

**Submission
No 210**

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

Organisation: Port Macquarie Hastings Council
Name: Mr Peter Besseling
Position: Mayor
Date Received: 23/12/2015

21 December 2015

Mr David Hale
Committee of Environment & Planning

email: environmentplanning@parliament.nsw.gov.au

Dear Mr Hale

Inquiry into Short-Term Holiday Lettings

Please find attached, concerns submitted to Council regarding short term holiday rentals occurring within a residential street in Port Macquarie.

It would be appreciated if the residents' comments could be included in the inquiry into short term holiday lettings being undertaken by the Legislative Assembly - Committee of Environment & Planning.

Yours sincerely



Peter Besseling
MAYOR

Encl.



Emails to Council regarding Short Term Rental Accommodation

[REDACTED]

EMAILS FROM RESIDENTS RE SHORT TERM HOLIDAY RENTALS

[REDACTED]

Subject: Short Term Holiday Stays

Dear Mayor and Councillors,

On 21st October, 2015, Council considered Item 13-07 at the Ordinary Council meeting. This item was noted as being Administrative Refinements to the LEP, and included Issue 5 - Short Term Holiday Stays.

The proposal was to amend the LEP to allow tourist accommodation in any place where there was an existing dwelling with up to five bedrooms, one parking space and a 240L garbage bin. Under the proposal, this form of development would be exempt development, such that no development application would be required, as long as these criteria were met.

I have recently met a number of residents in [REDACTED] who were living next to, and in some cases surrounded by, holiday rentals. There were six dwellings in this cul-de-sac, with a combined 26 bedrooms, which were being rented out for holiday stays. Unfortunately, these dwellings were being used for parties with ongoing examples of drunken behaviour, foul language, overflowing parking & garbage as well as trespassing. The residents had been exposed to this unauthorised use for almost a year. There were significant health issues for the residents associated with the ongoing stress, broken sleep, and constant fear of the angry barrage of abuse coming from the ever changing groups of "tourists" staying next door.

Due to the neighbour complaints, the owners of the six dwellings in [REDACTED] were issued notice to lodge a development application. This matter was considered at the DAP meeting on 11th November and subsequently refused at that meeting. However, the residents have been advised that this unauthorised holiday letting will continue until such time as the Council's LEP amendment is considered and a determination made.

The matter of Short Term Holiday Stays becoming exempt development is due to be reported back to your Ordinary Council meeting on 16th December.

We are not the only Council dealing with this problem. Some Councils have considered the identification of precincts where it is appropriate to have tourist accommodation and left the remainder of the residential areas in peace. There is also a current parliamentary inquiry into the matter (refer "Adequacy of the regulation of short-term holiday letting in New South Wales").

I believe the residents of [REDACTED] would be more than happy to speak to you regarding their experiences, and I would respectfully request that you consider the problems they have been living with. The [REDACTED] experience was exacerbated by the lack of onsite managers. There are no onsite managers for the 26 bed accommodation in this cul-de-sac, and the after hours contact provides limited and very delayed responses. As a town planner, we have to consider what is in the public interest, as well as that difficult to define matter of amenity. The problem with living next door to a motel is that this is not just a one off night where your neighbours have their son's 18th birthday party and things are a bit noisy that one night, or you live on the route of the IronMan and you have disruption to your home for one or two days a year - this is an everyday, all day and every night impact. We cannot wipe our hands of noise impacts and say it's a policing matter. Knowingly putting conflicting landuses side by side would not be good planning.

Please consider the broader implications of this matter when it is again considered by Council in December.

Thank-you

[REDACTED]

Subject: Ordinary Council Meeting 16th December, on the matter of Short Term Holiday Stays

Dear Mayor & Councillors,

On 21st October, 2015 Council addressed Administrative Refinements to the LEP which included Issue 5-Short Term Holiday Stays , now deferred to the next Ordinary Council Meeting on December 16th, 2015. The proposal is to allow an existing dwelling with up to five bedrooms, one parking space and a 240L garbage bin to be an exempt development , such that no development application would be required as long as these criteria were met.

I am [REDACTED] living at [REDACTED] & recently was one of 7 residents of [REDACTED] whom addressed the Panel at the DAP meeting on behalf of many disgruntled residents regarding the Application DA [REDACTED]

[REDACTED] There were over 66 written objections & standing room only at this meeting which illustrates the overwhelming discontent of residents who reside in what once was a quiet, peaceful & harmonious neighbourhood. The DA Application was unanimously declined by the Panel after reviewing the written objections & verbal " testimony" & reasons are stated in the minutes of the meeting.

This above proposal is exactly what is operating at [REDACTED] It has been operating for almost 12 months (Dec.2014) without council approval. [REDACTED] are two dwellings with 5 bedrooms each with 240L garbage bins & a parking space. [REDACTED] are four dwellings each with 4 bedrooms with 240L garbage bins & a parking space. The social, environmental & health impact on residents and neighbourhood has been immense to where many residents are at breaking point. Our day and nights have turned into a living nightmare from this "Tourist & Holiday Accommodation" & our experiences have resulted in this outcry in opposition to this continuing. The impact is really immeasurable & includes but not limited to :

- excessive noise pollution at all hours of the day & night (examples: from drunken party goers , barbecuing at 11.45 PM & loud talk , 3am parties, children screaming to hear echo across the water etc.)
- verbal abuse from alcohol fuelled & non- alcohol influenced guests
- insufficient parking to cater for vehicles resulting in cars blocking water hydrants & blocks of cars spilling onto the street making our narrow street very dangerous
- trespassing onto our properties including up our back stairs , private jetties & boats . This includes damage to several of our boats.

