

Proponent Requested Planning Scheme Amendment Policy

Approval Body:	Council
Endorsement Date:	20 April 2021
Council Plan Reference:	2.3 A city that sustainably plans and manages growth while protecting its diverse landscape
Current Version:	1.0 <i>Council policy documents change from time to time and it is recommended that you consult the electronic reference copy on Casey Council's Website to ensure that you have the current version. Alternatively, you may contact Customer Service on 9705 5200.</i>
Compulsory Review Cycle:	2 years
Review Date:	30 April 2023 <i>It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.</i>
Responsible Department:	Planning & Building and Growth & Investment
Relevant Legislation:	<i>Planning and Environment Act 1987</i> Planning and Environment (Fees) Regulations 2016 (as amended) Ministerial Direction No.11: Strategic Assessment of Amendments Ministerial Direction No.15: The Planning Scheme Amendment Process Ministerial Direction on the Form and Content of Planning Schemes Planning Practice Note 46: Strategic Assessment Guidelines Planning Practice Note 29: Ministerial Powers of Intervention in Planning and Heritage Matters
Relevant Council Documents:	Councillor Protocols – Land Use Planning (April 2020)

Breaches:	Breaches will be dealt with under the provisions of the following: <ul style="list-style-type: none"> • Code of Conduct for Councillors • Protocol for Councillors – Land Use Planning
ECM ID:	14933087

1. Purpose and Intent

The purpose of this policy is to provide a transparent and consistent approach to considering proponent requested planning scheme amendments. The policy will:

- Ensure that Council can meet its obligation to resource strategic planning activities that respond to the highest community priorities; the Council Plan; legislative obligations; and reform of the planning scheme, and
- Enable Council to partner with industry to facilitate proponent requested planning scheme amendments that are well considered and prepared; have strategic merit; are fully proponent funded; and demonstrate net community benefit.

2. Scope

This policy applies to requests made by proponents (i.e. landowners or their representatives) for the Council to initiate planning scheme amendments (including combined amendments with planning permits).

3. Background

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

Council staff maintain a *Forward Plan* that includes a pool of projects relating to policy development, strategic initiatives, planning scheme amendments, Development Plans, community engagement, responses to State Government papers and continuous improvement projects. The Forward Plan also captures proponent requests that have been deemed to have strategic merit and can be resourced. The Forward Plan does not commit Council to actioning a project.

During the Annual Budget Cycle, Council prepare and adopt an Annual Strategic Planning Workplan (*Annual Work Plan*), that draws priority projects from the Forward Plan and commits funding for the coming financial year.

Amendment requests can be divided into two broad categories:

1. Council initiated - either a municipal-wide, place-based (e.g. neighbourhood-scale or activity centre-wide) or topic-based (e.g. vegetation controls, neighbourhood character, green wedge controls) scheme review process. This ensures the resources required to process Amendments address priority needs and delivers the widest community benefit possible.
2. Proponent requested – these can be ad-hoc in the context of Councils strategic planning program and have the potential to divert Council resources from priorities outlined in the Council Plan or Forward Plan and often benefit a small proportion of the community.

The Council has the discretion to seek Authorisation from the Minister for Planning to prepare and exhibit an Amendment, or to decline Amendment requests. In addition to the standard Amendment process, Section 96 of the Act allows an Amendment to be combined with a proposed planning permit.

Should the Council (inclusive of staff) decline to accept an Amendment, proponents may request the Minister for Planning to intervene in accordance with the circumstances set out in *Planning Practice Note 29: Ministerial Powers of Intervention in Planning and Heritage Matters*. There are no review rights at the Victorian Civil and Administrative Tribunal (VCAT) to appeal Council's or the Minister for Planning's decision to not entertain Amendment requests.

