

# Submission on Short-term Holiday Letting in NSW Options Paper (July 2017)

## Introduction

Northern Beaches Council appreciates the opportunity to make this submission on the NSW Government's Options Paper regarding regulation of Short-term Holiday Lettings (STHLs), which has significantly expanded locally with the emergence of online booking services and the development of the sharing economy.

Council acknowledges and supports the whole of Government approach proposed by the NSW Government to progress towards the best regulatory framework, addressing land use and planning concerns, strata managed buildings, and the amenity of residents. Notwithstanding substantial contributions to local visitor accommodation made by STHL, greater research is also required into current and future impacts of STHLs on housing affordability in local areas such as the Northern Beaches.

The recent proliferation of STHLs through various online accommodation booking companies such as 'airbnb' is a trend which poses some important questions for Council regarding future land use planning under the provisions of its Local Environmental Plans.

Council's submission emphasises the need for a clear state-wide landuse planning framework for the regulation of STHLs that also provides individual Council's with powers to establish local policy responses to the issue in consultation with local communities.

In response to other themes outlined in the Options Paper, Council does not oppose various initiatives for strata and industry regulation as well as registrations. Council supports strata title reform giving owners corporations the power to determine and better manage short term holiday lettings under by-laws including trial periods and enforcement of by-laws that are associated with moderating the impact of the use. It is also considered that regulation of offensive noise and the like could be reviewed respecting STHLs.

It is considered that a clear NSW Planning framework supported by a level of local flexibility will provide greater certainty to support these other potential options for regulatory reform.

## Existing LEP Provisions

Existing LEP provisions for temporary or short term accommodation on a commercial basis vary amongst the Northern Beaches LEPs (Manly LEP 2013, Warringah LEP 2011, Pittwater LEP 2014) as they do across NSW. The NSW Government's 'Standard Instrument (LEP) Order currently defines tourist and visitor accommodation for all LEPs as follows:

*'Tourist & Visitor Accommodation' means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:*

- (a) backpackers' accommodation,*
- (b) bed and breakfast accommodation,*
- (c) farm stay accommodation,*
- (d) hotel or motel accommodation,*
- (e) serviced apartments,*

*but does not include:*

- (f) camping grounds, or*
- (g) caravan parks, or*
- (h) eco-tourist facilities.*

*'backpackers' accommodation' means a building or place that: (a) provides temporary or short-term accommodation on a commercial basis, and (b) has shared facilities, such as a communal bathroom, kitchen or laundry, and (c) provides accommodation on a bed or dormitory-style basis (rather than by room).*

*'bed and breakfast accommodation' means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where: (a) meals are provided for guests only, and (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and (c) dormitory-style accommodation is not provided. Note. The number of bedrooms for bed and breakfast accommodation.*

*'farm stay accommodation' means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production*

*'hotel or motel accommodation' means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that: (a) comprises rooms or self-contained suites, and (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*

*'serviced apartment' means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.*

The Warringah and Manly LEPs do not adopt a separate definition for STHL. Pittwater LEP includes a separate definition that is additional to the Standard LEP definitions of Tourist & Visitor Accommodation. Pittwater LEP defines short term holiday rental accommodation as follows:

*short term holiday rental accommodation means an existing dwelling that is used for temporary or short term accommodation on a commercial basis excluding the following land uses: (a) backpackers' accommodation, (b) bed and breakfast accommodation. (c) commercial premises, (d) entertainment facilities, (e) farm stay accommodation, (f) function centres, (g) hotel or motel accommodation, (h) serviced apartments.*

In the Pittwater LEP, 'short-term holiday rental accommodation' is exempt development when used for a period of less than 3 months by any individual or group. The introduction of this provision also clearly established that the temporary or short-term accommodation on a commercial basis for longer than 3 months by any individual or group would not be exempt and would require planning approval (where permissible).

Provisions in the Manly LEP prohibit any tourist & visitor accommodation that provides accommodation for over 3 months as follows:

#### *6.15 Tourist and visitor accommodation*

*(1) The objective of this clause is to maintain the supply and availability of tourist and visitor accommodation in Manly to as many different tourists and visitors as possible.*

*(2) Development consent must not be granted to development for tourist and visitor accommodation unless the consent authority is satisfied that the development will not provide accommodation to the same person for a period of more than three consecutive months.*

The attached Table 1 summarises the permissibility of temporary or short term accommodation on a commercial basis in various Northern Beaches LEP zones in accordance with existing defined LEP definitions. The land use is prohibited in many zones to ensure that the range of uses such as Backpacker Accommodation, hotel/motel accommodation etc. do not occur in inappropriate locations. In this regard, tourist & visitor accommodation is prohibited in all low density residential zones across the Northern Beaches except for Bed and Breakfast Accommodation which is permissible with consent.

