

20 September 2017

Director, Housing Policy
Department of Planning and Environment
GPO Box 39 Sydney NSW 2001

Tweed Shire Council submission in response to the Options Paper for short-term holiday letting

Dear Sir

Tweed Shire Council (Tweed) welcomes the opportunity to provide comment on the Options Paper for a State-wide policy framework to enable better regulation of short-term holiday letting (STHL) in NSW.

Council's Submission

The matters raised in this reply are consistent with those previously documented and raised by Tweed both in its submission and evidence to the Legislative Assembly - Committee on the Environment and Planning when it enquired in 2015 about the adequacy of the regulation of short-term holiday letting in NSW (as attached), as well as being reflected in Tweed's 'Planning Proposal' (LEP Amendment – PP_2015_TWEED_006_00), as approved at the Gateway for implementation in October 2015. Council resolved to stay the implementation of the latter pending the publication of the Government's regulatory policy response on STHL.

By way of background, the planning proposal and associated draft policy were prepared by Tweed in late 2015 with the intention of developing a regulatory framework for STHL in the Tweed Local Government Area (LGA). This process was instigated by growing evidence that tourists holidaying in the Tweed LGA choose increasingly to stay in short-term rental accommodation. It was observed that the supply side of the market was responding by a rapid growth of properties advertised online for short-term rental and Tweed's regulatory policy was intended to facilitate STHL of the owner-occupied properties where either part of a property is used for STHL or the entire property is let during the owners' absence. At the same time, Tweed sought to regulate permanent use of properties for STHL through a policy framework based on development assessment processes. Extensive community consultation was carried out in 2016 and was instructive for gauging the public's receptiveness to the draft policy framework and which later came to assist with preparing Tweed's submission and the giving of evidence at the Inquiry's hearing of March 2016.

Although this submission reply is based on that draft regulatory policy framework, reference to the planning proposal and its detail may be of some value also. It can be accessed via the

Department of Planning and Environment's LEP Tracking web-portal and using the PP code above >

<http://leptracking.planning.nsw.gov.au/PublicList.aspx?ProjectTitle=&AreaId=134&ProposalType=2>

In-principal support

Tweed supports the Government's initiative to engage with a wide cross-section of stakeholders on the regulation of STHL in NSW and welcomes the opportunity for a genuine discussion about the range of possible solutions and barriers or costs to implementation. Tweed is generally supportive of the following:

- The opportunity for the State government to evaluate its role in the regulation of STHL in NSW;
- Enabling a comprehensive review of the likely cost impact to councils arising from any regulatory policy, particularly relating to managing regulatory compliance and infringement;
- Support for a plain English policy statement that clearly sets out the classification status of STHL from a land-use planning perspective as being either classed as 'commercial' or 'other'; and the reasons underpinning this;
- A regulatory policy setting that is fair to all stakeholders;
- Regulatory framework comprising approval pathways with a nexus to the likely impact of STHL based on its duration, intensification and setting (e.g. zone based);
- A State based system of registration to allow data capture, monitoring and reporting;
- A mechanism for licensing and pricing;
- Annual inspections regime;
- 5 yearly impact review on the effectiveness of the regulation and the impact STHL on housing affordability;
- Regulatory amendment that would allow a body corporate of a strata scheme development the flexibility to legally prohibit, restrict or limit STHL by majority vote (75%) of all owners.

Specific Comments

- 1) **Owner-occupied vs permanent STHL.** Regulatory measures in the policy framework for STHL should be based on a distinction between short-term holiday letting of a principal place of residence and use of an investment property for STHL on a permanent basis.

Tweed recommends that NSW Government further explores the "San Francisco scenario" provided on page 21 of the Options Paper, where the registration of properties being used for STHL has been introduced predominantly to address the issue of housing affordability. This approach, facilitating STHL of principal residences of the owners,

should be based upon thorough understanding (supported and evidenced by extensive research) of the cumulative impacts of STHL on housing supply and affordability.

