

Planning Information Sheet:

Scheme Amendment

INTRODUCTION

This Information Sheet provides an overview of the process for requesting a Scheme Amendment to the City's Local Planning Scheme No. 42 (LPS42). This includes the procedure which must be followed towards the finalisation of a Scheme Amendment if the Council agrees to commence the statutory process.

It is not a definitive document, but rather seeks to provide general information to assist the public in understanding the requirements and processes applicable to Scheme Amendment proposals.

The Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) required local governments to review their local planning schemes every five years. The City's LPS42 has been prepared in accordance with this recommendation following the Regulations. LPS42 was gazetted on 26 May 2020, and is a modern Scheme which follows the model scheme text provisions in the Regulations. LPS42 created urban corridors on Manning Road and Albany Highway and up-coded residential areas within the City, especially in areas around commercial centres.

WHAT IS A SCHEME AMENDMENT?

A Scheme Amendment facilitates changes to the statutory planning framework by amending a local government's Local Planning Scheme (in the City's case, Local Planning Scheme No. 42).

The most common type of Scheme Amendment is known as a rezoning, where the existing zoning of a property is changed to a new zoning (for example, from a 'Residential' zone to a 'Business' zone). The zoning of a property determines what types of uses and development may be allowed on that land.

A Scheme Amendment may be requested by a landowner or instigated by the City.

SPOT REZONING

What is a 'spot rezoning'?

The modification of a small area of land in isolation from the wider locality is sometimes referred to as 'spot rezoning'.

The City generally does not support requests for 'spot rezoning' independently of a broader Local Planning Scheme Review. This includes requests for a change of zoning, residential density coding or building height limits for an individual lot or a small area.

When can a 'spot rezoning' be considered?

A 'spot rezoning' will generally only be considered if:

- the particular site-specific circumstances are unique,
- the requested rezoning is of a special or urgent nature, and
- the resultant development will not adversely affect surrounding areas.

Rezoning requests should relate to a broader or more logical area or be considered as part of a major Local Planning Scheme review.

In accordance with the *Planning and Development Act 2005*, local governments are required to undertake a review of their Local Planning Schemes every 5 years. The City may consider requests for 'spot rezoning' as part of the general review of Local Planning Scheme No. 42.

HOW CAN I SUBMIT A SCHEME AMENDMENT PROPOSAL?

Discuss your proposal

Before lodging a formal proposal to proceed a Scheme Amendment, applicants are encouraged to make an appointment with the Strategic Planning Team at the City to discuss their proposal.

The City's officers will:

- advise if the desired form of development can currently be approved within the existing framework of the City's Local Planning Scheme No. 42 without the need for a Scheme Amendment,
- offer guidance as to whether the applicant's Scheme Amendment request is likely to be supported, and how the proposal should be formulated and justified, and
- provide an overview of the Scheme Amendment process so the applicant can understand the timeframes involved, the key decision-making points and the authorities associated with the assessment and approval of the Scheme Amendment.

To prepare for the meeting with the City's officers, applicants should:

- read this information sheet,
- investigate the existing development potential of the site, and
- consider the details of the intended development in terms of desired land uses, site layout and possible building design.

Engage a private planning consultant

It is usually advisable for the applicant to engage a suitably experienced Planning Consultant who can fully address all relevant 'Planning' issues as part of the initial Scheme Amendment proposal – this would be done through the creation of a professional report.

If the Council supports the proposed Scheme Amendment, this professional report will provide the basis for the City's officer report to Council.

Information to be submitted in a Scheme Amendment proposal

Information required to be submitted as part of the applicant's formal Scheme Amendment proposal includes an explanatory letter and a detailed report addressing all relevant considerations, including:

- the address of the subject lot or lots,
- an accurate description of the proposed change in zoning, density coding or other amendments to the Scheme,
- the reasons for the Scheme Amendment proposal,

- justification for the proposal (referencing any applicable City of Canning and State strategies or policies), and
- 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.

Supporting technical documents

The preparation of supporting technical information and documents (e.g. traffic reports, parking management, pedestrian access management, servicing reports, environmental reports and signage locations) may also be required depending on the particularity of each Scheme Amendment proposal.

Lots located along Manning Road and Albany Highway

For lots along Manning Road and Albany Highway, it is advised that the applicant uses Main Roads' free advisory service prior to the lodgement of planning proposals. Further information on the Main Roads pre-lodgement consultation process can be found on their website at mainroads.wa.gov.au > Technical & Commercial > Planning & Development.

Potential requirement for concept and elevation plans

In some instances, it may be necessary to undertake the preparation of development a concept plan and elevation plans to articulate future development aspirations. These plans will illustrate the possible development of the land after the completion of the Scheme Amendment.

These plans will enable the Scheme Amendment proposal to be properly and fully considered by the Council, the City's officers, the community, and later by the Minister for Planning. They would also assist the applicant by confirming that the intended redevelopment of the land would be feasible.

