

**9.1.1 Amendment No. 94 to Planning and Building Policies – Rescission of Policy No. 3.4.5 relating to Short Term Accommodation and Policy No. 3.5.17 relating to Communal Open Space for Lodging Houses, Hostels and Serviced Apartments; and Final Adoption of Draft Policy No. 3.4.5 relating to Temporary Accommodation**

<b>Ward:</b>	Both	<b>Date:</b>	2 January 2013
<b>Precinct:</b>	All	<b>File Ref:</b>	PLA0186
<b>Attachments:</b>	<a href="#">001</a> – Final Amended Policy No. 3.4.5 <a href="#">002</a> – Summary of Submissions		
<b>Tabled Items:</b>	Nil.		
<b>Reporting Officer:</b>	A Fox, Planning Officer (Strategic)		
<b>Responsible Officer:</b>	C Eldridge, Director Planning Services		

**OFFICER RECOMMENDATION:**

**That the Council;**

1. **ADOPTS** the final amended version of Policy No. 3.4.5 relating to Temporary Accommodation, as shown in Appendix 9.1.1 (001) having reviewed the five (5) submissions received during the formal advertising period and outlined in the Summary of Submissions as shown in Appendix 9.1.1 (002) in accordance with Clause 47 (4) and (5) of the City’s Town Planning Scheme No. 1;
2. **AUTHORISES** the Chief Executive Officer to advertise the final amended versions of the Policy No. 3.4.5 relating to Temporary Accommodation, as shown in Appendix 9.1.1 (001), in accordance with Clause 47(6) of Town Planning Scheme No. 1; and
3. **FORMALLY RESCINDS** the following Policies and **AUTHORISES** the Chief Executive Officer to advertise the final rescission of these Policies:
  - 3.1 **Policy No. 3.4.5 relating to Short Term Accommodation; and**
  - 3.2 **Policy No. 3.5.17 relating to Communal Open Space for Lodging Houses, Hostels and Serviced Apartments.**

**in accordance with Clause 47(5)(b) and Clause 47(6) of the City’s Town Planning Scheme No. 1.**

**PURPOSE OF REPORT:**

The purpose of this report is to provide the Council with an overview of the outcomes of the formal advertising of Amendment No. 94 and to present to the Council with a recommendation to progress the matter.

Amendment No. 94 proposes the rescission of the following policies:

- Policy Nos. 3.4.5 relating to Short Term Accommodation; and
- Policy No. 3.5.17 relating to Communal Open Space for Lodging Houses, Hostels and Serviced Apartments.

The amendment also proposes final adoption of Policy No. 3.4.5 relating to Temporary Accommodation.

**BACKGROUND:**

A new Policy No. 3.4.5 relating to Temporary Accommodation has been created to replace Policy No. 3.4.5 relating to Short Term Accommodation and Policy No. 3.5.17 relating to Communal Open Space for Lodging Houses, Hostels and Serviced Apartments which are proposed to be rescinded as part of this amendment.

Policy No. 3.4.5 relating to Temporary Accommodation aims to improve the City's ability to manage the provision of Temporary Accommodation that are expected to continue to increase within the City in the future and to ensure that those Temporary Accommodation premises that are already operating comply with certain requirements. The Policies main objectives are:

- To clarify what Temporary Accommodation is, and define and differentiate the different types of Temporary Accommodation within the City;
- To clarify the general requirements of all Temporary Accommodation and the specific requirements that relate to Bed and Breakfasts, Short Term Dwellings, Lodging Houses and Services Apartments; and
- To minimise the impact of Temporary Accommodation to the residential amenity of the area in which they are located.

**History:**

Date	Comment
10 May 2005	The Council at its Ordinary Meeting adopted Policy No. 3.5.17 relating to Communal Open Space for Lodging Houses, Hostels and Serviced Apartments.
10 April 2007	The Council at its Ordinary Meeting adopted Policy No. 3.4.5 relating to Short Term Accommodation.
24 July 2012	The Council at its Ordinary Meeting initiated Amendment No. 94 to advertise the rescinding of Policy No. 3.5.17 relating to Communal Open Space for Lodging Houses, Hostels and Serviced Apartments and Policy No. 3.4.5 relating to Short Term Accommodation; and the consideration of Draft Policy 3.4.5 relating Special Residential Accommodation.
21 August 2012	Advertising of Amendment No. 94 commenced.
18 September 2012	Advertising of Amendment No. 94 finished.

