

Private Planning Scheme Amendment Policy

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1 Document Information

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RESPONSIBLE GENERAL MANAGER	General Manager Planning and Place
RESPONSIBLE MANAGER (Policy Owner)	Manager City Strategy
APPROVED/ADOPTED BY	Manager City Strategy
SIGNATURE	
APPROVAL DATE	23 May 2022
EFFECTIVE DATE (If different from approval date)	
REVIEW DATE	
CM REF AND VERSION	17/137550(v2)
VERSION HISTORY	This Policy Replaces 17/137550

2 Purpose

The purpose of this policy is to:

- Ensure a consistent approach to Council's management of private planning scheme amendment requests;
- Ensure an equitable approach to the payment of planning scheme amendment fees and associated costs;
- Ensure that Proponents are made aware of their financial obligations prior to lodging a private planning scheme amendment request.

3 Definitions

Council	Includes City of Kingston officers with delegated authority
Initiating a planning scheme amendment	At the time the request to initiate a scheme amendment is formally lodged with Council.
Private Planning Scheme Amendment	A 'private amendment' is one initiated by a landowner or person interested in land where the proponent for the planning scheme amendment is a person or body other than the City of Kingston. These amendments are usually site specific in nature with a direct benefit to the proponent through increased land values and marketability.
Proponent	Private landowners or their representatives.

4 Scope

This policy applies to private landowners or their representatives who request a change to the Kingston Planning Scheme.

5 Policy Details

A proponent who requests Council to undertake an amendment (including a combined amendment and planning permit application) to the Kingston Planning Scheme must agree to the following:

- a) Pay statutory fees in accordance with current schedule of *Planning and Environment (Fees) Regulations 2016* (Current Fee Regulations).
- b) Reimburse the following costs necessarily incurred by Council:
 - Costs incurred by Council at the exhibition stage of the amendment including newspaper notices, gazette notice and notices by mail. This may also include costs for running a public information session if it is agreed that one is necessary.
 - Where a proponent seeks to justify a proposed amendment by reference to specific outcomes (e.g. development contributions or public realm improvements), Council may seek to enter into an agreement under section 173 of the Planning and Environment Act to guarantee such outcomes in the event that the proposed amendment is approved by the Minister. In these cases, Council may seek a contribution to the legal costs of preparing such an agreement.

- Independent peer reviews of expert reports supporting the amendment, if required by the Council. It is expected that this would only occur in circumstances where Council or a referral authority has a major concern with a technical issue/report, and where the resolution of the issue/report is critical to the progression of the amendment.
- Planning Panel costs, if one is required, to consider submissions made in response to exhibition of the amendment. The Proponent is expected to pay all costs associated with holding the Directions and Panel Hearing, including payment to Planning Panels Victoria, hiring of facilities incurred on behalf of Council and administrative costs. These costs will vary depending on the number of submissions received to the amendment, and the complexity of the amendment.

In exceptional circumstances, the private planning scheme amendment request may result in an unreasonably large impact on Council resources. In this instance, a Proponent may be asked to fund in-house resources to assist Council in processing the amendment. The funding may be used either for a dedicated officer to process the amendment or an officer to assist with current amendments while an existing Council officer processes the amendment.

Council may require a signed commitment that the private landholder or their representatives will meet these fees and costs prior to initiating a planning scheme amendment request.

These costs are payable at the time they are incurred and are independent of Council's decision to support, change or abandon the amendment at any time. Nothing in this Policy or its implementation or any fee and costs or reimbursement agreement entered into in accordance with this Policy shall act or being taken as acting to fetter or confine Council's statutory obligation or the exercise of discretion with regard to the amendment.

5.1 Method and Conditions of Payment

Payment of the relevant costs will be made by a method of payment acceptable to Council as stated in the invoice provided.

5.2 Funds Administration

Contributions will be accounted for in a specific Activity Number for the purpose of receiving and expending funds.

Funds collected and administered will be managed in accordance with Planning and Financial Management (Part 4) requirements of the *Local Government Act 2020*.

5.3 Expenditure of Funds

Funds will be expended on an "as needs" basis. Collected funds will be used to fund the range of costs associated with the Planning Scheme Amendment as identified in the attached "Cost and Staging Table". The costs will be invoiced to the Proponent at each relevant stage, and it is noted that, at times, this may result in a negative balance as Council reserves the right to fund exempted planning scheme amendment applications and/or collect costs after they have been expended.

