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24 June 2026

Dear Resident and Community Member

## CITY OF SUBIACO LOCAL PLANNING SCHEME NO. 5 – PROPOSED AMENDMENT NO. 5 TO INCREASE THE DENSITY OF NO. 37 WAYLEN ROAD – SECTION 76 ORDER

We are writing to inform you that the City of Subiaco has been ordered by the Minister for Planning to initiate Amendment No. 5 to Local Planning Scheme No. 5. The amendment proposes to increase the residential density of 37 Waylen Road, Shenton Park, from Residential R15 to Residential R100.

Amendment No. 5 has been proposed by the landowners of 37 Waylen Road, with similar requests considered by the City over the past few years.

The order is made under section 76 of the *Planning and Development Act 2005* which allows the Minister to direct a local government to adopt an amendment to a local planning scheme to allow it to go through the scheme amendment process. Legislation requires the City to follow a certain process and we have attached a Frequently Asked Questions document to help explain the next steps.

### What is proposed?

The Order modifies Amendment No. 5 to increase the residential density of 37 Waylen Road from Residential R15 to Residential R100. Surrounding properties are not proposed to change – see **Figure 1** below which shows the proposed change to the subject property coloured in yellow.

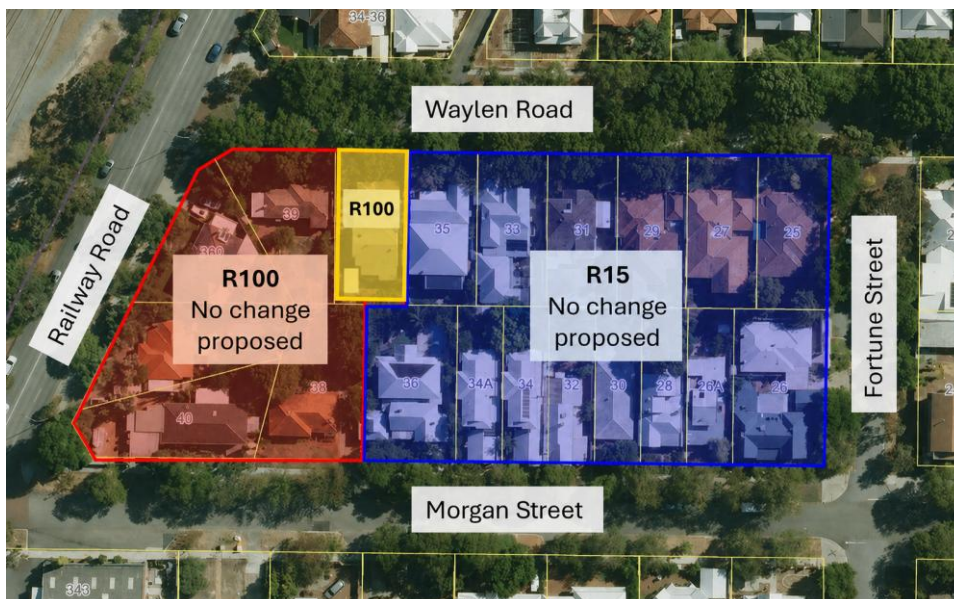


Figure 1: Proposed density code shown in yellow (R100)

Previous amendment requests – Original Amendment No. 5 and Amendment No. 2

In November 2024 and March 2022, the same landowner requested amendments to LPS 5 (Amendment No. 5, and No. 2 respectively). These were not adopted by Council and neither amendment progressed. We are contacting the properties included in the previous amendment for their information.

**Table 1** outlines the differences between the previous amendment requests and the current section 76 order.

<b>Table 1: Key differences between past amendment requests and the current section 76 order</b>		
<b>Current s.76 order (modified Amendment No. 5)</b>	<b>Original Amendment No. 5 request</b>	<b>Past Amendment No. 2 request</b>
<ul style="list-style-type: none"><li>• Includes <u>one lot only</u> (No. 37 Waylen Rd)</li><li>• Change of density from R15 to R100</li></ul>	<ul style="list-style-type: none"><li>• Includes <u>one lot only</u> (No. 37 Waylen Rd)</li><li>• Change of density from R15 to R60</li></ul>	<ul style="list-style-type: none"><li>• Included <u>15 lots</u> within the street block</li><li>• Change in density from R15 to a mix of R60 and R40</li></ul>

What happens next?

The section 76 order for Amendment No. 5 will be referred to the 28 July 2026 Ordinary Council Meeting for adoption. Once the amendment is initiated for advertising, formal consultation will commence, and you will have the opportunity to provide feedback as part of this process.