4. Definitions

Key term	Definition
Council	Means Casey City Council, being a body corporate constituted as a municipal Council under the <i>Local Government Act 1989</i>
Council staff	Means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.
Act	The <i>Planning and Environment Act 1987</i> sets out procedures for preparing and amending planning schemes. It also sets out the process for obtaining planning permits under a scheme and other administrative procedures.
Amendments	Planning Scheme Amendments that propose to change the planning policies, strategies or controls that apply to land use and development.
Annual Work Plan	A work plan that draws priority projects from the Forward Plan and commits funding for the coming financial year.
Fee Agreement	The costs and fee agreement that is entered into with the proponent and the landowner. This Agreement would apply to MOU and non-MOU Amendment requests.
Forward Plan	A pool of strategic planning projects that also captures proponent requests that have been deemed to have strategic merit and can be resourced.
MOU	A Memorandum of Understanding between Council and proponents to fund and secure planning resources.
Direct Costs	Costs that are incurred by Council when processing and determining an Amendment. The types of costs are set out in Attachment A
Scheme	The Casey Planning Scheme is a statutory document which sets out objectives, policies and provisions for the use, development and protection of land and regulates the use and development of land through planning provisions.
Section 96	The Act allows for a planning permit to be applied for in conjunction with an Amendment and considered at the same time.

5. Policy

The following four principles underpin how proponent requested amendments will be considered:

A. Community Benefit

Council has an obligation to prioritise its limited resources for strategic land use planning to those projects that respond to the Council Plan; statutory obligations; the Casey Planning Scheme Review; and that deliver the widest community benefits.

Whilst Council does allocate some annual resources to administering proponent requested Planning Scheme Amendments, this is limited to ensure priority is given to strategic projects with the widest community benefit.

B. Facilitating Proponent Requests

Decisions by Council with respect to prioritising privately requested Planning Scheme Amendments will be made in a consistent and transparent way. Council will facilitate proponent requested amendments that meet the following criteria:

1. Are well considered and prepared; and
2. Demonstrate *strategic merit* (See Attachment B); and
3. Do not compromise established Council strategic priorities; and
4. Where Council's *direct costs* are funded externally

Requests that meet these criteria will be included on the Forward Plan and be considered annually for priority alongside all other Council initiated projects and proponent requests. The relevant Manager has discretion to advance requests if exceptional circumstances exist that are received within year should there be capacity to accommodate and the above criteria are met.

C. Direct Cost Recovery

Direct costs associated with all proponent requested Amendments must be funded by proponents including:

1. Complete documentation in support of the amendment request (including any requested changes)
2. Statutory fees and charges
3. Peer and legal review of documentation and submissions
4. Public exhibition costs
5. Planning Panel fees (Note: Council and parties will cover their own representation costs at Panel)
6. Post approval implementation costs

A *Direct Costs Agreement* (see Attachment A) will be entered into with the proponent and the landowner before confirming nomination for the Annual Work Plan.

D. Partnering with Industry

Council will consider well prepared proposals that have strategic merit for industry to fund additional Council planning resources to manage proponent requested Planning Scheme Amendments. These Amendments can then be brought forward for a forthcoming financial year. This funding will be secured through a *Memorandum of Understanding* (MOU) between Council and the individual parties. These requests can be considered outside of the annual workplan and budget cycle. It may include a shared funding approach with other proponents to fund a pool of proponent requested Planning Scheme Amendments. These planning resources

would be recruited, appointed, and managed by Council. The funding of planning resources is a fee for process service and is not a fee for predetermined outcomes.

6. Attachments

A - Direct Costs Agreement Schedule

B - Strategic Merit Assessment Tool

7. Responsibilities

Who	Responsibilities
Councillors	<ul style="list-style-type: none"> - be aware of this policy and refer parties seeking a PSA to Council's strategic planning teams and the Proponent Requested Planning Scheme Amendment Policy. - Have regard to the Proponent Requested PSA Policy and endorsed Strategic Land Use Planning Work Plan when considering requests for amendments to the Casey Planning Scheme
Proponent/ Applicant	<ul style="list-style-type: none"> - to complete Attachment A - Direct Costs Agreement Schedule and Attachment B - Strategic Merit Assessment Tool for Planning Scheme Amendment Proposals prior to lodgement of a PSA request
Officers in the Growth & Investment and Planning & Building Departments (as applicable)	<ul style="list-style-type: none"> - assessment of the filled in forms (Attachment A and B) by the proponent - advice to proponents - regular review of this policy

8. Breaches

Breaches will be dealt with under the provisions of the following:

- Code of Conduct for Councillors
- Protocol for Councillors – Land Use Planning

9. Relevant Forms

Title	Link
Attachments A & B	Attachments to this Policy.

