

3 November 2015

Team Leader Local Planning
Southern Region
Department of Planning & Environment
PO Box 5475
WOLLONGONG NSW 2520

Shellharbour Local Environmental Plan 2013 Planning Proposal No 15

Dear Graham

Council at its meeting held on 27 October 2015 resolved to prepare a Planning Proposal to amend Shellharbour Local Environmental Plan 2013. The Planning Proposal is for the Local Government Area.

The Planning Proposal is to amend Shellharbour LEP 2013 to permit short term rental accommodation with and without development consent.

Council proposes to use its plan-making delegation under Section 59 of the *Environmental Planning & Assessment Act 1979* as it considers the matters included in the Planning Proposal are of local significance. Council seeks the Department's authorisation to use its plan-making delegation with this Planning Proposal. Notwithstanding the Council resolution to seek delegation, pending the outcome of the advice regarding use of delegation by Council, we may not use the delegation, if it is granted to Council.

Under Section 56 of the *Environmental Planning & Assessment Act 1979*, the Planning Proposal is attached for your consideration.

Please contact me on 4221 6136 if you need more information.

Yours sincerely



Ian Rankine
Senior Strategic Planner

Attached

- Planning Proposal. Note: The Planning Proposal attachments are found on the CD version only.

The Planning Proposal

Local Government Area: Shellharbour City Council

Property Details: City – Wide where dwellings are permitted

Part 1 Objectives or intended outcomes.

To permit the use of an approved dwelling for short term rental accommodation (holiday letting) subject to compliance with specific criteria

Part 2 An explanation of the Provisions that are to be included in the proposed local environmental plan.

A. Introduce into Shellharbour Local Environmental Plan (LEP) 2013 the following definition of short term rental accommodation.

i. Short term rental accommodation means a dwelling that is commercially available for rent as short term rental accommodation for a period no greater than 90 consecutive days in any 12 month period, and that does not involve:

a. Interference with the amenity of the neighbourhood by reason of the emission of noise, car parking, traffic generation or anti-social behaviour, or

b. The exhibition of any signage (other than a business identification sign and a notice that is erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood).

but does not include bed and breakfast accommodation.

B. Introduce into Schedule 2 Exempt Development in Shellharbour LEP 2013 the following:

Short term rental accommodation

i. The subject dwelling must be located in a zone where dwellings are permitted with consent.

ii. The dwelling must not contain more than three bedrooms.

iii. There must be no more than two persons per bedroom staying overnight.

iv. There must be a minimum of one on-site car parking space per bedroom.

v. A notice must be erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood.

vi. A notice must be erected in a prominent common area within the dwelling that provides the following information:

- The property is located in a residential neighbourhood and guests need to abide with the issues outlined in this notice and the approval to operate the short term rental accommodation

- Must ensure that no offensive noise/anti-social behaviour is carried out that may affect neighbours particularly between the hours of 10pm to 8am
 - Must not result in inappropriate car parking on the street so as to cause traffic hazards and/or significant or ongoing loss of parking for adjoining or nearby residents
 - Must not exceed the maximum number of guests permitted at the property
 - Provide 24 hour contact details of managing agent, a security company or owner.
- vii. An adequate waste collection area suitable for the development and in a location that doesn't interfere with the amenity of the neighbourhood must be provided.
 - viii. The dwelling must be provided with general, recycling and organic waste bins of at least 240L capacity each.
 - ix. Each of the waste bins must be collected at least weekly.
 - x. If the dwelling is located in a bushfire prone area, a bush fire evacuation plan must be attached to the dwelling in a prominent location.
 - xi. The owner/manager must register the use of the dwelling for short term rental accommodation in Council's register prior to the initial use of the dwelling.
 - xii. There must not have been more than two substantiated written complaints to the Council or substantiated complaints to the NSW Police concerning the use of the dwelling for short term rental accommodation from the occupiers of separate dwellings located within 40 metres of the subject dwelling allotment within the preceding 12 months.

C. Introduce into Shellharbour LEP 2013 a new clause that includes the following:

Short Term Rental Accommodation

- a. The objectives of this clause are to:
 - i. require development consent for the temporary use of dwellings containing up to 5 bedrooms as short term rental accommodation;
 - ii. provide for the proper management of dwellings used for short term rental accommodation;
 - iii. minimise the impact of short term rental accommodation on surrounding properties.
- b. Despite any other provision of this Plan, development consent may be granted for the use of a dwelling containing up to 5 bedrooms as short term rental accommodation (except bed and breakfast accommodation).

- c. Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the following:
- i. There must be no more than two persons per bedroom staying overnight.
 - ii. There must be a minimum of one on-site car parking space per bedroom.
 - iii. A notice must be erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood.
 - iv. A notice must be erected in a prominent common area within the dwelling that provides the following information:
 - The property is located in a residential neighbourhood and guests need to abide with the issues outlined in this notice and the approval to operate the short term rental accommodation
 - Must ensure that no offensive noise/anti-social behaviour is carried out that may affect neighbours particularly between the hours of 10pm to 8am
 - Must not result in inappropriate car parking on the street so as to cause traffic hazards and/or significant or ongoing loss of parking for adjoining or nearby residents
 - Must not exceed the maximum number of guests permitted at the property
 - Provide 24 hour contact details of managing agent, a security company or owner
 - v. Whether the proposed development has provided an adequate waste collection area suitable for the development and in a location that doesn't interfere with the amenity of the neighbourhood.
 - vi. The dwelling must be provided with general, recycling and organic waste bins of at least 240L capacity each.
 - vii. Each of the waste bins must be collected at least weekly.
 - viii. If the dwelling is located in a bushfire prone area, a bush fire evacuation plan must be attached to the dwelling in a prominent location.
 - ix. The owner/manager must register the use of the dwelling for short term rental accommodation in Council's register prior to the initial use of the dwelling.

Part 3 Justification for the objectives, outcomes, provisions and the process for their implementation.

Tourist and visitor accommodation is in increasing demand in the Shellharbour Council area. Short term rental accommodation is one form of tourist and visitor accommodation that is currently a prohibited use in Shellharbour LEP 2013.

