



EXPLANATORY NOTES ONLY – THIS DOCUMENT IS NOT THE NOTICE AND HAS NO LEGAL STATUS

Requirements	Schemes	Conditions	Discretion To	Explanation to assist Planners
<b>Schedule 1 – Exemption from requirement to obtain approval</b>				
1.1 Proponents are exempted from the requirement to obtain development approval for the use of, or undertaking of works on, land, where such use or works relate to medical or health related activities associated with a response to the COVID-19 Pandemic.	All local planning schemes.	<p>1. Provided that a Public Authority or local government advises or identifies the medical or health related activities as necessary in response to the COVID-19 Pandemic.</p> <p>2. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect, or is revoked.</p>	Proponents	<i>Approval is not required for any works or development necessary for medical or health related purposes associated with a response to the COVID-19 pandemic that is identified by a Public Health Authority.</i>
1.2 Proponents are exempted from the requirement to obtain development approval for the following uses, and temporary works associated with these: <ul style="list-style-type: none"> <li>i. shop;</li> <li>ii. restaurant/café;</li> <li>iii. convenience store (excluding those selling petroleum products);</li> <li>iv. consulting rooms;</li> </ul>	All local planning schemes.	<p>1. Provided that:</p> <ul style="list-style-type: none"> <li>a) the land to be used is located in a commercial, centre and/or mixed use zone;</li> <li>b) the use is capable of being approved under the scheme;</li> <li>c) no new permanent buildings or structures are required (with the exception that car parking bays are permitted);</li> <li>d) for shop uses, once the proposed use is in place, the net lettable area for the land use does not exceed 400m<sup>2</sup>; and</li> <li>e) if the land can be connected to all reticulated utility services, is so connected, and does not depend on any onsite effluent disposal.</li> </ul>	Proponents	<p><i>Removes the requirement for businesses to obtain approval for the use and associated temporary works.</i></p> <p><i>If an appropriate LPP has not already been adopted, local governments are also encouraged to consider adding other locally suitable uses to this list through an appropriate LPP.</i></p>



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v. office.		<p>2. Provided that the proponent notifies the local government within 7 days of commencing the use, that the use is being undertaken.</p> <p>3. Despite any other condition, this exemption does not apply to a Heritage-Protected Place.</p> <p>4. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect, or is revoked.</p>		<p><i>This does not exempt the proponent from complying with provisions under other legislation (e.g. health, building, etc.).</i></p>
<p>1.3 Proponents are exempted from the requirement to obtain development approval for the following uses, and works associated with these:</p> <ul style="list-style-type: none"> <li>i. industry;</li> <li>ii. industry-light;</li> <li>iii. trade supplies;</li> <li>iv. warehouse/storage;</li> <li>v. transport depot.</li> </ul>	All local planning schemes.	<p>1. Provided that:</p> <ul style="list-style-type: none"> <li>a) the land to be used is located in an industrial zone;</li> <li>b) the use is capable of being approved under the scheme;</li> <li>c) if the land can be connected to all reticulated utility services, is so connected, and does not depend on any onsite effluent disposal; and</li> <li>d) either: <ul style="list-style-type: none"> <li>i. no new permanent buildings or structures are required; or</li> <li>ii. any buildings or structures required to facilitate the use are deemed temporarily approved for a period of no more than 2 years, from the date the use commences, after which the buildings or structures must be removed.</li> </ul> </li> </ul>	Proponents	<p><i>Removes the requirement for these businesses to obtain approval for the use and associated temporary works. Assists manufacturing and similar industries located in industrial zones where production may need to be increased or changed in response to the COVID-19 requirements.</i></p> <p><i>This does not exempt the proponent from complying with provisions under other legislation (e.g. health, building, etc.).</i></p>



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		<p>2. Provided that the proponent notifies the local government within 7 days of commencing the use, that the use is being undertaken.</p> <p>3. Despite any other condition, this exemption does not apply to a Heritage-Protected Place.</p> <p>4. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect, or is revoked.</p>		
<p>1.4 Proponents are exempted from the requirement to obtain development approval for the following uses, and temporary works associated with these:</p> <ul style="list-style-type: none"> <li>i. home business;</li> <li>ii. home occupation.</li> </ul>	<p>All local planning schemes.</p>	<p>1. Provided that the land to be used is located in:</p> <ul style="list-style-type: none"> <li>a) a residential zone; or</li> <li>b) where a dwelling, grouped dwelling or multiple dwelling is a permitted use.</li> </ul> <p>2. Provided that the proponent notifies the local government within 7 days of commencing the use, that the use is being undertaken.</p> <p>3. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect, or is revoked.</p>	<p>Proponents</p>	<p><i>Provides for people either working from home or temporarily relocating their small business to their home.</i></p>
<p>1.5 Proponents are exempted from the requirement to obtain development approval for the following uses, and</p>	<p>All local planning schemes.</p>	<p>1. Provided that the proponent notifies the local government within 7 days of commencing the use, that the use is being undertaken.</p>	<p>Proponents</p>	<p><i>Provides for delivery drivers and similar services who may be required to temporarily park their vehicle at home in response to the COVID-19 requirements.</i></p>