- 2) **Self-regulation.** Tweed supports NSW Government's consideration outlined within Section 4 of the Options Paper to develop a mechanism enabling self-regulation of STHL based on a broad membership approach, with the ability to ensure compliance through self-regulatory measures. Self-regulation should be based on a Code of Conduct prepared jointly by the STHL industry members and the NSW Government. Tweed is of the view that any regulatory measures should be developed in a manner that does not impose excessive costs for the STHL operators and provide financial resources to manage STHL through effective compliance. Further on this point, Tweed supports an option to manage impacts associated with STHL through compulsory registration (Section 7 of the Options Paper) with a Government agency. The register of STHL should then be publicly available, including property's address and contact number to either the property owner or manager. Such register can become a component of the self-regulatory approach, facilitate complaints management and be important source of publicly available information about STHL in the area.
- 3) **The planning system.** Tweed advocates for a consistent definition of STHL across the State. Such definition should be introduced into the planning system through an amendment to the Standard Instrument LEP Template and/or other relevant EPs (including the Housing Code). As outlined in the introduction to our submission, Tweed is of the view that regulations in the planning system should aim at facilitating STHL of owner-occupied dwellings, where either part of a property is subject to STHL or the entire property is leased out during the owner's absence. These types of STHL should be considered as exempt development, subject to compliance with the Code of Conduct (see point 2 of our submission). On the contrary, investment properties used as STHL on a permanent basis should be subject to a DA process, specifying the maximum length of stay and including public exhibition.
- 4) **Strata schemes.** Tweed supports an option allowing strata schemes to prohibit or restrict STHL in their schemes (Section 5 of the Options Paper). This would further facilitate self-regulation of STHL by enabling owners' corporations to formulate their own by-laws, to manage and respond to adverse behaviour, including an ability to prohibit STHL.
- 5) **Flexibility.** While formulating policy response to STHL, State Government should ensure that the proposed regulatory framework is flexible enough to respond to a variety of scenarios brought about by the growth of STHL to metropolitan and regional parts of the state. Tweed, being a popular holiday destination, is vulnerable to housing affordability stress, exacerbated during the summer months, where landlords often convert their rental properties into temporary STHL. Therefore, Council's priority is to ensure that further expansion of STHL will not adversely impact housing affordability in the area.
- 6) **Matters to be raised with the Local Government New South Wales.** Tweed Shire Council, at their meeting of 21 September 2017, formulated several themes for consideration at the upcoming 2017 Local Government NSW Annual Conference. One of these themes is a proposal for the LGNSW to *lobby the Federal and State/Territory Governments to consider instituting into the appropriate taxation systems a 'Booking Tax or tariff' for online accommodation brokers such as 'Airbnb' utilising residential zoned and*

rated land, in a similar method to the levying of the Hospitality Tax currently being applied in the United States of America and that funds raised be distributed by way of formula to Local Government Authorities and National Parks to fund public infrastructure that supports and underpins tourism.

- 7) Further research needed.** Tweed calls for a further, detailed research into the growth of STHL sector to better understand its contribution to the local economy, employment opportunities and impact on local amenity and housing affordability.

In a wider context, short-term holiday letting is a product of the growing popularity of the "sharing economy", genuinely built on the sharing of underused assets, including dwellings. The informal and spontaneous character of the sharing economy, including STHL results in regulatory issues, such as insurance, compliance, legal status, impact on the neighbourhood and certain difficulties with tracing income for taxation purposes.

As Tweed is not in possession of any data documenting growth or/and the changing character of the STHL within the local area, our approach towards STHL is largely based on community consultation, local economic development framework and 'best practice' review of regulatory measures undertaken by public agencies elsewhere in Australia, and overseas.

Once again, thank you for the opportunity to provide feedback in response to the Options Paper. We look forward to further collaborate with the State Government and other stakeholders on this initiative.

Yours faithfully

Vince Connell
Director Planning & Regulation
Tweed Shire Council