



## Local Planning Policy 1.3: Amendments and Extensions to Existing Approvals Policy

<b>Objectives:</b>	Place
<b>Outcome:</b>	2.1 - A diverse, well planned built environment.
<b>Strategy:</b>	2.1.1 - Actively engage in the development and promotion of an effective planning framework.

### Purpose

To provide guidance for the consideration of:

- ~~1. Requests/Applications for an amendments to a development/planning approvals;~~
- ~~2. Applications to extend the period within which a development approval must be substantially commenced/The period of time given to a planning approval;~~
- ~~3. Extension of time to a planning approval; and~~
- ~~4. How an application to amend approved development will be considered~~
- ~~4. To set out a process for the request of further information to assist the Shire in considering a planning application.~~

### Definitions

**Substantial Commencement** - is deemed to have occurred where there has been physical 'on site' development that comprises at least the preparation of the site including the placing of footings and slab. Where in a condition of approval there is a requirement to undertake further studies and investigations for submission and approval of the Shire prior to development commencing, such 'work' is not deemed to be substantial commencement.

### Background

~~This Policy provides clarity and guidance with regard to amending of a planning approval:~~

- ~~1. Setting the term of planning approval;~~
- ~~2. Seeking an extension to a planning approval; and~~
- ~~3. Requiring information regarding a planning application.~~

~~Clause 71 of the Deemed Provisions provides that a development approval lapses in the event that the development is not substantially commenced within the term of that approval. The Deemed Provisions specify a period of 2 years from the date of determination as the term, unless another time period is specified in the approval.~~

Clause 77 of the Deemed Provisions empowers the Local Government, on receipt of a written application from the owner of land in respect of which development approval has been granted, to amend the approval so as to extend the period within which any development approved must be substantially commenced, cancel, amend or delete any condition to which the approval is subject, or amend an aspect of the development approved or cancel the development approval.

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~~Clause 63 of the Deemed Provisions provides a detailed description of the accompanying material that Local Government requires in support of a development application.~~

~~Clause 63(3) of the Deemed Provisions provides a description of the material required, in addition to the material as outlined in clause 63 of the Deemed Provisions, for applications where the proposed development relates to a place on the Heritage List or within a Heritage area.~~

~~Clause 71 of the Deemed Provisions provides that a development approval lapses in the event that the development is not substantially commenced within the term of that approval. The Deemed Provisions specify a period of 2 years from the date of determination as the term, unless another time period is specified in the approval.~~

~~Clause 77 of the Deemed Provisions provides that a written request may be made for an extension of the term of a development approval.~~

### Policy

#### 1. Amendment ~~to~~ a Planning development Approval (Clause 77 Deemed Provisions)

1.1 In determining, pursuant to clause 77 of the Deemed Provisions, whether to allow the amendment of a development approval, the Shire shall consider whether the nature and extent of the proposed amendment is such that the use or development ~~the~~ to the planning development approval:

- a) Remains, in substance, the same; or
- b) Is changed so a new and/or different use or development is proposed.
- ~~b)c) Whether the extent/scale of the amendments proposed fundamentally alter the approved development.~~

1.2 If the nature and extent of the proposed amendments are such that there is a new and/or different use or development to that which was the subject of the development approval, the Shire may refuse to allow amendments to the development approval and require the submission of a new development application.

~~1.2.1.3~~ Generally if an amendment seeks to significantly increase the scale of the development or includes additional uses, a new development application would be required.

~~1.3~~ Where an amendment of any Approval is determined to be, in substance, the same as the original approval, the Shire will follow the same procedure as was followed for the original application, unless the amendment now requires advertising, in which case the amendment application will be advertised in accordance with clause 64 of the Deemed Provisions and Local Planning Policy.

~~1.4~~ If an application to amend development approval is refused, nothing in this Policy shall preclude the applicant from making, and the Shire from determining, a new application for development approval for the same use or development.



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~~1.51.4~~ Where a request to amend a development approval is approved, ~~a letter will be issued advising the applicant of the details of the amendments to the original approval that are approved. The original development approval (including the terms and conditions) will remain operative, subject to any amendments approved. A Notice of Determination will be issued to replace the original determination.~~

### 2. Extension of the period within which a development approval must be substantially commenced the Term of Approval (Clause 77 of the Deemed Provisions)

2.1 Where an extension is granted, a period of up to a further two years may be granted.

~~2.2 Only one extension of the term of a development approval shall be granted, after which a new development application will be required.~~

~~2.32.2~~ In considering a request for an extension to the term of a development approval under clause 77 of the Deemed Provisions, the Shire ~~will is to~~ have regard to the following factors;

- a) Whether the planning framework has changed substantially since the development approval was granted~~whether the scheme (including any new scheme), relevant planning policy or planning framework has changed in a material way since the development approval was granted;~~
- b) Whether the development would likely receive approval now~~the level of discretion (if any) that was exercised in relation to the Scheme or policy requirements in granting approval; or~~
- c) Whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval~~whether a material change has occurred to either the site to which the development approval relates or the surrounding locality since the planning approval was granted.~~

~~2.4 Where a request to extend the term of a development approval is approved, a letter will be issued advising of the extension of the term of approval and all other conditions of the approval will remain unchanged. No new development approval will be issued as the extension of time is considered to be an extension of the term of the original approval and its conditions.~~



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### References

<b>Name of Policy</b>	Local Planning Policy 1.3: Amendments and Extensions to Existing Approvals
<b>Previous Policy</b>	N/A
<b>Date of Adoption and Resolution Number</b>	23 July 2018 - OCM063/07/18
<b>Review dates and Resolution Numbers</b>	
<b>Next review date</b>	
<b>Related documents</b>	<p><b>Acts/Regulations</b>  <i>Local Government Act 1995</i>  <i>Planning and Development Act 2005</i>  <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></p> <p><b>Plans/Strategies</b>            Strategic Community Plan 2017 - 2027</p> <p><b>Policies</b></p> <p><b>Delegations</b>            11.1.1</p> <p><b>Work Procedures</b></p>

Note: changes to references may be made without the need to take the Policy to Council for review.



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