

Mark Carlon
File Ref: 2015/87293

30 October 2017

Director, Housing Policy
Department of Planning and Environment
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Dear Sir/Madam,

Options Paper on Short Term Holiday Letting

[In response, please quote File Ref: 2015/87293]

Thank you for the opportunity to make a submission on the options being considered to manage short-term holiday letting (STHL) in NSW. Please note that this is a draft submission that has not been endorsed by Sutherland Shire Council to date. It is submitted as a draft document ahead of its consideration by Council on 20 November 2017. The content of the submission will be confirmed at that time.

Sutherland Shire Council understands the complexity in managing STHL. Council strongly supports growth of local tourism and appreciates the role that STHL can play in support of its local business. However, it has also experienced the amenity impacts that can result from poorly managed STHL. Based on past decisions of the Land and Environment Court, Council has viewed STHL as a form of tourist and visitor accommodation. Tourist and visitor accommodation is prohibited in residential zones and requires prior development consent in business zones. Notwithstanding this restriction, Airbnb lists over 300 rental properties in Sutherland Shire.

The options presented for regulating STHL through the planning system include the potential use of exempt development, complying development or requiring development consent. If a development application is required, the options paper suggests that assessment and conditions could manage length of stay, number of bedrooms, presence of a host, compliance with a code of conduct and waste management. However, the effective management of consents requires strong compliance action. To take legal action against a problem STHL, Council would need evidence as to breaches of length of stay, noise levels, proof of public disturbance etc. Council would not be in a position to prove length of stay because the owner would be the only record holder of occupancy. It would also be difficult to make a compelling case on tenant behaviour because of the frequency of turnover. Given the difficulty of enforcement, relying on development consents to manage STHL is not supported by Sutherland Shire Council.

Regulation where the whole dwelling is solely used for STHL through Complying Development is more practical and is supported by Sutherland Shire Council. This approval mechanism would allow building safety, insurance cover and any other requirements to be checked by an independent person prior to commencement. While Complying Development on its own would not provide a framework for the management of amenity impacts, it could be coupled with a system of registration and industry self-management to manage complaints.

The Parliamentary Inquiry recommended that STHL within a principal place of residence be a form of exempt development. This would allow STHL either within part of the dwelling, or the whole house in the landowners' absence. Having a host present significantly reduces the potential for adverse amenity impacts, making the use of exempt development appropriate.

Allowing the principal place of residence to be STHL would cater for house swaps and rental during extended absences of the landowner. This is traditionally less intensive use than dwellings permanently used for STHL. Given that the bulk of properties listed on Airbnb would fall into this category, and that Council receives very few complaints in relation to their operation, Sutherland Shire Council supports the use of exempt development provisions for this category of STHL.

Effectively managing STHL in Strata Titled buildings is fraught with difficulty given the proximity of neighbours and the importance of respecting common property, parking and waste management. Council's experience with complaints demonstrates that STHL must be very carefully managed in Strata Titled buildings if it is to operate without unreasonable impacts of resident amenity. However, it is acknowledged that STHL has significant potential to support the growth of our tourism economy. Council understands the need to find an effective balance and does not support blanket prohibitions. There will be particular buildings where STHL can be readily accommodated, and properties where owners decide to focus on STHL as the primary function of a residential flat building. Allowing greater use of by-laws to better manage STHL is a practical approach that gives control to the residents of each building. This will allow the resident body to come up with an approach that works for their particular circumstances.

Yours sincerely



Mark Carlon
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