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ABN 32 353 260 317

The Secretary  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

NM (CIS)

20 November 2017

Dear Sir/Madam,

**RE: SHORT TERM HOLIDAY LETTING IN NSW – OPTIONS PAPER**

North Sydney Council (Council) would like to thank the Department of Planning & Environment (DPE) for the opportunity to provide comments in response to the release of the Short-term holiday letting in NSW Options Paper.

Council considered the issues arising from the options paper at its meeting of 30 October 2017. A copy of the report and minutes are enclosed. As communicated via email, the matter was initially the subject of a rescission motion which was subsequently withdrawn. Council appreciates the agreement of the Department of Planning & Environment to accept this submission beyond the advertised closing date.

Whilst Council is generally supportive of the initiative to prepare the options paper and the suite of suggested potential measures, a greater degree of clarity is sought during the next phase of preparation of any regulatory framework.

**1. Recommendations to Council's previous submission**

Council staff made a submission to the NSW Legislative Assembly Committee on Environment and Planning conducted in November 2015 (copy attached). The submission identified the issues arising due to the absence of a defined land use and recommended the creation of a specific definition and a state wide approach. The NSW Legislative Assembly Committee recommendations were largely focused on amendments to planning legislation. The Options paper suggests that there needs to be a more multi-faceted approach to managing this activity, however, does not provide any further detail as to how the use may ultimately be defined and managed.

The absence of a clearly defined land use or parameters around what constitutes a defined land use presents obvious challenges to both Council and the community in general.

A handwritten signature in blue ink, consisting of stylized initials.

## Recommendation

*That the introduction of any regulatory reform be supported by clear and specific definitions. These definitions as well as any criteria or parameters to be applied must have adequate regard for the different density contexts in which the activity is conducted.*

### 2. North Sydney Experience with Short-term holiday letting

The use of premises for short term holiday letting (if defined as *tourist and visitor accommodation*) is only currently permissible within the B3 & B4 zones. Council has not received any development applications for this use to date, however, does receive some enquiries regarding permissibility and any approval process.

Council's regulatory team receives regular complaints on the use of premises for the purposes of short term (Air BnB style) letting. The issues and concerns associated with the short term letting of premises include noise, 'party houses', waste management, damage/wear to common property areas, traffic and parking, hazards and evacuation.

As an indication of the scale of the issue, over the past 12 months Council has received approximately 50 complaints concerning the alleged use of premises for short term letting. Approximately 80% (40) of these related to apartment use with the remaining 20% (10) being for detached houses. A further fifteen (15) general enquiries were received over this period seeking information on permissibility and any approval process required.

When responding to complaints, in the vast majority of cases, Council are unable to progress any further action due to a lack of adequate reliable evidence. If a listing is visible on a host website and it is able to be verified that it is within the North Sydney LGA, a letter is sent to the owner of the property advising them that the use of the premises for this purpose is not permitted. It is also observed that there is some seasonal influx of complaints around holiday and festive periods.

Council has only progressed to legal enforcement action on three (3) occasions relating to premises that were being used almost continuously for short term letting. In one instance, the majority of units within the one complex were being managed as short term letting and sufficient evidence was able to be obtained to clearly define the 'use' of the premises due to the intensity of use that was being undertaken and the observable amenity issues arising.

A considerable amount of Council resources has gone into investigation of the use of premises for short-term holiday letting with little tangible outcome. It is therefore suggested that any reform in this area needs to be supported by some external regulatory oversight (e.g. Department of Fair trading and host providers) as Council is not in a position to invest considerable resources in this area. Council specifically resolved that any administration that is to be undertaken by Council in relation to regulation and registration of short-term holiday letting, is to be funded by the State Government.



### **Recommendation**

*That the introduction of any regulatory reform be supported by relevant State Government agencies and that the administrative and investigative functions be provided such that there is no cost implication to Council.*

### **3. Centralised registration process**

The rise of the 'sharing' economy with uses and activities such as Uber and 'Air BnB' require a considered response to the challenges and issue that arise. The Options paper, at several points, highlights the risk of 'over-regulation' being a deterrent to the activity and the potential subsequent loss of desired economic activity. It is contended that the introduction of an appropriate level of regulation and over-sight would provide a greater level of certainty and expectation to the community, and subsequent promotion of the activity taking place. This may also have further benefits such as capture of relevant taxation. Provided an appropriate level of residential amenity can be maintained, Council is supportive of the introduction of a centralised registration process and operator's agreement as this would remove the burden of evidence gathering where complaints are received and ensure the activity is appropriately run. Appropriate penalties for non-compliance (for hosts and users) would also be necessary.

