

**Submission
No 182**

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

Organisation: Wagga Wagga City Council
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Position: Senior Town Planner
Date Received: 10/11/2015

Submission to Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

Terms of reference

- The current situation in NSW and comparison with other jurisdictions
- The differences between traditional accommodation providers and online platforms
- The growth of short-term and online letting and the changing character of the market
- The economic impacts of short-term letting on local and the state economies
- Regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity and licencing and taxation
- Any other related matters

The situation in Wagga Wagga

In Wagga Wagga we are not seen in the industry as a holiday destination, therefore we have not many holiday houses compared to the coastal areas. However we have many apartments that cater for short term and longer terms stays if required. These properties do take people for weeklong events e.g., National Skeet Championships but they also take a lot of workers working on building projects E.g. Hume Highway Duplication and Wagga Rural Referral Hospital etc.

The number of apartments listed with WWCC has tripled since 2008. Cabins in Caravan Parks have also increased in this time with both apartments and cabins putting pressure on motels/hotels. Many apartments in the Wagga Wagga LGA are operated by 'Mum & Dad' investors and do take overnight, short and long term bookings. These M&D investors invest a lot of time and money doing the right thing going through legislation and regulations. They have also trained themselves in technology and some actively work with local and regional tourism organisations, promoting the City and region as a whole.

Depending on the particulars of each case, it may be that a business providing serviced accommodation in a detached dwelling may be better characterised as an undefined use such as 'holiday accommodation' as opposed to a 'serviced apartment'. This is because a single free standing house being used for holiday accommodation would not usually be described as an apartment and therefore would not be a 'serviced apartment'. Ordinarily an apartment is to be found in a building that contains other apartments. For example, the Macquarie Dictionary defines 'Apartment as '1. A single room in a building; 2. A suite of furnished rooms, among others in a building'.

Council has received legal advice that the above 'common sense' approach to characterisation can be and should be used in supporting this characterisation. The common sense characterisation test is articulated and supported in case law.

Whilst the use may not be a 'serviced apartment' by definition, the use would remain a form of 'tourist and visitor accommodation'. In any case, under clause 2.3 of the Wagga Wagga Local Environmental Plan 2010 (the LEP) a development proposing a serviced apartment or tourist and visitor accommodation will be permissible with consent unless it also falls within a category of development expressly identified in the LEP as prohibited.

See attached Council report on 'Serviced Apartments in the Wagga LGA'.

How short term accommodation is defined under the Environmental Planning and Assessment Act 1979

There are numerous descriptions of short term accommodation under the Act:

- **backpackers' accommodation** means a building or place that: provides temporary or short-term accommodation on a commercial basis, and has shared facilities, such as a communal bathroom, kitchen or laundry, and provides accommodation on a bed or dormitory-style basis (rather than by room). **Note.** Backpackers' accommodation is a type of **tourist and visitor accommodation**
- **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.**Note.** Bed and breakfast accommodation is a type of **tourist and visitor accommodation**
- **boarding house** means a building that:
 - (a) is wholly or partly let in lodgings, and
 - (b) provides lodgers with a principal place of residence for 3 months or more, and
 - (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
 - (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.**Note.** Boarding houses are a type of **residential accommodation**
- **dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.
- **dwelling house** means a building containing only one dwelling.
Note. Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.
- **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.
Eco-tourist facilities are not a type of **tourist and visitor accommodation**

- **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.
Farm stay accommodation is a type of **tourist and visitor accommodation**
- **home business** means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:
 - (a) the employment of more than 2 persons other than those residents, or
 - (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
 - (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
 - (d) the exhibition of any signage (other than a business identification sign), or
 - (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.
- **hotel or motel accommodation** means a building or place (whether or not licensed premises under the *Liquor Act 2007*) that provides temporary or short-term accommodation on a commercial basis and that:
 - (a) comprises rooms or self-contained suites, and
 - (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,
 but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.
Note. Hotel or motel accommodation is a type of **tourist and visitor accommodation**
- **pub** means licensed premises under the *Liquor Act 2007* the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.
Note. Pubs are a type of **food and drink premises**
- **residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following:
 - (a) attached dwellings,
 - (b) boarding houses,
 - (c) dual occupancies,
 - (d) dwelling houses,
 - (e) group homes,
 - (f) hostels,
 - (g) multi dwelling housing,
 - (h) residential flat buildings,
 - (i) rural workers' dwellings,
 - (j) secondary dwellings,
 - (k) semi-detached dwellings,
 - (l) seniors housing,
 - (m) shop top housing,
 but does not include tourist and visitor accommodation or caravan parks.

