

1. PURPOSE

This policy applies to requests made by applicants (landowners or their representatives) for Council to initiate Planning Scheme Amendments which do not form part of or are designed to implement:

- Council's strategic planning program (detailed in the *Council Plan* and *Annual Action Plan*);
- Council's planning scheme review program; or
- A Council-adopted major strategic land use and development project.

For the purposes of this policy, these types of Planning Scheme Amendments are referred to as 'privately initiated amendment requests'.

The purpose of this policy is:

- To ensure a transparent and consistent approach to the consideration and management of privately initiated amendment requests.
- To ensure that applicants of privately initiated amendment requests are clear about expectations regarding process and costs.
- To ensure that Council maintains the ability to commit its strategic planning resources to those Planning Scheme Amendments that respond to identified community priorities and deliver the widest community benefits.
- To ensure that privately initiated amendment requests:
 - Are properly considered and prepared;
 - Demonstrate genuine strategic merit;
 - Demonstrate the delivery of genuine net community benefit; and
 - Are fully applicant funded (statutory fees in accordance with the current Schedule of the *Planning and Environment (Fees) Regulations 2016* and reimbursement of costs incurred by Council).

2. INTRODUCTION

The *Planning & Environment Act 1987* (**the Act**) establishes the Planning Scheme Amendment process that guides and controls land use and development.

A Planning Scheme Amendment is the process by which the laws pertaining to and regulating land use and development (that is, the Horsham Planning Scheme) is changed.

Council maintains a *Council Plan* that details Council's strategies, initiatives and priorities over a four year period. The *Council Annual Action Plan* sets out the key activities and projects that will implement the initiatives and priorities outlined in the *Council Plan*. For Council's Strategic Planning Team, the *Annual Action Plan* includes a pool of projects relating to policy development, strategic initiatives, Planning Scheme Amendments, structure plans and land use strategies.

Following the Annual Budget Cycle, Council develops a *Strategic Planning Work Program* that draws priority projects from the *Annual Action Plan* and commits funding for the coming financial year. Priority is given to strategic projects with the widest community benefit. This process establishes the activities, projects and initiatives that Council will pursue in the coming year.

Privately initiated amendment requests typically sit outside of Council's *Strategic Planning Work Program* and responding to them creates an ad hoc and unplanned load on Council's resources. Privately initiated amendment requests often provide benefit to only a small proportion of the community because they do not form part of (and must be considered and assessed outside of) a Council-adopted major strategic project. Of course, some privately initiated amendment requests compliment and can be captured in projects already on Council's *Strategic Planning Work Program*.

In recognition of the administrative and financial burden that privately initiated amendment requests can place on Council's resources, this policy has been developed and adopted to better manage the private Planning Scheme Amendment process to ensure the most efficient and effective use of Council's resources in the interests of the municipal community as a whole.

Planning Scheme Amendment requests can be divided into two categories:

1. Council initiated - either a municipal-wide, place-based (e.g. neighbourhood scale or precinct wide) or topic-based (e.g. flood and heritage controls) Planning Scheme review process. This ensures the allocation of the resources required to process Planning Scheme Amendments and that Planning Scheme Amendments address priority needs and deliver the widest community benefit possible.
2. Privately requested – these can be ad-hoc in the context of Council's *Strategic Planning Work Program* and have the potential to divert Council's already limited resources from the priorities outlined in the *Council Plan* or *Annual Action Plan*. They will often benefit only a small proportion of the community.

Council has the discretion to seek Authorisation from the Minister for Planning to prepare and exhibit a Planning Scheme Amendment, or to decline a Planning Scheme Amendment request. There is nothing which imposes an obligation on Council to progress privately initiated amendment requests.

It is noted that, in addition to the standard Planning Scheme Amendment process, Section 96 of the Act allows a proposed Planning Scheme Amendment to be combined with a proposed planning permit.

3. SCOPE

This policy applies to requests made by applicants (i.e., landowners or their representatives) of Council to initiate a Planning Scheme Amendment, including combined Planning Scheme Amendment and planning permit applications.

4. PRINCIPLES

The following criteria underpin how privately initiated amendment requests will be considered by Council:

Criteria 1: Standard of information

Applicants are expected to prepare and provide all documentation in relation to a private planning scheme amendment request to the standard required by Council and the Minister for Planning, including by providing all supporting information.

It is expected that applicants or their representatives will engage professional town planning consultants (and associated technical specialists as required) to prepare and manage their privately initiated amendment requests and will provide sufficiently detailed information to Council at each relevant stage of the process. This will enable proper consideration and assessment of a proposal, in particular against the Strategic

Assessment Guidelines for preparing and evaluating Planning Scheme Amendments as detailed in Planning Practice Note 46.

