

11.2 Amendment No. 329 to Local Planning Scheme No. 4 - Short Term Rental Accommodation

File Ref:	D25/10110
Previous Items:	Nil.
Applicant:	Nil.
Author and Title:	Gregory Delahunty, Manager Planning and Environmental Services
Declaration of Interest:	Nil.
Voting Requirements:	Simple Majority
Appendices:	Item 11.2 Appendix 1 - Draft STRA Amendment Item 11.2 Appendix 2 - Draft Local Planning Policy - Unhosted Short Term Rental Accommodation Item 11.2 Appendix 3 - Bed and Breakfast Accommodation - Local Planning Policy

Recommendation/Council Decision OCM25/038**Moved: Cr S Carter****Seconded: Cr S Kirkham****That Council:**

1. In accordance with section 75 of the *Planning and Development Act 2005*, resolves to prepare the Amendment No 329 to Local Planning Scheme No 4, generally as set out in the amending provisions at Appendix 1, to:
 - (i) Delete the following land uses:
 - Bed and Breakfast
 - Holiday Accommodation
 - Motel
 - Residential Hotel
 - (ii) Add the following land uses and provide suitable land use permissibilities:
 - Hosted Short-Term Rental Accommodation
 - Tourist and Visitor Accommodation
 - Unhosted Short-Term Rental Accommodation
 - (iii) Amending and updating the Appendix 1 – Interpretations as per the *Planning and Development (Local Planning Schemes) Amendment (Short-Term Rental Accommodation) Regulations 2024*.
2. In accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, determines that the Amendment is a standard amendment for the following reasons:
 - It will have minimal impact on land in the scheme area that is not the subject of the amendment; and
 - It does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
3. Authorises the Shire President and Chief Executive Officer to sign and seal the Scheme Amendment documents prepared to the satisfaction of the Director Planning and Sustainability.
4. Determines that the Amendment does not require referral to the Environmental Protection Authority in accordance with Section 81 of the *Planning and Development Act*

2005 as the Amendment is of a prescribed class that does not require referral, under Section 33C of the *Environmental Protection Regulations 1987* as it:

- (i) is 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.
5. Authorises the proposed Amendment to be forwarded to the Minister for Planning in accordance with section 83A of the *Planning and Development Act 2005* to consider granting approval to advertise the proposed Amendment.
 6. Following compliance with section 83A of the *Planning and Development Act 2005*, authorises the Amendment to be advertised for a period of at least 42 days.
 7. Pursuant to Clause 4(1) in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to prepare and publicly advertise the draft Unhosted Short Term Rental Accommodation Local Planning Policy set out in Appendix 3.
 8. Requires that the draft Unhosted Short Term Rental Accommodation Local Planning Policy be advertised concurrently with Amendment No 329.
 9. Upon gazettal of Amendment 329, revokes the Bed and Breakfast Local Planning Policy set out at Appendix 2, pursuant to Clause 6(b) of the in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In Favour: President Douglas McLarty, Crs Geoff Black, Stuart Kirkham, Steve Lee, Ange Rogers, Stewart Carter and Nicole Willis

Against: Nil.

CARRIED UNANIMOUSLY 7:0

In Brief

- The Shire is required to update its Local Planning Scheme No.4 (LPS4) to accommodate Short Term Rental Accommodation (STRA) related land uses.
- Given that STRA has mainly been operating successfully within the Shire without the requirement for a development approval, it is proposed to continue with a business-as-usual approach by generally exempting STRA from development approval by way of a new Local Planning Policy.
- This exemption is not proposed to apply to new STRA in Dwellingup however, where there is growing issue with STRA absorbing available permanent housing stock.
- Council is requested to support the amendment and the draft local planning policy for public advertising.

Background

What is Short-Term Rental Accommodation?

Short-Term Rental Accommodation (STRA) refers to the practice of renting property, or part of a property, to paying guests for stays of up to three months (90 nights) in duration. This type of accommodation, which is usually booked through online platforms, is popular among travellers and visitors seeking temporary lodging for holidays, business trips or other short stays. STRA is either 'hosted' – where the host lives on the property during the short-term stay, or 'unhosted' - where guests have exclusive use of an entire dwelling, which could include a house, villa or apartment.

