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31 October 2017

The Director, Housing Policy
Department of Planning and Environment
PO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

COUNCIL SUBMISSION - SHORT-TERM HOLIDAY LETTING IN NSW OPTIONS PAPER

Council welcomes the opportunity to provide comment in respect of the Short-Term Holiday Letting in NSW Options Paper.

By way of background, short-term holiday letting of residential properties in the Dubbo Regional Council Local Government Area has not been problematic. However, increases in visitation to the region's tourist facilities and the housing impacts associated with major infrastructure projects and industries such as mining have resulted in an increase in the take-up of short-term accommodation options, including holiday letting of residential properties.

In providing for new e-commerce accommodation platforms to facilitate short-term holiday accommodation transactions, consideration needs to be given to the impact of such accommodation on established residential areas, including the amenity of permanent residents.

In addition, issues such as fire safety, disabled access and facilities need to be considered. These provisions are triggered under the Building Code of Australia. In respect of short-term visitor accommodation which may not be applied to the same level in respect of the residential accommodation that is being utilised for short-term holiday letting.

Following are Council's comments in respect of specific sections of the Options Paper.

Section 2 – Regulation of Short-Term Holiday Letting

Council acknowledges the role of short-term holiday letting through e-commerce applications such as 'Airbnb' and 'Stayz' however, it is considered that this type of accommodation should be specifically identified in legislation to provide clarity for both property owners, neighbours and guests.



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As a definition for such accommodation does not currently exist in the Standard Instrument (Local Environmental Plans) Order, 2006, Council has traditionally defined such accommodation formats as either 'serviced apartments' or 'bed and breakfast accommodation' which ordinarily require development consent or a Complying Development Certificate.

Section 3 – Impacts associated with Short-Term Holiday Letting

It is recommended that the Department give further consideration to the relationship between the planning system and the Building Code of Australia (BCA) in respect of short-term holiday accommodation. This includes the need to further clarify whether short-term holiday accommodation necessitates a change in building classification under the BCA and whether this type of accommodation should require a new building classification to be incorporated into the BCA.

For instance, under current building provisions, bed and breakfast accommodation is classified as Class 1(b), which either requires a proponent to seek a Complying Development Certificate or development consent for a change in use from a residential dwelling. Currently, to enable short-term holiday accommodation to be considered as exempt development, the use would be required to be classified as Class 1(a) under the BCA. To ensure a consistent legislative framework, the BCA provisions should be reviewed.

Section 4 – Self-regulation

It is considered that industry self-regulation would be part of a number of measures that could assist in the overall management of short-term holiday accommodation.

It is unclear however, as to how the industry would self-regulate and what powers, if any, would be given to property owners. It is also unclear as to what license or registration arrangements would exist.

One possible method of regulation could require property owners when they list a property with an e-commerce accommodation provider, to provide notification of the payment of a registration fee with their respective local council. This registration fee could be used by councils to undertake compliance and other activities associated with short-term accommodation letting. Consequently, an e-commerce accommodation provider could not list a property until notification of the relevant fee payment and registration with the local council.

Section 6 – Regulation through the Planning System

It is recommended that a specific definition for short-term holiday accommodation should be included in the Standard Instrument (Principle Local Environmental Plans) Order, 2006. However, provision of a standard definition for short-term holiday accommodation is one component of a range of planning policy changes that could provide streamlined regulation for the industry.

It is noted that the Parliamentary Committee prefers short-term holiday accommodation to be considered in the planning system as Exempt Development or Complying Development. It is considered that this would not take into consideration that some premises provide more constraints such as flooding, bushfire, heritage or the like. Provisions to allow short-term tourist accommodation as Exempt Development should be for minor and low intensive uses only and not premises listed on a full-time basis, which could be deemed a commercial activity.

Proposed changes to the planning system could incorporate the following:

Exempt

- Where the host is present;
- Up to a maximum of four (4) bedrooms in an approved dwelling or residential accommodation where an Occupation Certificate has been issued;
- Registered/licenced and complies with a code of conduct; and
- Used for short-term holiday accommodation up to a maximum of 90 days per year.

Complying Development Certificate

- Similar to the existing provisions for bed and breakfast accommodation within the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, where developments can meet set criteria, do not exceed a maximum number of bedrooms (such as four) and have minimal constraints.

Development Application

- Full-time short-term holiday accommodation;
- Where no host is present onsite;
- Greater than four (4) bedrooms;
- Where there is a need to assess and consider environmental constraints (flooding, bushfire) and other associated issues in respect of access and facilities for persons with a disability and compliance with the Building Code of Australia; and
- Where fire safety measures are required or cannot be achieved under the Complying Development Certificate provisions.

Where a Development Application is required to be lodged, Council supports provisions for set criteria to be outlined to allow for quicker determination of straight-forward proposals with minimal impacts. Set criteria would allow property owners to prepare a development application without the requirement to engage a consultant.

Section 7 – Registration or licencing

Council generally supports a registration or licencing scheme governed by NSW Fair Trading. It is considered this could function in association with the changes to the planning framework.

Conclusion

Council appreciates the opportunity to provide these comments in respect of the short-term holiday accommodation Options Paper and looks forward to the results of this review.

If you require any further information or clarification regarding this submission, please do not hesitate to contact Council's Strategic Planning Services Manager, Steven Jennings, during normal office hours on (02) 6801 4000.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Melissa Watkins', with a large, stylized initial 'M'.

Melissa Watkins
Director Planning and Environment