



PRIVATE PLANNING SCHEME AMENDMENT POLICY

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2	Approved	9/5/2017	Council	7084247
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1. PURPOSE

The purpose of this policy is to:

- Ensure a consistent and equitable approach to the consideration and management of privately proposed planning scheme amendments including the payment of fees for service;
- Ensure that private proponents of amendments are clear about expectations regarding process and possible costs;
- Ensure that public money is best spent by having well considered and prepared amendments and that ratepayers are not subsidising private beneficiaries unless it can be shown that there is a net community benefit.

2. BACKGROUND

East Gippsland Shire Council (**Council**) recognises that the East Gippsland Planning Scheme (**the Scheme**) is a dynamic document that should develop and evolve with the changing needs of the community. The *Planning and Environment Act 1987* (**the Act**) 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 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' 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. For Council to support a 'private amendment', the benefit to the remainder of the community would ideally be positive but at least neutral to ensure that the overall community benefit is positive.

Council, as the planning authority, is under no legal obligation to undertake a 'private amendment' and a private amendment that would result in a negative net community benefit would unlikely be supported by Council.

There are many matters that Council must consider in determining whether to support an amendment request. They include whether:

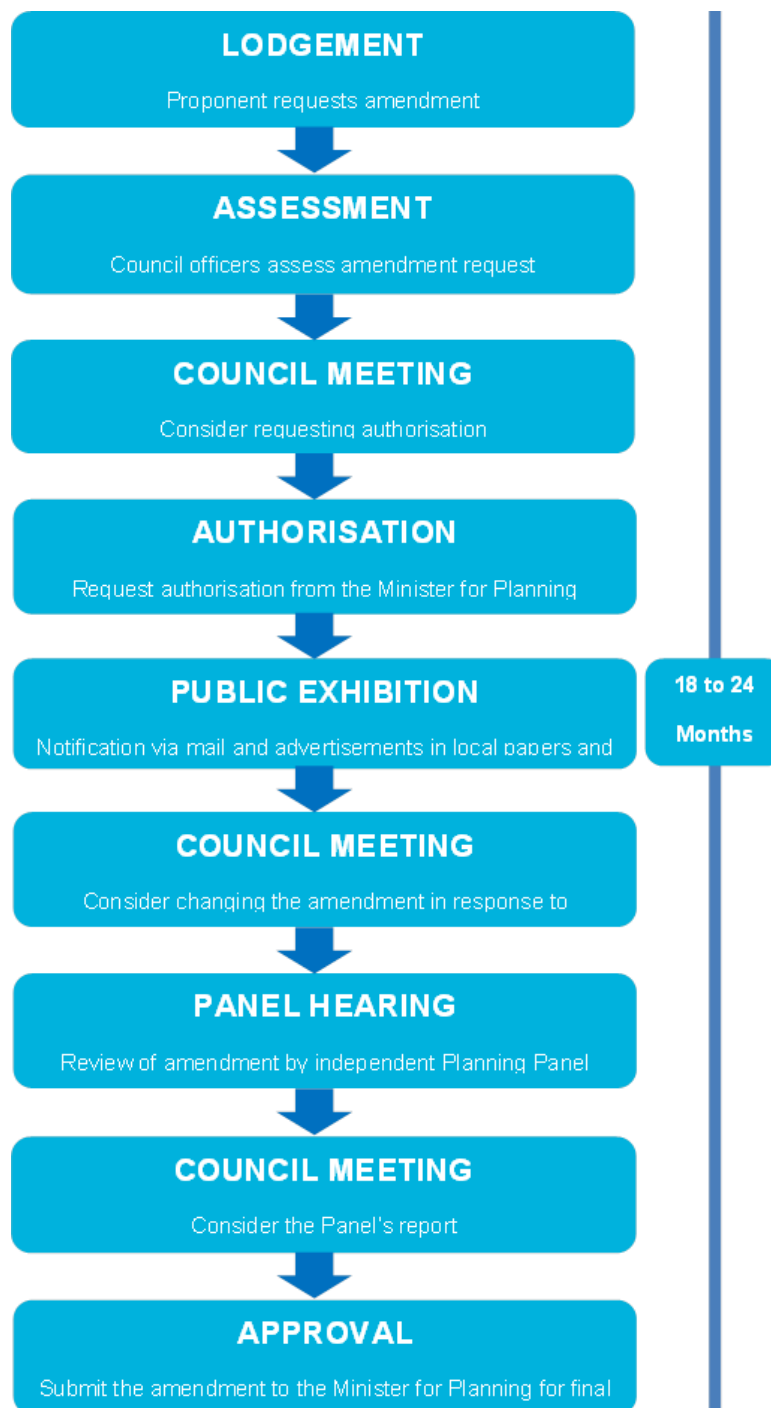
- the desired outcome can be achieved through other means
- the amendment helps to implement the objectives of the Act
- the amendment implements Council's strategies and the planning scheme
- the amendment is in the correct format
- potential issues and impacts have been identified and addressed as much as possible
- the priority of the issue, relative to other issues facing Council at that time

