

# Arts Revitalisation Projects and the Planning System

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Arts Revitalisation Projects and the Planning System  
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## Introduction

Arts Revitalisation Projects are schemes that aim to find short and medium term cultural uses for vacant shops or other buildings in areas that are currently vacant, disused or awaiting redevelopment. These projects work on the principle that by offering short term leases on vacant properties to individual artists and cultural and community groups, this will assist with revitalisation of tired centres and precincts. An example of this has been the 'Renew Newcastle' initiative which has been in successful operation for almost a year. The purpose of this guide is to provide advice on how the planning system can assist in implementing Arts Revitalisation Projects.

## How these projects fit in the planning regime

Increasing activity in an area is an important factor in turning around vandalism and decay. Arts Revitalisation Projects breathe positive life into an area, stimulate business and activity for surrounding enterprises, contribute to a desirable neighbourhood, and help increase commercial interest. Initiatives such as Arts Revitalisation Projects are supported by the provisions of the [Sydney Metropolitan and Regional Strategies](#), as they have the potential to contribute to the revitalisation and renewal of centres and precincts.



When a community organisation is proposing to establish an Arts Revitalisation Project in their area, it is recommended that they contact Arts NSW for other information and resources available to facilitate such projects in NSW. Further advice on how the planning system can assist when implementing Arts Revitalisation Projects can be discussed with the Department of Planning.

## Types of uses likely to be part of an Arts Revitalisation Project

There are a range of cultural and arts activities which could be used as short term uses in vacant shops, offices or industrial premises until these premises can be redeveloped or allocated to more long term uses such as:

- Art Gallery (display with sales)
- Art Installation (only for display, no sale available)
- Artist Studio
- Artist Studio with Teaching Facilities
- Craft, Pottery and Sculpture
- Creative Business with Training
- Design Store (Boutique fashion, furniture etc.)
- Film Editing
- Graphic Design
- Handmade Fashion Design, Manufacture and Sale
- Handmade Furniture Design, Manufacture and Sale
- Handmade Toy Design, Manufacture and Sale
- IT Design uses including Web Development Business
- Musician Studio with Teaching Facilities
- Photography Studio

## Land Use Permissibility

In order to undertake an Arts Revitalisation Project, proposed uses must be permissible in the relevant land use zone in the Council's Local Environmental Plan (LEP).

There are several land use zones that may accommodate Arts Revitalisation Projects, ranging from Business (including Mixed Use) to Light Industrial. It is anticipated that these will be the most commonly used zones in areas where these revitalisation projects will focus. Table 1 identifies the types of uses likely to occur as part

of an Arts Revitalisation Project, how these are generally categorised in the relevant planning instrument and the typical zones where these are likely to be permissible.

**Table 1 Uses, definitions and possible zones**

Type of arts revitalisation use	How defined*	Typical zones where permissible
Art Gallery with Sales Handmade Furniture Design and Sale Handmade Fashion Design, Manufacture and Sale Handmade Toy Design and Sale	Retail premises	Business Mixed Use
Artist or Musician Studio with Teaching Facilities Creative Business with Training	Business premises	Business Mixed Use
Artist Studio Musician Studio Web Development Graphic Design Film Editing Art Photography Studio	Office premises	Business Mixed Use
Art Gallery (only for display, no sale available) Art Installation (only for display, no sale available)	Information and education facility	Business Mixed Use
Handmade Furniture Design and Manufacture Handmade Fashion Design and Manufacture Handmade Toy Design and Manufacture Artist Studio Craft, Pottery and Sculpture	Light industry	Business Light Industrial
Handmade Furniture Design, Manufacture and Sale Handmade Fashion Design, Manufacture and Sale Handmade Toy Design, Manufacture and Sale	Industrial retail outlet	Light Industrial

\* Indicative Only – should be determined by the predominant or primary business operation (ie. is it predominately a retail premises with some manufacture or predominantly manufacture with some retail).

