

**Submission
No 146**

**ADEQUACY OF THE REGULATION OF SHORT-TERM
HOLIDAY LETTING IN NEW SOUTH WALES**

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Date Received: 9/11/2015

Council Reference: PP15/0005
Your Reference:



3 November 2015

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Dear Sir

Submission - Inquiry into the adequacy of short-term holiday letting in NSW

Tweed Shire Council (Council) welcomes the NSW Government initiative to hold an inquiry into the adequacy of the regulation of short-term holiday letting, and enclose herein our submission to the Environment and Planning Committee.

a) The current situation in NSW and comparison with other jurisdictions.

Currently, short-term holiday letting does not fit into the regulatory framework and is not adequately recognised and regulated under the planning system in NSW. The Standard Instrument template, on which local environmental plans are based, makes the distinction between *residential accommodation* and *tourist and visitor accommodation*. Short-term rental accommodation is not defined as a standalone land use and as such is deemed to come under the definition of *serviced apartments*, which is a land use within the *tourist and visitor accommodation* group. While preparing local environmental plans on the basis of the Standard Instrument template councils relied on practice notes provided by the NSW Government which generally discouraged *serviced apartments* in certain residential zones (example: Practice Note PN09-006). With changes in definitions arising from the making of Standard Instrument LEPs, commercial rental of dwellings for short term accommodation became prohibited in all rural and most residential zones, with the exception of R1 General Residential and R3 Medium Density Residential, where *serviced apartments* are permitted with consent. Prior to the making of the Standard Instrument LEP this use was not prohibited.

The need to amend local environmental plans in order to define and regulate short-term rental accommodation has been identified and acted upon by a number of councils in New South Wales, therefore it has a State-wide context. As such, it would appear to be more practical for this matter to be addressed and resolved by the State Government through a State-wide amendment to the Standard Instrument LEP template, aiming to recognise and regulate this form of land use.

We note that in Queensland short-term rental accommodation is recognised as a stand-alone land use category, defined under the Queensland Planning Provisions 2014 as *premises used to provide short-term accommodation for tourists or travellers for a temporary period of time (typically not exceeding three consecutive months) and may be self-contained. The use may include a manager's residence and office and the provision of recreation facilities for the exclusive use of visitors.*

This definition enables LGAs in Queensland to manage short-term rental land use under their planning schemes, in accordance with local circumstances, and provides high level clarity for short-term rental owners or operators.

b) The differences between traditional accommodation providers and online platforms

Whilst there are many differences between traditional accommodation providers and online platforms, we wish to limit our response to planning aspects and implications. Generally, definitions included in the Standard Instrument LEP have been tailored to describe forms of tourist and visitor accommodation from before the "short-term rental era", and include a variety of land uses: *backpackers' accommodation, bed & breakfast accommodation, farm stay accommodation, hotel or motel accommodation, serviced apartments, camping grounds, caravan parks and eco-tourist facilities*. In certain circumstances, short-term rental accommodation may fit into one of the above land uses, for example *hotel or motel accommodation*. Councils however are reluctant to regulate short-term rental accommodation by employing these land uses as they may bring other, undesirable development to the residential zones.

In addition, the majority of Standard Instrument-based LEPs across the State have been made before the increase in popularity of short-term rentals. Accordingly, residential zones prescribed in these LEPs (particularly low density residential zones) often prohibit any forms of tourist accommodation. For these reasons a specific definition for short-term rental accommodation, which thereby, allows clarity as to where this use may be permitted, is considered important for owners, lessees and neighbours.

c) The growth of short-term and online letting, and the changing character of the market

In a wider context, short-term rental accommodation is an outcome of the growing popularity of the "sharing economy", also referred to as the "do-it-yourself economy", facilitated by changing lifestyle preferences and advances in technology, and may be characterised by a growing proportion of self-employed, home based businesses, or online platforms for crowdfunding or shared transport, such as Uber. Sharing economy has demonstrated significant growth over the last few years (According to the Institute of Public Affairs, this growth was estimated at 25% in 2013, with over \$3.5 billion in revenue worldwide) and this growth is expected to continue. These changes should trigger a wider review of the planning system in NSW, with provisions regulating short-term rental being only one aspect of the necessary package of reforms.