### **Recommendation**

*That the State Government introduce a mandatory registration process and operator's agreement for the use of a premises for the purposes of Short-term holiday letting. Any such register should be operated and maintained by an appropriate State government agency such as Department of Fair Trading. This process should be supported by an education campaign with interested parties/users.*

### **CONCLUSION**

At its meeting of 30 October 2017, Council considered the implications of the different approaches outlined in the Short-term holiday letting Options Paper. Whilst Council is generally open to the suite of measures being explored there is an absence of clear direction as to what level of legislative reform or intervention is likely to be pursued.

Council would again like to thank the DPE for its involvement to date and welcomes the opportunity for continued involvement in any planning and regulatory reform related to Short-term holiday letting.

If you have any further queries, please contact Neal McCarry of Council's Strategic Planning Department on 9936 8100.

Yours faithfully,



**ADRIAN PANUCCIO  
A/GENERAL MANAGER**





**DECISION OF 3696<sup>th</sup> COUNCIL MEETING  
HELD ON 30 OCTOBER 2017**

353.

**CiS09: Short-term Holiday Letting Options Paper**

Report of Neal McCarry, Team Leader Policy

The purpose of this report is to seek Council's endorsement of the principles to form the basis of a submission to the NSW Department of Planning and Environment (DPE) in response to the release of an 'options paper' dealing with short-term holiday letting in NSW.

The report details the background to, and issues arising from short-term holiday letting in the North Sydney context as well as outlining the relevant town planning and regulatory context. The suite of measures being considered by the NSW Government all contain elements of merit which would help ensure the use of premises is appropriately regulated with the overall aim being to ensure a high level of amenity is able to be maintained by all residents yet allow the use to still be undertaken.

The report recommends Council endorse a submission to the DPE seeking a greater degree of clarity be provided to the planning and regulatory framework associated with this land use. It also recommends that any potential state wide policy amendments ensure an appropriate balance is achieved between any provisions that allow the short term letting of premises and the communities' reasonable expectations for the quiet enjoyment of premises.

Nil.

**Recommending:**

1. **THAT** Council prepares and forwards a submission to the Department of Planning and Environment in response to the *Short-term Holiday Letting in NSW Options Paper* (dated July 2017). In particular, the following issues and principles are to be included:
  - (a) advise of Council's experience with regard to amenity issues arising associated with short-term holiday letting and challenges arising in the regulatory process;
  - (b) emphasise the need for clarity in any amendments to assist Council or any other agency in their ability to investigate and regulate this land use. Any amendments must include very clear definitions and criteria for this land use which adequately recognise the different amenity impacts arising in different density contexts;
  - (c) recommend the need for a central registration and regulatory body to provide oversight and investigative responsibility for incidents of non-compliance or unlawful land use;
  - (d) express support for the need for a formal registration process for the use of premises for short-term holiday letting as this will relieve the burden of evidence gathering.
2. **THAT** a further update and report be provided to Council upon release of any further regulation or legislative amendments arising from this Options Paper.

A Motion was moved by Councillor Baker and seconded by Councillor Beregi,

1. **THAT** Council prepares and forwards a submission to the Department of Planning and Environment in response to the *Short-term Holiday Letting in NSW Options Paper* (dated July 2017). In particular, the following issues and principles are to be included:
  - (a) advise of Council's experience with regard to amenity issues arising associated with short-term holiday letting and challenges arising in the regulatory process;
  - (b) emphasise the need for clarity in any amendments to assist Council or any other agency in their ability to investigate and regulate this land use. Any amendments must

include very clear definitions and criteria for this land use which adequately recognise the different amenity impacts arising in different density contexts;

(c) recommend the need for a central registration and regulatory body to provide oversight and investigative responsibility for incidents of non-compliance or unlawful land use. Any administration to be undertaken by Councils is to be funded by the State Government;

(d) express support for the need for a formal registration process for the use of premises for short-term holiday letting as this will relieve the burden of evidence gathering.

**2. THAT** a further update and report be provided to Council upon release of any further regulation or legislative amendments arising from this Options Paper.

The Motion was put and carried.

