

Attachment for Council Meeting Agenda 28 November 2017

SHORT-STAY ACCOMMODATION – LAND USE DEFINITIONS – OVERVIEW

Local Planning Scheme No. 3

The primary control of short-stay type accommodation is via Local Planning Scheme No. 3. This defines land uses and in the Zoning Table their permissibility in the various zones, as follows:

bed and breakfast means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;

serviced apartment means an apartment in a building/s or part thereof where such apartments provide for self-contained accommodation for short-stay guests, where integrated reception and recreation facilities may be provided, and where occupation by any person is limited to a maximum of three months in any 12 month period.

short-stay accommodation means a building/s of part thereof, or group of buildings forming a complex of part thereof, designed for the accommodation of short-term guests, which provides on-site facilities for the convenience of the guests and for the management of the accommodation, and where occupation by any person is limited to a maximum of three months in any 12 month period and which excludes those accommodation uses more specifically defined elsewhere.

Bed and Breakfast occurs within a resident's home and is essentially low-key.

Serviced Apartment may be a private ordinary residential apartment let for that use or a purpose-built self-contained apartment let for that use.

Short-Stay Accommodation is purpose-designed commercial accommodation of a residential nature.

There is no specific land use definition for the modern phenomenon of short-stay type accommodation via the marketplace through agencies such as Airbnb, Stayz, etc; which may involve dwellings or part thereof in any zone and depending on the details may or may not be considered to fall within the Bed and Breakfast or Serviced Apartment use classes.

Therefore, under LPS3 as it stands there are three ways of treating the permissibility of short-stay type accommodation occurring in the Residential Zone:

-) If it falls within a defined use class and is permissible, then subject to approval it is authorised.
-) If it falls within a defined use class and is not permitted, then it is unauthorised and cannot be approved.

) If it does not fall within a defined or other use class, then it could be considered consistent with the zone objectives hence permissible, either as-of-right or subject to advertising and approval, in order to be authorised.

EXTRACT FROM LOCAL PLANNING SCHEME NO. 3 – TABLE 1 – ZONING TABLE

The number codes in the top row of the table represent the various zones as follows:

1A	RESIDENTIALR20, R25 and R30	4	HOTEL	8	PLACE OF PUBLIC ASSEMBLY
1B	RESIDENTIAL R35, R40, R50, R60, and R100	5	TOWN CENTRE	9	DEVELOPMENT
2	FORESHORE CENTRE	6	LOCAL CENTRE		
3	RESTRICTED FORESHORE CENTRE	7	RESIDENTIAL OFFICE		

USE CLASSES	1A	1B	2	3	4	5	6	7	8	9
2. Bed and Breakfast	A	A	P	A	X	D	D	D	X	*
48. Serviced Apartment	X	A	D	D	D	D	X	D	X	D
50. Short-stay accommodation	X	X	D	D	D	D	X	A	X	*

**Development and use of land is to be in accordance with an approved Structure Plan prepared and adopted under clause 6.2.*

The symbols used in the cross-reference in the Zoning Table have the following meanings —

- 'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;
- 'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval as required by clause 4.8;
- 'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval as required by clause 4.8 after giving notice in accordance with clause 9.4; and
- 'X' means a use that is not permitted by the Scheme.

LPS3 contains special provisions for the supply of short-stay accommodation at the main beachfront, including minimum amount upon the redevelopment of certain sites, and parking requirements.

Expanding or altering the Scheme to evolve how it deals with short-stay type accommodation would necessitate a scheme amendment process. The experience of some local governments seeking to amend their schemes has been that the WAPC/Minister are not so supportive of restrictions in this respect.

Scheme provisions are enforceable. If a Scheme provision is inconsistent with a local law on a matter, the Scheme prevails.

Planning and Development (Local Planning Schemes) Regulations 2015

The Regulations include model provisions for schemes, which are introduced by amending or reviewing an existing scheme. The model definitions relating to short-

stay type accommodation are wider ranging and differ somewhat from LPS3, as follows:

short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;

bed and breakfast means a dwelling —

- (a) *used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and*
- (b) *containing not more than 2 guest bedrooms;*

holiday accommodation means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;

holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

serviced apartment means a group of units or apartments providing —

- (a) *self-contained short stay accommodation for guests; and*
- (b) *any associated reception or recreational facilities;*

tourist development means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide —

- (a) *short-term accommodation for guests; and*
- (b) *on site facilities for the use of guests; and*
- (c) *facilities for the management of the development;*

Where relevant to and useful for Cottesloe, these definitions could be considered for inclusion in LPS3.