

Admin, LACO

Subject: FW: Submission - Short Stay Accommodation - City of Cockburn- sub no. 71
Attachments: 2019.01.17 Comments on Short Stay Accommodation.pdf

From: Lucia Dunstan

Sent: Monday, 21 January 2019 9:19 AM

To: Committee, Economics & Industry Standing

Cc: Andrew Trosic ; Andrew Lefort ; Celina da Costa

Subject: Submission - Short Stay Accommodation - City of Cockburn

To whom it may concern,

Please find attached the City of Cockburn's advice in relation to the Inquiry into Short Stay Accommodation by the Economics and Industry Standing Committee.

Should you require any clarification, please do not hesitate to contact me.

Kind regards,

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15 January 2019

Comments by City of Cockburn
Short Stay Accommodation

Purpose

To provide advice to the Economics and Industry Standing Committee who are tasked with reporting to the Legislative Assembly on the matter of Short Stay Accommodation. The Committee is seeking advice from local governments around four key terms of reference. The City's comments are provided below.

Advice

1. The forms and regulatory status of short-stay accommodation providers in regional and metropolitan Western Australia, including existing powers available to local government authorities.

- The City has its own Local Planning Policy on Holiday Accommodation (Local Planning Policy 1.15 – Tourist Accommodation, Refer to **Attachment 1**). The City is finding this policy difficult to enforce given the nature of the industry.
- Environmental Health Officers can use enforcement powers under the *Environmental Protection (Noise) Regulations 1997* to respond and handle noise complaints received in respect to short-term accommodation.
- *Health (Miscellaneous Provisions) Act 1911* provides a definition for Lodging-house, which means:

'any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of the family of the keeper thereof, for hire or reward;

but the term does not include —

- *premises licensed under a publican's general licence, limited hotel licence, or wayside-house licence, granted under the Licensing Act 1911 2 ; or*
- *residential accommodation for students in a non-government school within the meaning of the School Education Act 1999; or*
- *any building comprising residential flats;'*

Therefore any short term accommodation with more than 6 persons is registered as a 'lodging house' and is not considered 'short term accommodation' in accordance with the definitions under the City's LPP 1.15.

- The WAPC's Planning Bulletin 99 (Holiday Homes) is currently out of date as it was written prior to the launching of 'Air BnB' and other platforms within Australia. The Bulletin largely covers regulation of single dwellings used for holiday homes within known tourist accommodation areas in WA.

2. The changing market and social dynamics in the short-stay accommodation sector.

- The City notes an increasing trend of this type of accommodation over the last 10 years and can comment primarily on the social dynamics of this industry.
- Initially the concept of 'Air BnB's' and other platforms was to allow residents to supplement income by providing this service from their own home. However, many landowners are renting their whole houses or apartments as tourist accommodation. There are few forms and regulatory measures (as outlined in point 1 above) thus very limited management and controls.
- Given occupier turn-over is large and frequent, amenity concerns relating to nuisance noise and anti-social behaviour has become increasingly difficult for the City to manage, notwithstanding LPP 1.15 exists.
- It is noted that there have been occasions where people staying in short term accommodation do not have the same level of respect as 'standard' neighbours, as they are only there for a short period. Some instances result in noise complaints and anti-social behaviours by short term occupants.

3. Issues in the short-stay accommodation sector, particularly associated with emerging business models utilising online booking platforms.

- Consideration should be given as to the best method (and whether it is appropriate) for local governments to regulate the short stay accommodation sector, in order to mitigate any negative impacts felt by the tourism industry given the emergence of these new business models.

4. Approaches within Australia and international jurisdictions to ensure the appropriate regulation of short-stay accommodation.

- 'Party house' law provisions would allow councils to impose penalties and prohibitions on rogue operators quickly and give neighbours confidence. This law exists in the Gold Coast where there is significant tourism.
- It is understood that Councils in Melbourne are developing by-laws for leasing out properties through 'Air BnB' and other platforms. These owners must register with the Council and provide contact details that are given to neighbours if anti-social behaviour is reported. Owners must also respond to complaints within two hours or face fines. Further, the bylaw outlines rules about car parking and rubbish disposal.

Title	Tourist Accommodation
Policy Number (Governance Purpose)	LPP 1.15

Policy Type

Local Planning Policy

Policy Purpose

The City of Cockburn is well placed to accommodate tourists with good access to Perth CBD and Fremantle, major transport networks, health and educational facilities, and access to world-class beaches. Tourist and other short-term accommodation proposals are therefore expected to increase within the City and Town Planning Scheme No. 3 (TPS 3) provides limited development standards for such proposals.

The purpose of this policy is to provide development standards for the following land use types as defined in TPS 3:

- Tourist Accommodation (including cabins, chalets, short-stay self-contained accommodation and similar forms of tourist accommodation;
- Bed and Breakfast;
- Hotel;
- Motel;
- Holiday Home (Standard); and
- Caravan Parks.

