

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

Name: Name Suppressed

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Partially Confidential

SUBMISSION FOR AN INQUIRY INTO THE ADEQUACY OF THE REGULATION OF SHORT-TERM HOLIDAY LETTING IN NSW

Introduction

During the past five and a half years my family and immediate neighbours have been subjected to unregulated and disruptive illegal holiday letting from an adjoining holiday let. Within a 200m radius there are 12 illegal holiday lets that have created similar disruptions to other neighbours who are permanent residents. The behaviour of tenants in these holiday lets has severely damaged neighbourhood amenity. Occupancy rates for many of these holiday lets are 80 to 90% all year round.

The holiday lets are located in an R2 Residential Zone in Byron Shire. Local planning laws clearly state that short term holiday letting in these zones is a prohibited activity.

My family has been subjected to successive boisterous groups whose behaviour goes well beyond the norm for a quiet residential area where permanent residents need to have peace and quiet for rest and sleep to enable them to successfully fulfil work, school and other community commitments. People on holidays tend to behave differently to long term residents residing in their own home. On the rare occasion that I have spoken to disruptive tenants I invariably received a response such as, "We have paid our money and we can do what we like" and "We don't follow rules when we are on holidays". Some holiday lets tend to attract a number of people whose behaviour would not be tolerated by traditional accommodation providers such as resorts. One local holiday let has stated on their website that they offer "More freedom than a resort", implying that there is a lack of rules to control offensive noise and antisocial behaviour.

I acknowledge that there is a need for regulated holiday letting. Ideally, this should be fulfilled in zones or precincts where there are streets with an existing majority of residences that are holiday let. This would give certainty to permanent residents who wish to live in a neighbourhood that provides a sense of community. Below I address each of the Inquiry's Terms of Reference

a) THE CURRENT SITUATION IN NSW AND COMPARISON WITH OTHER JURISDICTIONS

The Western Australia (WA) Government has been a leader in legislating for the regulation of holiday letting. In response to issues of minimal regulation and damage to residential amenity the WA Planning Commission in 2007 prepared Planning Bulletin 99, Holiday Homes Guidelines which allowed local governments to develop a local planning policy dealing with holiday letting. A number of shires, including Margaret River, Denmark and the City of Busselton, have developed policies. The City of Busselton's Holiday Homes Local Law 2012 is a "better practice" policy. There are 600 holiday homes registered in that shire. Busselton and Denmark Councils have a "preferred areas" policy for holiday letting. There are weaknesses in the Busselton policy as there is no stipulation as to how many substantiated complaints are required before registration is withdrawn and complaints to owners/managers made by neighbours of holiday lets may take up to 24 hours to be enacted upon, which is too long for the problem to be resolved. Nevertheless, the two tiers of government in WA are actively recognising and addressing the problem of holiday lets.

Any existing holiday let, before applying for registration, must demonstrate that there is a history of operations with minimal or no impact on the amenity of neighbouring properties. This is a

requirement of the Western Australia Government Planning Commission that WA councils use in their holiday letting policies. The WA Parliament has allowed councils to set fees and other charges, for example a registration fee and fines are legislatively permitted to be applied if regulations are broken. This will allow councils to recoup any expenses involved so that any costs are not a burden on ratepayers.

On 5 August, 2014, the Queensland Parliament made an amendment to the Sustainable Planning Act to allow councils the right to close so called party houses that are mainly holiday lets in tourist areas. Councils also have the power to identify party house restriction zones in residential areas.

In 2009 the former NSW Department of Planning (DOP) said that it would prepare a state wide policy on short term holiday letting of residential buildings. This was not undertaken. In 2012 the DoP advised councils that holiday letting was a planning issue and to develop local policies to deal with regulation. The DoP recognised that holiday letting affects different shires in many different ways.