Changes to the Planning Framework

With the rising emergence of online booking platforms, there has been a lack of clarity on how STRA should be approached, including whether it should be a stand-alone land use category for the

purpose of statutory controls under local planning schemes. This has led to inconsistency between local government areas as well as challenges in those areas where tourism accommodation and local housing issues require more strategic consideration.

In November 2023, the Western Australian Planning Commission (WAPC) released its *'Position Statement: Planning for Tourism and Short-Term Rental Accommodation'* (Position Statement), and associated Guidelines, which provides recommendations to better regulate STRA as a land use in the State planning system. 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 administered by the Department of Energy, Mines, Industry Regulation and Safety, as well as a State led incentive scheme to encourage the transition of properties from the short to long term rental market. In September 2024, amendments to the *'Planning and Development (Local Planning Scheme) Regulations 2015'* (the 'LPS Regulations') were introduced to support the implementation of the Position Statement. The amendments are listed as follows:

- New and revised definitions to ensure STRA is considered a dedicated land use class in local planning schemes;
- A state-wide development approval exemption for 'Hosted STRA'
- A 90-night (cumulative) development approval exemption for 'Unhosted STRA' within the Perth metropolitan region;
- The ability for local governments outside of the Perth metropolitan region to decide on how they treat unhosted STRA in their local planning frameworks; and
- Revised tourism land uses that can be adopted into local planning schemes.

Statewide Register

In July 2024, the state-wide STRA Register (the Register) came into effect, being implemented to gather information on the STRA sector in Western Australia (WA), in accordance with the *'Short Term Rental Accommodation Act 2024'*. The information collected from the Register will be used to enable data driven decision making, allowing for more informed policy and regulatory responses to be made. As of 1 January 2025, it has been a mandatory requirement that all STRA operating within WA must be registered with the State government.

As part of the registration process, the STRA provider must indicate if development approval has been obtained. STRA owners must comply with all existing local planning laws, which may include the requirement for development approval. Failure to obtain development approval, where it is required, may result in cancellation or suspension of a property's STRA registration.

The state-wide registration scheme, in conjunction with the amended LPS Regulations, form a key part of the State Government's commitment to ensure there is fair and consistent regulation and management of STRA across the State's planning system.

At the time of writing this Report, a total of 104 properties within the Shire have been registered on the State Government's STRA Registrar. Of these 104 properties:

- 29 properties are registered as Hosted STRA; and
- 75 properties are registered as Unhosted STRA.

Mandatory Changes to Local Planning Schemes

The WAPC's Planning Bulletin 115/2024 (Bulletin 115), published in September 2024, provides a summary of local planning scheme expectations moving forward to ensure consistency with the 'Deemed Provisions' of the amended LPS Regulations. In accordance with this Planning Bulletin, the following amendments to local planning schemes are required:

- Introduce new 'Hosted Short-Term Rental Accommodation' deemed use class, to replace 'Bed and Breakfast' where applicable. Assign as a 'P' (Permitted) use permissibility in all zones where any type of dwelling is capable of approval, to reflect the new state-wide exemption.
- Introduce new 'Unhosted Short-Term Rental Accommodation' deemed use class, to replace 'Holiday Accommodation' and similar, where applicable. Assign as a 'D' (Discretionary) or 'A' (Discretionary after advertising) permissibility in all zones where any type of dwelling is capable of approval, 'P' in Tourism zones, and 'X' in remaining zones, to reflect direction in the WAPC's Position Statement.

Shire of Murray's approach to STRA

To date, the Shire has considered STRA to fit within the definition of a dwelling, rather than a separate land use category and development approval for a change of use of an existing dwelling has not been required under the LPS4. Control of STRA has instead been managed under the Shire's *Health Local Laws 2018*, which required registration and provision of a management plan to address matters that protect the residential amenity.

With the introduction of the Statewide register, the Shire can no longer accept registration of STRA under its local law. Consequently, the local law is currently being modified to ensure consistency with State legislation. The requirement to provide a management plan is however being retained within the local law.

