



Town of East Fremantle Local Planning Scheme No. 3 Amendment No. 20

Summary of Amendment Details

Update Planning Scheme Text to introduce new and revised land use classes and general definitions to facilitate State Government reforms for short-term rental accommodation.

**Planning and Development Act 2005
RESOLUTION TO ADOPT AMENDMENT
TO LOCAL PLANNING SCHEME**

**Town of East Fremantle Local Planning Scheme No. 3
Amendment No. 20**

1. Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act, 2005*, amend the above Local Planning Scheme by:
 - A. In '*Schedule 1: Dictionary of Defined Words and Expressions*' –
 - (i) Delete the definitions for:
 - a. *bed and breakfast*; and
 - b. *motel*; and
 - (ii) Insert the definition for *tourist and visitor accommodation* as per Schedule 1 – Model Provisions.
 - B. In the '*Zoning Table*' (Clause 4.3 refers) insert in alphabetical order the following land uses and permissibility:
 - (i) *hosted-short term rental accommodation*; designate as 'P' uses in zones where a dwelling is capable of approval and 'X' uses in all other zones;
 - (ii) *unhosted short term rental accommodation*; designate as 'A' uses in zones where a dwelling is permissible and 'X' in all other zones; and
 - (iii) *tourist and visitor accommodation* and designate as 'A' in (Mixed Use, Special Business, Town Centre and Special Zone – Royal George Hotel) and 'X' in all other zones (Residential).
 - C. In clause 4.3 '*Zoning Table*', delete all references to:
 - (i) *bed and breakfast*; and
 - (ii) *motel*;
 - D. In Schedule 10: Car Parking Standards (Sub-Clause 5.5.2 and 5.8.5) in the *Development (Use)* column delete reference to *motel* and replace with *tourist and visitor accommodation*.
 - E. Undertake administrative and formatting edits as required.

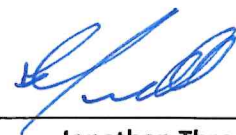
2. Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that Amendment No. 20 to the Town of East Fremantle Local Planning Scheme No. 3 is a 'standard' amendment for the following reasons as listed in the Regulations:

- (i) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
- (ii) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
- (iii) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
- (iv) any other amendment that is not a complex or basic amendment.

3. Advise the Western Australian Planning Commission that under Section 33C of the Environmental Protection Amendment Regulations 2024 that the amendment is considered to be of the prescribed classes (as listed below) that does not require referral to the Environmental Protection Authority, and accordingly that Section 81(2) of the Planning and Development Act, 2005 will apply:

- (i) an amendment to make the planning scheme consistent with the model provisions set out in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 1; and
- (ii) an amendment to include or alter a definition of a land use category if the Western Australian Planning Commission considers that the amendment would not materially impact the operation of the planning scheme.

Dated this 18th day of MARCH 2025



Jonathan Throssell
(Chief Executive Officer)

Scheme Amendment No. 20 Report

1. Introduction

The purpose of this amendment is to amend the Town's local planning scheme to implement the State Government's planning reforms for short-term rental accommodation.

This amendment is required to ensure alignment with the new 'deemed' and 'model' land use classes and general definitions introduced into the state planning framework. Most significantly, it includes amendments to reflect the 'deemed' land use classes for '*hosted short-term rental accommodation*' and '*unhosted short-term rental accommodation*', along with removal of superseded land uses. The following report provides further detail and background information on these changes, including specific implications for the Town.

2. 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, usually on a nightly or weekly basis. This type of accommodation is usually booked through online platforms and has become a very popular method of arranging accommodation for work and leisure. The State Government has committed to various initiatives to deliver better regulation of the short-term rental accommodation sector.

In November 2023, the Western Australian Planning Commission released its *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 planning 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. The planning changes, which have triggered the need for the Town to amend its Scheme, aim to provide greater consistency across the State in relation to what approvals are needed for STRA proposals as well as how these uses are defined in local planning schemes.

State Planning Framework

The State Government's planning reforms for short-term rental accommodation are being implemented predominantly through the *Planning & Development (Local Planning Schemes) Regulations 2015* (LPS Regulations), which in turn have been informed by policy direction provided through the Position Statement.

Position Statement

The Position Statement foreshadowed a series of amendments to the LPS Regulations with the overall aim of providing more certainty and consistency across jurisdictions in respect to the treatment of STRA. Key changes flagged in this document included dedicated land use classes for STRA to ensure a clear delineation between this use and traditional accommodation types, as well as a state-wide exemption for hosted STRA and a 90-night exemption for unhosted STRA within the

Perth Metropolitan Area. The Position Statement also includes guidance on strategic and statutory planning matters for both tourism and STRA, as well as local planning policy development.