This Planning Proposal provides two options for considering short term rental accommodation in our City.

1. Without consent (exempt development) subject to meeting specific requirements. Non-compliance with these requirements would mean the use requires development consent; and
2. Requires development consent and a number of issues are outlined in the clause that need to be considered before granting consent.

A. Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

No

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The use is currently prohibited and a Planning Proposal is the only mechanism to introduce the land use into Shellharbour Local Environmental Plan 2013.

The introduction of provisions into Shellharbour LEP 2013 is the preferred option over the Shellharbour Development Control Plan (the DCP). The DCP is a guide only whereas the LEP will provide legally enforceable requirements.

B. Relationship to strategic planning framework.

1. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes, see **Attachment 1**

2. Is the planning proposal consistent with a councils' local strategy, or other local strategic plan?

None apply

3. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes, see **Attachment 1**

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes, see **Attachment 1**

C. Environmental, social and economic impact.

- 1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No

- 2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Minimal

- 3. How has the planning proposal adequately addressed any social and economic effects?**

The proposed use has the potential to cause adverse social impacts due to anti-social behaviour, car parking, excessive noise and the like. The proposed LEP amendments attempt to take the potential impacts into account by requiring consideration of those issues as part of the exempt and with consent requirements.

The proposed use has the potential to provide a positive economic benefit to our community. The use of dwellings for short term rental accommodation will result in rental income as well as the provision of ancillary support services and individual purchases.

D. State and Commonwealth interests.

- 1. Is there adequate public infrastructure for the planning proposal?**

Yes, utilising existing dwellings

- 2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination?**

Subject to Gateway determination and public exhibition process

Part 4 Maps, where relevant to identify the intent of the planning proposal and the area to which it applies.

None for this Proposal

Part 5 Details of the community consultation that is to be undertaken on the planning proposal.

Subject to Gateway determination, 28 days

Part 6 Project timeline.

To be determined following Gateway determination

ATTACHMENTS

Attachment 1 – Summary of Planning Issues

Attachment 2 – Council meeting report and minutes 4 August & 27 October 2015

**SHELLHARBOUR LOCAL ENVIRONMENTAL PLAN 2013 PLANNING PROPOSAL
15 – SHORT TERM RENTAL ACCOMMODATION**

Summary of Planning Issues Checklist

Location: LGA

Proposal: Short term rental accommodation in LGA

Date: 15 October 2015

Compliance with SEPPs:	Yes, none applicable
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Compliance with Section 117 Directions:	Yes, none applicable
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Compliance with Illawarra Regional Strategy:	Yes, none applicable
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Heritage Studies required:	No
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Illawarra Urban Development Program	NA
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Coastal Policy	NA
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LES Necessary	No
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Planning Proposal Assessment

The following planning instruments, S117 Directions and Regional Strategy items apply to the Shellharbour LGA:

Draft SEPPs	Consistency Yes/No/NA	Comments
Application of Development Standards 2004	NA	
SEPP 66 Integration of Transport and Land Use	NA	
SEPP (Competition) 2010	NA	

SEPPs	Consistency Yes/No/NA	Comments
SEPP 14 Coastal Wetlands	NA	
SEPP 21 Caravan Parks	NA	
SEPP 26 Littoral Rainforests	NA	
SEPP 30 Intensive Agriculture	NA	
SEPP 32 Urban Consolidation (Redevelopment of Urban Land)	NA	
SEPP 33 Hazardous and Offensive Development	NA	

SEPPs	Consistency Yes/No/NA	Comments
SEPP 36 Manufactured Home Estates	NA	
SEPP 50 Canal Estates	NA	
SEPP 55 Remediation of Land	NA	
SEPP 62 Sustainable Aquaculture	NA	
SEPP 64 Advertising and Signage	NA	
SEPP 65 Design Quality of Residential Flat Development	NA	
SEPP 70 Affordable Housing (Revised Schemes)	NA	
SEPP 71 Coastal Protection	NA	
SEPP (Housing for Seniors or People with a Disability) 2004	NA	
SEPP (BASIX) 2004	NA	
SEPP (Major Development) 2005	NA	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NA	
SEPP (Miscellaneous Consent Provisions) 2007	NA	
SEPP (Infrastructure) 2007	NA	
SEPP (Rural Lands) 2008	NA	
SEPP (Exempt and Complying Development	NA	

SEPPs	Consistency Yes/No/NA	Comments
Codes) 2008		
SEPP (Affordable Rental Housing) 2009	NA	
SEPP (State and Regional Development) 2011	NA	

Section 117 Directions	Consistency Yes/No/NA	Comments
1. Employment and Industrial Zones		
1.1 Business and Industrial zones	NA	
1.2 Rural Zones	NA	
1.3 Mining, Petroleum Production and Extractive Industries	NA	
1.4 Oyster Aquaculture	NA	
1.5 Rural Lands	NA	
2. Environment and Heritage		
2.1 Environmental Protection Zones	NA	
2.2 Coastal Protection	NA	
2.3 Heritage Conservation	NA	
2.4 Recreation Vehicle Areas	NA	

Section 117 Directions	Consistency Yes/No/NA	Comments
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	NA	The Proposal will reduce the number of dwellings available for residential occupation as the dwelling will be used for short term rental accommodation. This is considered minor in terms of the overall number of dwellings in the LGA. The Proposal will not contain provisions that will reduce the permissible residential density on land.
3.2 Caravan Parks and Manufactured Home Estates	NA	
3.3 Home Occupations	NA	
3.4 Integrating Land Use and Transport	NA	
3.5 Development near Licensed Aerodromes	NA	
3.6 Shooting Ranges	NA	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	NA	
4.2 Mine Subsidence and Unstable Land	NA	
4.3 Flood Prone Land	NA	
4.4 Planning for Bushfire Protection	NA	
5. Regional Planning		
5.1 Implementation of Regional Strategies	NA	

