



TOWN PLANNING SCHEME AMENDMENTS

DEVELOPMENT SERVICES INFORMATION NOTE

Introduction

This information sheet provides a summary of the Scheme Amendment process to assist the public in understanding the general requirements and processes applicable to Scheme Amendment proposals.

What is a Scheme Amendment Application

A Town Planning Scheme is a legal document that controls and manages land use and development within a local government area. Sometimes there are circumstances where it is necessary to change the statutory provisions of the Scheme, and this is done so through the process of a Scheme Amendment.

Scheme Amendments can occur for a variety of different reasons including to:

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

The most common type of Scheme Amendment is known as a rezoning, where the existing zoning of property (i.e Residential) is changed to a new zoning (i.e Town Centre). The zoning of land determines what land uses and development may be allowed on that land.

Scheme Amendments are not a means of circumventing the existing requirements of the Scheme and appropriate justification must be submitted as to why the amendment is appropriate in a planning context.

A Scheme Amendment may be requested by a landowner or instigated by the Shire. The Shire will generally require that Scheme Amendments associated with individual landholdings are progressed by and at the cost of the owner, however may instigate proposals where it can be demonstrated that the amendment is to facilitate strategic objectives and is in the interests of the broader community.

“Spot Rezonings”

It is important for rezonings and amendments to reflect orderly and proper planning. The Shire has a general presumption against rezoning of individual lots (‘spot rezonings’) which should be occurring through a broader scheme review which considers the surrounding context and strategic objectives for the overall area. For example a scheme amendment to increase the density of residential zoned land should not occur on an individual lot basis, it should be planned through in the Local Planning Strategy and done on a precinct wide basis.

However, there are particular site specific circumstances where a rezoning is required for a special or urgent nature, and where the resultant development would not adversely affect the surrounding area, which may justify a 'spot rezoning'.

How do I request a Scheme Amendment?

Before lodging a formal request, applicants are encouraged to make an appointment with the Shire's Planning Officer to discuss their idea. The officer will:

- Advise whether or not the desired form of development can currently be approved within the framework of the existing Scheme without the need for a Scheme Amendment; and
- Offer guidance on how a scheme amendment should be formulated and any information which will be required to support the application.

A formal Scheme Amendment request is then required to be submitted with the following information to enable Council to determine if the rezoning should be initiated:

- A covering letter signed by the owner of the land or alternatively the signature of the owner included as an attachment to the covering letter;
- The covering letter is also required to provide consent for the use of any copyrighted material provided in support of the amendment. If consent is not provided the application will not be progressed;
- Details of the subject site, the requested new zoning, the purposes for which it is sought and justification for the application (referencing any applicable strategies or policies of the State and/or Local Government);

To enable the amendment proposal to be properly and fully considered by Council, officers, community and later the Minister for Planning, a concept plan and elevations illustrating possible development of the land after completion, are sometimes required. These also assist the applicant by provide confirmation upfront as to whether the intended development of the land is feasible. It is appreciated that concept plans might not necessarily be the final design solution for the site, and that details may be refined at the later development application stage.

Other technical supporting information may also be required to support an amendment proposal. Preliminary discussions should be held with Shire Officers to assist in determining these at an early stage.

When determining whether or not to initiate a Scheme Amendment Request, a wide range of matters are taken into account, including, but not limited to, the following:

- Purpose of the amendment
- Existing zoning and site requirements;
- Any adverse effect of surrounding areas, including traffic or parking congestion in the area;

- Whether the particular or site-specific circumstances of the amendment, are of special or urgent nature;
- Relevant considerations listed in clause 67 of the Schedule 2 'Deemed Provisions' of the Planning and Development (Local Planning Schemes) Regulations 2015;
- Compatibility of the proposal with any Shire or State strategies and policies relating to future development of the locality;
- Any other relevant planning consideration or requirement of the Minister responsible for Planning

A Scheme Amendment report prepared by the applicant is usually submitted, outlining the applicant's justification as to how the amendment is consistent with these provisions, and justifying the amendment, including any concept/supporting information referred to above.

It is advisable that an experienced planning consultant be engaged to prepare your scheme amendment report and fully address all relevant 'planning' issues. This report is used as the basis for Shire's report when recommending to Council whether to initiate the amendment or not, is made available as public information during the advertising period and sent as the justification document to external approval authorities.

