

**Submission
No 57**

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

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Mr Glenn Brookes MP
Committee Chair, Committee on Environment and Planning
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Mr Brookes

Re: Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

I refer to your call for submissions to inform Committee members about how Mosman Council feels about the issue of short-term holiday lettings. Mosman is located on the foreshores of Sydney and Middle Harbours, with beaches, Sydney Harbour National Park, access to boating recreation and extensive views of the Heads, Harbour and the city making it a highly desirable holiday destination. There are over 200 online listings of properties in Mosman available for short-term holiday lettings. A number of recent complaints regarding the conduct of holiday lettings and their effects on neighbourhood amenity have highlighted shortcomings with the current planning and regulatory framework.

Council welcomes the Inquiry by the Committee of Environment and Planning and the Government's commitment to addressing this issue.

This use goes largely unnoticed and only in the event of an occasional complaint is Council made aware of a short-term holiday letting. Council is seeking clarity on this issue in terms of land use planning terms, permissible land uses, including exempt development, and realistic enforcement and prosecution standards. Council is also of the view that the use should be distinguished between whether it is conducted in dwelling houses or in dwellings within residential flat buildings, and whether the business is conducted by the owner/occupier or absent landlord.

I note the six points of the terms of reference, however, this submission will focus on:

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

1. Definitions of land use terms

In the absence of a definition of "short term holiday letting" most NSW local environmental plans (LEP) fall back on the established terms in the LEP Dictionary, like "tourist and visitor accommodation" which is a prohibited use in most low density residential zones.

Some local government areas have amended their LEPs to allow short term holiday lettings as exempt development and included a definition of the term. The difficulty with this approach is there is no consistency. The Standard Instrument LEPs are supposed to include a consistent

Dictionary of terms in all LEPs however there are now different terms and different definitions relating to this issue. For example:

- Gosford LEP: *short-term rental accommodation*
- Pittwater LEP: *short term holiday rental accommodation*
- Lake Macquarie Planning Proposal: *short-term rental accommodation* (same terminology but different definition to Gosford)
- Great Lakes Planning Proposal: *short-term tourist and visitor accommodation*
- Wingecarribee LEP: *holiday accommodation*

2. Period of rental

The effect of short-term letting on neighbourhoods may be linked to the length of tenure. Some of the definitions referred to above specify periods of no more than 60 or 45 days, or less than 3 months. Generally the very short stays are more likely to disturb permanent residents.

3. Exempt development

One way of providing certainty and consistency across the State would be to standardise exempt development on this issue. The councils listed in Point 1. above, have incorporated exempt provisions in their respective LEPs for short-term holiday lettings.

4. Dwelling houses vs dwellings in residential flat buildings

Council is of the view that planning, regulation and enforcement of short-term holiday lettings is better suited to houses rather than flats. Amenity issues are not as problematic and less permanent residents are potentially adversely affected. Issues relating to car parking, waste, internal access to the building and security are concerns when there is a high turnover of visitors in a residential flat building.

5. Standard of evidence required

Council has attempted to initiate enforcement proceedings regarding the alleged use of premises for short-term holiday lettings, however, it was found that the burden of proof was too high for Council to proceed in a cost effective way. It is considered that this is an area that needs to be addressed by the Committee and it should consider whether the evidentiary standard should be lowered.

I note that the issue of short-term holiday lettings has had traction in the media this year and it is timely that this Inquiry is being held. While some councils have tried to address the issue through amending planning regulation for their areas it is an opportunity for the State to show leadership and give sound and considered direction for local government to provide market opportunities for owners but not to the detriment of neighbourhood amenity or safety.

Thank you for the opportunity of providing comment. I can be contacted on [REDACTED] should you require any further information.

Yours sincerely

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Linda Kelly
MANAGER URBAN PLANNING