

31 October 2017

Director, Housing Policy
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

Short Term Holiday Letting Submission

Bathurst Regional Council is pleased to provide the following submission in respect of the NSW Government Short Term Holiday Letting Options Paper.

The Bathurst region has more than 200 listings on relevant websites for Short Term Holiday Letting (STHL). In addition to this, during events at Mount Panorama, particularly the Bathurst 1000 held annually in October, a substantial amount of people rent their houses as a one-off. The cumulative impact this has on the region is very positive and landholders continue to do this annually. Council has no recorded complaints for issues and impacts associated with STHL.

Bathurst Regional Council undertook a survey as part of preparation of the submission, attended workshops held by NSW Government and held meetings with internal departments. The survey was based on the Options Paper document (DPE). Please see responses **attached**. Items of this submission to be discussed include:

- Refined definition required for STHL;
- Support for a Code of Conduct document applying responsibility with renter and host;
- Support for STHL to be a form of Exempt Development with a registration;
- Strata regulation;
- Inconsistencies in various legislation surrounding requirements on bush fire prone land.

Bathurst Regional Council supports the requirement for a refined definition of STHL. Given a substantial portion of the Bathurst region's short term letting is for events associated with Mount Panorama, the majority of lettings are only once a year. A refined definition will give clarity to the expectations surrounding what constitutes STHL and if there is a change of building class.

The survey responses support STHL as a form of exempt development with a registration process. Regulation through the exempt development criteria will promote STHL, place onus on stakeholders, and minimise unnecessary matters in the development assessment process. The exempt development process will provide a registry allowing Council to have a record of the number of STHL.

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Additionally, there is support for a 'code of conduct' document to be developed that would assist with a self-assessment and self-regulation to ensure rented dwellings are appropriately managed. Council's and survey responses support for this approach is to impose the responsibility on the landholder and the tourist/renter. The agreement made between these parties should be outside planning principles and the development assessment process. Council has a separate Tourist and Visitor Guidelines Policy regularly given out to landholders interested in establishing the activity. The guidelines give definitions on the types of tourist accommodation, situations requiring complying development approvals and development application approvals. The guidelines refer to relevant legislation, inclusive of Swimming Pools Act 1992 and Protection of the Environment Operations Act 1997 etc. Bathurst Regional Council has found this document helpful for landholders. Please see **attached**. It is therefore considered important that a code of conduct be established, similar to Council's own Tourist and Visitor Guidelines. Bathurst Regional Council supports this document, issued as a guideline, but able to be modified to suit each individual Council area needs.

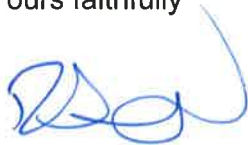
Strata regulation appears necessary, given the close proximity of dwellings and shared space. Bathurst Regional Council supports strata management being an internal discussion between hosts and the remaining strata corporation. It is not considered necessary to include Council in this conversation. However if complaints arise, evidence of strata rules surrounding STHL should be presented to Council to respond to such complaint.

Bathurst Regional Council has concern for STHL on bushfire prone land. There seems to be inconsistencies regarding how the STHL planning approach would relate to Special Fire Protection Purpose under the Environmental Planning and Assessment Act 1979. Whilst Bathurst Regional Council supports the onus and responsibility being applied to the landholder and the tourist/renter, the legislation requires tourist accommodation to lodge an Application under Integrated Development. Bathurst Regional Council would like some further clarification on this. The definition of STHL may resolve the inconsistencies surrounding this.

Importantly Council seeks to ensure that any changes in the way in which STHL is managed does not adversely impact on the ability for residents to let out their houses during race events at Mount Panorama.

Council looks forward to further consultation from the Department of Planning and Environment as to its preferred way forward on this issue.

