

CITY OF SUBIACO

LOCAL PLANNING POLICY NO. 7.7

DEVELOPMENT APPROVAL EXEMPTIONS

ADMINISTRATIVE

Version	Date	Comment
1.0	27 June 2017	Original adoption
1.1	23 February 2021	Renumbered
2.0	27 March 2023	Draft for public advertising
2.1	29 August 2023	Final adoption

AUTHORITY

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

STATUTORY BACKGROUND

This policy is made pursuant to Schedule 2, Part 2, Division 2 of LPS Regulations relating to local planning policies.

Clause 61(i) of Schedule 2, Part 2, Division 2 'Deemed Provisions' of the LPS Regulations allows the local government to nominate works and uses that do not require development approval in a local planning policy.

PURPOSE

This policy lists development that is exempt from the requirement for development approval. These exemptions are in addition to the development exempt from development approval under clause 61 of the Deemed Provisions.

This policy **does not** exempt any development on any land that is either:

- (a) Entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42; or
- (b) The subject of an order under the *Heritage Act 2018* Part 4; or
- (c) The subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90.

APPLICATION

This Policy applies for certain types of development when prerequisite criteria are satisfied to trigger an exemption from the need to obtain development approval. These are identified in Table 1 of this Policy.

Table 2 includes exemptions on certain uses, which primarily relates to temporary events managed by the City.

POLICY

1.0 Objectives

- (a) To ensure that appropriate works and uses are exempted from the need to obtain development approval.
- (b) To provide a clear range of criteria used to determine whether certain types of works or uses are exempt from the need to obtain development approval.
- (c) To reduce administrative burden and red tape by exempting a range of works and uses.

2.0 Definitions

- (a) The following terms are used in this policy and are defined as such.

City Managed Event: Means a temporary event and incidental or associated works including but not limited to signage, banners, temporary structures such as marquees and the like. The temporary event must have been approved by Council or under delegated authority by the City, and may be managed and coordinated by City staff or approved contractors to undertake the event on the City's behalf, or a combination of both.

External fixture(s): these are utilities, equipment, plant or other structures which are necessary for a dwelling to achieve efficient, comfortable and environmentally sustainable operating outcomes and may include: solar collectors (and supporting frames), clothes drying structures, air conditioning units, communications and power and water infrastructure, or other fixtures as necessary for the residential use of the buildings on site.

Fence: means a vertical structure which may be attached to a building but is not necessary for the structural integrity of the building, for the purpose of forming a barrier or delineating an area of land and does not support any form of roof and does not include screening material, a retaining wall or a dividing fence (as defined by the *Dividing Fences Act 1961*).

Heritage Area: An area designated as a heritage area under clause 9 of the 'Deemed Provisions'.

Heritage List: The heritage list established under clause 8 of the 'Deemed Provisions'.

Main building line: The point at which the wall of the main building is closest to the primary street frontage, but does not include walls of minor projections such as verandahs, porticos, porches, bay windows and the like; or carports and garages.

Minor structures: means free standing structures without limiting the generality of the foregoing, letter boxes, seating, children's play equipment,

basketball and netball hoops, barbeques and free-standing satellite dishes.

Maintenance and repair:

means minor works that are undertaken to fix, or prevent, a building, structure or place from deteriorating or falling into a state of disrepair. The works are to be undertaken to the same details, materials and specifications of the building, structure or place prior to the deterioration or disrepair occurring. These works include:

- Painting of existing painted surfaces
- Rendering of existing rendered surfaces
- Re-roofing with like for like materials and where there is no change to the roof form and pitch
- Replacement of cladding materials with like for like

Outbuilding:

has the same meaning as given to it by the R-Codes and shall also include garden sheds, tree and cubby houses and domestic animal enclosures.

Outdoor Hard Surfaces:

means a structure or material, used for the purpose of stabilising or elevating the level of the land and shall include, without limiting the generality of the above, decking, brickwork, paving and the like.

R-Codes:

means the Residential Design Codes, State Planning Policy 7.3.

Retaining wall:

means a wall erected for the purpose of supporting land at a higher level than the land immediately adjacent to it.

Screening material:

- (a) a visually permeable structure including lattice, trellis, or metal framing which may or may not be used to train vegetation;
- (b) an opaque and translucent material such as shade cloth, or clear or coloured plastic.

Shade structure:

means unenclosed permeable roofed structures designed primarily for the purpose of providing shade, without limiting the generality of the foregoing, gazebos, sails, umbrellas, vergolas and pergolas.

3.0 Development Exemptions (Works)

The following table lists development that is exempt from the requirement for development approval. The table needs to be read in conjunction with clause 61 of the Deemed Provisions.

- ✓ indicates that the development is exempt from the requirement for development approval.
- ✗ indicates that development approval is required.