LPS Regulations

The LPS Regulations are a key component of Western Australia's planning system comprising of three major parts:

- Regulations proper, which set out the process for preparing or amending a local planning scheme;
- 'Model' provisions, set out in Schedule 1, which are to be used by local governments in preparing or amending a local planning scheme; and
- 'Deemed' provisions, set out in Schedule 2, read automatically into all local planning schemes, and override any existing scheme provision to the extent of any inconsistencies. Where there is a conflict between these provisions and the scheme, the deemed provisions prevail.

Amendments to both Schedules 1 and 2 of these regulations have been made to facilitate the necessary planning changes of the State Government's STRA reform initiatives, as envisaged by the Position Statement. These changes, most notably, include:

- 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;
- 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;
- 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*'), as well as other changes to general definitions;
- iv. a state-wide development approval exemption for '*hosted short-term rental accommodation*' (this includes ancillary dwellings); and
- v. a 90-night (cumulative) exemption within a 12-month period for '*unhosted*' short-term rental accommodation in the Perth metropolitan area.

The implications for these changes to the Town are detailed further in the following sections of this report.

3. Local Planning Context

The Town's administration has effectively dealt with development applications for STRA up to this point by classifying the use as a 'use not listed' (i.e., the use does not fall within any use class as defined in LPS 3). Clause 4.3.3 requires the Council to determine that the use is consistent with the objectives of the relevant zone and is therefore permitted or otherwise and follow the advertising procedures of the Scheme which are specified in clause 64 of the Deemed Provisions.

Each application is assessed on its merits and the Town has had an informal policy of only granting approval for a 12-month period, requiring a renewal after that time. This temporary approval is intentional so the use can be monitored for any untoward impact on surrounding properties and/or other occupants of a dwelling/building on the site. This allowed the Council the option of refusing

the use upon renewal if it was not operating in accordance with conditions of development approval and/or verified complaints had been received in relation to such matters as anti-social behaviour, parking and resident amenity.

The Council has only refused a very small number of applications in circumstances where complaints were received mostly in relation to resident amenity and parking impacts. This mostly occurred where the use was operating without approval in the first instance and involved a large number of guests at the one property.

Currently, there are approximately 21 STRA properties in the Town that have been granted formal development (planning) approval. The administration is now aware there are other properties that have not sought development approval, however, the properties that are operating and that will be subject to development approval requirements will be flagged either when they apply for registration on the official government website (i.e., when they are recorded as operating for more than 90-days in a calendar year). If they are unhosted and/or recorded as operating for more than 90-days then the registration will not be permitted without the appropriate approval documentation from the Town. Keeping in mind there will be some properties in this group that are currently operating without approvals but due to the legislation changes are now exempt from gaining development approval.

Given the Town does not have a regular or high number of development applications for STRA, the Town's administration will likely continue to assess development applications in the same manner under the new regulations, using the *Planning for Tourism and Short-term Rental Accommodation Guidelines* adopted by the WAPC in November 2023 as an assessment tool.

The practice of recommending the 12 month temporary approval may still be appropriate in some circumstances as will the application of the standard conditions in regard to the number of bedrooms, guests, parking (if required) and other amenity and safety matters which if not abided by would be subject to compliance action. Also, advertising of the application to surrounding properties considered impacted will be required.

4. Proposed Amendment

With the introduction of the new deemed land use classes into planning schemes associated with short-term rental accommodation, this scheme amendment relates to the introduction, modification and deletion of various land use and general definitions to the Town's planning scheme. The new exemptions are also 'deemed' and as such are already operative, (as of September 2024 included in the Deemed Provisions). However, this amendment includes changes to the Zoning Table to reflect the hosted STRA exemption as a permitted use (i.e., 'P' permissibility classification).

Deemed Short-Term Rental Accommodation Land Use Classes

Whilst the new 'deemed' land use classes are automatically read into the Town's planning scheme through the LPS Regulations, along with the previously mentioned exemptions, these uses are being incorporated into scheme zoning tables to ensure absolute clarity from an interpretation perspective, particularly given these uses replace long-standing 'model' land use classes within the Town's planning framework (i.e., the uses 'motel' and 'bed and breakfast').

To implement the required changes, this amendment requires deletion of all references to the land use classes of 'bed and breakfast' and 'holiday house' (not included in LPS 3) and replaced with the new 'deemed' definitions of 'hosted short-term rental accommodation' and 'unhosted short-term rental accommodation' (which are automatically read into the LPS 3 Scheme Text). This includes amending the Zoning Table and Definitions schedules of LPS 3 accordingly.

In addition to the LPS Regulations, the *Position Statement and Planning Bulletin 115* provide further direction for how STRA should be dealt with in local planning schemes from a permissibility standpoint. To reflect these requirements, this amendment proposes the following permissibility designations for these new land use classes:

- *'Hosted short-term rental accommodation'* is proposed as a Permitted 'P' use in all zones where any type of 'dwelling' is capable of approval, to reflect the state-wide exemption in the 'deemed provisions'; and
- *'Unhosted short-term rental accommodation'* is proposed to be listed as an 'A' use in zones where any type of 'dwelling' is capable of approval, that being (Residential; Mixed Use, Special Business; Town Centre and Special Zone – Royal George Hotel);

Aside from the above, where the uses of *'holiday house'* (not included in LPS 3) and *'bed and breakfast'* are referenced in other sections of the Scheme Text, these are to be cross-referenced accordingly.

