

TOWN PLANNING SCHEME POLICY NO. 19.5: HOLIDAY HOMES

Adopted on the ______ 2015 in accordance with Clause 8.2 of Town Planning Scheme No. 3.

1. INTRODUCTION

Holiday homes are private residential dwellings that are leased out for short term accommodation for a continuous period not exceeding three (3) months. Holiday homes are an important aspect of the tourism industry in the Shire of Denmark and have long been an important part of local and Western Australian lifestyle and culture. Over time, there has been increased commercialisation of holiday homes which has led to changes in character and amenity of neighbourhoods. Community concerns about holiday homes often relate to the behaviour of tenants, rather than being associated with the use *per se*. In addition there has been concern that some holiday homes are not maintained to a satisfactory standard, which in turn reflects negatively on Denmark's tourism industry.

2. POLICY BASIS

Clause 8.2 of the Shire of Denmark's Town Planning Scheme No. 3 ('the Scheme') provides for the preparation and subsequent adoption of Town Planning Scheme Policies. Town Planning Scheme Policy No. 19.5: Holiday Homes ('Policy No. 19.5) has been prepared in accordance with the Scheme.

As per Clause 8.2.4 of the Scheme, Policy 19.5 does not bind the Shire of Denmark in respect of any application for planning approval but the Shire of Denmark will have due regard to the provisions of Policy 19.5 and the objectives which the policy was designed to achieve before making its determination.

3. OBJECTIVES

- To support a diverse accommodation base within the Shire of Denmark.
- To minimise negative impacts of holiday homes on the amenity of adjoining residents through appropriate planning approval conditions and associated regulations that apply.
- To encourage the provision of good quality, well managed holiday homes.
- To ensure that holiday homes are managed and maintained to a high standard.

4. **DEFINITIONS**

As per Appendix I – Interpretations of the Scheme, the following definitions are relevant:

Holiday Home (Standard) - means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

Holiday Home (Large) – means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

5. ZONE PERMISSIBILITY

As per the provisions of the Scheme (Table 1 – Zoning Table and Clause 5.38), the following land use permissibility provisions apply to holiday homes:

Residential	SA
Tourist	AA
Commercial	X
Industrial	X
Rural	SA
Special Rural	SA (as per Clause 5.38 of the Scheme)
Rural Multiple Occupancy	SA
Special Residential	SA (as per Clause 5.38 of the Scheme)
Landscape Protection	SA (as per Clause 5.38 of the Scheme)
Professional Office	X

- AA means that Council may, at its discretion, permit the use in the zone.
- SA means that Council may, at its discretion, permit the use in the zone following public advertising thereof
- X means the use is not permitted in the zone.

6. POLICY STATEMENT CRITERIA

6.1 Applicable Criteria To Be Met For Holiday Home (Large) Applications

The following development standards should apply to Holiday Home (Large) proposals:

- Have a site area of no less than 1,500m²
- Have no less than four (4) bedrooms and two (2) bathrooms
- Be limited in the number of people (7 12) in accordance with the capacity of the septic system on site
- Outdoor living and car parking areas are located and/or screened to protect the visual privacy of surrounding residence

6.2 Public Notice of the Proposal

In accordance with Clause 3.2.2 of the Scheme, all 'SA' applications are required to be advertised for public comment in accordance with Clause 6.4 prior to being determined - noting that whilst comments relating to a proposal are considered in the final determination of an application, there is no obligation from the Shire of Denmark to refuse a proposal based on receiving objections alone.

Having regard to the provisions of Clause 6.4 of the Scheme, as a minimum all 'SA' applications will be referred to the immediate adjoining landowners (generally identified as one (1) x landowners either side of the subject property, including across the road and to the rear of the subject property) seeking comments on the proposal.

