

TOWN PLANNING SCHEME POLICY NO. 18

TOURIST DEVELOPMENT OTHER THAN "BED & BREAKFAST" USES WITHIN THE RESIDENTIAL ZONE

OBJECTIVE

To enable Council to consider the provision of limited small-scale uses (such as attached studios) to be established and used within the Residential Zone, provided the nature and scale of the proposals are considered compatible and complementary to the existing adjacent residential living environment and amenity.

POLICY

- (1) To facilitate this objective all proposals will be advertised for 21 days prior to Council consideration to allow public comment on the proposal. Applicants will be required to submit to Council an "Application for Planning Consent" and suitable scaled plans to ensure the Council and public are fully aware of the proposal.
- (2) The applicant will be required to meet all associated advertising costs.
- (3) Council intends for the majority of these limited small-scale tourist uses to be established appurtenant to existing residential uses on-site as a means of controlling impacts to adjoining properties.
- (4) Council will not approve development applications for these limited small-scale tourist uses to be operated within the Residential Zone if in the opinion of Council these uses will have a detrimental impact on, conflict with, or prejudicially affect the existing adjacent residential living environment or amenity.
- (5) Car parking, road upgrading contributions, etc., will be determined upon application and will be applied as Development Conditions.
- (6) The only signs permitted will be those that are exempted by the Scheme. Business Direction Signs will not be approved for these uses.
- (7) If following the advertising period, objections are received, Council will determine the objections and may:
 - i) Refuse the application; or
 - ii) approve the application; or
 - iii) approve the application, subject to conditions.
- (8) Council will not permit any approval(s) for these activities to be transferred upon the property changing ownership.
- (9) If in the opinion of Council such use is causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the vicinity, or to persons or traffic using roads in the vicinity of the approved use, Council may rescind the approval granted by it and after such rescission, no person shall upon the land the subject of a resolution for rescission, carry on the use unless approval to do so is subsequently granted by Council in writing.

TPS Policy No. 18(Cont)

- (10) Any approved operation will be required to provide written consent to these conditions upon approval.

Adopted on 23rd June, 1998 in accordance with clause 8.2 of Town Planning Scheme No. 3



**DRAFT LOCAL PLANNING
POLICY NO. 18:
TOURISM & COMMERCIAL LAND
USES IN THE RESIDENTIAL,
SPECIAL RESIDENTIAL & SPECIAL
RURAL ZONES**

Adopted on the XXth Month 20XX in accordance with
Schedule 2, Part 2 of the *Planning & Development (Local Planning
Schemes) Regulations 2015*

1. INTRODUCTION

This Local Planning Policy has been prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the *Shire of Denmark Local Planning Scheme No. 3* (the Scheme).

The purpose of this Policy is to detail development standards and assessment criteria for the establishment of small-scale commercial and tourism businesses within the Residential, Special Residential and Special Rural Zone.

This includes proposals for land uses that fit within the Home Business, Cottage Industry, Consulting Rooms, Child Minding Centre, Educational Establishment and Restaurant use classes in Town Planning Scheme No. 3.

This policy does not address the development of short-stay accommodation.

2. OBJECTIVES

This Policy aims to:

- Enable the establishment of small-scale commercial and tourism businesses as a means of income, employment and economic development.
- Limit the scale of businesses to avoid detrimental impacts on the character and amenity of established residential neighbourhoods.

3. DEFINITIONS

Land use classes and other terms used in this Policy are consistent with the Scheme, the Residential Design Codes (R-Codes) and the Regulations unless otherwise stated.

4. DEVELOPMENT APPROVAL REQUIREMENTS

Under the Regulations:

- A Home Office is exempt from the need for planning approval in all zones; and
- A Home Occupation is exempt in all zones where it is identified in Town Planning Scheme No. 3 as being a discretionary land use.

Home Office and Home Occupation are as defined in the Regulations.

Planning approval is required prior to the establishment of any Home Business, Cottage Industry, Consulting Rooms, Child Minding Centre, Educational Establishment or Restaurant in accordance with the requirements of Town Planning Scheme No. 3.

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5. POLICY PROVISIONS

Any proposed land use or development associated with a Home Business, Cottage Industry, Consulting Rooms, Child Minding Centre, Educational Establishment or Restaurant in the Residential, Special Residential or Special Rural zones will be assessed for consistency with the following requirements:

5.1 Scale

The Shire will generally support the establishment of commercial and tourism businesses that are small in scale and incidental to the predominant use of the site for residential purposes.

The establishment of commercial and tourism businesses that are stand-alone and/or the predominant use of the site will be assessed on a case-by-case basis.

The bulk, scale and appearance of development shall be generally in keeping with the existing residential character of the area.

(Note: A commercial or tourism land use can only be approved if it is permitted in the zone within the Scheme. For example, a Child Minding Centre cannot be applied for within any Special Residential or Special Rural zones.)

5.2 Amenity Impacts

All proposals must demonstrate that potential impacts on the amenity of surrounding residences can be appropriately mitigated, including the emission of noise, fumes and/or light and other identified concerns.

Approval may be granted for a specified time limit and/or subject to conditions to ensure that ongoing management measures are implemented sufficiently.

5.3 Traffic

All proposals must demonstrate that potential traffic generated by the land use is not excessive given the context of the site.

Proposals that demonstrate substantial traffic should be located on a regional road, secondary road or neighbourhood connector road (as identified in the Local Planning Strategy).