Applicants should understand that Council may, at any stage in the Planning Scheme Amendment process, require an applicant to provide further information to Council, and that assessment of a privately initiated amendment requests may not be progressed pending provision of that further information, to Council's satisfaction.

Criteria 2: Strategic merit

Privately initiated amendment requests will only be accepted for assessment by Council if, on an initial desktop evaluation, they demonstrate genuine strategic merit. Privately initiated amendment requests which may be worthy of consideration by Council include (but are not limited to):

1. Amendments which will, if progressed, substantially aid in the implementation of the applicable directions of the Horsham Planning Scheme or the applicable directions of an adopted strategic study, plan or policy which is of significance and priority for the municipal community.
2. Amendments which will, if progressed, deliver a genuine net community benefit.

Criteria 3: Full cost recovery

Statutory fees for the Planning Scheme Amendment process are prescribed under the *Planning and Environment (Fees) Regulations 2016*.

Council will usually require the costs associated with receiving, considering and formally assessing a privately initiated amendment request which are not otherwise covered by the *Planning and Environment (Fees) Regulations 2016* to be paid by the applicant.

Depending upon the nature and complexity of a privately initiated amendment request, external costs may include costs associated with:

1. Peer and legal review of application documents and submissions.
2. Engaging additional planning resources (e.g., consultant or temporary planner) to assist with negotiation, investigation, document preparation, assessment.
3. Public exhibition costs including advertising.
4. Planning Panel fees.
5. Post-approval implementation costs.

Requests that meet the above-mentioned criteria will be included in Council's *Action Plan* and will be considered annually for actioning alongside all other Council initiated projects and private requests.

The terms and conditions of such arrangements, including funding, will be set out in a *Memorandum of Understanding (MOU)* between Council and the applicant. Planning resources will be recruited, appointed and managed by Council, entirely at Councils discretion. The MOU will be in a form determined by Council from time to time.

Criteria 4: Effect of MOU

Nothing in this Policy or in a MOU entered into under this Policy affects Council's specific legislative obligations and responsibilities in acting as a Responsible Authority or a Planning Authority or as a Collecting

Agency or Development Agency under legislation including the Act and the *Subdivision Act 1988* and as a municipal council under the *Local Government Act 2020*.

Nothing in this Policy or in a MOU entered into under this Policy in any way fetters any of Council's statutory powers, functions, duties and discretions to make decisions or impose requirements or conditions, including in connection with the assessment and determination of privately initiated amendment requests, the grant of planning permits, the certification of plans of subdivision and the use and development of any land.

5. COMMUNICATION

This Policy will become available on Council's Strategic Planning webpage as well as being provided to developers and land owners upon any initial discussions and enquiries concerning rezoning requests. The Strategic Planning Team will also find opportunities to brief staff internally to ensure the Policy is understood and acted upon.

6. RESPONSIBILITY

Who	Responsibilities
Councillors	<ul style="list-style-type: none"> Be aware of this policy and refer parties seeking a Planning Scheme Amendments to Council's Strategic Planning Team. Assess privately initiated amendment requests and endorse Strategic Planning Work Program (Action Plan) when asked to do so by Council's Strategic Planning Team.
Proponent / Applicant	<ul style="list-style-type: none"> Complete key tasks detailed in Part 4 of this policy and otherwise as required by Council from time to time.
Strategic Planning Officers	<ul style="list-style-type: none"> Assessment of privately initiated amendment requests submitted by proponents. Advice to proponents / applicants. Regular review of this policy (policy owner).

7. ATTACHMENTS

Nil

8. DEFINITIONS

Not applicable

9. SUPPORTING DOCUMENTS

Document	Location
Privately Initiated Planning Scheme Amendment Requests Attachments 1-3	Strategic Planning Webpage
Planning and Environment Act 1987	https://www.legislation.vic.gov.au/
Planning and Environment (Fees) Regulations 2016 (as amended)	https://www.legislation.vic.gov.au/
Ministerial Direction No.11: Strategic Assessment of Amendments	https://www.planning.vic.gov.au/guide-home/the-role-of-the-minister
Ministerial Direction No.15: The Planning Scheme Amendment Process	https://www.planning.vic.gov.au/guide-home/the-role-of-the-minister
Ministerial Direction on the Form and Content of Planning Schemes	https://www.planning.vic.gov.au/guide-home/the-role-of-the-minister



Planning Practice Note 46: Strategic Assessment Guidelines	https://www.planning.vic.gov.au/resource-library/planning-practice-notes
Planning Practice Note 29: Ministerial Powers of Intervention in Planning and Heritage Matters	https://www.planning.vic.gov.au/resource-library/planning-practice-notes

10. DOCUMENT CONTROL

Version Number	Approval Date	Approval By	Amendment	Review Date
01	28 November 2022	Council	New policy	November 2023