Definitions<sup>1</sup> are as follows:

- *business premises* means a building or place at or on which:
  - (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
  - (b) a service is provided directly to members of the public on a regular basis,
 and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.
- *office premises* means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.
- *retail premises* means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).
- *information and education facility* means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.
- *light industry* means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.
- *industrial retail outlet* means a building or place that:
  - (a) is used in conjunction with an industry (including a light industry) but not in conjunction with a warehouse or distribution centre, and
  - (b) is situated on the land on which the industry is carried out, and

<sup>1</sup> As defined by the *Standard Instrument (Local Environmental Plans) Order 2006*

(c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

## Planning Approvals required for Arts Revitalisation Projects

Under the LEP, development consent may be required to change the use or to change the interior fitout in the building so an Arts Revitalisation Project can be undertaken. The dynamic nature of Arts Revitalisation Projects requires that a change of use, for example from a shop to an art gallery or from a real estate agent office to a graphic design studio, can be approved quickly through the planning system and preferably not need consent.



### Temporary use of land

In some instances, the Council's LEP may include a clause which will enable the 'temporary use of land' without the need for an approval. These provisions generally apply where councils wish to allow a change of use for a short period of time where surrounding amenity is not affected, for example the use of vacant offices for an art gallery. The number of permissible days may potentially be extended for specific temporary uses however Council and the Department must be provided with suitable justification for such a variation.

### Exempt and Complying Development

Under the planning system, certain low impact or routine development can be classified as exempt or complying development and not require development consent. These terms are defined as follows:

- Exempt development is development that has minimal environmental impacts which, if it complies with the relevant provisions in a planning instrument, can be carried out without the need for development consent.
- Complying development is development that, if it meets pre-determined development standards, can be quickly approved. A Complying Development Certificate (CDC) application needs to be lodged with a certifying authority (Council officer or a private certifier). These applications are to be determined within 10 days (unless both parties agree to an extension).

Under the Council LEP, uses undertaken as part of an Arts Revitalisation Project may be listed as exempt or complying development. In addition, under the [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) (Codes SEPP), Arts Revitalisation Projects (in part or whole) may also fall under exempt or complying development. The Codes SEPP ensures that certain changes of use or internal fitouts applying to retail, business or light industry premises, can be considered as either exempt or complying development provided the current use is a lawful use or the use is permissible in the relevant land use zone under the LEP. This information is available from Council.

Where the change of use is exempt development, no approval is required. Where the change of use is complying development, this will be assessed by a certifying authority (Council officer or private certifier), with a Complying Development Certificate (CDC) issued in 10 days. In addition to change of use considerations and basic development exemptions, it is important to note that if a proposal is intending to sell and handle food the appropriate food safety licence must be obtained.

### Heritage Considerations

It is likely that some heritage buildings will be considered as potential sites for an Arts Revitalisation Project. Heritage items may be listed on the [State Heritage Register](#) or listed in Council's LEP. Usually, works on buildings listed on the State Heritage Register cannot be complying development.



Works affecting buildings of local heritage significance may require approval from Council. If works are proposed to buildings listed on the State Register, an approval may be required from the Department of Planning's Heritage Branch. A number of exemptions exist allowing for certain works to not require planning approval or, if required, for approval to be streamlined. For example, the maintenance, cleaning or repair of a building listed on the State Heritage Register does not trigger the requirement for approval from the Department of Planning's Heritage Branch. However when considering change of use or replacement of signage, a statement demonstrating no adverse impact on the fabric of the building is required for the Heritage Branch to issue approval. Similar initiatives would exist under the Council's LEP with so further consultation should be sought with Council.

## Change of use

### ***Exempt Development***

Based on the Renew Newcastle experience, many Arts Revitalisation Projects focus on the 'design arts' such as pop-up boutique retail stores, galleries, artist studios as well as other creative businesses. It is anticipated therefore that the majority of proposals are likely to fall into the exempt development category. With respect to the examples given in Table 1 (and their equivalent categorisation) a change of use is permissible as exempt development for the following:

- business premises to another type of business premises  
eg. accountant office to an artist studio with teaching facilities
- business premises to office premises  
eg. real estate office to web design office
- office premises to another type of office premises  
eg. accountant's office to art photography studio
- office premises to business premises  
eg. IT company to artist studio with teaching facilities
- one type of retail premises to another type of retail premises  
eg. shoe shop to art gallery with sales
- light industry to another light industry  
eg. furniture manufacture to craft, pottery and sculpture centre.

