

7C. HOLIDAY HOMES PROVISIONS

1.0 BACKGROUND

The City of Busselton is a popular destination for tourists and holiday makers and has a large number of Holiday Homes, which are essentially residential houses and units which are utilised to accommodate these visitors. Holiday Home rentals are an important aspect of the tourism industry in the District, and have long been an important part of local and Western Australian lifestyle and culture.

Over time, however, there have been changes in the character of the communities in which Holiday Homes are located, as well as increased commercialisation of Holiday Homes and their use. Amongst other factors, that has led to the development by the City, cognisant of guidance provided at a State level, of a regulatory regime for Holiday Homes.

Holiday Homes which are utilised on a commercial basis (i.e. rented out to paying guests) require a development approval to be issued under the Local Planning Scheme and a registration to be issued under the *Holiday Homes Local Law 2012*. These policy provisions provide guidance to the City, as well as to applicants, landowners and the community, in relation to the City's exercising of discretion in making decisions on Holiday Home applications pursuant to the Local Planning Scheme.

2.0 OBJECTIVES

The objectives of these provisions are to –

1. Provide clear guidance regarding the assessment of applications for development approval for Holiday Homes;
2. Identify circumstances in which Holiday Homes will be supported, and circumstances in which holiday homes may be supported, given more detailed consideration; and
3. Balance the interests of residents, Holiday Home owners and the community as a whole.

3.0 APPLICATION

These policy provisions are adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 (Deemed Provisions) clause 4* and apply to the whole of the City.

This policy only applies to Holiday Homes that are being made available for short stay rental purposes for commercial gain. Holiday Homes utilised only for personal use are excluded from this policy.

These provisions should be read in conjunction with the Local Planning Scheme and the *Holiday Homes Local Law 2012*.

4.0 INTERPRETATION

As per Schedule 1 of the Scheme the following interpretations are relevant:

“Holiday Home (Multiple/Grouped Dwelling)” means a grouped dwelling or multiple dwelling, which may also be used for short stay accommodation for hire or reward for no more than six people (but does not

include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

“Holiday Home (Single House)” means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for hire or reward for no more than 12 people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

Note: the terms ‘multiple dwelling’, ‘grouped dwelling’ and ‘single house’ are defined in the Residential Design Codes of Western Australia.

The following additional interpretations are relevant to this policy:

“Holiday Home” means both a Holiday Home (Multiple/Grouped Dwelling) and/or a Holiday Home (Single House).

“Deemed-to-comply” means a provision which, if satisfied, means that a Holiday Home is deemed compliant with respect to the matters subject of that provision. The local government shall not refuse to grant approval to an application where the application satisfies all of the relevant deemed-to-comply provisions.

“Performance criteria” means provisions to be used in the preparation, submission and assessment of development proposals for the purpose of determining their acceptability, where they do not meet the relevant deemed-to-comply provisions.

Note: applications that do not meet all of the ‘deemed-to-comply’ provisions would be assessed against the relevant ‘performance criteria’ (i.e. they would only be assessed against the latter in relation to those aspects to which they do not meet the former). So if the ‘car parking’ deemed-to-comply provisions are met, but the ‘dwelling design’ ones are not, dwelling design related issues would require assessment against the dwelling design performance criteria, but the car parking related issues would not require assessment against the car parking related performance criteria. Similarly, if the potable water elements of the ‘utility servicing’ deemed-to-comply provisions are met, but the refuse collection ones are not, it is only the refuse collection issues that need to be considered against the directly related performance criteria.

5.0 POLICY STATEMENT

Note that the headings below do form part of the policy statement.

5.1 Location of Holiday Homes

A Holiday Home satisfies the **deemed-to-comply** provisions if:

- C1.1 The Holiday Home is located within an existing, lawful dwelling (other than a dwelling approved as a second dwelling or rural worker’s dwelling pursuant to clause 4.5 (f) or (g) of the Local Planning Scheme, or equivalent clause in previous schemes) in the Agriculture or Viticulture and Tourism Zone; or
- C1.2 In all other Zones, the Holiday Home has direct frontage to a public road and/or public open space and has a minimum of 350m² exclusively for the use of the dwelling; or
- C1.3 For a Holiday Home (Grouped/Multiple Dwelling), written support has been received by the local government from the majority of owners of properties in the complex or development within which the Holiday Home is to be located (excluding the owner of the site subject of the application, unless the applicant owns all of the properties in the complex or development).