- operating as a Motel with average stay only 2 nights hence strangers coming & going , not to mention the cleaners who come & go at all hours & walk up & down our street with vacuum cleaner & cleaning products
- the constant stress now has affected residents health including my own requiring medication
- no contact number for issues so we had to “ police & manage “ ourselves directly with guests & as such exposure to rudeness & abuse

This issue of Tourist & Holiday Accommodation/ Short Term Stays is a complicated issue & as such is not simplistic in its' resolution. The proposal of allowing an existing dwelling with up to five bedrooms “carte blanche” is basically allowing every residence in Port Macquarie to up & run such a Short Term Stay without any checks & balances. From our exposure to this for almost 12 months there must be diligent & firm conditions to allow the residents of Port Macquarie the right to live in a peaceful home & environment they are entitled to by law.

Conditions that could be considered are:

- Exclude some areas from such operations
 - Cul-du- sacs where there is no true traffic flow (such as [REDACTED])
 - narrow streets (such as [REDACTED])
 - short streets with fewer homes (such as [REDACTED])

DAP deemed our area unsuitable for such operations
Town & Beach areas already operate & as such residents buy & live there knowing it's a tourist area. More suitable to such development.
- Limit dwelling to only up to three bedroom
- Limit the number - only 2 person per bedroom
- Limit bookings to weekly or longer to encourage family holiday influx. (On [REDACTED] the average stay is 2 nights / hotel type accommodation is adequately catered for in town)
- Parking should be more than one space
- Have some contact number per property to address any problems
- Keys for property picked up & dropped off perhaps thru' an Agency to regulate check in & check out times....fee involved for owner (here on [REDACTED] keys are left under the mat & we get checks in as late as 11pm)
- Limit number of dwellings operating in one street

I hope this letter has given you an insight to what has been only a negative impact on our daily lives with no benefit to any of the residents.

I would be happy for you to come & visit us on Portside to see for yourself . My contact details are below. Thank you for your time.

Sincerely

[REDACTED]

Subject: Ordinary Council meeting 16th December, on the matter of Short Term Holiday Stays

Dear Mayor and Councillors,

My wife and I live at [REDACTED] was the focus of a recent DAP meeting on the 11th of November concerning development application for Proposed Change of Use - Dwellings to Tourist and Visitor Accommodation. (ref. DA [REDACTED]). The DAP meeting was attended by 110 residents (unofficial count, some counts indicated more) There were 66 letters of objection by residents of [REDACTED] and surrounding areas including [REDACTED]. The outcome of this meeting was a consensus by the panel and the DA was refused.

The issue of short term accommodation unless properly regulated will continue to be a nightmare for both residents and Council. Hopefully we can present some thoughts that could be a balance for both parties and help you in establishing a fair and balanced guidelines for everyone based on our experiences in the "[REDACTED] Fiasco."

- Some areas should be excluded. Locating a short term accommodation in a quiet residential street is a real problem for residents. In our particular case the majority of visitors were only staying two nights. I would call it the "two night get your monies worth syndrome ." Short term visitors who stayed two nights partied very hard and noise was incessant along with foul language.
- Parking was a major problem.
- No onsite manager in our case was a real problem. On numerous occasions our only avenue for complaint was to the council or the police. Residents should not have to do the job of a site manager. This was a particularly sore point, as no one seemed to want to hear our complaints and there was no one to control bad behaviour except the residents who were under tremendous stress. Having no onsite manager, resulted in one year of stress for our street. Trespass onto our property including our jettys, dogs being taunted by visiting children, drunken parties, damage to our property by uncontrolled children throwing rocks. People checking in past 10PM knocking on residents doors trying to find the Hotel. The list was long.
- Multiple dwelling on the same street creating a lopsided dynamic to the neighbourhood. Tourist to resident ration to high.

Possible solutions:

- Exclude certain unsuitable areas for short term accommodation.
- Limit the number of beds and occupants. No more than three bedroom home
- Limit the number of dwellings on any given street

- Set a minimum booking period to attract real tourist not just "weekend party goers"
- Set check in and check out times that doesn't interfere with permanent residents.
- Set a need for parking to accomodate 3 bedroom (2 people per bedroom =3 cars min.)
- Garbage pick up weekly
- Twenty four seven phone number provided to tourist and residents for problems.

*** Instead of council giving carte blanche to all of Port Macquarie residents, require a license for those interested in renting short term. This license would require a fee, the first initial license would be probationary for 6 months and would have to meet all the requirements as established by council.

The applicant would receive an extension of 6 months. After the first year, if successful the interested party would be able to renew the license from year to year. Council could revoke the license if safety issues arise or conditions of applicant change. Make the fee high enough that only genuine applicants would apply. The license fee would be for one year up front. If the applicant failed to pass the first 6 month probationary period, the applicant would not be refunded the remaining fee. With current computer data bases this would be similar to registering business licenses, dog license and could be done region by region over a period of time as to not require extra staff to start up a new data base.

In conclusion, it's my opinion that because of the complexity of this issue, and community sensitivity as seen by the residents of [REDACTED], this issue may well deserve further consideration.

Regards

[REDACTED]

[REDACTED]

Dear Mr Besseling,

Please find attached a letter about Council process in this matter and some thoughts about changes to holiday rental in PMHC.

Yours sincerely,

[REDACTED]

[REDACTED]

Mr Peter Besseling,
Mayor, PMHC
Dear Mr Besseling,

We have sent to you previously our submission objecting to an application for change of use of land to holiday and tourist accommodation in [REDACTED]. We have experienced such illegal use for almost a year with serious detrimental effects on this quiet community. There were 66 submissions of objection to the DA. The matter was considered at the DAP meeting on 11th November and the application was refused. Residents demonstrated the detrimental effects on the community and serious emotional disturbances, created by holiday rental by way of noise, abuse, trespass, loss of privacy and parking and traffic issues with no effective avenue for residents to address this. The application for change of use was refused. In his findings the chairman [REDACTED] stated that a decision could be made even though changes to the LEP had been deferred from an earlier Council meeting. **He also stated that a decision of the panel is a decision of Council.** Such was the community interest that 80-100 people were in attendance, including residents from other streets and areas of Port Macquarie.

We now learn that the Compliance Department of Council has decided not to issue an order to cease the illegal rental until after a meeting of Council, possibly in December.

