

### 12.2/CF1 LPS3 - AMENDMENT NO.131 - SHORT TERM RENTAL ACCOMMODATION - INITIATION

Local Planning Scheme No.3 - Amendment No.131 - Short Term Rental Accommodation - Initiation

Business Unit:	City Future	Service: Schemes, Policies & Heritage
Ward:	City Wide	Location: Not Applicable
Applicant:	City of Stirling	

#### Role

Quasi-Judicial - Determining applications from the community.

### **Council Resolution**

### 1124/012

Moved Councillor Proud, seconded Councillor Krsticevic

- 1. That pursuant to the Planning and Development (Local Planning Schemes) Regulations 2015, Council ADOPTS (for the purpose of advertising) Scheme Amendment No.131 to Local Planning Scheme No.3 to incorporate land use definitions and permissibility for Short Term Rental Accommodation contained in the Planning and Development (Local Planning Schemes) Amendment (Short Term Rental Accommodation) Regulations 2024 as shown in Attachment 1.
- 2. That pursuant to Regulation 35 of the Planning and Development (Local Planning Schemes) Regulations 2015, Council RESOLVES that, in its opinion, Local Planning Scheme No.3 Amendment No.131 is a Standard Amendment as it is an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment.

The motion was put and declared CARRIED (13/0) by exception resolution.

**For:** Councillors Creado, Dudek, Ferrante, Giudici, Hatton, Krsticevic, Migdale, Olow, Perkov, Proud, Re, Thornton and Mayor Irwin. **Against:** Nil.



### **Committee Recommendation**

- 1. That pursuant to the Planning and Development (Local Planning Schemes) Regulations 2015, Council ADOPTS (for the purpose of advertising) Scheme Amendment No.131 to Local Planning Scheme No.3 to incorporate land use definitions and permissibility for Short Term Rental Accommodation contained in the Planning and Development (Local Planning Schemes) Amendment (Short Term Rental Accommodation) Regulations 2024 as shown in Attachment 1.
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### Officer's Recommendation

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# **Purpose**

To consider adopting Scheme Amendment No.131 to Local Planning Scheme No.3 (LPS3) for the purposes of advertising. This amendment proposes modifications to LPS3 that align with changes to the Planning and Development (Local Planning Schemes) Amendment (Short Term Rental Accommodation) Regulations 2024 which came into effect on 18 September 2024.



# **Background**

# State Government

A Parliamentary Inquiry into the impact of Short Term Rental Accommodation (STRA) commenced in 2018, which resulted in the publication of a report in September 2019 titled <u>Levelling the Playing Field: Managing the impact of the rapid increase of Short-Term Rentals in Western Australia</u>. The report made findings and recommendations which the State Government has been working to implement.

To date, the following actions resulting from the inquiry have been, or are in the process of being, implemented by the State Government:

- Publication of a Position Statement: Planning for Tourism and Short Term Rental accommodation;
- Implementation of a STRA Registration Scheme;
- Proposed changes to the Planning and Development (Local Planning Schemes) Regulations 2015 Short Term Rental Accommodation (now the STRA Regulations); and
- An incentive scheme to encourage STRA accommodation to be returned to the long-term rental market.

In April/May 2024 the State Government sought feedback on proposed changes to the STRA Regulations. At its meeting held 14 May 2024 Council considered a submission on these changes. These changes involve the use of consistent land use definitions in local planning schemes, which form part of the State Government planning reform package.

To aid with implementing these changes, the Department of Planning, Lands and Heritage published <u>Planning Bulletin 115</u>, which states that "Amendments to local planning schemes to complement and align with new 'deemed' land use classes for short term rental accommodation will need to be initiated as soon as possible and should ideally be completed by mid-2025."

The State Government gazetted the STRA Regulations on 18 September 2024. This Scheme Amendment will ensure the local planning framework is consistent with the STRA Regulations, with the changes eventually incorporated into Local Planning Scheme No.4 (LPS4) once advertising of LPS4 has been finalised.

