



AMENDMENT NO.231

TO

CITY OF SWAN

LOCAL PLANNING SCHEME NO. 17

Short-Term Rental Accommodation (STRA) provisions

Update scheme text to introduce new and revised land use classes and general definitions to facilitate State Government reforms for short-term rental accommodation

Note: Readers should always have regard to and cross-reference the execution pages at the rear of this scheme amendment.

**RESOLUTION TO PREPARE
AMENDMENT TO LOCAL PLANNING SCHEME**

CITY OF SWAN LOCAL PLANNING SCHEME NO. 17
AMENDMENT NO. 231

Resolved that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. **Deleting** the following Use Classes/definitions from: Section 4.3 - Zoning Table, Schedule 1(B) – Dictionary of Defined Words and Expressions – Land Use Definitions, Schedule 1(C) - Dictionary of Defined Words and Expressions – Land Use Definitions Applicable to Schedules 2, 3 and 4 Only, Schedule 1(D) - Dictionary of Defined Words and Expressions – Land Use Definitions Applicable to Schedule 15 – Midland Strategic Regional Centre Only and Schedule 15(A) – Midland Strategic Regional Centre – Land Use Permissibility Table for the Midland Strategic Regional Centre:

- i. bed and breakfast
- ii. cabin or chalet
- iii. holiday cottages
- iv. motel
- v. short-term residential
- vi. tourist facilities

2. **Inserting** in Schedule 1(A) – Dictionary of Defined Words and Expressions - General Definitions, the following definitions in alphabetical order:

‘cabin 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.’

And

‘chalet 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.'*

3. **Inserting** in Schedule 1(B) - Dictionary of Defined Words and Expressions – Land Use Definitions, the following definitions in alphabetical order:

'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.'*

4. Inserting in Section 4.3 - Zoning Table the following land uses and permissibility:

	Strategic Regional Centre*	Commercial / Industrial					Residential			Rural							Other
ZONES	Midland Strategic Regional Centre	General Commercial	Highway Service	Light Industrial	General Industrial	Industrial Development*	Residential	Residential Development*	Residential Redevelopment	Rural-Residential*	Special Rural *	Swan Valley Rural	Rural Living	Resource	Landscape*	General Rural	Private Clubs & Institutions
USE CLASSES																	
Hosted short-term rental accommodation	Development and use of land to be in accordance with the Midland Strategic Regional Centre zoning table – refer to Schedule 15"	X	X	X	X	Development and use of land is to be in accordance with an approved Structure Plan	P	Development and use of land is to be in accordance with an approved Structure Plan	P	P	Refer to Schedule 11	P	P	P	P	P	P
Tourist and Visitor Accommodation		A	X	X	X		X		X	A		A	A	X	A	A	A
Unhosted short-term rental accommodation		X	X	X	X		A		A	A		A	A	A	A	A	A

5. Inserting in Schedule 4A – Ellenbrook Town Centre Zoning Table the following land uses and permissibility:

Land Use	Precincts described in the Development Plan					
	Retail	Cultural / Civic	Education	Commercial Enterprise	Mixed Use	Recreation
Hosted short-term rental accommodation	P	P	X	P	P	X
Tourist and Visitor Accommodation	A	A	X	A	A	X
Unhosted Short-Term Rental Accommodation	A	A	X	A	A	X

6. Inserting in Schedule 15(A) - Land Use Permissibility Table for the Midland Strategic Regional Centre, in alphabetical order, the following land uses and permissibility:

MIDLAND STRATEGIC REGIONAL CENTRE						
Land Use	Precincts					
	Morrison Road West		Morrison Road East	Midland Oval	Midland West End	Midland Gate
	Residential	Mixed Use Retail/Commercial	Residential	Mixed Use Residential/Commercial	Mixed Use Retail/Commercial	Retail/Regional Shopping
Hosted short-term rental accommodation	P	P	P	P	P	P
Tourist and Visitor Accommodation	X	X	X	D	D	D
Unhosted Short-Term Rental Accommodation	D	D	D	A	A	A

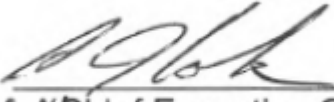
7. In Schedule 2 – ‘Additional Uses’, delete reference to Motel and replace with Tourist and Visitor Accommodation in Additional Use 50.
8. In Schedule 2 – ‘Additional Uses’, delete Additional Use No. 64.
9. In Schedule 4 - ‘Special Use Zones’, delete reference of Motel and replace with Tourist and Visitor Accommodation in Special Use Zone 3 and 7.