Voting was as follows:

For/Against 8/1

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi	Y		Drummond	Y	
Keen		DoI	Gunning		N
Brodie	Y		Mutton	Y	
Carr	Y		Baker	Y	

**RESOLVED:**

**1. THAT** Council prepares and forwards a submission to the Department of Planning and Environment in response to the *Short-term Holiday Letting in NSW Options Paper* (dated July 2017). In particular, the following issues and principles are to be included:

(a) advise of Council's experience with regard to amenity issues arising associated with short-term holiday letting and challenges arising in the regulatory process;

(b) emphasise the need for clarity in any amendments to assist Council or any other agency in their ability to investigate and regulate this land use. Any amendments must include very clear definitions and criteria for this land use which adequately recognise the different amenity impacts arising in different density contexts;

(c) recommend the need for a central registration and regulatory body to provide oversight and investigative responsibility for incidents of non-compliance or unlawful land use. Any administration to be undertaken by Councils is to be funded by the State Government;

(d) express support for the need for a formal registration process for the use of premises for short-term holiday letting as this will relieve the burden of evidence gathering.

**2. THAT** a further update and report be provided to Council upon release of any further regulation or legislative amendments arising from this Options Paper.





**Report to General Manager**

Attachments:

1. Short-term Holiday Letting in NSW – Options Paper

**SUBJECT:** Short-term Holiday Letting Options Paper

**AUTHOR:** Neal McCarry, Team Leader Policy

**ENDORSED BY:** Joseph Hill, Director City Strategy

**EXECUTIVE SUMMARY:**

The purpose of this report is to seek Council's endorsement of the principles to form the basis of a submission to the NSW Department of Planning and Environment (DPE) in response to the release of an 'options paper' dealing with short-term holiday letting in NSW.

The report details the background to, and issues arising from short-term holiday letting in the North Sydney context as well as outlining the relevant town planning and regulatory context. The suite of measures being considered by the NSW Government all contain elements of merit which would help ensure the use of premises is appropriately regulated with the overall aim being to ensure a high level of amenity is able to be maintained by all residents yet allow the use to still be undertaken.

The report recommends Council endorse a submission to the DPE seeking a greater degree of clarity be provided to the planning and regulatory framework associated with this land use. It also recommends that any potential state wide policy amendments ensure an appropriate balance is achieved between any provisions that allow the short term letting of premises and the communities' reasonable expectations for the quiet enjoyment of premises.

**FINANCIAL IMPLICATIONS:**

Nil.

**RECOMMENDATION:**

**1. THAT** Council prepares and forwards a submission to the Department of Planning and Environment in response to the *Short-term Holiday Letting in NSW Options Paper* (dated July 2017). In particular, the following issues and principles are to be included:

- (a) advise of Council's experience with regard to amenity issues arising associated with short-term holiday letting and challenges arising in the regulatory process;
- (b) emphasise the need for clarity in any amendments to assist Council or any other agency in their ability to investigate and regulate this land use. Any amendments must include very clear definitions and criteria for this land use which adequately recognise the different amenity impacts arising in different density contexts;

- (c) recommend the need for a central registration and regulatory body to provide oversight and investigative responsibility for incidents of non-compliance or unlawful land use;
  - (d) express support for the need for a formal registration process for the use of premises for short-term holiday letting as this will relieve the burden of evidence gathering.
- 2. THAT** a further update and report be provided to Council upon release of any further regulation or legislative amendments arising from this Options Paper.



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## LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

Direction: 2. Our Built Environment

Outcome: 2.2 Improved mix of land use and quality development through design excellence

## BACKGROUND

In 2016, the NSW Legislative Assembly Committee on Environment and Planning conducted an inquiry into the adequacy of the regulation of short term holiday letting in New South Wales. Three public hearings were held between March and May 2016 and 212 public submissions were received. In response to this inquiry, North Sydney Council staff made a submission. The submission raised concern that there is a lack of clarity from a legislative basis on the use as well as enforcement action currently being problematic and often ineffective. The submission confirmed that (if defined as 'tourist and visitor accommodation' or 'serviced apartments') short term holiday letting was widely prohibited in North Sydney other than in the B3 (Commercial Core) and B4 (Mixed Use) zones where it is permissible with development consent.

The submission from Council recommended that the Standard Instrument be amended to more clearly define the use of a premises as short-term holiday letting as well as amend the Environmental Planning and Assessment Act, 1979 so as to allow Council to take action if required against managing agents were found to be breaching the Act or directly responsible for an unlawful use. It should be noted that Council is currently only able to take action against the owner of a property not an agent.