- **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. **Note.** Serviced apartments are a type of **tourist and visitor accommodation**
- **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.

Recent decisions of the Land and Environment Court have undermined the intended straightforwardness of the land use tables, especially where the proposed development in question is an innominate land use. We have seen an example here in Wagga Wagga, where a development that would ordinarily be considered serviced apartments (which according to the land use matrix is permitted with consent) was found to be prohibited development. In the Wagga Wagga example, there was no error in the land use matrix. Serviced Apartments are permitted with consent in the zone. However, most (if not all) serviced apartments also fit within the definition of hotel and motel accommodation, and in the R1 zone serviced apartments are permitted with consent as an innominate land use, whilst hotel and motel accommodation is expressly listed as prohibited. Following the decisions of the court, this forces characterisation as hotel/motel if the development (as the expressly listed definition) is in the R1 zone. The exact development, in a different zone, could be characterised as serviced apartments, simply because of the way the land use table is set out. An example of this is the R5 zone, where both are expressly prohibited, so the development in that case would be characterised as a serviced apartment.

The *Pet Carriers* case (**Pet Carriers International Pty Ltd v Botany Bay Council [2013] NSWLEC 1077**) further enshrined the concept that where a development could fit into more than one definition and one is a listed land use, and one is innominate, that the consent authority must use the listed definition, even if the innominate use is seemingly a better fit.

This is a challenge to the consent authority in correctly characterising development for short term accommodation. Of course, bed and breakfast accommodation can be approved as complying development under the State Environmental Planning Policy (Exempt & Complying Development Codes) 2007 and concern is raised that characterisation of the development may not be undertaken with the rigour that an application for development consent would be subjected to i.e. A CDC for a bed and

breakfast may be issued for a development that might be better classed as serviced apartments.

Equity

The issue of equity is raised where a “traditional” operator has applied for development consent and has a number of conditions attached to their operation eg fire safety inspections, food premises inspections, number of guests permitted etc. An operator using one of the online platforms is not subject to the same regulation. Compliance costs money and administration time therefore it is not considered that there is a level playing field for all members in this industry.

Existing accommodation operators that are DA approved with legislation and local regulations have invested millions of dollars in the City. Operators have verbally mentioned to staff that they are worried where the industry will end if places listed on sites such as Air BnB continue to list those properties that are not complying with industry standards and rules. E.g. WHS, food and fire regulations.

Impacts

It is not considered that the renting out of one room, a couch or granny flat is of concern in terms of impacts on adjoining properties because the landlord is present and able to ensure suitable tenant behaviour.

In the case of properties where the whole property is rented out, there is no landlord on site to regulate behaviour. Depending on the location of the property, this could have detrimental amenity impacts for adjoining property owners. The cumulative impact of noisy/inconsiderate tenants would greatly reduce quality of life for permanent residents. Impacts could be noise, issues with rubbish collection, maintenance of the property, traffic/parking, lack of community and the like. However the reputation on the accommodation industry and employment in the City could be affected in the future by holiday letting and those establishments not being under regulation.

The differences between traditional accommodation providers and online platforms

No doubt many online platforms have taken over the way visitors traditionally book, however there will always be a need for a way of traditional bookings (phone, email, help from local Visitor Information Centre etc.) as online platforms cannot and will not fill every bed available in City when in peak demand. Those visitors that are not tech savvy will also lean to those traditional ways, with this fading out over the coming decades as generations pass. No doubt we have seen many challenges facing the traditional operators (M&D investors and smaller motels without a chain brand), with local government offering forums and training sessions for operators to introduce technology. Local government officers have also spent time training operators in technology (Social Media, websites etc.). Those traditional operators have either changed to the market demand or they have chosen to leave the industry.

