

**10.1.5 AMENDMENT NO. 15 TO LOCAL PLANNING SCHEME 3: SHORT-TERM RENTAL ACCOMMODATION - CONSIDERATION FOR ADVERTISING**

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**File Reference:** D25/6978  
**Applicant(s):** N/A  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Amendment 15 proposes to introduce, modify and delete various land uses and definitions in Local Planning Scheme No. 3 (LPS3), to ensure consistency with the state planning framework associated with Short-Term Rental Accommodation (STRA).

The Scheme Amendment report for Amendment 15 is attached to this Report (Attachment 1).

**OFFICER RECOMMENDATION IN BRIEF**

Council adopt Local Planning Scheme Amendment 15 (Attachment 1) as a 'standard' amendment and resolve to proceed to seek approval from the Western Australian Planning Commission (WAPC) to advertise Amendment 15.

**BACKGROUND**

Short-Term Rental Accommodation (STRA) refers to the practice of renting out a property (or part of a property) for a relatively short period of time, such as on a nightly or weekly basis. This type of accommodation is usually booked through online platforms and is popular among travellers and visitors seeking temporary lodging for holidays, business trips or other short stays. The State Government has committed to various initiatives to deliver better regulation of the short-term rental accommodation sector.

In November 2023, the WAPC released *Position Statement: Planning for Tourism and Short-Term Rental Accommodation* (Position Statement) and associated Guidelines. The release of the Position Statement complemented other whole-of-government reforms relating to STRA, responding to recommendations made in the 2019 parliamentary enquiry *Levelling the Playing Field: Managing the impact of the rapid increase of short-term rentals in Western Australia*. This included development of a state-wide registration scheme for STRA, as well as an incentive scheme to encourage transition of properties from the short to long term rental market.

Alongside the registration scheme, which sits separately to the planning system and is mandatory for all STRA, amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) were flagged as a key part of the State Government's goal to ensure a fairer and more consistent treatment of STRA from both a legal and practical standpoint. These amendments to the LPS Regulations, gazetted on 18

September 2024, have triggered the need for the Town to amend its scheme to align with the state planning framework.

### **OFFICER COMMENT**

Councillors were briefed on the State Government reforms relating to STRA and the implications for LPS3 at the Elected Members Workshop held on the 4 February 2025.

The Scheme Amendment Report for Amendment 15 (Attachment 1) provides detail on the state planning reforms, relevant legislation, local planning context and implications for LPS 3, and sets out the proposed amendments to LPS 3 to align with the state planning framework.

The main points are as follows.

### **Amendments to LPS Regulations**

Amendments to the LPS Regulations to facilitate the necessary planning changes of the State Government's STRA reform initiatives comprise:

- i. New 'deemed' land use classes of 'hosted short-term rental accommodation' and 'unhosted short-term rental accommodation' to ensure these accommodation types are classified as dedicated land use classes in planning schemes:
  - o *Hosted* – where the host lives in the primary dwelling or ancillary dwelling on the property during the short-term stay.
  - o *Unhosted* – where the guest/s have exclusive use of an entire dwelling (which may include a whole house, villa/townhouse or apartment).
- ii. New 'deemed' general terms to define 'short-term rental accommodation' and link to the overarching *Short-Term Rental Accommodation Act 2024*, which provides the legal framework for the STRA Register (managed by the Department of Energy, Mines, Industry Regulation and Safety).
- iii. A new 'model' land use class of 'tourist and visitor accommodation' to differentiate these use types from STRA, and consolidate a number of existing land use terms for tourist and visitor accommodation (aside from 'hotel').
- iv. A state-wide development approval exemption for 'hosted short-term rental accommodation' (this includes ancillary dwellings).
- v. A 90-night (cumulative) exemption within a 12-month period for 'unhosted short-term rental accommodation' in the Perth metropolitan area.

**Implications for the Local Planning Scheme**

It should be noted that the State Government is committed to consistent regulation to STRA across metropolitan local planning schemes. The changes to the regulations automatically introduced 'hosted' and 'unhosted' land use classes into all local planning schemes and the WAPC requires all Local Governments to amend their schemes to complement and align with these new deemed use classes.

These amendments are prescribed in the WAPC's aforementioned position statement and associated guidelines. Key to this is that 'hosted short-term rental accommodation' should be listed as P use in all zones where any type of dwelling is capable of approval. 'Unhosted short-term rental accommodation' should be listed as a D or A use in zones where any type of dwelling is capable of approval. In simple terms, Amendment 15 is addressing these requirements of the WAPC.