**Previous Reports to Council:**

This matter was previously reported to the Council on 24 July 2012.

The Minutes of Item 9.1.9 from the Ordinary Meeting of Council held on 24 July 2012 relating to this report is available on the City's website at the following link:  
[http://www.vincent.wa.gov.au/Your\\_Council/Agenda\\_Minutes](http://www.vincent.wa.gov.au/Your_Council/Agenda_Minutes)

**DETAILS:**

The City's Officers have further reviewed the draft Policy No. 3.4.5 relating to Temporary Accommodation following the consultation period and have proposed a number of amendments as well as a reformat of the policy to provide clarity and ease of reading.

The following outlines the proposed amendments to the policy that was referred to the Council on 24 July 2012 and advertised for 28 days and the rationale behind the proposed changes.

**Policy Title**

The Title of the policy has been changed from ‘Special Residential Accommodation’ to ‘Temporary Accommodation’. The title of Temporary Accommodation is considered to be a more appropriate and widely recognisable title to cover the type of accommodation that is the subject of this policy.

**Introduction**

Minor amendments to the Introduction have been made to provide further clarity on the intent of the policy.

**Residential Building**

Clause 1 relating to Residential Buildings in the advertised version has been removed from the final version as it is considered that Clause 1 relating to Residential Buildings was confusing and was essentially a repetition of the definitions within the Residential Design Codes (R Codes), thus adding unnecessary volume to the policy.

**Clause 1. – Definitions**

While it is acknowledged that there is some overlap between the different types of temporary accommodation that are the subject of this policy, there are also some distinctions between them that require them to be separately defined within the policy.

Amendments have been made to the definitions for Bed and Breakfast, Short Term Dwelling, Lodging House and Serviced Apartments and are intended to provide further clarify and to differentiate between each type of accommodation.

Proposed Amendments	Officer Comments
Temporary Accommodation	<p>The definition for Temporary Accommodation serves to define and clarify in a generic sense the type of accommodation that is the subject of this policy.</p> <p>Definitions for specific forms of temporary accommodation are further defined in the Definitions section.</p>
Bed and Breakfast	<p>In order to distinguish a Bed and Breakfast from the other types of Temporary Accommodation, the definition has been amended to clarify that a Bed and Breakfast applies to a dwelling accommodating up to 6 guests (to a maximum of 12 persons inclusive of the family of the keeper) away from their usual place of residence. The amended definition better describes the intent of a Bed and Breakfast which is essentially a dwelling occupied by a keeper (and their family members) that also provides accommodation to guests on a temporary basis. In this instance the keeper is required to reside on site whilst the Bed and Breakfast is in operation.</p> <p>The total of 12 people (i.e. maximum of 6 guests plus up to an additional 6 people who form part of the keeper and family) is to ensure consistency with the BCA classification of a dwelling which allows up to 12 persons without the need for additional facilities (i.e. bathrooms, cooking facilities).</p>
Short Term Dwelling	<p>The term Short Term Dwelling is considered a more appropriate title to define this type of accommodation, which is essentially a dwelling that is used to accommodate a maximum of 6 guests on a short term basis (less than 6 months). Note that it is not a requirement that the keeper reside on site, therefore the count of 6 people may or may not include the keeper, but in any case will be capped at 6.</p> <p>The reason for the maximum of 6 person’s is that if there is over 6 person’s (exclusive of the keeper) it becomes classified as a Lodging house; and also capping at 6 persons will minimise compliance issues associated with this type of dwelling (i.e. parking issues, noise and anti-social behaviour).</p>