# **Local Planning Framework**

Since its gazettal in August 2010, LPS3 has been the primary planning tool controlling STRA development across the City. The controls in LPS3 are supplemented by Local Planning Policy 2.3 Bed and Breakfast Accommodation (LPP 2.3), which is still in effect today, despite the number of applications for Bed and Breakfast accommodation being extremely low.



On 28 November 2017, Council resolved to amend LPS3 (Scheme Amendment No.103) to update its planning framework to deal with this form of development. Amendment No.103 proposed deletion of the 'Bed and Breakfast Accommodation' definition and an amendment to the 'Short Stay Accommodation' definition. Council also supported the preparation of draft Local Planning Policy 2.11 – Short Stay Accommodation (Draft LPP 2.11), which intended to exempt Short Stay Accommodation from requiring development approval in certain circumstances subject to conditions. At its meeting held 3 July 2018, Council resolved to finalise both the scheme amendment and Local Planning Policy, with the policy to come into effect upon gazettal of the scheme amendment. The Department of Planning, Lands and Heritage (DPLH) deferred determination of Scheme Amendment No.103 until the recommendations of the report resulting from the Parliamentary Inquiry had been implemented. As the scheme amendment was not determined, Draft LPP 2.11 did not come into effect.

As a consequence of the recent gazettal of the STRA Regulations, the City has prepared a new scheme amendment to reflect proposed STRA Regulations, and Scheme Amendment No.103 will not progress as it is no longer relevant. It is also proposed to revoke LPP 2.3 once the scheme amendment comes into effect.

# **Details**

The implications of the STRA Regulations differ between local governments depending on local circumstances and the type of tourist accommodation each local government has, or plans to have. The STRA Regulations do not address traditional accommodation land uses such as 'Hotel', which remain unchanged.

LPS3 currently provides for land use permissibility for STRA uses contained in three different parts of the scheme; in Table 1 which applies City Wide, in Table 6.8.6 which applies to the Mirrabooka Structure Plan Area, and in Table 6.11.9 which applies to the Stirling City Centre. STRA uses do not currently have consistent land use permissibility throughout the City, and the scheme amendment will address this by having consistent land use permissibility for STRA uses in these zoning tables.

Additionally, Schedule 13 of LPS3 contains the Scarborough Redevelopment Scheme, which was originally prepared and adopted by DevelopmentWA. As the redevelopment scheme was originally prepared under a different framework, it does not contain a zoning table for development in the area. Instead, land uses are grouped into categories and identified as 'Preferred' or 'Contemplated' uses. The framework does not enable Hosted STRA to be exempt from requiring development approval as required by the STRA Regulations. Therefore, in relation to the Scarborough Redevelopment Area, the City's officers will investigate the appropriate mechanism to exempt this land use and provide a report to a future meeting to enable this. The land use definitions in Schedule 13 are recommended to be amended to reflect the STRA Regulations.

Within the City, development applications for Hosted and Unhosted STRA are increasing, with approximately 319 properties registered with the Department of Energy, Mines, Industry Regulation and Safety (DMIRS) since 18 September 2024.



In order to ensure that LPS3 aligns with the STRA Regulations, the following land use definitions are required to be deleted from LPS3:

- Bed and Breakfast
- Motel
- Short Stay Accommodation

#### Bed and breakfast

The new 'Hosted short-term rental accommodation' (Hosted STRA) use will accommodate future Bed and Breakfast type developments. As Hosted STRA requires the owner of the property to reside at the premises and adverse off site amenity impacts are unlikely, DPLH requires local government to apply a 'P' (Permitted) land use permissibility in the residential zone. The STRA Regulations identify that it is exempt from requiring development approval. Hosted STRA is recommended to have the same land use permissibility as the current 'Bed and Breakfast' land use in all other zones.

