

## LOCAL PLANNING POLICY

8.28

<b>TITLE:</b>	<u><del>TOURIST ACCOMMODATION DEVELOPMENTS (EXCLUDING CARAVAN PARKS) WITHIN THE TOURIST ZONE</del> STRATA TITLING OF TOURIST DEVELOPMENTS IN THE TOURIST ZONE</u>
<b>ADOPTED:</b>	OCM 17 December 1996 – Page 42
<b>REVIEWED:</b>	OCM 20 March 2001 – Pages 54 - 55 OCM 4 February 2003 – Pages 48 - 51 OCM 13 April 2004 – Pages 19 – 24 OMC 30 July 2015 – Pages 28 – 40 OMC 17 December 2015 – Pages 110-121
<b>ASSOCIATED LEGISLATION:</b>	Planning & Development Act 2005 Local Planning Scheme No 6 (LPS6)
<b>ASSOCIATED DOCUMENTS:</b>	
<b>REVIEW RESPONSIBILITY:</b>	Director Development Services
<b>DELEGATION:</b>	Delegations are exercised in accordance with delegation granted in terms of Section 5.42 of the Local Government Act 1995 as amended or other statutes as applicable to specified officers.
<b>APPLICATION:</b>	This policy applies to all development within the Tourist zone within LPS6.

Previous Policy Number 4.1.10

### Background:

Clause 34.14.2 of LPS6 lists the objectives for development in the 'Tourist' zone which includes the following:

*ensure that short term tourist and holiday accommodation are the predominant land uses in this zone;*

Clause 34.42.1 establishes the site and development requirements within the Tourist zone. ~~This Policy will establish minimum requirements that must be satisfied to ensure that the objectives and site and development requirements of LPS6 are satisfied.~~ At the Ordinary Meeting of Council on the 28 July 2016, the Cable Beach Development Strategy 2016 was adopted. The Strategy also contains development controls for Tourist Developments in the Cable Beach precinct.

This Policy has been prepared to guide the Strata Titling of tourist developments in the Tourist Zone.

### Objective:

~~Protect and foster the local tourism industry.~~

~~Ensure that tourist development is the predominant land use in the Tourist zone.~~

- ~~1. Ensure that the needs of tourist development and permanent residential development are met.~~
- ~~2. Ensure that permanent residential development does not impact negatively on the amenity and privacy of tourist development and vice versa.~~
- ~~3. Enhance Broome's popularity as a holiday destination.~~
- ~~4. Encourage a range of tourist accommodation types.~~

~~Ensure high quality tourist accommodation with a complete architectural and landscape theme / form which enhances the area and reflects the character of Broome.~~

- ~~5. Encourage tourist developments to have sufficient on-site recreational facilities and associated tourist commercial opportunities to make holidaying in Broome more attractive in the off peak season.~~
- ~~6. Establish guidelines, controls and development standards for proposed development to ensure that the objectives are achieved.~~

1. To guide the strata titling of Tourist Developments in the Tourist zone.
2. Ensure that the Tourist Developments which are strata titled are managed and maintained to provide a positive tourist experience.
3. Ensure that when Tourist Developments are strata titled the purpose and objectives of the Tourist zone in LPS6 are maintained.

### **Definitions:**

**"permanent residential development"** means development of either a single house, grouped dwelling, multiple dwelling or residential building which is occupied by the same person or group of persons for a period exceeding 3 months in any one 12 month period.

**"hotel"** means premises used for the overnight accommodation of patrons, and may include facilities for consumption of beverages, or a restaurant, or a betting agency or facilities for entertainment, and which is or is intended to be the subject of a hotel licence granted under the provisions of the *Liquor Licensing Act 1988*, and does not include a Motel or Tavern.

**"motel"** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Licensing Act 1988*.

**"resort style"** means development that appear to be integrated, purpose built luxury or experiential premises for predominantly short stay guests comprising accommodation units and on-site tourist facilities such as reception, restaurant and leisure facilities such as swimming pool, gymnasium and tennis courts.