A Holiday Home satisfies the **performance criteria** provisions if:

- P1.1 The City is satisfied that approval of the Holiday Home is not likely to have a significant impact on the amenity of adjoining and nearby residents and would not constitute the conversion of a second dwelling or rural worker's dwelling to a Holiday Home.

5.2 Utility Servicing

A Holiday Home satisfies the **deemed-to-comply** provisions if:

- C2.1 The Holiday Home is connected to reticulated water, or provided with a 135,000 litre rainwater tank for the exclusive use of the Holiday Home; and
- C2.2 The Holiday Home is located [withwithin](#) the City's kerbside refuse collection area; and
- C2.3 The Holiday Home is connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of occupants.

Note: in areas not serviced by reticulated sewerage, it should not be assumed that an existing on-site effluent disposal system approved for a single house will have sufficient capacity for the proposed number of occupants without the need for upgrading. Advice should be sought from the City's Environmental Health staff prior to lodging an application for development approval.

A Holiday Home satisfies the **performance criteria** provisions if:

- P2.1 The City is satisfied that the Holiday Home will have an adequate supply of potable water; and
- P2.2 The City is satisfied that the Holiday Home will be provided with an adequate refuse collection service; and
- P2.3 The City is satisfied that the Holiday Homes will be provided with an adequate on-site effluent disposal system (and provision of such would be a condition of any approval, to be met prior to the commencement of the use [if a suitable system is not already in place and approved](#)).

5.3 Car Parking

A Holiday Home satisfies the **deemed-to-comply** provisions if:

- C3.1 The Holiday Home will have constructed on-site car parking bays, consistent with the size and manoeuvrability criteria set out in the *Residential Design Codes of Western Australia*, but with no more than any of two bays arranged one behind the other (i.e. tandem bays are permitted, with two bays one behind another, but not with a third bay behind another two), in accordance with the following rates:

Maximum number of occupants	Minimum number of car parking bays required
1-3	1
4-6	2
7-8	3
9-10	4
11-12	5

A Holiday Home satisfies **performance criteria** provisions if:

- P3.1 The City is satisfied that the Holiday Home has a minimum of two constructed on-site car parking bays and, where additional car parking bays would be required to comply with C3.1 above, at least

the equivalent number of cars could park on the site without the need for cars to park on the verge, in adjacent or nearby public car parking, or in visitor car parking bays within a unit complex or similar; or

P3.2 Where a Holiday Home is located in the 'Business' Zone, the City is satisfied that the Holiday Home will not have a noticeable effect on the availability of public car parking within the locality.

5.4 Dwelling Design

A Holiday Homes satisfies the **deemed-to-comply** ~~requirements~~ [provisions](#) if:

C4.1 The Holiday Home is an existing, lawful dwelling; or

C4.2 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of the relevant design standards and requirements that would apply to a new dwelling on the land, including the requirements of the Local Planning Scheme (including the Residential Design Codes of Western Australia), all relevant Local Planning Policies, and all relevant Structure Plan, Activity Centre Plan and Local Development Plan provisions; and

C4.3 The maximum number of occupants within a Holiday Home complies with the following standards:

- (a) There is 5.5 square metres per occupant in each bedroom utilising beds; and
- (b) There is 3.5 square metres per occupant in each bedroom utilising bunks; and
- (c) There is sufficient bedroom space to accommodate the maximum number of occupants consistent with (a) and (b) above; and

C4.4 Bedrooms in a Holiday Home are provided in accordance with the following rates:

Maximum number of occupants	Minimum number of bedrooms required
1-2	1, or studio
3-4	2
5-8	3
9-12	4

C4.5 Bathrooms and toilets in a Holiday Home are provided in accordance with the following rates:

Maximum number of occupants	Minimum number of bathrooms/toilets required
1-6	1 bathroom and 1 toilet
7-12	1 or 2 bathrooms and 2 toilets

A Holiday Homes satisfies the **performance criteria** [provisions](#) if C4.1 or C4.2 is met, and C4.3 and C4.5 are met; and: -

P4.21 The City is satisfied that the dwelling design is appropriate to accommodate the proposed maximum number of occupants. In general, if C4.4 is not met, this would only be the case if there are a smaller number of relatively large bedrooms.