#### Motel

The State Government requires all local planning schemes to delete the 'Motel' land use. The City has one approved and operational 'Motel', which will be able to continue operating under its approval once the changes come into effect.

### Short Stay Accommodation

The 'Short Stay Accommodation' land use will be removed and replaced with an 'Unhosted short-term rental accommodation' (Unhosted STRA) land use definition, with the use class permissibility remaining unchanged. In LPS3 this is 'A' use (meaning it requires advertising) in 'Residential' and 'Hotel' Zones, and a 'D' (Discretionary) use in the remaining zones where the use can be approved.

LPS3 Definitions for the Bed and Breakfast, Motel and Short Stay Accommodation land uses recommended to be deleted are contained in Attachment 2. The deletion of these land uses will not impact on any existing lawful approval.

The following new land use definitions are proposed to be introduced into LPS3:

- Hosted STRA
- Unhosted STRA
- Tourist and visitor accommodation



Definitions for these are contained in Attachment 2.

Hosted and Unhosted STRA land uses are contained in the Deemed Provisions of the STRA Regulations and are therefore supported.

The City currently does not have land use definitions that align with the 'Tourist and Visitor Accommodation' land use definition. This is not a type of development for which approval is often sought in the City, but is a use that ought to be capable of approval in appropriate zones, and reflected in the zoning table of LPS3.

It is therefore recommended that the 'Tourist and Visitor Accommodation' land use be included in LPS3 as a 'D' (Discretionary) use within the City's District Centres (Inglewood, Dianella, Dog Swamp, Glendalough, Main Street, Mount Lawley, Northlands, Scarborough, Stirling Central and, upon gazettal of LPS4, Scarborough) and Regional Centres (Karrinyup and Mirrabooka).

# **Financial Assessment and Implications**

All costs associated with the processing of the Scheme Amendment will be borne by the City Future Business Unit budget.

# **Stakeholder Engagement**

The DPLH advised that Scheme Amendments that propose to replace superseded land use classes with the new STRA land uses, without changes to permissibility in the zoning table, can generally be processed as a 'basic' amendment.

The changes proposed in Scheme Amendment No.131 do not change land use permissibility for the 'Short Stay Accommodation' use class in LPS3 that is proposed to now be referred to as 'Unhosted STRA'. However, the new 'Tourist and Visitor Accommodation' land use definition, for which there is currently no corresponding existing land use, means that the amendment will be processed as 'standard' and will need to be advertised in accordance with the statutory requirements of the Planning and Development (Local Planning Schemes) Regulations 2015.

### **Recommended Action**

The City is required to amend LPS3 to reflect the Planning and Development (Local Planning Schemes) Regulations 2015 – Short Term Rental Accommodation to ensure a consistent approach to short term rental accommodation. As a consequence, some land use definitions need to be deleted, and new land uses incorporated into LPS3.

It is therefore recommended Scheme Amendment No.131, as shown in Attachment 1, be advertised for public comment.



# **Relevant Policies, Legislation and Council Resolutions**

<u>Planning and Development (Local Planning Schemes) Regulations 2015</u>
<u>Planning and Development (Local Planning Schemes) Regulations 2015 – Short Term Rental Accommodation Local Planning Scheme No.3</u>

# **Previous resolutions of Council**

Details of relevant previous resolutions of Council are contained in Attachment 3.

# **Sustainable Stirling 2022-2032**

**Key Result Area:** Our built environment

**Objective:** A liveable City

**Priority:** Prioritise growth in activity corridors and centres

**Key Result Area:** Our economy **Objective:** A local business City

Priority: Make it easier to do business with the City

# **Strategic Risk**

Strategic Risk	Risk Appetite
	The City will ensure that any decisions that may affect the City's reputation are made at the appropriate level with stakeholders remaining informed and engaged.



