

## Policy P322 Exempt Land Use

<b>Responsible Business Unit/s</b>	Development Services
<b>Responsible Officer</b>	Director Development and Community Services
<b>Affected Business Unit/s</b>	Development Services

### Policy Purpose

This policy aims to make it easier to establish new businesses within 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 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.

### Policy Application

This policy applies to the zones specified in Table 1 of this policy, as depicted on the Scheme Maps of Town Planning Scheme No. 6.

**At the expiration of the State of Emergency Declaration, the City will review the policy as soon as practicable, having regard to reasonable limitations on resourcing and any administrative burden in accordance with the Notice of Exemption from Planning Requirements During State of Emergency signed on 30 April 2020.**

### Policy Status

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.

**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 of South Perth Town Planning Scheme No. 6.

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

**Policy statement**

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

(a) Subject to sections 1(b), and (c) being satisfied, the following land uses within the applicable zones do not require development approval under the Scheme –

<b>Zone</b>	<b>Exempt Uses</b>
Neighbourhood Centre Commercial; District Centre Commercial; Mends Street Centre Commercial.	Shop, Local Shop, Office, Consulting Rooms, Café/Restaurant, Small Bar and Indoor Sporting Activity.
Mixed Use Commercial	Office, Consulting Rooms
Highway Commercial	Shop, Local Shop, Office, Consulting Rooms, Showroom and Indoor Sporting Activity.
Local Commercial	Local Shop and Office.
All Zones	Family Day Care

**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 400m<sup>2</sup>. If tenancies are combining or an expansion is taking place, the limit applies to the total NLA once the expansion would be complete.

## 2.0 Administration and process prior to commencing the use

- (a) 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:
  - 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,
  - iii. 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
  - iv. 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 2(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, 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.

## 3.0 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 and the Deemed Provisions.
- (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.
- (c) Notwithstanding clause 61(1) of the Deemed Provisions internal works relating to Places on the City's Heritage List or in the Register of Heritage Places under the Heritage Act 2018 may be subject to a requirement for approval for internal works.
- (d) The written confirmation specified in section 2.0(a) should specify whether any proposed works associated with a change of use subject to this policy will require development approval.

## LEGISLATION/ LOCAL LAW REQUIREMENTS

*City of South Perth Town Planning Scheme No. 6  
Planning and Development (Local Planning Schemes) Regulations 2015*