Where in the opinion of the Shire the proposed land use is expected to generate a substantial increase in traffic movements, approval may be granted subject to:

- Conditions limiting the number of employees, clients or customers that may attend the premises at any one time; and/or,
- Road upgrading or the payment of a financial contribution towards road upgrading.

5.4 Car Parking

For land uses that include employees that do not live on site, 1 car parking bay is to be provided per employee.

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For land uses that involve visits to the premises by clients or customers, car parking requirements will be determined according to the nature of the proposed land use.

Car parking for employees, clients and/or customers is to be provided in addition to the minimum parking requirements for the existing residential dwelling.

Sealing of the vehicle crossover, access and parking areas may be required as a condition of approval.

5.5 Services

All proposals must demonstrate that the servicing infrastructure provided on site sufficiently provides for the land uses proposed, including (but not limited to) the collection and disposal of rubbish and the adequacy of waste water disposal systems.

5.6 Bushfire Prone Areas

Within designated 'bushfire prone areas' (as defined by the Department of Fire & Emergency Services) proposed land uses will be required to minimise bushfire risk, avoid impacts on remnant vegetation and be developed consistent with relevant planning and building requirements for bushfire protection.

Note: Proposed land uses must be undertaken within an appropriate building type as defined in the Building Code of Australia. This may mean that a building permit is required to convert a building from one class to another. More information about building classes can be found at www.commerce.wa.gov.au/building-and-energy/building-classes. To understand whether this may require you to make upgrades please contact a registered building surveyor.

Related Policies	<i>Local Planning Policy No. 13.4: Outbuildings Local Planning Policy No. 32: Signs Local Planning Policy No. 49: Ancillary Dwellings & Detached Habitable Rooms</i>
Related Procedures and Documents	<i>Planning and Development (Local Planning Schemes) Regulations 2015 Shire of Denmark Town Planning Scheme No. 3 State Planning Policy No. 7.3 Residential Design Codes Volume 1</i>
Adopted	Version 2 adopted XX Month 20XX.

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Attachment 9.1.3c – Extract of definitions for land uses classes relevant to Draft Revised Local Planning Policy No. 18

Shire of Denmark Town Planning Scheme No. 3

Home Business	<p>means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –</p> <p>(a) does not employ more than 2 people not members of the occupier’s household;</p> <p>(b) will not cause injury to or adversely affect the amenity of the neighbourhood;</p> <p>(c) does not occupy an area greater than 50 square metres; Shire of Denmark TPS 3 Page No. 51</p> <p>(d) does not involve the retail sale, display or hire of goods of any nature;</p> <p>(e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight;</p> <p>(f) does not involve the use of an essential service of greater capacity than normally required in the zone;</p> <p>(g) notwithstanding clauses (c) and (e), approval may be granted in the Residential zone for trucks with a tare weight of up to 10 tonnes, providing it does not adversely affect the amenity of the surrounding area.</p>
Child Minding Centre	<p>means land and buildings used or designed for the daily or occasional care of children in accordance with the Child Welfare (Care Centres) Regulations, 1968 (as amended) but does not include a family care centre as defined by those Regulations.</p>
Consulting Rooms	<p>means a building (other than a hospital or medical centre) used by no more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, chiropractors or persons ordinarily associated with a practitioner in the prevention, investigation or treatment of physical or mental injuries or ailments, and the two practitioners may be of the one profession or any combination of professions or practices.</p>
Cottage Industry	<p>means an industry which produces arts and craft goods which cannot be carried out under the provisions relating to a 'home occupation' and that:</p> <p>(a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection, due to the emission of light, noise, vibration, steam, soot, ash, dust, grit, oil, liquid wastes or waste products;</p>

	<p>(b) where operated in a Residential Zone, does not entail the employment of any person not a member of the occupier's family normally resident on the land;</p> <p>(c) is conducted in an outbuilding which is compatible to the zone and its amenity and does not occupy an area in excess of 55m²;</p> <p>(d) does not require the provisions of any essential service main of a greater capacity than normally required in the zone in which it is located; and</p> <p>(e) does not display a sign exceeding 0.2m² in area.</p>
Educational Establishment	means a school, college, university, technical institute, academy or other educational centre, but does not include a reformatory.
Restaurant	means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant, and a restaurant at which food for consumption outside the building is sold where the sale of food for consumption outside the building is not the principal part of the business, but does not include a "Gallery/Restaurant".

Planning and Development (Local Planning Schemes) Regulations 2015 (*exemptions from development approval apply*)

Home Office	<p>Home Office – means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —</p> <p>(a) is solely within the dwelling; and</p> <p>(b) does not entail clients or customers travelling to and from the dwelling; and</p> <p>(c) does not involve the display of a sign on the premises; and</p> <p>(d) does not require any change to the external appearance of the dwelling;</p>
Home Occupation	<p>Home Occupation means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —</p> <p>(a) does not involve employing a person who is not a member of the occupier's household; and</p> <p>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</p> <p>(c) does not occupy an area greater than 20 m² ; and</p>

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| | <p>(d) does not involve the display on the premises of a sign with an area exceeding 0.2 m² ; and</p> <p>(e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and</p> <p>(f) does not —</p> <ul style="list-style-type: none">(i) require a greater number of parking spaces than normally required for a single dwelling; or(ii) result in an increase in traffic volume in the neighbourhood; and <p>(g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and</p> <p>(h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and</p> <p>(i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.</p> |
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