



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

Councillors: P Allsop
R Byrnes
C Cherry (Deputy Mayor)
R Cooper
J Owen
W Polglase

Agenda

Planning Committee Meeting Thursday 1 November 2018

held at
Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads
commencing at 5.30pm

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 Evaluation

(1) **Matters for consideration—general**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
 - (v) any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*),
that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations, (e) the public interest.

Note. See section 75P(2)(a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

(2) **Compliance with non-discretionary development standards—development other than complying development.**

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and
- (b) must not refuse the application on the ground that the development does not comply with those standards, and
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and
- (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

(3A) **Development control plans**

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
- (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.

(4) **Consent where an accreditation is in force**

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the *Building Code of Australia* if the building product or system is accredited in respect of that requirement in accordance with the regulations.

- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) **Definitions**

In this section:

- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
- (b) **non-discretionary development standards** means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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Items for Consideration of the Planning Committee:

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REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

1 [PR-PC] Short Term Holiday Letting - Exhibition of Short Term Rental Accommodation Planning Framework

SUBMITTED BY: Strategic Planning and Urban Design

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.4 Managing Community Growth
- 1.4.1 Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: **Leader**

SUMMARY OF REPORT:

Council commenced preparation of a planning proposal in 2015 aimed at establishing a framework for managing the permissibility and regulation of short term rental accommodation (STRA) and largely in response to community demand.

This was necessitated by an unforeseen change in permissibility within the land-use zones when the Tweed's 'Standard Instrument Order' LEPs; Tweed LEP 2014 and Tweed City Centre LEP 2012, came into effect and reduced the number of zones where the use was permitted. The most notable of those affected was the low density residential zone, where the use is now well established and widespread.

During the course of Council's planning, the NSW Government undertook to hold an inquiry into STRA across the State, which culminated in various actions that were later taken up by the Department of Planning and Environment (DPE). The next three years saw widespread consultation with local councils, tourism industry and other stakeholders, as a planning policy response for the regulation of STRA was formulated. While this was occurring, and given the uncertainty as to how the regulation would work and who would manage it, the Council elected to defer its own planning until the government had concluded their own, which has now occurred.

In July 2018 a Policy position was publicised by DPE proposing that STRA will be exempt development under these terms:

- Up to 365 days per year when the host is present;
- Up to 365 days per year when the host is not present and the property is not on bushfire prone land, except in Greater Sydney where the maximum prescribed period is up to 180 days per year; and
- An option for Councils outside of Greater Sydney to reduce the number of days from 365 but not less than 180 days per year;
- STRA is complying development when the host is not present and the property is on land mapped as bushfire prone.

Most recently in October DPE released for public exhibition a publication called the *Explanation of Intended Effects (EIE) for the Short Term Rental Accommodation Planning Framework October / November 2018*, which is based on the above adopted Policy and which describes the legislative changes to be made, new building and occupancy safety measures that must be complied with and the compliance regime surrounding the new proposed Code of Conduct, among other things.

Council officers have considered at length the new proposal and while it is generally considered that under favourable circumstances requesting 180 days as the maximum for a trial period would be preferred, the widely held view based on the experience of regulating the compliance of this use over the preceding three years is that to do so will do no more than to perpetuate the current overburden on the Council's limited compliance resources. Under the proposed framework every 'operator' host will need to subscribe and comply with a mandatory Code of Conduct. This is a significant step in the right direction and mirrors where the Council's own planning was heading in 2015/16, when it publically consulted on its own draft Code. This will provide a more transparent and clearer guideline for any future compliance action on the actual nuisance complained of rather than, as presently occurs, allocating significant resources on the 'legality' of the use. This is seen to be very beneficial.

In light of the above this report seeks Council's direction about the proposed number of days per year and whether there is a need to advise the DPE about a lesser number of days being sought below the 365 day maximum and above or at the 180 day minimum threshold.