Scheme Amendment Fees

Fees estimates are calculated in accordance with the *Planning and Development Regulations 2009*. This requires the local government to prepare a fee estimate in a specified format, outlining anticipated costs that are incurred by the Shire in processing the application. These are calculated based on hourly rates set for officers involved in the process, including legal costs, overheads and other direct costs such as advertising fees. Fees are generally payable before the application will be presented to council for initiation. Any unspent funds are to be returned to the applicant at the conclusion of the process.

Generally, a standard amendment application fee will be estimated at \$2,000 to \$4,000, however depending on the application type and individual circumstances can be less or more.

Types of Scheme Amendments

When undertaking a Scheme Amendment, the City must follow the process contained in the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations).

The Regulations classify amendments into three different categories which determines the process an amendment application must follow:

1. Basic Amendment – a streamlined process for predominantly administrative scheme amendments.
2. Standard Amendment – for scheme amendments of less strategic significance.

- Complex Amendment – for scheme amendments that are significant in scale and/or inconsistent with the planning framework.

The Shire and WAPC (on request of the applicant) can provide advice on what scheme amendment category the proposed amendment will align with. For further explanation of the categories of amendment type, please refer to the definition contained in the Regulations.

Scheme Amendment Process

The process varies depending on the amendment type, which is outlined in the attached flowcharts at the end of this document. However, a general scheme amendment process has been provided below to provide guidance.

STEP	PROCESSING TIME
<p>1. Scheme Amendment Request Lodged Preliminary review to ensure all information provided and preparation of fee estimate</p>	<p>3 weeks</p>
<p>2. Initiation of Scheme amendment An assessment of the application is undertaken, and report prepared to allow Council to determine if the Amendment should be initiated. Should council resolve the refuse the amendment, the applicant will be notified accordingly. If Council considers the application has merit, it may resolve to initiate the amendment for the purposes of public advertising.</p> <p>The Council is not obliged to initiate a requested Scheme Amendment if it is of the opinion that the proposal would not constitute orderly and proper planning. There are no standard appeal rights (SAT) on Scheme Amendment applications, however in accordance with Section 76 of the Planning and Development Act 2005, an application can appeal directly to the Minister, who if satisfied that the local government has failed to initiate or adopt a scheme amendment which should have been initiated or adopted, the Minister may order the local government to do so.</p>	<p>6 - 8 weeks</p>
<p>3. Referral to State Government Agencies If Council resolves to initiate the amendment, the application is forwarded to the Environmental Protection Authority and Western Australian Planning Commission for preliminary approval to advertise.</p>	<p>9 weeks</p>
<p>4. Public Advertising (applicable to standard and complex amendments only) On receipt of approval to advertise the amendment, the city will arrange advertising in accordance with the Regulations. The consultation period is a minimum of 42 days in the case of a Standard Amendment and 60 days in the case of a complex amendment.</p>	<p>8 weeks (Standard) – 10 weeks (complex)</p>
<p>5. Report on Submissions Received Submissions are received and collated, and presented to Council to consider. Should Council resolve to adopt the scheme amendment with or without modifications, the city will forward the submissions together with Councils comments and recommendations to the WAPC. Should Council resolve not to adopt the Scheme Amendment it must still forward the documents to the WAPC.</p>	<p>6 - 9 weeks</p>

6. Final Determination

The final Scheme Amendment documentation a, schedule of submissions received, and details of Councils decision are referred to the WAPC to obtain the Minister for Planning's final approval. If the Minister agrees to grant final approval, the City will then arrange for the Scheme Amendment to be published in the Government Gazette at which point it legally comes into effect. Where the Minister requires changes, the amendment is referred back to the City to process those changes, or if the modifications are substantial, a direction to re-advertise, which reverts the process back to No. 4. The Commission has 60 days to consider and make recommendations to the Minister for Planning. There is no statutory timeframe that applies to the Minister for Planning to make a decision.

13 weeks

**See comments
in left.*

**Scheme Amendments are subject to processing timeframes as outlined in the Regulations, and the timeframes above reflect statutory processing times of other agencies. These also vary based on the amendment type. For standard and complex amendments, applicants should anticipate a timeframe of up to 12 months.*

***52 weeks
(12 months)**

More Information...

For further information please contact the Shire of York on (08) 9641 2233 or records@york.wa.gov.au.

Further information on Scheme Amendments can be obtained at:

- The WAPC website – www.wapc.wa.gov.au
- The State Law Publishers Website (for a copy of Regulations) – <http://www.slp.wa.gov.au>

DISCLAIMER

This Information Note is a guide only. Verification with the applicable legislation and other relevant documents is recommended. The Shire of York accepts no responsibility for errors or omissions.