The concept plan and elevation plans are particularly relevant in the case of the rezoning of land for increased development potential or other site-specific benefits.

The supporting plans should be realistic in scale and illustrate the likely form of development on the site. They should accurately illustrate the following design elements (as a minimum):

- proposed uses and disposition of uses within the building and on the site,
- maximum permitted plot ratio area,
- maximum permitted building height,
- required setbacks from all boundaries,
- layout of the required number of car parking bays on site for all dwellings and non-residential uses, including visitor bays, and
- location of vehicular access points.

The City understands that the concept plan might not necessarily be the final design solution for the site, and that some design elements might be refined during the preparation of a more detailed proposal at the later development application stage. While the developer would not be required to exactly replicate the concept design in any future development application, the Council would expect that the basic features of the concept plan would be retained.

The concept plan and elevation plans will be considered by Council when deciding whether or not to initiate the proposed Scheme Amendment.

Lodgement and initial assessment of a Scheme Amendment proposal

A Scheme Amendment proposal should be lodged with the City. The Scheme Amendment might be supported in the manner requested, or depending on the particular circumstances, it might be modified or supported subject to certain performance criteria or other requirements.

The Council is not obliged to initiate a Scheme Amendment proposal if it is of the opinion that the proposal would not constitute orderly and proper planning.

MATTERS CONSIDERED BY THE CITY WHEN ASSESSING A SCHEME AMENDMENT

When deciding whether or not a Scheme Amendment proposal should be supported, a wide range of local and regional planning considerations are taken into account.

Some matters would not be considered as relevant 'planning' considerations by the City, such as personal financial gain to the applicant. While important to the applicant, such matters would not be taken into account when a Scheme Amendment proposal is considered. The Council would normally only consider proposals which would contribute to the long-term benefit of the wider community.

The extensive range of matters taken into account when the City considers a Scheme Amendment proposal include the following (in random sequence):

- purpose of the proposed Scheme Amendment;
- existing zoning and site requirements;
- existing land use;
- existing zoning under the Metropolitan Region Scheme;
- whether the proposed redevelopment is permissible under the existing zoning without requiring a Scheme Amendment;
- existing zoning and site requirements applicable to surrounding lots;
- comments received from neighbours likely to be affected by the proposal;
- any adverse effect on surrounding areas, including traffic or parking congestion in the area;
- whether the particular or site-specific circumstances of the Scheme Amendment proposal are unique, or of a special or urgent nature;
- any precedent of similar Scheme Amendments which could affect the current proposal;
- the objectives of Local Planning Scheme No. 42;
- compatibility of the proposal with any City strategies (e.g. Local Planning Strategy and Local Commercial Activity Centre Strategy) and policies relating to the future development of the locality;
- compatibility of the proposal with any state government strategies and policies relating to the future development of the locality;
- any other relevant Planning consideration or requirement of the Minister responsible for Planning;
- any relevant heritage considerations or requirements of the City or the Minister responsible for state heritage; and
- any environmental considerations or requirements of the Environmental Protection Authority (EPA) or the Minister responsible for the environment.

WHAT HAPPENS NEXT AFTER I SUBMIT A SCHEME AMENDMENT REQUEST?

What's involved in amending Local Planning Scheme No. 42?

Local Planning Scheme No. 42 is a statutory document, and all Scheme Amendments proposed must be carried out in accordance with all statutory procedures. Section 75 of the *Planning and Development Act 2005* (the Act) provides for local governments to amend a Local Planning Scheme. Scheme Amendment provisions become operative when approved by the Minister for Planning and published in the Government Gazette.

A more detailed procedure for making and amending a Local Planning Scheme is set out in Part 5 of the State Government's Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). When undertaking a Scheme Amendment, the City must follow the processes outlined in the Regulations.

Types of Scheme Amendments

The Regulations identify three different Scheme Amendment streams, as follows:

- **Basic Amendment** (Part 5, Division 4 of the Regulations) – These Scheme Amendments are minor and predominantly of an administrative nature.
- **Standard Amendment** (Part 5, Division 3 of the Regulations) – These are Scheme Amendments of less strategic significance or complexity that are neither a basic or complex amendment.
- **Complex Amendment** (Part 5, Division 2 of the Regulations) – These are Scheme Amendments that are significant in scale and/or inconsistent with the planning framework.

For a more detailed description of the different Scheme Amendment streams, please refer to the definitions contained in the Regulations (Part 5, Division 1, Reg. 34).

The City's officers will determine what stream the proposed Scheme Amendment is aligned with. Should an applicant disagree with the Scheme Amendment stream specified by Council, the applicant may request the Western Australian Planning Commission's advice on the Scheme Amendment classification.