RECOMMENDATION:

That Council:

- 1. supports the policy position proposed under the *Short Term Accommodation Planning Framework* and legislation that Exempt and Complying Development be permissible for 365 days per year subject to meeting the relevant criteria; and**
- 2. endorse the content of this report as the basis of a submission to be made to the Department of Planning and Environment (DPE) to the exhibition of the State Policy directions of the *Short Term Accommodation Planning Framework*.**

REPORT:

Background

Council commenced the preparation of a planning proposal in 2015 to clarify the permissibility of short term holiday letting, operational time periods and management criteria.

Following the introduction of the standard instrument based Tweed Local Environmental Plan (LEP 2014) and the Tweed City Centre LEP 2012, the use was undefined and effectively this made the previously permissible use (under the Tweed LEP 2000), prohibited in some zones.

Whilst the Planning Proposal was publicly exhibited 2 December 2015 – 5 February 2016, it has been held in abeyance awaiting the Policy direction of the State Government following the Parliamentary Enquiry into STHL over 2015-16, the release of the STHL Recommendations Report (October 2016) and the release of the Options Report (July 2017).

A number of reports and notices of motion have been considered by Council during this time, as follows:

Date	Content	Status of resolutions
19 June 2014	Notice of Motion <ul style="list-style-type: none"> Undertake a strategy paper to address STHL Priority 1 project Raise the issue at the NSWLG State Conference 	All completed
21 May 2015	Notice of Motion <ul style="list-style-type: none"> Defer commencement of enforcement action until LEP amendment is processed Meeting with stakeholders for developing a code of conduct Prepare an LEP amendment to support the continuation of STHL 	All completed Stakeholder consultation undertaken as part of the public exhibition of the PP
September 2015	<i>State Government announced the Parliamentary Enquiry into the adequacy of the regulation of short term holiday letting in NSW</i>	
March 2016	<i>State Government held a public hearing in Tweed Heads on the regulation of STHL</i>	
7 April 2016	Report <ul style="list-style-type: none"> Report on the public exhibition of the STHL planning proposal prepared in response to NOM 21 May 2015 Resolution to defer completion of the planning proposal pending a further report on the Parliamentary Enquiry process and options to follow 	STHL exhibited 2 December 2015 – 5 February 2106.
October 2016	<i>Publication of the State Government Recommendations Report on STHL</i>	
15 June 2017	Notice of Motion <ul style="list-style-type: none"> Requiring Council report on the current and predicted levels of STHL The implications of allowing STHL in tourist and rural zones only and the issues of licences 	Completed – report considered 5 October 2017
21 July – 31 October 2017	<i>State Government exhibition of the STHL Options Paper</i>	

Date	Content	Status of resolutions
5 October 2017	Report <ul style="list-style-type: none"> Report to address the NOM 15 June 2017 and consider a draft submission to the State Government STHL Options Paper Report deferred for a workshop 	Completed – workshop held on 12/10/17
26 October 2017	Report <ul style="list-style-type: none"> Report to address the NOM 15 June 2017 and consider a draft submission to the State Government STHL Options Paper and following the Councillor workshop Resolution to forward the submission to the Options paper 	Submission made
5 April 2018	Notice of Motion <ul style="list-style-type: none"> Resolution that Council defers any widespread compliance action against STHL until the release of the State Government Policy controls 	Actioned
June 2018 October 2018	<i>State Government announced the STRA Policy Position</i> <i>State Government announced the exhibition of the STRA Explanation of Intended Effects (EIE) for the Short Term Accommodation Planning Framework</i>	

Previous Planning Proposal PP15/0005

By way of summary the exhibited planning proposal of Tweed Shire Council sought to amend the local environmental plan (LEP) to:

- provide a definition of short term holiday letting;
- permit STHL as exempt development up to 62 days per year, reflecting the previously permissible use;
- 62 days was chosen to allow flexibility of STRA of dwellings during school holiday and public holiday periods;
- permit consideration of a DA for STHL for greater than 62 days per year; and
- require compliance with the *Holiday Rental Code of Conduct*.

It is noted planning proposal PP15/0005 is a current proposal with the Department of Planning and Environment (DPE), which has been subject to a number of gateway extensions, pending the outcome of the policy review.