Section 117 Directions		Consistency Yes/No/NA	Comments
5.2	Sydney Drinking Water Catchment	NA	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NA	
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NA	
5.5	Revoked		
5.6	Revoked		
5.7	Revoked		
5.8	Second Sydney Airport: Badgerys Creek	NA	
5.9	North West Rail Link Corridor Strategy	NA	
6. Local Plan Making			
6.1	Approval and Referral Requirements	NA	
6.2	Reserving Land for Public Purposes	NA	
6.3	Site Specific Provisions	NA	
7. Metropolitan Planning			
7.1	Implementation of the Metropolitan Plan for 2036	NA	
Illawarra Regional Strategy		Consistency Yes/No/NA	Comments

Illawarra Regional Strategy	Consistency Yes/No/NA	Comments
Economic development and employment growth		
Implement principles in the Employment Lands Guidelines	NA	
Maintain the supply and protect regionally significant employment lands (Airport, Shell Cove and Shellharbour town centre)	NA	
Additional employment lands identified	NA	
Hierarchy of commercial centres for the region identified	NA	
Existing centres revitalised	NA	
Resist fragmentation of agricultural and employment lands	NA	
Encourage clustering of synergistic businesses	NA	
Efficient use of existing infrastructure and transport networks including Airport	NA	
Long term strategy for the Airport and surrounding employment lands prepared	NA	
Shell Cove marina identified as a major tourism development site.	NA	
Regional Transport		
Protect Princes and Illawarra Highway	NA	

Illawarra Regional Strategy	Consistency Yes/No/NA	Comments
corridors and proposed realignments		
Minimise need to travel and encourage energy and resource efficiency	NA	
Identify and manage strategic transport corridors	NA	
Include Rail Corp requirements	NA	
Protect Illawarra Regional Airport	NA	
Housing and Settlement		
Higher densities around Shellharbour City Centre, Albion Park, Oak Flats, Warilla subject to densities and character	NA	
Provide for an additional future urban expansion area at Calderwood if demand arises	NA	
Proposal outside Regional strategy but complies with sustainability criteria	NA	
Appropriate housing mix provided	NA	
Housing types capable of adapting to ageing populations	NA	
LEP includes appropriate urban design and land use objectives including: ► sustainability principles ► revitalisation of centres	NA	

Illawarra Regional Strategy	Consistency Yes/No/NA	Comments
► promoting community		
Affordable housing options	NA	
Consultation Department of Housing	NA	
State Infrastructure considered	NA	
Natural Environments		
Hard rock resource and endangered ecological communities considered	NA	
Protect significant native vegetation and regional habitat - corridors	NA	
Consultation DPI (Fisheries) - habitats and riparian buffers	NA	
Manage impact of land use change and development in the catchments of high value coastal lakes, estuaries, wetlands	NA	
Use strategic assessments of riparian corridors methodology when planning new urban areas	NA	
Incorporate controls to protect the values of riparian lands	NA	
SEPP 14 and 26 lands zoned E2 or W1	NA	
Consult with Southern Rivers Catchment Management Authority.	NA	

Illawarra Regional Strategy	Consistency Yes/No/NA	Comments
Natural Hazards		
Manage risk associated with climate change	NA	
Adequate setbacks in areas of coastal erosion risk and ocean based inundations in accordance with coastal zone management plan	NA	
Until above completed no land zoned in potential hazard areas	NA	
Zone areas subject to high hazard to reflect the limitations of the land.	NA	
Water, Energy and Waste		
Land required for wastewater treatment/recycling, energy, waste avoidance and resource recovery identified and zoned appropriately in consultation with Departments and utilities	NA	
Local power generation supported in suitable locations.	NA	
Liaise with water and energy providers to make provision for infrastructure corridors.	NA	
Rural Landscape and Rural Communities		
New residential or rural residential zones only supported where meet sustainability criteria	NA	

Illawarra Regional Strategy	Consistency Yes/No/NA	Comments
Non-compatible uses in core productive agricultural and mineral resource areas limited	NA	
Minimum subdivision standards for rural and environmental protection zones	NA	
Limit dwellings in rural and environmental protection zones.	NA	
Cultural Heritage		
Aboriginal cultural and community values considered. Aboriginal heritage studies and DEC study 'Murri, Dhungang, Jirrar - living in the Illawarra 2005 considered	NA	
Heritage items reviewed	NA	
Cultural heritage values of Shellharbour City Centre, Warilla and Albion Park reviewed and protected	NA	
Character of Shellharbour Village and adjoining cultural and natural landscapes protected	NA	
Aboriginal cultural values associated with Lake Illawarra and Shell Cove (DEC 2005) are protected.	NA	

10.2 City Outcomes Directorate

10.2.1 Proposal No 15 Short Term Rental Accommodation - Proposal to amend Shellharbour Local Environmental Plan 2013 (10566978)

MOTION: Moran/Marsh

That this matter be deferred to allow staff to give consideration to the public address this evening and report back to Council.

During the Mayor's address, Councillor Marsh MOVED a POINT of ORDER in relation to the Mayor's comments. The Mayor did not accept the POINT of ORDER and continued with her address.

Councillor Murray FORESHADOWED a MOTION that should the Motion be lost that he would move the recommendation as printed in the Business Paper.

Councillor Murray attempted to raise a question then Councillor Moran raised a POINT of ORDER. The Mayor accepted the POINT of ORDER and stated that a question cannot be asked following a Right of Reply.