10. In Schedule 4 – ‘Special Use Zones’, delete reference to Motel and Tourist Facilities and replace with Tourist and Visitor Accommodation in Special Use Zone 24 and make an ‘A’ use.
11. In Schedule 4 – ‘Special Use Zones’, delete reference to Bed and Breakfast and replace with Hosted Short Term Rental Accommodation in Special Use Zone 27.
12. In Schedule 11 – ‘Special Rural Zones’, delete reference to Bed and Breakfast and replace with Hosted Short Term Rental Accommodation in Special Rural Zones 3, 5A and 6.
13. In Schedule 11 – ‘Special Rural Zones’, delete reference to Cabin or Chalet and replace with Unhosted Short Term Rental Accommodation in Special Rural Zones 5A and 6 and delete reference to Chalet and replace with Unhosted Short Term Rental Accommodation in Special Rural Zone 3.
14. In Schedule 12 – ‘Building Site Acceptability Based on Aircraft Noise Zones, delete reference to Motel and replace with Tourist and Visitor Accommodation.
15. Undertake any other administrative and formatting edits as required.

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

- “(g) any other amendment that is not a complex or basic amendment.”

Resolution dated this 12th day of February, 2025


CA (Chief Executive Officer)

CONTENT PAGE

1.	LOCAL GOVERNMENT	:	City of Swan
2.	NAME OF SCHEME	:	Local Planning Scheme No.17
3.	AMENDMENT NUMBER	:	231
4.	CITY OF SWAN REF	:	LPS17- 231
5.	PROPOSAL	:	Update scheme text to introduce new and revised land use classes and general definitions to facilitate State Government reforms for short-term rental accommodation.
6.	CLASSIFICATION	:	Standard

CONTENT:

Resolution to prepare Amendment (Initiation Pages)

1. Introduction
2. What is Short-Term Rental Accommodation (STRA)?
3. What is hosted and unhosted short-term rental accommodation?
4. Background

4A. Minister for Planning's instructions

4B. Documents that have informed this Scheme Amendment

5. What has changed?
6. What needs changing?
7. Changes proposed

7A. Unhosted Short-term Rental Accommodation

7B. Hosted Short-Term Rental Accommodation

7C. Deletion of 'Holiday House' or similar uses and the introduction of 'Tourist and Visitor Accommodation'

8. Other considerations

Resolution to adopt Amendment (Execution pages)

In reading and interpreting the following headings readers should always have regard to and cross-reference to the execution pages at the rear of this scheme amendment document.

DOCUMENT CONTROL:

Rev.	Summary	By	Date
00	At initiation (OCM 12.02.2025)	City of Swan Melanie Gnomes	04.03.2025
01	Actioning changes pursuant to Section 83A(2)(b) of <i>Planning and Development Act 2005</i> , inclusive of its reclassification to standard	City of Swan John Elliott	20.06.2025

Readers may want to note that the Western Australian Planning Commission (WAPC) has used powers pursuant to Section 83A(2)(b) of *Planning and Development Act 2005* to modify the content of this scheme amendment prior to advertising. This included powers pursuant to Regulation 59 of the *Planning and Development (Local Planning Schemes) Regulations 2015* to direct the City to reclassify and process this proposal as a 'standard amendment'. This supersedes the 'basic amendment' classification and resolution Council made at its Ordinary Meeting held on 12 February 2025. The content of the advertised document reflects the modifications that were required prior to advertising. The WAPC advises that these decisions should not be construed as support for the amendment or that further modifications cannot be required following advertising.

1. Introduction

The overarching purpose of Amendment No. 231 to the City of Swan Local Planning Scheme No.17 (LPS17) is to implement the State Government's approach to regulating Short-Term Rental Accommodation (STRA) into our scheme.

At initiation, it seeks to update the scheme text only. No mapping changes are proposed.

The proposed changes are addressed in the execution pages at the rear of this document.

2. What is Short-Term Rental Accommodation (STRA)?

Short-Term Rental Accommodation (STRA) refers to the practice of renting out a dwelling (or dwellings, or property or part of a property thereof) for a relatively short period of time, usually on a nightly or weekly basis. This type of accommodation is normally booked through online platforms and is popular among travellers and visitors seeking temporary lodging for holidays, business trips or other short stays.

Short-Term Rental Accommodation is general term definition in the Deemed Provisions (Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*).

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;

Note this definition is not proposed to be introduced by this Scheme Amendment. This is because it is already expressed the Deemed Provisions (Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*) so it already applies to all local planning schemes in WA. Its replication into local planning schemes is discouraged.

3. What is hosted and unhosted short-term rental accommodation?

'Hosted short-term rental accommodation' and 'Unhosted short-term rental accommodation' are two (2) new Use Classes in the state's Deemed Provisions (Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*) and this proposal seeks to assign permissibility ratings to these use classes in our local planning scheme.

They are distinguished by whether the owner is present on-site (hosted) or not (unhosted).