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. It is important for the proponent to recognise that they are asking Council to change the law about how the subject land may be used or developed. This is a large undertaking and differs

from applying for a planning permit under the scheme.

If Council decides to support an amendment request, Council will work closely with the proponent to ensure that the form of the amendment is satisfactory and that it can progress through the stages of the amendment process. It is the responsibility of the proponent to prepare and provide all documentation to the standards required of Council and the Minister for Planning, including supporting information and expert witness reports for any panel hearing, if required.

The general process associated with a private planning scheme amendment is as follows:



3. SCOPE OF POLICY

This policy applies to private individuals or groups, referred to as proponents, or their representatives who request a change to the East Gippsland Planning Scheme.

4. POLICY STATEMENT

A proponent who requests Council to undertake a private amendment to the East Gippsland Planning Scheme is expected to:

1. Provide proposed amendment and supporting technical documents to quality standards as required by Council and the Department of Environment, Land, Water and Planning (DELWP, State Government Department).
2. Agree with Council on the form of the amendment prior to Council seeking authorisation from the Minister, requesting the appointment of a panel and seeking ministerial approval. Council and the proponent will undertake appropriate negotiations to come to this agreement in a timely manner.
3. Provide information, as requested, in a timely manner so that Council can meet the timeframes set out in the Minister's Direction No. 15. Exemptions to this direction may be sought however this will occur subject to agreement between Council and the proponent and subject to ministerial approval.
4. Pay external costs incurred by Council which may include, but not be limited to:
 - a. Advertising costs incurred at the public exhibition stage of the amendment including newspaper notices, gazette notice and notices by mail. If it becomes necessary and the proponent and Council agree, a public information session may be run and all costs associated (venue hire, expert fees, refreshments etc) will be borne by the proponent.
 - b. Independent peer reviews of expert technical reports or expert legal advice. These will only be sought in exceptional circumstances where Council or a referral authority have a major concern with a technical issue or report, where Council does not have the in-house expertise and/or where the resolving of the issue is critical to the progression of the amendment. If this arises, Council will advise the proponent at the earliest opportunity and allow the proponent to have input into the brief, cost and appointment.
 - c. Planning panel costs if one is requested by Council due to the receipt of submissions made to the amendment. The proponent is expected to pay for the costs of holding the panel, including the member's fees, hiring of facilities and other administrative fees charge by Planning Panels Victoria. These costs will vary based on the number of submissions received to the amendment and the complexity of the proposal. The proponent will provide all supporting documentation in preparation of the panel and will bear the costs associated with their own expert witnesses and legal representation. Council will be responsible for its own panel costs in representation at a panel.
5. Pay all statutory and service fees in accordance with the *Planning and Environment (Fees) Regulations 2016* and Council's adopted service fees. These include:

