

## **IMPORTANT INFORMATION RELATING TO CHANGING THE USE OF EXISTING PREMISES**

Starting a business within existing premises may need approval for a change of use or classification. When needed, this will typically involve development approval for a change of use under the local planning scheme (Planning and Development Act 2005), and an occupancy permit for a change of classification under the building codes (Building Act 2011).

### **WHAT IS A CHANGE OF USE?**

All properties have a 'land use' or 'use'. Examples include shop, office, single house, cafe/restaurant and showroom. Most of the common uses of land are listed in Table 1 of the Shire of Northam Local Planning Scheme No. 6 (LPS6) (definitions of these uses are found in Schedule 1 of LPS6.)

A 'change of use' occurs when the 'use' of land changes from one to another, e.g. from shop to office; shop to café/restaurant; office to gymnasium.

### **DO I NEED APPROVAL TO CHANGE THE USE?**

All changes of use require Development Approval from the Council prior commencing the new use, except if a property was approved for a 'use', another business of the same 'use' may move in without the need for a new approval.

For example, a premises being used by one business as an 'office' may have another 'office' type business move into the premises. The new business must comply with all the conditions of approval for the previous relevant Development Approval given to that site (e.g. parking requirements). Please note that approval by other sections such as Building (for internal fitouts) or Environmental Health (food licences) may still be required.

If the new business needs to alter external signage, parking requirements, extend the building, change any other conditions that apply to the land, or change the use of the land an Application will be required to be made to the Shire.

### **DOES THE USE COMPLY WITH THE ZONING OF THE AREA?**

A change of use application will need to demonstrate that:

- ✓ The proposed use can be considered by LPS6;
- ✓ Is consistent with the zoning of the land;
- ✓ Has sufficient car parking; and
- ✓ Will not unduly affect the amenity of the area.

Table 1 of the Scheme allows and provides discretion for a number of land uses to be approved within the 'Commercial' and 'Mixed Use' zones. This includes, but is not limited to the following:

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- Consulting Rooms; Fast Food Outlet; Health Studio; Hotel; Laundromat; Medical Centre; Nightclub; Office; Recreation – Private; Restaurant; Multiple Dwellings; Restaurant; Shop; Showroom; Small Bar; Tavern; Tourist Accommodation; and Veterinary Centre.

Please contact the Shire's Planning section to determine if a proposed use is permitted and the application requirements.

### INFORMATION REQUIRED FOR A CHANGE OF USE APPLICATION

When applying for a development application, please ensure that the following information is provided:

- ✓ A completed Development Application Form, including signed owner's consent;
- ✓ Site and floor plans (drawn to scale – 1:100 or 1:200) showing the location of the property (including car parking, landscaping areas and bin stores);
- ✓ A cover letter outlining the following details:
  - The nature of the proposed business and type of service(s) provided;
  - Information on the proposed days and hours of operation;
  - Number of employees; and
  - The letter should also include any additional information.
- ✓ Details of any proposed signs/ advertising on the site; and
- ✓ Payment of the applicable development application fee.

### ARE THERE ANY BUILDING REQUIREMENTS?

**Building classifications** – all buildings have a use classification from Class 1 to Class 10 under the provisions of the National Construction Code of Australia (NCCA), which provides the technical provisions for the design and construction of buildings and other structures throughout Australia. For example, an office is a Class 5, a retail shop is generally a Class 6, a factory is a Class 8 and a building of a public nature is a Class 9.

**Change of Classification** – is where it is proposed to change the classification to a completely different classification. For example, a Class 5 office building is proposed to be used as a Class 9b assembly building.

To change the classification, a new occupancy permit must be obtained to replace the current occupancy permit.

A Certificate of Construction Compliance needs to be submitted with the application for an Occupancy Permit, which will certify that the building complies with the current building standards relevant to the new classification, which in most cases this will require building work to be carried out to meet the requirements for the new classification, such as the provision of disabled access and facilities, and fire safety measures.