We have followed Council's clearly defined process and are now completely dismayed at the outcome. It seems that some in Council's bureaucracy are determined to undermine the rights of residents secured through proper process and that the emotional stress of having this illegal activity next door with all its problems and the stress of having to present these problems to the DAP meeting are completely wasted. The failure or refusal to act makes the DAP meeting irrelevant and Council's procedures invalid. Refusing to implement a decision of the panel is akin to a court determining that a person is guilty of a crime but imposing no sentence because the law may change!

We implore you to see that Council's procedures are followed and to provide a date by which this holiday rental must cease. We also implore you to seriously consider the negative impact on quiet residential communities that any decision to change the LEP to allow an automatic right to holiday rental without development application will have. Clearly there are areas of Port Macquarie, such as the canal areas, which are totally inappropriate for holiday rental and Council should exclude such areas from holiday rental.

Should Council decide to allow such a change to the LEP without exclusion areas we demand, in light of what has happened in our street, the 'grandfathering' of any previous decision by Council or its agents to refuse applications for change of use to holiday rental. This must cover all the properties involved regardless of any change of ownership of those properties. Changes to the LEP do not negate the harmful effects of holiday rental which have caused the DAP to refuse the application. Any change to the LEP which does not allow 'grandfathering' would be a serious denial of natural justice for those affected residents.

We are very happy to meet with you to discuss this matter. We also enclose suggestions for consideration prior to the next Council meeting which will, we believe, consider changes to the LEP. Any blanket change with a default of approval for holiday rental as has been suggested is completely unacceptable and is certain to provoke a huge community backlash.

Yours sincerely,

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Subject: LEP - Administrative Refinements to Short Term Holiday Stays.

Dear Mayor, Deputy Mayor and Councillors,

On 21st October, 2015, Council considered Item 13-07 at the Ordinary Council meeting. This item was noted as being Administrative Refinements to the LEP, and included Issue 5 - Short Term Holiday Stays. The proposal was to amend the LEP to allow tourist accommodation in any place where there was an existing dwelling with up to five bedrooms, one parking space and a 240L garbage bin. Under the proposal, this form of development would be exempt development, such that no development application would be required, as long as these criteria were met.

I would like to bring to your attention my experiences over the past twelve months of living adjacent to three such examples of these proposed types of dwellings in [REDACTED]

My partner and I reside at [REDACTED] which has a dual street frontage with the rear of our property being opposite [REDACTED] and in close proximity to [REDACTED]. These properties were originally approved as 3 Torrens Title Dual Occupancies with a combined total of 26 bedrooms. However, they were and are being rented out for short term holiday accommodation without Council consent. In April 2015 a dividing door was installed on the ground floor of each duplex effectively dividing the upper and lower floors thereby changing the accommodation to 12 apartments in total. The Council Compliance officer [REDACTED] was made aware of this and a stop work order was issued. This order was ignored by the owners of the properties and they continue to operate as 12 short term holiday accommodation rentals. It is my understanding that no follow up was made by Council and the doors were never removed. Unfortunately, these dwellings are being used for parties with ongoing examples of drunken behaviour, foul language, overflowing parking & garbage. Tourist are often trespassing on our properties looking for their accommodation at all hours of the day and night as no on site Manager is available and keys are left under the front door mats. As recently as last Friday night one tourist felt the need to walk up my driveway and utilize my vehicle as a urinal before he checked into the ground floor Apartment [REDACTED] at 10-30 pm. We, the residents have been exposed to this unauthorized, non consenting use since December last year. There result being significant health issues for my partner and other residents associated with the ongoing stress, broken sleep, noise and constant fear of the angry barrage of abuse coming from the ever changing groups of "tourists" staying in the [REDACTED] Apartments.

Due to a multitude of complaints by neighbours, the owners of the six / twelve dwellings in [REDACTED] were issued notice to lodge a development application. DA [REDACTED] was then lodged. This matter was considered at the DAP meeting on 11th November and subsequently **REFUSED** at that meeting. 66 submissions from residents were received by Council objecting to this DA and over 100 people attended the DAP Meeting to support their objections. However, we have been advised by Council that even though the DA has been refused this unauthorised holiday letting will **continue** until such time as the Council's LEP amendment is considered and a determination made.

The matter of Short Term Holiday Stays becoming exempt development is due to be reported back to your Ordinary Council meeting on 16th December.

This refusal for DA [REDACTED] was made in accordance with the current LEP of the day on the 11th November 2015. I am at a loss as to why the Council refuses to honour their own determination and still continues to reward the owners of these illegally operating premises by allowing ongoing trading. Surely there is a legal obligation to act on the ruling that has been handed down instead of delaying its' enforcement because the LEP "may" change in the future. The inference appears to be that the Compliance Section believes the Developers will be successful should the new LEP proceed under it's current proposal and the Developers have the backing of Council to continue operating despite the illegal nature of the facilities and with no ramifications for their blatant disregard and respect for the law. We, the residents are still being exposed all the factors that led to the DA being refused - nothing has changed.

I am aware that are PMHC are not the only Council dealing with this problem. Some Councils have considered the identification of precincts where it is appropriate to have tourist accommodation and left the remainder of the residential areas in peace. There is also a current parliamentary inquiry into the matter (refer "Adequacy of the regulation of short-term holiday letting in New South Wales").

I would like to strongly object to the variation or enactment of any LEP that would permit tourist accommodation in any place where there was an existing dwelling with up to 5 bedrooms, one parking space and one 240 L garbage bin. Under the proposal this form of development would be an exempt development, such that no development application would be required as long as these criteria were met. This proposal does not give any consideration for the social impact on surrounding permanent residents, the constant disruption to the quiet amenity of the neighbourhood and the fact that there is no limit to the amount of these premises that may be set up in any particular street . We have lived through the operation of three of these style of premises' over the past twelve months and have presented a comprehensive brief of evidence to Council that this type of unregulated short term holiday stays does not assimilate well within a residential area. I would ask that consideration be given to the fact that 5 bedrooms are far too many for an exempt development and believe that a figure of three bedrooms, two parking spaces and a weekly 240 L bin collection should be the minimum allowed.

