

Policy Title:	Local Planning Policy: Unrestricted Residential Accommodation (URA)
Policy No.:	2.8
Previous Policy (No.):	n/a
Date Adopted:	17 May 2011 (decision no. 98/11)
Date Last Reviewed:	n/a
Legal Parent:	<u>Planning and Development Act 2005</u>
Legal Subsidiary:	<u>City of Bunbury Town Planning Scheme No. 7, Part 2 – Local Planning Policy Framework.</u>

Notes: For the proposed dual use of specifically designed new build single houses, grouped dwellings and multiple dwellings, or the change of use and modification of existing multiple dwellings, for the optional purpose of providing short term accommodation on a commercial basis.

PART A

1. PRELIMINARY

1.1 Citation

This Local Planning Policy is made under section 2.1 of the City of Bunbury Town Planning Scheme No. 7 (the “Scheme”), and may be cited as Local Planning Policy: Unrestricted Residential Accommodation (URA) (herein referred to as the “Local Planning Policy”).

1.2 Commencement

This Local Planning Policy was adopted by the Council of the City of Bunbury (the “City”) on 17 May 2011. The Local Planning Policy commenced operation on 30 June 2011.

1.3 Relationship to the Scheme and other Local Planning Policies

1.3.1 Pursuant to section 2.2 of the Scheme, this Local Planning Policy supplements the provisions of the Local Planning Scheme. Where a provision of this Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

1.3.2 Where a provision of this Local Planning Policy is inconsistent with another adopted Local Planning Policy that relates to a designated area, then the provisions of the Local Planning Policy that relate to design guidelines for a designated area shall prevail.

1.3.3 The Local Planning Policy is to be read in conjunction with the Scheme.

- Notes:
1. Land use and development within the Local Planning Policy Area is also subject to the Local Planning Scheme.
 2. A Local Planning Policy is not part of the Scheme and does not bind the Local Government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

1.4 Relationship with Local Laws

- 1.4.1 This Local Planning Policy operates in conjunction with the Local Government's Local Laws in the regulation of development and the use of land within the Scheme Area.
- 1.4.2 Where a provision of the Local Planning Policy is inconsistent with a Local Law, the provision of the Local Law shall prevail.

2 PURPOSE

The purpose of this Local Planning Policy is to:

- (a) guide and regulate the implementation of Unrestricted Residential Accommodation (URA) use in accordance with the policy objectives ;
- (b) ensure that future planning applications submitted to or referred to the City of Bunbury seeking Unrestricted Residential Accommodation use are considered in accordance with the procedures outlined within the Local Planning Policy and as such ensure assessments are accountable, comparable and consistent.

3 OBJECTIVES

In accordance with the Aims of the Scheme, achievement of the following objectives is sought by facilitating Unrestricted Residential Accommodation use in conjunction with a residential use:

- (a) to broaden the scope and number of short stay accommodation options available to those visiting the City;
- (b) to enhance the depth and variety of the visitor experience within strategically important tourism locations;
- (c) to facilitate the development of dual use permanent residential/short stay accommodation and thus provide landowners and investors with greater flexibility in the use and leasing of residential property;
- (d) to seek to ensure that premises with Unrestricted Residential Accommodation use are:
 - located within supportive environments; and

- appropriate to their immediate setting; and
- suited to the purpose in terms of building form and design; and
- managed in an orderly and considerate manner.

4 LOCAL PLANNING POLICY AREA

This Local Planning Policy applies to all land within the local government district of the City of Bunbury, and as such, the Local Planning Policy Area is the Scheme Area.