**Change of use** – is where a building is proposed to be used in a way that is different from the use authorised by the current occupancy permit, either permanently or on a temporary basis, but the classification remains unchanged:

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- Permanent change of use – a person can apply for an occupancy permit to allow for a permanent change of use without building work that would normally require a building permit. For example, a Class 6 building that was originally used for the purpose of a café, and is now proposed to be used as a hairdressing salon. In this example the building still retains a Class 6 classification despite the change of use.
- Temporary additional use – a person can apply to modify the current occupancy permit of an existing building to allow for a short-term (up to 12 months) additional use not currently provided for under the permanent occupancy permit. The permit authority can modify the occupancy permit for a period of up to one year, providing the additional use does not require building work of a kind for which a building permit would be required. A legal agreement prepared at the Applicant's expense may be required regarding the term of occupancy.

**Retrospective Approval** – an application for an 'occupancy permit' for a building in respect of which unauthorised work has been done. When seeking retrospective approval, a registered building surveyor will need to be engaged to issue a 'Certificate of Building Compliance' prior to applying for a Building Approval Certificate or Occupancy Permit.

Please refer to the Building Commission's website for further information on classes of buildings and the approvals process at <https://www.commerce.wa.gov.au/building-and-energy/building-approvals>.

### ARE THERE ANY HEALTH REQUIREMENTS?

Businesses involving the production or handling of food; use of public buildings (e.g. halls); and lodging houses (e.g. hotel); including alterations to existing businesses may also require approvals under public health legislation.

### EXAMPLE 1 – CHANGE OF USE FROM SHOP (CLASS 6) TO GYMNASIUM (CLASS 9)

Planning		Building	
<b>Zoning &amp; current use</b>	Commercial – Shop	<b>Current class</b>	6
<b>Proposed use</b>	Recreation – Private	<b>Proposed class</b>	9b
<b>Approval required?</b>	Yes, development approval for the land use.	<b>Approval required?</b>	Yes, an Occupancy Permit to change the classification.
<b>Other requirements?</b>	Yes, if located in a heritage area; or new advertising is proposed.	<b>Other requirements?</b>	Yes, a Certificate of Construction Compliance to certify the building complies with current building standards.

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### EXAMPLE 2 – CHANGE OF USE FROM SHOP (CLASS 6) TO CAFÉ (CLASS 6)

Planning		Building		Health	
<b>Zoning &amp; current use</b>	Commercial – Shop	<b>Current class</b>	6	<b>Current use</b>	Shop
<b>Proposed use</b>	Restaurant 'P'	<b>Proposed class</b>	6	<b>Proposed use</b>	Café
<b>Approval required?</b>	No, if complies with LPS6. Yes, if in Heritage Precinct.	<b>Approval required?</b>	Yes, for change of use. Building & Occupancy Permits will be required.	<b>Approval required?</b>	Yes, for kitchen fit-out and registration.
<b>Other requirements?</b>	Yes, if located in a heritage area; or new advertising is proposed.	<b>Other requirements?</b>	Yes, a Certificate of Construction Compliance to certify the building complies with current building standards.	<b>Other requirements?</b>	Yes, toilet facilities to be provided based on seats, including any alfresco dining.

### ADDITIONAL INFORMATION SOURCES

- Shire of Northam's website: [www.northam.wa.gov.au](http://www.northam.wa.gov.au)
- Building Commission's website: <https://www.commerce.wa.gov.au/building-and-energy/building-approvals>
- Department of Health's website: [https://ww2.health.wa.gov.au/Articles/F\\_I/Food-regulation-in-WA](https://ww2.health.wa.gov.au/Articles/F_I/Food-regulation-in-WA)
- Northam Chamber of Commerce's website: <https://www.northamchamber.com.au/>
- Small Business Development Corporation's website: <https://www.smallbusiness.wa.gov.au/>

**It is important to contact the Shire's Planning, Building and Environmental Health Officers for advice and assistance prior to purchasing a property or signing a lease to ensure the premises are suitable for the intended use.**