I respectfully request that you consider the broader implications of this matter when it is again considered by Council in December.

Kind Regards

[REDACTED]

Subject: LEP [REDACTED]

Dear Mayor and Councillors,

On 21st October 2015, Council considered Item 13-07 at the Ordinary Council meeting.

This item was noted as being Administrative Refinements to the LEP, and included Issue 5 - Short Term Holiday Stays.

The proposal was to amend the LEP to allow tourist accommodation in any place where there was an existing dwelling with up to five bedrooms, one parking space and a 240L garbage bin. Under the proposal, this form of development would be exempt development, such that no development application would be required, as long as these criteria were met.

Please find below an abridged version of my address to the Council Panel at the DAP meeting on 11th Nov, this sums up how these 12 apartments in [REDACTED] have impacted my life and the lives of people in our neighbourhood. I live [REDACTED] directly opposite [REDACTED]

"After reading [REDACTED] report I could understand if the member's of Council's panel thought; "What's the big deal" and " why all the fuss".

After reading this report you might think well

YES, the owner have operated illegally for 11 months

YES, they have put lives at risk and

YES, management appears incompetent.

You might think overall this development ticks lots of planning and compliance boxes AND I agree it does tick a lot of planning and compliance boxes.

However NO Social Impact Assessment has been done!

Because [REDACTED] didn't believe this development triggered the need for a Social Impact Assessment.

YET, according to the Council's own Social Impact Assessment Policy, this DA does warrant a SIA –

1. Firstly, The floor space of this development exceeds 1000 square meters and it has over 50 beds in 26 rooms
2. Secondly, this application has the potential to affect the social well-being & quality of life of people in this community.

I can tell you this development has already affected the social well-being and quality of life of people within this community.

Eight weeks ago, just after I finished writing my submission (and helping others write theirs) against this DA I noticed I was losing weight, sweating a lot, had shaky hands, an elevated resting heart rate, was extremely fatigued and at the same time doctors found a tumour sitting just in front of my heart..... To cut a long diagnostic story short I was diagnosed with

Graves Disease an autoimmune disease – triggered by stress. I find out this week if the tumor is malignant.

I can stand here and say without a doubt that the major/only stress in my life over the last 11 months has been the illegal and reckless operation of these serviced apartments.

I can also find for you any number of medical studies that report stress as having a major role in the onset of Graves disease and many other autoimmune disease.

The irony for me is this.....four years ago I moved from Sydney, sold me business and retired as a physiotherapist because I developed an autoimmune disease called Lupus. I could no longer work as a physio so my partner and I moved to Port Macquarie because it offered an "idyllic" lifestyle. We bought in [REDACTED] because of the quiet and peaceful neighbourhood.

Living here since these apartments began operating hasn't been idyllic and instead of reducing my stress and healing my body, my stress has increased and my body is consequently worse off.

I've been very curious to understand why these 12 serviced apartments have had such an adverse effect on my quality of life and the quality of life of my partner and my neighbours... so I turned to science for the answer.

Firstly it turns out that humans are hard-wired to fear certain things. Fear of stranger and fear of loud noises are two of those fears. Fears acts as a protective mechanisms, they serve the essential purpose of keeping us safe. So we are all genetically programmed to be anxious around strangers and dread loud noises.

Noise and strangers are both known stressors. Stress is both insidious and cumulative.

Studies have shown that noise induced stress and being in the presence of strangers leads to the release of stress hormones.

One-off stress or ACUTE stress is necessary for adaption to change. It's actually good for us!

BUT chronic stress leads to the persistent elevation of these stress hormones, which is detrimental to our health and leads to disease.

I was then curious to discover what conditions are necessary for a situation to be stressful?

The Centre for Studies on Human Stress states that in order for a situation to be stressful – ie to induce a stress response, it has to be;

1. novel and /or
2. unpredictable and /or
3. An individual must have the feeling that they have NO control over the situation.

So these 12 apartments and the way they have been managed and the way Council has failed to protect the residents has created THE PERFECT STORM, the perfect stress storm.

1. It is Novel.

As residents, we never bought into this area with existing poorly managed holiday apartments, that can sleep 52 people – so for the residents this is new.

2. This situation is Unpredictable.

We never know when the strangers are going to arrive, when they are going to leave, whether they will wakes us in the morning or wake us late at night, how many people will be staying, how intoxicated they will be, how loud the music will be, will it be limited to one or 12 apartmetnts.

We will never know why they drive on the wrong side of the road at speed, after drinking from 9am in the morning.

We will never know why they urinate in our driveway.

We will never know when the next person will knock on our door at 10pm at night looking for the hotel.

I'll never know if the kid with the rock in his hand is going to throw it at my dog Will there be any more buses stopping outside my bedroom at 11.15pm at night to drop off 23 people.

Will there be more strangers yelling to each other trying to find the key that the cleaners have carefully hidden Will the manager will be nice to us or be insolent and walk away mid conversation Will the cleaners try to provoke us with inflammatory comments or will they smile and be nice.

3. We have No Control.

What makes this situation so stressful and so damaging to our health is that we have NO control over the number of strangers that come and go or the noise created by these people. Managers are not interested in our fears and council say call the police, yet the police are too busy or under resourced to help. So the stress keeps building and the feeling of having NO control continues and escalates.

The community fought hard to get this DA refused at the Council DAP meeting. The DA was refused – yet these 12 apartments still operate illegally in a small cul-de-sac to the detriment of the residents.

Not only does this development HAVE the potential to affect the health and quality of life of people in this community IT HAS ALREADY affected the quality of life of people living in this community.

And I have the blood tests to prove it!"

Kind regards

[REDACTED]

Subject: SHORT TERM HOLIDAY STAYS.

