

<b>Planning Policy P-DEV 64: Requirements for Local Planning Scheme Amendments</b>	
<b>Management Procedure</b>	<b>Relevant Delegation</b>

<b>Adopted</b>	<b>XXXX 2018</b>	<b>Next Review Date</b>	<b>XXXX 2019</b>
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## Purpose

### 1. Background and Introduction

In response to an increasing trend and demand for Local Planning Scheme Amendments the City seeks to establish policy guidance with respect to the level of detail and information provided as part of a Local Planning Scheme Amendment Application and the timing in which the City and Council reviews, and then decides regarding the suitability of amending the Scheme.

### 2. Application of Policy

Local Planning Policy P-Dev 64 Requirements for Local Planning Scheme Amendments is operative throughout the City of Kalamunda.

### 3. Statutory Authority / Legal Status

This Policy has been prepared in accordance with Part 2, Clause 3 of the Schedule 2 of the Planning and Development (Local Planning Scheme) Regulations 2015 (The Regulations)

#### (a) Relationship to Local Planning Scheme No.3

This policy is a planning policy prepared, advertised and adopted pursuant to Part 2 of (Local Planning Scheme) Regulations 2015. The policy augments and is to be read in conjunction with the provisions of Local Planning Scheme No.3 relating to development.

If there is a conflict between this local planning policy and the Scheme, then the Scheme shall prevail.

#### (b) Relationship to other state planning/ development control policies.

This policy has due regard to, and should be read in conjunction with state planning policies. Of particular relevance to this policy are:

- i. State Planning Policy 1 – State Planning Framework.
- ii. State Planning Policy 3.7 Planning in Bushfire Prone Areas

(c) Relationship to other local planning policies

This policy has due regard to, and should be read in conjunction with the City of Kalamunda's other local planning policies. Of particular relevance to this policy are:

- a) Local Planning Policy P Dev. 45, Public notification of planning proposals.

#### **4. Policy objectives**

- a) To provide guidance in respect to the process and level of detail required for a Local Planning Scheme Amendment based on whether the amendment is Basic, Standard or Complex as defined by the Planning and Development (Local Planning Scheme) Regulations 2015 (The Regulations).
- b) To recognise the balance between the need for the community to be informed of, and to have reasonable opportunity to provide input into Local Planning Scheme Amendments, and the timely and accurate determination of those amendments.
- c) To provide a consistent approach on the circumstances when the City receives a Local Planning Scheme Amendment, the level of detail required and at what stage of the process this information will be requested to be submitted.
- d) To ensure applicants provide as much detail as possible so that the City and Council can understand the likely extent of any proposed development and amenity impacts, and therefore determine whether a Local Planning Scheme Amendment is deemed appropriate.
- e) To provide a practical administrative process of Local Planning Scheme Amendments.

#### **5. Policy Measures**

- a) Part 5 of the *Planning and Development (Local Planning Scheme) Regulations 2015* (The Regulations) establishes the provisions for amending the Local Planning Scheme and distinguishes the following:
  - Basic Amendment
  - Standard Amendment
  - Complex Amendment

Appendix D outlines the differences between the three different Scheme Amendment types.

- b) The Regulations outline the specific process for those amendment typologies, the mechanisms for advertising and the requirements of when the application is required to be forwarded to the Western Australian Planning Commission (WAPC)

**The requirement of this policy applies to Standard and Complex only and does not apply to Basic Amendments.**

- c) The Scheme provides the ability for landowners to apply for additional or special uses in accordance with Clause 4.5 "Additional Uses" and Clause 4.7 "Special Use Zones"

*'An additional use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.'*

*'A Special Use Zone applies to specific categories of land use which do not comfortably sit within any other zone within the Scheme.'*

For example, in Rural Zones, "Place of Worship" is an "X" land use which means that it is prohibited within that zone. LPS 3 provides an ability for an applicant to apply for a Local Planning Scheme Amendment for an Additional or Special Use which provides the City with the ability to assess the merits of that use. The provisions of this policy provide further clarification regarding the level of detail and information submitted with an application to amend the Scheme for the purposes of Additional Use or a Special Use Zone.

**This Policy only applies to applications for a Scheme amendment where there is a change of use to the land and/or where there is the potential for new built form and associated activities and where these changes are likely to have an impact on the amenity of the existing and future local community.**

## **Policy Statement**

### **2. Land Use Scoping Statement and Concept Master Plan**

- a) Land Use Scoping Statement.

When considering a Scheme Amendment whereby the amendment seeks to change a land use or apply an additional land use, the Council may be faced with a decision whether to support the amendment without knowing what the anticipated built form or amenity outcome for that site, or the impact the

amendment may have in terms of the surrounding community. To improve the decision-making process, the City will require an applicant to provide a Land Use Scoping Statement. This document is required to be submitted upon initial lodgement of the amendment application and will form part of the application information presented to Council when it is asked to provide consent to advertise.