Yours faithfully



R Denyer
ACTING DIRECTOR
ENVIRONMENTAL, PLANNING & BUILDING SERVICES

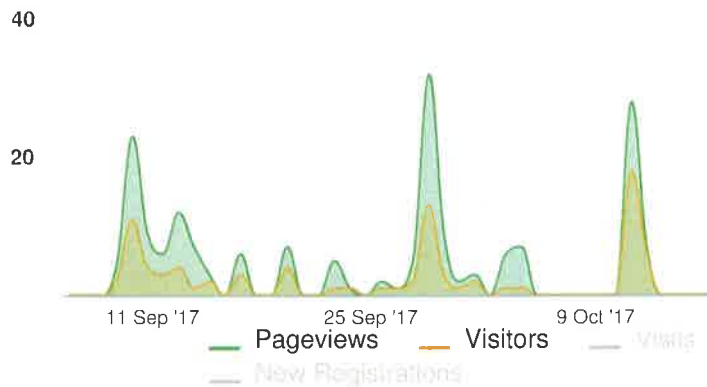
Project Report

01 September 2017 - 15 October 2017

Your Say Bathurst Region Short Term Holiday Letting



Visitors Summary

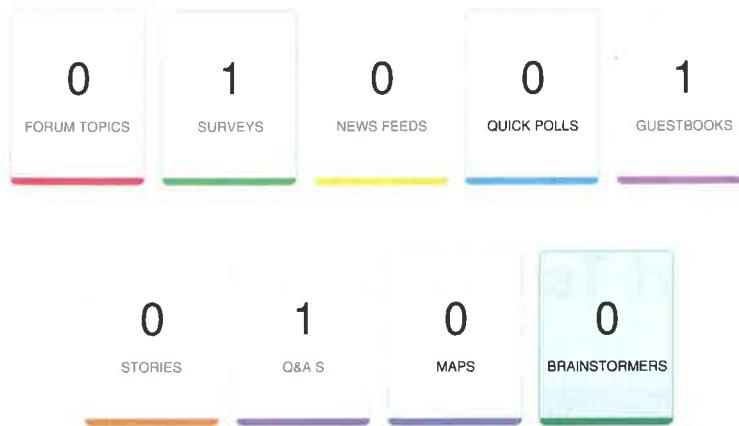


Highlights



Aware Participants	77	Engaged	12		
Aware Actions Performed	Participants	Engaged Actions Performed	Registered	Unverified	Anonymous
Visited a Project or Tool Page	77	Contributed on Forums	0	0	0
Informed Participants	36	Participated in Surveys	12	0	0
Informed Actions Performed	Participants	Contributed to Newsfeeds	0	0	0
Viewed a video	0	Participated in Quick Polls	0	0	0
Viewed a photo	0	Posted on Guestbooks	0	0	0
Downloaded a document	0	Contributed to Stories	0	0	0
Visited the Key Dates page	0	Asked Questions	0	0	0
Visited an FAQ list Page	0	Placed Pins on Maps	0	0	0
Visited Instagram Page	0	Contributed to Brainstormers	0	0	0
Visited Multiple Project Pages	24				
Contributed to a tool (engaged)	12				

ENGAGEMENT TOOLS SUMMARY



Tool Type	Engagement Tool Name	Tool Status	Visitors	Contributors		
				Registered	Unverified	Anonymous
Survey Tool	Short Term Holiday Letting	Archived	38	12	0	0