Dear Mayor and Councillors,

On the 21st October, 2015 Council addressed Administrative Refinements to the LEP which included Issue 5 Short Term Holiday Stays now deferred to the next Ordinary Council Meeting on December 16th 2015. The proposal is to allow an existing dwelling with up to 5 bedrooms, one parking space and a 240 L garbage bin to be an exempt development such that no development application would be required as long as these criteria were met.

My name is [REDACTED] and I reside with my partner at [REDACTED] Port Macquarie. I attended the DAP meeting the application DA [REDACTED] of properties [REDACTED]. There were over 66 written objections and standing room only at this meeting which illustrates the overwhelming discontent of residents who reside in what once was a quiet, peaceful and harmonious neighbourhood. The DA Application was unanimously declined by the Panel after reviewing the written objections and reasons stated in the minutes of the meeting.

I should like to outline our personal objections (condensed version) to the above proposal :-

1. **ZONING.** My partner and I purchased our property in [REDACTED] in September 2010. Our Contract of sale stated that the property was in the zoning of Zone 2 (a1) Residential since changed to I believe R1.

As with any purchase of Real Estate one takes the Contract of Sale to a Solicitor/Conveyancer for their legal advice. So we were assured that the Contract was in order and that we were in a Residential only (not exempt) ie Boarding houses, brothels etc etc. The Zone 2 (a1) Residential is for "quiet enjoyment" FOR the people living in this area.

As I set out in my original objection to this development in November, I mentioned many reasons why this Short Term Holiday business is totally out of character for this quiet cul de sac. These businesses should operate in a precinct that is set up holiday makers – ie. Close to Restaurants, Beaches, Cafes, shops etc. [REDACTED] is far from a suitable "precinct".

2. **LOSS OF VALUE :-** I come from a background of Conveyancing and am a Retired Licensed Real Estate Agent of some 21 years. Whenever I was selling a property, the prospective purchasers would ALWAYS want to have a quick look at the 149 Zoning Certificate in the Contract – although they were not lawyers they are very switched on to Zonings. If they read that there could be holiday stays in their street they would move straight onto another property. This and many other things to do with this proposal of Short Term Stays WILL devalue our most valuable asset.

Quite frankly, ladies and gentlemen, I do not want to live in a street with loud noise, drunken behavior (of which there has been many) !.... These people who rent these

types of properties have a right to enjoy their holiday so of course there will be lots of cars, lots of people and lots of noise.

3. **ILLEGAL OPERATION:** - It still **ASTOUNDS** us that Council have allowed this business to operate for almost 12 months without permission or any other safeguards or rules.

Thank you for your time.

Yours very sincerely,

A solid black rectangular box used to redact the signature of the sender.

Subject: Proposed changes to the LEP - Tourist Accommodation

Dear Sirs,

I wish to vehemently oppose the proposal to allow every residence in the Port Macquarie area to be used for short stay tourist accommodation, without any reference or consideration to others actually residing in proximity to such properties. This would be equivalent to Council telling anyone who even thought about retiring here for a quiet life that, if you do so, then you take the risk that you could at any time be living next to a party house - as has already been the case in [REDACTED] over the last year, with our 12 unsupervised and unmanaged 'apartments'. I imagine most residents of Port Macquarie would be totally unaware of this proposal and opposed to it if they were aware.

Many of the residents in Port Macquarie are retirees, looking for a quiet residential area to enjoy. Many, myself included, spent a lot of time looking for a property in a quiet residential area, away from the more touristy areas of town. Apparently, in spite of all the objections and valid complaints about the non-compliant business operations in [REDACTED] Council are prepared to subject all residents of Port Macquarie to the same type of upset and distress.

The latest incident of a 'visitor' being stark naked on the canal side of one of these apartments on a Saturday afternoon should, in itself, be evidence of the sort of behaviour that can be expected from some holiday-makers. I suspect most of the people who actually live in Port would not be happy about Council allowing this to become our new norm.

Add to that, another group of 'visitors' utilising jetties and throwing loads of cigarette butts into the water. Those of us who live here have enough respect for our beautiful canals and marine wildlife not to do that sort of thing.

There has to be consideration of loss of amenities for existing residents, e.g., as already witnessed in [REDACTED] - more cars than available off-street parking, unacceptable noise levels at inappropriate hours of the night with no curfew, which many holiday makers would ignore anyway, anti social behaviour, no limit on numbers using accommodation, rubbish mismanagement and total lack of general management.

Come on Councillors - please stand up for the people who pay their rates and top dollar for many properties in Port, and keep the truly residential areas of Port as residential. I don't think anyone would argue against properties being long term rentals, where people fit in with the lifestyle, but we really don't want weekend or 2 week parties. I for one will be looking for somewhere else to live - outside of the Port Macquarie area - if this proposal is adopted, and I suspect many others will be doing the same. If you do see fit to adopt this policy, I fervently hope that your own next door neighbours start using their homes as short term holiday lets, just so you can experience what we in [REDACTED] have been enduring for the last 12 months or so.

I look forward to attending the meeting on Wednesday and seeing how you deal with this issue.

Yours sincerely,

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Dear [REDACTED]

Thank you for your letter 13/11/15 regarding Council refusal of the application for change of use for [REDACTED] subject to conditions.

My property fronts [REDACTED] and I am concerned that it is "business as usual" by the owners continuing their short term holiday lets and disregarding the decision. I understood that it is subject to conditions, and until these and any appeals are finalised the lets should be put on hold.

Two examples of "business as usual" by owners.

Friday 27 November I was disturbed around 10pm with activity at [REDACTED]. Several cars arriving, one with a boat trying to back into driveway. Doors banging, lights blazing, lots of yelling and laughing by at least 6 people.

Next day late in afternoon while walking my dog noticed 6 people outside the dwelling fishing off the pontoon. This is fine except several of them were smoking (a problem for them), but at least 2 threw their cigarette butts into the canal (a problem for all of us). Next day they packed up and left.

Yesterday morning Sunday 13 December noticed renters from [REDACTED] leaving after 2 or 3 night stay....8 people plus baby!!

