

CITY OF SUBIACO

LOCAL PLANNING POLICY NO. 1.7

AMENDMENT AND EXTENSION TO THE TERM OF DEVELOPMENT APPROVAL

ADOPTION DATE: 27 June 2017

REVIEW DATE:

AUTHORITY: *Planning and Development (Local Planning Schemes) Regulations 2015* Town Planning Scheme No. 4 (TPS4)

STATUTORY BACKGROUND

Clause 77 of Schedule 2, Part 2, Division 2 'Deemed Provisions' of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) allows the local government to amend an existing development approval or to extend the period within which the approved development is to commence.

Clause 77(2) requires an application for an amendment, or extension to the term of a development approval to be made in accordance with the requirements in Part 8 and dealt with under Part 9 as it were an application for development approval.

This policy is made pursuant to Schedule 2, Part 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* relating to local planning policies.

PURPOSE

This policy provides matters to be considered by a decision maker in determining applications made under clause 77 of the Deemed Provisions for an amendment to, or the extension of a development approval.

POLICY

1. Amendment of a Development Approval

- 1.1 In determining whether to approve an amendment to a development approval, consideration will be given to whether the nature and extent of the proposed amendment is such that the use or development the subject of the development approval:
 - (a) Remains, in substance, the same; or
 - (b) Is changed to such an extent that a new and different use or development is proposed.
- 1.2 Notwithstanding clause 1.1, an amendment to a development approval will be considered against the relevant requirements of Parts 8 and 9 of the Deemed Provisions, as required by clause 77(2) of the Deemed Provisions.

- 1.3 If the nature and extent of the proposed amendment is such that there is a new and different use or development to that which was the subject of the original development approval, the amendment to the development approval may be refused to be accepted, or may be refused.
- 1.4 If an application to amend a development approval is refused, nothing in this Policy shall preclude the applicant from making, a new application for development approval for the use or development the subject of the amendment application.

2. Extension to the Term of Development Approval

- 2.1 In considering an application to extend the term of a development approval, the decision maker will have regard to the following factors:
 - (a) Whether or not the planning framework has changed substantially since the development approval to which the extension application relates was granted; and
 - (b) Whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and
 - (c) Whether the approved development would likely receive approval today; and
 - (d) Whether the applicant has actively and relatively conscientiously pursued implementation of the approval development; and
 - (e) Whether a material change has occurred to either the site to which the development approval relates or the surrounding locality since the development approval was granted.
- 2.2 Notwithstanding clause 2.1, an application to extend the term of a development approval will be considered against the relevant requirements of Parts 8 and 9 of the Deemed Provisions, as required by clause 77(2) of the Deemed Provisions.
- 2.3 Where an application to extend the term of a development approval is approved, a period of up to a further two years will be granted, unless otherwise determined by the decision maker.

3. Fees

An application fee will be charged for an application to amend and/or extend the term of a development approval. This fee will be in accordance with the City of Subiaco Schedule of Fees and Charges.

In the event that an application is made to extend the term of approval, and it is considered that the proposal has changed to the extent that it cannot be considered as a fresh application, should the applicant decide to withdraw the application to extend the term of approval and resubmit a new application, the extension of time fee shall be refunded and the applicant only required to pay the fee for the new application.