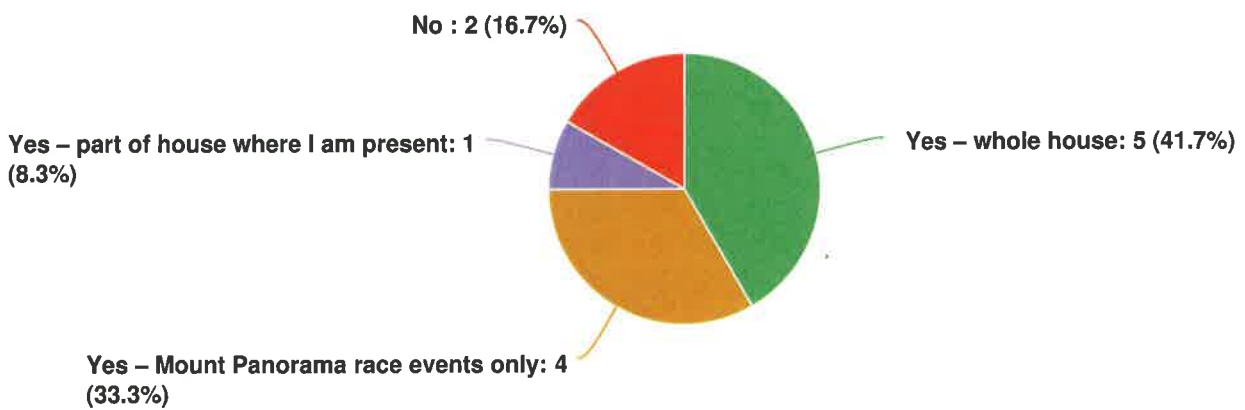
ENGAGEMENT TOOL: SURVEY TOOL

Short Term Holiday Letting

VISITORS 38	CONTRIBUTORS 12	CONTRIBUTIONS 12
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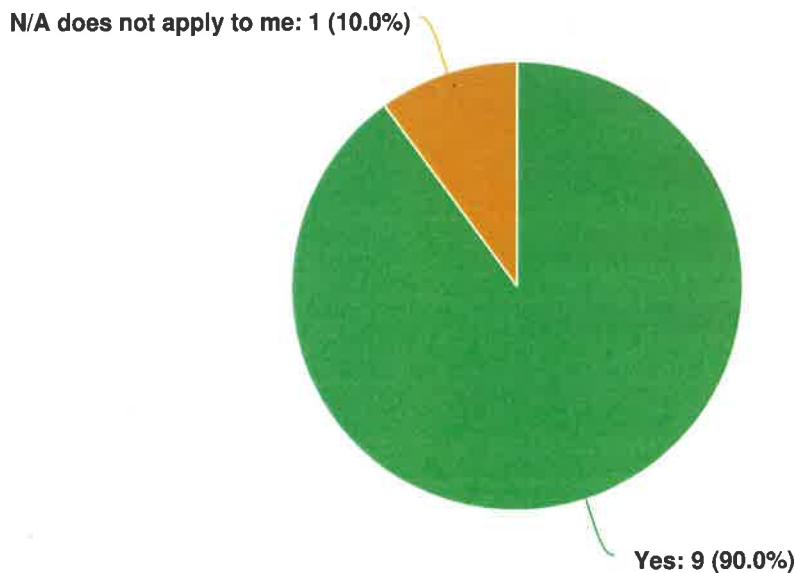
Are you or have you ever been a short-term holiday accommodation host?

(12 responses | 0 skipped)



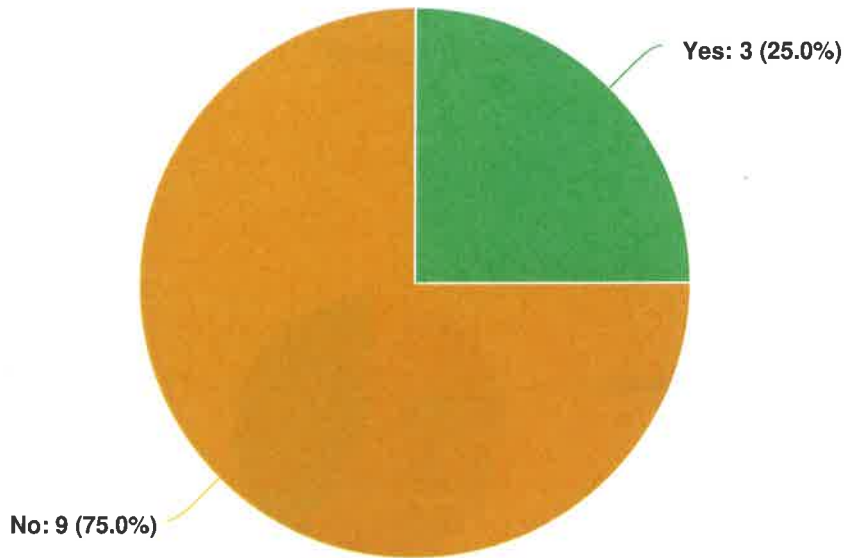
As a host do you find using STHL preferable over long term rental tenancy agreements?

