

What is a town planning scheme?

A town (or local) planning scheme is a legal document that controls and manages land use and development within a local government area.

What is a scheme amendment?

It is sometimes necessary, or requests are made, to amend a town planning scheme. When a change is proposed or made it is referred to as a scheme amendment.

Scheme amendments occur for a variety of different reasons. Some of these reasons include:

- A change in zoning to accommodate appropriate development;
- A change in the scheme's wording to ensure more effective planning;
- To implement the strategic vision of the Local Planning Strategy; and
- To ensure orderly and proper planning of the local government area.

Amendments should not be seen as a means of circumventing the existing requirements of the scheme, and appropriate planning justification must be submitted with a scheme amendment application.

Scheme Amendment Process

Section 75 of the *Planning and Development Act 2005* provides for local governments to amend a town planning scheme. A scheme amendment becomes operative once published in the Government Gazette following approval by the Minister for Planning.

The procedure for amending a town planning scheme is set out in *Town Planning Regulations 1967* and follows the following steps:

- Council resolution to initiate an amendment to the scheme;
- Environmental Protection Authority consent to advertise;
- Advertising the scheme amendment proposal for public inspection and comment for a period of 42 days unless a lesser period is agreed by the Western Australian Planning Commission (WAPC);
- Consideration of any submissions and further report to council for resolution to adopt scheme amendment with or without changes, or to not proceed with the scheme amendment;
- Forward council resolution, as well as all submissions to the WAPC who will assess the proposal and make a recommendation to the Minister for Planning;
- Final decision is made by the Minister for Planning; and
- If approved, the amendment is gazetted.

Note: Should council resolve not to proceed with an amendment at any step of the process, the Minister for Planning may order a local government to prepare or adopt a scheme amendment under section 76 of the *Planning and Development Act 2005* where:

- (a) the Minister decides that the local government has failed to take the requisite steps for having an amendment to a local planning scheme prepared and approved in a case where an amendment to a local planning scheme ought to be made; or
- (b) the Minister decides that the council has failed to adopt an amendment to a local planning scheme proposed by owners of any land, in a case where an amendment to a local planning scheme ought to be adopted; or
- (c) the local government has refused to consent to any modifications or conditions imposed by the Minister.

Advertising Process

In accordance with the *Town Planning Regulations 1967* scheme amendments are required to be advertised for a minimum of 42 days (unless a lesser period is agreed by the WAPC). Consultation will generally include:

- An advertisement in a local newspaper advising that a scheme amendment is available for comment;
- Notifying public authorities and persons that are likely to be affected by the amendment (as determined by the city) and invite them to make submissions;
- Sign/s being placed on the subject land where relevant;
- Display the relevant notice in a prominent place & make available for public inspection documentation setting out and explaining the amendment at the city's administration centre during office hours;
- Take any other steps that the city considers necessary to make public the details of the amendment, including information sessions for more complex scheme amendments.

Making a submission

Any person may make a submission. However, a properly made submission should:

- Be on Form 4 of the *Town Planning Regulations 1967*;
- Be in writing and addressed to the Chief Executive Officer;
- Be received during the submission period;
- State the name and address of every person making the submission;
- State the address of the property affected by scheme (if applicable);
- State the grounds of the submission and the facts and circumstances relied in support of those grounds.

When writing a submission, keep in mind that:

- It should be easy to read, ie. use short sentences and plain English;
- It should be organised, ie. use headings internally and ensure that it flows from one point to another;
- You should refer to the points of the statement of proposals you wish to address;
- You should highlight your key recommendations and summarise them at the end and beginning of each submission;
- For each point of the proposal you wish to discuss, you should set out the concern you have, the information and examples grounding that concern and any alternatives you wish to suggest; and
- Try to keep your arguments focused on matters that the planning scheme can actually deal with (ie. land use, managing the effects and development of standards etc).

What Happens After Advertising

Following the advertising period, each submission is considered and a schedule of submissions is prepared. The submissions received are referred to and considered by the council. Consideration is given as to whether the proposal needs to be modified based on any of the matters raised in the submissions. Having regard to the outcomes of the public advertising as well as any other relevant matters, the council may resolve to:

- a) Not proceed any further with the amendment;
- b) Proceed with the amendment without any modifications; or
- c) Proceed with the amendment with modifications

After the council has considered the submissions and made a resolution on the finalisation of the scheme amendment, the council's recommendation, along with a copy of each submission, the schedule of submissions and the amendment documentation is forwarded to the WAPC who will prepare a report and make a recommendation to the Minister for Planning. The Minister will then make the final decision on the amendment.

Length of time for amendment process

The length of time varies with the complexity of the amendment and can range from approximately 12 months to over two years for more complicated amendments.

Planning Fees

Planning fees for amendments are calculated in accordance with the requirements of the *Planning and Development Regulations 2009 (Part 7 Local Government Planning Charges)*. Such fees may include amongst other things, costs related to staff time, advertising, public consultation, printing and any legal expenses incurred. Fees will generally be charged to the applicant at the following stages of the amendment process:

- After council decision to initiate or not initiate the scheme amendment;
- Upon commencement of public advertising;
- After the council decision to finally adopt the scheme amendment; and
- After gazettal (where applicable)

Disclaimer

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