The purpose of having these use classes is to ensure there is clear delineation between these short-term rental accommodation uses, and other traditional accommodation types. It is also a way to distinguish between different types of short-term rental accommodation (i.e. hosted or unhosted) and afford each Use Class a different regulatory environment.

The Deemed Provisions (Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*) defines these as follows:

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;

(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;

And;

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;

Note these definitions are <u>not</u> proposed to be introduced by this Scheme Amendment. This is because it is already expressed the Deemed Provisions (Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>) so it already applies to all local planning schemes in WA. Its replication into local planning schemes is discouraged.

4. Background

4A. Minister for Planning's instructions

The Minister for Planning has directed Local Governments to amend their Local Planning Schemes to incorporate planning reform changes related to Short-Term Rental Accommodation (STRA). The aim is 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 (described) in local planning schemes across local governments.

4B. Documents that have informed this Scheme Amendment

The approach to implementing planning reforms for Short-Term Rental Accommodation (STRA) has been, and is, guided by the following state planning documents and legislation. These have informed the need and content of this proposed scheme amendment.

- WAPC's *Position Statement: Planning for Tourism and Short-Term Rental Accommodation* and its associated *Guidelines* (November 2024)
- WAPC's *Planning Bulletin 115/2024 Short-Term Rental Accommodation (STRA) – Guidance for local government* (September 2024)
- Updates to *Planning and Development (Local Planning Schemes) Regulations 2015* through the *Planning and Development (Local Planning Schemes) Amendment (Short-Term Rental Accommodation) Regulations 2024*.

These complements other whole-of-government reforms relating to STRA that respond 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*.

An executive summary of key short-term rental accommodation (STRA) planning reforms is summarised below, with a more detailed overview given in the next heading of this report.

- New Use Classes for Unhosted STRA and Hosted STRA
- A new Use Class of 'tourist and visitor accommodation' to differentiate/consolidate other use class types from STRA (aside from 'hotel')
- A new general term to define 'short-term rental accommodation'
- A state-wide development approval exemption for Hosted STRA; and
- A 90-night (cumulative) exemption within a 12-month period for Unhosted STRA.

Other State Government changes and reforms to Short-Term Rental Accommodation (STRA) separate to the planning reforms include the development of a state-wide registration scheme for Short-Term Rental Accommodation and an incentive scheme to encourage transition of properties from the short to long term rental market for a period. Collectively, these state initiatives are to deliver better regulation of the short-term rental accommodation sector.

5. What has changed?

The State Government's planning reforms for short-term rental accommodation have been implemented predominantly through the *Planning & Development (Local Planning Schemes) Regulations 2015*, which was amended by the *Planning and Development (Local Planning Schemes) Amendment (Short-Term Rental Accommodation) Regulations 2024*.

The changes now in-place in the Deemed Provisions (Schedule 2 of the *Planning & Development (Local Planning Schemes) Regulations 2015*) include:

- New Use Classes in the Deemed Provisions of 'Hosted short-term rental accommodation' and 'Unhosted short-term rental accommodation'.
- A new general term to define 'Short-term rental accommodation'.
- A state-wide development approval exemption for 'Hosted short-term rental accommodation'.
- A 90-night (cumulative) exemption within a 12-month period for 'Unhosted short-term rental accommodation'.

The changes now in-place in the Model Provisions (Schedule 1 of the *Planning & Development (Local Planning Schemes) Regulations 2015*) include:

- New general definitions for 'cabin' and 'chalet' in the Model Provisions.
- Removing the following Use Classes from the Model Provisions:
 - 'bed and breakfast',
 - 'holiday accommodation',
 - 'holiday house',
 - 'motel',
 - 'serviced apartment', and
 - 'tourist development'.
- A new use class of 'tourist and visitor accommodation' to replace the Use Classes removed. This change is about differentiate / consolidating other use types from short-term rental accommodation (aside from 'hotel').
- Updating the Use Class 'road house' in the Model Provisions.

Collectively, these changes aim to provide greater consistency across the state in relation to what approvals are needed for short-term rental accommodation (STRA) proposals as well as how these uses are defined in local planning schemes. The following section of this report sets out how City of Swan Local Planning Scheme No.17 should be amended to incorporate the above changes, as per the Minister for Planning's instructions.

6. What needs changing?

The Minister for Planning has instructed Local Governments to amend their Local Planning Schemes to address the state government's reforms, with the minimum requirement being:

- The Scheme's zoning tables and definitions are required to be amended to include the new deemed Use Class of 'Unhosted short-term rental accommodation' and assigned as an 'A' or 'D' use in any zone where a dwelling is capable of approval.
- The Scheme's zoning tables and definitions are required to be amended to include the new deemed Use Class of 'Hosted short-term rental accommodation' and assigned as a 'P' use in any zone where a dwelling is capable of approval.
- Existing Use Classes for 'Holiday House' or similar should be removed from the zoning tables and deleted from definition schedules and the Use Class 'Tourist and Visitor Accommodation' used in their place.