(10 responses | 2 skipped)



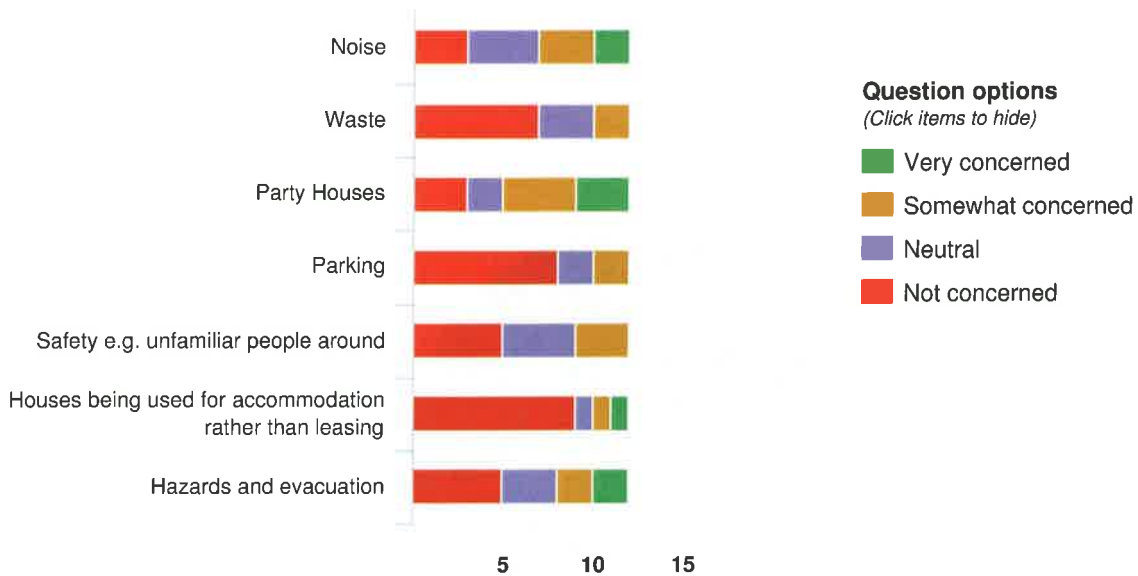
Should owners corporations (e.g. Strata body corporates) be given the legal ability to prohibit or restrict STHL?

(12 responses | 0 skipped)



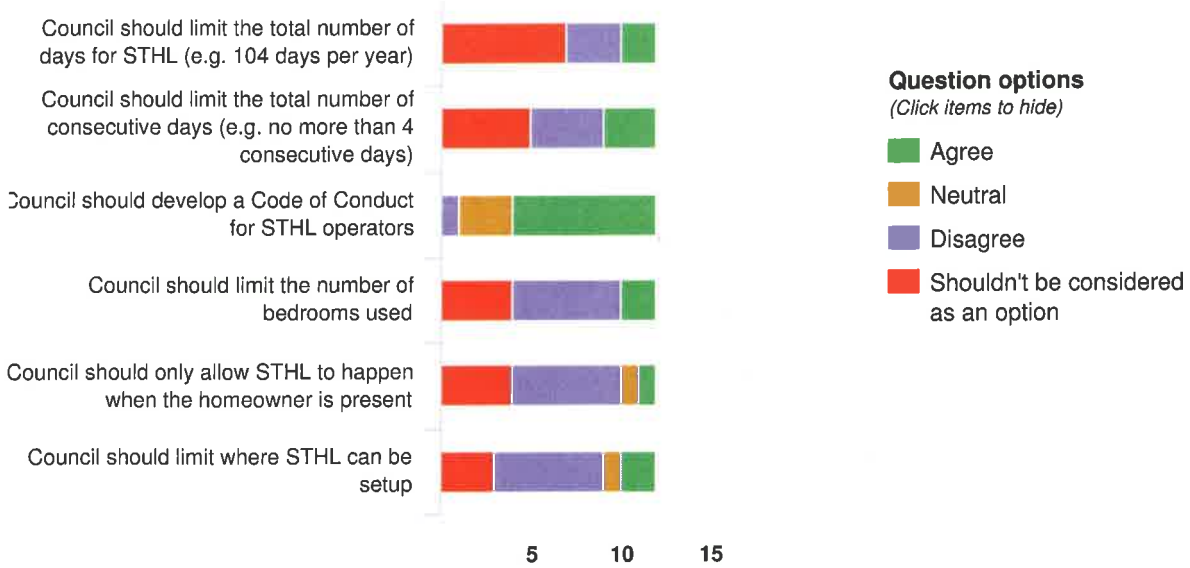
As a resident who may live nearby, or as a host, please select the impacts that you are most concerned about.