Table 1: Development Exemptions Schedule				
	Description of development exempt from the requirement for development approval	Applies to:		
		All land, excluding land within a Heritage Area or on the Heritage List	Land within a Heritage Area	Land on the Heritage List
1	<p>a) Any development, excluding signs/advertisements, which is temporary and in existence for less than 14 days or such longer time as the Council agrees.</p> <p>b) Any temporary works associated with a <i>City Managed Event</i> do not require development approval subject to the works being in existence for a period not exceeding 8 consecutive weeks in a calendar year. The provisions of <i>Table 2, Temporary Event Sign in Local Planning Policy 8.2 – Advertisements (Signs)</i>, do not apply to temporary signage associated with a <i>City Managed Event</i> with the exception of the following maximum sign area requirements:</p> <ul style="list-style-type: none"> (i) Sites less than 2500m² = 2m² (ii) Sites 2500m² – 5000m² = 4m² (iii) Sites greater than 5000m² = 6m² <p>Any temporary signage associated with a <i>City Managed Event</i> must be removed no later than 72 hours after the completion of the event, or the 8 week expiry period, whichever is the lesser.</p>	✓	✓	✗

Table 1: Development Exemptions Schedule

	Description of development exempt from the requirement for development approval	Applies to:		
		All land, excluding land within a Heritage Area or on the Heritage List	Land within a Heritage Area	Land on the Heritage List
2	Construction of a retaining wall less than 500 millimetres in height.	✓	✓	✓
3	Works urgently necessary for public safety, safety or security of plant or equipment, maintenance of essential services, or protection of the environment.	✓	✓	✓
4	<i>Minor structures</i> where: (i) Below 2m in height within the primary street setback; or (ii) Below 3m in other cases.	✓	✓	✓
5	Screening material attached to an existing authorised <i>Fence</i> or dividing fence as defined under the <i>Dividing Fences Act 1961</i> and projecting no more than 500mm above the top of the fence at any point, excluding where situated within a primary or secondary street setback area.	✓	✓	✓
6	Single storey (ground level) additions and all alterations to a Single House or Grouped Dwelling where the works are compliant with the applicable deemed to comply provisions of the R-Codes, including any provisions that are replaced by a local planning policy.		x	x
7	Single storey (ground level) additions and all alterations to a Single House or Grouped Dwelling where the works are: (i) Located behind the main building line and outside of any secondary street setback area; or (ii) Located where not <i>visible from the street</i> ; and (iii) Compliant with the applicable deemed to comply provisions of the R-Codes, including any provisions that are replaced by a local planning policy.	✓	✓	x

Table 1: Development Exemptions Schedule

	Description of development exempt from the requirement for development approval	Applies to:		
		All land, excluding land within a Heritage Area or on the Heritage List	Land within a Heritage Area	Land on the Heritage List
8	Internal works that do not materially affect the external appearance of the building that is <i>visible from the street</i> .	✓	✓	✗
9	The carrying out of the following works that affect only the interior of a building: (i) Kitchen, bathroom or laundry fit out with no structural alterations; or (ii) Painting / wall papering / plastering of internal walls; or (iii) Construction of new internal non-masonry, non-load bearing walls; or (iv) New floor covering placed over but not replacing existing floor surface materials; or (v) Electrical and plumbing works.	✓	✓	✓
10	The <i>maintenance and repair</i> of any building or structure.	✓	✓	✓
11	Changing any roof materials on parts of any building or structure where compliant with the provisions of an applicable local planning policy and, where located in the Centre, Mixed-Use or Local Centre zones: (i) the roof form and pitch of the building remaining unaltered; (ii) the works are limited to re-roofing only; and (iii) the works do not involve any increase to the existing roof height.	✓	✗	✗

Table 1: Development Exemptions Schedule

	Description of development exempt from the requirement for development approval	Applies to:		
		All land, excluding land within a Heritage Area or on the Heritage List	Land within a Heritage Area	Land on the Heritage List
12	Changing roofing materials on parts of any building or structure that is not <i>visible from the street</i> and is compliant with the provisions of an applicable local planning policy and, where located in the Centre, Mixed-Use or Local Centre zones: (i) the roof form and pitch of the building remaining unaltered; (ii) the works are limited to re-roofing only; and (iii) the works do not involve any increase to the existing roof height.	✓	✓	x
13	Replacing or altering external cladding materials on parts of any building or structure.	✓	x	x
14	Replacing or altering external cladding materials on parts of any building or structure that is not <i>visible from the street</i> .		✓	x
15	Modifying a window, door or other opening in the exterior wall of a dwelling where the modification meets the deemed to comply provisions of the R-Codes.	✓	x	x
16	Modifying a window, door or other opening in the exterior wall of a dwelling where: (i) The modification meets the deemed to comply provisions of the R-Codes; and (ii) The window, door or other opening is not <i>visible from the street</i> .		✓	x