Proposed Amendments	Officer Comments
Lodging House	<p>The definition of Lodging House in this policy is intended to be consistent with the Health Act 1911. Rather than redefine the definition of a Lodging House, the policy makes reference to this legislation to ensure that consistency is maintained.</p> <p>A Lodging House differs from the other forms of Temporary Accommodation in that where the number of guests exceeds 6 (exclusive of the keeper) is defined as a Lodging House and is subject to additional Health and Building requirements. Note that it is a requirement that a keeper reside at the premises whilst the Lodging House is in operation.</p>
Serviced Apartment	<p>The definition of Serviced Apartment has been slightly amended to remove reference to Residential Tenancy Agreements. This reference has already been made in the definition of 'Temporary Accommodation'.</p> <p>For the purpose of this policy, Serviced Apartment are distinct from other forms of Temporary Accommodation in that they are essentially a residential building with self contained apartments functioning in a similar way as a hotel. They are different from a hotel in that they are self contained</p>
Dwelling	<p>Where a definition is contained in the R Codes it is current practice to state 'as per the R Codes'. This will ensure that the policy remains consistent with the R Codes and eliminates unnecessary volume to the policy.</p>
Residential Building	As above.
Keeper	<p>This definition has been amended to provide clarity on the role of the keeper. The definition of the keeper is intended to apply to a person who is a permanent resident of a property and is responsible for its management and upkeep.</p>
Guest	<p>This definition has been included to clarify what constitutes a guest in relationship to this policy. The definition of a guest is intended to apply to a person who resides at a temporary accommodation premises on a temporary basis for a fee. Guests are not subject to Residential Tenancy Agreements.</p>
Self Contained	<p>This definition has been included to clarify what constitutes a self contained accommodation in relationship to this policy.</p>
Strata Company	<p>This definition has been included to clarify the intent of Clause 2.1.2 relating to the requirement to obtain the Strata Company consent in Strata Title Situations. This term is consistent with that contained in the Strata Title Act 1995.</p> <p>Essentially a Strata Company is automatically formed (comprising all owners) under the Strata Titles Act 1985 in all strata scheme or survey strata schemes and is required to carry out the requirements of the Strata Title Act 1995 including the enforcement of bylaws and management of common property.</p>
Council of Owners	<p>This definition has been included to clarify the intent of Clause 2.1.2 relating to the requirement to obtain the Strata Company consent in Strata Title Situations. This term is consistent with that contained in the Strata Title Act 1995.</p> <p>The Council of Owners is an elected representative of a Strata Company whose roles and responsibilities are administered under the Strata Title Act 1995.</p>

**Clause 2. – Requirements**

There are a number of general requirements that relate to all types of temporary accommodation. These provisions are contained in Clause 2 (previously contained in Clause 3 of the advertised policy).

In addition to these general provisions, there are a number of provisions that are specific to each different type of temporary accommodation. These specific requirements for Bed and Breakfast, Short Term Dwelling, Lodging House and Services Apartments are contained in this section as Clauses 2.2, 2.3, 2.4 and 2.5 respectively. Some amendments have been made to these provisions following the advertising period and are outlined in the table below:

Proposed Amendments	Officer Comments
<b>Clause 2.1 – General Requirements for all Temporary Accommodation</b>	
Clause 2.1.1 – Carparking This was previously contained in Clause 3.1.1	The content of this clause has not been changed, it has just been renumbered. It is consistent with draft clause 3.1.1 of the policy that was advertised.
Clause 2.1.2 Strata Title Situations	This Clause replaces clause 3.1.3 of the advertised policy. The provisions of the Strata Title Act 1985 and associated By-Laws have been reviewed indicating that there is an adequate framework for decisions to be made about proposals affecting all owners in a strata situation. Given that there are different scenarios of smaller strata developments (i.e. 2 – 5 owners) and larger developments, clause 2.1.2 will cover both those situations. For example, smaller developments where the Strata Company comprises all owners but there may not be an elected Council of Owners representing the body of owners (in these situations consent from the Strata Company is required which is essentially all owners) in contrast to larger developments, where the Council of Owners would be representative of the larger body of owners. Note that Clause 2.1.4 requires all owners and occupiers are notified of the proposal, and consent will be required from the Strata Company or Council of Owners as administered under the Strata Titles Act 1985 and associated By-laws.
Clause 2.1.3 – Planning Application	The contents of this clause has not changed, it has just been moved from other sections of the policy. The content is consistent with 4.1 Planning Approval and 5.1 Management Plan of the advertised policy.
Clause 2.1.4 – Consultation	The content of this clause is consistent with draft clause 4.1 of the advertised policy which addresses the ‘SA’ advertising requirement. The clause includes an addition relating to consultation in Strata Title situations whereby consultation will include notification to all strata owners and occupiers.
Clause 2.1.5 – Building Approval	The content of this clause is consistent with draft clause 4.2 of the advertised policy which addresses Building Approval requirements.
Removal of Clause 3.1.2 relating to Owners Consent of the advertised policy.	Clause 3.1.2 of the advertised policy has been deleted as it is not considered a necessary addition to the policy. The requirement for owners consent is covered by the necessity of owners to sign a MRS Form 1 as part of a planning application for any change of use or development on land. While this clause relating to owners consent has been removed, a provision relating to requiring the consent from the Strata Company or Council of Owners in strata situations has been addressed in clause 2.1.2.