(12 responses | 0 skipped)



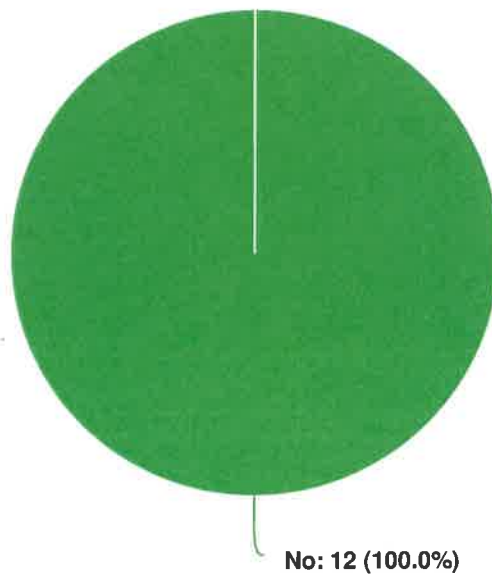
If Council introduced planning restrictions for STHL, please indicate your level of support for the following statements

(12 responses / 0 skipped)



Are you aware of any complaints received against you as the owner of the property or have you lodged a complaint about the operation of a STHL

(12 responses / 0 skipped)



POLICY:	OPERATION OF TOURIST AND VISITOR ACCOMMODATION ESTABLISHMENTS
DATE ADOPTED:	Director Environmental, Planning & Building Services Report #1 Policy 6 November 2013 Council 19 February 2014 Minute Book No. 11660
ORIGINAL ADOPTION:	
FILE REFERENCE:	11.00003
OBJECTIVE:	To facilitate the development of tourist and visitor accommodation as a sustainable, low impact activity which maintains the amenity of both the property and locality; maintains a satisfactory standard of management and service; and to ensure the premises meet acceptable planning, community health and fire safety standards

1. OBJECTIVES

The objectives of the policy are:

- 1.1 To maintain the existing amenity of both the property, and where relevant, the locality where a tourist and visitor accommodation establishment is located. In order to do so Council will consider the following:
 - (a) the location and number of any other tourist and visitor accommodation establishments in the neighbourhood; and
 - (b) the potential noise generating ability of the tourist and visitor establishments and its effect on neighbouring dwellings; and
 - (c) where reticulated sewerage is not available (onsite waste water management system area) the capacity and efficiency of any proposed effluent disposal system and its potential to create a nuisance for the adjoining properties.
- 1.2 To maintain a satisfactory standard of management and service.
- 1.3 To ensure that the premises meet acceptable planning, community health and fire safety standards.

2. DEFINITIONS

NOTE: The definitions used in this Policy reflect the definitions of the standard instrument, Local Environmental Plan.

"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.

“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).

“eco-tourist facility” means a building or place that:

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

“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.

“floor area” is deemed to include the area of any storey of the floor of the dwelling measured from the outer extremity of the enclosing walls.

“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.

“tourist and 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) eco-tourist facilities
- (d) farm stay accommodation,
- (e) serviced apartments,

3. COUNCIL APPROVALS

There are two pathways that a tourist and visitor accommodation establishment can follow when seeking Council approval for the establishment of a tourist and visitor accommodation establishment:

- 3.1 The development may be considered “Complying Development” where it complies with all the criteria contained in Schedule 3 of the Bathurst Regional Local Environmental Plan 2013. A Complying Development Certificate application form and appropriate fees and plans are to be submitted to Council or an appropriately qualified private certifier for determination; or

- 3.2 Where the development cannot be considered Complying Development, a Development Application must be submitted for determination under the Environmental Planning and Assessment Act 1979. A Development Application form, appropriate fee and plans are to be submitted to Council for determination.
- 3.3 In non-reticulated sewerage areas a current 'approval to operate' the onsite waste water system must be maintained at all times. This may require further approval(s) for new septic systems under Section 68 of the Local Government Act. A fee will be charged in accordance with Council's Revenue Policy.

