

Planning Scheme Amendment

Requests – Information for applicant / proponent



Document Type:	Information for applicants	TRIM reference:	DOC/20/40964
Document Status:	Final		
Policy Owner (position):	Coordinator Strategic Planning		
Internal endorsement required:	Not Applicable		
Final Approval by:	Manager of Development Services		
Date approved:	27/07/2023		
Evidence of approval:	Manager Development Services		
Version Number:	2	Frequency of Review:	2 years
Review Date:	25/07/2025		
Date rescinded:	<input checked="" type="checkbox"/> Not applicable		
Related legislation:	Planning And Environment Act 1987		
Related strategic documents, policies, or procedures:			

Date	Version Number	Details of Version	Modified by
15/01/2021	1	Click here to enter text.	Click here to enter text.
25/07/2023	2	Review and converting to 'guideline' only	Nathan Lord, Strategic Planning

1. Purpose

The purpose of this document is to provide information for persons wishing to submit a request to Council to amend the Planning Scheme. This includes details on the likely process and possible costs involved.

2. Context

The Mount Alexander Planning Scheme is a dynamic document that develops and evolves with the changing needs of the community. The *Planning and Environment Act 1987* allows for a planning scheme amendment to be initiated by Council (Council amendment) or a Council can respond to a request for an amendment by any person or body (Private or proponent-led amendment).

A 'Council amendment' is one prepared by Council on behalf of the community at its own cost, usually because it benefits the community as a whole. Common Council amendments include implementing Council adopted strategies and projects, making efficiency improvements and correcting errors.

A 'Private amendment' or 'proponent-led amendment' is one initiated by an applicant, landowner or a group of individuals (the proponent) where the main beneficiary of the amendment is usually that applicant, landowner or a group of individuals. The amendment is usually a site specific change for a particular use with a direct financial benefit for the proponent/s through increased land values/marketability/useability.

As the planning scheme is a legal instrument, planning scheme amendments can be costly and time consuming, particularly if there are complex technical issues or conflicting community views about the benefits of the amendment. When making an amendment request, the proponent is asking Council to change the law about how the subject land may be used or developed. To consider the request, Council will assess the request against State and Local Policy, the environmental, social and economic effects and also evaluate whether the proposal has a net community benefit.

3. Application Requirements

Applications should be submitted in hard copy and electronic format. Electronic documents should be submitted on USB, however documents can also be emailed to info@mountalexander.vic.gov.au (note there is a 10MB maximum per email).

The application must contain the following:

- Property Description – sufficient details to fully identify the property, its location and its extent, e.g. survey plans, street number, area and dimensions.

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- Copy of Title and copies of any registered restrictions, covenants and/or Section 173 agreements.
- Site Conditions – description or plan of existing use and development on the land, including location of buildings, structures and access, any significant natural features (vegetation, wetlands, creeks, steep slopes, etc) and any known heritage items (buildings, sites, artefacts, etc.).
- Site Analysis – description or plan describing surrounding use and development and the relationship of the site to community services and facilities.
- Availability of Services – whether reticulated water and sewerage, stormwater, etc, is available or could feasibly be made available if necessary.
- Proposal – clear and full explanation of what planning scheme amendment is requested and what use or development is consequently intended. For rezoning applications for the purpose of more intense residential development conceptual subdivision plans will be required.
- Any other relevant strategic investigation or report by a suitably qualified practitioner that justifies the request.

If the application is made under Section 96(A) of the Planning and Environment Act 1987, applicants should refer to the relevant planning permit application checklist on Council's website.

3.1. Justification

The onus is on the applicant to justify why an amendment to the Mount Alexander Planning Scheme is required. It is essential that all proposed amendments are consistent with the State Planning Policy Framework and Local Planning Policy Framework of the Planning Scheme. The Explanatory Report accompanying every amendment must contain the strategic and policy justification for the proposal. The Explanatory Report must include an assessment in accordance with:

1. Ministerial Direction No. 11.
2. Strategic Assessment Guidelines.
3. Any other relevant Ministerial Directions.

Ministerial Directions and the Strategic Assessment Guidelines can be accessed on the DELWP website at <https://www.planning.vic.gov.au/resource-library/planning-practice-notes>

3.2. Supporting Documentation

An assessment in accordance with the guidelines noted in Section 3.1 should be supported by relevant technical studies (as appropriate), and may include: a Flora and Fauna Report, Cultural Heritage Report, Bushfire Management Report and Traffic Impact Assessment, and evidence of discussion with various agencies such as DELWP, Coliban Water, North Central

Catchment Management Authority, CFA and Vic Roads as required. Additional reports may be requested by Council depending on the nature of the proposal.

3.3. Amendment Documentation

It is expected that all applications for a planning scheme amendment will be accompanied by draft amendment documentation as set out in the DELWP publication Preparing Planning Scheme Amendment Documentation (refer to <https://www.planning.vic.gov.au/schemes-and-amendments/amending-a-planning-scheme/amendment-documentation-templates>).

