



# Commercial Recreational Tourism Activity Local Planning Policy

Version 2

## Scheme Provisions:

TPS #9  
3.1 Zoning and Development Table  
LPS #10  
4.1 Zoning and Development Table

## Other References:

Shire of Northampton Local  
Planning Scheme No. 10  
Shire of Northampton Town  
Planning Scheme No. 9  
Planning and Development Act  
2005  
Caravan Parks and Camping  
Grounds Regulations 1967

## Special procedural considerations:

## 1.0 PURPOSE

Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. The Scheme prevails should there be any conflict between this Policy and the Scheme.

It is not intended that a policy be applied rigidly, but each application be examined on its merits, with the objectives and intent of the policy the key for assessment. However, it should not be assumed that the local government, in exercising its planning discretion, be limited to the policy provisions and that mere compliance will result in an approval. This approach has produced many examples of inappropriate built form that has a long-term impact on the amenity and sustainability of the locality.

The Shire encourages applicants to produce innovative ways of achieving the stated objectives and acknowledges that these may sit outside the more traditional planning and architectural approaches. In these instances the local government is open to considering (and encourages) well-presented cases, during pre-application consultation, having due regard to the outcome of any public consultation undertaken and the orderly and proper planning of the locality.

## 2.0 SCOPE

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.

## 3.0 OBJECTIVE

- 3.1 To ensure that commercial activities on reserves do not diminish the recreational amenity of residents or visitors who are attracted to the Shire for its natural beauty and environment.
- 3.2 To ensure ecologically sustainable use and protection of reserves for the benefit and enjoyment of future generations.

- 3.3 To retain reserves (where appropriate) as places for passive and/or active recreation for residents and visitors.
- 3.4 To regulate the level and intensity of commercial activities on reserves necessary to ensure that it does not destroy the value and nature of the activity and the resource on which it is based.
- 3.5 To enable appropriate (limited) opportunities for commercial tourism operators to provide services and facilities to the public to enhance their visit to the Shire.
- 3.6 To provide criteria for assessing and determining applications.

#### **4.0 POLICY STATEMENT**

##### **4.1 Background**

- 4.1.1 Town Planning Schemes require that planning approval from Council is required PRIOR to the use or commencement or carrying out of development on reserved land within the Shire.
- 4.1.2 Under the “Reserves and Foreshores Local Law” approval from Council is required to sell or hire goods and services from reserves and foreshore areas within the jurisdiction of the Shire.
- 4.1.3 Council has a responsibility to manage the lands entrusted to it for their intrinsic values and for the appreciation and benefit of present and future generations. In doing so, Council recognises that the Shire has a beautiful and diverse natural environment which provides recreational, aesthetic and spiritual as well as material benefits for both residents and visitors alike.
- 4.1.4 It is recognised that reserves have the capacity to satisfy an important portion of the public demand for outdoor recreation and tourism, and in so doing contribute significantly to the social, physical and economic well-being of the Shire.
- 4.1.5 With public demand for beaches/ivers and reserves rapidly increasing, Council must take every care to protect them and the safety and comfort of people who use them.

##### **4.2 APPLICATION OF POLICY**

This policy applies to all ‘recreational’ Crown reserves and immediate ocean/river foreshore and beach areas within the Shire including UCL.

- 4.2.1 A ‘recreational’ reserve, for the purposes of this Policy, are deemed to be those reserves or UCL areas within the Shire that are predominantly used, or intended to be used for recreation purposes.
- 4.2.2 The main areas the policy applies to are those commercial tourism operations which received a commercial gain or reward from the use of the reserve or UCL. Examples include guided tours/safaris, active recreational pursuits (sandboarding, off-road vehicles, cycling, horse riding etc.) or the use of reserves or UCL for a hire site (boat, surfboard, snorkel equipment etc.).
- 4.2.3 Activities are not limited to those taking place wholly on the reserve or UCL but also include activities that involve crossing the reserve or UCL, or transferring people or items on, off or over the reserve or UCL. This includes the embarking or disembarking of people/items from or to water based activities adjoining the reserve or UCL (eg. tour boats, canoeing, river cruises etc.).
- 4.2.4 Scenic tours that simply traverse a reserve or UCL as part of a longer journey or passive recreational activities are generally exempt from this policy.