The City's approach to implementing the Minister for Planning's instructions is set out in the following headings, with the above dot points addressed under 7A, 7B and 7C.

The precise changes are in the execution pages at the rear of the amendment document.

This scheme amendment addresses the state's planning reforms and the Minister for Planning's instructions by align our scheme with the state's 'deemed' and 'model' land use classes by amending or deleting existing land uses classes in our scheme text or responding to why no change is proposed to certain model use classes (such as 'Roadhouse').

7. Changes proposed

7A. Unhosted Short-term Rental Accommodation

The Use Class of 'Unhosted short-term rental accommodation' is proposed to be inserted into the scheme's zoning table (Section 4.3) after 'Transport Depot' and assigned a permissibility rating of 'A' in local zones where a dwelling is capable of approval.

See the execution pages (at the rear of this document) under – No. 4

Local Planning Scheme No.17 also has zoning tables for Midland Strategic Regional Centre (Schedule 15) and Ellenbrook Town Centre (Schedule 4A) which are to be similarly amended.

See the execution pages (at the rear of this document) under – No. 5 and 6

The scheme's Schedule 11 – Special Rural Zones are also proposed to be updated, where 'Unhosted short-term rental accommodation' needs to be addressed.

See the execution pages (at the rear of this document) under – No. 13

In all other zones (except where the development and use of land is to be in accordance with an approved structure plan), Unhosted STRA is to be assigned an 'X' rating.

'A' and 'X' permissibility ratings are differentiated in Local Planning Scheme No.17 as follows:

"A - means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4."

"X - means a use that is not permitted by the Scheme."

These permissibility ratings are considered appropriate for this Use Class and aligns with the recommendations of the WAPC's Position Statement: Planning for Tourism and Short-Term Rental Accommodation, its associated Guidelines and Planning Bulletin 115.

Section 3 of this report provides the definitions of hosted and unhosted short-term rental accommodation and summarises the differences between them.

7B. Hosted Short-Term Rental Accommodation

The Use Class of 'Hosted Short-Term Rental Accommodation' is proposed to be inserted into the scheme's zoning table (Section 4.3) and assigned a permissibility rating of 'P' in local zones where a dwelling is capable of approval.

See the execution pages (at the rear of this document) under – No. 4

The zoning tables for Midland Strategic Regional Centre (Schedule 15) and Ellenbrook Town Centre (Schedule 4A) are also proposed to be amended in a similar way.

See the execution pages (at the rear of this document) under – No. 4 and 5

Schedule 4 – Special Use Zones and Schedule 11 – Special Rural Zones are also proposed to be updated where 'Hosted short-term rental accommodation' needs to be addressed.

See the execution pages (at the rear of this document) under – No. 11 and 12

In all other zones (except where the development and use of land is to be in accordance with an approved structure plan), Hosted STRA is to be assigned an 'X' rating.

The 'P' permissibility rating is described in Local Planning Scheme No.17 as follows:

"P - means that the use is permitted by the Scheme provided the use complies with the relevant development standards and the requirements of the Scheme."

This permissibility rating is considered appropriate for this Use Class and is an outcome aligning with the recommendations of the WAPC's Position Statement: Planning for Tourism and Short-Term Rental Accommodation, its associated Guidelines and Planning Bulletin 115. It also reflects the state-wide exemption in the 'deemed provisions' that applies to this Use Class – being Hosted Short-Term Rental Accommodation (STRA) – which states that:

"Development approval of the local government is not required for the following uses... development that is a class P use in relation to the zone in which the development is located, if the development has no works component or development approval is not required for the works component of the development."

That is, planning approval would not be required for any Hosted STRA which does not include a works component or the approval is not required for the works component.

7C. Deletion of ‘Holiday House’ or similar uses and the introduction of ‘Tourist and Visitor Accommodation’

The purpose of making this change is to ensure that unhosted and hosted Short-Term Rental Accommodation’ (STRA) do not conflict with any other similar Use Classes in a local planning scheme, such as ‘Holiday Home’. Additionally, there is the need to insert a new Use Class of ‘tourist and visitor accommodation’ to differentiate and / or consolidate other rental accommodation land use types, aside from ‘hotel’.

Whilst the inclusion of permissibility ratings for unhosted and hosted STRA and is a relatively straightforward change to explain, the deletion of the Use Class ‘Holiday House’ or similar is more complex. This is because scheme contains some of these Use Classes or similar Use Classes but not exactly all of these identified by the state’s reforms in need for review.