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temporary works associated with these: i. commercial vehicle parking.		2. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect, or is revoked.		
1.6 Proponents are exempted from the requirement to obtain development approval to the use of, or undertaking of works on, land, where such use or works concern temporary workers' accommodation.	All local planning schemes.	<p>1. Provided that the temporary workers' accommodation applies to a workforce necessary for the installation of, or construction of, and maintenance of, essential services such as (but not limited to) power stations, water, desalination plants or sewer treatment facilities.</p> <p>2. Provided that the proponent notifies the local government within 7 days of commencing the use, that the use is being undertaken.</p> <p>3. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect, or is revoked.</p> <p>4. Despite any other condition, this exemption does not apply to workers' accommodation connected with agriculture, which is dealt with in 1.7.</p>	Proponents	<p><i>On-going supply of essential services during the COVID-19 pandemic may require workers to be temporarily accommodated near those services.</i></p> <p><i>The main issue is regional areas where there is no region scheme and the local scheme may not allow any form of residential use.</i></p>
1.7 Proponents are exempted from the requirement to obtain development approval to the use of, or undertaking of works on, land, where such	Shire of Harvey District Planning Scheme No.1,	<p>1. Provided that the temporary workers' accommodation applies to a workforce necessary for ongoing operation of agricultural activities.</p> <p>2. Provided that:</p>	Proponents	<i>Provides the ability for temporary accommodation arrangements to be put in place where a workforce associated with rural production is impacted by</i>



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use or works concern agricultural workers' accommodation.	Shire of Manjimup Local Planning Scheme No.4.	<p>a) the land to be used is located in the General Farming, Intensive Farming, Priority Agriculture or General Agriculture zones;</p> <p>b) the use is capable of being approved under the scheme;</p> <p>c) if the land can be connected to all reticulated utility services, is so connected; and</p> <p>d) no new permanent buildings or structures are required.</p> <p>3. Provided that the proponent notifies the local government within 7 days of commencing the use, that the use is being undertaken.</p> <p>4. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect, or is revoked.</p> <p>5. Despite any other condition, this exemption does not apply to temporary workers' accommodation connected with the essential services dealt with in 1.6.</p>		<i>regional travel restrictions and/or where there is a need to minimise the potential for the spread of COVID-19 as a result of workers moving between agricultural operations.</i>
<b>Schedule 2 – Exemptions from requirements under a condition of development approval</b>				
2.1 Proponents are exempted from any restriction upon loading or unloading times, related to	All local planning schemes.	1. Confined to premises with an existing approval, or the benefit of an exemption under this Notice, to sell goods and/or petroleum products.	Proponents	<i>Assists in maintaining the continued supply of goods and fuel by temporarily removing the need to comply with any planning restrictions relating</i>



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<p>the delivery of goods and/or petroleum products.</p>		<p>2. Provided that the proponent notifies the local government within 7 days of commencing use of this exemption.</p> <p>3. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect or is revoked.</p>		<p><i>to loading/unloading and hours of delivery.</i></p> <p><i>This does not exempt the proponent from complying with provisions under other legislation (e.g. health, road traffic etc.).</i></p>
<p><b>Schedule 3 – Exemptions relating to non-conforming uses</b></p>				
<p>3.1 Any approval for a non-conforming use, is exempt from a provision that annuls the approval because of a discontinuance of that non-conforming use.</p>	<p>All local planning schemes.</p>	<p>1. The period during which the State of Emergency is declared shall be excluded from any calculation of the period for which a non-conforming use ceases to exist.</p> <p>2. An exemption under this clause will expire on the day after that upon which the State of Emergency Declaration ceases to have effect or is revoked.</p>	<p>Proponents</p>	<p><i>Acts as a “stop the clock” for the duration of the State of Emergency which will preserve non-conforming use rights in the event that the use is unable to operate as a result of the COVID-19 pandemic. The duration of the State of Emergency is excluded from the period calculated for discontinuance of the use.</i></p>