# **Relevant Documents and Information**

# <u>Attachments</u>

Attachment 1 - Scheme Amendment No.131 J

Attachment 2 - Local Planning Scheme No.3 land use definitions to be deleted U

Attachment 3 - Resolutions of Council relevant to Short Stay Accommodation / Short Term Rental Accommodation &

# Available for viewing at meeting

Nil

# **Linked Documents**

Nil.



PLANNING & DEVELOPMENT ACT 2005



# **LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO. 131**

Resolution to prepare Amendment to Local Planning Scheme No.3

The Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015 for the following reason(s):* 

 the amendment would have minimal impact on land in the scheme area that is not the subject of the amendment;

Dated this	day of	
	CHIEF EXECUTIVI	E OFFICER



### PLANNING & DEVELOPMENT ACT 2005



### **LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO. 131**

Resolution to adopt Amendment to Local Planning Scheme No.3

The City of Stirling Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby amends the above Town Planning Scheme by:

- a) Deleting the following land uses from Table 1: Zoning Table; Table 6.8.6
   Mirrabooka Town Centre Land Use Permissibility Table, Table 6.11.9 Stirling City
   Centre Land Use Permissibility Table and Schedule 13, Appendix 3 Defined
   Land Uses:
  - 'Bed and Breakfast';
  - 'Motel' : and
  - 'Short Stay Accommodation';
- b) Inserting 'Hosted', 'Unhosted' and 'Tourist and Visitor Accommodation' land uses in Table 1: Zoning Table as follows:

		Zone													
	Land Use	Business	Civic	District Centre	Hotel	Industry	Local Centre	Mixed Business	Mixed Use	Neighbourhood Centre	Private Institution	Regional Centre	Residential	Service Station	Special Use
	Hosted STRA	D	Х	D	Х	Х	D	Х	Х	D	Х	Х	Р	X	ıle 4
Land Use	Unhosted STRA	Х	Х	D	Α	Х	D	Х	D	D	Х	D	Α	Х	Refer Schedule
	Tourist and Visitor Accommodation	Х	Х	D	Х	Х	Х	Х	Х	Х	Х	D	Х	Х	Refe



c) Inserting 'Hosted', 'Unhosted' and 'Tourist and Visitor Accommodation' land uses in Table 6.8.6 - Table 6.8.6 - Mirrabooka Town Centre Land Use Permissibility Table as follows:

	Land Use	Business	Mixed Business	Mixed Use	Regional Centre	Residential	Civic
Use	Hosted STRA	D	Х	Х	Х	Р	Х
Land L	Unhosted STRA	Х	Х	D	D	Α	Х
	Tourist and Visitor Accommodation	Х	Х	Х	D	Х	Х

d) Inserting 'Hosted', 'Unhosted' and 'Tourist and Visitor Accommodation' land uses in Table 6.11.9 - Stirling City Centre Land Use Permissibility Table as follows:

	Land Use	Mixed Use	Business	Restricted Business	City Residential	Suburban Residential	Civic
Use	Hosted STRA	Х	Х	Х	Р	Р	Х
Land U	Unhosted STRA	D	Х	Х	А	А	Х
٦	Tourist and Visitor Accommodation	D	Х	Х	Х	Х	Х

- e) In Schedule 1 Land Use Definitions, delete the following definitions:
  - Bed and Breakfast';
  - 'Motel'; and
  - 'Short Stay Accommodation'



f) Inserting the following definitions into Schedule 1 – Land Use Definitions and Schedule 13, Appendix 3 – Defined Land Uses