Following the Inquiry, the NSW Legislative Assembly Committee on Environment and Planning released a report in October 2016. The key recommendations were that the NSW Government:

- amend planning laws to regulate short-term rental accommodation;
- allow home sharing, and letting a principal place of residence, as exempt development;
- allow empty houses to be let as exempt and complying development;
- strengthen owners' corporations' powers to manage and respond to issues in strata properties; and
- commit to further investigating impacts from short-term holiday letting on traditional accommodation operators.

On 19 April 2017, the NSW Government responded to the Parliamentary Committee Report indicating general support for the recommendations. As part of the response, it was agreed that an Options Paper would be prepared to develop an appropriate way for government to respond to short-term holiday letting.

The Options Paper was released in July 2017 and submissions close on 31 October 2017. The NSW Legislative Assembly Committee's recommendations were largely focused on amendments to the planning legislation. However, the Options Paper suggests that there needs

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to be a more multi-disciplinary approach to managing such activities.

On 26 June 2017, Council considered a Notice of Motion (No. 25/17) regarding Air BnB Policy Reform and Regulation and resolved:

- "1. THAT a report be prepared for Council on compliance and regulatory issues in relation to Air BnB;*
- 2. THAT the report include analysis of Australian and international responses to the challenges faced by local and city governments in relation to the impacts of Air BnB on neighbours and owner's corporations in apartment blocks on rents and affordable housing issues."*

In response to this Notice of Motion a report was considered by Council at its meeting of 24 July 2017 where Council resolved:

*THAT the issue and the report be referred to NSROC for consideration for a regional project and lobbying for legislative reform.*

On 22 August 2017 a submission was sent to NSROC in accordance with Council's resolution. To date no response has been received.

## **CONSULTATION REQUIREMENTS**

Community engagement is not required at this stage.

## **SUSTAINABILITY STATEMENT**

This report deals with draft State Government Legislation/Policy which may have a substantial effect on sustainability. This report is for information purposes only; a sustainability assessment was not undertaken.

## **DETAIL**

### **1. Strategic and legislative context**

The emergence of various on-line booking platforms and a growing 'sharing' economy has seen short-term holiday letting expand significantly in NSW. This has led to a need to review the role of regulation in enabling the activity to continue. The release of the Options Paper by the NSW State Government seeks to respond to the issues arising across the state from the increased use of private premises for short term holiday letting.

The Department of Planning and Environment have advised that there would need to be cross ministerial agreement in moving the matter forward, due to the various pieces of legislation that the matter can be regulated by, including:

- Environmental Planning and Assessment Act
- Protection of the Environment Operations Act
- Residential Tenancies Act
- Strata Schemes Management Act.



This puts forward a more holistic approach to the issue rather than relying solely on Planning legislative reform to manage or regulate this activity.

#### Impact on affordability

Since the development of short term holiday letting in metropolitan areas via on-line platforms such as 'Air BnB' and 'Stayz', there has been some contention that the growth of this use may be resulting in a reduction in availability of rental housing stock and placing upward pressure on rents. Whilst some academic and market research has been carried out in this area, the empirical evidence compiled to date is somewhat weak or rather presents a fairly narrow snapshot of the extent of impact, at least on a Sydney metropolitan basis.

Outside of metropolitan areas, particularly in coastal holiday regions, the short term letting of dwelling houses has been shown to be strongly relied upon to support local economic activity particularly during traditional popular holiday periods. The State Government has also recognised the estimated total economic benefits of this industry nationally (\$31 billion).

#### Industry concerns

During the 2016 NSW Legislative Assembly Committee inquiry, a number of representations were made by the hotel industry expressing concern. This included that the unregulated use of private dwellings for short term stays was likely to have an inequitable influence on the industry as well as potentially impacting upon employment opportunities in the hotel industry if it were to retract as a result of unregulated short term holiday letting.

At recent briefings attended by Council staff, representatives of the NSW State Government have advised that further review and consultation will occur on these two issues (affordability and industry competition), however, at this point indicated they are unlikely to seek to develop an overly complex or customised response for each LGA within Metropolitan Sydney. With this in mind, it is recommended that representations be made outlining experiences within North Sydney and seeking clarity on any future legislative and regulatory reform on this issue.