A section 76 order should not be construed as Ministerial support for the amendment and adopting an amendment for advertising does not indicate Council support. The amendment will be considered through the scheme amendment process.

For further details, please refer to the attached Frequently Asked Questions. If you have any queries regarding this matter, please contact Emily Crosby, Acting Principal Strategic Planner on (08) 9237 9222 or via email at [planning@subiaco.wa.gov.au](mailto:planning@subiaco.wa.gov.au).

Yours sincerely



Alexander Petrovski  
**Director Development Services**

# Frequently Asked Questions

## Questions on proposed Amendment No. 5 – Section 76 Order

### What has the City received?

The City received a section 76 order under the *Planning and Development Act 2005* (PD Act) from the Minister for Planning (Minister) to adopt Amendment No. 5 to Local Planning Scheme No. 5 (LPS 5). The section 76 order has modified Amendment No. 5 to increase the residential density of No. 37 Waylen Road, Shenton Park (37 Waylen Road) from Residential R15 to Residential R100.

### Who requested the amendment?

The City received the amendment request for Amendment No. 5 from planning consultants Dynamic Planning and Developments on behalf of the owners of 37 Waylen Road in November 2024.

### What is proposed?

The scheme amendment request applies only to 37 Waylen Road. The Minister has modified the amendment to increase the residential density of 37 Waylen Road from R15 to R100. The remainder of densities within the street block are not proposed to change. The proposed change is shown in **Figure 1** below, with the lot coloured in yellow. The areas coloured in red and blue are not part of the proposed amendment.

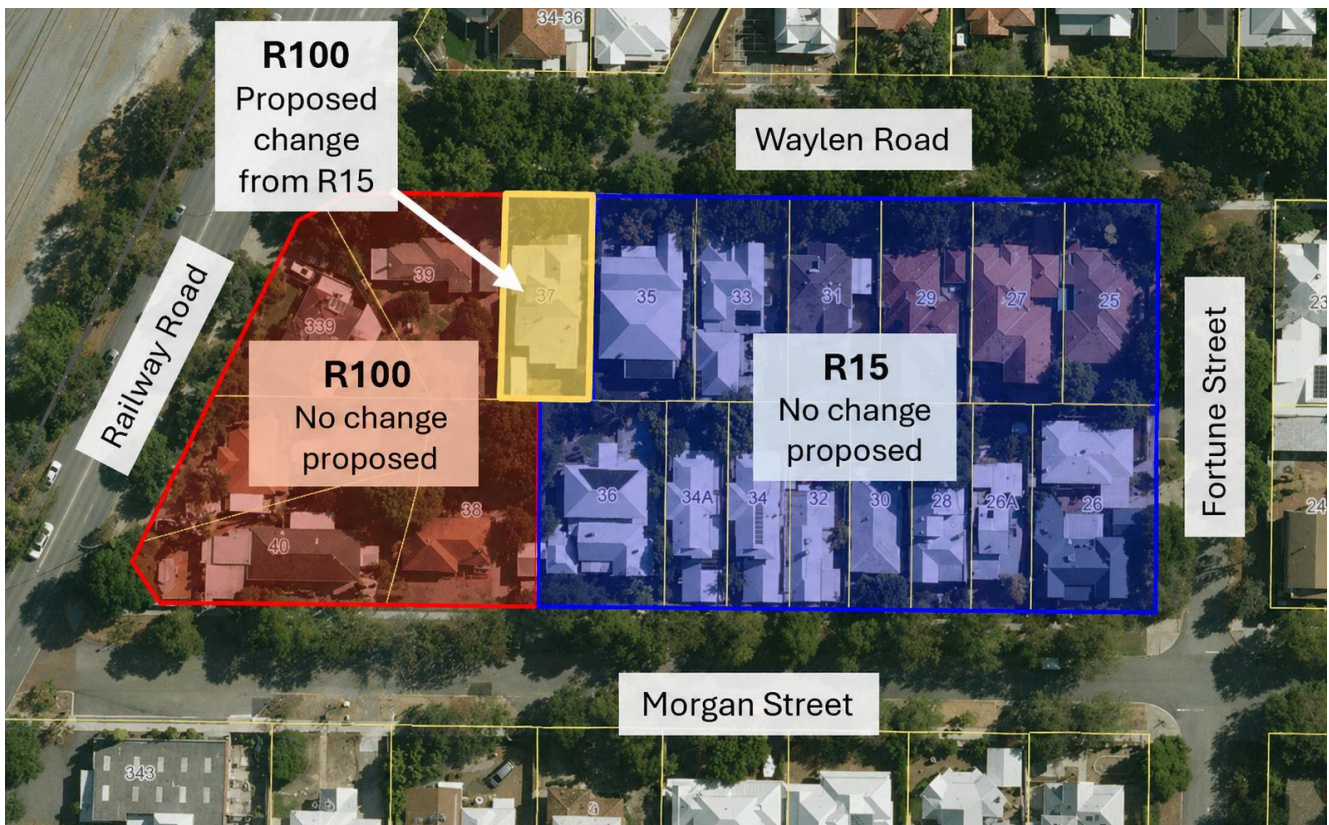


Figure 1: Proposed change to density code shown in yellow (R100)