3.4 Building Classification

The conversion of a dwelling house to a Tourist and Visitor Accommodation establishment represents a change of classification under the Building Code of Australia (BCA) from Class 1a to Class 1b or Class 3. (refer to Part A3 of the Building Code of Australia)

A **Class 1b** building has been defined as "*a boarding house, guest house, hostel or the like with a total floor area not exceeding 300 m² and in which not more than twelve (12) persons would ordinarily be resident, which is not located above or below another class of building other than a private garage*".

In the event of the floor area exceeding 300 m² or the building accommodating more than twelve (12) persons the classification of the premises may change to **Class 3** under the BCA. This may require additional fire safety measures and compliance with disabled access provisions.

- 3.5 Where a swimming or spa pool is installed at the establishment, or at any premises used for tourist and visitor accommodation, at the time of initial application, the owner must also provide evidence the swimming pool has been registered on the NSW Swimming Pool register. The swimming pool is to be inspected at least once every three years. A fee will be charged in accordance with Council's Revenue Policy.

4. STANDARDS FOR CONSIDERATION

Development Standards:

- 4.1 It is desirable that off-street car parking be made available for the resident's vehicle and also one space per guest room. The parking space should be appropriately provided, behind the front building line.
- 4.2 Off-street car parking provided should be constructed so as to reduce as far as possible the noise of vehicles entering and leaving the property.
- 4.3 Council may permit one sign on the property to indicate the house is a tourist and visitor accommodation establishment and the name of the proprietor. The sign shall not exceed 0.5 square metres in area.
- 4.4 The tourist and visitor accommodation establishment shall be operated in a manner which has regard to the health and residential amenity of the surrounding neighbourhood. It is important in residential areas that noise levels are in keeping with those which are normally experienced in the locality.

Public Health Standards:

- 4.5 Premises and furnishings are to be kept clean and free from vermin.
- 4.6 No animals are allowed in a guest room, dining room or kitchen. However, Guide dogs for the visually impaired and hearing dogs are acceptable within a dining room or guest room only.
- 4.7 Unless otherwise approved by the Council, toilet and bathroom facilities are required for guests separate from those used by the permanent residents of the house, and without the need to enter another separate bedroom. One bathroom per 3 bedrooms will be required. Bathroom carpet is not permitted unless it is laid on an approved, impervious floor surface.
- 4.8 For guest bedrooms, a minimum of 5.5 m² of bedroom floor area per person is required for long term (> 28 days); otherwise 2m² per person is required. Children under 5 years old are not included in the calculation (Clause 46 of the Public Health Regulation 2012).
- 4.9 In areas which do not have a reticulated town water supply, premises are to ensure all water used on the premises are to comply with the 'Private Water Supply Guidelines' as determined by NSW Health.
- 4.10 A room used for the preparation or storage of guests' food shall comply with the following acceptable standards and solutions:
- Notify the NSW Food Authority of the food business. This can be done by logging into the NSW Food Authority website.
 - No live animals allowed in food preparation areas.
 - Those preparing meals should have demonstrated skills and competencies in food hygiene. A Food Safety Supervisor's Certificate may be required if meals are prepared on the premises.
 - Benches used for food preparation should be finished in a material that is smooth and durable, impervious to moisture and easily cleaned and maintained in good condition.
 - Provide hygienic cleaning of utensils, a double bowl sink with dishwasher preferred.
 - Provide hand washing facility – a designated hand wash basin either as third bowl of sink, or separate facility in or near kitchen.
 - Provide liquid soap dispenser, nail brush and single use hand towels to ensure regular hand washing and hand drying by food handlers.
 - Refrigerators are to maintain food at below 5 degrees celsius and hot food storage equipment to maintain hot food above 60 degrees celsius.
 - Provide a thermometer to allow for systematic checking of temperatures accurate to $\pm 1^{\circ}\text{C}$.
 - Clearly document and display management arrangements outlining particulars on daily cleaning and hygiene standards, equipment maintenance, check systems for food storage and a program for approved pest control treatment.
 - A small kitchen sink, fridge, toaster, microwave are permitted in guest rooms.
 - All food contact surfaces are to be cleaned and sanitised after each use.