Findings and recommendations

See the execution pages (at the rear of this document), under – all
With respect to modified and new Land Use Classes, see under – No.1, 2 and 3

The table below sets out the findings, at initiation, where these terms are found in City of Swan Local Planning Scheme No.17 and how this Scheme Amendment proposes to address the Minister’s instructions in relation to them. Readers are reminded to refer to the execution pages at the rear of the amendment document for what is the latest proposal.

FINDINGS TABLE		
Terms Used	Location in Scheme (LPS No.17)	Change required
Cabin or Chalet	4.3 - Zoning Table Schedule 1(B) - Land Use Definitions Schedule 11 – Special Rural Zones (SRZ1, 5A and 6). Chalet is a standalone Use Class in SRZ 3. Schedule 15(A) - Land Use Permissibility Table for the Midland Strategic Regional Centre <u>LPS No. 17 Definition:</u> <i>“means a dwelling that is used or provided for holiday purposes and is available to the public at large or to a part of the public defined by a common class, trade, employment, religion or association.”</i>	Deletion of Cabin or Chalet as a separate Use Class in the zoning table and its definition. Insertion of these separate terms in Schedule 1(A) – Dictionary of Defined Words and Expressions – General Definitions, as per the Regulations.
Short-Term Accommodation	<u>Not</u> in 4.3 - Zoning Table	Deletion of “Short Term Residential” from Schedule 15(A).

FINDINGS TABLE		
Terms Used	Location in Scheme (LPS No.17)	Change required
	However, the Use Class “Short Term Residential” appears in Schedule 15(A) - Land Use Permissibility Table for the Midland Strategic Regional Centre. <u>LPS No. 17 Definition:</u> <i>“a building or buildings, which include self-contained units, for temporary accommodation of less than 3 months.”</i>	
Bed and Breakfast	4.3 - Zoning Table Schedule 1(B) - Land Use Definitions Schedule 4 – Special Use Zones (SUZ 24 and 27) Schedule 11 – Special Rural Zones (SRZ1, 3, 5A and 6) Schedule 15(A) - Land Use Permissibility Table for the Midland Strategic Regional Centre <u>LPS No. 17 Definition:</u> <i>“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.”</i>	Deletion of Bed and Breakfast as a separate Use Class in the zoning table and its definition.
Holiday Accommodation	Term not referenced in LPS No.17	No change
Holiday Home	Term not referenced in LPS No.17 Is noted that the Additional Uses provisions do includes a Use Class of ‘Holiday Cottage’. The term is sufficiently similar as to be considered sufficiently like-for-like but it only applies to land now within the <i>Swan Valley Planning Scheme</i>.	Administrative update to delete Additional Use No.64 as it is the only existence of ‘Holiday Cottage’ in LPS No.17 and is on land outside our scheme (is now in the Swan Valley Planning Scheme).

FINDINGS TABLE		
Terms Used	Location in Scheme (LPS No.17)	Change required
	Schedule 1(C) - Land Use Definitions Applicable To Schedules 2, 3 And 4 Only Schedule 2 – Additional Use No.64 (AU 64) <u>LPS No. 17 Definition:</u> <i>“means two (2) or more detached dwellings on one (1) lot or adjoining lots in one (1) ownership let for holiday purposes, none of which is occupied by the tenant for a period of more than four (4) calendar months in any year”</i>	
Motel	4.3 - Zoning Table Schedule 1(B) - Land Use Definitions Schedule 15(A) - Land Use Permissibility Table for the Midland Strategic Regional Centre <u>LPS No. 17 Definition:</u> <i>“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 Licensing Act 1988.”</i>	Deletion of Motel as a separate Use Class in the zoning tables and its definition.
Serviced Apartment	Term not referenced in LPS No.17	No change
Tourist Development	The exact term “Tourist Development” does not appear in LPS No. 17. However, LPS No. 17 includes a Use Class similar to, but not exactly the same as – “Tourist Development”, being “Tourist Facilities”. The term is sufficiently similar as to be considered of like-for-like. It appears in: 4.3 - Zoning Table Schedule 1(B) - Land Use Definitions Schedule 11 – Special Rural Zones (SRZ5A)	Deletion of Tourist Facilities as a separate Use Class in the zoning tables and its definition. Insertion of Use Class “Tourist and Visitor Accommodation” in: • Section 4.3 - Zoning Table, replicating the current Use Class permissibility of Tourist Facilities • Schedule 15(A) - Land Use Permissibility Table for the Midland Strategic

