



City of Perth

24 June 2019

Ms Jessica Shaw, MLA
Chair
Economics and Industry Standing Committee
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

By email: laeisc@parliament.wa.gov.au

Attention: Dr David Worth

Dear Ms Shaw

Economics and Industry Standing Committee Inquiry into Short-Stay Accommodation

I refer to your letter dated 22 May 2019, attaching draft transcript of hearing held 15 May 2019.

The City of Perth appreciated the time to speak to the Committee on 15 May 2019 on the issue of short stay accommodation.

As requested in your letter, I provide answers to two questions taken on notice on 15 May, and also to two questions raised by the Committee in your letter, which were not canvassed during the hearing.

Questions taken on notice

(from Page 3 of transcript)

The number of properties in the City of Perth that have development approvals for long-term residential that are being used, either knowingly or unknowingly, by the owner for short-stay purposes?

It is not possible to place an accurate figure on this. It is acknowledged that there are various platforms for advertising premises for short-term rental, such as Airbnb, Homestay and Gumtree, with a likelihood that one property may have multiple listings.

What is clear is that the number of complaints regarding unlawful short-term accommodation that the City of Perth is receiving is increasing as is evidenced by the following table.

Year	No. of complaints regarding short-term accommodation
2006	2
2007	2
2008	3
2009	16
2010	11
2011	20
2012	36
2013	30
2014	16
2015	19
2016	34
2017	50
2018	42
2019	28 to date

Notwithstanding, it is also acknowledged that the number of direct complaints remains relatively low compared to the likely number of properties listed and used for short-stay rentals, contrary to their approval for long-term residential use.

The City has increased its Development Compliance resources over the past 12 months, however to proactively pursue the owners of long-term residential apartments that are advertising their properties for short-stay purposes would require considerable resources. This needs to be carefully weighed-up against all other compliance matters that local government is required to address and the cost to the ratepayer. The compliance officers respond to all complaints about unlawful short-term accommodation and, where sufficient evidence of a breach of development approval is available, manage to effectively resolve all complaints prior to having to prosecute the matter through the courts.

A significant challenge that local government faces is the burden of proof that an apartment is being used in breach of its approved long-term residential use under the local planning scheme, given that it does not result in any physical change to the building. The presence of an advertisement or a listing is not sufficient evidence, as often the websites are lacking site-specific detail, and shows only an intent not an actual action. So local government is required to obtain sufficient admissible evidence, often with the assistance of neighbours or guests, that the unlawful use is occurring, and this is quite often a difficult task.

(from Page 11 of transcript)

How proactive is the City in terms of the education efforts it makes with strata bodies around the matter of short-stay accommodation?

The City of Perth provides the information attached to this letter on its website to assist the community in developing an understanding of short-stay accommodation.

Often it is once a complaint has been lodged about short-stay accommodation that the City is able to engage with strata bodies and assist them in navigating the planning and compliance process. The challenge is not the education of strata bodies per se, but the education of individual property owners who undertake the renting of their property and ensuring industry standards are maintained by real estate agents who, anecdotally and on occasions, may not have adequately informed or explained to prospective purchasers about the potential for renting residential apartments for short-term use. As expressed earlier, the challenge has been obtaining sufficient evidence to prove the undertaking of the activity.

Additional Questions

Has the City considered developing a local law to manage short-stay accommodation issues, such as has been done by the Cities of Fremantle and Busselton?

The City has not considered developing a local law, however has implemented a planning policy that works in concert with the planning scheme to manage short-stay issues in the City. The City of Perth's City Planning Scheme No. 2 distinguishes between the Residential use group (for premises providing for long-term or permanent residential accommodation) and the Special Residential use group (premises providing short-term or temporary accommodation), that helps to provide a framework for when a use would be permitted and the management requirements of short-term accommodation use.

If new regulations for short-stay accommodation are to be introduced across WA, should they be implemented by the State Government or left to local governments?

There is value in having a state-wide framework to guide decisions relating to short-stay accommodation, as it provides a level of consistency for residents, property investors, operators and local government.

However, it is important that there is a level of flexibility built into such a framework so that local governments can work with their community to define a localised approach.

Implementation of local land use decisions is undertaken by local government and provides the most direct interface between the community and government. Any new approach needs to be developed in collaboration with local government, to ensure the approach is fit-for-purpose and any implications for resourcing by the local government are fully understood.

A licencing system may assist local governments and the community, where operators wish to work within an approval framework. However, it is considered that this may not address the existing issues where operators knowingly undertake the activity without approval, given the likelihood of prosecution, time taken to action and the relatively low fines are not a strong incentive to cease activity.

It is considered that any solution put forward, to be effective, needs to include a stronger obligation towards compliance with planning requirements on the website platforms; mechanisms for strata bodies to obtain faster resolution of breaches of strata by-laws relating to the use of apartments through the State Administrative Tribunal; a review of penalties applied to 'unlawful' short-term

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accommodation; and consider the current licencing requirements for undertaking a real estate business in Western Australia.

Should you or the Committee have further queries in this matter, please contact me by return email or by phone on 9461 3100.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Robert Farley', with a stylized flourish at the end.

Robert Farley
A/Director Planning and Development

Using residential apartments for short term accommodation

Residential apartment buildings within the City of Perth are approved for permanent or short-term use. A mixture of the two uses within the same building can also be approved by the City, although they are generally located on separate floors and include separate entrances.

New online platforms such as Airbnb, Booking.com and Stayz make it relatively easy to rent your apartment or house out to guests for short periods of time. This can be a valuable source of income, although short term guests can have a significant impact on permanent city residents. These impacts include issues related to fire safety, health, amenity and an increased financial burden on owners. There may also be longer term adverse impacts on building quality, property values and the way city living is viewed if short term accommodation is not effectively managed.

While the City values the role that a range of temporary accommodation options play in supporting tourism, the City also needs to protect the amenity of permanent city residents.

Planning requirements

Renting your apartment or house to short term guests on a commercial basis is changing the nature of the occupation of the property. This change of use requires planning approval from the City.

The City has a Special Residential (Serviced and Short Term Accommodation) Policy which provides clear guidance on the development of these uses and promotes the orderly and proper planning of the city. Any application to change permanent residential apartment or house to allow short term rentals will be assessed against the requirements of this policy.

A piecemeal approach to change permanent residential to short term accommodation and vice versa on a dwelling by dwelling basis is not considered appropriate and will not be supported by the City.

Failure to get the necessary approvals may lead to fines or other penalties resulting from the unlawful use of your property.

Building Code requirements

It should also be noted that short-stay and serviced apartments are classified as class 3 buildings under the Building Code of Australia. All applications for change of use of existing buildings to special residential uses, two storeys or higher, will be required to demonstrate how the development will comply with Australian Standard 1670. This requires a building wide alarm and connect to the fire brigade through a fire indicator panel.

All applications will also be required to demonstrate compliance with the Disability Discrimination Act.

Further details

If you are considering using your apartment or house for short term accommodation you should contact the City's planning officers and building surveyors to discuss the current approved use. Relevant planning scheme definitions are:

Residential: premises providing for long term or permanent residential accommodation including grouped dwellings, single houses and multiple dwellings.

Special residential: premises providing short term, temporary or specialised residential accommodation including a lodging house, hotel and serviced apartment.

Short term accommodation: premises used for accommodation that may be occupied by the same person/s for a maximum period of three months within any 12-month period, and are not subject to residential tenancy agreements (residential leases).