Town Staff do seek support for Amendment 15 at Council's March meeting to enable the amendment to be considered by the WAPC as early as possible for its consent to advertising the Amendment. This facilitates a timely progression of the amendment so it aligns with the intent of the WAPC *Planning Bulletin 115/2024 – Short-term Rental Accommodation – Guidance for local government (September 2024)* that amendments to local planning schemes to complement and align with new 'deemed' land use classes should ideally be completed by mid-2025, to allow for development approvals to be obtained by 1 January 2026.

It is then intended to brief Councillors on a possible draft Local Planning Policy (LPP) for STRA at its April Elected Member Workshop with a view to potentially seeking support for adoption of a draft policy at Council's April 2025 OCM for the purposes of advertising. This would enable both the Scheme Amendment and LPP to be advertised concurrently for community consideration (potentially in May/June 2025). While Amendment 15 implements the WAPC requirements, a LPP would allow Council to consider finer grain details such as amenity and scale considerations. Council would then have the opportunity to consider any community submissions following, prior to a final recommendation to the WAPC on adoption of the Scheme Amendment.

**Draft Local Planning Strategy**

The Town's draft Local Planning Strategy (Section 2.2) identifies Tourism as integral to the Town's development, and provides a direction of 'Investigate opportunities for increased short stay accommodation within the Town'.

**Current assessment of STRA development applications**

According to the STRA Register, there are currently 161 properties registered within the Town of Cottesloe, and significantly more unhosted STRA than hosted STRA. Around 60% of unhosted STRA are concentrated west of Broome Street, between Grant Street and Forrest Street.

Since the introduction of STRA amendments to the LPS Regulations, the Town has been accepting and assessing development applications for unhosted STRA as a 'use not listed'.

These applications have been advertised and granted development approval for a period of 12 months:

- a) to ensure they are compatible with the amenity of the locality; and
- b) so the Town can finalise the scheme amendment process and develop any supporting LPP that may provide further guidance on how the Town wishes to manage short-term rental accommodation within the locality.

To date, the Town has granted development approval to 17 unhosted STRA.

#### Current and proposed land uses and permissibility (definitions and zoning table)

Amendment 15 proposes to introduce, modify and delete various land uses and definitions in LPS 3, to ensure consistency with the state planning framework associated with STRA. The table below summarises the new and current (proposed to be deleted) land uses and their permissibility within the different zones.

New land use	Current land use in LPS 3	Current permissibility in LPS 3 (Zoning Table)	Proposed permissibility in LPS 3 (Zoning Table)	Comment
Hosted STRA	<b>Bed and Breakfast (to be deleted and replaced by Hosted STRA).</b>	<b>Bed and Breakfast is:</b> <ul style="list-style-type: none"> <li>an 'A' use in the Residential and Restricted Foreshore Centre zones,</li> <li>a 'P' use in the Foreshore Centre zone,</li> <li>a 'D' use in the Town Centre, Local Centre and Residential/Office zones, and</li> <li>an 'X' use in all other zones (i.e. Hotel and Place of Public Assembly zones).</li> </ul>	<b>Hosted STRA to be:</b> <ul style="list-style-type: none"> <li>a 'P' use in zones where any type of dwelling is capable of approval (i.e. Residential, Foreshore Centre, Restricted Foreshore Centre, Town Centre, Local Centre, Residential/Office zones), and</li> <li>an 'X' use in all other zones (i.e. Hotel and Place of Public Assembly zones).</li> </ul>	Hosted STRA is exempt from development approval state-wide and no discretion is available to the Town.