Conclusion

If government continues to ignore such threat of unregulated practices the standard and reputation of the accommodation industry in Wagga Wagga is at risk of damage. The visitor’s experience is at the forefront of the industry and a bad experience (one)

would tarnish the reputation not only of the provider but of the City. This in turn would also have a negative effect on local and state strategies trying to boost visitor overnight stays and expenditure.

SERVICED APARTMENTS WITHIN THE WAGGA WAGGA LOCAL GOVERNMENT AREA

Author: Farmer, Colby
Director: Crakanthorp, Andrew

Recommendation

It is Recommended that Council;

- a. Note the Report on Serviced Apartments;
- b. Initiate an amendment to the LEP 2010 in accordance with the details outlined in option 3 of this report, so as to permit serviced apartment developments in residential zones (R1 and R3 Zones). Such an amendment should occur with the first/next available Planning Proposal; and
- c. Review current Development Controls for Serviced Apartments as contained within the Wagga Wagga DCP 2010 with the aim of reducing any perceived amenity impacts that such development may have on residential areas.

Summary

This report provides information to Council with regards to Serviced Apartments in the Wagga Wagga Local Government Area from a Local Environmental Plan perspective and recommends actions to include such developments as a permissible land use in the residential (R 1 and R 3) land use table of the Wagga Wagga Local Environmental Plan 2010.

Background

Throughout Wagga Wagga there are a number of premises being operated for the purpose of serviced accommodation. These operations are being used to provide temporary or short-term accommodation for tourists and visitors coming to the city.

This includes 'serviced apartments' which are a type of '*tourist and visitor accommodation*' (i.e. the group definition). '*Tourist and visitor accommodation*' also includes hotel and motel, backpackers', and bed and breakfast type accommodation.

It is probable, that many of these businesses have not obtained the required development consent for their operation and are therefore operating unlawfully. Where objections are received in relation to these operations, Council will be required to investigate and potentially commence compliance action.

Under current land use policy (i.e. the provisions of the Wagga Wagga Local Environmental Plan 2010), it will be difficult for these operations to gain the required consent and therefore there is a risk that Council may need to pursue the closure of these operations.

It is important that Council consider whether serviced apartment accommodation is a use that it wants to promote within the residential areas of the city and if so whether appropriate amendments to the LEP 2010 need to occur to permit this.

Definitions

Tourist and visitor accommodation is defined under the Wagga Wagga Local Environmental Plan 2010. This and other relevant definitions are provided below.

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.

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.

Note. Serviced apartments are a type of ***tourist and visitor accommodation***—see the definition of that term in this Dictionary.

hotel or motel accommodation means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that:

- (a) comprises rooms or self-contained suites, and
- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note. Hotel or motel accommodation is a type of ***tourist and visitor Accommodation***—see the definition of that term in this Dictionary.

Characterisation

Depending on the particulars of each case, it may be that a business providing serviced accommodation in a detached dwelling may be better characterised as an undefined use such as 'holiday accommodation' as opposed to a 'serviced apartment'. This is because a single free standing house being used for holiday accommodation would not usually be described as an apartment and therefore would not be a 'serviced apartment'. Ordinarily an apartment is to be found in a building that contains other apartments. For example, the Macquarie Dictionary defines 'Apartment as '1. A single room in a building; 2. A suite of furnished rooms, among others in a building'.

Council has received legal advice that the above 'common sense' approach to characterisation can be and should be used in supporting this characterisation. The common sense characterisation test is articulated and supported in case law.

Whilst the use may not be a 'serviced apartment' by definition, the use would remain a form of 'tourist and visitor accommodation'. In any case, under clause 2.3 of the Wagga Wagga Local Environmental Plan 2010 (the LEP) a development proposing a serviced apartment or tourist and visitor accommodation will be permissible with consent unless it also falls within a category of development expressly identified in the LEP as prohibited.