~~“short stay” means the occupation of premises from time to time for temporary living purposes but which are not occupied by the same person or group of persons for a period not exceeding 3 months in any one 12 month period;~~

~~“tourist development” means a building, or group of buildings forming a complex, designed for the accommodation of short stay guests and which provides on-site facilities for the convenience of guests and for management of the development, where occupation by any person is limited to a maximum of three months in any 12 month period.~~

### **Policy:**

~~Any tourist development which seeks approval for a strata subdivision. All development within a Tourist ~~z~~zone shall comply with the objectives and ~~guidelines provisions~~ of this policy.~~

~~1.1 The predominant land use of a site shall be tourist related at all times. Development of any residential component of an integrated development can not occur unless it is constructed as part of a tourist development and/or there being substantial tourist development already existing on the site.~~

~~1.2.1 No stand-alone residential development/subdivision and/or strata titling shall be approved.~~

~~1.3 The permanent residential development component of an integrated tourist/residential development shall not occur as stage one of any development.~~

~~1.4 To compliment short stay tourist accommodation limited “tourist orientated” commercial development may be permitted, as well as those uses, which service both permanent residents and holiday makers, consistent with the overall tourist use and in accordance with Local Planning Scheme No 6.~~

### **Site and Locality Development Requirements**

~~2.1 The development can be adequately drained. Where it is proposed to discharge stormwater into Council’s drainage system a headworks charge will be imposed as a condition of approval.~~

~~2.2 An assessment of the local road and path system by the Shire may result in the developer being required to make a financial contribution to upgrading works.~~

### **Specific Development Requirements**

#### **Tourist Development – Design, Density, Plot Ratio, Setbacks & Height Limits:**

~~3.1 Tourist development shall be separated from permanent residential development, clustered, scattered or otherwise, so not to impact on the privacy of permanent residents, particularly where the development site adjoins residential zoned land.~~

~~3.2 The development standards of the R40 Code of the Residential Design Codes shall be applied with regard to plot ratio, site cover and setbacks. The height controls contained in LPS6 shall apply. The density of the development for freestanding units such as chalets and bungalows will be calculated at the R40 standard, however this will not apply to rooms in a hotel or motel.~~

~~3.3 A plot ratio or dwelling bonus of up to 20% may be granted where a developer provides the following facilities:~~

- ~~○ meeting /conference room/s;~~
- ~~○ recreational facilities such as swimming pool/s, a first aid room, tennis court/s, games room/s, a gymnasium and a sauna; and~~
- ~~○ food and beverage facilities.~~

~~1.2 Each tourist development unit shall contain at least a bedroom and bathroom. If laundry and clothes drying areas are not provided for each unit / apartment, laundry facilities of this nature shall be provided in a common area of the development.~~

~~Developments that adjoins residential zoned land shall be designed so as not to impact negatively on the privacy and amenity of the adjoining residents.~~

#### **Permanent Residential Development – Design, Density, Plot Ratio, Setbacks and Height Limits:**

~~4.1 The density of accommodation units for grouped or multiple dwellings must satisfy the Residential Design Codes 2013. All design principles of the Residential Design Codes must be satisfied.~~

~~4.2 No plot ratio or dwelling bonus for permanent residential development will be provided.~~

~~4.3 Each unit for permanent residential development is to be self-contained and must be provided with a kitchen, bathroom, storeroom, laundry, clothes drying area and separate sleeping and living areas.~~

#### **Vehicle Access and Parking**

~~5.1 The number of car parking bays to be provided in a development is to be consistent with LPS6.~~

~~5.2 Internal roadways are to have a minimum width of 6.0 metres, except where traffic circulation is clearly marked as a "one way system" or where development occurs only on one side of the road, when the road width may be reduced to 4.0 metres.~~

~~5.3 For all new developments on vacant lots, car parking shall be provided within the confines of the property boundary. Council will only consider the utilisation of the road reserve for car parking when the development is an extension of an existing approved development and there is a community benefit in providing the car parking on the adjacent road reserve.~~

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~~5.4 The provision of car parking on those lots fronting Millington and Sanctuary Road is to be designed and located at the rear of the properties with the development being orientated to face the public domain/street.~~

~~5.5 Car parking for short stay accommodation units to be provided adjoining the units, in one central location, or grouped in strategic clusters throughout the development.~~

~~5.6 An exclusive staff parking area shall be provided on site and be clearly delineated on plans.~~

1.3 Car parking for long stay/permanent residential accommodation units and the Tourist orientated commercial developments shall be located as close as possible to that particular use and shall be clearly delineated at all times.