Unhosted STRA (in excess of 90 nights cumulatively per 12 months)	<p><b>Serviced Apartment</b> (i.e. an apartment used for Airbnb where there maybe reception or recreation facilities)</p> <p><b>Short-stay accommodation</b> (i.e. a single house or grouped dwelling used for Airbnb)</p>	<p><b>Serviced Apartment is:</b></p> <ul style="list-style-type: none"> <li>an 'X' use in the Residential zone with densities R20, R25 and R30, and the Local Centre and Place of Public Assembly zones,</li> <li>an 'A' use in the Residential zone with densities R35 and above, and</li> <li>a 'D' use in the Foreshore Centre, Restricted Foreshore Centre, Hotel, Town Centre and Residential/Office zones.</li> </ul> <p><b>Short-stay accommodation is:</b></p> <ul style="list-style-type: none"> <li>an 'X' use in the Residential, Local Centre and Place of Public Assembly zones,</li> <li>an 'A' use in the Residential/Office zone, and</li> <li>a 'D' use in the Foreshore Centre, Restricted Foreshore Centre, Hotel, and Town Centre zones.</li> </ul>	<p><b>Unhosted STRA to be:</b></p> <ul style="list-style-type: none"> <li>a 'D' use in the Foreshore Centre, Restricted Foreshore Centre and Town Centre zones,</li> <li>an 'A' use in the Residential, Local Centre, and Residential/Office zones, and</li> <li>an 'X' use in all other zones (i.e. Hotel and Place of Public Assembly zones).</li> </ul>	<p>Proposed permissibility of unhosted STRA ('A' or 'D') is in accordance with Planning Bulletin 115/2024.</p> <p>'D' land use permissibility in the Foreshore Centre, Restricted Foreshore Centre and Town Centre zones is the same as the current Serviced Apartment and Short-stay accommodation uses.</p>
Tourist and visitor accommodation (to replace Serviced Apartment, Short Stay Accommodation and Motel)	<p><b>Motel</b></p> <p><b>Serviced Apartment</b> See above</p> <p><b>Short-stay accommodation</b> See above</p>	<p><b>Motel is:</b></p> <ul style="list-style-type: none"> <li>a 'D' use in the Foreshore Centre, Restricted Foreshore Centre, Hotel, and Town Centre zones, and</li> <li>an 'X' use in the Residential, Local Centre, Residential/Office and Place of Public Assembly zones.</li> </ul> <p>Serviced apartment: see above</p> <p>Short-stay accommodation: see above.</p>	<p><b>Tourist and visitor accommodation to be:</b></p> <ul style="list-style-type: none"> <li>a 'D' use in the Foreshore Centre, Restricted Foreshore Centre, Hotel, and Town Centre zones, and</li> <li>an 'X' use in the Residential, Local Centre, Residential/Office and Place of Public Assembly zones.</li> </ul>	<p>Tourist and visitor accommodation is a model use class and not required to be introduced. However the use consolidates a number of existing land use terms for tourist and visitor accommodation (aside from 'Hotel') and differentiates these use types from STRA.</p> <p>Permissibility is the same as the current Motel use.</p>

Note: The symbols used in the zoning table have the following meanings —

P means that the use is permitted if it complies with any relevant development standards and requirements of this

- Scheme;
- D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;
- A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions;
- X means that the use is not permitted by this Scheme.

The main change is the permissibility of unhosted STRA within a Residential zone, as the current 'Serviced Apartment' use is not permitted in the Residential R20, R25 and R30 zones and the current 'Short-stay accommodation' use is not permitted in the Residential zone.

The proposed permissibility of unhosted STRA within a Residential zone ('A' use) accords with the WAPC's Planning Bulletin 115/2024 which states:

*For local governments within the boundaries of the Metropolitan Region Scheme (MRS), 'unhosted short-term rental accommodation' should be listed as a D or A use in zones where any type of dwelling is capable of approval, a P use in Tourism zones and an X use within all other zones, reflecting the direction set in the Position Statement.*

#### Introduction of Tourism and Visitor Accommodation Land Use

The amendment will replace Serviced Apartments, Short Term Accommodation and Motel land uses with Tourism and Visitor Accommodation. Tourist and visitor accommodation is a model use class and not required to be introduced. However the use consolidates a number of existing land use terms for tourist and visitor accommodation (aside from 'Hotel') and differentiates these use types from STRA.

In terms of land use permissibility, the new Tourism and Visitor Accommodation Land Use largely mirrors that of the existing LPS3. While a discretionary use in the Foreshore Centre, Restricted Foreshore Centre, Hotel, and Town Centre zones, it is intended to be a non-permitted 'X' use in the Residential, Local Centre, Residential/Office and Place of Public Assembly zones.

#### Local Planning Policy for STRA

A local planning policy (LPP) is being drafted to provide guidelines for the assessment of development applications for unhosted STRA, to ensure the location, scale, design and operation of unhosted STRA is appropriate to its setting, to maintain the amenity and established character of the locality. This is particularly important for the Residential zone.

As noted above, it is intended to brief Councillors on a potential draft LPP at its April Elected Member Workshop with a view to seeking formal support later in April to adopt the LPP for advertising in tandem with Scheme Amendment No 15 (once the latter has been endorsed for advertising by the WAPC).