### **Need for a Standard Instrument Definition of Short Term Holiday Rental Accommodation**

It is widely acknowledged that the existing range of meanings under the group term Tourist and Visitor Accommodation fails to adequately include and address a substantial area of accommodation types for the tourist accommodation industry involving temporary or short term accommodation on a commercial basis through online booking agencies.

Council therefore supports recommendations for the Standard LEP Instrument to include a definition of short term short-term rental accommodation.

### **Councils Should Retain Responsibility for Regulating Short Term Holiday Rental Accommodation**

Beyond the introduction of a state wide LEP definition, Council submits that the regulation of STHLs through the planning system is most appropriately undertaken by local Councils who are best positioned to consult with local communities and to understand local characteristics and impacts.

State-wide provisions which determine whether or not development consent is required, or whether a certain use is complying or exempt development in certain areas, are not considered appropriate and are unlikely to lead to the best planning outcomes for local communities. Similarly, the prescription of detailed controls at the state level for the maximum number of days, maximum number of bedrooms, length of stay etc. is not supported. Rather, it is recommended that such requirements be specified by Council in a similar manner to other miscellaneous uses under clause 5.4 of the Standard Instrument, where Council considers it appropriate.

A standard dictionary definition of short term short-term holiday rental accommodation must be clear and distinguishable from other types of tourist and visitor accommodation.

Council submits that the definition must also recognise the wide range of accommodation types that fall within this use ranging from letting a room in an occupied residential dwelling to the letting of an entire property. There are significant differences in the scale and impacts between lettings within an established residential occupation (i.e. sharing same domicile as the host) to letting of a fully contained dwelling or property solely for holiday purposes in the absence of established resident's onsite. It is therefore recommended that the new definition should be drafted in a manner that would enable Council to distinguish between hosted and non-hosted uses to allow for differing policy responses in individual LEPs.

## **Impact of Short Term Holiday Rentals on Affordable Rental Accommodation**

There is growing evidence that the expansion of STHL is impacting on the affordability of longer term rental accommodation. As noted in the Options Paper, a number of international cities have taken action to control and restrict STHLs in an effort to address this concern. It is increasingly evident that many parts of Sydney are subject to the same pressures as these cities.

It is recommended that Council's should be provided with appropriate mechanisms through the planning system to address this concern, if required, based on an assessment of local conditions.

### **Conclusion**

Northern Beaches Council recognises the regulatory issues posed by STHL as canvassed in the NSW Options Paper, with particular regard to land use planning and the protection of neighbourhood amenity. Recommendations arising from further research into the economic impacts of short-term letting on local communities will also be of interest to Council. In this regard further research is required to establish whether such holiday lettings impact on the provision of affordable rental accommodation in the Council area.

Council supports the creation of a state-wide standard instrument definition of short term holiday rental accommodation which is clear and distinguishable from other types of tourist and visitor accommodation. However, it believes that the regulation of its permissibility and the establishment of detailed criteria for its operation should be a matter for Councils to prescribe, similar to other miscellaneous uses under Clause 5.4 of the Standard Instrument.

Table 1: Summary of LEP Permissibility for ‘Tourist and Visitor Accommodation’

Note: ‘X’ indicated permissible with consent.

LEP Zones	Tourist and Visitor Accommodation					Short-term holiday rental accommodation Note: defined and applicable in Pittwater LEP only
	backpackers' accommodation	bed and breakfast accommodation	farm stay accommodation	hotel and motel accommodation	serviced apartments	
RU2 Rural Landscape (Pittwater LEP only)		X	X			Exempt Development in all zones only when used for a period of less than 3 months by any individual or group
RU4 Primary Production Lots (Warringah LEP only)		X				
R1 General Residential (Manly LEP only)		X				
R2 Low Density (All LEPs)		X				
R3 Medium Density (Manly LEP only)	X	X	X	X	X	
R3 Medium Density (Warringah LEP only)		X				
R3 Medium Density (Pittwater LEP only)		X			X	
B2 Local Centre (All LEPs)	X	X	X	X	X	
B3 Commercial Core (Warringah LEP)				X		
B4 Mixed Use (Warringah & Pittwater LEPs only)	X	X	X	X	X	
B6 Enterprise Corridor (Manly & Pittwater LEPs only)				X		
SP3 Tourist (Manly & Pittwater LEPs only)	X	X	X	X	X	
E3 Environmental Management & E4 Environmental Living (All LEPs)		X				