Informal discussions with the DPE indicate that the planning proposal will not be able to proceed in its current form as it is not consistent with the State government policy position.

It is anticipated that the DPE will formally request Council withdraw the planning proposal or refuse it at the Gateway.

Update on the prevalence of Short Term Rental Accommodation in Tweed

The report to Council on 5 October 2017 included some basic analysis of STHL in Tweed.

Whilst this report, and the following figures relate specifically to the short term rental platform AirBnB, it is noted that this is only one provider of many on the STHL market. AirBnB is

referred to here as there is a tracking website which provides basic numerical data. The figures are not provided to be a complete picture, rather to provide an indication of trends.

At the time of the 5 October 2017 report (at 3/8/2017) the Inside AirBnB website noted:

- 369 listings for the Tweed Shire;
- 70% of those (253) being entire home or apartment;
- 2,350 listings for the Northern Rivers.

In a little over 12 months current figures (at 10/10/18) have substantially increased to:

- 1,091 listings for Tweed Shire;
- 80.1% of listings being entire home/apartment;
- 44.4% of listings are multiple listings (an owner having more than 1 property for rental);
- 5,114 listings for the Northern Rivers.

This represents an increase in listings of 295.6% in the last year and STRA use of 2.5% of all dwellings for the Tweed. There is an increase of 217.6% for listings within the Northern Rivers total area.

There is no real data for the Tweed on the correlation between an increase in STRA and any impacts on housing affordability and availability of rental accommodation.

In order to make any future evidence based submission to the DPE on the impacts of STRA an independent research report on, but not limited to, the following should be undertaken:

- the prevalence/trends;
- economic and housing impacts on affordability and availability;
- TSC ability to meet our housing growth targets; and
- compliance and management implications for Council.

Current State Government STRA Policy position

The State Government now refers to *short term holiday letting as short term rental accommodation (STRA)*. This term is used for the remainder of this report.

On 5 June 2018, the Minister for Planning and the Minister for Better Regulation and Innovation announced a "*whole of government framework for STRA in New South Wales*".

This media release alluded to:

- a State-wide planning framework;
- changes to strata legislation; and
- a mandatory Code of Conduct.

Of note the State Government also announced a Policy position on the number of days STRA may be used, as follows:

- Allowing STRA as *exempt development* for 365 days per year when the host is present.

- When the host is not present, a limit for hosts to rent out properties via STRA of 180 days in Greater Sydney, with 365 days allowed in all other areas of New South Wales.
- Councils outside Greater Sydney having the option to decrease the 365 day threshold to no lower than 180 days per year.
- Certain planning rules will apply to properties on bushfire prone land.

Explanation of Intended Effects (EIE) for the Short Term Accommodation Planning Framework

The State Government has now released (October 2018) an *Explanation of Intended Effects (EIE) for the Short Term Accommodation Planning Framework*, based on the above adopted State Government position on STRA.

Information on the STRA policy framework can be accessed on the NSW planning and Environment website as follows: <http://www.planning.nsw.gov.au/Policy-and-Legislation/Under-review-and-new-Policy-and-Legislation/Short-term-holiday-letting>

The State Government's position on the permissibility of STRA will be enacted via the introduction of:

- *A single definition for STRA;*
- *Exempt and complying development pathways that enable STRA as:*
 - *Exempt development for up to 365 days per year, when the host is present.*
 - *Exempt development, when not on bushfire prone land and when the host is not present, for:*
 - *No more than 180 days per year in Greater Sydney*
 - *Up to 365 days per year outside of Greater Sydney. Councils outside Greater Sydney will be able to decrease the 365 day threshold to no lower than 180 days per year.*
 - *Complying development, when on bushfire prone land under BAL29 rating and the host is not present for:*
 - *No more than 180 days per year in Greater Sydney*
 - *Up to 365 days per year outside of Greater Sydney. Councils outside Greater Sydney will be able to decrease the 365 day threshold to no lower than 180 days per year; and*
- *Amendment to the Strata Management Act 2015 to allow owners' corporations (by a 75% majority vote) to make by-laws that prohibit the use of lots for STRA where the lot is not the principal place of residence of the owner or tenant. The by-laws cannot prohibit STRA if the lot is the principal place of residence for the owner or tenant.*

A transitional period will allow Councils to update their LEPs to ensure consistency with the *Short Term Accommodation Planning Framework*.

