



CITY OF KWINANA
LOCAL PLANNING SCHEME NO. 2
AMENDMENT NO. 165

Deletion of Ancillary Accommodation land use from
Table 1 - Zoning and Use Classes

Planning and Development Act 2005

**RESOLUTION TO ADOPT AMENDMENT TO
LOCAL PLANNING SCHEME**

City of Kwinana Local Planning Scheme No.2

Amendment No. 165

Resolved that the local government pursuant to section 75 of the Planning and Development Act 2005, amend the above Local Planning Scheme by:

1. In clause 3.7, 'Uses Specified':

a. Delete Ancillary Accommodation from Table I – Zoning and Use Classes

The Amendment is Basic under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason:

1. The amendment amends the scheme so that it is consistent with a State planning policy (R-Codes)

Dated this 28th day of April 2025


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(Chief Executive Officer)

REPORT – AMENDMENT NO.165

PROPOSAL TO AMEND A LOCAL PLANNING SCHEME

1. Local Government: City of Kwinana
2. Description of Scheme: City of Kwinana Local Planning Scheme No.2
3. Type of Scheme: District Planning Scheme
4. Serial Number: Amendment No. 165
5. Proposal: Deletion of Ancillary Accommodation from Table 1 –
Zoning and Use Classes
6. Report by: City of Kwinana

1. Introduction

The purpose of this amendment is to amend the City of Kwinana Local Planning Scheme No. 2 to be consistent with the State planning policy (Residential Design Codes) with respect to ancillary dwellings by deleting Ancillary Accommodation land use from Table 1.

The amendment is required to ensure that ancillary dwellings which are deemed-to-comply are exempt from development approval, implementing successive State Government planning reforms for ancillary dwellings.

The following report provides further detail and background information on this change.

2. Background

An ancillary dwelling is a self-contained dwelling on the same site as a dwelling which may be attached to, integrated with or detached from the dwelling, as defined in the Residential Design Codes (R-Codes) Volume 1 (2024).

The State planning framework for ancillary dwellings is set out in Cl. 5.5.1 (Ancillary dwellings) of the R-Codes. The intended scale and relationship to the primary dwelling is described by Design Principle P1.1, which outlines an ancillary dwelling is of a small scale and designed to support people living independently or semi-dependently to the residents of a single house or grouped dwelling, sharing some site facilities and services. The design principles are implemented by deemed-to-comply provision C1, which amongst others, includes requirements for an ancillary dwelling to associated with a single house or grouped dwelling on the same site, with a maximum internal floor area of 70 square metres.

In April 2024, the State Government revised the R-Codes as part of broader planning reforms to support affordable housing and improved design standards. This builds on the reforms in 2013, which allowed ancillary dwellings to be occupied independently of the primary dwelling. The key change in the 2024 reforms was the relaxation of planning requirements for ancillary dwellings, removing the deemed-to-comply provisions relating to minimum site area and density requirements.

The intention of the reform, as outlined in the accompanying [press release](#) from Minister for Planning, Lands, Housing and Homelessness Hon. John Carey on 10 April 2024, is that *'R-code compliant granny flats on residential lots of any size in Western Australia will not require planning approval, allowing homeowners to simply seek a building permit'*.

This is further detailed in the Planning Reform Granny flats [Info Sheet](#), whereby: *'An ancillary dwelling does not need planning approval if it meets all the relevant deemed-to-comply requirements including not exceeding 70m2 and meeting the setback requirements within the local planning scheme for your area'*.

The exemptions from planning approval relevant to ancillary accommodation are contained in deemed cl.61(1) in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations). Cl.61(1) provides as follows:

'61. Development for which development approval is not required

(1) Development approval is not required for works if

- (a) the works are of a class specified in Column 1 of an item in the Table; and
- (b) if conditions are set out in Column 2 of the Table opposite that item — all of those conditions are satisfied in relation to the works.'

Item 7 in the Table, in Column 1 – Works, in its relevant part is as follows –

'The erection or installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling –

- (a) an ancillary dwelling;'

The Column 2 conditions relating to Item 7 sets out the following conditions –

- '(a) The R-Codes apply to the works.
- (b) The works comply with the deemed-to-comply provisions of the R-Codes.
- (c) The works are not located in a heritage-protected place.'

As outlined above, the R-Codes do apply to ancillary accommodation in residential areas, with the deemed-to-comply provisions set out in Cl.5.5.1. Consequently, provided the ancillary dwelling complies with the R-Codes and is not located in a heritage-protected place, the works does not require development approval.