Scheme Amendment process

The process for each Scheme Amendment stream varies. Flowcharts showing the process for the various Scheme Amendment streams can be viewed on the Department of Planning, Lands and Heritage's website: [DPLH Process for Amendments Flowcharts](#)

Generally the Scheme Amendment process includes the following steps:

- 1) Receipt of Scheme Amendment proposal by the City
- 2) Assessment by the City's officers
- 3) Initiation by Council
- 4) Referral to relevant State Government Agencies for consent to advertise
- 5) Public consultation (only applicable to Standard and Complex Amendments)
- 6) Consideration by Council after public consultation
- 7) Referral to the Western Australian Planning Commission for Minister for Planning's final determination
- 8) Scheme Amendment gazettal, if approved by Minister for Planning

Overall timeframe

The Scheme Amendment process is lengthy and complex, and is subject to the processing timeframes outlined in the Regulations. These vary depending on the Scheme Amendment stream.

For Standard and Complex Amendments, applicants should anticipate a timeframe of around 12 to 18 months.

IF A SCHEME AMENDMENT IS REFUSED, CAN THE DECISION BE REVIEWED?

Scheme Amendment refused by Council at the initiation stage

If a Scheme Amendment is refused by Council at the initiation stage (before public consultation), the applicant may seek the Minister for Planning's reconsideration pursuant to Section 76 of the *Planning & Development Act 2005* (the Act).

Following receipt of a submission by the applicant, if the Minister for Planning is satisfied that a local government has failed to adopt a Scheme Amendment which ought to have been adopted for public consultation, the Minister may order the local government to do so. This means that the City will be required to proceed with advertising the Scheme Amendment for public comment. This should not be taken to mean that the Minister for Planning will ultimately approve the Scheme Amendment at the final stage of the Scheme Amendment process.

It should be noted that Standard Amendments made to comply with an order made by the Minister for Planning under Section 76 of the Act will be classified as a 'Complex Amendment', and be processed according to the timeframes and requirements relevant for a Complex Amendment.

Scheme Amendment refused by Council at the adoption stage

If Council resolves to refuse a Scheme Amendment at the adoption stage (after public consultation), there are no processes for a review.

However, the Scheme Amendment must still be forwarded to the Western Australian Planning Commission (WAPC) for the Minister for Planning's determination, where the Minister may or may not support the Council's refusal.

Scheme Amendment refused by the Minister for Planning

The Minister for Planning's decision on Scheme Amendments is final, and there are no processes for review after this.

APPLICATION COSTS

The cost of a Scheme Amendment application depends on its complexity. Upon receipt of the proposal the City will undertake a preliminary review of the Scheme Amendment proposal, following which an invoice will be sent.

As a rough guide, the most recent applications have incurred fees between \$5,000 to \$10,000, depending upon the level of complexity involved. This is an estimate only.

The fees cover the costs associated with the progressing the Scheme Amendment such as:

- Assessing the Scheme Amendment application including carrying out relevant research, site inspections, and if necessary, meeting with the applicant to discuss the Scheme Amendment proposal;

- Preparing the reports to Council pre and post public consultation, and analysing the submissions received;
- Preparing the Scheme Amendment documents;
- Amending the Local Planning Scheme text and/or map; and
- Responding to public enquiries during the advertising period.

Should a Scheme Amendment be initiated for public consultation, the costs associated with the public consultation processes will also be borne by the applicant, including costs for letters to affected landowners and relevant authorities, notices in the newspaper and the Government Gazette, and on-site signs.

The external peer review of technical reports that are submitted as part of the Scheme Amendment proposal may also be required. This will occur where the City does not have the appropriate technical expertise to assess the reports, and the external review will be organised by the City at the applicant's cost.

FURTHER INFORMATION

For further information, please contact the City's Strategic Planning Team on 1300 422 664 or use the link below:

[Submit online using the My Canning Portal](#)

RELEVANT PUBLICATIONS

City of Canning

<https://www.canning.wa.gov.au/residents/building-here/planning-services>

- Local Planning Scheme No. 42 - Scheme Text and Scheme Maps
- Local Planning Policies
- Local Planning Strategy
- Planning Fees & Charges

State Law Publisher

<https://www.legislation.wa.gov.au>

- *Planning and Development Act 2005*
- Planning and Development (Local Planning Schemes) Regulations 2015
- Planning and Development Regulations 2009

Environmental Protection Authority

https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a9408.html

- Referral of Scheme Amendment to the Environmental Protection Authority (EPA) – Section 81 of the *Planning and Development Act 2005*

DISCLAIMER

This publication is intended to provide general information only. Applicants should also discuss their proposals with a Strategic Planning Officer, and read the relevant documents referred to in this Information Sheet.

Should you have any further questions, you are welcome to contact one of the City's Strategic Planning Team by telephone on 1300 422 664, or make an appointment to see an Strategic Planning Officer in person.