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<b>Schedule 4 – Exemption from requirements re: consultation, advertisement, applications, time limits or forms</b>				
<p>4.1 In relation to making a local planning policy, local governments are exempted from the requirements under cl.4 of the LPS Regulations.</p>	<p>All local planning schemes.</p>	<p>1. Provided that:</p> <ul style="list-style-type: none"> <li>a) the policy relates to exemptions from the requirement to obtain approval to a change of use;</li> <li>b) the local government advertises the proposed policy on its website for a minimum of 3 days; and</li> <li>c) publishes the adopted version of the policy on its website.</li> </ul> <p>2. An exemption under this clause will expire on the day after that upon which the State of Emergency Declaration ceases to have effect or is revoked.</p> <p>3. An exemption under this clause includes an exemption to resolve to prepare a local planning policy under cl.4(1) through Council resolution, provided the Mayor or Shire President approves the making of a local planning policy.</p> <p>4. At the expiration of the State of Emergency Declaration, the local government will review the policy as soon as practicable, having regard to reasonable limitations on resourcing and any administrative burden.</p>	<p>Local Governments</p>	<p><i>Reduces the time required for the preparation or amendment of a “change of use” LPP to assist local governments respond through additional change of use exemptions. A model LPP has been prepared (and tested by the inner-city councils) and is available on the DPLH website for local governments to use.</i></p> <p><i>Where a local government utilises this exemption, it is required to review the policy in accordance with the requirements set out in the LPS Regulations as soon as practicable after the State of Emergency declaration concludes.</i></p>
<p>4.2 In relation to an approved development application, proponents are exempted from the</p>	<p>All local planning schemes.</p>	<p>1. Provided that:</p> <ul style="list-style-type: none"> <li>a) the original deadline for substantial commencement is exempted; and</li> <li>b) a new deadline for substantial commencement is substituted, being the original deadline as at the</li> </ul>	<p>Proponents</p>	<p><i>Extends the approval timeframes for all current approvals by adding a further 2 years to the timeframe</i></p>





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<p>requirement to substantially commence development.</p>		<p>date of the Original Notice on 8 April 2020, plus a further period of 2 years.</p> <p>2. The exemption under this clause will only be available for development applications decided on, or before, the date upon which the State of Emergency Declaration ceases to have effect, or is revoked.</p>		<p><i>remaining as at the date of the Notice.</i></p> <p><i>This is intended to reduce the likely requests to local governments and/or Development Assessment Panels for extensions to the term of existing approvals due to the COVID-19 pandemic.</i></p>
<p>4.3 In relation to a structure plan under cl.18-cl.20 or activity centre plan under cl.34-cl.36 of the LPS Regulations, local governments are exempted from any requirements relating to the manner and timeframe of advertising, consideration or submission.</p>	<p>All local planning schemes.</p>	<p>1. Provided that, in relation to structure plans, the local government:</p> <ul style="list-style-type: none"> <li>a) advertises the structure plan and accompanying materials on its website for no more than 42 days and installs a sign somewhere prominent on the land to which the said plan applies notifying the public of where the documents are online;</li> <li>b) complies with the requirements of cl.20(1) within 90 days of the latest to occur of cl.20(1)(a) - (c).</li> </ul> <p>2. Provided that, in relation to activity centre plans, the local government:</p> <ul style="list-style-type: none"> <li>a) advertises the activity centre plan and accompanying materials on its website for no more than 42 days and installs a sign somewhere prominent on the land to which the said plan</li> </ul>	<p>Local Governments</p>	<p><i>This provides a maximum timeframe for public consultation where it is required to be undertaken. It balances the need to continue business while recognising that the community will need some additional time to consider and respond to proposals.</i></p>