5 APPLICATION

- 5.1 Subject to the Scheme, development and use of land for the purposes of Unrestricted Residential Accommodation use shall be in accordance with the standards and requirements of this Local Planning Policy; and except as otherwise provided, shall require the prior planning approval of the Local Government in accordance with the provisions of the Scheme.
- 5.2 Unrestricted Residential Accommodation is not to be approved as a stand alone use and shall only be applied as a dual use in conjunction with a single house, grouped dwelling or multiple dwelling.
- 5.3 In order to promote outcomes in accordance with the objectives of this Local Planning Policy, residential development seeking to include the Unrestricted Residential Accommodation use shall only be considered by Local Government if the application relates to:
- (a) new build development comprising a Single House, new build Grouped Dwellings¹ and/or new build Multiple Dwellings; or
 - (b) an entire block, floor or wing comprising existing Multiple Dwellings.
- 5.4 The planning fee for applications seeking the additional Unrestricted Residential Accommodation use in relation to existing Multiple Dwellings shall be commensurate with the fee for a 'change of use'.

Notes: The applicant will also be required to pay an "Advertising Fee" (set out in the City of Bunbury's Schedule of Fees & Charges) prior to the commencement of advertising.

- 5.5 Where the proposal relates to survey strata lots or lots incorporating common property, the explicit written support of the appropriate body corporate and/or all other owners with an interest in that land (or their legal representatives) will be required to be submitted at the same time as the making of the planning application.
- 5.6 A planning application that includes the Unrestricted Residential Accommodation use shall, in keeping with the overall scale and complexity of the proposal, provide supplementary supporting information/documentation to the satisfaction of the Local

¹ Where short stay accommodation is to be proposed in conjunction with the use of an existing single house or existing grouped dwelling, then approval for 'Unrestricted Residential Occupation' should be sought.

Government that demonstrates how and to what extent the design requirements of this Local Planning Policy have been incorporated into the proposal.

- 5.7 In considering an application for planning approval where a variation is proposed to one or more Acceptable Development requirements prescribed under the Residential Design Codes and/or in order to adequately satisfy requirements under part 5.6 of this Local Planning Policy, the Local Government may require the submission of a Development Impact Statement (with terms of reference determined by the Local Government), which has been undertaken by an appropriately qualified person or body at the applicant's expense, as part of any application for planning approval.

Notes:	<ol style="list-style-type: none">1. Unrestricted Residential Accommodation (URA) use is not specifically mentioned within the current Zoning Table of the City of Bunbury Town Planning Scheme No.7 and thus is required to be dealt with as a land use "not listed".2. Landowners/managers of property incorporating a proposed URA use are advised to seek independent legal advice regarding the intended future use and management of their premises. This would include, but is not limited to checking the requirements of the Equal Opportunity Act 1984 and the Fair trading Act 1987.3. As many residential public liability insurance policies exclude the use of premises for short term rentals, landowners / managers of a property proposing to incorporate a URA use are recommended to check this matter with their insurance providers.
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6 EXEMPTIONS FROM PLANNING APPROVAL

Except where provided for within the provisions of the Residential Design Codes and subject to compliance with the relevant development requirements and standards of the Scheme, there are no other exemptions or exclusions permitted under the Scheme.

7 MEANING OF TERMS

- 7.1 Unless the context otherwise requires, words and expressions used in this Local Planning Policy have the same meaning as they have -

- (a) in the Planning and Development Act 2005; or
- (b) if they are not defined in that Act -
 - i. in the Dictionary of Defined Words and Expressions in Schedule 1 of the City of Bunbury Town Planning Scheme No. 7; or
 - ii. in the Residential Design Codes; or
 - iii. Building Code of Australia; or
 - iv. in a relevant Australian Standard.

- 7.2 The meaning of other specific words and expressions relevant to this Local Planning Policy are given below:

- (a) General definitions -

“Dual Use” means

the use of land or buildings for activities that fall within two distinct land use classes where neither one of those uses is considered as being incidental to the other.

Notes: Unlike some examples of a dual use where two distinct land uses may operate concurrently, the use of a residence as a dwelling or alternatively as Unrestricted Residential Accommodation is unable to occur simultaneously.