Public exhibition and consultation

On 5 October 2018 Council was advised of the public exhibition of the *Explanation of Intended Effects (EIE) for the Short Term Accommodation Planning Framework*, with submissions closing on **16 November 2018**.

The Department of Planning and Environment (DP&E) will be holding an information session in Tweed Heads on 13 November. Relevant Council staff and The Mayor will be attending this

session (the Department has specified a maximum number of 3 attendees from each Council). It is noted that this session is three days before the close of submission. As such Council staff have requested an extension for submission. At the time of writing there has been no reply to the extension request.

Application for a reduction in the number of permissible exempt development days

The EIE notes that, should a regional Council wish to apply for a reduction in the number of permissible days for STRA as exempt development, that such an application must be received *within eight weeks of the commencement of the public exhibition*.

Should no application be received and approved, the maximum of 365 days per year as exempt development will apply through the amendments to the *State Environmental Planning Policy - Exempt and Complying Development* (Codes SEPP).

The EIE welcomes submissions, however, notes that the number of days, as outline above, is a policy position endorsed by the Government.

It is noted that the information provided in the EIE is general and addresses the intended effects, rather than specifically outlining the details of the proposed legislative changes and the mechanics of the operational requirements.

There is limited information or policy framework around how the compliance matters implications of the STRA framework are to be managed, other than the references largely to the existing framework under the *Environmental Planning and Assessment Act 1979* and *Protection of the Environment Operations Act 1997*. The EIE refers to this role being the responsibility of Councils, the police and the Office of Fair Trading, depending on the issues.

This is a significant policy area with the potential for widespread impact and decisions surrounding the potential impact are note made easier in the absence of the actual legislative amendments, code of conduct and the like.

That being said, the officers have considered at length, on the information available, the new proposal and while it is generally considered that under more favourable circumstances a 180 day trial period would be preferred, the widely held view based on the experience of regulating the compliance of this use over the preceding three years is that to do so will do no more than to perpetuate the current overburden on the Council's limited compliance resources.

Under the proposed framework every 'operator' host will need to subscribe and comply with a mandatory Code of Conduct. This is a significant step in the right direction and mirrors where the Council's own planning was heading in 2015/16, when it publically consulted on its own draft Code. This will provide a more transparent and clearer guideline for any future compliance action on the actual nuisance complained of rather than, as presently occurs, allocating significant resources on the 'legality' of the use, except in those cases where the use does not meet the description of exempt development.

Directing efforts to the 'nuisance', whether that it noise, poor behaviour, or otherwise should lessen the impact on Council's resources in this space and allow those resources to be redirected toward other important matters of the environment.

It will also likely provide a more favourable climate for the 'host' to learn and institute better practices, as for many hosts operating a commercial business will be a new experience.

For completeness, the range of compliance issues Council has faced in recent times includes:

- Noise impact - Transient groups (especially young groups) of people impacting on quality of life of neighbouring properties.
- Security concerns with many different and unknown people in the areas.
- Anti-social behaviour such as swearing, fighting, smashing bottles, shouting and parties until all hours of the night.
- Bins are being overfilled, use other residents' bins & the STHL people do not take them out.
- Potential damage to property.
- Inappropriate number of guests staying, for example up to eight people staying in a two bedroom unit suitable for four people.
- Residential units being used for tourism units, apartment blocks are becoming more like informal hotels.
- Traffic issues in cul-de-sac areas.
- Parking issues in apartment blocks.
- Building Code of Australia – Some residential houses and/or units do not meet the BCA for commercial or safe use.