The Land Use Scoping Statement is a report which is intended to provide the City with a level of background information addressing core land use planning issues and to provide Council with a greater level of detail regarding intended outcomes. The Statement is required to address the following land use and planning related issues:

**i. Scale and Intensity of Use**

The extent of the proposed use in terms of the types of proposed activities, the number of people occupying and/or attending the development, any proposed major fixtures or events during the calendar year, the likely hours of operation, and the proximity to other habitable land uses;

**ii. Streetscape**

The extent to which any subsequent future development will likely alter the desired and or existing streetscape of the immediate area of the proposed Scheme Amendment. It is noted that *Applications for development which include new buildings will be assessed in accordance with the Scheme and in accordance with the R Codes where abutting or within a residential zoned area.*

**iii. Tree Preservation.**

The extent to which the proposed amendment and any subsequent future development will result in the loss of any significant trees or other natural vegetation which will be required to be cleared. *Where trees are proposed to be removed, details are to be provided on a site plan, showing where the tree or vegetation is native and above 300mm in trunk diameter. A report shall be provided by a suitably qualified arborist to determine the health of the tree and if it hosts any natural fauna. Where there is clearing of natural vegetation proposed, a flora and fauna study will be required to be undertaken by a suitably qualified environmental science consultant.*

**iv. Open Space**

The extent of preservation of areas of useable on-site open space to be maintained as part of the proposal and any subsequent future development.

**v. Site Limitation or Constraints**

Outline and address any special limitations on the development of the land by its size, shape or environmental/geographical feature.

**vi. Prevailing Amenity**

The likely amenity impacts that could arise from approval of the application, including noise, any proposed traffic and parking issues, or scale of any proposed development.

The applicant is required to analyse the context in which the application for Scheme Amendment will impact on prevailing amenity as it relates to anticipated land use outcomes. This may include such factors as:

- i. Noise Attenuation
- ii. Dust and Odour
- iii. Environmental Impact
- iv. Traffic Impact
- v. Safety and security

**b) Concept Master Plan**

Applicants are also required to include written details in their application regarding the likely future staging of any development or growth of activities in the form of an illustrative Concept Master Plan upon initial lodgement.

When applying for an additional use or special use via a Scheme Amendment, a Concept Master Plan shall be submitted with the request to amend the Scheme outlining the likely or desired overall development of the site and including each relevant stage as applicable.

The details of the Concept Master Plan may include but is not limited to the following:

**i) Location of Buildings**

Indicative location of all proposed buildings, car parking and access on a scaled plan.

**ii) Incidental and Additional Uses**

Proposed likely incidental or additional uses. The applicant is required to specify those uses, and if details are known, provide a list of those uses and likely operating timeframes.

**iii) Concept Drawings**

Conceptual drawings for any proposed buildings, or modifications to any existing buildings. Concept plan for the entire property including any staging.

**iv) Traffic Assessment**

*A preliminary Traffic Impact Statement to be provided undertaken by a suitably qualified traffic engineering consultant).*

**v) Effluent Disposal**

An effluent management statement is to be provided, where not connected to reticulated sewer. Where applicable, the applicant is required to provide a statement and/or plan demonstrating effluent disposal can be achieved.

**vi) Stormwater Disposal**

Where applicable the applicant is required to provide a statement and/or plan demonstrating stormwater disposal can be achieved.

**vii) Car Parking**

A preliminary car parking strategy, including overflow parking provisions contained on-site, where applicable, is to be provided.

**viii) Bushfire Management**

*Bushfire Contour mapping or Bushfire Attack Level Assessment (BAL) for the site or the area subject to Scheme amendment.*

(Note that depending on the land uses proposed and the future/anticipated development outcomes a Bushfire Management Plan and Emergency Evacuation Plan may form part of a Condition of approval for the Scheme Amendment.)

**ix) Noise Management**

*A noise impact assessment may be required to be provided undertaken by a suitably qualified acoustic consultant where the City deems that the proposed land use may conflict with or affect surrounding or adjacent existing and proposed land uses. A Noise Management Plan may be required to be submitted.*

- c) It is noted that the Concept Master Plan and Land Use Scoping Statement relate to preliminary and indicative proposals only. As such the submitted details may be amended through the Development Application Stage. It is noted however, that where a proposal for development deviates significantly from the Concept Master Plan and the Land use Scoping Statement, the City is unlikely to support the development without substantial reasoning and sound planning justification.

**3. Matters to be Considered**

The following matters will be given consideration in the assessment of applications for a Local Planning Scheme Amendment.

- a) The likely impact of the proposed scheme amendment on the prevailing amenity and character of the immediate and surrounding area based on established planning principles.

**4. Variations to the Policy**

Where a variation is applied consideration to Clause 3 "Matters to be considered" shall be referenced.

Any variation to the requirements of this policy or items contained in Clause 2 will require the applicant to provide additional justification demonstrating how the proposal will not adversely affect adjoining property owners, the streetscape or the amenity of the locality, with reference to Clause 3 – 'Matters to be Considered' of this policy.

## Explanatory Notes

(1)

<b>Related Local Law</b>			
<b>Related Policies</b>			
<b>Related Budget Schedule</b>			
<b>Legislation</b>			
<b>Conditions</b>			
<b>Authority</b>			
<b>Adopted</b>		<b>Next Review Date</b>	

## **APPENDIX A – EXPLANATORY INFORMATION**

### **WHAT IS A TOWN PLANNING SCHEME?**

Local 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.