221 The MOTION on being PUT to the Meeting was CARRIED 4/3

FOR VOTE - Cr Boyle, Cr Moran, Cr Stewart, Cr Marsh

AGAINST VOTE - Cr Saliba, Cr Murray, Cr Rankin

10.2.2 Local Environmental Plan 2013 Planning Proposal No 17 - Rezoning of SP2 Infrastructure Classified Road zoned land & removal of associated classified road reservation on land between Princes Highway & East West Route, Albion Park Rail (1055896)

222 RESOLVED: Murray/Rankin

1. Council prepare a Planning Proposal (No. 17) to amend Shellharbour Local Environmental Plan 2013 to incorporate the proposed zoning and planning controls contained in Attachments 2 and 3 of this report.
2. The Council authorise the General Manager to submit the Planning Proposal (Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 17) to the NSW Department of Planning & Environment in accordance with section 56 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.
3. The Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No. 17

10.2 City Outcomes Directorate

10.2.1 Planning Proposal No 15 Short Term Rental Accommodation - Proposal to amend Shellharbour Local Environmental Plan 2013 (10566978)

To the General Manager

Directorate: City Outcomes
Department: City Strategy

Manager: Geoff Hoynes – Group Manager, City Strategy
Author: Ian Rankine – Senior Strategic Planner

Summary

The purpose of this report is to seek Council's resolution to prepare a Planning Proposal to amend *Shellharbour Local Environmental Plan (LEP) 2013* to enable short term rental accommodation to be undertaken wherever dwellings are permitted. The Planning Proposal will include the following three matters:

1. A new definition that explains short term rental accommodation and outlines that to comply with the definition, the use will only be permitted if it does not interfere with the amenity of the neighbourhood, including by anti-social behaviour, emission of noise, car parking problems or traffic generation;
2. Include in Schedule 2 of the LEP - Exempt Development, short term rental accommodation if the dwelling contains no more than three bedrooms, has a minimum of one on-site car parking space per bedroom and accommodates no more than two guests per bedroom per night; and
3. Introduce a new clause into the LEP that allows short term rental accommodation with development consent if the dwelling contains up to six bedrooms, has a minimum of one on-site car parking space per bedroom and accommodates no more than two guests per bedroom per night.

The proposed use without development consent will only be an option if that use complies with the relevant clauses. If that use does not comply, the operator would need to cease carrying out short term rentals and lodge a development application for Council to consider granting development consent for the use.

The report also recommends that the Planning Proposal be submitted to the NSW Planning & Environment (DPE) seeking a Gateway determination to enable the public exhibition of the Proposal. A copy of this report will form part of Council's submission to the NSW Department of Planning & Environment.

Short term rental accommodation is currently a prohibited use in Residential zones. The use is a form of tourist and visitor accommodation that is generally prohibited in a Residential zone.

Background

Council considered this Planning Proposal at its meeting of 18 March 2014. At that meeting Council resolved as follows:

'That this item be deferred for further investigation and reported back to a future Council Meeting.'

The further investigation of the use of properties for short term rental accommodation and the regulation of those properties has involved discussions with NSW Police, Council's Regulation, Planning and Community Connections teams and research into the legality of the proposed use and land use/local environmental plan definitions.

Short term rental accommodation is defined as being the temporary use of a dwelling for tourist and visitor accommodation (excluding bed and breakfast accommodation). Short term holiday accommodation plays an important role in holiday accommodation in our City and complements other holiday accommodation such as caravan parks and motels.

As short term rental accommodation is currently a prohibited use in Residential zones and this is the zone that most short term rental accommodation would be found, Council needs to consider whether this form of visitor accommodation is a use that is appropriate for our City and more specifically, in our Residential zoned land.

Shellharbour LEP 2013 currently permits farm stay accommodation as a form of tourist and visitor accommodation in our rural areas. The consideration of short term rental accommodation would allow another form of tourist and visitor accommodation in our urban areas.

The NSW DPE does not have any legislative requirements or Policy/Circular position on short term rental accommodation.

NSW Upper House Inquiry into Tourism

The General Purpose Standing Committee 3 Report 30 – 'Tourism in local communities' was released on 6 March 2014.

Recommendation 15 of the report was that the NSW Government publish the results of the trial of the Holiday Rental Code of Conduct.

The NSW Government's reply in October 2014 to the Standing Committee was that they supported the recommendation in principle but as the trial was an industry initiative, reporting its outcomes is a matter for the industry.

At the time of writing this report, Council staff has not been able to find the published results of this trial.

Review of surrounding Councils

A brief review of the way some of our surrounding Council's deal with this use is summarised below:

Wollongong

The Wollongong Local Environmental Plan 2009 does not have a specific clause relevant to short term rental accommodation.

Kiama

The Kiama Local Environmental Plan 2011 has a specific clause that may permit residential accommodation to be used as Tourist and Visitor Accommodation (Except Bed and Breakfast Accommodation) for a short term without requiring consent if the use is short term and does not interfere generally with the amenity of the neighbourhood in any way, including by noise or traffic generation. Short term is defined as being a maximum period of 60 consecutive days in any 12 month period.

The Kiama Development Control Plan (DCP) has a chapter on short term rental accommodation. As this use does not require development consent, there is no legal path to ensure any of the provisions of the DCP are followed. It does however indicate the Council policy position on short term rental accommodation and provides advice to the community.

Shoalhaven

The Shoalhaven Local Environmental Plan 2014 has a specific clause stipulating that development consent is not required for the use of residential accommodation for the purposes of tourist and visitor accommodation (except backpacker accommodation or bed and breakfast accommodation) if the use is only short-term and does not interfere generally with the amenity of the neighbourhood in any way, including by noise or traffic generation. Short term means for a maximum period of 45 consecutive days in any 12 month period.

Shoalhaven Council have produced a two page advisory guideline for short term rental accommodation in residential areas.

Eurobodalla

The Eurobodalla Local Environmental Plan 2012 has a specific clause that enables the temporary use of dwellings as short term Tourist and Visitor Accommodation (except Bed and Breakfast Accommodation) without development consent. Short term is defined as being a maximum period of 45 consecutive days in any 12 month period.

Wingecarribee

The Wingecarribee Local Environmental Plan 2010 has a specific clause that enables a dwelling to be used for holiday accommodation without development consent as long as it does not involve the extension or alteration of any part of an existing dwelling or the erection of a new dwelling. Holiday accommodation is defined as an existing dwelling in which accommodation is provided on a commercial basis where the maximum period that any person is accommodated is 45 consecutive days, but does not include bed and breakfast accommodation.

Financial/resources implications

Tourism opportunities will continue to bring a financial benefit to our City.

