



CITY OF FREMANTLE

LOCAL PLANNING POLICY 1.1

Amendment and Extension to the Term of Planning Approval

ADOPTION DATE: 27/6/2007

AMENDED: 14/08/2012

AUTHORITY: LOCAL PLANNING SCHEME NO.4

STATUTORY BACKGROUND

Clause 8.3 of the Scheme empowers the Council, on receipt of a written application from the owner of land in respect of which planning approval has been granted, to revoke or amend the planning approval. The Scheme requires that an approval may only be amended or revoked prior to the commencement of the use or development which is the subject of the planning approval.

Clause 10.5.1 of the Scheme provides that a planning approval lapses in the event that the development is not substantially commenced within the term of that approval. The Scheme specifies a period of 2 years of the date of determination as the term, unless another time period is specified in the approval.

Clause 10.5.2 of the Scheme provides that a written request may be made for an extension of the term of a planning approval at any time prior to the expiry of the approval period.

There is no provision under the Scheme to enable the Council to reconsider a Planning Application once determined.

In this policy, the term 'Council' includes any Committee or person exercising delegated authority on behalf of the Council under Clause 11.3 of the Scheme.

POLICY

1. Amendment of an Approval

- 1.1 In determining whether to allow the amendment of a planning approval, Council will consider whether the nature and extent of the proposal amendment is such that the use or development the subject of the planning approval:
 - (a) remains, in substance, the same; or
 - (b) is changed so a new and different use or development is proposed.
- 1.2 If the nature and extent of the proposed amendments is such that there is a new and different use or development to that which was the subject of the planning approval, Council may refuse to allow amendment of the planning approval.
- 1.3 If an application to amend planning approval is refused, nothing in this Policy shall preclude the applicant from making, and Council from determining, a new application from planning approval for the use or development the subject of the amendment application.

- 1.4 Where a request to amend a planning approval is approved, a letter will be issued advising the applicant of this. A new approval will not be issued. The original planning approval (including conditions) will remain operative, subject to any amendments approved by Council.

2. Term of Approval

- 2.1 Where the Council grants planning approval for development the period within which the development must be substantially commenced, as specified in the approval under clause 10.5.1 of Local Planning Scheme No. 4, shall be four (4) years from the date on which approval is granted, unless the circumstances set out in 2.2 or 2.3 below apply.
- 2.2 Where the approval of the development involves a significant exercise of discretion under the Scheme, and/or Council considers there is a reasonable prospect of a material change occurring in the physical or statutory planning considerations relevant to determination of the application, that provide grounds to consider the application may be determined differently in the future, Council may specify a period of two years as the period within which the approved development must be substantially commenced.
- 2.3 Where a material change to any of the statutory or policy provisions relevant to determination of an application is under active consideration that may mean the application may be determined differently in the future, Council may specify a period of one year as the period within which the approved development must be substantially commenced.

3. Extension of the Term of Approval

- 3.1 Where an extension is granted, a period of up to a further two years will be granted.
- 3.2 In considering a request for an extension to the term of a planning approval under clause 10.5.2 of the Scheme, Council may have regard to the following factors;
 - (a) whether the scheme or a relevant planning policy has changed in a material way since the planning approval was granted;
 - (b) whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and
 - (c) whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.
- 3.3 Where a request to extend the term of a planning approval is approved, a letter will be issued advising the applicant of this. No new approval will be issued and all other conditions of the approval will remain unchanged.

4. Fees

An application fee will be charged for requests for an amendment to, and extension of the term of, a Planning Approval. This fee will be in accordance with the City of Fremantle Schedule of Fees and Charges.