Document Control

Draft Policy Council Adoption: Final Policy Council Adoption: Policy Review Date:

26 May 2015 (Item 8.1.2) - Resolution No. 130515 2015 (Item 8.1._) – Resolution No. _____

Officer Responsible: Director of Planning & Sustainability The following is provided as a guide to the purpose of seeking comments from immediate adjoining landowners on holiday home proposals:

- Comments/objections based on speculation (such as behaviour of occupants)
 will not be considered as grounds for refusal in relation to new applications.
- Comments/objections based on the unique site characteristics will be considered in the application and may result in additional conditions of approval (e.g. increased visual privacy screening associated with a balcony area).

Notwithstanding the above, refusal will be considered should the proposal not achieve minimum standards or upon renewal should valid complaints be received during operation in the initial 1 year approval.

6.3 Car Parking Requirements

- Holiday Homes (Standard) require a minimum of two (2) on-site car parking bays to be provided, noting these may be provided in a tandem configuration.
- Holiday Homes (Large) require a minimum of three (3) on-site car parking bays to be provided, noting two (2) may be provided in a tandem configuration.

6.4 Access and Manoeuvring Requirements

As a minimum the following construction standards shall apply:

Table 3: Vehicle Crossover				
Existing Road Condition	Construction Standard			
Where the property fronts an existing gravel road.	The crossover shall be constructed to an all-weather standard (e.g. gravel, crushed rock) to facilitate access to the development by 2 wheel drive vehicles and thereafter maintained.			
Where the property fronts an existing sealed (i.e. bitumen/asphalt) road.	The crossover shall be constructed to a sealed standard (asphalt, concrete or brick pavers), drained and thereafter maintained.			

Table 4: Accessway, Parking 8	& Manoeuvring Areas
Zoning of Subject Property	Construction Standard
Residential	Vehicle parking, manoeuvring and circulation areas shall
Special Residential	be suitably constructed, sealed (asphalt, concrete or brick
	pavers), drained and thereafter maintained.
Rural	Vehicle parking, manoeuvring and circulation areas shall
Special Rural	be suitably constructed to an all-weather standard (e.g.
Rural Multiple Occupancy	gravel, crushed rock) to facilitate access to the
Landscape Protection	development by 2 wheel drive vehicles and thereafter
	maintained.
Tourist	Construction standard will depend on the location of the property – i.e. if located in Denmark townsite then the construction standard that will be applied is as per 'Residential/Special Residential' zone requirements.

Officer Responsible:

6.5 Length of Stay Provisions

The holiday home may only be rented for a maximum period of three (3) months to any one person in any twelve (12) month period.

6.6 Building Code of Australia Requirements

In accordance with the Building Code of Australia (BCA), a dwelling that is to be used as a holiday home is classified as a Class 1B building, therefore the following provisions will generally apply:

- Provision of hard wired smoke alarms on every storey in every bedroom and passageway; and
- Evacuation lights required in the paths of exit.

When considering the planning application, Building Services will have regard to issues such as the dwelling configuration and layout to determine what requirements will apply in order to satisfy the BCA requirements.

6.7 Fire and Emergency Requirements

A dwelling that is to be used as a holiday home specifically requires the following minimum fire safety measures to be implemented/installed:

- a fire blanket in the kitchen area; and
- fire extinguishers.

A fire and emergency plan will also need to be prepared and will form part of the Property Management Plan (refer Section 6.10).

6.8 Property Management Plan Requirements/Responsibilities

Prior to the commencement of activities, a Property Management Plan is required to be submitted and approved by Planning Services. Matters that need to be addressed in the Property Management Plan include:

- Details of the appointed property manager;
- Details of how bookings are to be made;
- Duties of the property manager;
- Fire and emergency plan arrangements (i.e. location of smoke alarms, fire blankets, exit lighting, fire extinguishers, external taps/garden hoses, a fire evacuation route leading to the nearest main road and emergency information details); and
- A Code of Conduct for guests.

To ensure consistency in Property Management Plan details, a proforma Property Management Plan is available from Planning Services.

A condition of Planning Approval for a holiday home proposal will require the applicant to provide a copy of the approved Property Management Plan to the immediate adjoining landowners/occupiers as identified by Planning Services In relation to the appointment of a Property Manager, the following is applicable:

- is a person/company that will have day-to-day management of the holiday home; and
- will specifically respond to complaints pertaining to guest behaviour made before 1am within a two hour timeframe; and
- in relation to any other complaints will respond, within a reasonable timeframe but in any event within 24 hours.

