Local Planning Scheme Amendments

What is a Local Planning Scheme?

A Local Planning Scheme is a legal document that controls land use and development relating to a specific area in a local government. Local Planning Schemes are generally separated into two parts and are accompanied by a map which categorises land into zones.

- Part 1 – sets out the development requirements for specific land in the City which vary across local governments. This part of the scheme is relevant to the City of Subiaco and can be amended.
- Part 2 – includes *Deemed Provisions* which introduce uniform process and procedures relating to the preparation of local planning mechanisms and development control. The Deemed Provisions apply automatically to all Local Planning Schemes in the Western Australia and generally cannot be amended.

The *Planning and Development Act 2005* (Part 5) sets out the general objectives of schemes, the matters which may be addressed in schemes and the requirements for the review of schemes.

What is a Local Planning Scheme amendment?

From time to time it is necessary to amend a Local Planning Scheme. Amendments can be prepared by the City or by a landowner. When a change is proposed or made it is referred to as a scheme amendment.

Scheme amendments occur for a variety of different reasons. Some of these reasons include:

- A change in zoning to accommodate appropriate development.
- A change in development standards of an area or zone.
- A change in the scheme's wording to ensure more effective planning.

- To implement the strategic vision of the Local Planning Strategy.
- To ensure that the scheme's content is up to date with current legalisation.
- To ensure orderly and proper planning of the local government area.

Amendments should not be seen as a means of circumventing the existing requirements of the scheme, and appropriate planning justification must be submitted with a scheme amendment application.

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 once published in the Government Gazette following approval by the Minister for Planning.

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 to initiate/adopt and classify (as basic, standard or complex) an amendment to the scheme.
- The scheme amendment is referred to the Environmental Protection Authority.
- Pre-advertising submission 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.

- 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.

Advertising Process

In accordance with the LPS Regulations, scheme amendments are required to be advertised for a minimum of 42 days if standard, or 60 days if complex. Consultation will generally include:

- Publication of the relevant scheme amendment documents on the City's website;
- An advertisement in a local newspaper advising that a scheme amendment is available for comment.
- Notifying any public authorities and persons that are likely to be affected by the amendment (as determined by the City) and inviting them to make submissions.
- Sign/s being placed on the subject land where relevant.
- Making available for public inspection documentation setting out and explaining the amendment at the City's Administration Centre and library during office hours.
- Displaying a copy of the relevant notice in a prominent place in the City's Administration Centre.
- Taking any other steps that the City considers necessary to make public the details of the amendment, including information sessions for more complex scheme amendments.

Scheme amendments classified as basic are generally of an administrative nature and do not require public advertising.

Making a submission

Any person may make a submission, which should:

- Be submitted using the form on www.haveyoursay.subiaco.wa.gov.a/.
- Be in writing and addressed to the Chief Executive Officer.
- Be received during the submission period.
- State the name and address of every person making the submission.
- State the address of the property affected by scheme (if applicable).
- State the grounds of the submission and the facts and circumstances relied on in support of those grounds.

When writing a submission, keep in mind that:

- It should be easy to read, i.e. use short sentences and plain English.
- It should be organised, i.e. use headings internally and ensure that it flows from one point to another.
- You should refer to the points of the statement of proposals you wish to address.
- You should highlight your key recommendations and summarise them at the end and beginning of each submission.
- For each point of the proposal you wish to discuss, you should set out the concern you have, the information and examples grounding that concern and any alternatives you wish to suggest.
- Try to keep your arguments focused on matters that the Local Planning Scheme can actually deal with (i.e. land use, managing the effects and development of standards, etc).

What Happens After Advertising

Following the advertising period, each submission is considered and a schedule of submissions is prepared. The submissions received are referred to Council for consideration. Consideration is given as to whether the proposal needs to be modified based on any of the matters raised in the submissions. Having regard to the outcomes of the public advertising as well as any other relevant matters, the Council may resolve to:

a) Not support the amendment.
b) Require the amendment be modified.
c) Support the amendment.

After Council has considered the submissions and made a resolution on the finalisation of the scheme amendment, the Council's recommendation, schedule of submissions, schedule of relevant modifications and the amendment documentation are forwarded to the WAPC, who prepare a report and make a recommendation to the Minister for Planning. The Minister then makes the final decision on the amendment.

Length of time for amendment process

The length of time varies depending on the complexity of the amendment and can range from approximately 12 months to over two years for more complicated amendments.

Planning Fees

Planning fees for amendments are calculated in accordance with the requirements of the *Planning and Development Regulations 2009 (Part 7 Local Government Planning Charges).* Such fees may include amongst other things, costs related to staff time, advertising, public consultation, printing and any legal expenses incurred.

The fees are outlined in the schedule of fees available on the City's website.

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