

TOWN PLANNING SCHEME AMENDMENTS

WHAT IS A TOWN PLANNING SCHEME?

Town Planning Schemes are made under Part 5 of the Planning and Development Act 2005, which sets out the general objectives of schemes, the matters which may be addressed and the requirements for review.

Where schemes involve the zoning or classification of land, they are required to reflect the Planning and Development (Local Planning Scheme) Regulations 2015. Importantly, there are some sections of the scheme which are 'deemed provisions' and cannot be changed.

Schemes include a variety of zones and accompanying statutory planning provisions which combine to provide for control of land use and development. This combination reflects a set formula of land use possibilities and zoning arrangements, with the intent being that the formula achieves the aims of the Scheme, which itself is derived from the strategic vision of the Local Planning Strategy (and the State's Perth and Peel @3.5million Planning Framework).

WHAT IS A SCHEME AMENDMENT?

From time to time, it becomes necessary to amend the City's Town Planning Scheme No.3 (TPS3). When a change is proposed or made to TPS3, it is referred to as a Scheme Amendment. These changes can be proposed by landowners, the City itself or State Government agencies. The decision to initiate a Scheme Amendment is however at the discretion of the City (which has no appeal rights), and once initiated the City becomes responsible for progressing a Scheme Amendment.

Scheme amendments occur for a variety of different reasons including:

- a change in zoning to accommodate development (where deemed appropriate)
- a change in the residential density coding to increase residential density
- a change in the Scheme's wording to ensure more effective planning
- to implement the strategic vision of the Local Planning Strategy; or
- to ensure orderly and proper planning
- to reflect a rezoning made under the Metropolitan Region Scheme (MRS)

SPOT REZONING

The planning system has a general presumption against changing the zoning of individual lots ('spot rezonings') independent of a broader zoning or local planning strategy. Scheme Amendment requests should relate to a broader, more logical area, or be considered as part of a major Scheme review in the interests of orderly and proper planning.

SHOULD I ENGAGE A TOWN PLANNING CONSULTANT?

Given the complexity of the Scheme Amendment process, it is usually advisable for an applicant to engage a suitably experienced Planning Consultant who can fully address all relevant issues in the initial Scheme Amendment request and subsequent stages. [Appendix A](#) and [Appendix B](#) of this information sheet outline the type of information required to be submitted for a Scheme Amendment proposal.

SCHEME AMENDMENT FEE

Fee estimates are calculated in accordance with the *Planning and Development Regulations 2009*. Prior to a Scheme Amendment being initiated by Council at an Ordinary Meeting, the applicable fee is calculated by estimating the staff time and resources necessary to process and consider the Scheme Amendment – this needs to be paid prior to the Scheme Amendment being considered by Council. The applicant will be provided with an appropriate acknowledgment letter and invoice by the City at this stage.

A record of costs will be kept in accordance with the *Planning and Development Regulations 2009*.

SCHEME AMENDMENT PROCESS

Section 75 of the *Planning and Development Act 2005* provides for local governments to amend a local planning scheme. A Scheme Amendment becomes operative when approved by the Minister for Planning and published in the Government Gazette.

The procedure for amending a Town Planning Scheme is set out in the State Government's *Planning and Development (Local Planning Schemes) Regulations 2015*.

There are different timeframes applicable depending on whether the amendment is categorised as Basic, Standard or Complex. The descriptions of these amendments are outlined in [Appendix C](#).

The Scheme Amendment process and typical timelines are set out in [Appendix D](#).



Appendix A

RECOMMENDED INFORMATION TO BE SUBMITTED WITH INITIAL REQUEST TO AMEND TOWN PLANNING SCHEME NO.3

There is no specific application form to lodge a request to amend the City's Town Planning Scheme. However, it is considered important that an initial request be supported by the following information:

An explanatory letter and/or report including:

- the address of the subject lot or lots
- an accurate description of the requested change in zoning, density coding or other amendment to the Scheme
- the reasons for the request
- justification for the application (referencing any applicable State and/or Council strategies or policies)
- the likely effect (if any) of the proposal on surrounding land, in terms of building form, traffic, access, and the proposed use of the land generally
- Concept plans or other supporting information further clarifying the purpose of the requested change (where appropriate)

The initial request, including full justification and explanation, should be submitted in person or via mail, directed to the:

Chief Executive Officer
City of Cockburn
PO Box 1215
Bibra Lake DC WA 6965

Appendix B

RECOMMENDED TABLE OF CONTENTS FOR SCHEME AMENDMENT REPORT

The following 'Table of Contents' and 'Table of Figures' aims to guide applicants in the preparation of their Scheme Amendment proposal report. The City strongly recommends that applicants follow this standard format, as it will assist in ensuring that all relevant information is included within the report.