6.9 Signage

On-site holiday home signage is not permitted with the exception of a 0.2 m² nameplate (i.e. identifies the name of holiday home if relevant) (NB: exempt from Planning Approval).

Business Directional Signs (commonly referred to as 'Blue Signs') are not permitted for holiday home premises.

6.10 Approval Period

Planning Approval for a holiday home is initially granted for a 12 month period, with a renewal application required to be lodged, where if approved Planning Approval will generally be issued for a three (3) year period.

This provision seeks to ensure that Property Managers are fully responsible for the holiday home and to ensure there is minimal impact on the amenity of neighbouring properties. This provides a degree of certainty to operators, while also enabling the Shire flexibility to terminate approval of non-compliant operators, particularly where valid complaints are received, conditions of approval are not being complied with and/or there are concerns relating to the holiday home operations.

7. APPLICATION REQUIREMENTS

7.1 New Applications

The following information is required to be submitted to enable an assessment of the Holiday Home proposal:

- Completed 'Application for Planning Consent' form
- Payment of the applicable Planning Application fee as per Council's operative Fees & Charges Schedule
- Two copies of the following:
 - Site plan (to scale) showing the location of the dwelling in relation to the lot boundaries, on-site car parking areas, the driveway(s), crossover and location of effluent disposal systems (where property is not connected to sewer)
 - Floor plan of the dwelling

Document Control

- Internal and external photos of the dwelling
- A completed Property Management Plan (NB: proforma template is available from Planning Services)
- Accompanying letter outlining the proposal.

7.2 Renewal Applications

- Completed 'Application for Planning Consent' form
- Payment of the applicable renewal Planning Application fee as per Council's operative Fees & Charges Schedule
- Accompanying letter detailing compliance with the conditions of the original Planning Approval and any arrangements that may have changed since the original Planning Approval was granted.

8. ONGOING RESPONSIBILITIES/ADDITIONAL APPROVALS REQUIRED

- Should initial Planning Approval be granted, prior to the premises commencing operations as a Holiday Home the premises must be registered with the Shire of Denmark (Health Services) as a Holiday Home, with fees payable as per Council's operative Fees & Charges Schedule. A registration certificate will only be issued by the Shire of Denmark (Health Services) once all conditions of Planning Approval have been met.
- Holiday homes require annual registration from the Shire of Denmark (Health Services), with fees applying as per Council's operative Fees & Charges Schedule. Annual registration certificates will only be issued by the Shire of Denmark (Health Services) when all conditions of Planning Approval are being complied with and any valid complaints received have been satisfactorily addressed to the satisfaction of the Shire of Denmark (Planning/Health Services).
- When a property that has a Holiday Home planning approval and associated registration is sold, the new owner(s) are required to undertake one of the following within fourteen (14) days of taking ownership of the property:
 - Advise the Shire of Denmark, in writing, that they no longer intend for the premises to be used as a Holiday Home;

OR

Submit a new Property Management Plan for approval by Planning Services. A condition of approval of such Property Management Plan may require the owner(s) to provide a copy of the approved Property Management Plan to adjoining landowners/occupiers as identified by Planning Services and modify signage details to include current contact details of the Property Manager where applicable.