~~5.7 Parking for tour buses shall be provided adjoining the reception area and shall be located on site unless exceptional circumstances prohibit this occurring.~~

#### **Landscaping:**

~~6.1 All developments shall incorporate a minimum of 50% for open space. Forming part of this 50% shall be an area of open space equal to 20% of the site area, which is useable for active or passive recreational pursuits. The location of the recreational area should give due regard to the amenity of the residential living units and ease of access for children.~~

~~6.2 Landscaping for all development within the Tourist zone shall be provided and maintained abutting the boundary of all street frontages to a minimum depth of 3 metres from the boundary, and within side setback areas.~~

~~6.3 Every application for planning approval shall be submitted with a detailed landscape plan for the development and adjacent road reserve. The plan should show the location and type of existing and proposed trees and shrubs, lawns, water features and verge planting. Planting of the landscaping and reticulation shall be carried out in accordance with the approved landscape plan prior to occupation of the development.~~

~~6.4 A deed of agreement shall be prepared and executed at the owner's cost between the owner and the Shire prior to the development first being occupied, under which the owner agrees to maintain the road reserve landscaping and give the authority to lodge a caveat on the Certificate of Title to notify prospective landowners of this requirement.~~

~~6.5 The Shire may require the developer to contribute to the cost of upgrading and maintaining the abutting road reserve. Elements may include planting, reticulation, footpaths, dual use paths, street lighting and street furniture.~~

#### **Tourist Orientated Commercial Development:**

~~7.1 Tourist Orientated Commercial Development should ideally encompass restaurants, cafes, bars, galleries and tourist related shops such as day spas, hair dressing/beauty salons, tour operator offices, souvenir shops, gourmet deli's,~~

~~and the like that are visually interesting but do not compete with the core function of Chinatown as the primary activity centre of Broome.~~

~~7.2 Commercial developments shall address the public domain/street where promoted by Figure 5 of the Cable Beach Development Plan 2003 and shall comply with any provisions contained within that document.~~

~~7.3 The commercial strip, though focused around the hub of Lot 6 on the corner of Millington and Sanctuary, also includes sections of Millington Road, Cable Beach Road and Sanctuary Road as illustrated on Figure 5 of the Cable Beach Development Plan and these areas should be developed in the style that is reflective of the Broome character: that is, simple and relaxed. Developments shall be encouraged to incorporate tourist orientated commercial developments fronting the street, in particular alfresco cafes, bars and restaurants and shall ensure that the development is shaded by a combination of landscaping, temporary awnings, shade sails, tents and umbrellas.~~

~~7.4 Open Street stalls, portable market stalls or street vendors are encouraged and as such developments should incorporate open areas within the front setback areas to accommodate such uses.~~

~~7.5 The Shire will support and encourage this kind of active, dynamic character by allowing zero lot line setbacks for this type of development and permit temporary market stalls within designated areas of the public domain.~~

#### **Other Matters:**

~~8.1 All developments shall be designed in accordance with the Cable Beach Architectural Design Guidelines as contained within the Cable Beach Development Plan 2003~~

~~8.2 The erection of solid fencing may only be used where it is necessary to provide screened clothes drying areas, refuse bin enclosures or in the case of the management unit, a private yard area if necessary. Solid fencing is not permitted on street frontages.~~

~~1.4 The development shall include a caretaker/managers residence or reception area being situated in a location, which facilitates suitable management of the resort at the discretion of Council.~~

~~8.3 An area must be set aside for service/maintenance and storage and a minimum of 5% of the total site area shall be provided which is screened from view of streets and accommodation units.~~

~~8.4 A management plan must be submitted with each application setting out how waste disposal will be managed and collected from the site.~~

#### **Strata Titling of Accommodation Developments (Excluding Caravan Parks) Within the Tourist Zone**

~~9.1 Where strata title of accommodation is to occur, the above objectives and guidelines shall apply.~~

~~1.5 The Shire may only agree to the Strata Titling of accommodation~~The Strata Titling of a Tourist Development may only be supported where:

- ~~(a) the above~~ development standards, site and development requirements of the Local Planning Scheme and Cable Beach Development Strategy have been satisfied; and
- ~~(b) the specific condition(s) of development requirements~~approval have been complied with; and
- ~~(c) The visitor amenities/tourist facilities for the tourist development, or stage thereof, as shown on the approved plans are completed including leisure facilities (such as common swimming pool, gymnasium and tennis courts), reception facilities and caretakers accommodation.~~

~~1.6 The vacant strata titling of sites~~The creation of vacant survey strata lots will not be supported.

~~9.2 Each holiday accommodation unit or apartment to be Strata Titled shall be self contained in accordance with this Policy.~~

~~1.7~~ The planting of landscaping and the installation of reticulation shall be carried out in accordance with an approved landscaping plan prior to the approval of a Strata Plan.

