
TITLE PLANNING PROPOSAL FOR SHORT-TERM HOLIDAY LETTING OF RESIDENTIAL DWELLINGS (IR 13590457)

Directorate: Environment and Planning
Business Unit: Integrated Planning

BACKGROUND

The Land and Environment Court has made a determination that will affect the permissibility of Short-Term Holiday Letting of residential dwellings in the Gosford City Local Government Area. The Court has determined that the Short-Term Holiday Letting of residential dwellings is a prohibited land use in the low density Residential 2(a) zone in Gosford. The case specifically relates to the operation of the use at 24 Charles Kay Drive, Terrigal.

REPORT

Holiday letting of dwellings has, for a number of generations, been a source of vacation accommodation for many Australian families. The activity provides a source of income for owners as well as providing economic support through tourism for many towns and villages.

Use of apartments and dwelling houses for this activity has generally been seen by local communities as a land use that, due to its historic status, is part of the living environment of seaside locations such as Gosford. The Court's determination will have potentially significant effects on tourism, an important employment industry in Gosford.

The legal standing of the holiday letting of dwellings for vacation purposes has largely remained unquestioned due to the historic status of the use. Gosford City Council has viewed the use as being akin to the accepted practice of medium to long-term renting of dwellings. Council, in recent years, has begun receiving complaints about the use of 'holiday houses'. The complaints relate primarily to the behaviour of the temporary occupiers of a small proportion of holiday houses in the City.

The issues that are being raised by residents in the Gosford Local Government Area are also being experienced in other coastal areas of NSW. Councils along the coast have responded to the issues by undertaking a range of different actions. A NSW Government policy direction on this State-wide significant issue would provide the opportunity for a consistent Local Government approach in dealing with the issues associated with permitting short-term holiday letting.

Gosford City Council was informed in 2009, as part of the documentation in relation to its Section 65 Certificate to authorise exhibition of its Standard Instrument LEP (i.e. Draft LEP 2009), that the former NSW Department of Planning would be preparing a State-wide policy in relation to Short-Term Holiday Letting of residential dwellings. This policy was not prepared. In its place, the Department prepared in 2012 a Holiday Rental Code of Conduct for operation of the use. The code does not provide any policy support for the continued operation of this important economic activity in coastal areas like Gosford. Council has written to the Minister for Planning and Infrastructure as a result of the court case requesting a State-wide policy approach relating to landuse support for this important industry.

Gosford City Council has incorporated provisions relating to the permissibility of short-term holiday letting into its DLEP 2009. This DLEP has some way to go before it is made by the Minister. The Land and Environment Court's determination that the subject use is not permitted under Council's current planning provisions for the residential zone means that Council will have to

commence preparation of a Planning Proposal to enable the use to continue now (as proposed in DLEP 2009).

DLEP 2009 provided with respect to short-term holiday letting of residential dwellings for:

- exempt development – dwellings up to and including four (4) bedrooms
- development consent - dwellings of five (5) and six (6) bedrooms & these would be also assessed against a DCP for the use
- prohibition - dwellings with more than six (6) bedrooms

Council officers will now begin the preparation of a Planning Proposal to bring forward the provisions that were placed on public exhibition for DLEP 2009.

Attachments: Nil

Tabled Items: Nil

FINANCIAL IMPACT STATEMENT

The recommendation does not impact on Council's financial position.

RECOMMENDATION

- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal (as outlined in this report) which aims to bring forward the Short Term Holiday lettings provisions exhibited within Draft Local Environmental Plan 2009, with any amendments deemed necessary to enable insertion into current LEP/s
- B Council delegate to the General Manager the power to authorise the Section 55 Report once prepared by staff, to be submitted to the Department of Planning & Infrastructure requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and forward the Planning Proposal and all necessary documentation according to their requirements and this report
- C Council prepare a Development Control Plan to assist in implementing the LEP planning provisions to be exhibited concurrently with the exhibition of the Planning Proposal

