



CHANGING, CANCELLING AND EXTENDING DEVELOPMENT APPROVALS

A development approval can be changed, cancelled or the currency period can be extended after approval has been given.

The *Planning Act 2016* largely sets out the requirements and processes for changing, cancelling or extending the currency period for a development approval. However, certain change processes use the development assessment process in the [Development Assessment Rules](#) (DA Rules).

Changes during the applicant's appeal period

After receiving a decision notice for a development application that has been approved, the applicant can make representations to the assessment manager about changing the development approval. These are called 'change representations'.

The Planning Act prescribes when and how change representations may be made, considered and decided, including the relevant timeframes.

Change representations must be made during the applicant appeal period, which is a 20 business day period following the assessment manager giving the applicant a decision notice. Change representations cannot be made or decided after the applicant's appeal period has ended.

For more information, see our fact sheet on change representations.

Changes after the applicant's appeal period

The Planning Act allows an applicant to change a development approval after the applicant's appeal period has ended. An application to change a development approval is called a 'change application'. Depending on the type of change proposed, and who may be affected by the proposed change, there are a number of things that need to be considered.

Factsheet – September 2021

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Type of changes

There are two types of changes that can be made to development approvals after the applicant's appeal period has ended. These are set out below.

Minor change to a development approval

For a change application to be considered a minor change, the change to the development approval must meet the definition of a minor change as set out in schedule 2 of the [Planning Act](#). The process to be followed is also prescribed in the Planning Act.

This definition includes the requirement that the proposed change would not result in 'substantially different development'. Schedule 1 of the DA Rules contains further information about substantially different development.

'Other' change to a development approval

A change that is not a minor change is also able to be made to a development approval. For these 'other' changes, the change application is assessed and decided by following the process set out in the DA Rules.

Making a change application

A change application (both minor and 'other') must be made to the 'responsible entity'. The responsible entity for the change application is the assessment manager of the original development application unless:

- › the change application is for a minor change to a development condition that a referral agency imposed – in which case the responsible entity is the referral agency, or
- › the change application is for a minor change, and the development approval was given because of an order of the court, and there were properly made submissions – in which case the responsible entity is the Planning and Environment Court, or
- › the change application is for a change to a condition of a development approval that the Planning Minister directed the assessment manager impose or amend – in which case the responsible entity is the Planning Minister, or
- › the change application is for a change to a condition of a development approval that the Planning Minister directed the assessment manager impose under repealed planning legislation – in which case the responsible entity is the Planning Minister, or

- › a development approval given or changed by the Planning Minister for an application that was called in under a call in provision – in which case the responsible entity is the Planning Minister.

A change application must meet certain requirements in order to be considered by the responsible entity. This includes, but is not limited to:

- › being made in the [approved form](#),
- › the required fee, and
- › owner's consent, if relevant.

For a minor change application, the affected entities must be notified about the application. An affected entity is:

- › a referral agency for the development application, if the responsible entity is the assessment manager or another referral agency
- › the assessment manager of the development application, if the responsible entity is a referral agency
- › the assessment manager and any referral agency of the development application, if the responsible entity would be the Planning and Environment Court
- › another person prescribed by regulation.

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Where the department's chief executive (State Assessment and Referral Agency) was a referral agency for the development application, the chief executive is not an affected entity.

An applicant may seek a pre-request response notice from an affected entity before making their change application.

Assessing and deciding a minor change application

For a minor change application, the process to be followed is prescribed in the Planning Act.

After making the change application to the responsible entity, the person making the application must give the application to affected entities. Affected entities are provided with the opportunity to assess the change application and provide a response to the responsible entity. This can either take the form of a pre-request response notice before the change application is made or can be given as a response notice after the change application is made.

Sections 81 and 81A of the Planning Act sets out how a responsible entity must assess and decide a change application for a minor change, the period of time in which to decide the change and the period in which to give a decision notice about the change.

The responsible entity must also publish a notice of decision (statement of reasons) on their website.