FINDINGS TABLE		
Terms Used	Location in Scheme (LPS No.17)	Change required
	Schedule 15(A) - Land Use Permissibility Table for the Midland Strategic Regional Centre <u>LPS1 No.17 Definition:</u> <i>"means facilities used or intended to be used by visitors, and includes short-stay accommodation, provisions of food and refreshments, recreational activities and the sale of goods produced in adjacent rural areas."</i>	Regional Centre, replicating the current Use Class permissibility of Tourist Facilities - Schedule 4A – Ellenbrook Town Centre Zoning table. - Other locations identified in the execution pages at the rear of this document. Inserting the Regulations Model Provision definition for Tourist and Visitor Accommodation in Schedule 1(B), as per the Regulations. While a model (not deemed) provision it is encouraged by Planning Bulletin 115, which states: <i>"While 'tourist and visitor accommodation' is not a 'deemed' definition, it is strongly encouraged to be included in local planning schemes going forward... This new use, and deletion of relevant superseded uses, may be incorporated into schemes as part of the same Amendment as the abovementioned"</i>

Recommendation for 'Tourist and Visitor Accommodation'

This scheme amendment proposes to approach the 'Tourist and Visitor Accommodation' the equivalent of existing 'Tourist Facilities' that it will replace. See image below for details.

	Strategic Centre	Commercial/ Industrial					Residential			Rural						Other	
ZONES	Midland Strategic Regional Centre	General Commercial	Highway Service	Light Industrial	General Industrial	Industrial Development*	Residential	Residential Development*	Residential Redevelopment	Rural-Residential*	Special Rural *	Swan Valley Rural	Rural Living	Resource	Landscape*	General Rural	Private Clubs & Institutions
USE CLASSES																	
Tourist Facilities		A	X	X	X		X		X	A		A	A	X	A	A	A

On this basis, 'Tourist and Visitor Accommodation' is proposed to be inserted into the scheme's zoning table (Section 4.3) and assigned a permissibility rating of 'A' in local zones where 'Tourist Facilities' is capable of approval.

See the execution pages (at the rear of this document) under – No. 4

The zoning table for the Ellenbrook Town Centre (Schedule 4A) is also proposed to be updated; however it is noted that 'Tourism Facilities' is not currently listed in the existing zoning table and therefore is treated as a discretionary 'D' use. For consistency with how this new Use Class is applied elsewhere (i.e. the generic zoning table of Section 4.3), it is proposed that 'Tourist and Visitor Accommodation' will be assigned the 'A' permissibility rating in the 'Retail', 'Cultural/Civic', 'Commercial Enterprise' and 'Mixed Use' precincts.

See the execution pages (at the rear of this document) under – No. 5

The zoning table for the Midland (Schedule 4A) is also be updated with this new use Class. It is proposed that 'Tourist and Visitor Accommodation' be allowed in the same precincts and given the same permissibility rating of the current 'Tourist Facilities' Use Class (so is proposed to be a discretionary 'D' in 3 precincts; 'Midland Oval', 'Midland West End' and 'Midland Gate').

See the execution pages (at the rear of this document) under – No. 6

Schedule 2 – Additional uses, Schedule 4 – Special Use Zones, Schedule 11 – Special Rural Zones and Schedule 12 are also proposed to be updated and/or amended to address the introduction of 'Tourist and Visitor Accommodation' as a replacement Use Class.

See the execution pages (at the rear of this document) under – No. 7 onwards

Finally, 'Tourist and Visitor Accommodation' is a model provision (not a deemed provision) so its definition will need to be inserted into Local Planning Scheme No.17 in Schedule 1B. Its definition can be found in the execution pages at the rear of this document.

See the execution pages (at the rear of this document) under – No. 3

Recommended updates to 'cabin' and 'chalet'

As per the finding table above, the new general definitions for 'cabin' and 'chalet' are proposed to be inserted into the scheme as per the model provisions.

See the execution pages (at the rear of this document) under – No. 1 and 2

Recommendation to delete Additional Use 64

Additional Use 64 relates to holiday cottages on Lot 105 Casuarina Place in Henley Brook. This is land now located within the Swan Valley Planning Scheme and therefore can be deleted from the scheme maps, addressing the issue of 'holiday cottages'

See the execution pages (at the rear of this document) under – No.8 and 15

No recommended changes to the Use Class of 'Hotel'

No changes are proposed to or required regarding the Use Class 'Hotel'; it is fit for purpose.

No recommended change to ‘Roadhouse’

Planning Bulletin 115 specifically states that “...*the amended land use definition of ‘road house’ can be introduced...*” so it is optional at this time whether or not to update this definition.

Upon review of the scheme’s existing Use Class definition of ‘Roadhouse’ with the new Model Provision definition, it is recommended that no change be made at this time on this matter.

