

CITY/ TOWN OF XXXX
LOCAL PLANNING POLICY XXX
EXEMPTION FROM THE NEED TO OBTAIN DEVELOPMENT APPROVAL – LAND
USE IN XXX Zone *(Insert name of zones the policy is to apply)*

ADOPTION DATE:

AUTHORITY:

(Insert Scheme Name and Number)

PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015

STATUTORY BACKGROUND

This policy is made pursuant to Schedule 2, Part 2, Division 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). Schedule 2 of the Regulations contains the deemed provisions for local planning schemes (Deemed Provisions). Clause 61(2)(e) of the Deemed Provisions 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 all land within the XXX zones *(Insert zones that the policy applies to)*.

PURPOSE

This policy aims to make it easier to establish new businesses in existing buildings

The purpose of this policy is to exempt certain changes of use within existing buildings located within the designated zones from the need to obtain development approval under the Scheme.

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;

- (a) 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
- (b) 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:

Existing building means a fully 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 means the City/Town of XXXX Town /Local Planning Scheme No. XXX (*Insert LG name and scheme number*)

- (b) All other terms, words and expressions used in this policy have the same meaning as they have in the Scheme or Deemed Provisions

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

- (a) Subject to sections 3(b), and (c) being satisfied, the following land uses within the applicable zones do not require development approval under the Scheme –

Zone	Exempt Uses
<i>Insert Zone name i.e. Town Centre</i>	Shop; Local Shop; Office; Consulting Rooms; Exhibition Centre; Showroom; Restaurant; Fast Food Outlet; Convenience Store; Small Bar; and, Health Studio; <i>(Note: This is a recommended list of land uses to be exempt. The above land uses may need to be amended to suit the land uses within the applicable scheme. Additional uses may be added to suit the local context)</i>
<i>Insert Zone name</i>	<i>Insert Exempt Uses</i>

Table 1: Exempt Uses

- (b) 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,
- (c) The total net lettable area 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); and

4.0 Administration and process prior to commencing the use

- (a) Prior to commencing the use, the applicant must obtain written confirmation from the City/Town 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/Town. The City/Town may refuse to provide this written confirmation, in which a development application may then be required, in the following circumstances:
 - i. The development proposed would be inconsistent with the objectives of this policy, the Scheme and/or applicable zone;
 - ii. The development proposed may be detrimental to the amenity of the locality,
 - i. 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
 - ii. The land use may/will lead to a loss of activation or passive surveillance at street level;
- (b) The receipt of written confirmation specified in section 4(a) does not exempt the proposed use from the need to obtain other relevant approvals under separate legislation including the National Construction Code, Environmental Health Regulations (*List all applicable regulations for food safety, public buildings*), the Liquor Control Act and/or any applicable local law.
- (c) 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

- (a) 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 XXX (*delete reference to LPP if not applicable*).
- (b) 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. (*Insert any additional requirements for exemptions for internal works specified in the scheme or an applicable LPP*).

- (c) Notwithstanding clause 61(1) of the Deemed Provisions internal works relating to Places on the City's/Town's Heritage List or in the Register of Heritage Places under the Heritage of Western Australia Act 1990 may be subject to a requirement for approval for internal works.
- (d) The written confirmation specified in section 4.0(a) should specify whether any proposed works associated with a change of use subject to this policy will require development approval.

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