Shellharbour Tourism has sourced information from the Tourism Research Australia, National Visitor Survey (Year Ending 30 June 2012) that indicates that overnight stays (not including accommodation in buildings of less than 5 bedrooms) add about \$40 million to our City's economy every year. These survey results do not distinguish between the various options available for overnight accommodation such as short term rental accommodation, caravan parks, bed and breakfast or motel accommodation. It is estimated that tourism generally contributes about \$86 million annually to the economy of our City (Source: 2012/13 Australian Bureau of Statistics and Tourism Satellite Account).

If Council resolves to prepare a Planning Proposal to permit short term rental accommodation, the cost will be borne by City Strategy and the work program will be adjusted accordingly. There are no fees applicable to this Planning Proposal as it has been initiated by Council.

Should the Planning Proposal be finalised, staff resources will be required to publicise the changes and provide community awareness of the new LEP requirements, investigate the current unauthorised uses, process development applications and also investigate complaints directly related to short term rental accommodation.

Legal & Policy implications

A 2013 NSW Land & Environment Court judgement found that the short term rental of a residential zoned dwelling house does not constitute the definition of a dwelling house or a use that is ancillary to the residential use of the property.

Short term rental accommodation is a form of tourist and visitor accommodation. This means that any short term rental accommodation in a dwelling within our City is unauthorised and also cannot be granted development consent in most of our Residential zoned land as most tourist and visitor accommodation uses are generally prohibited.

In 2013 Council received a complaint about the operation of a short term holiday rental property. The issues were generally about noise late in the night, inappropriate behaviour and the number of people staying at the property.

Following the review of the information received regarding the complaint, the R2 Low Density Residential zoning of the property and a 2013 Land & Environment Court judgement on short term rental accommodation, Council advised the operator that the use was not permissible.

The adjoining property owners took the operator of the short term rental accommodation to the Land & Environment Court. The basis of the action was that the operation of short term rental accommodation from the Residential zoned property was not a permissible use. The Court, in late 2013 ordered the operator to cease the business.

The main adverse impacts that arise from short term rental accommodation are usually a result of human behaviour when that behaviour impacts on occupants of surrounding residential properties.

To the best of Council staff's knowledge, we have only received two complaints that relate to short term rental accommodation. This does not in any way lessen or devalue the impacts that residents have to endure when human behaviour from within holiday accommodation impacts on their right to enjoy the amenity of their home in a residential area.

Holiday Rental Code of Conduct

A Holiday Rental Code of Conduct (Version 1.1 March 2013) (The Code) has been prepared by participating organisations. These organisations include the Real Estate Institute of NSW, Holiday Letting Organisation Byron Bay, Stayz P/L, rentahome.com.au and TakeABreak (source HLO Byron Bay). This Code of Conduct is voluntary and therefore depends on the individual operator's willingness to participate.

This Code is an attempt by the industry to bring about consistent requirements for operators and as a means of self-regulation. In the Code it is up to the owners and managers of the accommodation to ensure behaviour is appropriate and take the appropriate course of action if it is not.

Options

Council has a number of options in considering whether to permit short term rental accommodation and these include the following:

1. Prohibit the use in all or certain zones.

This is the current legal situation. Current operators will need to cease. Prohibiting short term rental accommodation will result in the loss of another option for the provision of tourist and visitor accommodation in our City.

Not permitting the use would mean that existing residents would not be subject to some of the potential adverse impacts associated with the use.

For the above reason this is not a preferred option.

2. If the use is permitted with Development Consent, amend Shellharbour Development Control Plan (DCP) to include relevant guidelines and include a clause in the LEP that requires specific issues to be provided and/or complied with.

The LEP amendments as proposed and recommended, provides the mechanism to control short term rental accommodation better than the DCP. The DCP is a guide only, whereas the LEP will provide legally enforceable requirements.

For the above reason this is not a preferred option.

3. No Development Consent required regardless of the number of bedrooms or adults staying at the property.

This option will introduce a definition of short term rental accommodation into Shellharbour LEP 2013 and not require consent to operate.

This option would have the advantage that dwellings can be used without the need for Council approval.

The disadvantage of this approach is that there is no mechanism to control the number of bedrooms or people staying at the property. This may create significant adverse impacts on neighbours.

For the above reason this is not a preferred option.

4. No Development Consent required but limit the use of short term rental accommodation to a specific number of bedrooms and/or adults staying at the property, subject to compliance with stipulated criteria.

This option will introduce a definition of short term rental accommodation into Shellharbour LEP 2013 and enable a limit to be placed on the number of bedrooms and people staying at the property.

The advantage to the operator is that no application is required to Council.

The disadvantage is that if the operator does not or cannot comply with the stipulated criteria, the use is prohibited. There is no opportunity to consider the use on merit through the development application process.

For the above reasons this is not a preferred option.

5. Require Development Consent up to a certain number of bedrooms and/or adults staying at the property but with a ceiling on the number of bedrooms and/or adults staying at the property.

This option introduces a definition of short term rental accommodation into Shellharbour LEP 2013 and requires development consent to carry out the use. There is no provision to operate without consent.

The advantage of this option is that a development application is required to be submitted to carry out the use and each proposal can be considered on merit.

The disadvantage is that there is no exemption criteria which will mean every user must lodge a development application which will add another step in the process for all operators and require assessment by Council.

For the above reason this is not a preferred option.

6. Combination of Option 4 and Option 5. These options can both be included and that way if a property is not complying with Option 4 without consent, the use will be required to stop and application made for Development Consent. Alternatively, if a property cannot comply with Option 4 in the first instance, an application can be made for Development Consent.

This is the preferred option - a combination of no development consent and with development consent. The number of bedrooms and the ability to comply with the no consent criteria will be the trigger for whether development consent is required or not.

Option 6 Details

It is proposed that a definition be introduced into Shellharbour LEP 2013 that explains short term rental accommodation and two alternatives for short term rental accommodation be provided. The three proposed changes are summarised as follows:

1. A new definition that explains short term rental accommodation and outlines that to comply with the definition, the use will only be permitted if it does not interfere with the amenity of the neighbourhood, including by anti-social behaviour, emission of noise, car parking problems or traffic generation;
2. Introduce a new clause into the LEP that allows short term rental accommodation with development consent if the dwelling contains up to six bedrooms, has a minimum of one on-site car parking space per bedroom and accommodates no more than two guests per bedroom per night.

