

Council Policy No.:	
Policy Name:	<b>Holiday Homes – Development Requirements Policy</b>
Objective:	<i>To provide a framework for the assessment and approval of Holiday Homes</i>
Key Words	<i>Holiday Homes</i>
Statutory Compliance	<i>Local Planning Scheme No. 23</i>

## 1 Objectives and definitions

### 1.1 Objectives

The objectives of this policy are:

- 1.1.1 To establish clear guidelines for the short stay use of holiday homes for tourism accommodation. The policy excludes short term accommodation where there is an onsite manager or owner such as bed and breakfast accommodation and guesthouses.
- 1.1.2 To ensure that short stay use of residential homes occurs within appropriate locations to enhance the tourism experience and reduce existing or future land use conflicts such as impacts on residential amenity.
- 1.1.3 To ensure that all new holiday home rental accommodation is in accordance with relevant legislation, local planning schemes and policies, and management plans.

### 1.2 Definitions

For the purpose of this policy the following definitions apply:

**Holiday home** means a residential building used for short stay guests, rather than permanent residency, and excluding uses more specifically defined elsewhere (i.e. does not include ancillary accommodation, a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

**Short stay** means that no person is to stay for more than three months in any 12 month period.

**Landowner/manager** means the owner of the premises for short stay purposes.

**Grouped dwelling** means a dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partially vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property.

**Multiple dwelling** means a dwelling in a group of more than one dwellings on a lot where any part of a dwelling is vertically above part of any other but does not include a group dwelling.

Further useful definitions are contained within Schedule 1.

## 2 Planning application and approval considerations

### 2.1 Application

An application for planning approval should be lodged with local government where holiday homes are a 'D' or 'A' use in the zoning table of Local Planning Scheme No. 23. In assessing applications, the local government shall have due regard to Local Planning Scheme No. 23, policies, tourism strategy (if and when adopted) and relevant standards such as the Building Code of Australia.

## **2.2 Advertising**

If holiday homes are a A use in Local Planning Scheme No. 23, the local government will advertise the proposal for public comment. During the advertising period, the local government will notify, in writing, the owners and occupiers of adjoining and nearby properties likely to be impacted by the proposal. Comments received during any consultation process will be considered in the assessment of the application.

## **2.3 Location**

It is recognised that, in certain locations, the renting of residential premises for short stay holiday accommodation is a legitimate way in which alternative, short stay tourism accommodation can be provided. To reduce conflict between holiday homes and ordinary dwellings, particularly in the residential zone, ideally holiday homes should be within preferred areas identified either through the tourism component of the relevant local planning strategy, or in a local planning policy. As a guide, holiday homes are most appropriate in areas of high tourism amenity and close proximity to key tourism attractions such as the beach, town centre or rural areas. Suburban locations may not be appropriate. In general, holiday homes should be residential dwellings on freehold lots and not units or apartments unless the entire complex is established for this purpose.

For those already operating in an area that was previously approved for holiday home letting, and where new approvals will no longer be granted, the holiday home use can continue as a non conforming use.

## **2.4 Amenity**

A key concern with respect to the occupation of dwellings as holiday homes is to ensure that any such uses will not adversely impact on residential amenity currently enjoyed by residents in surrounding properties. Any activities that result in a loss of enjoyment by neighbouring properties, for instance, unacceptable levels of noise, will be considered a breach of this approval.

## **2.5 Building standard**

Dwellings should comply with the Building Code of Australia and local government policies and standards. Where the existing standard of a dwelling is considered to be inappropriate, consent to the use of the facility as a holiday home may not be granted until the dwelling is upgraded to a satisfactory standard. If, after inspection, the dwelling is considered to be unsafe or inadequate for holiday house use, the application will be refused.

## **2.6 Approval**

Approval may be granted for a holiday home subject to compliance with relevant legislation, local planning schemes and policies. Local government should be notified of any changes to a holiday home that may be deemed to affect the approval of the dwelling for such a purpose.

## **2.7 Grouped or multiple dwellings**

The use of grouped or multiple dwellings will generally not be supported for holiday home accommodation given the potential impacts on adjoining residents, unless all owner are in agreement.

### **3 Approval conditions**

Conditions in relation to the approval of applications for holiday homes will include the following.

#### **3.1 Management**

A holiday home management plan should be submitted as part of the planning application and prior to the commencement of business. In the case of an established business, the management plan should be submitted to local government within 12 months from the adoption of the local planning policy.

The management plan will include:

- Nomination of a local manager/caretaker within the vicinity of the property. Where properties are remote from a town site or CBD, alternative arrangements for a manager/caretaker may be considered.
- Details of how nuisance issues such as noise will be addressed by the manager.
- A fire and emergency response plan

Other matters such as car parking provision, signage, the number of people occupying the premises, maximum period of stay can be imposed as part of the planning approval and subsequently enforced as pursuant to the *Planning and Development Act 2005*.