### **What is a section 76 order?**

A section 76 order under the PD Act allows the Minister to direct a local government to adopt an amendment to a local planning scheme to allow it to go through the scheme amendment process.

### **Why has the City received a section 76 order?**

The section 76 order has been provided as the Minister believes there is enough planning merit that the scheme amendment ought to be adopted for advertising and considered through the scheme amendment process. The order does not indicate Ministerial support and adopting the scheme amendment for advertising does not indicate Council support.

### **What was the original Amendment No. 5?**

In November 2024, the City received the original Amendment No. 5 request from Dynamic Planning and Developments, on behalf of the owners of 37 Waylen Road to amend LPS 5. The request proposed to modify the residential density of 37 Waylen Road from Residential R15 to R60. It sought to introduce a medium density buffer of a single lot between the high density land to the west and the low density character area to the east.

Council considered Amendment No. 5 at the Ordinary Council Meeting (OCM) on the 18 March 2025 and resolved not to adopt the amendment. Full details of the Council resolution and the officer report are available on the City's website at [www.subiaco.wa.gov.au](http://www.subiaco.wa.gov.au).

### **What was Amendment No. 2?**

In March 2022 the City received an amendment request (Amendment No. 2 to Local Planning Scheme No. 5) from planning consultants Dynamic Planning and Developments on behalf of the owners of 37 Waylen Road.

The amendment request included 15 lots within the street block bound by Waylen Road, Railway Road, Morgan Street and Fortune Street, Shenton Park. The landowner sought to increase the residential density of the western six lots from R15 to R60 and the eastern nine lots from R15 to R40.

Council considered Amendment No. 2 at the OCM on the 31 May 2022 and resolved not to adopt the amendment. Full details of the Council resolution and the officer report are available on the City's website at [www.subiaco.wa.gov.au](http://www.subiaco.wa.gov.au).

### **What is the difference between the current Amendment No. 5 (modified by the section 76 order), previous Amendment No. 5 and Amendment No. 2?**

The section 76 order only proposes a density increase for the landowner's property at 37 Waylen Road and has modified the R-Code to increase the density to R100. No other lots are included. This means the density of surrounding lots will remain as they currently are in LPS 5, and no change is proposed. **Table 1** outlines the key differences between the current section 76 order (i.e. modified Amendment No. 5), the original Amendment No. 5 request and previous Amendment No. 2.

<b>Current s.76 order (modified Amendment No. 5)</b>	<b>Original Amendment No. 5 request</b>	<b>Past Amendment No. 2 request</b>
<ul style="list-style-type: none"> <li>Includes <u>one lot only</u> (No. 37 Waylen Rd)</li> <li>Change of density from R15 to R100</li> </ul>	<ul style="list-style-type: none"> <li>Includes <u>one lot only</u> (No. 37 Waylen Rd)</li> <li>Change of density from R15 to R60</li> </ul>	<ul style="list-style-type: none"> <li>Included <u>15 lots</u> within the street block</li> <li>Change in density from R15 to a mix of R60 and R40</li> </ul>

### What does the R-Code density mean?

The R-Code density broadly refers to the number of dwellings per hectare of land area. This means an R15 designation leads to a lower density of residential development than an R100 designation.

The R-Codes designation relates to the number of dwellings that can be built on a given lot as specified in Residential Design Codes Volume 1 (R-Codes Vol. 1) for single houses and grouped dwellings and Residential Design Codes Volume 2 (R-Codes Vol. 2) for multiple dwellings (apartments). **Table 2** shows the average lot size requirements.

<b>R-Code</b>	<b>Dwelling type</b>	<b>Average site area per dwelling</b>
R15	Single house, grouped dwelling, multiple dwellings (apartments)	666m <sup>2</sup>
R100	Single house, grouped dwelling	120m <sup>2</sup>
R100	Multiple dwellings (apartments)	The R-Codes Vol. 2 determines yield on building controls

Under the current R15 density, generally only one dwelling can be built on each lot. Under the proposed R100 density the owner of No. 37 Waylen Road would be able to develop up to four single houses or grouped dwellings, or up to around 10 apartments (subject to meeting the other requirements of the planning framework).