In addition, there are apparent emerging social, economic and environmental implications:

- Long term local residents are now being given notice to vacate and need to move away from the Tweed Shire area as more dwellings are being used for STRA rather than long term rental and there are significantly less places for long term rentals.
- Established residents have sold and moved away because of poor behaviour by short term rental tenants near-by and by the lure of the high prices being offered.
- Residents specifically move to *R2 Low Density Residential* zones so that they can enjoy the quiet residential areas which are increasingly occupied by STHL.
- Caravan parks and registered motels/hotels are now experiencing financial difficulty as they are no longer can compete with online STRA platforms.

There is perception that these impacts are causing a loss of community as there is a shortage of long term residents and an influx of constantly turning over tenants who have no local ties and little desire to fit in creating transient neighbourhoods.

On the reverse, the benefits of this new industry and technological platform advancements is that it STRA also offers:

- employment opportunities locally for people in this industry for example cleaners, linen supplies/washing etc;
- significant tourism opportunities and economic input from the tourism industry; and
- less amenity impacts where a host is present.

While the Officers' consider the proposed 365 day per year proposal favourable, for the reasons stated, it is nonetheless open to Council to resolve to seek a lesser number of days to a minimum of 180 days per year.

Issues for Submission:

EIE Implications and proposed submission content

The EIE has been reviewed and the following outlines the potential implications, planning comment and proposed submission comments.

Permissibility

The *Short Term Accommodation Planning Framework* introduces a new definition for STRA as follows:

“the commercial use of an existing dwelling, either wholly or partially, for the purposes of short-term accommodation, but does not include tourist and visitor accommodation.”

STRA will be permissible (through amendment to the SI and the E&C Code SEPP) referring to anywhere a legal *dwelling* is permitted, rather than through specified zones:

- This would permit STRA in all rural and all residential zones via the definition of a *dwelling*.
- *Tourist and visitor accommodation* defined uses will not include STRA.
- All Commercial zones (other than B5) would allow STRA via *shop top housing* which is a *dwelling* and not part of the “tourist and visitor accommodation” definition.

It is unclear if a *moveable “dwelling”*, which includes tents, tee-pees, caravans, old buses etc constitutes a *dwelling* if used as a “*separate domicile*”. Many of these moveable dwellings are located in flood prone or vulnerable areas. *Moveable dwellings* are permissible in most open zones (all residential).

The introduction of the words “*commercial use*” into the definition reinforce that STRA is a “commercial use” which is to be permitted in residential and rural zones where generally commercial use (*commercial premises*) is not permitted and/or the commercial use is inconsistent with the zone objectives, such as the *RE2 Low Density Residential* zones.

Recommended submission content:

1. Tweed Shire Council seeks to clarify if the exclusion of *moveable dwellings* for use as STRA is intended.
2. Should they be included as a *dwelling* for exempt use for STRA, Tweed Shire Council seeks clarification how are BCA requirements to be managed, what measures are in place to manage risk for bushfire, flooding and other hazards typical of the location of these forms of “dwellings”, which are occurring more frequently in heavily vegetated and “off grid locations” throughout our region.

Bushfire

There is uncertainty as to how a property owner will be able to demonstrate they meet the BAL 29 bushfire requirements, particularly where a consent is more than 12 years old (when the Planning for Bushfire requirements commenced). Similarly there is uncertainty on how compliance with the bushfire requirements can be managed.

It is clear that individual owners will need to satisfy themselves that they meet the bushfire requirements to operate the use as exempt development.

What is unclear is how the compliance of the bushfire requirements are to be recorded and managed.

Recommended submission content:

3. Clarity is sought on the operation mechanisms of recording and managing the compliance of the bushfire requirements and therefore whether a use may be exempt or complying development.

Flooding

The EIE makes provision for the consideration of bushfire prone land where the host is not present, however, there are no considerations or requirements with regards to flood affected land. Where a host is not present STRA of dwellings will only be allowed up to 29 BAL as exempt development.

Council has recently experienced severe flooding where a number of people lost their lives. Council is currently trying to reduce the number of dwellings and people exposed to flood risk.

Risk considerations for flood prone areas should also be included within the Code SEPP.

Recommended submission content

4. The *Short Term Accommodation Planning Framework* and amendments to the *Codes SEPP* should address permissibility and any safety requirements for flood affected land.