Report Detail

Amendment No. 329

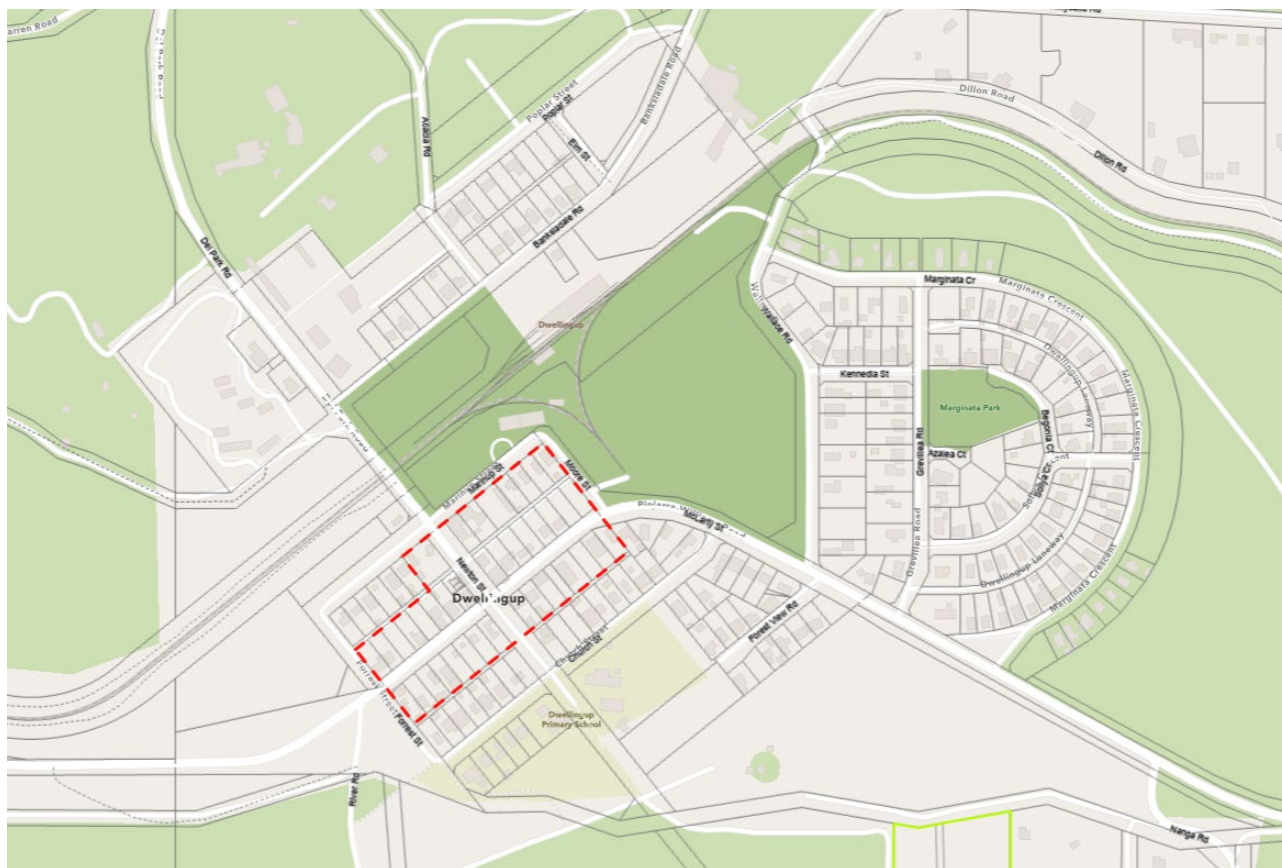
Amendment No.329 seeks to amend LPS4 to complement and align with new 'deemed' STRA land uses and 'model' STRA land use classes, consistent with the amended LPS Regulations.

