



### EXTENSION OF TIME FOR PLANNING PERMITS

Before a planning permit expires, or within six (6) months afterwards, or if the request is made with twelve (12) months after expiry and the development or stage started lawfully before the permit expired, the owner or the occupier of the land may apply to Council for an extension of time, to extend the life of the permit.

Council may extend the time within which the use or development or any stage of it is to be started, or the development or any stage of it is to be completed, or the time within which a plan is to be certified (under the *Subdivision Act 1988*).

In accordance with Section 16 of the *Planning and Environment Regulations 2005* the request must be made in writing (see box to the right).

#### What must be considered with extension of time applications?

When considering the issue of extending the life of a planning permit, Council will consider a range of 'tests' that have been established by the Victorian Civil and Administrative Tribunal (VCAT). The tests include:

- Whether there has been a change of planning policy;
- Whether the landowner is seeking to 'warehouse' the permit;
- Any intervening circumstances that bear upon grant or refusal;
- The total elapsed time between when the permit was issued and the request;
- Whether the time limit originally imposed was adequate;
- The economic burden imposed on the landowner by the permit;
- The probability of a permit being issued should a fresh application be made.

A common issue with extensions of time to planning permits is the change to planning controls in the intervening period, which can prevent the extension of time being approved. Where the planning controls have changed considerably, updated reports or additional information may need to be submitted, a new planning application may be required or the use and/or development may be prohibited. Consultation with referral authorities may also be required.

It is recommended that, where possible, the proposal should be undertaken within the time frame on the planning permit as it should not be taken for granted that an extension of time will be granted.

Council has discretion with respect to the length of time for which a planning permit will be extended. Council reserves the right to extend the permit for an alternative timeframe to the timeframe requested. Council will take into account issues such as the extent of the time delay since the original permit was issued, the reasons for the extension and current planning controls when considering what length of time is appropriate for the permit to be extended.

In the event the application for an extension of time is refused by Council, any person affected may apply to VCAT for review of the decision.

**IT IS ALWAYS BEST TO DISCUSS YOUR PROPOSAL WITH A PLANNING OFFICER BEFORE LODGING THE APPLICATION. PLEASE CONTACT THE PLANNING TEAM TO MAKE AN APPOINTMENT**

#### What do I need to submit?

The following information will need to be submitted to Council for an extension of time application:

- Completed Application for Extension of Time form
- The extension of time application fee
- A full current copy of the Certificate of Title for the land, produced within the last 60 days and including:
  - Title page/s indicating current owner
  - Lot plan
  - Full copy of any Covenants, Section 173 Agreements and/or Restrictions registered on the title
- Any additional supporting information/documentation

**Note:** If the original application required an assessment against the Erosion Management Overlay Schedule 1 (EMO1), you also need to submit a letter from the Geotechnical Engineer that the Geotechnical Assessment /Landslip Risk Assessment is still valid and relevant.

All forms referred to in this information sheet, including the application fee schedule, are available from the Colac Otway Shire website at [www.colacotway.vic.gov.au](http://www.colacotway.vic.gov.au), under Home / Planning & Building / Building & Planning Forms & Checklists

Additional information can also be obtained from:

- The Colac Otway Shire website - [www.colacotway.vic.gov.au](http://www.colacotway.vic.gov.au) under Home / Planning & Building/ Planning Permits / Amend or Extend a Planning Permit
- The Department of Environment, Land, Water and Planning website - [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au)

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