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		<p>applies notifying the public of where the documents are online;</p> <p>b) complies with the requirements of cl.36(1) within 90 days of the latest of cl.36(1)(a) - (c).</p> <p>3. An exemption under this clause will expire on the day after that upon which the State of Emergency Declaration ceases to have effect or is revoked.</p>		
<p>4.4 Local governments exempted from the requirements under the Deemed Provisions to make any documents, whatsoever, available for public inspection at a local government's offices.</p>	<p>All local planning schemes.</p>	<p>1. Provided that the documents are published for public inspection on the local government website.</p> <p>2. An exemption under this clause will expire on the day after that upon which the State of Emergency Declaration ceases to have effect or is revoked.</p>	<p>Local Governments</p>	<p><i>Removes the requirement to have physical copies of documents available in an office for inspection but requires those documents to be available on the website.</i></p>
<p><b>Schedule 5 – Exemptions from other requirements</b></p>				
<p>5.1 Where premises are approved for use, or in relation to any application for development approval, proponents are exempted from a requirement to provide car parking facilities.</p>	<p>All local planning schemes.</p>	<p>1. Provided that this exemption only applies to:</p> <p>a) non-residential development; and</p> <p>b) where the proponent provides less than the number of parking bays required for the use in question, and the shortfall is 10 parking bays or less.</p> <p>2. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect or is revoked.</p>	<p>Proponents</p>	<p><i>For non-residential development, where the shortfall of parking is 10 bays or less the parking requirement is waived. This will assist business by removing the burden of having to provide parking in those circumstances.</i></p>



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5.2 In relation to an approved development application, proponents are exempted from the requirement to provide cash-in lieu payments, as an alternative to providing car parking facilities.	All local planning schemes.	<ol style="list-style-type: none"> <li>1. Provided that this exemption only applies to non-residential development.</li> <li>2. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect or is revoked.</li> </ol>	Proponents	<i>This exempts any requirement of an existing development approval to make a cash-in-lieu contribution where that condition has yet to be complied with. This will assist business by removing the financial burden of the cash-in-lieu contribution.</i>
<b>Schedule 6 – Exemptions of a type that may fall within multiple categories</b>				
6.1 Where premises are approved for use as an hotel, tavern, restaurant/café or other similar venue, proponents are exempted from: <ol style="list-style-type: none"> <li>i. any condition of approval, or designation in the approved use, requiring the food prepared at the premises to be consumed on the premises;</li> <li>ii. any requirement to obtain approval for</li> </ol>	All local planning schemes.	<ol style="list-style-type: none"> <li>1. Provided that no new permanent buildings or structures are required (with the exception that car parking bays are permitted).</li> <li>2. Provided that the proponent notifies the local government within 7 days of commencing the use, that the use is being undertaken.</li> <li>3. In relation to signage, provided the signage               <ol style="list-style-type: none"> <li>a) is not installed in a residential zone;</li> <li>b) relates only to the business conducted on the premises; and</li> <li>c) does not contain any illumination, animation, movement, reflective, retro-reflective or fluorescent materials in its design structure.</li> </ol> </li> </ol>	Proponents	<p><i>This enables food and beverage businesses to continue to operate by providing take away and/or home delivery as they are unable to comply with the requirement to primarily prepare and serve food on their premises due to the COVID-19 pandemic. It also enables business to adjust signage accordingly if required.</i></p> <p><i>Local governments are also encouraged to consider other</i></p>



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<p>food to be prepared for consumption off premises;</p> <p>iii. any requirement to obtain approval to minor, temporary, works that are necessary to adapt existing premises to use the exemption contemplated under (i) or (ii) above;</p> <p>iv. any requirement to obtain approval to signage of uses now permitted by virtue of this exemption.</p>		<p>4. Despite any other condition, this exemption does not apply to a Heritage-Protected Place where works are required.</p> <p>5. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect or is revoked.</p>		<p><i>locally appropriate exemptions through an LPP.</i></p>
<p>6.2 Proponents are exempted from the requirement to obtain approval to changes to existing approved signage.</p>	<p>All local planning schemes.</p>	<p>1. Provided that:</p> <p>a) such signage is not installed in a residential zone;</p> <p>b) relates only to the business conducted on the premises; and</p> <p>c) the changes do not:</p> <p>i. alter the size of the approved sign; or</p> <p>ii. contain any illumination, animation, movement, reflective, retro-reflective or fluorescent materials in its design structure.</p>	<p>Proponents</p>	<p><i>A general provision to cover signage recognising that many businesses will have to adapt as a result of the COVID-19 pandemic.</i></p>



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		<p>2. Despite any other condition, this exemption does not apply to a Heritage-Protected Place where works are required.</p> <p>3. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect or is revoked.</p>		
6.3 Exemption from any requirement under a scheme that would ordinarily apply to development required to implement a direction or authorisation issued under the <i>Emergency Management Act 2005</i> or the <i>Public Health Act 2016</i> .	All local planning schemes.	1. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect or is revoked.	Proponents	<i>A general provision to clarify that planning approval is not required to comply with a direction issued under the nominated legislation.</i>

**EXPLANATORY CONDITIONS**

1. In this Notice a generous, broad interpretation is to be given to terms.
2. “Deemed Provisions” means Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. The term “all local planning schemes” relates to those schemes to which the Deemed Provisions apply.
4. The term “proponent” should be interpreted broadly and includes any owner or occupier of land, and also includes any applicant or agent acting on their behalf. A proponent may also include any local government, if acting as an owner or occupier of land.