Model 'Tourist and Visitor Accommodation' Land Use

A new model land use class of *'Tourist and Visitor Accommodation'* has been introduced to supersede various traditional accommodation land use types (excluding *'hotel'*) and provide a clearer delineation between these uses and *'short-term rental accommodation'*. In the context of the Town's Planning Scheme, the only use to be deleted through this change is:

- *motel* – specifically referenced in the new land use class definition.

Note: The land use *'motel'* in *Schedule 10: Car Parking Standards* of LPS 3 will also be changed to *'tourist and visitor accommodation'* in line with the recommended removal of the term *'motel'* and to ensure consistency across the planning scheme provisions.

The Town is not seeking to retain any other existing model land use classes that may conflict with the legislative changes.

New and Revised Land Uses and General Definitions

As part of the LPS Regulations changes, amendments to some other model definitions were also introduced so as to not cause confusion or conflict with the new STRA land use terms. These include deletion of the definition for *'short-term accommodation'*, which has been removed to avoid confusion with new terms relating to *'short-term rental accommodation'*. This has consequentially resulted in modifications to the general model terms of *'cabin'* and *'chalet'*, as well as the land use term for *'road house'*. The new model terms are proposed to be introduced into scheme texts through this amendment. This is not relevant to the Town of East Fremantle as none of these terms were included in LPS 3. Similarly, it is not necessary to delete the general term *'short term residential accommodation'* from the Scheme Text because it was not included in the first place.

Changes to the Zoning Table

The administration is following the instructions of the DPLH in regard to the recommended changes to LPS 3 in respect to the *'hosted'* and *'unhosted'* short term rental accommodation.

However, in respect to the permissibility classifications for *'tourist and visitor accommodation'* the administration is recommending that these be revised so this change will not reflect that of the existing classifications for *'motel'* accommodation (which is being removed as instructed). Attachment 2 – Zoning Table highlights the changes in respect to *'motel'* and the required changes by

the DPLH for new STRA use classes. Therefore, the Scheme Amendment cannot be classified as a 'basic' Amendment and as such will require advertising as a 'standard' Amendment.

The changes in regard to '*tourist and visitor accommodation*' are recommended as it is reasonable that Council could consider approval of this use in these zones subject to advertising and consideration of LPS 3 provisions and any submissions received.

5. Conclusion

This Scheme Amendment Report considers the adoption of a Scheme Amendment to update LPS 3 in accordance with the recently enacted planning and other State government legislation in relation to STRA. New and revised land use classes and general definitions will be introduced. These include new 'deemed' general land use definitions to ensure '*hosted*' and '*unhosted*' short-term rental accommodation are considered as dedicated land use classes in LPS 3. The new land use class of '*tourist and visitor accommodation*' is to supersede and consolidate a number of land use terms for traditional accommodation such as '*bed and breakfast*'. These changes require further amendments to the Zoning Table which will involve inclusion of the above land use classes and a change in the permissibility classification for the previous land use of '*motel*' which is now '*tourist and visitor accommodation*'.

The proposed Scheme Amendment follows the standard amendment template prepared by the DPLH. The Town's planning scheme currently contains no reference or provisions in relation to short-term rental accommodation and only refers to the now superseded land use terms such as '*motel*' and '*bed and breakfast*'. However, because the permissibility classifications for the new '*tourist and visitor accommodation*' land use term (replacing motel) will be different to the previous classification for '*motel*' in some of the zones in the Zoning Table, it is necessary to classify the amendment as a 'standard' amendment.

Given the Town is required to initiate the Amendment to respond to State government legislation changes which have already been enacted, it is recommended the Council proceed with the amendment as required under the LPS Regulations.

Planning and Development Act 2005
RESOLUTION TO AMEND LOCAL PLANNING SCHEME

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Amendment Number No. 20

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COUNCIL ADOPTION

This standard Amendment was adopted by resolution of the Council of the Town of East Fremantle at the Ordinary Meeting of the Council held on the 18th day of March, 2025.

.....

MAYOR

.....

CHIEF EXECUTIVE OFFICER

COUNCIL RESOLUTION TO ADVERTISE

by resolution of the Council of the Town of East Fremantle at the Ordinary Meeting of the Council held on the 18th day of March 2025, proceed to advertise this Amendment.

.....

MAYOR

.....

CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended for by resolution of the Town of East Fremantle at the Ordinary Meeting of the Council held on the [number] day of [month], 2025 and the Common Seal of the Town of East Fremantle was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

.....
DELEGATED UNDER S.16 OF
THE P&D ACT 2005

DATE.....

FORM 6A - CONTINUED

APPROVAL GRANTED

.....
MINISTER FOR PLANNING

DATE.....