10. Document History

Date approved	Change Type	Version	Next Review Date
20 April 2021	Document Initiation	1.0	30 April 2023

Attachment A - Direct Costs Agreement Schedule

Note: This Direct Costs Agreement is to be completed by the Planning Scheme Amendment proponent to the best of their ability prior to lodgement with Council. Once the Cost Estimates have been reviewed, agreed to and signed by Council staff, the Agreement then forms part of the lodged Planning Scheme Amendment documents. The Direct Costs Agreement does not commit the proponent or Council to complete all Phases of the Agreement as a project proposal can be abandoned at any phase of the process.

Project Description:			
Property Address:			
Owner/Proponent:			
Direct Costs Agreement Schedule			
	Direct Cost	Cost Estimate (Cap)	Stage - Prior to Council/staff decision on:
Phase 1	Statutory fees & charges – lodgement	As per <i>Planning & Environment Regulations 2016</i> (as amended)	Consideration and lodgement of PSA request
	Peer & legal review of submissions (if needed)	Capped amount per review as agreed	Request for PSA authorisation
Phase 2	Exhibition costs including advertising; preparation of documentation for exhibition; displays; notices; venue hire and public meeting facilitation	Full cost recovery	Consideration of PSA submissions
	Statutory fees & charges - consideration of submissions	As per <i>Planning & Environment Regulations 2016</i> (as amended)	Consideration of PSA submissions
	Peer & legal review of submissions (if needed)	Capped amount per review as agreed	Consideration of PSA submissions
Phase 3	Planning Panel fees and preparation of documentation for panel; displays; notices; and venue hire (if needed)	Full cost recovery	Consideration of Panel Report
	Statutory fees & charges – adoption/abandonment	As per <i>Planning & Environment Regulations 2016</i> (as amended)	Adopt/abandon & refer to Minister for Planning
	PSA implementation costs (e.g. s173 Agreements)	Full cost recovery	As agreed
NOTE: The cost estimate is per the <i>Planning & Environment Regulations</i> and is to be based on full cost recovery apart from selected costs that are to be capped. Council will invoice proponents with the actual cost expenditure.			
Other standard Direct Costs will be incorporated into the Direct Costs Agreement as required (e.g. PEA 1987 Section 96A fees and Section 173 Agreements etc).			
Declaration	Name (Owner/Proponent):	Signature:	
		Date:	
	Name (Council Officer):	Signature:	
		Date:	

Attachment B - Strategic Merit Assessment Tool for Planning Scheme Amendment Proposals

Note: This Strategic Merit Assessment Tool is to be completed by the Planning Scheme Amendment proponent prior to lodgement with Council. Once strategic merit is assessed and demonstrated to the satisfaction of Council staff, the tool must form part of the lodged Planning Scheme Amendment documents.

Project Description:			
Property Address:			
Owner:			
Proponent:			
Assessment Criteria/Factors to Consider			
	Strategic Merit Assessment Criteria	Assessment Y/N	Comments
a	Aids in implementation of an adopted State, regional or Casey strategic study, plan or policy/strategy of significance and priority		
b	Provides net community benefit in terms of environmental, social or economic factors		
c	Has key agency or authority agreement/approval already secured		
d	Is professionally supported with sufficient information provided to enable strategic justification to be assessed		
e	Has been the subject of recent pre-lodgement discussions with Council officers		
f	IS NOT a piece-meal removal or adjustment to provisions that form part of larger projects or apply to precincts or would involve a whole plan needing to be reviewed		
g	IS NOT a single lot or small precincts that primarily benefits a limited number of proponents but directly adversely affects a larger catchment where a broader review is required		
h	DOES NOT involve matters that are premature or would conflict with current or planned strategic projects or studies being carried out by the Council or other relevant authorities		
i	IS NOT a matter that has recently undergone an assessment or formal planning process and where the proponent is requesting a similar proposal or review		
j	IS NOT a minor correction that does not qualify as a <i>prescribed amendment</i> under the Act as these will be combined into an omnibus amendment by Council from time-to-time		
<p>Note: This <i>Recommendation</i> section is not required to be completed by the Planning Scheme Amendment proponent. Council staff are to complete the recommendation as a result of pre-lodgement discussions with a proponent or when a Planning Scheme Amendment is lodged with Council.</p> <p>Recommendation:</p> <p>The request is / is not recommended for inclusion on Council's Forward Strategic Plan for the following reason:</p> <p>1.</p> <p>Name (Council Officer):</p> <p>Date:</p> <p>Note: The Forward Strategic Plan does not commit Council to actioning a project.</p>			