~~1.8~~ Management Requirements

The applicant/developer shall enter into a formal legal agreement with ~~Council the Shire~~ (at no cost to ~~Council the Shire~~) prior to the issue of Strata Title approval undertaking to:

- (a) Establish and operate a management system which ensures the development is run as a ~~holiday~~ resort.
- (b) The management system to be an annexure to the formal agreement with ~~Council the Shire~~ and be approved by ~~Council the Shire~~ and the Australian Securities and Investment Commission (ASIC) if appropriate.
- (c) The management system will incorporate the provision of those features and facilities which identify the development as a resort, eg. common or uniform furnishings to all units and a common maintenance, gardening and cleaning service.
- (d) The management system will be achieved via a management agreement and the body corporate by-laws established between the developer and purchasers of the units and to embody the following specific provisions:
  - A requirement by way of a deed of agreement that the purchasers of units shall allow their units to be rented out, by the resort manager and/or their agents, to the general tourist sector ~~(minimum 60% short stay) and (maximum 40%~~

~~long stay / permanent residents) when not in occupancy themselves.~~

- The deed of agreement to be an annexure to the formal agreement with ~~Council~~the Shire.
  - The purchasers of the units shall receive a financial return from the rental of their units less outgoings for matters such as booking fees, managers fees, laundry service, electricity charges, cleaning service, body corporate fees, maintenance and replacement of furniture, ~~refurbishment reserve~~ etc. These financial matters would be resolved and agreed upon between the developer and the purchasers.
- (e) Agree to amend and expand the Strata Title Company By-laws as set out in Schedule 1 of the Strata Titles Act 1985 to incorporate any requirements determined necessary by ~~Council~~the Shire.
- (f) Agree to carry out the development in accordance with approved plans, specifications and all conditions of approval in all respects to the satisfaction of ~~Council~~the Shire.
- (g) Agree to develop facilities, managers accommodation and amenity buildings as part of the first stage of any staged development. The number of units to be built in the first stage to be determined by ~~Council~~the Shire. Upon completion of a first stage to ~~Council's~~the Shire's satisfaction, a Strata Plan may be registered. ~~Council~~The Shire shall, however, require the lodgement of a Caveat on all vacant Strata Lots, which will not be removed until each unit and associated services has been developed.
- (h) Agree to ensure that before any person becomes the registered proprietor of any Strata Lot, that:
- The By-laws (referred to in point (d)) as endorsed by ~~Council~~the Shire have been adopted by the Body Corporate.
  - Such unanimous and other resolutions as may be required under the Strata Titles Act 1985 have been adopted by the Strata Company so that the whole of the development may be completed and the developer is able to comply with the provisions of the legal agreement with ~~Council~~the Shire.
  - The Strata Lot is fully serviced and fit for occupation to the satisfaction of ~~Council~~the Shire~~unless the development has been completed to Council satisfaction.~~
  - The applicant/developer shall agree not to transfer, mortgage, charge, assign or encumber the land or any Strata Lot without the written consent of Council and



without first having obtained from the person securing an interest in the land their agreement to abide by the provisions of the agreement with Council.

### **Summary of Management Requirements**

1.9 The legal agreement between developer and Council/the Shire, which must contain the following:

- (a) Management system to be put in place (annexure to agreement).
- (b) Strata Company By-laws to be put in place (annexure to agreement).
- (c) Agreement to carry out development in accordance with approvals.
- (d) Agreement to provide amenities as part of Stage One.
- ~~(a) Putting in place of relevant body corporate resolutions to ensure the management system and by laws work.~~
- ~~(b) Restrictions on sale of development.~~
- ~~(g) Imposition of Caveats to secure performance on vacant lots and which should also be applied to any existing building or site which does not have appropriate planning conditions which
  - ~~(i) control occupancy; and~~
  - ~~(ii) require prospective purchasers to be advised of the agreement/contract.~~~~

1.10 If a Tourist Development is recommended for approval, conditions of development approval are likely to be incorporated addressing the following:

- (a) A manager must be appointed to oversee the operation of the development;
- (b) All units, unless approved as permanent residential accommodation, must be used for short-term accommodation only and units must be made available for rent through a common rental pool, controlled by the manager.
- (c) All units, unless approved as permanent residential accommodation, must be fitted out to a consistent standard and be maintained by the manager.
- (d) All common landscaping areas and common facilities are to be maintained by the manager.

### **SHIRE OF BROOME LOCAL PLANNING SCHEME No. 6 (LPS6) – LOCAL PLANNING POLICIES**

This Policy is a Local Planning Policy adopted under the provisions of Clause 2.4 of LPS6. LPS6 is administered by the Shire of Broome as the responsible authority under the Scheme. LPS6 was gazetted and came into operation on the 30 January 2015.

Planning policies adopted under LPS6 may be amended or rescinded after the procedures set out in Clause 2.4 and 2.5 have been completed.