

**SHIRE OF TOODYAY
LOCAL PLANNING SCHEME NO. 5 - AMENDMENT NO. 2
SCHEME AMENDMENT REPORT**

1 Introduction

1.1 Proposal

This Scheme Amendment proposes to amend the Shire of Toodyay Local Planning Scheme No.5 (the Scheme) by updating a range of use classes and land use definitions to reflect recent changes to the Planning and Development (Local Planning Schemes) Regulations 2015.

The changes relate to the introduction of **short-term rental accommodation** and **tourist and visitor accommodation** uses into the model provisions and deemed provisions. A consequence of this is the removal from the model provisions a range of superfluous accommodation-related use classes.

This Amendment has been prepared in accordance with the guidance provided by the Western Australian Planning Commission (WAPC) in its Planning Bulletin 115/2024.

1.2 Implications of Amendment on prior approvals

The change in use classes and definitions for short-term rental accommodation and tourist and visitor accommodation will not affect approvals granted for replaced use classes, such as holiday house, motel and tourist development. However, any approvals that a time-limited will be considered under the appropriate new definition and use class in the event of any application for renewal being received by the Shire of Toodyay.

1.3 Importance of the Amendment

This Amendment is required to be completed prior to the end of 2025 to allow all local governments to be administering short-term rental accommodation within a consistent framework.

1.4 Amendment effect

This Amendment is a text amendment only. No amendments to zonings or reservations on the Scheme Maps are proposed. However, due to the deletion of certain land use classes, amendments are required to the additional and special uses in Schedule 1 and 2 respectively and to the Car Parking and Exempt Advertisements Schedules. The amendments are explained in detail in the next section of this report.

2 Amendment details

2.1 Amendment to clause 37 – Terms used

The changes to the model and deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* require amendments to the general definitions used in the Scheme (cl. 37). The definition for “short-term accommodation” will be removed. The definitions for “cabin” and “chalet” will be amended as outlined below:

Term	Current definition	Amended definition
cabin	means a dwelling forming part of a tourist development or caravan park that is – (a) an individual unit other than a chalet; and (b) designed to provide short-term accommodation for guests;	means a building that – (a) is an individual unit other than a chalet; and (b) forms part of – (i) tourist and visitor accommodation; or (ii) a caravan park; and (c) if the unit forms part of a caravan park – is used to provide accommodation for persons, on a commercial basis, with no individual person accommodated for a period or periods exceeding a total of 3 months in any 12-month period;
chalet	means a dwelling forming part of a tourist development or caravan park that is – (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and (b) designed to provide short-term accommodation for guests.	means a building that – (a) is a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and (b) forms part of – (i) tourist and visitor accommodation; or (ii) a caravan park; and (c) if the unit forms part of a caravan park – is used to provide accommodation for persons, on a commercial basis, with no individual person accommodated for a period or periods exceeding a total of 3 months in any 12-month period;
short-term accommodation	means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period.	Term deleted.

2.2 Amendment to clause 38 – Land use terms used

The changes to the model and deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* require amendment to the land use definitions used in the Scheme (cl. 38). The table below outlines the proposed changes:

Term	Definition	Deleted / Inserted
bed and breakfast	means a dwelling – (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial	Deleted and replaced by hosted short-term rental accommodation.

Term	Definition	Deleted / Inserted
	basis for not more than 4 adult persons or one family; and (b) containing not more than 2 guest bedrooms.	
holiday accommodation	means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot.	Deleted and replaced by tourist and visitor accommodation.
holiday house	means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.	Deleted and replaced by unhosted short-term rental accommodation.
Hosted short-term rental accommodation	New land use	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; (b) short-term rental accommodation that is an ancillary dwelling where 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; (c) 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 short-term rental arrangement;
motel	means premises, which may be licensed under the Liquor Control Act 1988 — (a) used to accommodate guests in a manner similar to a hotel; and (b) with specific provision for the accommodation of guests with motor vehicles.	Deleted and replaced by tourist and visitor accommodation.
roadhouse	means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services — (a) a full range of automotive repair services; (b) wrecking, panel beating and spray painting services; (c) transport depot facilities; (d) short-term accommodation for guests; (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies; and	Deleted and replaced with amended definition of “road house” as follows: “means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services — (a) a full range of automotive repair services; (b) wrecking, panel beating and spray painting services; (c) transport depot facilities; (d) accommodation for guests, on a commercial basis, with no individual guest accommodated