“Short-stay accommodation” means

a building or buildings used for the purpose of providing accommodation for a person or persons on a temporary basis for a period of time not exceeding three months in duration within a 12 month period.

“Strategic Tourism Location” means

a destination node or area of visitor interest represented by pockets and clusters within the City that hold special appeal and add to the value of the tourism product in Bunbury.

(b) Land use definitions -

“Unrestricted Residential Accommodation” means:

a premises comprising a dwelling or dwellings (either single, grouped or multiple) that benefit from extended rights in that they may be occupied either permanently as a residential dwelling, or temporarily for short-stay accommodation.

“Unrestricted Residential Occupation” means

a premises comprising a single house or grouped dwelling that benefits from extended rights in that they may be occupied either permanently as a residential dwelling, or temporarily for short-stay accommodation on a time limited basis.

7.3 Notes, and instructions printed in italics, are not part of the Local Planning Policy.

PART B

8 GENERAL STANDARDS FOR LAND USE & DEVELOPMENT

8.1 Land Use & Development of Unrestricted Residential Accommodation

The development of premises for the purposes of Unrestricted Residential Accommodation is to be in accordance with the requirements of –

- (a) this Local Planning Policy: Unrestricted Residential Accommodation (URA); and
- (b) the Residential Design Codes for residential and mixed use developments, subject to the variations; and
- (c) the applicable zone provisions under the Scheme; and
- (d) relevant Special Control Area(s); and
- (e) relevant Local Planning Policies or Local Laws; and
- (f) applicable Australian Standards.

Notes: Section 8 “General Standards for Land Use & Development” of this Local Planning Policy sets out the prescriptive provisions against which Unrestricted Residential Accommodation must be evaluated as part of any land use and development within the Scheme Area.

8.2 Dual Use

Proposals seeking approval need to be submitted in the form of a dual use in the following manner:

- (a) Single House / Unrestricted Residential Accommodation; or
- (b) Grouped Dwelling / Unrestricted Residential Accommodation; or
- (c) Multiple Dwelling / Unrestricted Residential Accommodation.

8.3 Location

In order to ensure that the use is established and contained within resilient environments supportive to tourism, the Unrestricted Residential Accommodation use will only be considered for support within:

- (a) the City Centre Zone as depicted within the Scheme Map; or
- (b) Special Uses Zones subject to specific provisions contained within the Scheme.

Notes: Areas of the City within which Unrestricted Residential Accommodation use may be considered for support by Local Government will be subject to future review and revision in accordance with clause 13.2 of this LPP. In undertaking this review, particular regard shall be paid to guidance contained within the adopted City of Bunbury Local Planning Strategy for Tourism, copies of which are available for viewing at the City of Bunbury Council offices or may be accessed via the City of Bunbury website <http://www.bunbury.wa.gov.au/>.

8.4 Setting

In order to reduce the incidence of lifestyle conflict and potential for disturbance that may result from the mixing of short stay occupants (within dual use properties) and permanent residents (in single use properties) at close quarters on the same lot and/or survey strata scheme, the approval of Unrestricted Residential Accommodation use shall only be considered by local government where:

- (a) it is proposed to apply to all dwellings forming part of the lot or survey strata scheme; or
- (b) within a multiple dwellings setting, it is proposed to apply to a logical and discrete part of an existing or proposed survey strata scheme to the satisfaction of Local Government (e.g. an individual floor, block or wing).

8.5 Building Fitness

- 8.5.1 Dwellings the subject of a planning application incorporating an Unrestricted Residential Accommodation use must be fit for the purpose at the time of use.
- 8.5.2 Dwellings with an approved Unrestricted Residential Accommodation use must comply with the Building Code of Australia (BCA) before the use is commenced.