It should be noted however that this list is not definitive and additional sections and/or figures may be required in relation to specific amendment proposals. In some cases the information may not be required if it has no relevance to the proposed scheme amendment. If uncertain, please contact Strategic Planning to discuss.

Table of Contents	Table of Figures
<p>1. Introduction</p> <ul style="list-style-type: none"> 1.1 Site Details 1.2 Proponent 1.3 Land Ownership <p>2. Strategic and Statutory Framework</p> <ul style="list-style-type: none"> 2.1 State Planning Context <ul style="list-style-type: none"> 2.1.1 Metropolitan Region Scheme 2.1.2 State Planning Policies 2.1.3 State Planning Strategies 2.2 Local Planning Context <ul style="list-style-type: none"> 2.2.1. Local Planning Scheme 2.2.2. Local Planning Policies 2.2.3. Local Planning Strategies <p>3. Site Analysis</p> <ul style="list-style-type: none"> 3.1 Topographical Features 3.2 Land Capability 3.3 Native Vegetation 3.4 Native Fauna 3.5 Conservation Areas 3.6 Watercourses and Wetlands 3.7 Hydro-geological Conditions 3.8 Aboriginal and European Heritage 3.9 Infrastructure Availability <p>4. Amendment Proposal and Type</p> <ul style="list-style-type: none"> 4.1 Amendment Specifications/Type (Basic/Standard/Complex) 4.2 Rationale for Amendment 4.3 Future Development Proposal <p>5. Conclusions</p> <p>6. References</p>	<ul style="list-style-type: none"> Figure 1: Location Map Figure 2: Land Ownership Figure 3: Metropolitan Region Scheme Zoning Figure 4: Town Planning Scheme No.3 Zoning Figure 6: Topographical and Environmental Features Figure 7: Aboriginal and European Heritage Sites Figure 8: Opportunities and Constraints Figure 9: Proposed Amendment(s) to Town Planning Scheme No.3 Mapping Figure 10: Development or Subdivision Concept

Appendix C

Extracted from Regulation 34 of the Planning and Development (Local Planning Schemes) Regulations 2015

CATEGORIES OF SCHEME AMENDMENTS

basic amendment means any of the following amendments to a local planning scheme -

- a) an amendment to correct an administrative error;
- b) an amendment to the scheme so that it is consistent with the model provisions in Schedule 1 or with another provision of the local planning scheme;
- c) an amendment to the scheme text to delete provisions that have been superseded by the deemed provisions in Schedule 2;
- d) an amendment to the scheme so that it is consistent with any other Act that applies to the scheme or the scheme area;
- e) an amendment to the scheme so that it is consistent with a State planning policy;
- f) an amendment to the scheme map to include a boundary to show the land covered by an improvement scheme or a planning control area;
- g) an amendment to the scheme map that is consistent with a structure plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan;
- h) an amendment that results from a consolidation of the scheme in accordance with section 92(1) of the Act;
- i) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area if the amendment will have minimal effect on the scheme or landowners in the scheme area;

Process flowchart: [Local Planning Schemes - Basic Amendment](#)

complex amendment means any of the following amendments to a local planning scheme -

- a) an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- b) an amendment that is not addressed by any local planning strategy;
- c) an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;
- d) an amendment made to comply with an order made by the Minister under section 76 or 77A of the Act;
- e) an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan;

Process flowchart: [Local Planning Schemes – Complex Amendment](#)



standard amendment means any of the following amendments to a local planning scheme -

- a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
- 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;
- d) an amendment to the scheme map that is consistent with a structure plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme does not currently include zones of all the types that are outlined in the plan;
- e) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
- f) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
- g) any other amendment that is not a complex or basic amendment.