#### Consequential scheme text modifications

In addition to the Zoning Table and definitions of LPS 3, 'Bed and breakfast', 'Serviced Apartment', 'Short-stay accommodation' and/or 'Motel' are referenced throughout LPS 3.

For example, in vehicle parking requirements, the 'Hotel' definition and various clauses relating to foreshore sites and the Residential Design Codes.

Amendment 15 proposes consequential modifications to LPS 3's scheme text, to delete reference to these superseded uses and replace with the new land uses where appropriate.

### **ATTACHMENTS**

**10.1.5(a) Scheme Amendment Report - Amendment 15 [under separate cover]**

### **CONSULTATION**

Should Council resolve to adopt Amendment 15, the Town will seek approval from the Minister for Planning to advertise the amendment in accordance with r. 46A of the LPS Regulations. If approval is granted, the amendment will be advertised in accordance with r. 47 of the LPS Regulations.

A 'standard' amendment is required to be advertised for a minimum of 42 days. Consultation will include notices in the local newspaper, online via the Town's social media account, website and Engage Cottesloe, and at the Town's Administration Centre and library.

### **STATUTORY IMPLICATIONS**

*Planning and Development Act (s. 75, 83A, 84)*

*Planning and Development (Local Planning Schemes) Regulations 2015 (r. 35, 46A, 47)*

*Planning and Development (Local Planning Schemes) Amendment (Short-Term Rental Accommodation) Regulations 2024*

*Short-term Rental Accommodation Act 2024*

*Environmental Protection Amendment Regulations 2024 (s. 33C)*

*Town of Cottesloe Local Planning Scheme No. 3*

### **POLICY IMPLICATIONS**

The WAPC's *Position Statement: Planning for Tourism and Short-Term Rental Accommodation* encourages the development of a Local Planning Policy to provide further guidance on the consideration of STRA proposals.

A Local Planning Policy - Unhosted short-term rental accommodation is being drafted and will be presented for the Council's consideration in due course.

### **STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Council Plan 2023 – 2033*.

Priority Area 3: Our Prosperity - A vibrant and sustainable place to live, visit and enjoy.

Major Strategy 4.1: Engage, inform and actively involve our community in Council decision making.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation. Pursuant to 33C of the *Environmental Protection Amendment Regulations 2024*, the scheme amendment does not require referral to the Environmental Protection Authority for assessment.

**VOTING REQUIREMENT**

Simple Majority

OCM029/2025

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Thomas

Seconded Cr Sadler

THAT Council:

1. In accordance with s. 75 of the *Planning and Development Act 2005* and r. 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, initiates Amendment 15 to Local Planning Scheme No. 3 as set out in Attachment 1;
2. In accordance with r. 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, informs the Western Australian Planning Commission that the Council considers Amendment 15 to Local Planning Scheme No. 3 (Attachment 1) to be a 'standard' amendment, for the following reasons:
  - a. the amendment would have minimal impact on land in the scheme area that is not the subject of the amendment;
  - b. the amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
  - c. the amendment is not considered a complex or basic amendment;
3. In accordance with s. 83A of the *Planning and Development Act 2005* and r. 46A of the *Planning and Development (Local Planning Schemes) Regulations 2015*, forwards Amendment 15 to Local Planning Scheme No. 3 (Attachment 1) to the Western Australian Planning Commission to seek approval from the Minister for Planning to advertise Amendment 15;
4. Delegates authority to the Chief Executive Officer to make minor modifications to Amendment 15 to Local Planning Scheme No. 3 (Attachment 1) that will not alter the overall intent of Amendment 15, as directed by the Western Australian Planning



Commission, prior to advertising;

5. In accordance with s. 84 of the *Planning and Development Act 2005* and r. 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and subject to any minor modifications pursuant to resolution 4, advertises Amendment 15 to Local Planning Scheme No. 3 (Attachment 1) for not less than 42 days;
6. Further considers Amendment 15 to Local Planning Scheme No. 3, together with any submissions, following the conclusion of the statutory public advertising period.
7. Requests that Town staff prepare and brief Councillors about a potential draft Local Planning Policy for Unhosted Short Term Rental Accommodation at the April 2025 Elected Members Workshop which may then be considered by Council for adoption at a forthcoming Ordinary Council Meeting for the purposes of advertising in conjunction with Amendment 15.

Carried by En Bloc Resolution 7/0

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