Term	Definition	Deleted / Inserted
	(f) dump points for the disposal of black and/or grey water from recreational vehicles.'	for a period or periods exceeding a total of 3 months in any 12-month period; (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;"
serviced apartment	means a group of units or apartments providing – (a) self-contained short-stay accommodation for guests; and (b) any associated reception or recreational facilities.	Deleted and replaced by tourist and visitor accommodation.
tourist and visitor accommodation	New land use	Insert the following definition: “(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;

Term	Definition	Deleted / Inserted
		(vi) a retirement village as defined in the Retirement Villages Act 1992 section 3(1); (vii) a road house; (viii) workforce accommodation.”
tourist development	means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide – (a) short-term accommodation for guests; and (b) onsite facilities for the use of guests; and (c) facilities for the management of the development.	Deleted and replaced by tourist and visitor accommodation.
Unhosted short-term rental accommodation	New land use	means short-term rental accommodation that – (a) is not hosted short-term rental accommodation; and (b) accommodates a maximum of 12 people per night;

2.3 Deemed definitions for short-term accommodation.

Clause 1 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 contains terms that relate to short-term rental accommodation. These terms form part of the Deemed Provisions for Local Planning Schemes. The table below outlines the deemed definitions that will have effect in the Scheme and will be included in Clause 37 of the scheme in this Amendment:

Term	Definition
Short-term rental accommodation	(a) means a dwelling provided, on a commercial basis, for occupation under a short-term rental arrangement; 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;

2.4 Amendments to cl.17 Table 4 Zoning Table

As a consequence of the changes to the definitions outlined above, there are consequential amendments required to the Zoning Table at clause 17.

The following use classes will be removed from the Zoning Table:

- Bed and Breakfast;
- Holiday Accommodation;
- Holiday House;
- Motel;

- Serviced Apartment; and
- Tourist Development

The following use classes and permissibility will be inserted into the Zoning Table in alphabetical order:

Use & Development Class	Residential	Urban Development	Rural	Rural Residential	Rural Smallholdings	Rural Enterprise	Environmental Conservation	Light Industry	Industrial Development	Commercial	Mixed Use	Special Use	Service Commercial	Private clubs, institutions and places of worship
Hosted short-term rental accommodation	P	Refer to Clause 32	P	P	P	P	P	X	Refer to Clause 32	P	P	Refer to Clause 32	X	P
Tourist and visitor accommodation	A		A	A	A	X	X	X		A	A		X	I
Unhosted short-term rental accommodation	A		A	A	A	X	X	X		A	A		X	X

2.5 Amendments to Schedules 1 and 2 Additional uses and special uses

The changes to the definitions and use classes outlined above will have a consequential effect on the terms used in the tables for Additional uses and Special Uses contained at Schedules 1 and 2 of the Scheme.

The Amendment is limited to deleting outdated references and replacing with the contemporary equivalent. No changes have been made to the conditions or what is permissible on each property.

The following table provides an overview of the amendments proposed for each affected additional / special use:

No.	Address	Old use (All other stated uses remain unaffected)	Proposed use
Schedule 1 – Additional uses			
A7	Lot 45 (381) Julimar Road, Toodyay	Motel	Tourist and visitor accommodation
A10	Lots 57 (81) and 97 (65) Beaufort Street West, Toodyay	Tourist development	Tourist and visitor accommodation
A12	Lot 1 (480) Julimar Road, West Toodyay	Holiday accommodation	Tourist and visitor accommodation
A14	Lot 4 (447) Morangup Road, Morangup	Tourist development	Tourist and visitor accommodation
Schedule 2 – Special use zone			
SU1	Lot 104 Sandplain Road, Toodyay	Tourist development	Tourist and visitor accommodation
SU3	Lot 27443 Toodyay Road, Toodyay	Tourist development	Tourist and visitor accommodation
SU4	Lots 1, 340, 341 and 1677 Bindoon-Dewars Pool Road, Dewars Pool	Holiday accommodation	Tourist and visitor accommodation