Proposed Amendments	Officer Comments
<b>Clause 2.2 – Specific Requirements for Bed and Breakfast</b>	
Clause 2.2.1 – Management	The content of this clause is consistent with the contents contained in the definition for Bed and Breakfast in the advertised policy. It was considered more appropriate to included them as a specific requirements of Bed and Breakfast rather than part of the definition.
Removal of Clauses 3.2.1 relating to Location and 3.2.2 relating to Occupancy contained in the advertised policy.	Clause 3.2.1 has been removed as the location requirements are as per the TPS No. 1 and it is not necessary to include in this policy. Clause 3.2.2 relating to occupancy has been removed from this section as it forms part of the definition of Bed and Breakfast.
<b>Clause 2.3 – Specific Requirements for Short Term Residential</b>	
Clause 2.3.1 - Management	The content of this clause is consistent with the content contained in the definition section.
Clause 2.3.2 - Compliance	The content of this clause is consistent with Clause 4.0 of the advertised policy which addresses to breaches in compliance relating to Short Term Dwellings. The addition of this clause aims to address disputes that often arise over whether an accommodation should be classified as short term and therefore be subject to the requirements of this policy.
Removal of Clauses 3.3.1 relating to Location and 3.3.2 relating to Occupancy contained in the advertised policy.	Clause 3.2.1 has been removed as the location requirements are as per the TPS No. 1 and it is not necessary to include in this policy. Clause 3.2.2 relating to occupancy has been removed from this section as it forms part of the definition of Short Term Dwelling.
<b>Clause 2.4 – Specific Requirements for Lodging House</b>	
Clause 2.4.1 – Management	The content of this clause has not changed. It is consistent with Clause 3.4.3 of the advertised policy.
Clause 2.4.2 – Health Requirements	The content of this clause has not changed. It is consistent with Clause 3.4.4 of the advertised policy.
Clause 2.4.3 – Communal Open Space	The content of this clause has been taken from the table contained in Clause 3.4.5 of the advertised policy. Not all provisions contained in the table have been included, only those that are considered a necessary requirement.
Removal of Clauses 3.4.1 relating to Location and 3.4.2 relating to Occupancy contained in the advertised policy.	Clause 3.4.1 has been removed as the location requirements are as per the TPS No. 1 and it is not necessary to include in this policy. Clause 3.4.2 relating to occupancy has been removed from this section as it is contained in the definition in the Health Act 1911 and the City's Local Law relating to Lodging Houses which is referred to in the definition for Lodging House in this policy.
<b>Clause 2.5 – Special Requirements for Services Apartments</b>	
2.5.1 – Design	This Clause has been taken from clause 3.5.2 and clause 3.5.3 of the advertised policy with the inclusion of a reference to The City's Policy No. 3.4.8 relating to Development Guidelines for Multiple Dwellings in Residential Zones and relevant Precinct Policies.
2.5.2 – Servicing Strategy	This Clause has been taken from Clause 5.3 of the advertised policy and moved into this section as it is a special requirement relating to serviced apartments and not a requirement of all temporary accommodation.
Removal of Clauses 3.4.1 relating to Location	Clause 3.5.1 has been removed as the location requirements are as per the TPS No. 1 and it is not necessary to include in this policy.

In addition to the above, the following clauses have been removed from the advertised version of the policy as they are no longer considered a necessary addition to the policy:

- Clause 4.4 – Relationship to other Documents. This clause has been removed from the policy as it is not current practice to list all the relevant legislation and policies that should be considered as part of this policy. Where reference to a particular policy or legislation is relevant it has been included in the appropriate part of the policy.
- Clause 4.5 – Residential Tenancy Agreement. This clause has been removed from the policy as it is not current practice to include reference to all legislation to be considered as part of this policy. Onus should not be on the City to reference all relevant legislation.
- Clause 5.4 – Supporting Information. This clause has been removed the checklist for planning applications requires the applicant to provide justification and supporting information on the proposal.

**CONSULTATION/ADVERTISING:**

Required by legislation:	No	Required by City of Vincent Policy:	Yes
--------------------------	----	-------------------------------------	-----

The Policies were advertised in accordance with Clause 47 of the City of Vincent Town Planning Scheme No. 1.