Requirement for Consent

Many serviced accommodation businesses (both apartments and detached dwellings) operate within the residential areas (and potentially the rural areas) of the city. These uses are often developed through the conversion of an existing building or apartment that has previously been used as a dwelling. The dwelling may be in the form of a single detached dwelling house or it may form part of a group of dwellings within a dual occupancy, a multi dwelling development or a residential flat building. Some serviced apartment accommodation businesses may also involve the conversion of more than one dwelling within a dual occupancy or multi dwelling development (i.e. a group of serviced dwellings or apartments).

The conversion of the dwelling often requires minimal or no works as the serviced accommodation type will normally take on an identical form to a dwelling house. As identified in the above definition, a serviced apartment will be fully self-contained and will therefore comprise all of the facilities of a normal dwelling including living areas, bedrooms, kitchen, bathroom, laundry, car accommodation and some form of private open space such as a courtyard, balcony or backyard.

With the possible exception of a small identification signs, a serviced accommodation type may be difficult to discern within a residential environment from a visual perspective.

However, the use of the serviced accommodation type will vary to that of a residential dwelling and it is this varying use of the premise that may result in amenity impacts that could be in conflict with the intended use of the zone. Impacts in the form of traffic and noise may result from the transient nature of occupation and the regular servicing of the premises. It is for this reason that the LEP 2010 requires that consent be obtained for the operation of a serviced apartment within a residential zone so that the merits of each proposal may be assessed and considered. A proponent will be required to submit a Development Application to Council so that the proposal may be assessed against the provisions of the LEP 2010 and other relevant planning legislation and guidelines. This process would also enact the requirement for community consultation through public notification provisions.

Further to this, the LEP 2010 prohibits many forms of tourist and visitor accommodation (including serviced apartments) across all of the rural zones as the uses are considered incompatible with the objectives of those zones.

When having regards to the potential impacts of serviced apartments in residential zones as mentioned above, one should consider that currently the LEP permits, with development consent, the provision of 'residential flat buildings' in both the R1 and R

3 zones. The argument for not including serviced apartments in residential zones on an amenity argument basis on the belief that such developments increase impacts in the form of traffic, noise that result from higher density transient occupation of such developments is a weak argument. Such an argument lacks merit when one considers that residential flat buildings can be constructed without height limitations currently in the R 1 and R 3 zones that result in multiple occupancies and high density ratios with the potential for the same amenity issues that may be promoted by serviced apartment developments.

Permissibility

Serviced apartments require consent as an innominate land use in the residential zones and are prohibited in the rural zones under the provisions of the Wagga Wagga Local Environmental Plan 2010. The following table provides a summary of the land use table with respect to the permissibility of tourist and visitor accommodation (including serviced apartments) across the rural and residential zones.

As you will note, however, an undefined form of 'tourist and visitor accommodation' (such as a detached dwelling used as 'holiday accommodation') is permissible wherever the group definition is permissible. This is why it is critical to understand how the conversion of a single detached dwelling to serviced accommodation is characterised differently to a serviced apartment.

Zone	Group Definition - Tourist and visitor accommodation (including any innominate forms of this land use)	Serviced apartments	Hotel and motel accommodation	Backpacker's	Bed and breakfast	Farm stay
R1	Not listed - Permissible	Not listed - Permissible	Prohibited	Prohibited	Not listed - Permissible	Prohibited
R3 (medium)	Not listed - Permissible	Not listed - Permissible	Not listed - Permissible	Prohibited	Not listed - Permissible	Prohibited
R5 (large)	Not listed - Permissible	Not listed - Permissible	Prohibited	Prohibited	Not listed - Permissible	Prohibited
RU5 (village)	Not listed - Permissible	Not listed - Permissible	Not listed - Permissible	Not listed - Permissible	Not listed - Permissible	Not listed - Permissible

'Serviced apartment' versus holiday accommodation

Why is it important to distinguish between a 'serviced apartment' and an undefined land use such as the use of a detached single dwelling for holiday accommodation?