Table 1: Development Exemptions Schedule

	Description of development exempt from the requirement for development approval	Applies to:		
		All land, excluding land within a Heritage Area or on the Heritage List	Land within a Heritage Area	Land on the Heritage List
17	<p><i>External fixtures</i> where complaint with:</p> <ul style="list-style-type: none"> (i) The provisions of an applicable local planning policy; or (ii) The deemed to comply provisions of the R-Codes where there is no applicable local planning policy; or (iii) The height of the <i>external fixture</i> does not exceed 1.8 metres as measured vertically from the highest point of the <i>external fixture</i> to the natural ground level directly below the <i>external fixture</i>. 	✓	✓	✓
18	<p>Water tanks where:</p> <ul style="list-style-type: none"> (i) Installed in locations that are not intrusive to public views of the place; and (ii) Are no higher than the eaves height where fixed to the building; or (iii) Are no greater than 2.4m in height if more than 1m from any boundary; or (iv) Are no greater than 1.8m in height if less than 1m from any boundary. 	✓	✓	✓
19	Outdoor hard surfaces where the finished level of the surface is not more than 500mm above the existing natural ground level.		✗	✗
20	<p>Outdoor hard surfaces where:</p> <ul style="list-style-type: none"> (i) The finished level of the surface is not more than 500mm above natural ground level; and (ii) Located behind the main building line. 	✓	✓	✓

Table 1: Development Exemptions Schedule

	Description of development exempt from the requirement for development approval	Applies to:		
		All land, excluding land within a Heritage Area or on the Heritage List	Land within a Heritage Area	Land on the Heritage List
21	<p><i>Shade structures</i> where:</p> <ul style="list-style-type: none"> (i) Located behind the main building line; (ii) Are 0.5m or greater from any boundary; (iii) Cover an area no greater than 20m²; and (iv) Are no greater than 3.0m in height. 	✓	✓	✓
22	<p>Front or secondary street fencing where compliant with:</p> <ul style="list-style-type: none"> (i) The provisions of an applicable local planning policy; or (ii) The deemed to comply provisions of the R-Codes where there is no applicable no local planning policy. 	✓	✓	✓
23	<p>Site works (filling or excavation) where compliant with:</p> <ul style="list-style-type: none"> (i) The provisions of an applicable local planning policy; or (ii) The deemed to comply provisions of the R-Codes where there is no applicable local planning policy. 	✓	✓	✓
24	Construction of an Outbuilding where compliant with the deemed to comply provisions of the R-Codes.	✓	✓	✓
25	<p>Construction of a swimming pool or outdoor spa where compliant with the Site Works requirements of the R-Codes and:</p> <ul style="list-style-type: none"> (i) Located behind the main building line and outside of any secondary street setback area; (ii) Set back 1m or more from any lot boundary; and (iii) No greater than 3 metres in height (including associated fencing) and 25m² in area. 	✓	✓	✓

Table 1: Development Exemptions Schedule

	Description of development exempt from the requirement for development approval	Applies to:		
		All land, excluding land within a Heritage Area or on the Heritage List	Land within a Heritage Area	Land on the Heritage List
26	Demolition of the following structures: (i) Outbuildings not of masonry construction with a floor area of less than 25 square metres; (ii) Minor structures; (iii) Patios; (iv) Shade structures; (v) Carports; (vi) External fixtures; (vii) Private swimming pools and outdoor spas; (viii) Water tanks;	✓	✓	✓
27	Any minor works as determined by the City of Subiaco in writing.	As determined	As determined	As determined

4.0 Development Exemptions (Uses)

The following table lists uses that are exempt from the requirement for development approval. The table needs to be read in conjunction with clause 61 of the Deemed Provisions.

- ✓ indicates that the use is exempt from the requirement for development approval.
- ✗ indicates that development approval is required.

Table 2: Use Exemptions Schedule				
	Description of use exempt from the requirement for development approval	Applies to:		
		All land, excluding land within a Heritage Area or on the Heritage List	Land within a Heritage Area	Land on the Heritage List
1	<p>Any <i>City Managed Event</i> which is held on a temporary basis and satisfies <u>all</u> of the following criteria:</p> <ul style="list-style-type: none"> (i) The event is held for no longer than 8 consecutive weeks in a calendar year; (ii) The event shall be packed down and the site(s) of the event returned to its original condition no less than 72 hours after the completion of the event, or the 8 week expiry period referenced in (i), whichever is the lesser; (iii) The event can be held in any Zone or Local Reserve under the City's LPS 5 with the exception of the Residential zone; (iv) The event shall obtain all other relevant approvals as required including but not limited to requirements of the City's Environmental Health, Engineering and Building Services. 	✓	✓	✗