- Notes:
- 1. In the case of a change (extension) of use, it will be a condition of planning approval that a building licence is submitted to and approved in writing by the Local Government before premises are first occupied for the purpose of short stay accommodation. The premises may be required to comply with BCA standards of more than one building class and in such cases the premises shall be required to satisfy the BCA standards relevant to each class.
 - 2. Applicants are advised to obtain professional advice at the earliest opportunity in regard to extent of building modifications and other works that may be necessary in order to fully comply with the BCA and meet any Fire and Emergency Services Authority (FESA) requirements.

8.6 Design Considerations

- 8.6.1 Development applications seeking Unrestricted Residential Accommodation use shall provide detailed designs and other supporting information that demonstrates the extent to which physical measures have been introduced (in addition to those required by the Residential Design Codes) that seek to satisfactorily address the following:
 - (a) achieving and maintaining adequate levels of privacy between the application site and neighbouring dwellings/properties (i.e. in respect of private amenity space provision, boundary treatments and screening); and
 - (b) noise mitigation measures in the case of grouped dwellings and multiple dwellings.
- 8.6.2 Where a mix of potential short stay accommodation (dual use properties) and permanently occupied residences (single use properties) are proposed upon the

same parent lot, the application must adopt a comprehensive approach to design and shall demonstrate that;

- (a) key facilities and services (e.g. communal parking and recreation areas, shared entrances, walkways/corridors to units, lifts and stairwell access, waste disposal facilities) are either sympathetically incorporated or segregated, such that potential for lifestyle conflict and disturbance is minimised, and
- (b) in the case of new build development, unity is exhibited in external form and appearance, with largely indiscernible differences between the dual use and single use components.

- 8.6.3 Dwellings approved with a dual use must not be subsequently altered or modified in such a manner that would be contrary to the relevant provisions of the Residential Design Codes (R-Codes).
- 8.6.4 Car parking provision to a minimum standard shall be in accordance with requirements of the Residential Design Codes.

Notes: Car parking provision above the minimum standard will potentially allow greater flexibility in establishing the controls that will form part of the Operational Management Plan (e.g. in setting the maximum number of occupiers).

8.7 Operational Management Plan

- 8.7.1 Unless requested to be submitted and subsequently approved as part of a planning application, it will be a conditional requirement of any planning approval that an Operational Management Plan shall be submitted and approved in writing by the Local Government before the development is first occupied and shall be adhered to thereafter. Proposals that involve a change (extension) of use of multiple dwellings will require an Operational Management Plan to be submitted as part of the planning application and the agreed plan shall form part of any subsequent approval of planning approval.
- 8.7.2 Where the planning application relates to either grouped dwellings or multiple dwellings, the Operational Management Plan must be agreed and subsequently enforced by the relevant body corporate (or all land owners with an interest in the land). Any changes subsequently proposed to an approved Operational Management Plan must be first agreed by the relevant body corporate (or all owners with an interest in the land) prior to seeking the written approval of Local Government.
- 8.7.3 The Operational Management Plan shall address the manner in which the short stay component is to be operated and must include:
 - (a) a nominated local manager/caretaker with a 24hr contact number who will be responsible for the day to day smooth running of the premises and oversee adherence to the approved Operational Management Plan;
 - (b) house cleaning/garden maintenance/domestic waste disposal arrangements;

- (c) proposed renter (agreement) controls in respect of:
 - i. maximum number of occupants
 - ii. gatherings and guest/visitor number limitations at any one time
 - iii. noise curfews
 - iv. use of outdoor areas
 - v. car parking
 - vi. trailer/equipment storage
 - vii. pets
- (d) details of how reports of nuisance will be followed up and dealt with in a timely and appropriate manner;
- (e) a fire and emergency response plan;
- (f) the signed agreement of all landowners with an interest in the land (or their legally authorised representatives).

8.8 Signage

Signage shall be limited to and consistent with that normally associated with a dwelling (e.g. a nameplate). Additional advertising signage will not be supported.