The May 2013 NSW Land and Environment Court decision (*Dobrohotof vs Bennic*) found that holiday letting was a prohibited activity at a Terrigal property. It has had ramifications for the State and prompted a number of coastal councils to develop policies suited to their local region. This is in line with the situation in WA. Councils in NSW that already have controls implemented include Gosford, Kiama, Eurobodalla, Wingecarrabie, Shoalhaven and Wyong. None of these council policies are completely effective in offering real protection for permanent residents from the negative aspects of holiday letting but do recognise that a pressing problem exists and needs remediation.

The Byron Shire Situation

Holiday letting is still a prohibited and illegal activity in Byron Shire under the current LEP. In 2012/13, Council successfully prosecuted a Ewingsdale holiday let in the Land and Environment Court (LEC) and it ceased operation. In February, 2013 councillors voted to delay prosecuting another holiday let in the LEC. There have been no further prosecutions and at the April 30, 2015, meeting Council voted to instruct compliance not to pursue further action in the LEC. The legality of this measure is doubtful and the NSW Department of Planning and Environment (DoPE) in their August 2015 Gateway Determination on the Short Term Rental Accommodation (STRA) strategy stated, "The planning proposal is silent on the legality or otherwise of current operations".

At the time of writing this submission the Byron Shire STRA strategy has completed the DoPE Gateway Determination. Changes have been made to provisions for exempt development to become legal. I am aware of the research and effort that has been undertaken to make this a "better practice" policy. The policy has been placed on exhibition in Byron Shire until December 4 for public comment.

Although the strategy appears to give protection to neighbours of STRA, there are weaknesses. Overcrowding and subsequent offensive noise issues are a major problem (see Term of Reference for further detail).

At the April 30 Byron Council meeting a motion was passed so that the cap of 10 persons total occupying a large STRA as outlined in the strategy was lifted and any number of children under 5 years would be allowed. This was done to accommodate family holidays. Under this regulation there could be a potential scenario for unrelated family groups consisting of 5 couples each having 2

children under 5 (a total of 20) to occupy a 5 bedroom STRA or twelve or more occupants sleeping in a three bedroom house. Normally, there would not be such a large number of occupants in a residence in Byron Shire overcrowding (the average dwelling occupation in Byron Shire is 2.4 persons (ABS Census 2011)). Not only would there be overcrowding but there would be resultant offensive noise from this number of persons in a domestic dwelling. From experience, some family groups can emit as much offensive noise as a group of young males who are intent on partying.

In addition, there would be fire safety concerns with such a large number of occupants sleeping in a house. Council compliance is understandably concerned about the increased fire risk to occupants, who are in an unfamiliar dwelling. Clarity on this matter would allow a legal framework for increased fire safety.

Council's legal governance and compliance have classified many holiday lets as class 1(b) buildings. The BCA definition for this class of building includes the regulation that there must be no more than 12 persons of any age in occupation (seemingly irrespective of the number of bedrooms) as it is tourist accommodation, and the floor space is 300 square metres or less. This classification allows for increased fire safety standards. The large majority of holiday lets in Byron Shire have a floor space less than 300 square metres. Under this provision Byron Council compliance has issued development without consent fines to a number of holiday lets that have been overcrowded, exceeding 12 persons. I am aware that some WA councils that have holiday letting policies also apply this classification to STRA. However, the motion recently passed by Byron Shire Council flies in the face of this cap on occupants and could make Council liable were there to be a fire or other untoward event. Council needs to err on the side of caution in this matter and adopt Wyong Council's regulation of 2 persons per bedroom of any age up to a maximum of 8 persons total for a large STRA. A check on the *Stayz* website reveals that less than 5% of the total listings for Byron Shire allow for more than 8 persons to sleep in their holiday let. I doubt that many owners/managers would allow more than 8 tenants of any age into their holiday let due to increased possibility of damage to their property.

Another regulation states "There must be no more than 2 substantiated complaints to the Council concerning the short term activities taking place on the property from the occupiers of separate dwellings within the preceding 12 months."

Some existing situations in Byron Shire where the regulation would be an anomaly are provided. Rural residents live next to a holiday let and a distance of 200m separates the dwellings. Offensive noise and other behaviour disrupt amenity and they have contacted Police innumerable times. As they are the only neighbour affected, registration won't be withdrawn based on complaints from one dwelling.