Consultation Period: 28 days

Consultation Type: Four adverts in local paper, notice on the City's website, copies displayed at City of Vincent Administration and Civic Building and Library and Local History Centre, letters to representatives from the tourism sector, Western Australian Planning Commission, and other appropriate government agencies as determined by the City of Vincent.

A total of five (5) submissions were received during the four week consultation period as follows:

Community Submissions

Position	Number Received	Percentage
Support	-	-
Object	-	-
Not Stated	1	100%
<b>Total</b>	<b>1</b>	<b>100%</b>

Government Authority Submissions

Position	Number Received	Percentage
Support	3	75%
Object	-	-
Not Stated	1	25%
<b>Total</b>	<b>4</b>	<b>100%</b>

Planning Consultants Submissions

Position	Number Received	Percentage
Support	-	-
Object	-	-
Not Stated	-	-
<b>Total</b>	<b>-</b>	<b>-</b>

Total Submissions Received

Position	Number Received	Percentage
Support	3	60%
Object	-	0%
Not Stated	2	40%
<b>Total</b>	<b>5</b>	<b>100%</b>

The comments raised during the consultation are outlined in the summary of submissions as show in Attachment 002, followed by an officer response.

**LEGAL/POLICY:**

- City of Vincent Town Planning Scheme No. 1 and associated Policies; and
- City of Vincent Consultation Policy 4.1.5.

**RISK MANAGEMENT IMPLICATIONS:**

The effective control and management of Temporary Accommodation will alleviate any negative impact to adjoining residents.

**STRATEGIC IMPLICATIONS:**

In keeping with the City's *Strategic Community Plan 2011-2021* Objectives 1.1.1:

*'1.1.1 Develop and implement a Town Planning Scheme and associated policies, guidelines and initiatives that deliver the community vision.'*

**SUSTAINABILITY IMPLICATIONS:**

ENVIRONMENTAL	
Issue	Comment
The amendments to the City's Policy No. 3.4.5 relating to Temporary Accommodation serves to provide appropriately located housing options within close proximity to public transport opportunities.	

SOCIAL	
Issue	Comment
The amendments to the City's Policy No. 3.4.5 relating to Temporary Accommodation serve to provide a wide range of affordable housing opportunities for the City's residents also responding to steady increased pressure for housing options in Vincent and Perth more generally.	

ECONOMIC	
Issue	Comment
The amendments to the City's Policy No. 3.4.5 relating to Temporary Accommodation assist in facilitating appropriately located accommodation conveniently located within close proximity to the City's commercial and tourist hubs ensuring that the City is an attractive destination for local and international tourists.	

**FINANCIAL/BUDGET IMPLICATIONS:**

Expenditure for this matter will be incurred under the following budgeted item:

Budget Amount:       \$80,000  
Spent to Date:        \$ 3,687  
Balance:               \$76,312

**COMMENTS & CONCLUSION:**

The draft Policy No. 3.4.5 relating to Temporary Accommodation has been amended taking into consideration comments received during the formal consultation period. It is considered that the final amended version of the policy will provide clarity and direction on the control and management of various forms of temporary accommodation within the City.

As a result, it is recommended that the Council approve the Officer Recommendation to adopt the amended version of amended Policy No. 3.4.5 relating to Temporary Accommodation and advertise the final version in accordance with Clause 47(6) of Town Planning Scheme No. 1.

In addition, to the above, it is recommended that the Council formally rescinds the following Policies and authorises the Chief Executive Officer to advertise the final rescission of these Policies:

- (a) Policy Nos. 3.4.5 relating to Short Term Accommodation; and
- (b) Policy No. 3.5.17 relating to Communal Open Space for Lodging Houses, Hostels and Serviced Apartments.

**9.1.1 Amendment No. 94 to Planning and Building Policies – Rescission of Policy No. 3.4.5 relating to Short Term Accommodation and Policy No. 3.5.17 relating to Communal Open Space for Lodging Houses, Hostels and Serviced Apartments; and Final Adoption of Draft Policy No. 3.4.5 relating to Temporary Accommodation**

(To be completed by Chief Executive Officer)

UNDER DELEGATED AUTHORITY THE OFFICER RECOMMENDATION IS:

~~APPROVED/NOT APPROVED/APPROVED AS AMENDED~~

\*TO BE REPORTED TO ORDINARY MEETING OF COUNCIL  
TO BE HELD ON 12 FEBRUARY 2013.

.....  
A/CHIEF EXECUTIVE OFFICER

.....17/1/2013