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5. Unless otherwise stated, a reference to a clause in this Notice is to a clause in the Deemed Provisions.
  
6. “Approved development application” is a term intended to cover applications for which approval is granted, and were still in force and not otherwise expired, revoked or lapsed at the date of the commencement of the Original Notice, whether granted before or after the commencement of this Notice. For example, the additional 2 years automatically-deemed to apply to substantial commencement periods under cl.4.2 apply to approvals granted before or after the coming into effect of the Original Notice on 8 April 2020, provided such approval was still in force at that time:
  - a) For example, a proponent with 1 year left of an original substantial commencement period would as of 8 April 2020 have a new substantial commencement automatically-deemed as of 8 April 2023.
  - b) For example, a proponent with 7 days left of an original commencement period would as of 8 April 2020 have a new substantial commencement automatically-deemed as of 15 April 2022.
  - c) For example, a proponent granted new development approval on 18 April 2020 with a condition imposing 2 years for substantial commencement, will have a new substantial commencement automatically-deemed as of 18 April 2024.
  - d) For example, a proponent granted new development approval on 18 April 2020 with a condition imposing 7 days for substantial commencement will have a new substantial commencement automatically-deemed as of 25 April 2022.
  - e) For example, a proponent whose original substantial commencement period expired on 7 April 2020 would be afforded no new time, as the original approval would have lapsed as at the commencement of the Original Notice.
  
7. Heritage-Protected Place means a place that is —
  - 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



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- c) the subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90; or
  - d) included on a heritage list prepared in accordance with a Scheme; or
  - e) within an area designated under a Scheme as a heritage area.
8. “State of Emergency Declaration” means the State of Emergency declared by the Minister for Emergency Services, as effective from 12am, 16 March 2020. This was made under s56 of the *Emergency Management Act 2005*.
- a) When the State of Emergency Declaration is no longer required, the declaration will expire on either:
    - i. a date specified in a notice issued under s58 of the *Emergency Management Act 2005*, by the Minister for Emergency Services; or
    - ii. a date specified in a revocation notice issued by the said Minister.
  - b) Information relating to this will be available on websites such as:  
<https://www.wa.gov.au/government/document-collections/covid-19-coronavirus-state-of-emergency-declarations>
9. “Public Authority” has the same definition as “public authority” in section 4, *Planning and Development Act 2005*.
10. For the avoidance of doubt, this Notice provides **temporary** exemptions from planning requirements. Consistent with clause 78J(2) of the Deemed Provisions, this Notice cannot provide a permanent exemption from a planning requirement under a scheme.
- a) For example, in clauses 1.2 to 1.6 of this Notice the exemption is generally limited to “temporary works” and “no permanent buildings or structures”. That is, at the expiration of the exemption period set out under this Notice, if new development approval is not otherwise obtained, a proponent must remove, pull down, take up, or otherwise alter any development and cease any unauthorised use, and return the land as nearly as practicable to its condition immediately before any development activity relied upon under this Notice started. Failure to do so may result in enforcement action by the responsible authority, including prosecution or a separate take-down notice under section 214 of the *Planning and Development Act 2005*.



