

## **1. INTRODUCTION**

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).

This policy is made with the intention of reflecting the Minister's Clause 78H 'Notice of Exemption from Planning Requirements during State of Emergency' as they relate to the City's planning framework. Should there be any inconsistencies between the provisions of this policy and other local planning policies the provisions of this policy prevail.

## **2. APPLICATION OF POLICY**

This policy applies to all zoned land within the Scheme.

## **3. 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.
- d) To provide greater opportunities for active ground floor land uses for existing buildings fronting streets with a retail and mixed-use focus.

## **4. POLICY STATEMENT**

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.

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

- a) Subject to sections 4.1b) and c) being satisfied, the following land uses within the applicable zones do not require development approval under the Scheme –

<b>TPS 4 Zone</b>	<b>Exempt Uses (per Notice of Exemption)</b>
Residential Special Residential Rural Living Special Rural General Rural	Commercial Vehicle Parking
	Home Business
	Home Occupation
Local Centre District Centre Strategic Regional Centre	Shop
	Restaurant
	Convenience Store <small>(excluding those selling petroleum products)</small>
	Consulting Rooms
	Office
General Industry	Industry – General
	Industry – Light
	Warehouse
	Storage
	Transport Depot
Industrial Business	Industry – Light
	Trade Supplies
	Warehouse
	Storage
	Transport Depot
Mixed Business / Residential	Commercial Vehicle Parking
	Home Business
	Home Occupation
	Shop
	Restaurant
	Consulting Rooms
	Office

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;
- 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); and
- d) If the land can be connected to all reticulated utility services, is so connected, and does not depend on any onsite effluent disposal.

## **4.2 Administration and process prior to commencing the use**

- a) Prior to commencing the use, unless that use would normally be exempt regardless (i.e. is a permitted 'P' use with no works component), 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 before confirmation is provided.
- b) Upon considering a request in accordance with 4.2a), the City may refuse to provide written confirmation of exemption from development approval, and instead determine that the proposed use requires a development approval. The circumstances in which a proposed use may be determined to require a development approval include, but are not limited to, where the City considers it to:
  - i. be inconsistent with the objectives of this policy, the Scheme and/or applicable zone;
  - ii. be detrimental to the amenity of the locality;
  - iii. only be appropriate to the locality if its impacts are managed through the imposition of conditions placed on a development approval;
  - iv. lead to a loss of activation or passive surveillance at street level; or
  - v. involve changes to the access to, layout or number of authorised car parking bays available on the subject site.
- 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 90 days after the end of the State of Emergency, at which time a development application will be required.

## **4.3 On-site car parking**

- a) For those exempt land uses and activities listed under section 4.1 of this Policy, the City will permit an exemption from development approval notwithstanding that the expansion or change in land use would otherwise require additional on-site car parking bays to be provided per the Scheme.
- b) Further to Clause 4.3a) above, where the expansion of an existing business or change of land use or activity results in the need to provide an accessible car parking bay on the site in order to meet the current requirements of the Building Act 2011 and the Disability Discrimination Act 1992 that is not already provided as part of the authorised car parking on the site, the following applies:
  - i. the City will accept a reduction in the number of authorised car parking bays provided on the site by one (1) car parking bay, where the reduction is occurring to facilitate the conversion of two standard car parking bays to a single accessible car parking bay, where the existing authorised layout and dimension of the remaining car parking bays on the site and the existing vehicular access remains unaltered;

- ii. the conversion of two existing authorised car parking bays as per Clause 4.3b)i. will be exempt from the requirement to obtain development approval.
- c) Any changes to the existing authorised car parking on the site other than those outlined in Clause 4.3b) above will be deemed as works in accordance with Clause 4.4 of this policy, and subject to the requirement for development approval.

#### **4.4 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 permanent **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 any other local planning policy.
- 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 of Western Australia Act 1990 may be subject to a requirement for approval for internal works.
- d) A change of land use that results in a change of building classification or building use may be subject to the requirement to comply with the current standards for access and facilities for people with disabilities in accordance with the Building Act 2011 and Disability Discrimination Act 1992. This may involve the need to upgrade the access and toilet facilities within the premises as well as trigger the requirement to provide one or more accessible car parking bays on the site. New or expanded businesses are encouraged to upgrade the access and facilities within their premises to meet the current requirements of the Building Act 2011 and the Disability Discrimination Act 1992, even where there is no statutory obligation to do so.
- e) The provisions of this policy do not exempt any proposed development/use from the need to comply with and/or obtain other relevant approvals under separate legislation. For example, a proponent seeking to rely upon an exemption may still require approvals under health, building, environment, liquor licencing and other statutory requirements.

#### 4.5 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

***NLA*** means 'net lettable area' as defined by the Scheme.

***Scheme*** means the City of Armadale Town Planning Scheme No.4.

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

**D33/5/20 Development Services Committee 19 May 2020 - Adopted by Council 25 May 2020**