The key issue identified is that the current LPS No.17 definition of ‘Roadhouse’ specifically excludes a transport depot, panel beating, spray painting etc whereas the Model Provisions definition for ‘Road house’ includes these – a comparison of the two is below:

LPS No.17 Definition	Model Provision Definition
“Roadhouse - means land and buildings used for the predominant purpose of a service station but incidentally including a café or restaurant and/or a shop.” <i>(in reading this definition, note that “Service Station - means premises used for – (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and (b) The carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.)</i>	“Road house 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, <i>with no individual guest accommodated for a period or periods exceeding a total of 3 months in any 12-month period;</i> <i>facilities for being a muster point in response to accidents, natural disasters and other emergencies.”</i>

Making this change may inadvertently provide new land use rights involving noise or other emissions, by virtue of the new definition allowing by panel beating, wrecking etc. The introduction of potential amenity impacts of this nature is considered beyond the remit of this scheme amendment to address, which is principally to adopt the state’s planning reforms for short term rental accommodation.

8. Other considerations

Bushfire Considerations

The State Government's bushfire planning framework specifies that a 'vulnerable land use' does not include a change of use in an existing single house or ancillary dwelling; including short term retail accommodation. A 'Good Host Pack' for short term retail accommodation (STRA) owners has been prepared by DEMIRS, which includes information from the Department of Fire and Emergency Services, with messaging encouraging STRA operators to ensure they have a bushfire plan in place and to communicate this with their guests.

Beyond this, it is considered that the changes proposed by this scheme amendment result in land use right the equivalent of an existing Use Class. Individual proposals, where planning approval is required, can and will be assessed on their merits and as per SPP 3.7 and the Guidelines, if and where required they are identified as bushfire prone in the state's maps.

Local Planning Strategy Considerations

The WAPC's Planning for Tourism and Short-term Rental Accommodation Guidelines (November 2024) states: "...local governments are encouraged to address tourism and short-term rental accommodation in the local planning strategy in a manner reflective of the importance of tourism in the municipality."

The City's Local Planning Strategy (2020) is currently undergoing review in accordance with the Local Planning Strategy Guidelines. Short term retail accommodation (STRA) will be included in this review, noting that tourism is already addressed in the current version.

Local Planning Policy Considerations

As set out in Planning Bulletin 115 and position statement *"The Position Statement encourages the development of LPP's [Local Planning Policies] to provide further guidance on the consideration of Short-term Rental Accommodation (STRA) proposals..."*

The City of Swan does not currently have any specific guidance for Short-term Rental Accommodation (STRA) and the need for one has not been identified. Should more specific guidance be required, the Western Australian Local Government Association has prepared a Guideline to assist Local Governments prepare local planning policies for Short-term Rental Accommodation, which could be contemplated if the need arises.

Communications

Planning Bulletin 115 states that: *"Changes to planning schemes may create uncertainty for existing STRA operators who have not previously required development approval, or where such requirements have been unclear or not consistently enforced."*

Local governments should consider how best to communicate relevant planning changes to their communities and/or existing STRA operators, to allow for development approvals to be obtained by 1 January 2026."

The City of Swan is responding to enquiries from current/prospective Short-term Rental Accommodation (STRA) operators on an ongoing basis by advising of the planning requirements and the mandatory registration of their STRA.

**RESOLUTION TO ADOPT
AMENDMENT TO LOCAL PLANNING SCHEME**

CITY OF SWAN LOCAL PLANNING SCHEME NO. 17

AMENDMENT NO. 231

Resolved that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. **Deleting** the following Use Classes/definitions from: Section 4.3 - Zoning Table, Schedule 1(B) – Dictionary of Defined Words and Expressions – Land Use Definitions, Schedule 1(C) - Dictionary of Defined Words and Expressions – Land Use Definitions Applicable to Schedules 2, 3 and 4 Only, Schedule 1(D) - Dictionary of Defined Words and Expressions – Land Use Definitions Applicable to Schedule 15 – Midland Strategic Regional Centre Only and Schedule 15(A) – Midland Strategic Regional Centre – Land Use Permissibility Table for the Midland Strategic Regional Centre:
 - i. bed and breakfast
 - ii. cabin or chalet
 - iii. holiday cottages
 - iv. motel
 - v. short-term residential
 - vi. tourist facilities
2. **Inserting** in Schedule 1(A) – Dictionary of Defined Words and Expressions - General Definitions, the following definitions in alphabetical order:

***'cabin** 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.'

And

***'chalet** 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.'

3. **Inserting** in Schedule 1(B) - Dictionary of Defined Words and Expressions – Land Use Definitions, the following definitions in alphabetical order:

'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.'