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- b) For example, in clauses 1.2 and 1.3 references to “the use is capable of being approved under the scheme” generally includes, but is not limited to, uses that are not a “X” use, or equivalent concept, as set out in zoning table. Moreover, to avoid doubt and reflective of cl.78J(5), if an exemption is relied upon because at the time of such reliance a use was capable of being approved, but is no longer capable at the time of a future development application due to a change in the scheme, no non-conforming use rights apply. That is, the proponent in such a situation, not being able to obtain development approval, must remove, pull down, take up, or other alter any development and cease any unauthorised use, and return the land as nearly as practicable to its condition immediately before any development activity relied upon under this Notice started.
- c) For example, the exemption in clause 5.2 of this Notice, from paying a cash in lieu requirement, is not a permanent waiver of the requirement. This exemption, as with all others, expires at the conclusion of the timeframe specified for the exemption. Upon that expiry, payment must be made. Nothing in this clause prevents a proponent from exercising its rights of review in relation to cash in lieu conditions.
11. An exemption provided for under this Notice only relates to planning requirements applicable pursuant to a local planning scheme (including under the Deemed Provisions), and does not exempt any other requirement that might apply under any other law. For example, a proponent seeking to rely upon an exemption set out in this Notice may still require approvals under health, building, environment, liquor licencing and other statutory requirements.
12. In interpreting both this Notice and different local planning schemes to which this Notice applies, including but not limited to land use terms and zoning classification descriptions, words can express the same idea in a different form of words and ideas are not to be taken as different just because different forms of words were used. For example, a reference to a “residential” zone and uses includes all such zones and uses substantively of this type or genus, whatever nomenclature is used by a local government in their particular local planning scheme.
13. In cl.1.3(1)(d)(ii), the exemption does admittedly permit the construction of permanent works and permanent buildings or structures, and not merely temporary development. Temporary development is governed by cl.1.3(1)(d)(i). There is no need to remove such permanent buildings or structures under cl.1.3(1)(d)(ii) if, before the 2 year period expires, development approval is granted to those buildings or structures. However, if at the expiration of the 2 years no development approval is obtained, the proponent must remove, pull down, take up, or other alter any development and cease any unauthorised use, and return the land as nearly as practicable to its condition immediately before any development activity relied upon under this Notice started. Due to the significant cost that may entail removing permanent buildings and structures, and returning the land to the condition it was previously in, proponents should give serious consideration to their circumstances before relying upon cl.1.3(1)(d)(ii).





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14. To avoid any doubt, the exemption in clause 3.1 operates to “stop the clock” on the period of discontinuance for a non-conforming use, which is usually 6 months or other longer period approved by the local government, and will be paused for such time as the State of Emergency Declaration is in force.
15. An exemption relied upon by a local government or proponent under this Notice does not preclude a local government or proponent from relying upon any other exemption, if applicable, including but not limited to cl.61 of the Deemed Provisions.
16. An exemption under this Notice is a discretionary right afforded to the person designated in column 4 of the Notice – it is not an obligation imposed on that person.
  - a) A local government afforded an exemption under this Notice may exercise their discretion not to rely upon that exemption. Likewise, a proponent afforded an exemption under this Notice may likewise exercise their discretion not to rely upon that exemption.
  - b) To avoid doubt, a local government cannot prevent or prohibit the free exercise of an exemption afforded to a proponent in accordance with the conditions of the exemption. Likewise, proponents and other members of the community cannot prevent or prohibit the free exercise of an exemption afforded to a local government in accordance with the conditions of the exemption.
17. In cl.1.1, the exemption does admittedly permit the construction of permanent works and permanent buildings or structures, and not merely temporary development. The clause also is not bound by the limitations of exclusions relating to any Heritage-Protected Place. This is due to the extraordinary need for any use or works in connection with medical or health related activities necessary to respond to the COVID-19 Pandemic. In many or most circumstances, any works involved with such a need will in any event be a public work, already exempted from development approval pursuant to section 6. Nonetheless, to the extent any development is not a public work and clause 1.1 is relied upon by a proponent, the clause remains only temporary. This means at the expiration of the exemption period under this Notice, unless new development approval is obtained, a proponent must remove, pull down, take up, or other alter any permanent development and cease any unauthorised use, and return the land as nearly as practicable to its condition immediately before any development activity relied upon under this Notice started. Due to the significant cost



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that may entail removing permanent buildings and structures, and returning the land to the condition it was previously in, proponents should give serious consideration to their circumstances before relying upon cl.1.1.1.

18. In relation to clauses 1.2(1)(e) and 1.3(1)(c), the qualifier only applies if the land can be connected to all reticulated utility services. That is, if a proponent cannot reasonably connect to an existing sewerage system, a proponent can depend on onsite effluent disposal.
19. In cl.4.1, to avoid doubt the exemption includes an exemption to review submissions received under cl.4(3) of the LPS Regulations. A local government merely needs to advertise the proposed local planning policy for notification purposes only, without having to give regard to any submissions received. However, any policy prepared under this exemption will need to be reviewed as soon as practicable after the State of Emergency Declaration ceases, having regard to reasonable limitations on resourcing and any administrative burden.
20. Clause 5.1, concerning exempting car parking requirements, overrides any specific car parking requirements as set out in a scheme, policy or other source, as may be applicable for a proponent seeking a change of use of land pursuant to clauses 1.2 and 1.3 of this Notice. That is, clauses 1.2 and 1.3 permit car parking bays to be constructed, if either required or desirable, while cl.5.1 regulates whether such construction is in fact required.