5.4 Financial Reporting

Council will monitor, report, and review the monies received and expended in the fund through the annual financial statements in line with the principles of sound financial management as contained in the *Local Government Act 2020*. These Financial Statements

are subjected to an external audit process and may also be included in Council's internal audit schedule.

The Fund amounts, including expenditure, shall be reported to Council as part of the annual financial briefing.

Council's Manager of Finance will be responsible for demonstrating that the Fund is managed in accordance with the principles contained in the *Local Government Act 2020*.

6 Delegation Authority and Decision Guidelines

6.1 Delegations/Authorisations

The General Manager, Planning and Place, Manager, City Strategy and Team Leader, Strategic Planning, have the delegation to request payment of the fees as outlined within this policy.

6.2 Exemptions

An exemption to the above requirements will only be granted by the General Manager, Planning and Place or the Manager, City Strategy if it can be demonstrated that these fees will unreasonably burden the Proponent or if an exceptional net community benefit can be demonstrated.

6.3 Human Rights Charter

This policy has been reviewed against and complies with the *Charter of Human Rights and Responsibilities Act 2006*.

7 Related Documents and Resources

Legislation

- *Planning and Environment (Fees) Regulations 2016*, or as amended.

City of Kingston Documents

- Private Planning Scheme Amendment Request Fee and Cost Reimbursement Agreement (as attached).
- Private Planning Scheme Amendment Indicative Cost and Staging Table (as attached).

8 Transition arrangements

Policy commencement date is 1 June 2017. All private planning scheme amendments lodged with Council after this date will be subject to the Policy.

Private Planning Scheme Amendment Request Fee and Cost Reimbursement Agreement template

Private Planning Scheme Amendment Agreement

Amendment Number:

Amendment Purpose:

Address of Land:

Details of Landowner:

Details of Applicant:

[use as appropriate]

As Proponent, I declare that all the information contained in the request for planning scheme amendment is true and correct and that I have notified the owner of the amendment request.

In addition to fees payable in accordance with the *Planning and Environment (Fees) Regulations 2016* (or as amended), I agree to pay to Council all:

- Public exhibition costs associated with the amendment, including photocopying, postage, public newspaper notices, gazette notices and public information sessions as required.
- Planning Panel costs, if one is requested by Council to consider submissions made to the amendment, including:
 - Planning Panels Victoria (**PPV**) fees (as invoiced by PPV) - payable prior to Council considering the Panel's recommendations on the amendment.
 - All costs of holding the Panel including hiring of facilities, and other expenses incurred on behalf of Council and administrative costs.
- Where Council considers it necessary, the cost of engaging an expert to conduct an independent peer review of technical reports submitted to Council in support of the amendment.

I acknowledge that my failure to pay on demand any of the costs specified above may result in Council electing not to progress the amendment.

Name:

Signed:

Date:

Private Planning Scheme Amendment Indicative Cost and Staging table

The below costs are in addition to the statutory fees required in accordance with current schedule of *Planning and Environment (Fees) Regulations 2016* ([Current Fee Regulations](#))

Stage	Indicative Cost	Timing of payment
Stage 1 - Considering a request		
<ul style="list-style-type: none"> Peer review of technical reports 	At cost	Prior to Council report seeking authorisation of an amendment request
<ul style="list-style-type: none"> Resourcing the processing of the amendment 	At cost	
Stage 2 - Public Exhibition		
<ul style="list-style-type: none"> Public notice letters 	\$2.00 per letter	Following exhibition process
<ul style="list-style-type: none"> Public notice in local papers 	At cost (approx. \$1,500)	
<ul style="list-style-type: none"> Public notice in Government Gazette 	At cost (approx. \$110)	
<ul style="list-style-type: none"> Signs on site (if required) 	At cost (approx. \$270)	
<ul style="list-style-type: none"> Venue hire for information session (if required) 	At cost (approx. \$250)	
Stage 4 - Panel (if required), adoption and submission for approval		
<ul style="list-style-type: none"> Planning Panels Victoria fees 	At cost (approx. \$5,000 per day of hearing)	Prior to scheduling Council report seeking a resolution to adopt the amendment
<ul style="list-style-type: none"> Venue hire and catering (if required) 	At cost	

Note 1: The payment of the above costs has no bearing on Council's position on the proposed amendment.

Note 2: Council will invoice the Proponent for the above fees at each stage of the process. Payment method is specified in the invoice.