SCHEDULE OF SUBMISSIONS: DRAFT POLICY 19.5: HOLIDAY HOMES

	Planning Services Comment
Number	
S1 Details omitted as per Council Policy. While the draft policy may provide some clarity for applicants it does nothing to solve problems experienced by permanent residents living near holiday homes. The conflict that arises between holiday home patrons and residents can only be solved by a uniform code of conduct that is seen, acknowledged and adhered to by potential holiday home tenants. The following code of conduct is typical of those used in the AirBnB system: We are located in a residential neighbourhood. Please respect our neighbours and other guests and keep noise to a minimum. Unreasonable noise will not be tolerated after 10pm. A charge of \$200 will apply if management deems it necessary to ask guests to cease unreasonable noise after 10pm. Esperance Chalet Village has a 'no party' policy, whereby group bookings are not accepted. We reserve the right to request people who are making too much noise at any time of the day or night to leave. No refunds will be applicable. A security company or police may be called to investigate complaints of excessive noise or anti-social behaviour. Any charges incurred by the security company or police will be charged to the credit card provided as security for the booking. We have used a number of AirBnB properties in Perth, country WA and Melbourne and anecdotal evidence from our experience, property owners and other users of the system is that the code works well. As most local holiday home bookings come through the visitor centre or online notification of this code should not be difficult. It should also be displayed prominently and permanently in all holiday homes.	 Planning Services agree that a code of conduct assists in the proper management of holiday homes. To this regard it is advised that a Property Management Plan (PMP) is required to be submitted as part of any application for a Holiday Home, noting that the PMP includes a Code of Conduct. The Code of Conduct in the standard template provided to applicants includes the following provision: "The tenants agree not to cause or permit nuisance at the property. This includes excessive noise, disruptive or anti-social behaviour. Noise should generally cease after 9pm Sunday through Thursday and 10pm Friday and Saturday." In addition tenants are advised that their booking can be terminated by the property manager without a refund with 2 hours' notice, should the Code of Conduct not be complied with – Refer Attachment 8.1.c for copy of the PMP template. The property manager, the Shire, or police may be called on depending on the nature of the issue. It is not considered that employment of security personnel is required, particularly as Planning Services are not aware of any significant security issues having arisen from the use of holiday homes in the Shire. PMPs are provided to those neighbours consulted as part of the assessment of the proposal – noting that as per the provisions of draft Policy 19.5 the minimum extent of consultation has been reduced substantially. Consideration has been given as to whether a wider catchment should receive a copy, however, noting that there are other mechanisms in place, such as contacting

S2	Tourism WA	It would not be unreasonable to expect all those that profit from holiday homes to contribute to the cost of engaging suitable security personnel during peak holiday periods – school holidays, Easter Christmas, long weekends. All residents in holiday home areas (not just those adjacent as noise can travel for hundreds of metres on summer evenings) should be given contact details for such personnel. Conflict between rowdy holiday home tenants and residents in Weedon Hill can become volatile as alcohol is often a factor. In Weedon Hill many of the residents are in their 60s and 70s and are long-term contributors to the Denmark community. They should not be expected to sacrifice their peace and quiet and quality of life so a few absentee property owners can turn a dollar. Similarly the welfare of the local tourism industry is not their responsibility. Thank you for referring a copy of the above draft planning policy to Tourism Western Australia (Tourism WA) for comment. Tourism WA notes the key modifications proposed by the Shire of Denmark and recognises that these have been informed by an analysis of the current policy and its operation over the past three years. These changes are generally consistent with the intent of Planning Bulletin 99: Holiday Homes Guidelines and ensure that management of holiday homes, and their role in contributing to this tourism industry in Denmark, is a consideration in the planning process.	•	the Shire/local police should issues arise, it is considered that PMP's being provided to immediate adjoining landowners only is appropriate. Noted.
S3	Details omitted as per Council Policy.	 The proposals if accepted by Council will have a direct impact on us, as we currently have a large holiday home that sleeps eight. We would like to make the following points in regard to approval for a large holiday home: The number of people that can stay in a house should be defined by the house size – i.e. number of bedrooms/bathrooms, not the size of the block of land. There are a number of large holiday houses in the 	•	The minimum size of lots for Holiday Home (Large) applications will not be applied retrospectively to current approved operations. The inclusion of the larger size limit in Policy 19.5 was based on the assumption that larger groups of people will have a greater noise impact and is less in keeping with an average household size. This aside, each application would be considered

