

CITY OF SUBIACO

LOCAL PLANNING POLICY 8.1

Development Approval Exemption for Land Uses in the Centre, Local Centre and Mixed Use Zones

ADMINISTRATIVE

Version	Date	Comment
1.0	18 May 2021	Adopted
2.0	27 August 2024	Reviewed

AUTHORITY

- Planning and Development (Local Planning Schemes) Regulations 2015 (**LPS Regulations**).
- City of Subiaco Local Planning Scheme No. 5 (**Scheme**).

STATUTORY BACKGROUND

This local planning policy (**the Policy**) is made pursuant to Schedule 2, Part 2, Division 2 of the LPS Regulations relating to local planning policies.

Clause 61(2) of the Deemed Provisions specifies circumstances where land uses do not require development approval. Clause 61(2)(g) allows a local planning policy to specify additional uses that are exempt from development approval.

This Policy applies in conjunction with the Scheme, the R-Codes and any other relevant local planning policies. Should there be any inconsistencies between the provisions of this Policy and other local planning policies, the provisions of this Policy prevail.

APPLICATION

This Policy applies to land zoned under the Scheme:

- Local Centre or Mixed Use
- Centre and located within the boundary identified in **Attachment 1**.

PURPOSE

Activating commercial areas is important in maintaining vibrant communities. The purpose of this Policy is to cut red-tape and make it easier to establish new suitable businesses in existing buildings in commercial areas.

POLICY

1.0 Objectives

- (a) To facilitate, encourage and stimulate economic growth and activity within the designated zones by reducing the regulatory burden of the planning framework for specific land use changes.
- (b) To streamline the process to establish new businesses, or expand existing businesses, within existing buildings in these zones.
- (c) To exempt land uses from development approval where they will not have any adverse impacts on established uses in the designated zones, or adjacent to the proposed use.
- (d) Provide greater opportunities for active ground floor land uses for existing buildings fronting streets with a retail and mixed use focus.

2.0 Definitions

- (a) The following terms are defined for the purpose of this Policy.

Deemed Provisions: The provisions contained in Schedule 2 of the [LPS Regulations](#).

Existing building: A completed building or structure, including any areas appurtenant to the building or structure such as alfresco areas, balconies, outdoor spaces or the like but does not include existing authorised vehicle parking bays.

Scheme: [City of Subiaco Local Planning Scheme No. 5](#) (LPS 5).

- (b) All other terms, words and expression used in this Policy have the same meaning as they have in the Scheme and the applicable planning framework.

3.0 Land Use Change Development Approval Exemption

3.1 Subject to sub-clauses 3.2 and 3.3 being satisfied, the following land uses within the applicable zones prescribed in **Table 1** do not require development approval under the Scheme.

Table 1 – Exempt Uses	
Zone	Exempt Uses
Centre – to the extent identified in Attachment 1 of this Policy*	<ul style="list-style-type: none"> • Shop • Local Shop • Office • Consulting Rooms • Exhibition Centre • Restaurant/Cafe • Fast Food Outlet/Lunch Bar • Convenience Store • Small Bar
Local Centre	<ul style="list-style-type: none"> • Shop • Local Shop • Office • Consulting Rooms • Restaurant/café
Mixed Use	<ul style="list-style-type: none"> • Shop • Local Shop • Office • Consulting Rooms • Restaurant/café

*As identified in map contained as **Attachment 1**. It is all land within the map delineated by the dashed line. The City reserves the right to determine whether a lot and/or building falls within the boundary and is eligible for exemption.

3.2 The land use must be a new land use which replaces, in whole or in part, an existing land use in an existing building.

3.3 The total net lettable area (NLA) for which the particular land use applies shall not exceed 400m² (if tenancies are combining or an expansion is taking place, the limit applies to the total NLA once the expansion would be complete).

Note: Table 1 applies in addition to Clause 61(2)(c) and 61(3) of the Deemed Provisions. Refer to the Deemed Provisions for other land uses which may be exempt from requiring approval.

4.0 Considerations Prior to Commencing the Use

- 4.1 Prior to commencing the use, the applicant must obtain written confirmation from the City that the exemption available under this Policy applies to the subject site and the proposed use.
- 4.1.1 Details relating to scale and the nature of the use may be requested by the City.
- 4.1.2 The City may refuse to provide this written confirmation and require a development application in any of the following circumstances:
- (a) The development proposed would be inconsistent with the objectives of this Policy, the Scheme and/or applicable zone
 - (b) The development proposed may be detrimental to the amenity of the locality
 - (c) The development proposed would only be appropriate to the locality if its impacts are managed through the imposition of conditions placed on a development approval
 - (d) The land use may/will lead to a loss of activation or passive surveillance at street level.
- 4.2 The receipt of written confirmation specified in sub-clause 4.1 does not exempt the proposed use from the need to obtain other relevant approvals under separate legislation including (but not limited to):
- *Building Act 2011*
 - *Environmental Protection Act 1986*
 - *Liquor Control Act 1988*
 - Any applicable local law.
- 4.3 Where a development approval exemption has been obtained pursuant to this Policy, this exemption shall remain valid until the use is altered through:
- (a) A further change of use development application; or
 - (b) Expansion.

5.0 Physical Works Associated With a Change in Land Use

- 5.1 This Policy only relates to land use changes in certain circumstances and does not relate to any associated physical works.
- 5.1.1 Whether development approval is required for works is a matter for separate consideration under the Scheme, the Deemed Provisions and Local Planning Policy 7.7 – Development Approval Exemptions.
- 5.2 Pursuant to clause 61(1) of the Deemed Provisions, development approval is generally not required for internal building work which does not materially affect the external appearance of the building.
- 5.2.1 Internal works relating to places on the City’s Heritage List or on the Register of Heritage Places under the *Heritage Act 2018* may be subject to a requirement for approval.
- 5.3 Any proposed works associated with a change of use subject to this Policy are required to be covered in the written confirmation under sub-clause 4.1. The written confirmation is to confirm whether the proposed works require development approval.

ATTACHMENT 1: Centre Zone Boundary for Land Use Exemption