## **4.3 MATTERS TO BE CONSIDERED IN ASSESSING & DETERMINING APPLICATIONS**

### **4.3.1 General**

- 4.3.1.1 The natural systems should be able to sustain the form of recreation or activity which is proposed.
- 4.3.1.2 The activity should be compatible with the vesting purpose of the land and with the preservation values of the land, eg. they do not impinge upon rare or fragile ecosystems or impair key features of the landscape, or increase visitor pressure on land to an unacceptable level and do not detract from the reasonable enjoyment of the land by the public.
- 4.3.1.3 Generally the widest range of activities consistent with the reserve purpose should be allowed. Uses that impair other forms of use to an unreasonable extent or place the safety of others in jeopardy should be controlled or eliminated. In certain instances, for safety reasons, priority use may be allocated to specialised recreation activities at sites that are uniquely suited to those activities (eg. jet ski hire).
- 4.3.1.4 Sites that are likely to suffer environmental/stability problems from increased human activity or have a high conservation value will be excluded.
- 4.3.1.5 The Shire will endeavour within the resources available to it to provide an appropriate level of supervision of activities on the reserve or UCL. This is particularly important where natural and cultural values may be impaired. If this cannot be done, the activity should where practicable be restricted, relocated or eliminated.
- 4.3.1.6 The activity should enhance the appropriate use of, enjoyment, understanding and appreciation of the land.
- 4.1.7 The activity should meet all statutory and industry requirements relevant to the operation including compliance with statutory town planning requirements (ie. zoning provisions, development control, Scheme purposes and objectives) and any relevant strategic planning report recommendations.
- 4.3.1.7 If an application is received for an existing activity by a previous Agreement holder of that activity and on the same site, Council will give preference to the previous Agreement holder where no recorded breach of any condition has been noted by Council.

### **4.3.2 Land-Based Activities**

- 4.3.2.1 If Council's roads, carparks or dual use paths are to be used, then the activity will be assessed in terms of whether it will create a danger to other users of the accessway/areas or will create an obstruction to traffic movement or will result in a major loss of carparking spaces.
- 4.3.2.2 Where appropriate, activities should be located adjacent to constructed public car parking areas and public conveniences (within 100 metres). The applicant may be required to contribute towards the construction of the public facilities. Approved applications may be required to contribute towards the upkeep of the local public infrastructure and facilities if considered necessary as a consequence of that activity.
- 4.3.2.3 If the beach is to be used then the activity must be determined as compatible with the beach environment.
- 4.3.2.4 Hire sites adjacent to foreshore areas must be related to the hire of beach-related equipment. A range of complementary operations may be permitted in the same vicinity if

there are sufficient facilities and impacts are minor.

4.3.2.5 Beach site activities are not to damage, or lead to degradation of, coastal or other natural environment. All applications for beach sites are to be assessed to ensure that community demands outweigh commercial demands. Passive and informal recreation use of the beach will be the dominant use.

4.3.2.6 All activities are to demonstrate that they will not create a public nuisance to adjacent residential areas in context of noise, traffic, etc. and not create a conflict with the main beachgoers.

### **4.3.3 Water-Based Activities**

4.3.3.1 Permission will be given to the use of the beach area for guided tours/hiring of water based equipment, provided the applicant is prepared to comply with the terms of any licence of the relevant authority of the water body.

4.3.3.2 The activities are not to dominate the main informal water-based activity, conflict with the designated water based activity or create a public danger.

4.3.3.3 All activities must be located adjacent to constructed public carpark areas and public conveniences.

4.3.3.4 The activity is not to damage, or lead to the degradation of, the coastal or marine environment.

4.3.3.5 All activities are not to create a public nuisance to nearby residents, or affect residential amenity and is not to create public nuisance to other regular water-based activities.