4. Costs and Fees

4.1. Prescribed Fee

The current fees for planning scheme amendment requests under the Planning and Environment Act regulations are increased each year in accordance with CPI. The current fees can be viewed on the Department of Environment Land Water and Planning website: <https://www.planning.vic.gov.au/guides-and-resources/legislation-regulation-and-fees/fees>. Fees for Stages 1 – 3 are paid to Council, while the Stage 4 fee (final approval by the Minister) is paid to the Minister for Planning.

There are additional administrative costs included in Council's local government fees and these can be viewed on Council's website by following the [link here](#), and refer to the '2023/2024 Schedule of Fees and Charges' document.

4.2. Additional Costs

If submissions are received to a planning scheme amendment, Council will usually refer them to an independent planning panel appointed by the State Government. Section 156(3) of the *Planning and Environment Act 1987* allows Council to request applicants to contribute to the cost of a planning panel. The cost of the panel can vary significantly depending on the number of submissions, issues to be considered and the length of the panel hearing. As an indication, a very basic one day panel hearing can cost approximately \$10,000. Lengthy panel hearings can cost much more.

5. Timing for Processing an Amendment Request

Council's Strategic Planning Unit undertakes projects identified in a work plan and budget prepared twelve months in advance. The work plan takes into account officer workload and

the strategic priorities of the Council. Therefore, ad hoc requests for planning scheme amendments cannot be processed immediately upon receipt if resources including budget and staff resources are not available. In some instances, progress on a new amendment may necessitate a budget bid/project proposal up to twelve months in advance of the new financial year. Project proposals are evaluated against competing demands across Council, the Council Plan and identified strategic priorities, and funding for new projects cannot be guaranteed.

5.1. Alternative Arrangements: Voluntary Agreements

If timing is important to the applicant, and they wish for an amendment request to be processed prior to Council's consideration in the next financial year, the applicant can consider entering into a voluntary agreement with Council to cover any costs of the amendment which exceed the statutory fees. This could include the full cost of the panel hearing, expert witnesses (if agreed necessary with the applicant) or additional costs as agreed with Council. A voluntary agreement to cover additional costs will only be considered after the proposal has been assessed by officers and supported for exhibition.

6. Pre-Application Consultation

It is highly recommended that for all planning scheme amendment proposals, applicants should seek a pre-application meeting with Council's strategic planners in addition to obtaining independent town planning advice. Process requirements and any potential issues can then be resolved early, and the proposal will be given the best chance of success.

Depending on the proposal, it is also recommended that applicants seek preliminary advice from government agencies that may have input into the decision-making. For example, Coliban Water, VicRoads, Country Fire Authority, Department of Transport and Planning, Department of Energy, Environment and Climate Action and North Central Catchment Management Authority. Council will consult relevant agencies as part of the formal process, but early consultation is recommended so that any potential issues are identified early in the process, and addressed, prior to submitting a formal request to amend the planning scheme.

At the pre-application stage, applicants should provide a summary of the proposal and a brief explanation as to how the applicant believes the proposal will address the requirements of Ministerial Direction No. 11 'Strategic Assessment of Amendments' and how the proposal is consistent with State and Local Policy.

Council officers will provide an initial informal opinion on the proposal, without prejudice, which is subject to the provision of full information with the application and detailed assessment by Council and other bodies. While such opinion is not binding it does give the applicant an initial indication of Council's likely position to the proposal based on current legislation, State Policy and Council Policy.

Council officers will also advise on the capacity of Council to consider an amendment request and the likely timing of when an amendment request may be processed having regard to officer workload and strategic priorities. Council has a fixed strategic Workplan prepared in advance every year.

7. Additional Resources

Department of Transport and Planning – dtp.vic.gov.au

The Department of Transport and Planning manages the regulatory framework for land-use planning and environmental assessment in Victoria and provides advice on planning policy, strategic planning and urban design. Their website contains a significant amount of information which is beneficial for applicants to consider when preparing an amendment request. Sites of particular importance are listed below.

Department of Energy, Environment and Climate Action – deeca.vic.gov.au

The Department of Energy, Environment and Climate Action brings together Victoria's energy, environment, water, agriculture, forestry, resources, climate action, and emergency management functions into a single department to maximise connections between the environment, community, industry and economy.

Their challenge is to improve Victoria's liveability with a population that is expected to almost double by 2050, while responsibly tackling climate change and protecting our natural environment, infrastructure and heritage for future generations.

A Guide to the Planning System

<https://www.planning.vic.gov.au/guide-home/guide-to-victorias-planning-system>

Amending the Planning Scheme

<https://www.planning.vic.gov.au/schemes-and-amendments/amending-a-planning-scheme>

Planning Schemes Online

The Mount Alexander Planning Scheme can be viewed at <https://www.planning.vic.gov.au/schemes-and-amendments/browse-planning-schemes>

For further information or to make an appointment with a Planning Officer to discuss your proposal please call Mount Alexander Shire Council on (03) 5471 1700 or email strategicplanning@mountalexander.vic.gov.au.