#### **3.2 Fire and emergency response plans**

In all cases, an emergency response plan (i.e. fire escape route maps) is required to be clearly displayed in a conspicuous location within the dwelling, plus:

- each bedroom is to be fitted with a hard wired smoke detector;
- a fire extinguisher, in a clearly visible location, is to be maintained in proper working order as prescribed in AS 1851;
- outside barbeques are to be gas or electric.

#### **3.3 Approval period**

Initial approval should be granted for a limited period of one year, and renewed on a three year to five year period subject to compliance as determined by the local government to ensure that there is minimal impact on the amenity of neighbouring properties. This is designed to provide a degree of certainty to operators, while providing a degree of control to the local government. Existing holiday homes where it can be demonstrated that there is a history of minimal or no conflicts should be considered for the identified longer approvals subject to the requirements of the relevant local government.

### **4 Holiday homes register, non compliance and voluntary accreditation**

#### **4.1 Holiday homes register**

A register of approved holiday homes should be established and maintained by the local government. The register should record basic details of the property including the contact details of the owner and/or manager; property address; and configuration (number of bedrooms, number of beds,

bathrooms, car parking spaces etc). These matters should be considered for inclusion in the approved management plans for the operation of the holiday home.

#### **4.2 Non compliance and cancellation**

Any breach of approval conditions or the management plan can be dealt with in accordance with the enforcement provisions of local planning schemes and/ or cancellation of a registration. A new application may be considered after a 12 month period. A breach of a planning approval may be brought to the attention of local government as a result of an inspection or report by local government staff, a police report or by a member of the public.

#### **4.3 Voluntary accreditation**

Holiday home owners/managers are encouraged to attain accreditation from the Tourism Council of Western Australia.

Accreditation is a non regulatory, voluntary means of addressing the identified customer service and consumer protection issues. The benefits of accreditation include improvements in the quality of accommodation product through the application of standards, capture of accommodation provider details.

### **5 Other matters**

It is recommended that landowners/ managers seek independent legal advice on legislative requirements regarding the use and management of holiday homes. This would include, but is not limited to, checking the requirements of the *Equal Opportunity Act 1984* and the *Fair Trading Act 1987*.

As many residential public liability insurance policies exclude the use of premises for short term rentals, it is recommended that landowners/managers check this matter with their insurance providers.

## Other Useful Definitions

**'D'** use means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;

**'A'** use means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4

**"ancillary accommodation"** self-contained living accommodation on the same lot as a single house that may be attached or detached from the single house occupied by members of the **same** family as the occupiers of the main dwelling.

**"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

**"chalet"** means an individual self-contained premises usually comprising cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short stay guests, forming part of a tourist facility and where occupation by any person is limited to a maximum of three months in any twelve month period

**"chalet park"** means a site occupied by buildings or units which, although constructed in the nature of residential units, are not for occupation as permanent dwellings and are set aside exclusively for occupation on a temporary basis principally for vacational use but also for short stay and overnight accommodation;

**"eco-tourist facility"** means a form of tourist accommodation that is designed, constructed, operated and of a scale so as not to destroy the natural resources and qualities that attract tourists to the location. The development should utilise sustainable power, have a low energy demand through incorporation of passive solar design, provide for low water consumption, ecologically sensitive waste processing and disposal with no pollutant product

**"farm stay"** means a residential building, bed and breakfast, chalet or similar used to accommodate short-stay guests on a farm or rural property and where occupation by any person is limited to a maximum of three months in any 12 month period

**"guesthouse"** means integrated premises for short-stay guests comprising serviced accommodation units and on-site tourist facilities such as reception, centralised dining, and management and where occupation by any person is limited to a maximum of three months in any 12 month period

**"holiday cottages"** means two or more detached dwellings on one lot let for holiday purposes, none of which is occupied by the same tenant for a continuous period of more than four months;

**"holiday home"** means a residential building used to provide accommodation for short-stay guests, rather than permanent residency, and excluding those uses more specifically defined elsewhere

**"hostel"** means lodging house which is not open to the public generally, but is reserved for use solely by students and staff of educational establishments, members of societies, institutes or associations;

**"hotel"** means premises providing accommodation the subject of a hotel licence under the Liquor Licensing Act 1988 (as amended) and may include a betting agency, but does not include a tavern or motel;

**"motel"** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Licensing Act 1988*

**"serviced apartment"** means a complex where all units or apartments provide for self-contained accommodation for short stay guests and 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"** and **"tourism development"** mean a building, or group of buildings forming a complex, designed for the accommodation of short stay guests and which provides on-site facilities for the convenience of guests and for management of the development, where occupation by any person is limited to a maximum of three months in any 12 month period

**"tourist resort"** means an integrated, purpose built luxury or experimental premises for short stay guests comprising accommodation units and on-site tourism facilities such as reception, restaurant and leisure facilities like swimming pool, gymnasium, tennis courts, and where occupation is limited to a maximum of three months in any 12 month period