The intention of the above changes is to:

1. Provide a definition that outlines what short term rental accommodation is. Non-compliance with this definition would mean that the use is no longer defined as short term rental accommodation and may not be permitted;
2. Provide an option for short term rental accommodation (up to 3 bedrooms) that does not require development consent providing the use complies with the relevant clauses. Non-compliance with the requirements of the clause means that the use can not be considered as Exempt development and a development application would be required to be lodged and considered by Council; and
3. Provide an option for the lodgement of a development application for short term rental accommodation where the dwelling may contain more bedrooms (up to 6) than the Exempt criteria allows and/or the proposal may not be able to comply with the Exempt clause requirements but still comply with the definition of short term rental accommodation and so can be considered by Council based on the merits of the application.

The full details of the proposed changes are outlined in the **Recommendations**.

Ultimately, the decision on the way this short term rental accommodation option is written into our LEP will be determined by the NSW Department of Planning & Environment and the NSW Parliamentary Counsel.

Shellharbour Issues

The Holiday Rental Code of Conduct (The Code) defines a property for short term rental accommodation as being a dwelling with a maximum of six bedrooms, unless Council permits more than six. The number of bedrooms is only part of the equation, with the number of beds in the dwelling or guests staying at the dwelling also being important.

The more bedrooms and/or guests in a dwelling being used for short term rental accommodation, does not always correlate with increased adverse impacts on adjoining residential properties. As such, there is unlikely to be a "number" that satisfies all users, operators or minimises adverse impacts on adjoining residential properties.

Generally, houses in our City have three to four bedrooms. One option is to try to ensure short term rental accommodation 'fits' into the residential streetscape and residential amenity. This is particularly important if all or part of the use does not require development consent.

The preferred starting point is to include a new clause in Shellharbour LEP 2013 that defines short term rental accommodation. The clause will also need to include that the use is only permitted if it does not interfere with the amenity of the neighbourhood in any way, including by anti-social behaviour, emission of noise, car parking problems or traffic generation.

The consequence of this is that Council will become involved in the monitoring of what constitutes interference with amenity and what does not. This can be a very subjective matter and is difficult to prove or not prove. The resulting clause therefore may not always have the controlling mechanism intended if interference with amenity cannot be proven. The inclusion of loss of amenity triggers such as anti-social behaviour, noise, car parking and traffic generation in the proposed clause will assist in providing initial criteria on what may be causing interference with the amenity of the neighbourhood. Also, the number of substantiated complaints to Council and NSW Police and the nature of those complaints will assist in identifying interference with amenity.

The use of a dwelling as short term tourist and visitor accommodation may only be permitted when the dwelling is also permitted in the relevant zone. That is, whilst short term rental accommodation generally occurs in residential zones, the introduction of the proposed changes would permit the use in other zones where a dwelling is also permitted.

Regulation/Compliance Issues

Whether Council permits short term rental accommodation with or without consent or a combination of both, the potential noise and amenity impacts of short term rental accommodation will usually be dealt with by the NSW Police and not Council if they occur outside of normal Council business hours.

NSW Police have advised that the Police's role is to assist in maintaining community harmony and safety and so they should be the first point of contact, outside of Council's normal working hours, for community complaints about activities being carried out at properties.

The Police keep a log of incidents that are reported to them. This information can be shared with Council at the monthly Shellharbour Crime Prevention Partnership meetings. This Partnership is made up of NSW Police, Housing NSW, Council's Team Leader Regulation and Council's Community Safety Officer. This process will assist Council and the Police in monitoring properties that may not be complying with the relevant clause in our LEP. Appropriate action can then be co-ordinated.

Individuals affected by noise can also seek their own noise abatement orders and these will be enforced by the Police. This process goes through the Local Court and involves providing to the Court evidence of offensive noise. Signed statements from any other affected parties may help.

City Regulation Officers would regulate illegal parking during normal working hours.

If the operator is not carrying out the use in accordance with the proposed clause/s, the use would not be in accordance with the provisions of the LEP. This would then be an unauthorised use of a residential dwelling. Council's Regulation Officers would then issue a notice/order to comply with the current use and/or the provisions of the LEP as short term holiday rental accommodation. This notice procedure would

be similar to other notices that are issued for breaches of our LEP or breaches of relevant conditions of development consent.

Delegations

Council has received certain delegations from the Minister for Planning to finalise certain types of Planning Proposals/LEP Amendments.

Review of the criteria for use of delegations by Council's indicates that the Minister for Planning or his delegate may grant delegation to Council to finalise this Planning Proposal. The recommendation includes an option for Council, and subsequently Council staff, to use its delegation on this matter.

Public/social impact

There are both positive and negative public/social impacts as a result of short term rental accommodation. Permitting short term rental accommodation is likely to provide public and social benefits as a result of people visiting our City.

At the same time, if the behaviour of those visitors is such that it impacts on the amenity of surrounding residential properties then permitting short term rental accommodation may have a negative impact on our existing residents.

Placing the Planning Proposal on public exhibition will provide an opportunity for interested parties to provide their views for Council's consideration.

Link to Community Strategic Plan

The provision of short term rental accommodation supports the following objectives and strategies of the Community Strategic Plan:

Objective: 1.1 Vibrant, safe and inclusive City

Strategy: 1.1.3 Make Shellharbour a friendly environment where people feel safe

Objective: 2.3 A liveable City that is connected through places and spaces

Strategy: 2.3.2 Undertake all land use planning addressing social, economic and environmental principles whilst reflecting the current and future community's needs

Strategy: 2.3.4 Facilitate the provision of development that meets the changing needs and expectations of the community

Objective: 3.3 Welcomes, engages and attracts visitors

Strategy: 3.3.2 Support a dynamic, responsive and sustainable local tourism industry

Consultations

Internal

Group Manager City Development
Team Leader City Development – Regulation
Team Leader City Development - Planning
Community Safety Officer
Team Leader Waste Management
Tourism Manager

External

NSW Police – Lake Illawarra Command

Political Donations Disclosure

Not applicable at this stage of the process.