The policy does not provide development standards for long-stay Park Home, Residential Parks, Lifestyle Villages or Hotels that do not contain accommodation.

Policy Statement

(1) Definitions

Short-term accommodation – accommodation for a maximum of 6 persons, inclusive of a keeper if they reside at the dwelling, for a period of up to 6 months within any 12 month period.

Keeper/Manager – a person who permanently resides at a premises providing short-term accommodation and is responsible for the upkeep and management of the accommodation.

Guest – a person who is accommodated within the short-term accommodation on a temporary basis for a fee, but is not subject to a Residential Tenancy Agreement.

Visitor – A person who is visiting a guest accommodated within short-term accommodation but who is not a guest themselves.

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(2) Management Plans

All proposals for tourist accommodation and other uses outlined in the purpose section of this policy shall include the lodgement of a management plan which shall address:

1. Control of Noise and other disturbances;
2. Complaints management procedures;
3. Security of guests, visitors and neighbours;
4. Control of anti-social behaviour and potential conflict between tourists/guests/visitors and permanent residents of the area;
5. Car parking for guests and visitors;
6. Number of bedrooms and beds; and
7. Contact details of Owner and Keeper/Manager.

(3) Tourist Accommodation

1. A keeper/manager is not required to reside at the premises whilst it is being used for tourist accommodation purposes;
2. The use of one or more existing multiple or grouped dwellings within a complex for the purposes of tourist accommodation shall generally not be supported.
3. Proposals including a mix of uses including permanent residential and tourist accommodation within the same development should provide sufficient separation of the uses to ensure the amenity of permanent residents is adequately protected.
4. Proposals for tourist accommodation in the form of apartments on residential zoned land shall be designed so that the building height generally accords with the maximum, building height permitted for multiple dwelling development.
5. Proposals for tourist accommodation in the form of apartments shall include an entrance/foyer with a reception desk attended by staff during check-in and check-out times.
6. Car parking for tourist accommodation shall be located on-site and in accordance with the TPS 3 provision.

(4) Hotels and Motels

1. Proposals for hotels providing accommodation and motels shall include an entrance/foyer with a reception desk attended by staff during check-in and check-out times.
2. Car parking for hotels and motels shall be in accordance with the TPS 3 provision.
3. Proposals for motels on residential zoned land shall be designed so that the building height generally accords with the maximum, building height permitted for multiple dwelling development.
4. Proposals including a mix of uses including permanent residential and hotel/motel uses within the same development should provide sufficient separation of the uses to ensure the amenity of permanent residents is adequately protected.

(5) Bed and Breakfast

1. The keeper/manager of the Bed and Breakfast must reside permanently on-site whilst the Bed and Breakfast is operating.

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2. Access to a dining area and laundry facilities shall be provided for Bed and Breakfast guests.
3. Parking shall be provided at the rate of 1 car parking bay per guest bedrooms in addition to car bays required for the keeper/manager which shall be in accordance with the Residential Design Codes in residential areas or equivalent in rural zoned areas.

(6) Holiday Home (Standard)

1. Holiday Homes (Standard) shall be generally located in areas designated as suitable for tourism-type uses. In other areas, it shall be demonstrated that Holiday Homes will not cause conflict with surrounding ordinary dwellings.
2. A keeper/manager is not required to reside at the premises whilst it is being used for holiday home purposes.
3. Car Parking for Holiday Homes shall be provided in accordance with the Single House requirements of the Residential Design Codes

(7) Residential Dwellings

1. Proposals for the use of a portion of a residential dwelling where the owner/occupier is present and where the provision of breakfast is not provided are not considered to be defined as Tourist Accommodation and planning approval is not required.
2. Proposals for the use of a single house where the owner/occupier is not present whilst it is being used for tourist accommodation or short-stay purposes shall be defined as a Holiday Home (Standard) and requires planning approval.
3. Proposals for the use of a grouped or multiple dwelling where the owner/occupier is not present whilst it is being used for tourist accommodation or short-stay purposes shall be defined as Tourist Accommodation and requires planning approval. As per the Tourist Accommodation section above, these types of proposals shall generally not be supported.

(8) Caravan Parks

Development standards for caravan parks are contained in the Western Australian Planning Commission Planning Bulletin 49/2014 'Caravan Parks' and shall be used by the City in the assessment of these proposals.

(9) Other Legislative Requirements

Proposals for some forms of tourist accommodation may be defined as Class 3 buildings under the Building Code of Australia and may require a portion of units to be designed for persons with disabilities, may be required to comply with Australian Standard 1670.1:2015 Fire detection, warning, control and intercom systems - System design, installation and commissioning – Fire. Some proposals may also be required to comply with the City of Cockburn's Health Local Laws relation to Lodging Houses.

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Strategic Link:	Town Planning Scheme No. 3
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