

Case Note

Amenity Impacts of Short Stay Accommodation

Summary

Case	Lawrence and City of Rockingham [2022] WASAT 36 [link]
Overview	The amenity impacts of short stay accommodation were recently considered by the State Administrative Tribunal, resulting in refusal of Development Approval for a short stay accommodation premises on the Rockingham foreshore on amenity grounds.
Keywords	Short stay accommodation, amenity, compatibility of use with context

Background

A temporary (12-month) approval was granted by the City of Rockingham (the City) in 2018 for a change of use to 'Short Stay Accommodation' for a residential dwelling on the Rockingham foreshore, allowing accommodation for up to 12 guests. The applicant did not seek renewal after 12 months but continued to operate the premises until a complaint relating to excessive noise was received by the City in 2020. Following the City's refusal of a subsequent development application, the applicant sought review with the Tribunal. Mediation resulted in a revised application with reduced number of guests (maximum 4), a management plan, code of conduct and complaints register. The resulting development application was refused by the City and appealed by the applicant in 2022.

The City's refusal was based on potentially adverse impacts on the residential amenity of adjoining owners, particularly noise impacts and concerns with the proposed management approach, as well as inconsistency with the objectives of the Residential Zone under the City's Town Planning Scheme No.2.

Key Findings

The Tribunal upheld the City's decision to refuse the application. In coming to its decision, the Tribunal considered the following matters:

1) Amenity Impacts

With reference to the consideration of *locality* in **Ridgecity Holdings Pty Ltd and City of Albany** [2006] WASAT 187, the Tribunal agreed with the evidence of the respondent that the locality is primarily residential and may therefore experience direct amenity impacts of the proposed development [12].

Notwithstanding the management measures proposed by the applicant, including a management plan and noise monitoring device, the Tribunal considered that due to the layout of the holiday house with outdoor living areas in close proximity to adjoining grouped dwellings, the proposed development was unacceptable [70]. The Tribunal made reference to the inherent difference in use of premises for short stay accommodation and residential dwellings, consistently observed by the SAT (see **Kogon and the City of Vincent** [2019] WASAT 75, **Hope and City of Joondalup** [2007] WASAT 8 and **Hewison and Shire of Augusta-Margaret River** [2014] WASAT 62), and therefore found that the management plan was likely to be ineffective [73].

2) Compatibility

The Tribunal found the proposed development to be incompatible with its context, noting the immediate context to be residential, with single and two storey grouped dwelling developments at both side boundaries [84]. The outdoor living area being in proximity to adjoining residences, and the anticipated use of the premises (notwithstanding the management plan), was also noted [85,86].

3) Consistency with orderly and proper planning

The Tribunal found the proposed development was inconsistent with orderly and proper planning due to the history of the site and potential for ongoing neighbour disruptions [98, 99, 100].

With respect to the objective of the Residential Zone, the Tribunal found that the proposed development failed to satisfy the objective particularly in that it would not 'maintain or enhance the quality of the existing residential area' [101].

Read the Tribunal's decision in full [here](#).