I am fearful of what the next couple of months will bring. Certainly considerable increase in numbers of people and traffic. Judging by what has happened so far it is obvious that the renters and the owners have a total disregard for the residents and the surrounding area.

Apparently there are proposed changes to Short term holiday stays local environment plan (LEP). A BIG MISTAKE.... The residents have experienced the "horrors" of the holiday lets this year. The proposed changes to your plan means that ALL quiet residential areas in Port Macquarie are at risk.

We need both tourist accommodation and permanent residencesbut not adjacent to one another. If any residence can be turned into a short term holiday let as long as it has 4 bedrooms and a large garbage bin I believe you will find that the quiet well maintained residential street will be a thing of the past. Port Macquarie will become just another tourist town great for holidays with the family, but not for those retirees and those who want a sea change.

Thank you
[REDACTED]

Subject: LEP Proposal Changes to Short term Holiday Letting

Hi all,

I have read the agenda item 13.04 for 'Planning Controls for Short Term Rental Accommodation' recommendation for changes to the current LEP. The proposal States 'that the LEP be amended to make short-term holiday letting exempt development' if up to 4 bedrooms, 2 car spaces and a 240 litre bin.

It is clear to me that [REDACTED] has not been considered in this proposal in its entirety. The enormity of the issues we have experienced are not apparent to anyone other than those who live and witness it on a daily basis. I would have thought however given the fact a lot of evidence involving offensive behaviour has been passed on to Council in regards to [REDACTED] that Council would have considered our area and our case in particular. Have a look at the following:

1. Why did [REDACTED] have 66 objections to the recent DAP meeting?
2. Why did over 100 people turn up to the DAP meeting?
3. Why are residents having sleepless nights?
4. Why has the health of neighbours been affected?
5. Why have the residents had to call police on numerous occasions?
6. Why have the residents made complaint after complaint to Council?
7. Why have the residents called some of you out here to see our neighbourhood?
8. Why are residents being disrupted at all hours of the night?
9. Why are residents worried about public liability lawsuits due to trespassers?
10. Why are residents concerned about increased traffic and parking issues?
11. Why do the residents have to look at overflowing bins left out for days?

The reason is because this tourist development in [REDACTED] has **NEGATIVELY IMPACTED** the amenity of the area. So, I am asking you all with that in mind why would your Council propose something that does **NOT** consider amenity at all?

One of the DAP meetings decision for refusal for [REDACTED] was:

79C (e) It is contrary to the wider public interest because ad hoc medium/large scale, unmanageable tourist accommodation facilities are inappropriate in any residential area and especially a residential area where residential amenity is of high priority and thus should have greater weight in determination'

I have spent today researching other Council's control plans and found the following Council's all consider Amenity: Wyong, Palerang, Kiama, Gosford, Byron Bay, Blue Mountains and Shoalhaven. A priority to most Councils but why not Port Macquarie?

SHOALHAVEN Council is so focused on amenity it actually lists 10 examples of interference to amenity to consider when renting out short term tourist accommodation in the DCP 2014. Please note all 10 items on the list have been broken in [REDACTED] KIAMA Council

states that if existing amenity levels are not maintained in short term holiday accommodation it may lead to 'site specific prohibition'. This is a great approach.

It makes reference in the proposal that Gosford and Wyong have adopted the system of 'if there are two substantiated complaints in the preceding 12 months it would require assessment and not be exempt' this also applies for Byron Bay. What a great idea but why hasn't it been proposed for Port Macquarie? I personally know from experience here in [REDACTED] that amenity is the key to the harmonious link between permanent residents and short term tourist stays and this link is reliant on the Management of these properties. When poorly managed it constitutes complaints. So, to give these people only two chances is a brilliant idea in keeping the amenity in these areas. I STRONGLY SUPPORT THIS SYSTEM.

The proposal makes mention of large scale short term rental accommodation (such as [REDACTED]) having greater potential for adverse impacts but no suggestions given to eliminate this. It states 'The clustering of small scale, short term rental accommodation on adjoining lots cannot be prohibited where residential development is permitted with consent. The issue is best addressed as a question of scale and management on each individual lot'. GET REAL In the six dwellings in [REDACTED] they accommodate 52 people with around 15-18 cars. This is then not a small scale!!! They are saying every house in the street could be tourist accommodation. Limits need to be made to ensure streets are not overrun by these types of accommodation.

I also make note that the prerequisite of 240 litre waste bin does not make mention of a weekly service which would be imperative for Short Term Tourist Accommodation. Overflowing bins has been a real problem in [REDACTED] since they have been operating.

I hope come Wednesday you give [REDACTED] more thought than your Council has to the proposal.

Kind Regards,
[REDACTED]

Subject: Council has a legal responsibility- Portside rental

Dear Mayor,

When [redacted] residents attended the DAP meeting in November the LEP of 2011 was and still is the existing regulating document, regardless of any decision which may be subsequently made at a Council meeting. The unanimous refusal of the DA by the DAP was within the context of this plan. There is therefore a legal obligation of Council to implement the decision of the DAP which [redacted] stated to be a decision of Council. There is no legality for retrospective changes to the LEP. Those in the administrative side of Council who resist this finding fail to realise their legal obligation.

In the Land and Environment Court in 2013 (Dobrohotoff v Bennic) the Court stated that the failure of Gosford Council to heed numerous complaints by residents about a holiday rental property was "an abrogation by the Council of its fundamental duties and responsibilities". PMH Council has received numerous complaints yet dismisses these without substantive argument. This would fail to meet the requirements of any court.

The administrative side of Council has shown a lack of impartiality - indeed has been frankly biased towards those acting illegally - and has shown a lack of professionalism and competence. Even while allowing ongoing illegal activity it has not required any reasonable regulation of the rental such as occurs in other council areas. In their proposal they have not even considered the amenity of residents as many other Councils such as Byron Bay have adopted. Their proposal is for virtually unlimited holiday rental without any regulation or recourse by residents - a recipe for disaster!

