

**Submission
No 106**

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

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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 Hill
Director City Strategy