No.	Address	Old use (All other stated uses remain unaffected)	Proposed use
SU6	Part of Lots 802 & 803 and Lot 16 Wattening Springs Road, Toodyay	Tourist development	Tourist and visitor accommodation
SU8	Lot 463 (1780) Julimar Road, Julimar	Tourist development	Tourist and visitor accommodation
SU9	Lot 525 (150) Nerramine Drive, Julimar)	Tourist development	Tourist and visitor accommodation
SU11	Lot 5 (39) Dumbarton Road, Dumbarton	Tourist development	Tourist and visitor accommodation
SU13	Roman Catholic Church Group Heritage site - Lots 1 to 5 and 67 Stirling Terrace and Lot 9000 Goomalling-Toodyay Road, Toodyay	Bed and breakfast Tourism development Holiday accommodation	Hosted short-term rental accommodation Tourist and visitor accommodation

2.6 Amendment to Schedule 1 Additional use A7

Additional use A7 relates to Lot 45 (381) Julimar Road, Toodyay. Condition 2 for additional use A7 states:

“2. Accommodation is to be short-term accommodation”.

The current definition of “short-term accommodation” is proposed to be deleted by this Amendment. As it current reads, short-term accommodation is defined as:

“means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period.”

Condition 2 was placed in relation to the additional use for “motel”. It is proposed to replace the use “motel” for the new use “tourist and visitor accommodation”. Part of the definition of this new use includes:

“...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...”

This definition removes the need for Condition 2 entirely as the restriction is incorporated into the definition of the use.

2.7 Amendment to Schedules 6 and 7 Car parking and Exempted advertisements

There are a number of references in Schedule 6 and 7 to use classes that are to be deleted. The Amendment identifies these instances and deletes old uses and replaces with the correct contemporary use as follows:

Section	Old use	Proposed use
Schedule 6 – Car parking requirements		
Residential uses, Line 1 – Permanent Residential Accommodation	Holiday house	Unhosted short-term rental accommodation
Residential uses, Line 2 – Home Based	Bed and breakfast	Hosted short-term rental accommodation
Tourism uses, Line 1 – Accommodation	Holiday accommodation Motel Serviced apartment Tourist development	Tourist and visitor accommodation
Schedule 7 – Exempt advertisements		
Line 2 – All classes of buildings other than single dwellings...	Holiday house	Unhosted Short-term rental accommodation

3 State and regional planning framework

3.1 Planning and development (Local Planning Schemes) Regulations 2015

This Amendment has been prepared to ensure the Scheme is in full compliance with the Regulations. In particular, there is a need to ensure the Scheme is consistent with the deemed provisions and model provisions of the Regulations.

3.2 WAPC Planning Bulletin 115/2024

Appendix 2 of the Planning Bulletin outlines the actions each non-metropolitan local government is to undertake no later than 1 January 2026.

The mandatory amendments required are:

- Introduce new “hosted short-term rental accommodation” deemed use class, to replace “bed and breakfast” where applicable. Assign as a “P” use in all zones where any type of dwelling is capable of approval, to reflect state-wide exemption.
- Introduce new “unhosted short-stay rental accommodation” deemed use class, to replace “holiday house” and similar where applicable. Assign in zoning tables as required to reflect local housing and tourism conditions.

Additional amendments are:

- Replace superseded model traditional and tourist accommodation land uses with new “tourist and visitor accommodation” use (note – “hotel” is retained).
- Introduce revised general definitions of “cabin” and “chalet”, revised land use definition of “road house” and delete general definition for “short-term accommodation”.

This Amendment implements all of the above requirements and undertakes consequential amendments to the Scheme text to ensure consistency throughout.