#### Permissibility

The North Sydney LEP 2013 was created in accordance with the Standard Instrument Order and does not contain a specific definition for short-term holiday letting. Of the available NSLEP 2013 definitions the most closely aligned is:

***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) 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.
-



Another closely aligned definition (and a sub-term of tourist and visitor accommodation) is serviced apartments which are defined as;

*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.*

In the North Sydney LGA, the above uses are only permissible within the B3 (Commercial Core) and B4 (Mixed Use) zones where it is permissible with development consent.

There is still considerable debate and differing opinion across planning, legal and industry professionals as to at what point the short term letting of a premises constitutes a definable use and requires development consent to be allowed to operate. For example, does the one-off or very occasional letting of a property (detached dwelling, terrace or unit) constitute a definable land use and if so, at what frequency or intensity does this point occur.

Several jurisdictions within NSW have implemented specific development controls but each have used different thresholds or criteria to regulate this type of use. These include the length of stay, the total number of days per stay, total number of days per year, the number of bedrooms available as well as whether the host is present.

The options paper currently on exhibition is exploring what mechanisms (for example use of exempt and complying development) may be appropriate if a planning 'intervention' approach is to be implemented.

## 2. North Sydney experience

As mentioned earlier in this report the use of premises for short term holiday letting (if defined as *tourist and visitor accommodation*) is only permissible within the B3 & B4 zones. Council has not received any development applications for this use to date, however, does receive some enquiries regarding permissibility and any approval process.

Council's Environment and Building Compliance section receives regular complaints on the use of premises for the purposes of short term (Air BnB style) letting. The issues and concerns associated with the short term letting of premises include noise, 'party houses', waste management, damage/wear to common property areas, traffic and parking, hazards and evacuation.

As an indication of the scale of the issue, over the past 12 months Council has received approximately 50 complaints concerning the alleged use of premises for short term letting. Approximately 80% (40) of these related to units with the remaining 20% (10) being for detached houses. A further fifteen (15) general enquiries were received over this period seeking information on permissibility and any approval process.

Council's Environment and Building Compliance section have responded to all complaints received and in the vast majority of cases are unable to progress any further action due to a lack of adequate reliable evidence. If a listing is visible on a host website and it is able to be verified that it is within the North Sydney LGA, a letter is sent to the owner of the property advising them that the use of the premises for this purpose is not permitted. It is also observed that there



is some seasonal influx of complaints around holiday and festive periods.

Council has only been able to progress to legal enforcement action on three (3) occasions relating to premises that were being used almost continuously for short term letting. In one instance, the majority of units within the one complex were being managed as short term letting and sufficient evidence was able to be obtained to clearly define the 'use' of the premises.

A considerable amount of Council resources has gone into investigation of these uses with little tangible outcome. It is therefore agreed that any reform in this area needs to be supported by some external regulatory oversight (e.g. Department of Fair trading and host providers) as Council is not in a position to invest considerable resources in this area.

### 3. Options Paper - Key elements and Recommendations

As mentioned earlier in this report, the options paper is putting forward a suite of response approaches. The broad themes are summarised briefly below;

#### Industry Self-Regulation

One of the NSW Government's consideration is that the industry could take a greater role in regulating its own industry and if effective, this may influence the level (if any) of Government agency regulation that may be required. Tools for this may include standardised codes of conduct and complaints management processes as well education initiatives (for hosts and users) along with publicly accessible monitoring and reporting.

#### Strata Regulation

Options identified in the paper involve amendments to relevant Residential Tenancies & Strata Schemes Management Acts which could include; potentially imposing liability on lot owners for the actions of lessees, allowing increased levies for lot owners who use premises for short term letting, expanding powers of relevant tribunals as well as potentially allowing owner's corporations to prohibit or restrict short term letting.

#### Planning Regulation

In response to the Committee's recommendation to use planning instruments to regulate short term letting, the NSW Government is exploring the different options and necessity for doing this. It has been indicated that the use of 'exempt' or 'complying' development would likely be the preferred approach rather than requiring hosts to lodge a full development application.

Given the lack of consistent (or any) definition for this land use, it is necessary to create a legal definition to identify this use. The State Government has expressed its clear view that it considers that short term holiday letting is acceptable in a residence up to a point that it becomes a more intensive commercial type of use. The challenge will be in providing clarity and consistency in accurately defining at what point an unacceptable level of intensity is reached. The application of any criteria to be applied requires consideration of different contexts i.e detached, semi-detached dwellings and units within strata premises. Such criteria could include length of stay, number of guests, the total number of days per stay, total number of days per year, the number of bedrooms available as well as whether the host is present.

