

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

Purpose

To provide guidance for the consideration of:

1. Applications for amendments to development approvals;
2. Applications to extend the period within which a development approval must be substantially commenced; and
3. How an application to amend approved development will be considered

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

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, amend or delete any condition to which the approval is subject, amend an aspect of the development approved or cancel the development approval.



Policy

1. Amendment to a development approval

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 developments subject to the development approval:

- a. Remains, in substance, the same; or
- b. Is changed so a new and/or different use or development is proposed; or
- 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.

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

1.4 Where a request to amend a development approval is 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

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

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

- a) Whether the planning framework has changed substantially since the development approval was granted;
- b) Whether the development would likely receive approval now; or
- c) Whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval.

**References**

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

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