### **WHAT IS A SCHEME AMENDMENT?**

From time to time, it becomes necessary to amend the City's Local Planning Scheme No. 3 (the Scheme). When a change is proposed or made to the Scheme, 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 through to the Western Australian Planning Commission and ultimately the Minister for Planning.

Scheme amendments occur for a variety of different reasons including:

- a change in zoning to accommodate development;
- 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.

### **SPOT REZONING**

The planning system has a general presumption against changing the zoning of individual lots ('spot rezoning') 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.



**Appendices A and 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*. Upon lodgement of a Scheme Amendment and prior to a Scheme Amendment being initiated by Council at an Ordinary Meeting the minimum fee is to be paid to the City of Kalamunda. The applicable fee is calculated by estimating the staff time and resources necessary to process and consider the Scheme Amendment. The applicant will be provided with an appropriate acknowledgment letter and invoice by the City at this stage.

The following minimum fees apply to each type of Scheme Amendment:

- Standard Amendment: \$2,500
- Complex Amendment: \$5,000

**Please note that the fees may vary according to the complexity of the amendment proposed and any additional hours logged by City staff.**

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 a Basic, Standard or Complex amendment. The descriptions of these amendments are described in **Appendix D**.

The Scheme Amendment process and timelines are set out in **Appendix E**.

## **APPENDIX B**

### **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:

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 Council strategies or policies);
- 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 may be required; and
- Initial Scheme Amendment fee

The initial request, including full justification and explanation, plus initial fee, should be mailed to the:

Chief Executive Officer

City of Kalamunda

PO Box 42

Kalamunda WA 6926

## **APPENDIX C**

### **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. **\*Note: Five (5) copies of Scheme Amendment document are required should Council resolve to initiate the Amendment.**

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## **APPENDIX D**

*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, activity centre 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;

***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;

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

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- 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, activity centre 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.

**APPENDIX E****LOCAL PLANNING SCHEME AMENDMENTS PROCESS AND INDICATIVE TIMELINES**

<b>Action</b>		<b>Approximate timeframe</b>		
		<b>Basic</b>	<b>Standard</b>	<b>Complex</b>
1.	<b>Preliminary discussion</b> Applicant and City officers discuss merits of proposal prior to formal lodgement	(not included in this timeframe estimate)		
2.	<b>Scheme Amendment request lodged</b> Request acknowledged, registered electronically, allocated to officer and fee determined		1 week	
3.	<b>Internal Assessment</b> Subject to receipt of fee, Scheme Amendment request referred to internal departments for comment. Officer to consolidate comments and provide response to applicant requesting modifications/more information (if required)		3 weeks	
4.	<b>Council Report and Resolution</b> Officer prepares report to Council for consideration to initiate Scheme Amendment. Council resolve whether to initiate Amendment (with or without modifications) or not to proceed with the Amendment. (Note: Ordinary Council Meetings are held on a monthly basis except January)		4 weeks	
5.	<b>Referral to Environmental Protection Authority (EPA) and Western Australian Planning Commission (WAPC)</b> Upon receipt of satisfactory documents, Scheme Amendment referred to EPA for comment and approval to advertise.  All amendments are sent to WAPC, if complex for consent to advertise (others as FYI)	4 weeks	4 weeks	6 weeks
6.	<b>Advertising</b> Following receipt of consent to advertise from EPA, Scheme Amendment is advertised via local newspaper, letters to affected landowners and service	N/A	42 days	60 days

Action		Approximate timeframe		
		Basic	Standard	Complex
	authorities/government agencies, on City's website, within City buildings and signs on site (if required).			
7.	<b>Assess Submissions</b> Officer assesses any submissions received during advertising period and prepares a schedule of submissions to supplement report to Council.	N/A	1 week	
8.	<b>Council Report</b> Officer prepares report to Council with recommendation to either proceed with final approval, proceed with modification, not to proceed.	N/A	4 weeks	
9.	<b>Council Decision</b> Council resolve to either adopt, adopt with modifications or refuse Scheme Amendment. Officer notifies applicant and submitters of Council resolution.		1 week	
10.	<b>Referral to WAPC</b> Scheme Amendment referred to WAPC for Minister for Planning consideration.		1 week	
11.	<b>Minister for Planning Decision</b> 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.	42 days	60 days	90 days
12.	<b>Final Approval and Gazettal</b> If Minister for Planning grants approval, Scheme Amendment is published in the Government Gazette (date when amendment legally comes into effect). Officer notifies applicant and submitters of Scheme Amendment gazettal.		3 weeks	
<b>Total</b>		<b>23 weeks</b> (<6mths)	<b>32 weeks</b> (8mths)	<b>41 weeks</b> (~10mths)

**PLEASE NOTE:**

The information contained herein is a guide only. It is recommended that the advice and assistance of the City's Strategic Planning Services be sought in conjunction with any enquiries concerning proposals to amend Town Planning Scheme No. 3 or rezone land within the City. Some timeframes may vary if complex issues arise or where applicants do not return information in a timely manner.

