

**PLANNING AND DEVELOPMENT ACT 2005**  
**RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME**  
**CITY OF JOONDALUP**  
**DISTRICT PLANNING SCHEME NO 2 - AMENDMENT NO 36**

Resolved that the Council, in pursuance of Part 5 of the Planning and Development Act 2005 amends the above Town Planning Scheme as follows:

1. Clause 3.4 is amended by inserting the following after (c):

“provide the opportunity for appropriately located and managed short stay accommodation.”
2. Table 1 is amended by inserting the use class “short stay accommodation” and designating that use as “A” in the Residential Zone, “D” in the Mixed Use, Business, Commercial and Private Clubs and Recreation zones, and “X” in all of the other Zones.
3. Table 2 is amended by inserting the use class “short stay accommodation” and inserting “2 bays per unit” in the column headed “Number Of Onsite Parking Bays”.
4. Schedule 1 is amended as follows:
  - (a) the definition of “dwelling” is amended by inserting the following words after the semi colon:

“for the purpose of the definition of “dwelling” habitation for any period which is not less than a continuous period of 3 months is taken to be habitation on a permanent basis;”
  - (b) a new definition is inserted as follows:

“short stay accommodation” means the use of a single house, grouped dwelling or multiple dwelling for the purposes of providing temporary accommodation to any person or persons; for the purpose of the definition of “short stay accommodation”, temporary accommodation excludes any period of accommodation which exceeds a continuous period of 3 months;”

- (c) deleting the definition of “residential building” and substituting the following new definition:

“residential building” means a building or portion of a building together with rooms or outbuilding separate from such building incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation permanently by 7 or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school;”

DATED THIS 28<sup>TH</sup> DAY OF AUGUST 2007

.....  
CHIEF EXECUTIVE OFFICER

COPY NO

**PLANNING AND DEVELOPMENT ACT 2005**

**CITY OF JOONDALUP**

**DISTRICT PLANNING SCHEME NO 2 - AMENDMENT NO 36**

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- (c) deleting the definition of “residential building” and substituting the following new definition:

“residential building” means a building or portion of a building together with rooms or outbuilding separate from such building incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation permanently by 7 or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school;”

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**CITY OF JOONDALUP**  
**DISTRICT PLANNING SCHEME NO 2 - AMENDMENT NO 36**  
**SCHEME AMENDMENT REPORT**

**BACKGROUND**

District Planning Scheme No 2 (DPS2) currently has no definition for short stay accommodation. Proposals for short stay accommodation have been assessed as a 'Residential Building' or an 'Unlisted Use' for the purposes of DPS2.

Neither the DPS2 nor the Residential Design Codes provide specific development standards and requirements for a Residential Building.

A 'Residential Building' is a discretionary use within the Residential, Mixed Use, Business, Commercial and Private Clubs and Recreation zones.

Following an inquiry into the Mullaloo tavern development, which did not have any adverse findings against the City, the Minister for Planning and Infrastructure recommended that a policy be put in place to guide the development of short stay accommodation. Specifically, the Minister recommended:

*"The introduction of measures to guide the development of short stay accommodation in those zones where such development is permissible. As a minimum, such measures should address the density of those forms of residential development for which there is currently no explicit density control."*

Currently, the DPS2 is silent on issues of permitted density and the cut off between a dwelling and a residential building (or other forms of temporary accommodation), mostly occurs by virtue of the determination of what length of stay satisfies a reasonable test of being considered as permanent.

It could be stated that the DPS2 contains a 'gap' on this issue; however, it is notable that Council has received only two applications over the past two years for short stay accommodation outside the City Centre area. In these circumstances, which are effectively rare applications, Council is required to consider applications on merit rather than merely in relation to standards. That is, if standards were developed for all matters, including those which may only occur once or twice, the process would become inefficient and cumbersome.

Notwithstanding, the City has previously been advised that approximately 60-70 short stay accommodation uses may be operating within the City at present. A search of the internet indicates that there are houses that are being let out on a short-term basis.

Although the presence of existing short stay accommodation should not impact upon the planning policy considerations, it should be acknowledged that the practice, to some extent, is already occurring in the residential areas.