PART C

9 VARIATION OF DEVELOPMENT REQUIREMENTS

- 9.1 Development in accordance with this policy is deemed to comply.
- 9.2 In exercising any discretion the Local Government should ensure that the variation will not contravene the following provisions of the Scheme -
- (a) intent & objectives of this Local Planning Policy;
 - (b) section 1.6 The Aims of the Scheme;
 - (c) section 4.2 Zone Objectives; and
 - (d) section 10.2 Matters to be Considered by Local Government.

10 DEVELOPMENT IMPACT STATEMENT

- 10.1 In conjunction with part 5.7 of this Local Planning Policy, if a proposal is considered to have the potential to significantly impact upon residential amenity within the immediate area, the Local Government shall require a Development Impact Statement to be submitted for assessment as part of an application for planning approval, unless this requirement has been waived by the Local Government.
- 10.2 The Development Impact Statement shall comprise a report that is undertaken to the satisfaction of the Local Government and contain the following information in sufficient detail to permit the Local Government to make a thorough assessment of the proposal as far as it relates to the proposed Unrestricted Residential Accommodation use, including :
- (a) the adequacy of physical measures employed to protect or enhance the level of privacy afforded to occupiers of the proposal and that afforded to the occupants of neighbouring residential premises;
 - (b) the adequacy of physical noise mitigation measures employed that will act to retain or enhance the residential amenity afforded to occupiers of the proposal and that afforded to the occupants of neighbouring residential premises;
 - (c) the adequacy of controls to be introduced within the management plan (and within subsequent letting agreements) that seek to ensure that the residential amenity of the area is safeguarded.

11 NOTIFICATION & ADVERTISING

Advertising will be undertaken in accordance with the provisions under Clause 9.4 of the Scheme.

- Notes:
1. Where an application involves a use not listed in the Zoning Table of the Scheme, local government may give notice or require the applicant to give notice in one or more of the following ways:
 - (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;

- (b) notice of the proposed use or development published in a newspaper circulating in the Scheme Area stating that submissions may be made to the local government by a specified date being not less than fourteen days from the day the notice is published;
 - (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.
2. The applicant shall be required to pay an “Advertising Fee” (as set out in the City of Bunbury’s Schedule of Fees & Charges) prior to the commencement of advertising.

12. GRANTING OF PLANNING APPROVAL

- 12.1 Where a proposal is acceptable on planning grounds and relates to grouped and/or multiple dwellings, the agreed Operational Management Plan must be enforced by the appropriate body corporate.

- Notes:
- 1. In retaining the option of residency on a permanent basis, the application of the URA use class should not be interpreted as meeting any tourism accommodation requirement (i.e. in ratio calculations any dual use incorporating URA use would necessarily fall into the permanent residential proportion).
 - 2. Following the granting of planning permission for an URA use, owners /managers are encouraged to seek accreditation from the Tourism Council of Australia. Accreditation is a non-regulatory, voluntary means of addressing customer service and consumer protection issues. Further information is available from the Tourism Council: <http://www.tourismcouncilwa.com.au>

13 IMPLEMENTATION & REVIEW

13.1 Why a Local Planning Policy?

The Scheme is a prescriptive instrument that sets out the legal provisions for how land may be used and developed. Sole reliance upon it for regulating all forms of development under all circumstances is not always practical and the Scheme makes allowance for this by enabling the Local Government to adopt Local Planning Policies from time to time in order to address specific issues or a range of issues in a specific place.

A Local Planning Policy is a tool to assist developers in preparing proposals with a greater understanding of the Council’s desired outcomes for the City. This helps to ensure that developers can invest the time and resources needed in preparing applications for planning approval with increased confidence; and that the City’s staff and Councillors can assess development proposals in a more consistent and transparent manner.

13.2 Policy Review

The Local Government will review this Local Planning Policy annually in conjunction with the rest of the Local Planning Policy Framework in accordance with the Planning and Development Act 2005.