

CITY OF SUBIACO
LOCAL PLANNING POLICY 8.1

**Exemption from the Need to Obtain Development Approval for Land
Use in the Centre, Local Centre and Mixed Use Zones**

ADMINISTRATIVE

Version	Date	Comment
1.0	18 May 2021	Final for publishing

AUTHORITY

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

STATUTORY BACKGROUND

This local planning policy (**the Policy**) is made pursuant to Schedule 2, Part 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations)* relating to local planning policies.

Clause 61(2)(g) of the Deemed Provisions of the LPS Regulations allows a local planning policy to specify uses that do not require development approval, in addition to those uses specified in clause 61(2).

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 Local Centre or Mixed Use in Local Planning Scheme No. 5; and
- land zoned Centre in Local Planning Scheme No. 5 and which is within the boundary identified in **Attachment 1**.

PURPOSE

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 changes of land use within these zones;
- (b) To streamline the process to establish new businesses or to expand existing businesses within existing buildings in these zones;
- (c) To designate land uses that are exempt from the need to obtain development approval on the basis that they will not have any adverse impacts on established uses in the designated zones, or adjacent to the proposed use; and
- (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

2.1 The following terms are defined for the purpose of this Policy.

Deemed Provisions: The provisions contained in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

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: The applicable Local Planning Scheme to which this Policy applies, being the City of Subiaco Local Planning Scheme No. 5. (LPS 5).

2.1 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 Changes in land use exempt from the need to obtain development approval

3.1 Subject to sections 3.2 and 3.3 being satisfied, the following land uses within the applicable zones prescribed in **Table 1** below 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; and, • Small Bar.
Local Centre	<ul style="list-style-type: none"> • Shop; • Local Shop; • Office; • Consulting Rooms; and, • Restaurant/café.
Mixed Use	<ul style="list-style-type: none"> • Shop; • Local Shop; • Office; • Consulting Rooms; and, • Restaurant/café.

**As identified in map contained as Attachment 1. For the avoidance of any doubt, 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; and

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 Administration and process 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. Details relating to scale and the nature of the use may be requested by the City. The City may refuse to provide this written confirmation, in which a development application may then be required, in 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; or
 - (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 section 4.1 does not exempt the proposed use from the need to obtain other relevant approvals under separate legislation including, but not limited to, the *Building Act 2011*, *Environmental Protection Act 1986*, the *Liquor Control Act 1988* and/or any applicable local law.
- 4.3 Where written confirmation of an exemption from the need to obtain development approval has been obtained pursuant to this policy, this exemption shall remain in place until such time as the use is altered through further changes of use or expansion.

5.0 Works associated with a change in land use

- 5.1 This policy only relates to changes in land use in certain circumstances and does not relate to any works associated with these changes in land use. Whether or not 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.
- 5.3 Notwithstanding section 5.2 above 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 for internal works.
- 5.4 The written confirmation specified in section 4.1 should specify whether any proposed works associated with a change of use subject to this policy will require development approval.

ATTACHMENT 1: Centre Zone boundary for land use exemption