4.3.3.6 In the case of jet ski hire activity and other motorised craft, signage shall give adequate notice of warning that the particular area is not suitable for informal recreation use.

### **4.3.4 Information from the Applicant**

In assessing and determining applications, Council will be guided by the following selection criteria:

- (a) Demonstrated successful experience in the activity to a high professional standard;
- (b) Demonstrated history and experience or environmentally acceptable operations;
- (c) Demonstrated appropriate level of knowledge and understanding of local conditions, natural and cultural history, ecological process and possible constraints;
- (d) Demonstrated experience in meeting Agreement conditions, including the prompt payment of fees;
- (e) Demonstrated ability to provide appropriate safety requirements and duty of care responsibilities;
- (f) Demonstrated capability to promote interpretive and educational information that ensures clients are receiving instructions in minimal impact techniques, environmental protection and ethics of appropriate behaviour; and
- (g) Demonstrated \$20 million public liability insurance cover.
- (h) Public liability insurance cover must be held in Australia.

#### **4.4 SPECIFIC RESTRICTIONS**

##### **4.4.1 Signage & Structures**

4.4.1.1 Council may permit the use of a maximum of 1 temporary sandwich board sign or similar in the immediate vicinity of an approved activity/hire site for the purposes of marking the location of the activity. All other advertising signs are subject to a separate application for planning consent in accordance with the Town Planning Scheme.

4.4.1.2 The use of bunting, fencing, sheds or other similar structures for activities is generally not supported.

##### **4.4.2 Activities & Locations**

4.4.2.1 Based on experience of the impacts of previous/similar activities (within or outside the Shire), the fragile nature of certain areas, and/or the dominant public use of certain areas, Council is of the view that certain activities should not be supported in certain areas and also that a restriction on the number of certain activities in certain areas should be prescribed.

4.4.2.2 These restrictions are attached to this policy and are based on knowledge and experience at this time and may be amended from time to time by Council as further knowledge and experience is accumulated.

#### **4.5 APPLICATIONS FOR APPROVAL**

4.5.1 All applications shall be in writing on the form prescribed in the Town Planning Scheme and are to be accompanied by the appropriate application fee.

4.5.2 Applicants should address the criteria as outlined in Clause 4.4 and provide Council with the following information:

- (a) Previous relevant experience of the applicant(s);
- (b) Full details of type of service to be operated;
- (c) Preferred location of operation (with alternatives);
- (d) Diagram of layout of service when in operation showing location of equipment, trailers, signs, operators table etc;
- (e) Hours and dates of operation;
- (f) Method of operation, eg. hourly hire, 15 minute rides, day trips, and proposed charges to clients;
- (g) Type and numbers of equipment to be hired/used including details of make, age, special features etc;
- (h) All of the intended safety measures – ie. marker buoys, rescue boats, sign etc;
- (i) A cover note or similar statement from an insurance company indicating a willingness to promote insurance coverage (minimum \$20 million public liability coverage required);
- (j) Any on-site storage requirements (if permitted);
- (k) Intended signage (may require Council's additional separate approval); and
- (l) Any additional information specific to the individual service to be provided.

4.5.3 Applications are to be lodged no later than 31 March of the application year. Council may process and determine late applications, but will not guarantee that Agreements will be available for the peak holiday season.