Another example is a dwelling in an urban area. They are surrounded by problematic holiday lets. They are the only residents affected who are able to make complaints against several of these holiday lets. Under the current, proposed regulation their complaints would not lead to loss of registration.

If Police or Council verify complaints from one household, then this should be sufficient evidence which counts as substantiation. Evidence has been provided and confirmed. The regulation needs to be changed to avoid discrimination. Substantiated complaints from one dwelling should be

accepted. Wyong Council's policy accepts written complaints apparently without substantiation from complainants.

A number of STRA have illegal conversions, alterations and additions that have been made into additional bedrooms without council permission. In applying for STRA registration the owner needs to abide by the original legally approved DA in stating the number of bedrooms in the dwelling. Council needs to check archived DA's to confirm the number of legal bedrooms. This will prevent potential argument and conflict about bedroom capacity in a STRA.

The DoPE officials, in their public submission to the strategy during public exhibition, stated "Council needs to clearly define circumstances when the amenity of the neighbourhood is reduced". If Council does not set a clearly defined standard for what constitutes damage to residential amenity then neighbours of STRA will be left open to accusations by owners/managers that the neighbours are vexatious complainants. Council Compliance has stated to me that they have never received a complaint from a neighbour of a holiday let that they regard as vexatious.

Any strategy has the potential to fail if the types of damage, including examples to residential amenity are not clearly stated in understandable terms. Describing aspects of the Protection of the Environment Operations Act as has been done does not provide clarity of definition. There is an urgent need for a clear definition in the rule that tenants are not to scream, yell, shout or play loud music that disturbs the comfort, rest or sleep of neighbours. In addition, use the regulation in the 2012 version of the Holiday Rental Code of Conduct that states, "No offensive noise is to be heard outside the holiday let at any time". An easily understandable definition of offensive noise must be provided. Other damage to residential amenity should be included.

There is also lack of clarity regarding substantiated complaints in the proposed Byron Shire policy. If there are 3 substantiated complaints, how long will it be before withdrawal of registration occurs? Can the owner reapply for registration after 12 months? How many times can an owner who has lost registration more than once apply for re-registration, if at all? Council needs to clearly state the length of time from 3 substantiated complaints to loss of registration, whether registration can be re-applied for and whether successive re-registrations can be re-applied for in the case of a holiday let that has a series of 3 substantiated complaints and loss of registration over a period of years.

The Holiday Rental Code of Conduct states, "Managers should act with integrity, professionalism, courtesy and consideration when dealing with neighbours". Many neighbours have said that this rarely happens. Council needs to emphasise this regulation to owners/managers and develop a fact sheet on how to successfully resolve neighbour complaints and neighbours need to know how to voice their concerns. On the other side of this fact sheet there should be information to neighbours about what constitutes damage to residential amenity, how to make a complaint to the nominated contact if there is a problem, what is regarded as a substantiated complaint and how to report this to Council compliance.

The original idea in the strategy was that an owner/manager has to attend in person to solve any problems coming from their holiday let. At the 30 April meeting Byron Shire councillors voted to rescind the "Attend in person" and resolve the problem within 30 minutes. The best person to evaluate and act upon problems is the owner/manager who knows the holiday let. They can determine whether the holiday let is overcrowded, evaluate other problems and make immediate

decisions such as termination of tenancy and eviction. Council is restricted in its ability to give protection to residential amenity and opportunities for protection must not be diminished by Council.

Therefore, in responding to a neighbour complaint the owner/manager may attend in person, make a phone call to the tenants or send the [REDACTED] security service. From experience this security service is inefficient and ineffective. I believe that standards for offensive noise complaints set by [REDACTED] do not correspond with those found in the Protection of the Environment Operations Act (1997) and community expectations. Others have stated that it is biased and not independent. The regulation needs to be restored to owner/manager responding in person to the complaint. Security personal should be used for assistance if necessary.