Given that STRA has been operating successfully within the Shire without the requirement for a development approval, it is proposed to generally continue with a business-as-usual approach by exempting unhosted STRA from development approval by way of a new local planning policy. For Dwellingup, where there is a critical shortage of housing for permanent residential accommodation, the exemption is not proposed to apply and the policy will provide guidance on how the Shire will exercise discretion for development applications for new STRA in Dwellingup. The proposed changes to LPS4 are not retrospective and so existing registered STRA will be permitted to continue. The Amendment does not cover hosted STRA as the Deemed Provisions, will already apply to exempt this use. The amending provisions are generally set out in **Appendix 1**.

Unhosted STRA Local Planning Policy

This policy is necessary to exempt the requirement for approval for Unhosted STRA. It will also aim to provide guidance on new Unhosted STRAs within Dwellingup where there is an issue with STRAs absorbing existing housing stock. The Policy proposes to require approval for new Unhosted STRAs within Dwellingup and limit new ones to the Town Centre, where there is less opportunity for residential amenity impacts as well as locating visitors closer to services and amenities.

Council is advocating for expansion of the residential area of Dwellingup. It is intended to preclude STRA from such areas. The draft policy is set out in **Appendix 2**.



1. Location Plan for new 'Unhosted STRA' in Dwellingup

Council Plan

Focus Area	Place
Outcome 7	Population growth is being managed responsibly and sustainably.
Objectives 7.1	Manage urban growth effectively.

Focus Area	Prosperity
Outcome 13	Visitor numbers are growing
Objectives 13.1	Create a compelling tourism offer to attract tourists and visitors.

Other Strategic Links

Dwellingup Futures Roadmap (Roadmap)

A key element of the Roadmap was to review requirements on casual short-stay accommodation in Dwellingup. A balanced approach has been provided in the draft Policy which seeks to limit new Unhosted STRA to the town centre of Dwellingup.

Statutory Environment

Planning and Development (Local Planning Scheme) Regulations 2015

Procedures for the preparation of Scheme amendments and Policies are captured in the LPS Regulations.

Environmental Protection Regulations 1987 (EP Regs)

Section 33C of the EP Regs lists a number of prescribed amendment types that no longer need to be referred to the Environmental Protection Authority (EPA) for assessment. This includes amendments to make the local planning schemes consistent with the model provisions set out in Schedule 1 of the LPS Regulations.

Sustainability & Risk Considerations*Economic - (Impact on the Economy of the Shire and Region)*

Having a flexible planning framework that facilitates short stay options can complement the Shire's existing tourism offer.

Social – (Quality of life to community and/or affected landowners)

Nil.

Environment – (Impact on environment's sustainability)

Nil.

Policy Implications

The proposal will result in the revocation of the Bed and Breakfast Accommodation Local Planning Policy (see **Appendix 3**) and a new Unhosted STRA Local Planning Policy.

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	It is largely proposed to keep operating business as usual. There is proposed to be some limits on new Unhosted STRA in Dwellingup. There will be a period of public consultation that will seek community submissions on the proposal before Council considers adoption.

Consultation

If the Scheme Amendment is initiated by Council as a 'Standard Amendment', the Shire will be required to seek approval to advertise the proposed amendment from the Department of Planning, Lands and Heritage (DPLH) in accordance with Clause 46A of the Regulations. Should DPLH provide its consent to advertise, the Scheme Amendment will be advertised in accordance with Clause 64 of the Regulations for a minimum period of 42 days, as follows:

- Notice on the Shire's website;
- Notice in the local newspaper circulating in the Shire;
- Letters will be sent to notify all owners of registered STRA premises;
- Make available a copy of the Scheme Amendment and Policy for public inspection at the Shire's Administration Office.

Resource Implications*Financial*

The cost of the advertising associated with the proposals can be accommodated within the current adopted operational budget.

Workforce

The work associated with the Amendment and Policy can be accommodated within existing staff resource levels.

Options

1. Supporting the Amendment and the Policy for public advertising, in its recommended form or some other form.
2. Not supporting the Amendment and the Policy for public advertising

Conclusion

The proposed Amendment will ensure that the Shire meets its statutory obligations whilst causing minimal disruption to the current situation. It also provides Council with the opportunity to have a greater level of control in Dwellingup, where STRA is having an impact on the availability of housing for long term residents. Consequently, it is recommended that Council supports the Amendment and the Policy for the purposes of public advertising.