		Weedon Hill, Minsterly Rd and Lights Beach Rd precincts that would not have a 1500m2 block but have a suitable number of bedrooms/bathrooms. This limitation will discriminate against large families, who have an equal right to holiday in this area. People choose to holiday in Denmark for the visual aesthetics of the area. There are a number of areas, including Weedon Hill, where houses have been built to maximise the view, but where you will see neighbours because of the topography of the area. As long as the building code is complied with, this should be enough.	on its merits, noting that the policy is a guiding document only. • Whether additional screening or other modifications would be conditioned depends on the unique nature of the proposal. It is advised that visual privacy screening as assessed under the Residential Design Codes is often a matter that is referred to neighbours, and in many instances no screening/or screening less than the minimum requirement is agreed on by relevant parties. An application for a holiday home may change the neighbour's position on the level of screening. It is also acknowledged that older homes would not have been assessed under the current R Codes and screening is unlikely to have been required. A holiday home application triggers a new assessment of visual privacy impacts.
S4	Denmark Chamber of Commerce Inc. (Beverley Ford, President)	The Denmark Chamber of Commerce has met with members from the tourism industry and the Committee to discuss the issue of the Home Holiday Policy. Holiday homes do provide economic return to the community and through to our members in the trades and maintenance sector, we therefore recognize the importance of these facilities to both the travelling public and residents. The Chamber supports the revision of the home holiday policy however would like to propose: 1. Minimum number of persons in any one holiday home is set to a maximum of eight; and 2. A levy is derived from home holiday operators and provided to Denmark Tourism Inc. for the provision of marketing. Our concern is that home holidays do not create a level playing field with commercially run accommodation or property management businesses and do not assist the professional development of our tourism industry; in fact, they may reduce the desire for investors to live and operate a tourism facility in our Shire.	 Planning Services do not consider that a limit of 8 persons to all holiday homes is necessary, noting that the maximum number is determined by the house layout and effluent capacity. In many locations a large holiday home with 12 persons would have little to no impact on surrounding properties due to the size of properties/buffers to neighbouring properties. In addition it is noted that a Scheme Amendment to modify the Holiday Home (Large) definition would be required to reduce this number. Holiday home operators pay a higher rate in the \$ associated with their rates as opposed to a residential property (10.2053 v 9.1172 for the 15/16 financial year) to reflect the additional costs associated with holiday use properties including noise complaints handling, ranger call outs, contributions to the tourism industry, the provision of tourism infrastructure within the Shire and the promotion of the district to attract more visitors.

As with overflow camping and camping on private property, the holiday home sector adds greater pressure on existing infrastructure during peak times and does not assist in the long term rental issue currently faced by residents of our Shire.	The Shire, via municipal funds which are primarily generated through rate income, is providing \$115,000 to Denmark Tourism Inc for marketing and visitor servicing purposes this financial year.
The Chamber of Commerce would like to thank you for the opportunity to have comment on this and again we reinforce the importance of a shared tourism strategy for the Shire of Denmark that could address the broader strategic direction of tourism in our Shire.	

HOLIDAY HOME PROPERTY MANAGEMENT PLAN

PROPERTY ADDRESS:

PROPERTY MANAGER DETAILS:
Name:
Address:
Telephone Number:
Email:
Details of where bookings are made:
Internet (please specify):
Denmark Visitor Centre:
Property Manager:
Other (please specify):
NOTE: In relation to the nominated Property Manager, the following is applicable:
 □ is a person/company that will have day-to-day management of the holiday home; and □ will specifically respond to complaints pertaining to guest behaviour made before 1am within a two hour timeframe; and □ in relation to any other complaints will respond, within a reasonable timeframe but in any event within 24 hours.
DUTIES OF PROPERTY MANAGER
General Information: The Property Manager will supply readily visible in the kitchen or living area of the home the Code o Conduct, the Property Management Plan and the Fire and Emergency Plan (including the Fire Evacuation Route). Other duties include:
☐ Liaise with tenants for the occupancy and vacation of the premises;
☐ Ensure the correct maximum number of people is staying overnight in accordance with planning approval conditions;
☐ Ensure the premise is registered with the Shire of Denmark as a Holiday Home provider;
☐ Ensure guests are aware of the Code of Conduct;
☐ Ensure guests are aware of the Fire and Emergency Plan;
☐ Maintain a register of all people who utilise the premise, available for inspection by the Shire of Denmark upon request;
☐ Ensure the premise is clean and maintained to a high standard;
☐ Ensure bed linen is clean and replaced upon tenant vacation; and
☐ Ensure rubbish and recycling bins are put out and collected as required.