|                           |   |   |                 |
|---------------------------|---|---|-----------------|
| <b>4.6</b>                | <b>PROCESSING OF APPLICATIONS</b>   |   |                 |
| 4.6.1                     | Where the land is NOT under the care, control and management of the local government, the consent of the owner (ie. the crown via the Department for Planning & Infrastructure, DPI) is required to process the application   |   |                 |
| 4.6.2                     | All applications will be advertised in accordance with the Town Planning Scheme procedure prior to final determination by Council.  |   |                 |
| 4.6.3                     | Applications will be referred to any relevant statutory authorities as determined by Council.   |   |                 |
| 4.6.4                     | All applications will be considered with respect to the matters as are relevant to the site and the proposed activity.  |   |                 |
| 4.6.5                     | Successful applicants will be advised in writing that prior to commencement of the activity, they must enter into an Agreement with Council and pay the relevant costs. Conditions to be incorporated into the Agreement will be specified. Successful applicants will need to promptly respond stating that they agree with the conditions and will pay all costs, fees, etc. associated with preparing the Agreement by June 30 of the application year. A list of unsuccessful applicants will be retained in case of revocation of licence of the successful applicant. |   |                 |
| <b>4.7</b>                | <b>FEES (GST inclusive)</b>   |   |                 |
| <b>4.7.1</b>              | <b>Application for Planning Approval</b>  |   |                 |
| 4.7.1.1                   | \$278   | NOTE: If the use has commenced or continued to operate without a current Planning Approval and an expired Licence Agreement, then a penalty fee will apply to the Application by way of an additional amount of \$556.00. |                 |
| 4.7.1.2                   | This fee <u>excludes</u> advertising costs (eg. advert in newspaper, sign on site etc.) which are charged separately.   |   |                 |
| <b>5.0 RESPONSIBILITY</b> | The Principal Planner/Chief Executive Officer as per the Delegations Policy and Register.   |   |                 |
| <b>6.0 ADOPTION</b>       | First Drafted   | 22 October 2004   |                 |
|                           | First Adopted   | 17 December 2004  | Minute 12.9.3   |
|                           | Last Modified   | 19 October 2012   |                 |
|                           | Last Adopted  | 19 December 2012  | Minute 12.8.2   |
|                           | V2 16 June 2014   | Advertising / Final Adoption  | (Minutes 6.8.1) |



**(Attachment 1) SPECIFIC  
LOCATION & ACTIVITY  
RESTRICTIONS**

| Location  | Restriction   |
|---|---|
| Reserve 25307<br>"Chinaman's Beach"<br>Kalbarri   | NO commercial recreational tourism activity PERMITTED.  |
| Reserve 12996, 25307 &<br>26591<br>"Murchison River Foreshore"<br>Kalbarri                        | Jet Skis & Houseboats are NOT PERMITTED.<br><br>No further approvals will be issued other than for the following: <ul style="list-style-type: none"> <li>• BBQ Pontoon Hire – 1 Agreement (maximum of 1 pontoon for 12 month trial period then possibility for 2 pontoons); and</li> <li>• River Boat Cruise – maximum of 2 boats;</li> </ul> |
| Reserve 12996 & 26591<br>"Paradise Flats"<br>Kalbarri   | No further approvals will be issued other than for the following: <ul style="list-style-type: none"> <li>• Horse Riding Tours – 1 Agreement (maximum of 45 horses);</li> <li>• 4 Wheel Bike Tours – 1 Agreement (maximum of 6 bikes); and</li> <li>• Canoe Safaris – 1 Agreement (maximum of 14 canoes).</li> </ul>                           |
| Reserve 12996 (North) – the area of land immediately adjacent to and north of the Murchison River | <ul style="list-style-type: none"> <li>• Skydive Kalbarri – 1 Agreement</li> <li>• Wilderness Canoe – 1 Agreement (emergency access track only).</li> </ul>   |
| Reserve 34550<br>Red Bluff Road<br>Kalbarri   | Aqua Scooter Hire – 1 Agreement (maximum of 6 scooters).  |
| UCL & Reserve 35206<br>"Halfway Bay, Lucky Bay & Wago"<br>Yallabatharra                           | No further approvals will be issued other than for the following: <ul style="list-style-type: none"> <li>• Sandboarding Tours – 1 Agreement (maximum of 30 sandboards); and</li> <li>• Quad Bike Tours – 1 Agreement (maximum of 7 bikes)</li> </ul>  |