### ***Complying Development***

Some proposals may require a change of use to be assessed as complying development, such as a change from a boutique fashion store to a web development business, if it relates to a change in the class of building as determined under the [Building Code of Australia \(BCA\)](#)<sup>2</sup>. For example an office premises is defined as a class 5 building and retail premises as class 6. This requires the submission of a CDC application to a certifying authority (Council officer or a private certifier) which must be determined within 10 days. A change of use is permissible as complying development for the following:

- retail premises to business premises  
eg. clothing shop to artist studio providing art lessons
- retail premises to office premises  
eg. furniture shop to web design office
- business premises to retail premises  
eg. real estate office to art gallery with sales
- office premises to retail premises  
eg. call centre offices to art gallery with sales
- light industry to office premises  
eg. clothing manufacture to web design office
- light industry to another light industry  
eg. furniture manufacture to pottery and sculpture centre.

## Signage

Certain types of signage are listed under the Codes SEPP as exempt development. In order to ensure development consent is not required, the following development standards apply:

- new signage must replace a lawful sign, and
- new signage must not be greater in size than the sign that is replaced, and

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<sup>2</sup> For more information on the BCA refer to the Australian Building Codes Board (ABCB) website, [www.abcb.gov.au](http://www.abcb.gov.au)

- new signage must not be a sign that is flashing or animated, and
- new signage must not involve any alteration to the structure on which the sign is displayed, and
- new signage must not obstruct or interfere with traffic signs.

## Building works

In many cases, Arts Revitalisation Projects will be able to be undertaken in existing vacant buildings without the need for alterations to be building. Consideration must first be given to ensuring the use is permissible in the zone. Following this, it is important to ensure the premises meets current safety standards and any necessary approvals are sought. Where minor building alterations are required, the provisions in the Council's LEP and the Codes SEPP need to be checked to determine if development consent is required.

### Exempt Development

The Codes SEPP specifies building works that can occur without requiring development consent. This is particularly relevant when considering shop fit outs.

Clause 2.20B of the Codes SEPP specifies the development standards for change of use premises as exempt development. Examples of these development standards are as follows:

- the new use must not involve building alterations, other than alterations that are exempt development under the SEPP
- the new use must not result in an increase in the gross floor area of any building within which it is carried out
- the new use must not cause the breach of any existing condition of a development consent (which includes a CDC) that applies to the premises relating to hours of operation, car parking, vehicular movement, traffic generation, landscaping or waste management
- development must not change the fire resisting components of, or interfere with the entry to, or exit from, or the fire safety measures contained within, a building.

The following are example building alterations permissible which can be undertaken as exempt development under the SEPP:

- painting, plastering, cement rendering, cladding, attaching fittings or decorative work
- replacement of an external window, glazing areas or a door (other than those on bush fire prone land)
- repair to or replacement of a non-structural wall or roof cladding
- installation of a security screen or grill to a door or window or a security door.
- the replacement or renovation of:
  - a doorway, wall, ceiling or floor lining
  - a deteriorated frame member
  - a bathroom or kitchen
  - a built in fixture such as a vanity, a cupboard or a wardrobe
  - an existing sanitary fixture, such as a grease trap or the like
  - shelving or racking that is not higher than 2.7m
  - a work station or counter.

### Complying Development

The Codes SEPP specifies internal building works that can be carried out as complying development, subject to meeting the development standards satisfying clause 5.2 and 5.3 of the SEPP. Examples of these development standards include:

- the alteration must not result in an increase in the gross floor area of any building within which it is carried out
- the alteration must not involve the conversion of any area that is excluded from the measurement of gross floor area of the building (such as a basement, plant room, car parking space, loading space or a void)
- development must not change the fire resisting components of, or interfere with the entry to, or exit from, or the fire safety measures contained within, a building.

External building alterations considered as complying development are listed in clauses 5.7 to 5.12 of the SEPP. These include:

- the construction, installation or alteration of a mechanical ventilation system
- an alteration to, or the repair or replacement of, an existing shop front or awning

- the construction or installation of a skylight or roof window.

### **If development is not Exempt or Complying**

If development is not exempt or complying under the Council LEP or the Codes SEPP, a Development Application (DA) must be lodged to Council for consideration.

### **Moving forward**

The purpose of this guide is to provide advice on how the planning system can assist in implementing Arts Revitalisation Projects.

Any questions can be directed to the Department of Planning by email at [innovation@planning.nsw.gov.au](mailto:innovation@planning.nsw.gov.au).