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### Registration

Another regulatory measure being considered is a potential requirement to acquire a license or registration for the short term letting of properties along with a mandatory code of conduct. It is suggested that any such register would likely be maintained by a Government Agency (e.g. NSW Fair Trading).

### **CONCLUSION**

The suite of measures described in this report contain elements of merit which would help ensure the use of premises is appropriately regulated with the overall aim being to ensure a high level of amenity is able to be maintained by all residents yet allow short term holiday letting to be undertaken.

On the face of it, the occasional or periodical use of a premises for short term letting is not objected to on a planning basis, however, the experience has been that the use and activity does create a pull on Council resources often with little outcome able to be achieved. In most cases, the use and accurate extent of amenity impact are unable to be substantiated and with only a few exceptions, are not an on-going issue. It is held, however, that some level of regulation is considered appropriate in order to provide a level of certainty and expectation to the community as to what is permissible and what is reasonable.

As intimated earlier in this report, there is no simple one-size fits all regimen that will solve all issues arising from this relatively new land use activity. A multi-disciplinary approach is supported across the four categories of potential regulatory intervention (i.e industry self-regulation, strata regulation, planning regulation and registration).

Of particular merit is the establishment of a central registration body as this will negate the need for any investigative authority to prove the use has or is taking place. Strong support is also expressed for a clear and standardised definition that creates appropriate criteria for this use in different contexts as this will allow the easy application and understanding of any approval process.



**Submission  
No 106**

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

**Organisation:** North Sydney Council

**Name:** Mr Joseph Hill

**Position:** Director City Strategy

**Date Received:** 6/11/2015



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The Chair, Committee on Environment and Planning  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

(LKH) (CIS)

3 November 2015

Dear Sir/Madam

**RE: Short-Term Holiday letting in NSW Inquiry**

I refer to the above Parliamentary inquiry and thank you for your invitation to North Sydney Council to provide a submission.

The Standard Instrument LEP sets out the definitions for all land use terms. Development for the purposes of short term accommodation is generally covered by the definition of *'tourist and visitor accommodation'* and extends to include: backpacker accommodation, bed and breakfast accommodation; farm stay accommodation; hotel or motel accommodation; and serviced apartments.

However, there is no specific definition for the use of a dwelling house for short term accommodation, nor is there a definition of what 'short term accommodation' on a commercial basis. The use of a dwelling house for short term accommodation may be able to be defined as a serviced apartment, but the title of this land use is misleading at the outset.

To improve clarity and transparency, it is considered that the Standard Instrument LEP should be amended to cover definitions of *'short term accommodation'* (on a commercial basis) and development which comprises the use of a dwelling house for short term accommodation on a commercial basis. The term *'serviced apartment'* may also require amendment to reflect the full extent of the dwelling types that it applies to.

The only forms of short term accommodation that are permissible in the North Sydney LGA are *'serviced apartments'* and *'hotel and motel accommodation'*. These land uses are only permissible with development consent in the B3 Commercial Core and B4 Mixed Use zones. All other forms of short term accommodation are prohibited throughout the LGA.

Council notes that there are a large number of properties identified on websites such as Airbnb and Stayz which do not have development approval to be used for short term accommodation. This is a widespread problem and not confined to the North Sydney LGA. A state wide solution is required to address the issue in a consistent manner, especially if such activities are to be permitted without development consent.

Enforcement actions against these websites, or owners utilising the websites, presents issues for Council due to current definition of short-term accommodation. Improvement to the definition may include a specific timeframe (on a commercial basis) as to what is considered short-term i.e. less than 3 months period.



Further, the *Environmental Planning and Assessment Act 1979* requires the owner of the land to ensure that the use of that land is lawful. Enforcement actions may be taken against owners for breaching the Act. The difficulty arises when properties are managed by agents, including Airbnb. Council's are not able to take actions against the agents although investigations indicate the agents were responsible for the unlawful use. Changes to make managing agents responsible for compliance, even if only in part, would be an improvement to current legislation.

Should you have any further enquiries in this regard, please contact Marise van der Walt, Manager Environment and Building Compliance during normal business hours on 9936 8100.

Yours faithfully



Joseph Finn  
Director City Strategy