The City of Kwinana's Local Planning Scheme No.2 (LPS2) includes a corresponding term for ancillary dwellings, 'Ancillary Accommodation' as a use class in Table 1 – Zoning and Use Classes. Table 1 outlines development approval is required for the land use across various zones, including the Residential Zone where it is listed as an 'SA' use, where development application and public advertising is required for an ancillary dwelling.

As the exemption provisions of LPS Regulations cl.61(1) apply to works only and there is no relevant exemption for use, a proposal to commence an ancillary accommodation use on land within the Residential Zone of LPS2 requires development approval.

Consequently, despite the intended exemption from development approval communicated in the reforms, R-code compliant ancillary dwellings are not exempt from development approval in the City of Kwinana.

Since July 2024, 40 development applications for ancillary accommodation were approved with none refused. Given the use is consistent with the zone, there is limited conceivable circumstance where the use of ancillary accommodation in a Residential Zone could be refused. Consequently, requiring and processing of a development applications for R-code compliant ancillary accommodation is not influencing or adding value to a planning outcome and is inconsistent with the R-Codes.

This Amendment seeks to rectify this by deleting the land use term Ancillary Accommodation from LPS2, ensuring that deemed-to-comply Ancillary Dwellings are exempt from development approval as intended by the reforms.

The amendment is considered to fall under the basic requirements, under clause 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, due to it amending the scheme so that it is consistent with a State planning policy (R-Codes).

3. Proposal

Amendment 165 seeks to delete 'Ancillary Accommodation' from Table 1 of LPS2.

The amendment amends the scheme so that it is consistent with the State planning policy (R-Codes) to ensure that deemed-to-comply ancillary dwellings are exempt from development approval. Currently, the inclusion of Ancillary Dwelling in Table 1 results in the requirement for development approval to establish an Ancillary Accommodation use, including those that are R-code compliant. This is inconsistent with the intention of the deemed-to-comply provisions of the R-Codes. Removing this land use will amend the scheme to be consistent with the operation of the R-Codes, simplify the approval process and deliver the greater exemptions as intended by the planning reforms.

The term 'Ancillary Accommodation' is not defined in LPS2 or any state planning policy. The more relevant term, 'Ancillary Dwelling', is defined in the R-Codes as a secondary dwelling associated with a Single House or Grouped Dwelling. Since an Ancillary Dwelling is not a separate land use but rather ancillary to dwelling, it is not necessary to be listed separately in the zoning table or included in the scheme.

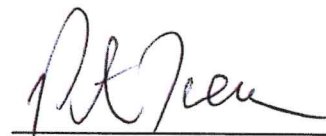
The R-Codes apply only to residential land, while local planning policies provide additional guidance for ancillary dwellings in other zones (e.g., Special Rural and Special Residential). Removing Ancillary Accommodation from Table 1 ensures that ancillary dwellings remain permissible where single houses are allowed while maintaining appropriate development controls in non-residential zones.

3. Conclusion

The proposed amendment will amend Local Planning Scheme No. 2 to be consistent with State planning Policy (R-Codes). The amendment will implement the 2024 planning reforms to ensure that R-Code compliant (deemed-to-comply) ancillary dwellings are exempted from development approval, facilitating greater housing supply and diversity.

EVIDENCE OF ADOPTION OF FINAL
APPROVAL

Adopted for final approval by resolution of the City of Kwinana at
the Ordinary Meeting of the Council held on the 16 day of April
2025 and the Common Seal of the City of Kwinana was hereunto
affixed by the authority of a resolution of the Council in the
presence of:




MAYOR

SEAL


CHIEF EXECUTIVE OFFICER

RECOMMENDED/SUBMITTED FOR
FINAL APPROVAL



DELEGATED UNDER S.16 OF PD ACT 2005

Date 26 JUNE 2025

FINAL APPROVAL GRANTED

MINISTER FOR PLANNING

Date _____

It is hereby certified that this is a true copy of the
~~Scheme~~/Amendment, final approval to which was
endorsed by the Minister for Planning on 11/7/2025

Certified by



Officer of the Commission Duty authorised pursuant
to Section 24 of the Planning and Development Act
2005 and Regulation 32(3) Scheme and Regulation
63(3) (Amendment) of the Planning and Development
(Local Planning Scheme) Regulations 2015.