In the Management Plan the applicant should show evidence that they have public liability insurance in place before the commercial use commences and maintained subsequent to any renewal of registration.

Byron Council regards holiday lets as commercial businesses. Therefore, it is important that the State allows councils to apply a commercial rate.

The DoPE Gateway Determination (August 2015) states that “There will be an additional need for policing of regulations for noise, traffic and adherence to development conditions. Council should allow for additional resources to address this.” Byron Council employs 2.5 permanent Rangers who only operate during business hours. There is only a small number of Compliance staff. The original idea in the strategy was to reduce involvement of Police so that they can deal with problems that arise in Byron CBD. Most problems with holiday lets occur at night. With implementation of the policy there will be a need to have at call Rangers to gather evidence. Council will need to find funds for this or apply to the State Government for a grant.

b) THE DIFFERENCE BETWEEN TRADITIONAL ACCOMMODATION PROVIDERS AND ONLINE PLATFORMS

Traditional accommodation providers such as hotels, motels, hostels, resorts, B and Bs, boarding houses and guest houses are subject to strict Local and State Government rules and regulations. Holiday lets that are provided through online platforms are not subject to the same rules and regulations. In fact, there are minimal rules and regulations. This is unfair and inequitable to traditional holiday accommodation providers and to neighbours of holiday lets.

Traditional accommodation providers have to go through the proper processes of having their business in appropriate zones, submit a development application and fees, pay S94 contributions, are subject to inspections, etc. They are competing with illegal holiday lets that are located in residential areas that are not subject to similar rules and regulations. This is not a “level playing field”.

The majority of holiday lets list with online platforms such as *Stayz* and *Airbnb*. These non-traditional platforms have developed during the past 10 years. It is easy to list a holiday let online but there are no checks to determine the validity of information presented. For example, a luxury holiday let was presented online in Byron Bay during 2014 and a potential short term tenant paid several thousands of dollars as a deposit. The let was non-existent and the woman lost her deposit in

this scam. Another local holiday let states that it is a 30 metre walk to the beach by private track. In reality it is at least 100 metres and the walk goes through a council reserve, crosses a road and passes through a public car park.

Traditional accommodation providers have onsite management, and, often security, and can meet and assess tenants as they arrive. If any problems arise with tenants they can immediately deal with the issue. Holiday lets do not have onsite management and in the majority of cases the owner/manager does not see the tenants during their stay. Neighbours of holiday lets are the people who detect any problems that tenants are creating. Owners/managers say that they can “vet” potential tenants, but the only vetting appears to be a valid credit card being produced through an online booking system.

Therefore, if a problem arises in a holiday let it is up to neighbours to phone the owner/manager, if they have been supplied with contact details, or the Police to deal with the issue. It is generally 2 to 3 hours in Byron Shire before Police arrive to deal with the problem.

As an aside departing guests in traditional accommodation providers are free to make a comment on the travel website *Trip Advisor* whilst tenants of holiday lets have to have their comments vetted by the owner/manager. This leads to only positive comments being published. As a general rule only positive comments are posted for their listing on the *Stayz* website. This does not give a true assessment of the holiday let.

c) THE GROWTH OF SHORT TERM AND ONLINE LETTING, AND THE CHANGING CHARACTER OF THE MARKET

As described previously there has been an accelerated increase in online holiday letting providers during the past 10 years and is expected to continue to grow. The current weakening in the exchange rate for the Australian dollar also makes domestic holidays more attractive.

Many holiday lets are owned by absentee owners and have high occupancy rates. I am aware of several local lets that would have a gross annual income of \$250,000+ based on the daily rate charged and occupancy rates. This has led to a dramatic increase in holiday letting. In 2007 there were 400 holiday lets in Byron Shire. In 2013 the number had increased to more than 900. At the time of writing (October 2015) the number has increased by 20% to 1,100 (according to the *Stayz* website). There has been a resultant decrease in available permanent, long-term rental stock and resultant increase in rental price. Those employed in low income occupations have to rent local group residences that may be overcrowded due to the high rent charged or they have to live out of town.