#### tourist and visitor accommodation —

- (a) means a building, or a group of buildings forming a complex, that
  - (i) is wholly managed by a single person or body; and
  - (ii) is used to provide accommodation for guests, on a commercial basis, with no individual guest accommodated for a period or periods exceeding a total of 3 months in any 12-month period; and
  - (iii) may include on-site services and facilities for use by guests; and
  - (iv) in the case of a single building contains more than 1 separate accommodation unit or is capable of accommodating more than 12 people per night;

and

- (b) includes a building, or complex of buildings, meeting the criteria in paragraph (a) that is used for self-contained serviced apartments that are regularly serviced or cleaned during the period of a guest's stay by the owner or manager of the apartment or an agent of the owner or manager; but
- (c) does not include any of the following
  - (i) an aged care facility as defined in the Land Tax Assessment Act 2002 section 38A(1);
  - (ii) a caravan park;
  - (iii) hosted short-term rental accommodation;
  - (iv) a lodging-house as defined in the *Health (Miscellaneous Provisions) Act 1911* section 3(1);
  - (v) a park home park;
  - (vi) a retirement village as defined in the Retirement Villages Act 1992 section 3(1);
  - (vii) a road house;
  - (viii) workforce accommodation;

#### hosted short-term rental accommodation means any of the following —

- a) short-term rental accommodation where the owner or occupier, or an agent of the owner or occupier who ordinarily resides at the dwelling, resides at the same dwelling during the short-term rental arrangement;
- short-term rental accommodation that is an ancillary dwelling here the owner or occupier, or an agent of the owner or occupier who ordinarily resides at the other dwelling on the same lot, resides at that other dwelling during the short-term rental arrangement;
- short-term rental accommodation that is a dwelling on the same lot as an ancillary dwelling where the owner or occupier, or an agent of the owner or occupier who ordinarily resides at the dwelling, resides at the ancillary dwelling during the shortterm rental arrangement;

#### short-term rental accommodation —

- (a) means a dwelling provided, on a commercial basis, for occupation under a short-term rentalarrangement; but
- (b) does not include a dwelling that is, or is part of, any of the following —(i) an aged care facility as defined in the *Land Tax Assessment Act 2002* section 38A(1):
  - (ii) a caravan park;
  - (iii) a lodging-house as defined in the *Health (Miscellaneous Provisions) Act 1911* section 3(1);
  - (iv) a park home park;
  - (v) a retirement village as defined in the Retirement Villages Act 1992 section 3(1);



(vi) workforce accommodation;

short-term rental arrangement means an arrangement under which —
(a) a dwelling, or part of a dwelling, is provided for occupation by a person; and
(b) the person occupies the dwelling, or part of the dwelling, for a period or periods not exceeding a total of 3 months in any 12-month period;

# unhosted short-term rental accommodation means short-term rental accommodation that —

- (a) is not hosted short-term rental accommodation; and
- (b) accommodates a maximum of 12 people per night;
- g) delete reference in Table 13.1 Land Use Categories of Schedule 13 to the following land use types:
  - Bed and Breakfast;
  - Motel:
  - · Short Stay Accommodation; and
  - Serviced Apartments
- h) Insert in Table 13.1 Land Use Categories of Schedule 13 the following land use types in Land Use Type 5A Permanent Residential:
  - · unhosted short-term rental accommodation; and
  - 'hosted short-term rental accommodation



PLANNING & DEVELOPMENT ACT 2005



# **LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO. 131**

Adopted by resolution of the Co Council held on the	ouncil of the City of Stirling at the meeting of the day of 20 .	
	MAYOR	
	CHIEF EXECUTIVE OFFICER	
Council held on the day of	esolution of the City of Stirling at the Meeting of 20 and the Common Seal of the City y the authority of a resolution of the Council in	y of
	MAYOR	
	CHIEF EXECUTIVE OFFICER	
Recommended/Submitted for Final Approval		
	Delegated under S.16 of PD Act 2005	
	Date	
Final Approval granted		
	MINISTER FOR PLANNING	
	Date	
O-b N- O	·	



# Local Planning Scheme No 3 definitions to be deleted under STRA Regulations

# **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.

### 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 Control Act 1988;

#### **Short Stay Accommodation**

means premises used for accommodation that may be occupied by the same person/s for a maximum period of three months within any twelve month period, and are not subject to residential tenancy agreements (residential leases).