Note: the Local Planning Scheme establishes that the maximum number of occupants in a Holiday Home (Single House), regardless of the number or size of bedrooms, is 12, and the maximum number of occupants in a Holiday Home (Grouped/Multiple Dwelling) is six. The City has no discretion to approve Holiday Homes with maximum occupant numbers higher than those limits.

5.5 Bush Fire Management

A Holiday Home satisfies the **deemed-to-comply** provisions if:

C5.1 The Holiday Home is not on land identified as being in a bushfire prone area by an order made under section 18P of the Fire and Emergency Services Act 1998; ~~and/or~~

~~C5.2 The Holiday Home is on a lot with an area of less than 1,100m²; or~~

C5.3.2 The Holiday Home is on land identified as being in a bushfire prone area by an order made under section 18P of the *Fire and Emergency Services Act 1998* and ~~is on a lot with an area of 1,100m² or greater~~ will meet all of the relevant design standards and requirements for a minor vulnerable development described in the *WAPC Guidelines for Planning in Bushfire Prone Areas*, including but not limited to the following -

C5.32.1 ~~An~~A Bushfire Management Plan and Bushfire Emergency Evacuation Plan developed consistent with the *Guidelines for Planning in Bushfire Prone Areas* ('vulnerable land use') has been submitted; and

C5.32.2 ~~The Holiday Home is an existing, lawful dwelling; or~~ The building has been constructed to the determined BAL requirement and associated *Deemed to Satisfy* solution pursuant to *AS3959-2009 (Construction of buildings in bushfire-prone areas)*; and

~~C5.3.3 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of the relevant design standards and requirements that would apply to a new dwelling on the land Part 10A (Bushfire risk management) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. 100m²~~

~~Note: A dwelling on a lot of less than 1, in area is exempt from the requirements of Part 10A (Bushfire risk management) of Schedule 2 of the *Planning Development (Local Planning Schemes) Regulations 2015*.~~

~~There are no **performance criteria** provisions in relation to bush fire management. The deemed-to-comply provisions must be met. Note that the deemed-to-comply provisions are, other than the requirement for an Evacuation Plan, the same as what would be required to either continue using an existing, lawful dwelling, or what would be required to develop a new, lawful dwelling.~~

C5.3 The Asset Protection Zone (APZ) required -

(a) is no greater than 25 metres from the building to a **determined hazard**; and

(b) can be accommodated entirely within the subject lot; and

(c) can be created and maintained without need to obtain a clearing permit under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and/or approval under the *(Commonwealth) Environmental Protection and Biodiversity Conservation Act 1999*.-

A Holiday Homes satisfies the **performance criteria** provisions if:

P5.1 C5.2.1 has been complied with; and

P5.2 If C5.2.2 has not been complied with, the building has been constructed to the determined BAL requirement by Performance Solution as provided for by Part 1.0 in NCC 2016 Building Codes of Australia Volume 2; and

P5.3 (a) If C5.3 (a) has not been complied with, a larger APZ may be supported, but only to the extent necessary to allow the construction standard to be reduced to BAL29; and

(b) If C5.3 (b) has not been complied with –

(i) where the APZ extends outside the subject lot, it overlaps substantially with an APZ already on an adjoining lot; or

(ii) a perpetual arrangement is in place with the owner (in case of freehold land) or manager (in the case of Crown / reserve land) to allow and require the maintenance of the portion of the APZ that extends beyond the subject lot; and

(c) If C5.3 (c) has not been complied with, the necessary permit or approval has been obtained, or the applicant commits to seeking the necessary permit or approval prior to commencement of development (including change of use).