With increasing numbers of holiday lets there has been an increase in complaints by neighbours about offensive noise and antisocial behaviour. This can be verified by the organisation [REDACTED] a local group consisting of neighbours whose amenity has been negatively affected by holiday letting, and, concerned residents.

Holiday lets have become popular with large family groups and groups of young males and females, and their guests who are intent on partying. With no onsite or effective management and the knowledge that the owner/manager was unlikely to do a check, with some tenants willing to lose

their bond, and combined with consumption of large quantities of alcohol and occasionally illegal drugs, there will be the inevitable offensive noise and antisocial issues.

Many holiday lets are poorly managed with no contingency plans in place to deal with recalcitrant tenants. The majority list with *Stayz* and it is mandatory for owners/managers and tenants to follow the voluntary Holiday Rental Code of Conduct. This rarely occurs. When the Byron Shire Strategy is fully operational, and the Holiday Rental Code of Conduct becomes mandatory, then there is a possibility that the situation will improve.

d) THE ECONOMIC IMPACTS OF SHORT TERM LETTING ON LOCAL AND THE STATE ECONOMIES

I am not convinced about the assumption that short term letting is beneficial to the local economy. Absentee owners move income earned away from the local area. Any expenses are claimed as tax deductions, for those owners who declare income to the ATO. Tradespersons employed for repair or renovations would normally be employed whether the residence was holiday let, permanently rented or lived in by owner. The only local residents to economically benefit would be casual cleaners, gardeners and managers such as real estate agents and local holiday let management businesses. There is no job creation for the youth of our area.

Restaurants, food suppliers such as supermarkets and liquor outlets may benefit, although many who arrive in the region using their own vehicle bring much of their food and alcohol with them. It is the traditional regulated suppliers of accommodation that benefit least, with increased vacancy rates for their businesses.

e) REGULATORY ISSUES POSED BY SHORT TERM LETTING INCLUDING CUSTOMER SAFETY, LAND USE PLANNING AND NEIGHBOURHOOD AMENITY, AND, LICENSING AND TAXATION

In relation to consumer safety, as described above, Byron Council Compliance is concerned about the increased risk of fire in an overcrowded holiday let whose layout is unfamiliar to short term tenants. As the holiday lets are a commercial business then they should be classified as either a class 1(b) or class 3 building under the Building Code of Australia. This would allow for the mandatory legal requirement that hard wired smoke detectors in every bedroom, exit hallways and kitchens are required as well as exit lighting, fire extinguishers and fire blankets.

For registration a holiday let owner should also provide evidence that they have purchased public liability insurance and that this is renewed annually. The second revised version of the Holiday Rental Code of Conduct (March 2015) makes this mandatory but it is not in the NSW DoPE endorsed first revised version.

In relation to customer/consumer safety, potential holiday let tenants rely on the veracity of descriptions and statements provided by the owner to online providers such as *Airbnb* and *Stayz*. There have been instances where there are significant discrepancies in the advertising and what is reality. A way to deal with this problem is to adopt an independent star rating for holiday lets. Many traditional tourism accommodation providers have already been given a star rating from one to five stars by independent adjudication and this type of rating system should be extended to holiday lets.

The New Zealand Qualmark system of rating businesses should be adapted and used as it also includes environmental matters. The web link to their scheme is provided

<http://www.tourismnewzealand.com/tools-for-your-business/qualmark/getting-your-qualmark/>

Adoption of such as scheme will increase consumer safety and confidence.

In relation to land use planning, short term holiday letting is a prohibited and illegal activity in some zones of many NSW councils. Therefore, a change in their LEP's is required.

In relation to neighbourhood amenity, I have mentioned the damage that has occurred to my family's amenity during the past 5.5 years from an adjacent unregulated holiday let. I have recorded innumerable incidents that have disturbed us during the past 5 and a half years. I will not describe the incidents in detail but we have been subjected to parties, yelling and screaming groups of adults and children in the backyard pool and spa, being kept awake at night or having our sleep disturbed. We have been subjected to a number of functions, including a wedding with at least 80 guests which is contrary to council policy. One of the worst parties was a group of 20 young males whose behaviour involved not only offensive noise in the backyard but antisocial behaviour, including showing pornography on a large screen visible to neighbours walking in the street and the continued noisy throwing of empty bottles into a wheelie bin.