Should this proposal not be rejected at the Council meeting next Wednesday we will be compelled to advise the Press immediately so that widespread exposure and input by residents of PMHC can be obtained for Council consideration. It would be quite inappropriate for such a proposal involving potentially every resident of PMHC to be implemented without widespread discussion.

We note that tomorrow is the due date for removal of the separation doors in each duplex dwelling. We believe that a sale of one address may have occurred with a plan to continue separate upstairs and downstairs rental. Regardless of whether this is short or long term rental the risk in case of fire is the same. What will Council do if they are not removed?

We note also that the derelict boat at one of the jetties has not been removed as ordered with the date now past. What will Council do?

We ask that ALL Councillors vote to reject the proposed Planning Control for short term rental accommodation which has been prepared in a sloppy and ill-considered manner. Furthermore we ask that ALL Councillors act to see that holiday rental in [redacted] be stopped immediately after this Council meeting.

Yours sincerely,



Subject: Objection to LEP Recommendation from [REDACTED] for Ordinary Council Meeting Dec. 16th 2015

Dear Councillors,

I'm [REDACTED] & as such have been immensely & negatively impacted by the non-compliant operation of [REDACTED] as Short Term Holiday Lets. They have been in operation with no appropriate D.A. approval since December 2014 (now 12 months) & their DA application for Change of Usage to Tourist & Holiday Accommodation was flatly denied at the DAP meeting held on November 11th. Please read all the grounds for denial on your website , however several reasons stated determined our residential area was unsuitable for such an operation & the amenity of the area had been negatively impacted.

Council received over **66 written objections** to this change of usage to Holiday lets & well over **100 attended the DAP meeting** itself. Everyone present was opposing the application with only one person present for the application. That one person was the representative for "All About Planning" who was there to represent to actual DA application.

These objections remain valid & current for this LEP since they opposed Holiday & Tourist Accommodation in their neighbourhoods. It was not only residents from [REDACTED] who objected, but they came from the wider community including residents from [REDACTED]

The Council's LEP proposal acknowledges [REDACTED] as an example of " large scale, short -term rental accommodation" & as such there is " greater potential for adverse impacts on residential amenity". For us the residential amenity has been eroded to where two residents now have serious health issues & illnesses directly linked to stress & a number residents are seriously considering moving if this continues. I have lived here for two years & while my first year living in [REDACTED] was the best year of my life, the last year has been a living nightmare. Our amenity which Council has willingly & knowingly failed to maintain now consists of:

- Unacceptable **noise pollution** from "guests" (strangers to residents) at all times of the day & night including loud partying & drunken behaviour.
- * Unacceptable **verbal abuse** directed to nearby residents.
- * **Late night arrivals** (up to 11pm) disturbing the residents (who mostly retire early to bed) & then knock on residents front doors waking them up to ask " where is the motel"?
- **Total disregard for residents for peace & respect** : Bbq's at 11.45pm (yes that is the correct time !) creating sleep disturbances & noise pollution , groups gathering on jetties after midnight, loudly playing a guitar & singing while fishing, yelling & jumping off jetties at 6.20 am on a Saturday morning & rock throwing undermining the integrity of the foreshore... these are just a few of examples to give you an idea.

- **Trespassing** on our private jetties, ramps & actual private backyards & causing damage to our boats & trespassing on up our backstops by children who then terrorised our pet dog.
- * **Littering** of trash & drink cans/beer bottles tossed into our backyards & into the harbour & foreshore.
- * **Flood lights** left on continuously day & night for days at a time & shining into neighbours bedrooms & living rooms.
- * **Cleaning staff** on our street at all times & days including weekends, walking on our road between properties with cleaning gear & vacuum cleaner.
- * **Parking congestion** with up to 9 cars at one dwelling, cars blocking fire hydrant access.
- * **Police** attendance as recent as yesterday in regard to **Indecent Exposure by male "guests"** not once, but **three times** who stripped off clothes in full public view, mid afternoon & jumped from the jetty into the harbour. Bear in mind we have children that reside here in Portside Cres & this behaviour from "guests" has brought our amenity to a whole new low.
- **Off-site Manager mostly in Cairns, Qld** therefore issues can't be addressed in real time. Monitoring & managing issues has been left to the residents which is not only totally unacceptable & stressful but places residents personal safety at risk in doing so.

This is the amenity we continue to endure since the Council's compliance department has chosen to not act on the outcome of our DAP meeting in favour of the residents, until Council reviews the outcome of this coming LEP meeting this Wednesday. The Council & it's Compliance Department continue to show total disregard to the residents & their amenity in their refusal to implement the DAP meeting outcome.

Council's way of addressing "larger scale short-term accommodation" such as ours was to reduce the exemption from a 5 bedroom dwelling with one car space & a 240 litre garage bin as initially proposed, to the current recommendation of a 4 bedroom dwelling with two car spaces & a 240 litre garbage bin. Under this proposal this "cluster" could continue to operate since [REDACTED] meet the 4 bedroom criteria etc. As for [REDACTED], both being 5 bedrooms, they can apply for a DA & with approval & including allowance for on-street parking would also operate. Suggestions by our residents to help limit & regulate such Short Term Lets have been dismissed by Council delegating them into the "too hard" basket.

It seems quite clear from reading the proposal that Council's agenda is for Council itself. By simply taking a "carte blanche" approach allowing almost every existing dwelling in Port Macquarie to up & run as Short Term Holiday Lets shows great disregard to the negative impact on the amenity of residents. The minimal criteria conditions suggested have already proved useless & ineffective in the non-approved operating model of [REDACTED] & should this recommendation be approved, there is the potential of "clusters" operating in many Port Macquarie neighbourhoods. Council wants to lessen its Compliance Department work load & its responsibility at the expense of the wellbeing of its residents.