Fire Safety Standards:

- 4.11 **Kitchen:** A 1.2 m² **fire blanket** and a 3.5 kg **portable fire extinguisher** suitable to fight Class A, B & E fires, are to be suitably wall mounted within the kitchen area with clear instructions for use.
- 4.12 **Locks:** Deadlocks requiring an internal key release are not to be provided on doors to guests' rooms or exit doors. Doors must be able to be opened from inside the room without a key or special knowledge.
- 4.13 **Smoke Alarms:** Approved (compliant with AS3786 Smoke Alarms) single-station smoke detector alarms (connected to a permanent 240 volt electricity supply with a battery operated backup device) are to be installed in locations in accordance with the *National Construction Code* requirements.
- 4.14 **Fire Prevention and Management Plan – Mandatory:** A Fire Prevention and Management Plan shall be prepared and displayed within a common area of the building. Instructions for action in the event of a fire shall be placed in each guest room, eg an evacuation plan affixed to the bedroom door.
- 4.15 **Provision for Escape – Mandatory:** There must be adequate provision for escape in the event of fire or other emergency from the building to a place of safety.

Stairways, ramps and balconies shall be designed so as to provide a safe passage in relation to the nature, volume and frequency of the likely usage. All paths of travel are to be maintained free of obstruction at all times.

4.16 Swimming and Spa Pools:

- a) Fencing must comply with the requirements of the Swimming Pools Act 1992 and Regulation 1998 and the legislation generally requires that:
- The pool is to be separately fenced from residential buildings with a child-resistant barrier as set out in AS1926.
 - A prescribed warning notice is to be displayed in the pool area.
 - Permits inspections and provides for penalties for non-compliance.
 - Inspection required minimum every three years.
- b) Pools at a Tourist and Visitor Accommodation establishment are a public swimming or spa pool pursuant to the Public Health (Swimming Pools and Spa Pools) Regulation 2000. Pool water is to be disinfected including the pool surrounds and toilets associated with the pool or spa to prevent the transmission of disease. The legislation permits:
- For the inspection of the pool and the sampling of water. If a pool is a risk to public health, the legislation allows for the closure of the pool.

The NSW Health Department's *Guidelines for Disinfecting Public Swimming Pools and Spa Pools*, which includes daily recording of disinfectant levels when the pool is available for patrons.

Compliance the NSW Health Department's guidelines will be inspected as part of council's annual inspection of the premises.

- 4.17 **Noise Control:** The Protection of the Environment Operations Act 1997 (POEO Act) and POEO (Noise Control) Regulation 2000 include means to address neighbourhood noise.

The regulation restricts times during which articles and vehicles may not be used if they can be heard in a neighbouring residence. The following is a summary of the restrictions.

Domestic Noise Sources	Times during which special restrictions apply
Power tools and equipment Swimming & spa pool pumps Motor vehicles – except when entering and leaving premises	8pm to 7am on weekday and Saturdays 8pm to 8am on Sundays and Public Holidays
Domestic air conditioner	10pm to 7am on weekdays 10pm to 8am on Weekends and Public holidays
Musical instruments and sound equipment, eg TV's	12 midnight to 8am every day

Outside of these hours, restrictions can be imposed if they cause "offensive noise". In urban areas Council may require noise barriers in the form of solid boundary fences to mitigate noise from the premises and to maintain the amenity.

5. BUSH FIRE

- a) If the property is located on bushfire prone land identified on the map located at council's offices, application can only be considered as a Development Application.
- b) An application for tourist and visitor accommodation will be considered as a 'special fire protection purpose' and will require referral to the Rural Fire Service for a bush fire safety authority.
- c) An application for a tourist and visitor accommodation establishment will require a bush fire report lodged with the Development Application.
- d) A bush fire evacuation plan must form part of the bush fire report lodged with the Development Application.

6. ADMINISTRATION

- 6.1 If any alterations or additions to the building are proposed and these building works are not Exempt Development under Council's Local Environmental Plan, a Development Application/Construction Certificate application is required to be submitted to Council for determination.
- 6.2 An inspection of the premises and surrounds of a tourist and visitor accommodation establishment is required annually, and a fee is payable in accordance Council's Management Plan and Revenue Policy.
- 6.3 A Fire Safety Certificate is to be provided to Council annually.