### What is the City doing now?

The City has received a section 76 order under the PD Act and is now required to progress the amendment and follow the process set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations).

The section 76 order will be referred to the 28 July 2026 OCM for adoption to advertise. This meeting will not determine whether the City supports or does not support the proposed amendment. This decision will be made at an OCM following formal advertising.

### What are the next steps?

At the upcoming OCM, Council is required to adopt the amendment for approval for the Minister to advertise to comply with the section 76 order. If Council does not comply with the section 76 order, the Minister can undertake any enforcement action necessary under the PD Act.

Once approval to advertise has been obtained from the Minister, letters inviting comments will be sent to all affected landowners and occupiers within a 100m radius of the amendment area. The advertising period is 60 days given the amendment is classified as complex amendment.

City officers will collate and assess any submissions received and will make a recommendation to Council on whether to support the proposed amendment with or without modifications or not to support the amendment.

Note: Once an amendment is adopted by Council, all steps of the amendment process must be followed and the final decision on a scheme amendment is made by the Minister following a recommendation by the City.

### **How and when can I get involved?**

Council has not yet adopted the amendment for advertising. After Council proceeds to get approval to advertise the amendment, you will be advised of the submission period, including how to lodge a submission. This will likely occur in the second half of 2026.

Following formal consultation, a report will be prepared for Council's consideration at a future OCM to consider the submissions and make a recommendation to the Western Australian Planning Commission on whether the City supports, supports with modifications, or does not support the amendment. The report will be publicly available and it is open for community members to participate in Council meetings through public questions and statements.

## **General questions on scheme amendments**

### **What is Local Planning Scheme No. 5?**

A Local Planning Scheme is a statutory document that defines the way land can be used and developed. The scheme implements the strategic direction set out in the Local Planning Strategy by regulating the zoning of land, residential density and including development requirements, such as maximum building height and plot ratio. The City's Local Planning Scheme No. 5 is the rule book for planning decisions and is the document against which all planning proposals and development applications are assessed.

### **What is a scheme amendment?**

From time to time it is necessary to amend a Local Planning Scheme or a landowner requests the City to amend the scheme. Amendments can be prepared by the City or by a landowner. A change to the local planning scheme is referred to as a scheme amendment.

### **Who can prepare a scheme amendment?**

An amendment to a local planning scheme can be proposed by all or any of the owners of land in the scheme area in accordance with section 75 of the *Planning and Development Act 2005*. The City can also initiate an amendment if considered necessary.

### **What is the process for a scheme amendment?**

The procedure for amending a Local Planning Scheme is set out in *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations).

### **Who makes the final decision?**

The Minister is the final decision maker for scheme amendments.

The procedure generally involves the following sequential steps:

- Council resolves whether to prepare or adopt an amendment to the scheme and decides to classify the amendment as basic, standard or complex.
- If the amendment is prepared or adopted, it is referred to the Environmental Protection Authority (EPA), unless exempt.
- Council resolves to either:
  - Seek approval from the Minister for Planning to advertise the proposed amendment without modification; or
  - Modify the proposed amendment before seeking approval from the Minister for Planning to advertise the proposed amendment; or
  - Not to proceed with the amendment.
- Once approval is obtained from the Minister for Planning, the proposed amendment is publicly advertised for a minimum of 42 or 60 days for standard and complex amendments respectively.
- The City carefully considers all submissions and prepares a final report to Council for its resolution, to recommend that the Minister for Planning approve the scheme amendment, require modifications to respond to submissions, or to refuse to approve the scheme amendment.
- The Council's resolution, as well as all submissions on the amendment and the Council's report is forwarded to the Western Australian Planning Commission (WAPC) who will assess the proposal and make a recommendation to the Minister for Planning.
- The final decision is made by the Minister for Planning to approve, require modifications or refuse to approve the scheme amendment.
- If approved, the amendment is gazetted.

Note: Should Council resolve not to support the amendment after it is advertised, it is still required to be forwarded to the WAPC for consideration by the Minister for Planning who may approve, require modification or refuse to approve the amendment.

### **Where can I get further information on the proposed amendment?**

For any further queries about the proposed amendment and how it may impact your property, please contact Emily Crosby, Acting Principal Strategic Planner on 9237 9222 or by email [planning@subiaco.wa.gov.au](mailto:planning@subiaco.wa.gov.au).