I ask Councillors to reject this recommendation & have Council go back to the drawing board. I request you visit Byron Bay's LEP & Wingecarribee's LEP that have reduced the complying exemption to a 3 bedroom dwelling which would go a long way to minimise amenity impact & perhaps clusters. Larger bedroom dwellings could still operate but would need to have DA approval, thus allowing residents to have some say if they oppose the application. I have also read where one council used an overlay on R1 & then **excluded areas** that were deemed unsuitable in their LEP. I believe all the canal streets are unsuitable since their private backyards cannot be fenced making it unsuitable for tourist operations. We have no control over Tourists trespassing into & onto our property including boat ramps & jetties for which we are liable should an accident or injury occur.

I thank you for your time & I hope you give some consideration to the information put forward prior to the meeting on Wednesday. I invite you to visit our neighbourhood if you wish to see how this cluster is in situ. Below are my contact numbers should you wish for further information.

Sincerely



Subject: Change of Use, Dwelling to Tourist/Visitor Accommodation - Short Term Holiday Stays

Dear General Manager, Mayor and Councillors,

On 21st October, 2015, Council considered Item 13-07 at the Ordinary Council meeting. This item was noted as being Administrative Refinements to the LEP, and included Issue 5 - Short Term Holiday Stays.

The proposal was to amend the LEP to allow tourist accommodation in any place where there was an existing dwelling with up to five bedrooms, one parking space and a 240L garbage bin. Under the proposal, this form of development would be exempt development, such that no development application would be required, as long as those criteria were met.

A significant number of residents in [REDACTED] who were living next to, and in some cases surrounded by holidaying tourist/visitor groups from these six holiday rental dwellings in this cul-de-sac, with a combined 26 bedrooms, which have been, and are being rented out for holiday stays. Unfortunately, these rental dwellings were being used for parties with ongoing examples of drunken and obscene behaviour and gestures, foul language and verbal abuse, excessive noise, footpath parking & overflowing unhygienic garbage as well as trespassing across neighbouring properties. The residents had been exposed to this unauthorised use for almost a year. There were significant health issues for the residents associated with the ongoing stress, broken sleep, and constant fear of the angry barrage displays of behaviour coming from the ever changing groups of "tourists" staying next door or living opposite their own homes.

Due to the neighbour complaints, the owners of the six dwellings in [REDACTED] were issued notice to lodge a development application. This matter was considered at the DAP meeting on 11th November 2015 and subsequently the Change of Use Submission was convincingly refused at that meeting. However, the residents have been advised that this unauthorised holiday letting will continue until such time as the Council's LEP amendment is considered and a determination made.

The matter of Short Term Holiday Stays becoming "Exempt Development" is due to be reported back to your Ordinary Council meeting on 16th December. The Port Macquarie Hastings is not the only Council dealing with this and similar problems. Some Councils have considered the identification of precincts where it is appropriate to have tourist accommodation and left the remainder of the residential areas in peace. There is also a current parliamentary inquiry into the matter (refer "Adequacy of the Regulation of short-term holiday letting in New South Wales"). I am sure that the Council, the [REDACTED] residents, the general Port Macquarie community do not want to see the peaceful, tranquil amenity of this safe and secure residential area being gradually transformed into another Gold Coast/Byron Bay inhospitable and rowdy area as it is now becoming in the "Schoolies" end-of-year break-up partying period and further extended through the Xmas/New Year holiday periods.

The [REDACTED] was a co-planned residential concept by both the Developer and various Council Staff and Departments embodying significant guidelines and Covenants to

enhance the natural beauty and tranquility of the Waterways and the Council maintained Reserves, boating facilities and other neighbourhood amenities. On the immediate Borders of the [REDACTED] are two significant Retirement Villages. These specific sites were originally chosen because of the safety and security components for their aged tenants who deem a quiet, peaceful lifestyle amenity to be an integral part of the residents personal safety and security priorities within the Estate. To further enhance this safe and secure lifestyle, several Covenants were put into place with enforcement protection issues by the Council, including the most significant one of "No trespassing through neighbouring private properties between sunset and sunrise". Previous Tourist/holiday makers have consistently ignored this No Trespassing requirement, either by non awareness of the requirement, or by complete disregard of this Covenant relating to the natural beauty and tranquility of the total Land use and Waterways use for the enjoyment of all of the [REDACTED] residents. With the majority of residents being Senior Citizen aged group home owners, or mature aged residents seeking a safe and secure environment for themselves and their families, it would not be conducive to maintaining this safe and secure environment with the types of visitors/tourists as we have witnessed many times during the past year or so. Just this last weekend we had naked males running from these specific dwellings and jumping into the canal waterways. This is not the behaviour acceptable to these local Estate residents.

I believe the residents of [REDACTED] would be more than happy to speak to you regarding their experiences, and I would respectfully request that you consider the problems they have been living with. The [REDACTED] experience was exacerbated by the lack of onsite managers. There are no onsite managers for the 26 bed accommodation in this cul-de-sac, and the after-hours contact provides limited and very delayed responses. As a member of the Council initiated "Broadwater Canal Maintenance Plan Reference Group" of the Estate Land Owners, we have to consider what is in the public interest, as well as that difficult to define matter of amenity. The problem with living next door to a motel is that this is not just a one off night where the Motel neighbours have to put up with a one-off celebration party - this is an everyday, all day and every night impact. We cannot wipe our hands of noise impacts and say it's a policing matter. Knowingly putting conflicting land uses side by side would not be good planning.

Will the Council nominate a responsible person that will attend in a competent manner in regard to all safety and security matters, excessive noise, garbage pollution, car parking, obscene language, private property trespassing transgressions, disorderly conduct and other grievances observed by, and otherwise complained about by the [REDACTED] residents on a 24/7 schedule throughout the full school holiday periods each and every year.

The [REDACTED] collectively pay the highest proportional Annual Rates to Council and, in addition, pay a [REDACTED] Council Levy to maintain the integrity and tranquility of this safe, secure and peaceful Land and Waterways development.

Please consider the broader implications of this matter when it is again considered by Council in December.

Thank-you

[REDACTED]