

**CITY OF SUBIACO**  
**LOCAL PLANNING POLICY 7.6**

**Amendment and Extension to the Term of a Development Approval**

**ADMINISTRATIVE**

<b>Version</b>	<b>Date</b>	<b>Comment</b>
1.0	27 June 2017	Adopted
1.1	23 February 2021	Renumbered
2.0	21 September 2021	Reviewed
3.0	27 August 2024	Reviewed

**AUTHORITY**

- Planning and Development (Local Planning Schemes) Regulations 2015 (**LPS Regulations**)
- City of Subiaco Local Planning Scheme No. 5 (**Scheme**)

**STATUTORY BACKGROUND**

This local planning policy (**the Policy**) is made pursuant to Schedule 2, Part 2, Division 2 of the LPS Regulations relating to local planning policies.

Schedule 2 of the LPS Regulations contains the Deemed Provisions for local planning schemes (Deemed Provisions). Clause 77 of the Deemed Provisions allows local governments to amend an existing development approval, or extend the period that an approved development must substantially commence.

Regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011* (DAP Regulations) allows the Development Assessment Panel (DAP) as the determining authority to amend a development approval granted by the DAP.

This Policy applies in conjunction with the Scheme, the R-Codes and any other relevant 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, or regulation 17 of the DAP Regulations for an amendment to, or the extension of, a development approval.

**APPLICATION**

This Policy applies to applications to:

- Amend an existing development approval
- Extend the period that an approved development must substantially commence.

## **POLICY**

### **1.0 Objectives**

- (a) To provide guidance to accept applications to amend and/or extend the term of a development approval.
- (b) To guide the jurisdiction for determining applications to amend and/or extend the term of a development approval.
- (c) To provide clear criteria to assess applications to amend and/or extend the term of a development approval.

### **2.0 Definitions**

- (a) The following terms are defined for the purpose of this Policy:

***Deemed Provisions:*** the provisions contained in Schedule 2 of the [LPS Regulations](#).

***Residential Design Codes:*** Residential Design Codes [Volume 1](#) and [Volume 2](#) (R-Codes).

***Scheme:*** [City of Subiaco Local Planning Scheme No. 5](#).

***Substantially Commence:*** as defined in the [Deemed Provisions](#).

- (b) All other terms, words and expression used in this Policy have the same meaning as they have in the Scheme.

### **3.0 Pre-lodgement Consultation**

- 3.1 Proponents are encouraged to contact the City pre-lodgement to determine whether a proposed application can be more appropriately considered as an application to amend and/or extend an existing approval, rather than as a new application.
- 3.2 Pursuant to clause 77(3) of the Deemed Provisions, the City may authorise an amended proposal to proceed to the building permit stage without requiring an amended development approval where the:
  - (a) The nature of the amendment(s) proposed reduce the extent of discretion originally approved; and
  - (b) No further variations to the planning framework are introduced due to the amendments being sought.

### **4.0 Development Approval Amendment**

- 4.1 When considering an amendment to a development approval, consideration will be given to all the following:
  - (a) Nature and extent of the proposed amendments remains in substance the same as the original approval
  - (b) Proposed amendments change the proposal to such an extent that a:

- i. New or different use
  - ii. Development;is proposed.
- 4.2 An amendment to a development approval will be considered with the requirements of the Deemed Provisions.
- 4.3 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.

## **5.0 Extension to Term of Development Approval**

- 5.1 In considering whether to extend the term of a development approval, consideration will be given to all the following:
  - (a) The planning framework has changed substantially since the development approval was originally granted
  - (b) Discretion was exercised in relation to the Scheme or policy requirements in granting the development approval
  - (c) The approved development would likely receive development approval today
  - (d) Evidence that the applicant has actively and relatively conscientiously pursued implementation of the approved development
  - (e) A material change has occurred to either the subject site, or to the surrounding locality since the development approval was granted.
- 5.2 An application to extend the term of a development approval will be considered with the requirements of the Deemed Provisions.
- 5.3 Where an application to extend the term of a development approval is approved, a period of:
  - (a) A further two years will be granted; or
  - (b) A lesser period may be granted, as determined by the City, having regard to the circumstances of the application and the criteria outlined in sub-clause 5.1 of this Policy.