Assessing and deciding an 'other' change application

Where a change application is not a minor change, it is considered to be an 'other' change application. An 'other' change application must be assessed and decided in accordance with the process established under the DA Rules and have regard to the following parts of the Planning Act:

- › part 2, division 2 (making or changing applications)
- › part 3 (assessing and deciding development applications) excluding:
 - section 51 (making development applications)
 - section 63 (notice of decision)
 - section 64(8)(c) (application of deemed approval conditions).

The 'other' change application is assessed and decided by following the process set out in the [DA Rules](#) as if:

- › the responsible entity was the assessment manager
- › the change application were a development application including the change, but made when the change application was made
- › with other necessary changes.

The DA Rules are to be followed for an 'other' change application noting:

- › references in the DA Rules to section 51 of the Planning Act and ensuring an application is properly made should, for the purposes of a change application, be taken to reference section 79 of the Planning Act to ensure a change application is properly made
- › if public notification is applicable to the 'other' change application, it must be undertaken in the way prescribed in the DA Rules, unless section 82(3) of the Planning Act is applicable to the 'other' change application. This section establishes that public notification does not apply if the change application is only an 'other' change application because the application would require referral to new referral agencies or referral for additional referral requirements
- › the application must be referred to all referral agencies triggered by the development application including the change application
- › all of the features provided in the DA Rules (for example, stopping a current period or further advice) are able to be called on during the process of assessing and deciding an 'other' change application
- › references in the DA Rules to section 63 of the Planning Act and deciding the application should be taken to be a reference to section 83 of the Planning Act for the purposes of giving the decision about the change application and publishing the notice of decision (statement of reasons)

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Cancelling a development approval

The Planning Act allows for a development approval to be cancelled. To cancel a development approval, a [cancellation application](#) must be made to the assessment manager. However, where the development application was called in by the Planning Minister, the cancellation application must be made to the original assessment manager.

For the cancellation application to be valid it must be accompanied by the required fee and, if required, owner's consent.

If the assessment manager receives a cancellation application that complies with section 84 of the Planning Act, the assessment manager must cancel the development approval by issuing a notice of the cancellation. A cancellation application cannot be made if:

- › the development has started
- › there are unfilled or ongoing obligations under the approval, or
- › the obligations have not been superseded under another development approval, or authority.

Extending a development approval

The Planning Act allows the currency period of an approval to be extended at any time before the development approval lapses. To do this, an extension application must be made to the assessment manager and be accompanied by the required fee and, if relevant, owner's consent. An applicant may use the [template](#) provided by the department.

The assessment manager must decide the extension application within 20 business days of receiving the application (or longer if agreed). The assessment manager must decide to either:

- › refuse the application, or
- › give the extension sought, or
- › alternatively extend the currency period for a period different from the one sought in the extension application.

After the assessment manager has decided the extension application, a decision notice must be given within five business days.

Referral agencies are not required to be involved or advised about the extension application before it has been decided.

If the extension application is approved, the development approval now lapses at the end of the extended period. If the extension application is refused, the development application lapses on:

- › the day the decision notice is given or the end of the currency period (whichever occurs last), if the applicant does not appeal the decision
- › the day the appeal is dismissed or withdrawn or the end of the currency period (whichever occurs last), if the applicant appeals the decision and the appeal is dismissed or withdrawn, or
- › the end of the extended period decided by court, if the applicant does appeal the decision and the appeal is allowed.

If the applicant does appeal the extension decision, the applicant may not start or carry out the development until the appeal is decided, unless allowed by the Planning and Environment Court.

Extension or suspension of periods under the Planning Act

The Planning Minister has powers to declare an [applicable event](#). The concept of the 'applicable event' ensures that the state government is able to make advance preparations or respond to emerging circumstances that affect a State interest under the Planning Act.

Once an applicable event is declared, the Planning Minister can extend or suspend statutory timeframes to provide for actions, such as those that occur in development assessment, to still be undertaken in a timely manner.

To date, the Planning Minister has issued two notices which have each extended timeframes relating to the currency periods of development approvals by six months. [Find out more](#) about how these extension of time notice's may have applied to your development approval.

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