Process flowchart: [Local Planning Schemes – Standard Amendment](#)

Appendix D

SCHEME AMENDMENTS PROCESS AND INDICATIVE TIMELINES

Action		Approximate Timeframe		
		Basic	Standard	Complex
1.	Preliminary discussion <ul style="list-style-type: none"> Applicant and City officers discuss merits of proposal prior to formal lodgement. 	(not included in this timeframe estimate)		
2.	Formal Lodgement & Council Initiation	No fixed regulatory timeframe		
	Scheme Amendment request lodged <ul style="list-style-type: none"> Request acknowledged, registered electronically, allocated to officer and fee determined. 	1 week		
	Internal Assessment <ul style="list-style-type: none"> Subject to receipt of fee, Scheme Amendment request is referred to internal departments for comment. Planning Officer consolidates comments and determines need for modification or additional information. 	4 weeks		
	Council Report and Resolution <ul style="list-style-type: none"> Subject to receipt of any requested additional information, Planning Officer prepares report to Council. Council resolves whether to initiate (with or without modifications) or not to proceed with the Amendment. <i>(Note: Ordinary Council Meetings are held monthly (February to December each year))</i>	4-8 weeks (Depending on Council Agenda deadlines)		
3.	State Referrals & Public Advertisement	5-6 weeks	13-15 weeks	17-19 weeks
	Environmental Protection Authority (EPA), WA Planning Commission (WAPC) and Minister for Planning <ul style="list-style-type: none"> Upon receipt of satisfactory documentation, Scheme Amendment referred to (<i>for concurrent consideration</i>): <ul style="list-style-type: none"> the EPA for consideration on Environmental Assessment (under s.48 of the EP Act) the Minister for Planning (under s.83A of the P&D Act) for permission to advertise WAPC for noting or approval to advertise (under r.37 of the LPS Regs. – Complex Amendments only). 	1-2 weeks (Dependant on release of OCM Minutes)		
	Advertising <ul style="list-style-type: none"> Following receipt of consents to advertise by State Authorities, the Scheme Amendment is advertised via: <ul style="list-style-type: none"> <u>Always:</u> <ul style="list-style-type: none"> Comment on Cockburn letters to affected landowners letters to relevant service authorities letters to relevant government agencies <u>When considered appropriate:</u> <ul style="list-style-type: none"> the local newspaper (PerthNow – Cockburn) in City Buildings (Admin Centre and/or Libraries) sign(s) on site. 	N/A	42 days (+2 weeks lead time for advert – if required)	60 days (+2 weeks lead time for advert – if required)

Action		Approximate Timeframe		
		Basic	Standard	Complex
4.	Council Consideration	N/A	60 days	90 days
	Assess Submissions <ul style="list-style-type: none"> Planning Officer assess submissions received and prepares a Schedule of Submissions. 	N/A	1-2 weeks (Depending on number and complexity of issues raised in submissions)	
	Council Report <ul style="list-style-type: none"> Planning Officer prepares report to Council, inclusive of a recommendation on how to proceed. 	N/A	3-6 weeks	4-10 weeks
	Council Decision <ul style="list-style-type: none"> Council resolve to either: <ul style="list-style-type: none"> Support the Scheme Amendment as advertised; Support the advertised Scheme Amendment subject to specified modifications; or Not to support the Scheme Amendment (on specified grounds). City Officer notifies applicant and submitters both of Agenda release and subsequent Council resolution. 	1 week		
5.	State Government Determination	No fixed regulatory timeframe		
	Referral to the WA Planning Commission <ul style="list-style-type: none"> If supported, Scheme Amendment documents and formally executed (by Mayor and CEO). Full Amendment documentation referred to WAPC, seeking Minister for Planning on final determination. 	1-2 weeks (Depending on timing of OCM Minutes & Mayors availability)		
	WAPC Review & Reporting <ul style="list-style-type: none"> DPLH review the proposal, Council's handling of submissions and prepare a report on determination. Proposals are often considered by the WAPC's Statutory Planning Committee (as confidential items). 	42 days	60 days	90 days
	Minister for Planning Determination <ul style="list-style-type: none"> Minister for Planning may approve, approve with modification or refuse Scheme Amendment. If major modifications are required, re-advertising of Scheme Amendment may occur at this stage. <i>(Note: The Ministers decision is final – there is no right of appeal).</i>	No regulatory timeframe (Initial Decision – typically 3 months after WAPC recommendation) (Final Decision – typically 2-6 weeks depending on complexity of modifications, where required)		
	Final Approval and Gazettal <ul style="list-style-type: none"> If Minister for Planning grants approval, Scheme Amendment is published in the Government Gazette City Officer notifies applicant and submitters of Scheme Amendment gazettal. <i>(Note: this is the date when the amendment legally comes into effect).</i>	2-3 weeks		
Total		~40 weeks	~60 weeks	~78 weeks