This particular holiday let has a No Party/function Policy on its *Stayz* website and the manager and owner were unaware that this disruption was occurring. To obtain respite from such offensive noise we have resorted to using ear plugs, closing windows and doors in our home which reduces ventilation, moving to a room away from the noise source, shutting windows and door, and, vacating our home. Major incidents have been reported to Byron Council Compliance and several fines and notices have been issued. Police have attended on a number of occasions and warnings issued to the tenants.

Other neighbours can testify to similar incidents and [REDACTED] has a dossier of complaints made by neighbours of holiday lets. The owners/managers allow tenants into their holiday lets for monetary gain and are ultimately responsible for behaviour that disrupts neighbourhood amenity. They cannot abrogate their duty of care to the community.

I fully endorse the **Byron Shire Short Term Rental Accommodation Policy (Holiday Letting)** in relation to regulation. Registration of holiday lets is essential. It is important that councils are aware of which properties are holiday let and to pass basic and essential requirements through a DA process. Registration should be renewed annually. It is also essential that councils have the capacity to withdraw registration if there is ineffective management. There should be a registration fee set so that any ongoing costs do not become a burden on ratepayers.

Traditional tourist accommodation providers pay a GST whilst holiday lets do not. This is part of the lack of a "level playing field". Both types of commercial operations undertake similar roles. The lost opportunity for tax revenue to the federal government may be in the hundreds of millions annually. Therefore, there is a reduction in income given to the States from the Commonwealth. I am aware that the ATO released a ruling earlier this year verifying that a GST would not be imposed on holiday lets but would be imposed on the earnings of Uber. Lobbying by state government may urge the federal government to change tax legislation to allow for the imposition of a GST on holiday letting.

It is difficult to determine the extent of tax evasion with holiday letting. Potential for this exists. Earlier this year, due to detection of tax evasion in the holiday letting industry in Ireland, the Irish government required online providers to provide them with a list of their clients so that a check could be undertaken to determine if income had been declared. Holiday lets in Australia are not required to register for an ABN. If this was mandatory then it would reduce the potential for tax evasion.

Holiday let owners may try to obtain a capital gains tax discount while running a commercial business which they are not entitled to. The opportunity for not paying any capital gains tax also arises on sale as an owner may claim that the holiday let was their principal place of residence but in effect it was a commercial operation.

In high volume tourist areas such as the Far North Coast of NSW there is pressure on councils to repair and develop new infrastructure such as roads. It is unfair that ratepayers are expected to have an increasing amount of their rates used to subsidise tourists who make no contribution. There is a need for the State government to examine the issue of a bed tax to help fund some of this repair and development of infrastructure. Most European countries levy a bed tax (or city tax) with the rate higher for 5 star and lower for 1 and 2 star accommodation.

f) OTHER RELATED MATTERS

1. Holiday Rental Code of Conduct

The voluntary trial Holiday Rental Code of Conduct (the Code) was first introduced in May 2012. This Code was developed by representatives of holiday let owners and there was no input from the NSW Department of Planning, local government or community groups representing neighbours of holiday lets. The Code is difficult to understand being phrased in legalistic terms and offered minimal protection to neighbours of holiday lets. It also has a number of faults, one rule being contrary to the Protection of the Environment Operations Act (1997). Tenants renting through Fairfax owned online providers such as *Stayz* were required to read this 25 page Code and acknowledge online that they had read and understood it. I doubt that this was undertaken.

The Code was required to be evaluated in May 2014. Data and results from the survey were to be published. How valid was the trial? Were owners of holiday lets and neighbours of holiday lets surveyed? This appears to have not been undertaken as no results have been published.