Council is not in possession of any data documenting growth or/and the changing character of the short-term and online letting with the Tweed Shire local government area. According to Airbnb, the overall number of short-term rental listings on their website doubled between 2014 and 2015 and is expected to double again in 2016. Tweed Shire, being an attractive coastal location certainly is experiencing growth within this sector and the industry is seeking clarity around the permissibility of the use.

d) The economic impacts of short-term letting on local and the state economies

As mentioned above, Council does not have specific data documenting the economic impact of short-term letting on the local economy. Some insight into this matter is available through recent international research and reports:

- Data for UK shows that tourists staying in short-term rental accommodation tend to stay for longer and spend more per trip than visitors who stay in traditional accommodation. The majority of holiday rental stays are between 4-7 nights, with a quarter of all visits lasting longer than a week (see *The economic impact of holiday rentals in the UK* by LSE London, 2014),
- In 2014, Airbnb analysed economic impacts of their presence in Montreal, Canada. According to their findings, *without Airbnb as an accommodation option, 36 percent of guests said they would not have visited Montreal, or not have stayed as long* (blog.airbnb.com),
- The above matches with prevailing perception of short-term rental accommodation available in other sources: it contributes to visitor flows in an area as generally many visitors would not choose to visit an area if holiday rental were not available.

In context of these findings, short-term rental accommodation should be perceived as an important contributor to the Tweed Shire economy, where tourism continues to be one of the key industries.

e) Regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity, licensing and taxation

The informal and spontaneous character of short-term letting currently results in regulatory and compliance issues, such as: legal status of this form of land use in local planning documents, insurance, compliance, impact on the neighbourhood and difficulties with tracing income for taxation purposes.

Tweed Shire Council is currently seeking to resolve some of these issues by an amendment to the Local Environmental Plan 2014, recognising short-term rental accommodation as a defined land use with an accompanying policy providing additional framework for the ongoing management of this form of development. The use is proposed to be permitted as “exempt” development up to a maximum of 60 nights per year. A development application may be submitted for merit assessment beyond this. The draft policy is based on the following, guiding principles:

1. The guiding principles for guests and visitors in short-term rental accommodation are:
 - This is a home,
 - Treat it as your own,
 - Respect your neighbours,
 - Leave it as you find it.
2. Short-term rental accommodation must not compromise the amenity of neighbours. Amenity breaches may include, but are not limited to:
 - Noise offensive to neighbours at any time,
 - Exceeding the number of guests and visitors,
 - Inappropriate street parking causing traffic hazards, significant or ongoing loss of parking for adjoining or nearby residences,

- Unmanaged waste disposal,
 - Inadequate or insufficient response of the nominated Manager to act on complaints.
3. The Terms and Conditions upon which the dwelling is offered, booked and occupied as short-term rental accommodation must meet the standards provided in the Policy and be incorporated into the contract between the owner of the dwelling and guests.
 4. Short-term rental accommodation is a dynamic industry. Accordingly, the performance standards set out in the policy are focused on the desired outcome, rather than on prescription of rigid "one-size-fits-all" solutions.
 5. A copy of this policy must be provided, or made available to all guests and visitors of dwellings used as short-term rental accommodation.
 6. Any breaches of amenity by residents or their guests in association with short-term rental accommodation may result in compliance action and associated fines, as outlined in the Policy and in accordance with Council's Fees and Charges Schedule.
 7. Managers should operate in accordance with a best practice approach towards effective complaints handling and being a good neighbour.

Council notes that insurance companies operating on the Australian market have been slow to respond to the demand for tailored insurance products to cover short term rental accommodation. This in our view opens an opportunity for insurance companies to innovate and create niche insurance products for this growing form of tourism accommodation.

Recommendations

Tweed Shire Council, as are many other NSW Council's, is trying to manage innovative land uses which do not clearly fit within the standard suite of definitions. As such Council is currently seeking an amendment to the LEP to define short term rental accommodation. A State-wide approach to the defining of the land use term, and therefore, the ability to permit and prohibit the use within an LEP is seem as a step forward and is supported.

Thank you again for an opportunity to comment on the adequacy of the regulation of short-term holiday letting in NSW. We believe that our submission will assist in determining appropriate ways of regulating short-term holiday letting and we look forward to further participating in this inquiry.

Kind regards



Vince Connell
Director Planning & Regulation