I refer to a recent case within the Land and Environment Court of NSW relating to the characterisation of serviced apartments and also involving Wagga Wagga City Council as the respondent. The Court held in *Gilfillan v Wagga Wagga City Council* [2012], NSWLEC 1253, that the proposed development met the definition of both 'Serviced Apartment' and 'Hotel or Motel Accommodation' under the LEP so that, pursuant to the land use table in the LEP, it was a prohibited use in the R1 (General

Residential) zone. This was because there is considerable overlap between the definitions of 'Serviced Apartment' and 'Hotel or Motel Accommodation' under the LEP. The matter potentially would not have arisen if the term serviced apartment was listed as a use permitted with consent and identified in the applicable land use table. This is not to say that such developments should not and will not be assessed/considered on a merit assessment basis but rather such developments would pass the initial 'land use permissibility test'.

In Gilfillan, the proposal was for a number of individually leased suites in an apartment complex. This differs significantly from a situation where the lease of a whole house (as a single suite of rooms) is proposed.

A free-standing house only accommodating one person or group at a time does not have the character of a hotel or motel and would not ordinarily be described as a use for that purpose. The plural terms 'rooms' and 'suites' in the definition of 'Hotel or Motel Accommodation' was not intended to include tourist accommodation that contains only 1 room or suite. This is consistent with the usual form of a hotel or motel being able to provide accommodation for more than one person or group simultaneously and the 'common sense' approach to characterisation.

By accepting the characterisation of a development proposal to convert a detached dwelling for the purpose of holiday accommodation as being an undefined land use and not a 'serviced apartment', the proposed development would be permissible with development consent and would be clearly distinguishable from the decision in the Gilfillan case. That is, the development would not be characterised as 'Hotel or Motel Accommodation' and therefore would not be prohibited in the R1 zone.

However, applications similar to the Gilfillan proposal (use of a series of suites within a building for serviced accommodation) within the R1 zone would, if Council deems appropriate, remain as prohibited land uses in the R1 'Residential' zone given their similarity to hotel motel accommodation. Council may also chose to specifically list this use as a prohibited land use in the R1 zone due to associated and potential unacceptable impacts that may result from permitting such developments in the R1 zone.

Alternatively, Council may consider it appropriate for a serviced apartment land use to be listed as permissible with development consent in the R1 Residential Zone (if this option is adopted then such a land use should also be listed as permissible in the R 3 Medium Density Residential Zone).

Note: Serviced Apartments are considered to be an innominate land use in the R 3 Zone and thus are permissible with development consent currently.

Assessment of Application with regard to Zone objectives

Subject to the correct characterisation of a proposal to undertake serviced accommodation and subject to establishing its permissibility, Council would then be tasked with determining whether the development is consistent with the zone objectives. Under clause 2.3 of the LEP the Council is required to 'have regard to' the zone objectives when determining a development application in respect of land within that zone.

In *Gillfillan* the Court held that the development for the purpose of serviced apartments in that case was not consistent with the R1 zone objectives to 'provide for

the housing needs of the community’ or ‘provide a variety of housing types and densities’.

The Court accepted that there is an inherent incompatibility between long and short term occupants residing together and that there is a degree of incompatibility where visitors are staying in close proximity to residents. In *Gillfillan*, the Commissioner concluded that it may be difficult for the Council to demonstrate that it had proper regard to the objectives of the zone if it approves development that is intended for holiday accommodation rather than for ‘housing’ of a residential character.

Given the findings in *Gillfillan*, and having regard to legal advice received on this subject, the obligation on the Council to ‘have regard to’ the zone objectives is a heavy one and has been described as requiring the zone objectives ‘to be considered as a ‘fundamental element’ in or a ‘focal point’ of the decision-making process’. This position is further supported by other case law and, as a result, failure to do so may result in any development consent being found to be invalid.

It is therefore likely that any application to undertake serviced tourist and visitor accommodation (including any application to rectify an existing illegally operating serviced apartment) within a residential zone may be difficult to support given the findings in *Gillfillan*.