Recommendation

That:

- 1. Council prepare a Planning Proposal to amend Shellharbour Local Environmental Plan 2013 in the following manner:**

A. Introduce into Shellharbour Local Environmental Plan 2013 the following definition of short term rental accommodation.

- i. Short term rental accommodation means a dwelling that is commercially available for rent as short term rental accommodation for a period no greater than 90 consecutive days in any 12 month period, and that does not involve:**
 - a. Interference with the amenity of the neighbourhood by reason of the emission of noise, car parking, traffic generation or anti-social behaviour, or**
 - b. The exhibition of any signage (other than a business identification sign and a notice that is erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood).**

but does not include bed and breakfast accommodation

B. Introduce into Schedule 2 Exempt Development in Shellharbour LEP 2013 the following:

Short term rental accommodation

- i. The subject dwelling must be located in a zone where dwellings are permitted with consent.
- ii. The dwelling must not contain more than three bedrooms.
- iii. There must be no more than two persons per bedroom staying overnight.
- iv. There must be a minimum of one on-site car parking space per bedroom.
- v. A notice must be erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood.
- vi. An adequate waste collection area suitable for the development and in a location that does not interfere with the amenity of the neighbourhood must be provided.
- vii. The dwelling must be provided with general, recycling and organic waste bins of at least 240L capacity each.
- viii. Each of the waste bins must be collected at least weekly.
- ix. If the dwelling is located in a bushfire prone area, a bush fire evacuation plan must be attached to the dwelling in a prominent location.
- x. There must not have been more than two substantiated written complaints to the Council or substantiated complaints to the NSW Police concerning the use of the dwelling as a short term rental accommodation from the occupiers of separate dwellings located within 40 metres of the subject dwelling within the preceding 12 months.

C. Introduce into Shellharbour Local Environmental Plan 2013 a new clause that includes the following:

Short Term Rental Accommodation

- a. The objectives of this clause are to:
 - i. require development consent for the temporary use of dwellings containing up to 6 bedrooms as short term rental accommodation;

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- ii. provide for the proper management of dwellings used for short term rental accommodation;
 - iii. minimise the impact of short term rental accommodation on surrounding properties.
 - b. Despite any other provision of this Plan, development consent may be granted for the use of a dwelling containing up to 6 bedrooms as short term rental accommodation (except Bed and Breakfast Accommodation).
 - c. Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the following:
 - i. There must be no more than two persons per bedroom staying overnight.
 - ii. There must be a minimum of one on-site car parking space per bedroom.
 - iii. A notice must be erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood.
 - iv. Whether the proposed development has provided an adequate waste collection area suitable for the development and in a location that does not interfere with the amenity of the neighbourhood.
 - v. The dwelling must be provided with general, recycling and organic waste bins of at least 240L capacity each.
 - vi. Each of the waste bins must be collected at least weekly.
 - vii. If the dwelling is located in a bushfire prone area, a bush fire evacuation plan must be attached to the dwelling in a prominent location.
 - 2. Council authorise the General Manager to submit the Planning Proposal to NSW Planning & Environment in accordance with section 56 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.
 - 3. Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to the Planning Proposal if and as required by the Department of Planning & Environment's LEP Review Panel and gateway determination.

4. The Planning Proposal be publically exhibited in accordance with the gateway determination.
5. If a submission(s) objecting to the Planning Proposal is (are) received as a result of the public exhibition, or there are substantial post public exhibition changes proposed for any other reason(s), a report be submitted to Council for consideration detailing the public exhibition outcomes and with further recommendations regarding adoption.

If there are no submissions received objecting to the Planning Proposal as a result of the public exhibition, or there are no substantial post public exhibition changes proposed for any other reason(s), Council delegate authority to the General Manager to finalise the Planning Proposal to amend Shellharbour Local Environmental Plan 2013.

6. If the Planning Proposal is supported and finalised and the short term use of a dwelling for Tourist and Visitor Accommodation becomes a permitted use in our City, Council review this decision three years from finalisation of the Planning Proposal/LEP Amendment.
7. Council and Council staff use the plan-making delegations from the Minister for Planning, if granted, on this Planning Proposal.

Approved for Council's consideration: _____

Date of Meeting: 4 August 2015

Attachments

Nil

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 27 October 2015 commencing at 6.31 pm**

Present

Mayor	M Saliba
Deputy Mayor	P Rankin
Councillor	K Marsh
Councillor	D Boyle
Councillor	H Stewart
Councillor	J Murray
Councillor	P Moran (part)

In attendance

General Manager	M Willis
Director City Outcomes	C McIntyre
Director Corporate Policy	L Furness
Director Shellharbour Enterprises	M Youell
Executive Manager / Public Officer	F MastroDomenico
Group Manager City Strategy	G Hoynes
Group Manager Community Connections	K Baget-Juleff
Group Manager Infrastructure Services	M Boenisch
Group Manager City Development	G Meredith
Chief Financial Officer	R Owens
Manager Financial Services	P Henderson
Manager Property and Recreation	D Flanagan
Manager Assets and Contracts	G Standen
Acting Manager Community and Cultural Life	D Green
Financial Accountant	A Bateman
Media Officer	C Lewis
Senior Executive Assistant	L Davey
Council Liaison Officer (Minute Taker)	J Frasca
Brett Daintry - Daintry Associates	
Clare Wagner - Crowe Horwath	

10.1 General Manager

10.1.1 2014-15 Annual Financial Statements (10607090)

Ms Clare Wagner from Crowe Howarth - briefed Council on Shellharbour City Council's Audited Financial Statements for the year ended 30 June 2015. The financial statements of Shellharbour City Council are in accordance with the Local Government Code of Accounting Practice and Financial Reporting including: giving a true and fair view of Council's financial position as at 30 June 2015 and comply with Australian Accounting Standards.