Stage	Fee	Timing of payment
Stage 1 – Considering a request		
Statutory fee to consider request	\$2,976.70	At the time that the amendment is requested by proponent.
Stage 2 – Public exhibition		
Public notice letters	\$1.59 per letter	Following public exhibition process
Public notice in local papers	At cost (approx. \$1,500)	
Public notice in Government Gazette	At cost (approx. \$100)	
Signs on site (if required)	At cost (approx. \$70)	
Stage 3 – Considering submissions that seek a change, and referral and assistance to panel		
Up to and including 10 submissions	\$14,753.50	Prior to scheduling the Council report seeking a resolution to refer the amendment to a Panel
11 to (and including) 20 submissions	\$29,478.00	
Submissions that exceeds 20	\$39,405.20	
Stage 4 – Panel (if required)		
Planning Panels Victoria fees	At cost (approx. \$5,000 per day of hearing)	Prior to scheduling the Council report seeking a resolution to adopt the amendment
Venue hire, refreshments etc	At cost	
Expert Witnesses and/or Legal representation	At cost	As per agreement between proponent and consultant
Stage 5 – Approval of amendment		
Adopting the amendment, submitting it for approval and giving notice of approval under Section 36(2) of the Act	\$469.60 if the Minister is not the planning authority or nil fee if the Minister is the Planning Authority	At the time of submitting the amendment for approval to the Minister for Planning
Statutory fee to submit the amendment to the Minister for Planning for approval and giving notice of approval under Section 36(1) of the Act	\$469.60 if the Minister is not the planning authority or nil fee if the Minister is the Planning Authority	
Other Miscellaneous Fees		
Time spent by Council officers working on the amendment including but not limited to: <ul style="list-style-type: none"> • Report writing • Presenting to Council • Presenting at Panel • Administering the various stages of the amendment 	\$78.00 per hour plus GST	At the completion or abandonment of the amendment

With regards to statutory fees, Council notes the following:

- This policy also applies to combined amendment/permits with staged fees altered accordingly.
- For the first 12 months from the commencement of the regulations (13 October 2016), the fees for planning scheme amendments as listed above will be charged at 50%.

With regards to both statutory and service fees, Council notes the following:

- The payment of fees does not guarantee support for an amendment.
- That all fees associated with this Policy are subject to an annual review and will be adopted as part of Council's adoption of fees and charges.

5. RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE

These management positions are responsible for implementation and compliance monitoring of the policy in their work areas:

Party / Parties:	Roles and responsibilities:
Director Planning and Community	Compliance monitoring
Manager Strategic Planning	Compliance monitoring

All staff have an obligation to report occurrences of non-compliance with Council policy. Incidents of non-compliance should be reported immediately to the Director responsible for this policy, the Policy Owner or the Administration Unit.

6. REFERENCES AND ASSOCIATED DOCUMENTS

The development of this policy is guided by the following references and associated documents:

- *Planning and Environment Act 1987*
- *Planning and Environment (Fees) Regulations 2016*
- *Local Government Act 1989*
- East Gippsland Shire Council Plan 2013 – 2017
- 2016 – 2017 Annual Action Plan

7. PRIVACY AND HUMAN RIGHTS CONSIDERATION

All personal information collected by East Gippsland Shire Council in connection with the Private Planning Scheme Amendment policy will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of investigating landholders and occupiers who may be affected by the proposed amendment request.

The Private Planning Scheme Amendment policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

8. DEFINITIONS AND ABBREVIATIONS

Term:	Meaning:
<i>Planning Scheme Amendment</i>	A change to the planning scheme undertaken by the planning authority who is authorised by the Minister for Planning to prepare.
<i>Private Planning Scheme Amendment</i>	An amendment initiated by an applicant, landowner or group of individuals where the main beneficiary is that applicant, owner or group.
<i>Council Planning Scheme Amendment</i>	An amendment prepared by East Gippsland Shire Council on behalf of the community at its own cost.
<i>Proponent/s</i>	An individual or group who requests Council to undertake a planning scheme amendment.
<i>Council</i>	East Gippsland Shire Council
<i>The Scheme</i>	East Gippsland Shire Planning Scheme
<i>The Act</i>	Planning and Environment Act 1987
<i>Abandon</i>	Council resolution to no longer proceed with an amendment

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