform the layout and design.</i>

Planning and Development Act 2005

RESOLUTION TO AMEND LOCAL PLANNING SCHEME

City of Swan Local Planning Scheme No.17 Amendment No.238

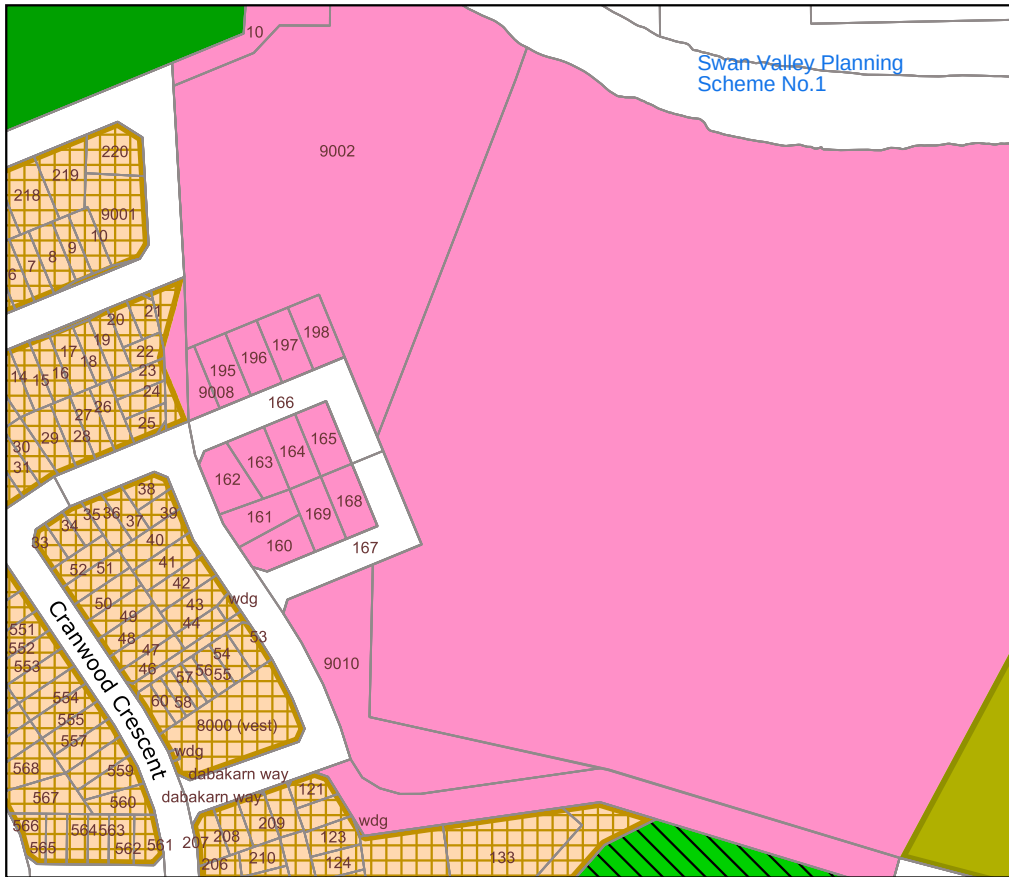
Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

- a. Amend the Scheme map to:
 - i. Reclassify 18 lots in Viveash (Lot 167- Lot 169 Surrey Way; Lot 160 and Lot 161 Somerset Street; Lot 162 – Lot 166 and Lot 195 – Lot 198 Harford Avenue; portion of Lot 72 Eveline Road; portion of Lot 9002 Eveline Road; and Lot 9008 and Lot 9010 Eveline Road, Viveash) from 'General Industrial' and 'Local Road' to 'Residential Development'.
 - ii. Insert a Restricted Use 'R [tbc]' over the same land that will be reclassified to the 'Residential Development' zone.
- b. Insert into Schedule No.3 – Restricted Uses the following:

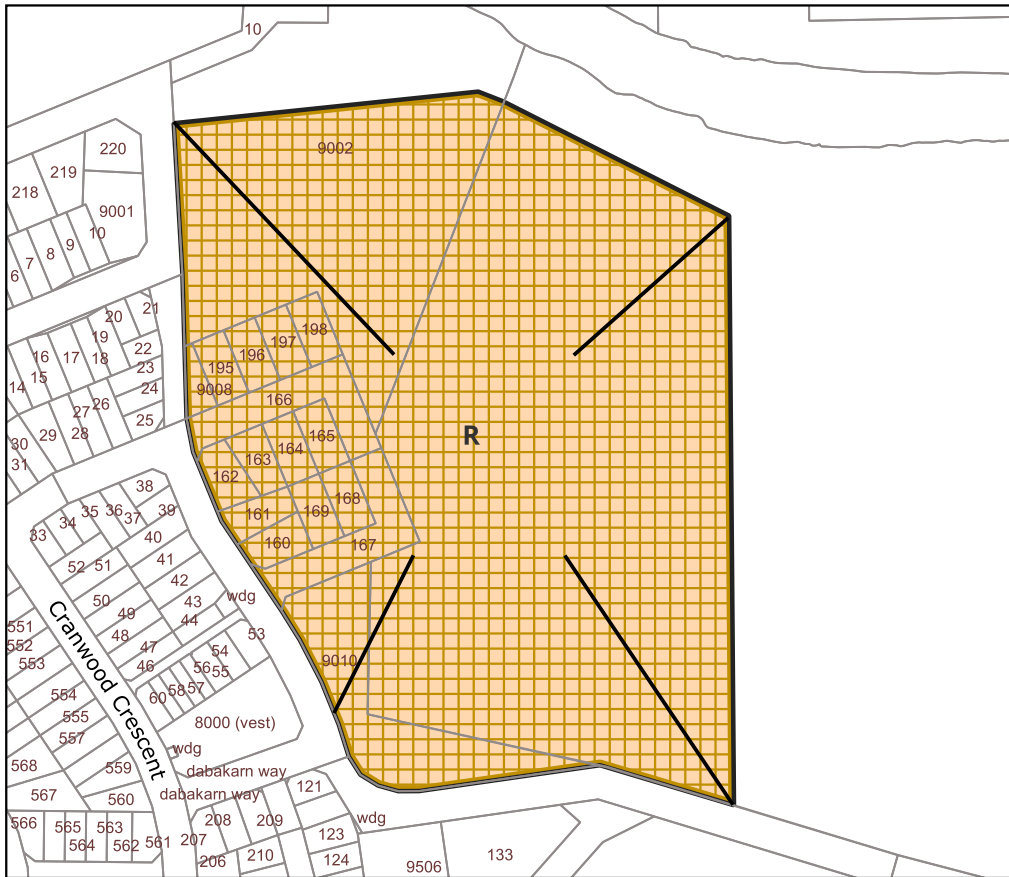
No.	Description of Land	Restricted Use	Conditions
[tbc]	• Lot 167 – Lot 169 on Plan 9113 Surrey Way, Viveash; • Lot 160 – Lot 161 on Plan 9113 Somerset Street, Viveash; • Lot 162 – Lot 166 and Lot 195 – Lot 198 on Plan 9113 Harford Avenue, Viveash; • Portion of Lot 72 on Deposited Plan 408605 Eveline Road, Viveash; • Portion of Lot 9002 on Deposited Plan 421407 Eveline Road, Viveash; • Lot 9008 on Deposited Plan 400991 Eveline	All conditions of this clause shall be satisfied in order for residential development to be capable of approval on this land.	1. Prior to subdivision, the Applicant shall demonstrate it has scoped, designed, implemented and validated noise mitigation measures from: a. Industrial operations located on Lot 72 Eveline Road, Viveash (which includes the Clay Sheds, and may include other Brickworks and Masonry Facility activities) until decommissioned; and b. Brickworks and Masonry Facility activities located north of Bassett Road, Middle Swan. The Applicant shall demonstrate that noise emissions comply with the Environmental Protection (Noise) Regulations 1997 to the satisfaction of the Western Australian Planning Commission in consultation with the Department of Water and Environmental Regulation to ensure that residential development is not adversely impacted by existing industrial operations in adjoining areas. Subdivision shall not be permitted within 300m of the

	Road, Viveash; and • Lot 9010 on Deposited Plan 428303 Eveline Road, Viveash; As depicted on the Scheme Map.		Clay Shed while it remains operational. 2. Subdivision and residential uses are prohibited unless the land is appropriately classified under the <i>Contaminated Sites Act 2003</i> for the intended purposes.
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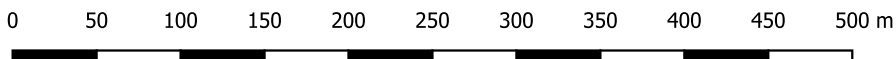
LOCAL PLANNING SCHEME No.17 - AMENDMENT No. 238



EXISTING ZONING



PROPOSED ZONING



Scale 1:5000

LEGEND

REGIONAL SCHEME RESERVES

PARKS & RECREATION

LOCAL SCHEME RESERVES

 LOCAL ROAD

 RECREATION

PRIVATE CLUBS & INSTITUTIONS

LOCAL SCHEME ZONES

 GENERAL INDUSTRIAL



RESIDENTIAL
DEVELOPMENT

OTHER CATEGORIES

 RESTRICTED USE



February 2026

COUNCIL RESOLUTION TO INITIATE AN AMENDMENT TO SCHEME

This Complex Amendment was prepared by resolution of the Council of the City of Swan at the City of Swan Ordinary Meeting of the Council held on the 11th day of March, 2026:

AND

COUNCIL RESOLUTION TO ADVERTISE

By resolution of the Council of the City of Swan at the City of Swan Ordinary Meeting of the Council held on the 11th day of March, 2026, proceed to advertise this amendment

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

In accordance with regulation 41(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, this Amendment is:

- (a) supported without modification;
- (b) supported with modifications;
- (c) not supported;

by resolution of the Council of the City of Swan at the City of Swan Ordinary Meeting of the Council held on the _____ day of _____ 20____ and the Common Seal of the City of Swan was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

.....

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

DATE.....

APPROVAL GRANTED

.....

MINISTER FOR PLANNING

DATE.....