The two applications referred to above are:

- 3 Glenelg Place, Connolly. This proposal was to convert an existing medical centre into short stay accommodation. The proposal was refused by Council at its meeting of 26 April 2005. A subsequent appeal by the applicant to the State Administrative Tribunal was upheld, effectively reversing Council's decision.
- 17 Foston Drive, Duncraig. This proposal is to utilise an existing residential dwelling for short stay accommodation. The proposal was refused at Council's meeting of 19 September 2006. Prior to this decision being issued, the applicant had already lodged an appeal to the State Administrative Tribunal, based on the 'deemed refusal' provisions of DPS2. This appeal was dismissed by the SAT in February 2007. Part of the ruling is shown below:

*"As the proposed short stay accommodation use does not involve residential development or any other development contemplated by the objectives and purposes of the Residential zone, it is not consistent with the objectives and purposes and is, therefore, not permitted. The application for review must be dismissed and the decision of the City to refuse development approval affirmed."*

#### **Issues and options considered:**

##### Proposed Amendment to DPS2

The proposed amendment to DPS2 seeks to achieve the following:

- Define the meanings of 'temporary' and 'permanent' in the context of what constitutes a dwelling, versus what constitutes short stay accommodation. It is proposed that habitation for a period which exceeds 3 months is permanent occupation, while habitation under 3 months is temporary occupation,
- Provide a definition and use class for 'short stay accommodation',
- Reword the definition of a 'Residential Building' to clarify that the use relates to permanent accommodation for 7 or more persons.
- Provide a car parking standard for short stay accommodation at the rate of 2 bays for each short stay dwelling.

The above is proposed to be achieved by the following specific proposals:

##### Dwelling Definition

The definition of "dwelling" by inserting the following words (shown in italics):

*“has the same meaning as that set out in the Residential Planning (Design) Codes. For the purpose of the definition of “dwelling” habitation for any period which is not less than a continuous period of 3 months is taken to be habitation on a permanent basis;”*

#### Short Stay Accommodation Definition and Use Class Permissibility

A definition of short stay accommodation is proposed to be included in DPS2 as follows:

“the use of a single house, grouped dwelling or multiple dwelling for the purposes of providing temporary accommodation to any person or persons; for the purpose of the definition of “short stay accommodation”, temporary accommodation excludes any period of accommodation which exceeds a continuous period of 3 months;”

It is proposed that Short Stay Accommodation would be a prohibited (‘X’) use in the Special Residential, Service Industrial, and Rural zones, and a Discretionary (‘D’) use in the Mixed Use, Business, Commercial, and Private Clubs and Recreation zones, and a discretionary use requiring advertising (‘A’) use in the Residential zone.

#### Residential Building Definition

The definition of Residential Building is proposed to be amended to read:

“residential building” means a building or portion of a building together with rooms or outbuilding separate from such building incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation permanently by 7 or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school;”

#### **Link to Strategic Plan:**

Short stay accommodation may be used as tourist accommodation and therefore links with Strategy 3.2 (Lifestyle) of the City’s Strategic Plan, which is intended to develop and promote the City of Joondalup as a tourist attraction.

#### **COMMENT**

##### Draft Scheme Amendment

Currently, the terms ‘temporary’ and ‘permanent’ when used in the definitions of ‘dwelling’ and ‘residential building’ are not defined. The draft scheme amendment will provide clarity to this issue.

- A ‘dwelling’ will be permanent accommodation for a family or up to 6 people who are not a single family.
- A ‘residential building’ will be permanent accommodation for 7 or more people who are not a single family.

- Short stay accommodation will be temporary accommodation.
- Amending the objectives of the Residential Zone within DPS2 to acknowledge that short stay accommodation may be considered in the Residential Zone.

In terms of the permissible locations for short stay accommodation, the residential zone is likely to have the largest potential impacts on the adjoining land. Therefore, it is considered appropriate that short stay accommodation be an 'A' use in DPS2. This means that any application will require mandatory public advertising.

#### Draft Local Planning Policy - Short Stay Accommodation

A draft policy has been prepared and will be advertised concurrently with this amendment.

The policy will address:

- The management of the accommodation, including submission of a Management Plan. This includes requiring appropriate documentation to be kept by the proprietor of the accommodation, and the submission of a plan detailing how the accommodation will be managed, operated, and maintained.
- Measures to reduce the potential amenity conflicts between proposed short stay accommodation and grouped or multiple dwellings on the same lot.
- The requirement for the annual renewal of any planning approval issued where short stay accommodation is located in or abutting the Residential Zone, or where short stay accommodation is located on the same site as residential dwellings.
- Consideration the relative merits and compatibility of the proposal with the surrounding areas, in terms of the provision of car parking, traffic generation, and location close to complementary and supporting uses.

The policy is also clear about density, in that the policy applies to the use of buildings that have otherwise been built (or are proposed to be built) in the form of single dwellings, grouped or multiple dwellings, in accordance with the R-Codes.

#### Location of Short Stay Accommodation

Where short stay accommodation is proposed in a residential area, it is difficult to provide specific locational parameters as to where the use will be considered suitable based on an amenity point of view. However, it is believed that the management and operation of the short stay accommodation is the important consideration in protecting the amenity of adjoining owners, which is addressed in the draft policy.

