

CITY OF SUBIACO
LOCAL PLANNING POLICY 7.6

Amendment and extension to the term of development approval

ADMINISTRATIVE

Version	Date	Comment
1.0	27 June 2017	Adoption
1.1	23 February 2021	Renumbered
1.2	22 June 2021	Draft for public advertising
2.0	21 September 2021	Final for publishing

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 *Planning and Development (Local Planning Schemes) Regulations 2015* relating to local planning policies.

Clause 77 of Schedule 2, Part 2, Division 2 ‘Deemed Provisions’ of the LPS Regulations allows the local government to amend an existing development approval or to extend the period within which the approved development is to commence.

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 for an amendment to, or the extension of a development approval.

APPLICATION

This Policy applies to applications to amend an existing development approval and/or to extend the period within which an approved development is to commence.

POLICY

1.0 Objectives

- (a) To provide guidance for the acceptance of applications to amend and/or extend the term of a development approval.
- (b) To provide guidance on the jurisdiction for determining applications to amend and/or extend the term of a development approval.
- (c) To provide clear criteria for the assessment of 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: means the provisions contained in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Residential Design Codes: means State Planning Policy 7.3 Residential Design Codes Volume 1 and Volume 2 (R-Codes).

Scheme: means City of Subiaco Local Planning Scheme No. 5 (LPS 5).

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

3.0 Pre-application consultation with the City

- 3.1 Prior to lodging an application to amend and/or extend the term of a development approval, proponents are encouraged to contact the City to determine whether the 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 If the nature of the amendment(s) proposed for an existing approval issued under delegated authority reduce the extent of discretion originally approved, the City may allow progression of the proposal to building permit stage without requiring lodgement of a further application for development approval as per clause 77(3) of the Deemed Provisions.

4.0 Jurisdiction to determine applications to amend and/or extend the term of approval

- 4.1 Where an application is received to amend and/or extend an approval granted under the Scheme, and where since the approval the land has been declared as or added into a Redevelopment Area under the *Metropolitan Redevelopment Authority Act 2011*:
- 4.1.1 For an application under the LPS Regulations, the application to amend and/or extend the term of approval can be lodged with, and determined by, the City.
- 4.1.2 For an application under the *Planning and Development (Development Assessment Panels) Regulations 2011*, the application can be determined by the Development Assessment Panel.

5.0 Amendment of a development approval

- 5.1 In determining whether to approve an amendment to a development approval, consideration will be given to:
- 5.1.1 Whether the nature and extent of the proposed amendments remains in substance the same as the original approval; or
- 5.1.2 Whether the proposed amendments change the proposal to such an extent that a new and different use or development is proposed.
- 5.2 In addition to clause 5.1, an amendment to a development approval will be considered with the requirements of the Deemed Provisions.
- 5.3 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.

6.0 Extension to the term of development approval

- 6.1 In considering whether to extend the term of a development approval, consideration will be given to:
- 6.1.1 Whether or not the planning framework has changed substantially since the development approval to which the extension application relates was granted; and
- 6.1.2 Whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and
- 6.1.3 Whether the approved development would likely receive approval today; and
- 6.1.4 Whether the applicant has actively and relatively conscientiously pursued implementation of the approved development; and
- 6.1.5 Whether a material change has occurred to either the subject site or to the surrounding locality since the development approval was granted.

- 6.2 In addition to clause 6.1, an application to extend the term of a development approval will be considered with the requirements of the Deemed Provisions.
- 6.3 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.