# Council resolutions relevant to Short Stay Accommodation / Short Term Rental Accommodation

Meeting Date	Council Resolution Number	Council Resolution
8 August 2017	0817/024	That a report be PRESENTED to the Planning and Development Committee to consider whether existing Local Planning Scheme No.3 provisions for 'Short Stay Accommodation' type activities are a contemporary approach to how this use can be best considered.
5 December 2017	1217/036	<ol> <li>That pursuant to the Planning and Development Act 2005, Council INITIATES a modified Amendment 103 to Local Planning Scheme No.3 that:-         <ul> <li>Removes all references to Bed and Breakfast within Local Planning Scheme No.3.</li> <li>Amends the definition for 'Short Stay Accommodation' in 'Schedule 1: Dictionary of Defined Words and Expressions' of Local Planning Scheme No.3 as follows:-</li> <li>"means:</li></ul></li></ol>



	T	If the decelling its accoming that the families of the course of the decelling
		a. If the dwelling is occupied by the family of the owners of the dwelling:-
		<ul> <li>The maximum number of rooms used for short stay accommodation is two bedrooms at any time; and</li> </ul>
		ii. One car bay per room being used for short stay accommodation is provided in addition to the R-Code requirements for the dwelling; or
		b. If the dwelling is not occupied by the family of the owners of the dwelling:-
		<ul> <li>i. The maximum number of rooms used for short stay accommodation is not to exceed the number of approved bedrooms for the dwelling;</li> <li>ii. The maximum number of guests accommodated at any time is eight; and</li> <li>iii. The dwelling is provided with a minimum of two car bays on site.</li> </ul>
		c. All parking is to be accommodated on site and each car bay is to have a minimum dimension of 5.4m x 2.4m. Access to the car bays are to be in accordance with Local Planning Policy 6.7 – Parking and Access."
		<ol> <li>That Local Planning Policy 2.11 – Short Stay Accommodation be ADVERTISED concurrently in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 and the City's Planning Consultation Procedure.</li> </ol>
		<ol> <li>That pursuant to the Planning and Development Act 2005, Council ADOPTS Amendment No.103 to Local Planning Scheme No.3 in a modified form as shown in Attachment 1, subject to the following:-</li> </ol>
		The definition of 'Short Stay Accommodation' be modified to read:
		<ul> <li>A dwelling or part of a dwelling containing rooms to accommodate temporary guests for hire or reward where breakfast may or may not be provided.</li> </ul>
3 July 2018	0718/006	2. That AUTHORITY be given to the Mayor and Chief Executive Officer to sign and affix the Common Seal to Local Planning Scheme No.3 Amendment No.103 documents, and that the Amendment be referred to the Western Australian Planning Commission and the Minister for Planning, Lands and Heritage for determination.
		3. That pursuant to the Planning and Development Act 2005, Council PROCEEDS with the Draft Local Planning Policy No.2.11 'Short Stay Accommodation' in a modified form, as detailed in Attachment 2, following the gazettal of Amendment No.103, subject to the



		following:-
		The definition of 'Short Stay Accommodation' to reflect the modified definition in recommendation 1.
		<ul> <li>The exempted development provisions being expanded to include 'Multiple Dwellings'.</li> </ul>
		<ul> <li>The exempted development provisions being modified to state that the maximum number of persons occupying each room to be used for 'Short Stay Accommodation' be increased from two to three.</li> </ul>
		That pursuant to the <i>Planning and Development Act 2005</i> , Council REVOKES Local Planning Policy No. 2.3 'Bed and Breakfast', following the gazettal of Amendment No.103.
	14 May 2024 0524/009	That Council NOTES the proposed changes to the Planning and Development (Local Planning Schemes) Regulations 2015 – Short Term Rental Accommodation.
14 May 2024		That Council ENDORSES the submission to the Western Australian Planning Commission on the changes to the Planning and Development (Local Planning Schemes) Amendment (Short-Term Rental Accommodation) Regulations 2024, as shown in Attachment 1.