HOLIDAY HOME CODE OF CONDUCT

PROPERTY ADDRESS: <INSERT ADDRESS>

The following Code of Conduct governs tenant behaviour and use of the property. The tenant agrees to follow the guidelines below, for themselves and any visitors they allow at the property:

TENANTS: A responsible adult (over 18 years of age) shall be on site at all times when children are present. No unauthorised people are permitted to stay overnight.

NOISE AND NUISANCE: The tenants agree not to cause or permit nuisance at the property. This includes excessive noise, disruptive or anti-social behaviour. Noise should generally cease after 9pm Sunday through Thursday and 10pm Friday and Saturday.

VEHICLE PARKING: The tenants agree to use the parking spaces provided and not to park on lawn or garden areas on the property, or on the street verge or street itself outside the property. The guests agree not to park any additional vehicles on the property in excess of the parking spaces provided.

SHIRE REGULATIONS: The tenants agree to all Shire regulations, including noise and fire limitations.

PREMISE CONDITION AND CLEANLINESS: The tenants agree to leave the premise in a clean and tidy condition upon vacating, with all fittings and chattels in their original condition and position at the beginning of stay. Tenants are to advise the Property Manager of any damage or disrepair within 24 hours of this occurring. Any damage repairs or excessive cleaning that is attributable to the tenants stay will be paid for by the tenants.

FIRES: The tenants agree not to allow any candles, open fires or similar burn unsupervised within the premise. No open fires are permitted outside at any time. Barbeque facilities may be provided and used in a safe manner.

RUBBISH DISPOSAL: The guests agree to contain all their rubbish in the bins provided. Tenants are responsible for the putting out and collection of the bins where your stay coincides with collection days.

Your collection day is: <INSERT DAY/ALTERNTIVE ARRANGEMENT IF OUTSIDE OF THE TOWNSITES>

KEYS: At the end of the agreed tenancy, tenants agree to lock the premise, close all windows and return the keys to the Property Manager. Any lost or damaged keys will be replaced at the tenant's expense.

TERMINATION OF ACCOMMODATION: If tenants are found to have contravened any of the above Code of Conduct responsibilities a verbal warning will be issued. If the contravention is not rectified immediately the accommodation booking may be terminated with 2 hours notice at the Property Managers discretion. No refunds will be made.

DATE:

HOLIDAY HOME FIRE AND EMERGENCY PLAN

PROPERTY ADDRESS: <INSERT ADDRESS>

EMERGENCY CONTACT DETAILS:

FOR ALL EMERGENCIES DIAL 000

Property Manager: <INSERT CONTACT DETAILS>

Denmark Police: 9848 0500

Shire of Denmark: 9848 0300

Denmark Hospital: 9848 0600

EMERGENCY PROCEDURE:

In the event of a fire or emergency, evacuation information may be broadcast or available from the following sources:

ABC Radio: 630AM

DFES: www.dfes.wa.gov.au/

132 500 for SES emergency assistance

13 DFES (13 3337) for emergency information

Shire of Denmark: www.denmark.wa.gov.au

FIRE EVACUATION ROUTE

PROPERTY ADDRESS: <INSERT ADDRESS>

<INSERT MAP OF LOCALITY>

The map of the property is to clearly show (or detail) the nearest Emergency Evacuation Point.

The primary route used to evacuate the locality in the event of an Emergency which must lead to a main road.

LEGEND

Subject Property

Roads to be used in the first instance for Emergency Evacuation

FLOOR PLANS OF PREMISE PROPERTY ADDRESS: kinsertaddress>

<INSERT FLOOR PLAN/S>

LEGEND

Hardwired smoke alarms
Fire blanket (in kitchen)
Exit Lighting (if required)
Fire Extinguishers
External Taps/Garden Hose Locations
You are here.