LEP Amendment

If the Council considers that development for the purpose of serviced apartments or other forms of tourist and visitor accommodation should be permissible with consent in the R1 or R 3 zones then the best course would be for the Council to amend its LEP to expressly list Serviced Apartments and Holiday Accommodation in Item 3 of the Land Use Table (Permissible with Consent) and amend the zone objectives to make reference to the appropriateness of this type of development in such zones.

Illegal operations

How Council will deal with illegal serviced accommodation businesses operating within the city will be determined by Council’s decision regarding the above mentioned LEP amendment.

Support for an LEP amendment to permit tourist and visitor accommodation within the residential zones would result in a circumstance where it would be appropriate to establish a moratorium period whereby Council would elect not to undertake any compliance action until such time that the LEP had been amended. At this point in time, the illegal operators would have the opportunity to obtain the necessary consent for the continuation of their businesses.

A decision not to progress with a LEP amendment would present a situation where Council would need to investigate potentially illegal operations with the consequence of many of these operations being forced to cease given their inability to obtain the required consent.

Options Moving Forward

1. Do nothing – Council could elect to not pursue any illegal serviced accommodation business and to not respond to any complaints or proceed with

suggested LEP amendment. This creates issues with regard to fairness (for premises where consent has been sought) and in being able to provide a reasonable response to complainants.

2. Continue to respond on a complaints basis (current position – although administered adhoc and inequitably) – Council could choose to continue to respond to complaints as they are received. This option raises the possibility of Council receiving a domino of complaints, many of which would likely result in the operations having to close business as the use is not supported by the LEP 2010.
3. Commence an amendment to the LEP 2010 to enable consideration of serviced accommodation within the residential zones (R 1 and R3 Zones) and initiate a moratorium period during which compliance action will not commence against any illegally operating businesses. This moratorium period would need to incorporate an appropriate amnesty period to enable the operators to obtain their consent once the necessary LEP amendment had been gazetted. A required LEP amendment could potentially take up to 18 months at the rate Council is currently processing such amendments; any moratorium period would likely need to correspond with this timeframe.

Budget

There are nil budget implications resulting from this report.

Policy

N/A

Impact on Public Utilities

N/A

Link to Strategic Plan

1. We are an engaged and involved community

1.1 We are a community that is informed and involved in decisions impacting us

QBL Analysis

	Positive	Negative
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	Positive	Negative
Social	A variety of accommodation types/needs are provided for and promoted within the Local Government Area that can increase locality densities with promotion of increased social interactions.	Social cohesiveness of the community is potentially lost as a result of allowing the proliferation of such transient short term accommodation types within the LGA.
Environmental	Potential for the promotion and creation of innovative environmentally sustainable serviced apartment type developments within the Local Government Area.	Increased densities may result in increased environmental impacts in the form of noise, traffic and increased strain on existing environmental resources.
Economic	Potential for increased economic activity and economic flow on effects resulting from investment in such development types within the Local Government Area. Increased ability for the LGA to host increased tourist and visitor accommodation trade.	N/A
Governance	Provision for the delivery of such development is provided for via community consultation process and inclusion in the Local Environmental Plan.	N/A

Risk Management and Work Health and Safety Issues for Council

No specific issues identified.

Internal / External Consultation

This issue was presented to Council's Executive on 10 March 2015 where E – Team endorsed that a report be drafted for a future Policy and Strategy Committee Meeting.

E – Team also suggested that the item be presented to Councils' People Panel for discussion/feedback.

As a result of the E – Team request, the item was presented to Council’s People Panel. The People’s Panel is comprised of 97 people. 84 of those are registered as individuals while 13 represent community groups or organisations.

Consultation opened on Monday 16 March for six weeks, closing on 27 April.

The results of the People Panels with regards to ‘Serviced Apartments in the Wagga Wagga LGA’ is as follows –

- 59 % of respondents said it should be easier for operators to set up serviced apartments in residential areas;
- 62 % said that they would be accepting of serviced apartments in their area.

The item was also presented to the LEP/DCP Internal working group of Council on 14 July 2015 where comments were received that have assisted in the shaping of this report.

It is also important to note that any proposed amendment to the LEP would also be exhibited in accordance with legislative requirements and provide for wider community consultation on the issue.