4. Inserting in Section 4.3 - Zoning Table the following land uses and permissibility:

	Strategic Regional Centre*	Commercial / Industrial					Residential			Rural							Other
ZONES	Midland Strategic Regional Centre	General Commercial	Highway Service	Light Industrial	General Industrial	Industrial Development*	Residential	Residential Development*	Residential Redevelopment	Rural-Residential*	Special Rural *	Swan Valley Rural	Rural Living	Resource	Landscape*	General Rural	Private Clubs & Institutions
USE CLASSES																	
Hosted short-term rental accommodation	Development and use of land to be in accordance with the Midland Strategic Regional Centre zoning table – refer to Schedule 15"	X	X	X	X	Development and use of land is to be in accordance with an approved Structure Plan	P	Development and use of land is to be in accordance with an approved Structure Plan	P	P	Refer to Schedule 11	P	P	P	P	P	P
Tourist and Visitor Accommodation		A	X	X	X		X		X	A		A	A	X	A	A	A
Unhosted short-term rental accommodation		X	X	X	X		A		A	A		A	A	A	A	A	A

5. Inserting in Schedule 4A – Ellenbrook Town Centre Zoning Table the following land uses and permissibility:

Land Use	Precincts described in the Development Plan					
	Retail	Cultural / Civic	Education	Commercial Enterprise	Mixed Use	Recreation
Hosted short-term rental accommodation	P	P	X	P	P	X
Tourist and Visitor Accommodation	A	A	X	A	A	X
Unhosted Short-Term Rental Accommodation	A	A	X	A	A	X

6. Inserting in Schedule 15(A) - Land Use Permissibility Table for the Midland Strategic Regional Centre, in alphabetical order, the following land uses and permissibility:

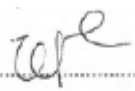
MIDLAND STRATEGIC REGIONAL CENTRE						
Land Use	Precincts					
	Morrison Road West		Morrison Road East	Midland Oval	Midland West End	Midland Gate
	Residential	Mixed Use Retail/Commercial	Residential	Mixed Use Residential/Commercial	Mixed Use Retail/Commercial	Retail/Regional Shopping
Hosted short-term rental accommodation	P	P	P	P	P	P
Tourist and Visitor Accommodation	X	X	X	D	D	D
Unhosted Short-Term Rental Accommodation	D	D	D	A	A	A

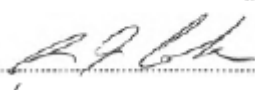
7. In Schedule 2 – ‘Additional Uses’, delete reference to *Motel* and replace with *Tourist and Visitor Accommodation* in Additional Use 50.
8. In Schedule 2 – ‘Additional Uses’, delete Additional Use No. 64.
9. In Schedule 4 - ‘Special Use Zones’, delete reference of Motel and replace with Tourist and Visitor Accommodation in Special Use Zone 3 and 7.

10. In Schedule 4 – ‘Special Use Zones’, delete reference to Motel and Tourist Facilities and replace with Tourist and Visitor Accommodation in Special Use Zone 24 and make an ‘A’ use.
11. In Schedule 4 – ‘Special Use Zones’, delete reference to *Bed and Breakfast* and replace with *Hosted Short Term Rental Accommodation* in Special Use Zone 27.
12. In Schedule 11 – ‘Special Rural Zones’, delete reference to *Bed and Breakfast* and replace with *Hosted Short Term Rental Accommodation* in Special Rural Zones 3, 5A and 6.
13. In Schedule 11 – ‘Special Rural Zones’, delete reference to *Cabin* or *Chalet* and replace with *Unhosted Short Term Rental Accommodation* in Special Rural Zones 5A and 6 and delete reference to *Chalet* and replace with *Unhosted Short Term Rental Accommodation* in Special Rural Zone 3.
14. In Schedule 12 – ‘Building Site Acceptability Based on Aircraft Noise Zones, delete reference to *Motel* and replace with *Tourist and Visitor Accommodation*.
15. Undertake any other administrative and formatting edits as required.

RESOLUTION TO PREPARE (INITIATE) AN AMENDMENT TO SCHEME

Adopted by resolution of the Council of the City of Swan at the Ordinary Meeting of the Council held on the 12th day of February, 2025:


MAYOR


A/ CHIEF EXECUTIVE OFFICER

RESOLUTION TO ADOPT AN AMENDMENT TO SCHEME

Adopted by resolution of the Council of the City of Swan at the Ordinary Meeting of the Council held on the _____:

- (a) to support the amendment without modification;
- (b) to support the amendment with modifications to address issues raised in the submissions;
- (c) not to support the amendment.

*The Common Seal of the City of Swan
was hereunto affixed by authority of a
resolution of the Council in the
presence of:*

CHIEF EXECUTIVE OFFICER

MAYOR

**RECOMMENDED/SUBMITTED
FOR FINAL APPROVAL**

DELEGATED UNDER s.16 OF THE
PLANNING AND DEVELOPMENT ACT 2005

Date: _____

FINAL APPROVAL GRANTED:

MINISTER FOR PLANNING

Date: _____