307 RESOLVED: Murray/Marsh

That the 2014/15 Annual Financial Statements be adopted.

CARRIED UNANIMOUSLY

10.1.2 Monthly Investment Report - September 2015 (10608799)

308 RESOLVED: Boyle/Marsh

That Council receive and note the attached Investment Portfolio reports, as at 30 September 2015.

CARRIED UNANIMOUSLY

10.2 City Outcomes Directorate

10.2.1 Proposal No. 15 Short Term Rental Accommodation - Proposal to Amend Shellharbour Local Environmental Plan 2013 (10607687)

309 RESOLVED: Murray/Moran

That:

1. Council prepare Planning Proposal No 15 to amend Shellharbour Local Environmental Plan 2013 in the following manner:

- A. Introduce into Shellharbour Local Environmental Plan 2013 the following definition of short term rental accommodation.

Short term rental accommodation means a dwelling that is commercially available for rent as short term rental accommodation for a period no greater than 90 consecutive days in any 12 month period, and that does not involve:

- a. Interference with the amenity of the neighbourhood by reason of the emission of noise, car parking, traffic generation or anti-social behaviour, or
- b. The exhibition of any signage (other than a business identification sign and a notice that is erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood).

but does not include bed and breakfast accommodation

- B. Introduce into Schedule 2 Exempt Development in Shellharbour LEP 2013 the following:

Short term rental accommodation

- i. The subject dwelling must be located in a zone where dwellings are permitted with consent.
- ii. The dwelling must not contain more than three bedrooms.
- iii. There must be no more than two persons per bedroom staying overnight.
- iv. There must be a minimum of one on-site car parking space per bedroom.
- v. A notice must be erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood.
- vi. A notice must be erected in a prominent common area within the dwelling that provides the following information:
 - The property is located in a residential neighbourhood and guests need to abide with the issues outlined in this notice and the approval to operate the short term rental accommodation
 - Must ensure that no offensive noise/anti-social behaviour is carried out that may affect neighbours particularly between the hours of 10pm to 8am
 - Must not result in inappropriate car parking on the street so as to cause traffic hazards and/or significant or ongoing loss of parking for adjoining or nearby residents

- Must not exceed the maximum number of guests permitted at the property
 - Provide 24 hour contact details of managing agent, a security company or owner.
- vii. An adequate waste collection area suitable for the development and in a location that does not interfere with the amenity of the neighbourhood must be provided.
- viii. The dwelling must be provided with general, recycling and organic waste bins of at least 240L capacity each.
- ix. Each of the waste bins must be collected at least weekly.
- x. If the dwelling is located in a bushfire prone area, a bush fire evacuation plan must be attached to the dwelling in a prominent location.
- xi. The owner/manager must register the use of the dwelling for short term rental accommodation in Council's register prior to the initial use of the dwelling.
- xii. There must not have been more than two substantiated written complaints to the Council or substantiated complaints to the NSW Police concerning the use of the dwelling as a short term rental accommodation from the occupiers of separate dwellings located within 40 metres of the subject dwelling within the preceding 12 months.
- C. Introduce into Shellharbour Local Environmental Plan 2013 a new clause that includes the following:

Short Term Rental Accommodation

- a. The objectives of this clause are to:
- i. require development consent for the temporary use of dwellings containing up to five bedrooms as short term rental accommodation;
 - ii. provide for the proper management of dwellings used for short term rental accommodation;
 - iii. minimise the impact of short term rental accommodation on surrounding properties.

- b. Despite any other provision of this Plan, development consent may be granted for the use of a dwelling containing up to five bedrooms as short term rental accommodation (except Bed and Breakfast Accommodation).
- c. Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the following:
 - i. There must be no more than two persons per bedroom staying overnight.
 - ii. There must be a minimum of one on-site car parking space per bedroom.
 - iii. A notice must be erected within practical viewing from a public or common space providing 24 hour contact details in case of interference with the amenity of the neighbourhood.
 - iv. A notice must be erected in a prominent common area within the dwelling that provides the following information:
 - The property is located in a residential neighbourhood and guests need to abide with the issues outlined in this notice and the approval to operate the short term rental accommodation
 - Must ensure that no offensive noise/anti-social behaviour is carried out that may affect neighbours particularly between the hours of 10pm to 8am
 - Must not result in inappropriate car parking on the street so as to cause traffic hazards and/or significant or ongoing loss of parking for adjoining or nearby residents
 - Must not exceed the maximum number of guests permitted at the property
 - Provide 24 hour contact details of managing agent, Security Company or owner.
 - v. Whether the proposed development has provided an adequate waste collection area suitable for the development and in a location that does not interfere with the amenity of the neighbourhood.

- vi. The dwelling must be provided with general, recycling and organic waste bins of at least 240L capacity each.
 - vii. Each of the waste bins must be collected at least weekly.
 - viii. If the dwelling is located in a bushfire prone area, a bush fire evacuation plan must be attached to the dwelling in a prominent location.
 - ix. The owner/manager must register the use of the dwelling for short term rental accommodation in Council's register prior to the initial use of the dwelling.
- 2. Council authorise the General Manager to submit Planning Proposal No 15 to NSW Department of Planning & Environment in accordance with section 56 of the Environmental Planning & Assessment Act 1979 for review and gateway determination.
 - 3. Council seek plan-making delegations from the Minister for Planning for Planning Proposal No 15.
 - 4. Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to Planning Proposal No. 15 if and as required by the NSW Department of Planning & Environment's LEP Review Panel and gateway determination.
 - 5. Planning Proposal No 15 be publically exhibited in accordance with the gateway determination.
 - 6. That a report be submitted to Council on the outcomes of the public exhibition and for final consideration of Planning Proposal No. 15.
 - 7. If Planning Proposal No 15 is supported and finalised and the short term use of a dwelling for Tourist and Visitor Accommodation becomes a permitted use in our City, Council review this decision three years from finalisation of the Planning Proposal/LEP Amendment.
 - 8. Council endorse this report as its submission to the NSW Legislative Assembly Inquiry into short term holiday letting.

CARRIED UNANIMOUSLY