A revised version of the Code was released in early 2013. An analysis shows that protection of residential amenity for neighbours was further reduced. This is the version that is DoPE endorsed and will be mandatory for the Byron Shire holiday letting policy. A second revised version was released in March 2015 and again reduces protection of neighbour's amenity. When the DoPE endorses an updated version it is essential that there is independent input including from community groups so that it is unbiased.

2. Offensive Noise

Offensive noise coming from the short term tenants in holiday lets is a major problem for surrounding neighbours. The noise can possibly damage the amenity of a minimum of five adjacent residences.

The NSW Protection of the Environment Operations Act (1997) provides a detailed definition for offensive noise. Summarised, it can be defined as any noise being emitted from a premises which disturbs the comfort or repose (rest or sleep) of someone who is outside the premises. This qualitative assessment is designed for the Police, and dedicated EPA and local council officers. It is in operation 24/7 and there are restricted hours in place for the use of machinery, pool and spa pumps, mowers, playing of music, etc. There appears to be a problem in interpretation of offensive noise amongst the dedicated officials as the measurement by definition is a qualitative assessment. In the EPA booklet "Dealing with Neighbourhood Noise" it says "what is music to one person is noise to another".

In this age of technology accurate hand held noise meters are widely available and should be used. Justifiably and correctly, Byron Shire Council's holiday letting policy has classified all holiday lets as commercial premises. Therefore, noise limits set for suburban areas as determined by the NSW EPA Industrial Noise Policy apply. For a residence in a suburban area during the day (7am to 6pm Monday to Saturday and 8am to 6pm Sunday and public holidays) the maximum noise level is 55 to 60 decibels (dB). For evening (6pm to 10pm) the maximum level is 45 to 50 dB and for night (remaining time periods) the range is 40 to 45 dB. Measurements are taken at the boundary interface.

In conclusion, there needs to be a state-wide policy as in the case of Western Australia where local councils are legislatively allowed to develop their own holiday lets policies based on their particular needs. These policies should include mandatory registration of holiday lets and allow councils to charge fees for registration, other appropriate charges, issue fines for breaking the regulations and apply a commercial rate. Below all recommendation in this submission are summarised.

Summary of Recommendations

Term of Reference a)

- Ideally, zones/precincts should be created for holiday letting.
- State Government to legislate a framework for local councils to develop their own policy based on their unique circumstances. Regulation and registration of all holiday lets required. The legislation enables councils to charge a commercial rate, registration fees and other charges, and, issue fines for a breach of the regulations. Strategy to clearly define what constitutes damage to residential amenity. Use Byron Shire STRA strategy as a "best practice" model.
- Have a restriction of 2 persons only per bedroom for a holiday let and a cap of 8 persons total for a large holiday let. Previous DA approval to validate bedroom numbers in a holiday let.
- Classify all holiday lets as commercial operations and use the BCA classification of either class 1(b) or class 3 buildings.

Term of Reference b)

- As there is no onsite management for holiday lets it is the responsibility of owner/managers to respond to complaints concerning damage occurring to neighbourhood amenity within 30 minutes. This is operational 24/7.

Term of Reference c)

- Holiday Rental Code of Conduct to be mandatory for all holiday lets.

Term of Reference d)

- Holiday let owners/managers encouraged to create youth employment.

Term of Reference e)

- Classify all holiday lets as commercial operations and use the BCA classification of either class 1(b) or class 3 buildings allowing for increased fire safety.
- Holiday let owners to show proof of purchase of public liability insurance with registration and this must be renewed before each annual registration renewal.
- Develop an independent rating scheme to increase consumer protection and confidence.
- The State government should lobby the Federal government to apply a GST to all holiday letting.
- The State government should apply a bed or city tax to all accommodation providers (based on the European scheme) and funds raised can be used to repair and develop essential infrastructure.

Term of Reference f)

- An independent review chaired by the DoPE to be undertaken into the Holiday Rental Code of Conduct with input from the community.
- Holiday lets are classified as commercial premises therefore NSW EPA Industrial Noise Policy to apply.

