

# Local Planning Scheme No. 5 Amendment No. 2



## Frequently Asked Questions

### Questions on proposed Amendment No. 2

Who requested the amendment?

The City received the amendment request from planning consultants Dynamic Planning and Developments on behalf of the owners of No. 37 Waylen Road, Shenton Park.

Can a landowner request an amendment that impacts land they don't own?

Yes. Section 75 of the *Planning and Development Act 2005* states that an amendment to a local planning scheme can be proposed by all or any of the owners of land in the scheme area (emphasis added). The approval of the affected land owners is not required to submit an amendment request for an amendment affecting their land.

What is proposed?

The scheme amendment request includes 15 lots within the street block bound by Waylen Road, Railway Road, Morgan Street and Fortune Street, Shenton Park. The applicant seeks to increase the residential density of the western six lots to R60 and the eastern nine lots to R40 as shown on **Figure 1** below coloured yellow and green respectively.



Figure 1: Proposed density codes shown in yellow (R60) and green (R40)

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 R40 or R60 designation.

The R-Codes designation therefore relates to the number of dwellings that can be built on a given lot as specified in State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes Vol. 1). The following average lot size requirements apply:

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R-Code	Average site area per dwelling
R15	666m <sup>2</sup>
R40	220m <sup>2</sup>
R60	150m <sup>2</sup>

Under the current R15 density, generally only one dwelling can be built on each lot. Under the proposed R40 and R60 density some lots would be able to accommodate two or three dwellings if the existing house was to be demolished.

## What is the City doing now?

The City has received a request from a landowner to amend Local Planning Scheme No. 5. In accordance with the *Planning and Development Act 2005* the City is required to consider the amendment and follow the process set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations).

This does not mean the City has decided whether to support or not support the proposed amendment.

## What are the next steps?

City officers are assessing the proposed amendment and will be preparing a report to Council for consideration.

At the Council meeting, Council is required to resolve whether to support the proposed amendment and whether to proceed to advertise the proposed amendment, either with or without modifications, or to not proceed to advertise the amendment.

Should Council resolve to not proceed to advertise the amendment, this is the end of the process.

Should Council resolve to advertise the amendment, letters inviting comments will be sent to all affected landowners and occupiers within the street block affected by the proposed amendment and within a 100m radius of the amendment area. The advertising period is either 42 days or 60 days depending on whether the amendment is considered to be a standard or 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: The final decision on a scheme amendment is made by the Minister for Planning following a recommendation by the City.

## Can the applicant appeal a decision of Council not to proceed with the amendment?

Should Council decide not to proceed with the proposed amendment, the applicant has the right to apply to the Minister for Planning for a review under section 76 of the *Planning and Development Act 2005*. The Minister would investigate whether she believes there is merit in the proposed amendment and may direct the City to advertise the amendment for public comment. Should this occur, the normal procedural steps set out in the LPS Regulations would be required.

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to be followed. Even if the Minister directs the City to advertise the amendment, this should not be construed as the Minister's support for the amendment.

How can I get involved?

Council has not yet had the opportunity to consider the proposed amendment and to decide whether the amendment should proceed to advertising or not.

Should Council proceed to advertise the amendment (with or without modifications), you will be advised of the submission period, including how to lodge a submission.

## 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*.

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).

The procedure generally involves the following sequential steps:

- Council resolves whether to adopt an amendment to the scheme and decides to classify the amendment as basic, standard or complex.
- If the amendment is adopted, it is referred to the Environmental Protection Authority.
- Council resolves to either proceed to advertise the proposed amendment (with or without modifications) or to not proceed to advertising (complex amendments only).
- The proposed amendment is submitted to the Western Australian Planning Commission (WAPC) (for complex amendments only).
- Public advertising 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.

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- The Council's resolution, as well as all submissions on the amendment and the Council's report is forwarded 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 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, 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 Jutta Kober, Senior Strategic Planner on 9237 9222 or by email [city@subiaco.wa.gov.au](mailto:city@subiaco.wa.gov.au).