Notwithstanding, as a measure of the impact on amenity, short stay accommodation should not be generating more car parking or traffic than would normally be expected from adjoining residential properties.

Adopted by resolution of the City of Joondalup at the Ordinary meeting of the Council held on the 28th day of August 2007.

Modified and adopted for final approval by the Council dated the 15<sup>th</sup> day of April 2008.

The Common Seal of the City of Joondalup  
was hereunto affixed in the presence of:

.....  
MAYOR

.....  
CHIEF EXECUTIVE OFFICER

Recommended/Submitted for final approval

DELEGATED UNDER S.16 OF PLANNING  
AND DEVELOPMENT ACT 2005

DATE

Final Approval Granted

MINISTER FOR PLANNING AND  
INFRASTRUCTURE

DATE

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“short stay accommodation” means the use of a single house, grouped dwelling or multiple dwelling for the purposes of providing temporary accommodation to any person or persons; for the purpose of the definition of “short stay accommodation”, temporary accommodation excludes any period of accommodation which exceeds a continuous period of 3 months;”

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3. Schedule 1 is amended by inserting the following new definition:

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*"The introduction of measures to guide the development of short stay accommodation in those zones where such development is permissible. As a minimum, such measures should address the density of those forms of residential development for which there is currently no explicit density control."*

Currently, the DPS2 is silent on issues of permitted density and the cut off between a dwelling and a residential building (or other forms of temporary accommodation), mostly occurs by virtue of the determination of what length of stay satisfies a reasonable test of being considered as permanent.

It could be stated that the DPS2 contains a 'gap' on this issue; however, it is notable that Council has received only two applications over the past two years for short stay accommodation outside the City Centre area. In these circumstances, which are effectively rare applications, Council is required to consider applications on merit rather than merely in relation to standards. That is, if standards were developed for all matters, including those which may only occur once or twice, the process would become inefficient and cumbersome.

Notwithstanding, the City has previously been advised that approximately 60-70 short stay accommodation uses may be operating within the City at present. A search of the internet indicates that there are houses that are being let out on a short-term basis.

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#### **Issues and options considered:**

##### Proposed Amendment to DPS2

The proposed amendment to DPS2 seeks to achieve the following:

- Provide a definition and use class for 'short stay accommodation',
- Provide a car parking standard for short stay accommodation at the rate of 2 bays for each short stay dwelling.

The above is proposed to be achieved by the following specific proposals:

##### Short Stay Accommodation Definition and Use Class Permissibility

A definition of short stay accommodation is proposed to be included in DPS2 as follows:

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It is proposed that Short Stay Accommodation would be a prohibited ('X') use in the Special Residential, Service Industrial, Residential and Rural zones, and a Discretionary ('D') use in the Mixed Use, Business, Commercial, and Private Clubs and Recreation zones.

**Link to Strategic Plan:**

Short stay accommodation may be used as tourist accommodation and therefore links with Strategy 3.2 (Lifestyle) of the City's Strategic Plan, which is intended to develop and promote the City of Joondalup as a tourist attraction.

**COMMENT**Draft Scheme Amendment

Currently, the terms 'temporary' and 'permanent' are not defined. The draft scheme amendment provides clarity to this issue through the definition of 'Short stay accommodation' which specified it to be temporary accommodation up to a period of 3 months.

In terms of the permissible locations for short stay accommodation, the residential zone is likely to have the largest potential impacts on the adjoining land. Therefore, it is considered appropriate that short stay accommodation be an 'X' use in DPS2.

Draft Local Planning Policy - Short Stay Accommodation

A draft policy was prepared and previously advertised.

The policy addressed:

- The management of the accommodation, including submission of a Management Plan. This includes requiring appropriate documentation to be kept by the proprietor of the accommodation, and the submission of a plan detailing how the accommodation will be managed, operated, and maintained.
- Measures to reduce the potential amenity conflicts between proposed short stay accommodation and grouped or multiple dwellings on the same lot.
- The requirement for the annual renewal of any planning approval issued where short stay accommodation abuts the Residential Zone, or where short stay accommodation is located on the same site as residential dwellings.
- Consideration the relative merits and compatibility of the proposal with the surrounding areas, in terms of the provision of car parking, traffic generation, and location close to complementary and supporting uses.

The policy is also clear about density, in that the policy applies to the use of buildings that have otherwise been built (or are proposed to be built) in the form of single dwellings, grouped or multiple dwellings, in accordance with the R-Codes.

Location of Short Stay Accommodation

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