Meeting regional plan Directions and growth targets

The North Coast Regional Plan and regional planning policy provides targets for residential housing based on population growth and demand.

Whilst there is data being collected on dwelling numbers built, there is currently no data being collected on what percentage of this new housing stock is being built but effectively removed from meeting the dwelling targets as they are no longer used for permanent occupation.

5. The *Short Term Accommodation Planning Framework* investigates the impact for local government on meeting dwelling targets.

Compliance

There is very limited information or policy framework around how the compliance matters and implications of the STRA framework are to be managed. The EIE refers to this role being the responsibility of Councils, the police and the Office of Fair Trading, depending on the issues. Notwithstanding, Council is almost always the first point of contact for complaints.

The increase to 365 days per year as exempt development will almost certainly result in an increase in the number of STRA and associated compliance issues. However, as discussed above, varying the number of exempt development days permissible will significantly increase the compliance complexity for Council, who will have limited access to the number or location of STRA properties (given they will be exempt development); the number of days they are

required to be operating and no knowledge of the number of days they are actually operating etc.

There should be scope for either the online platform operators and/or the State Government (via a registration framework) to collect and manage this data and to make that data available to Councils.

It is considered there should also be recognition of the increased demand for compliance and provision of resources towards the compliance implications of the State policy.

It is recommended within this report that Council accepts the 365 days as exempt development to better manage STRA on a “single playing field”, rather than under multiple conditions. However, it is also acknowledged that the demand on compliance resources will likely increase but managing all STRA on the same conditions will be less complex than under multiple conditions.

Recommended submission content:

6. The *Short Term Rental Accommodation Planning Framework* and legislative amendments include a register for all STRA any associated conditions (ie maximum number of days), bushfire requirements and a register of compliance issues and complaints to be maintained on the DPE website.
7. The *Short Term Rental Accommodation Planning Framework* and legislative amendments include a compliance framework clearly outlining roles and responsibilities for compliance and clarity on what constitutes a compliance issue.
8. The *Short Term Rental Accommodation Planning Framework* and legislative amendments include resourcing for local government to manage the impacts and compliance issues of the policy or facilitate a registration levy to enable Council to manage the compliance impacts.

Monitoring

The impacts of the State Government policy position are unclear at this time. There is limited research available widely, and almost no research locally as to the economic, social or environmental impacts of this policy position.

Whilst each Council can and should monitor the impacts for their region, it is reasonable to expect the State to monitor the impacts of the introduction of this new policy and to make this information available to Councils.

Recommended submission content:

9. Request that the State Government collect use and compliance data to monitor the impacts of the introduction of the STRA provisions and make this information available to Councils.

OPTIONS:

1. Resolve in accordance with the recommendation provided and in doing so noted the proposed number of days per year at 365 and raise with the Department of Planning and Environment by way of submission those other areas of concern discussed within this report, or

2. Resolve on a lower number of days somewhere at or above 180 days per year and raise with the Department of Planning and Environment by way of submission those other areas of concern discussed within this report, or
3. Resolve to receive and note this report and to take no further action.

Options 1 is recommended.

CONCLUSION:

The policy position of the State Government is to allow the use of a dwelling for STRA as exempt or complying development. In the officers' view this has positive benefits for hosts and occupants surrounding certainty of use, the parameters for being a good operator and new safety measures to lessen risk to occupants. It also has potential downsides as it is legitimising the use of residential premises and suburbs for commercial use and thus potentially exposing others to an elevated risk of nuisance or disturbance.

The officers have considered the Government's policy proposal and based on their experience and current level of resourcing around land-use compliance have formed the view that adopting the policy without amendment is possibly the better outcome, based on the information provided. This is reflected in the recommendations to this report.

Notwithstanding the Officers' consider the proposed 365 day per year proposal favourable, for the reasons stated, it is nonetheless open to Council to resolve to seek a lesser number of days to a minimum of 180 days per year. The Officers' also consider that there are other matters, as detailed in the body of this report that should also be raised by way of submission to the Department of Planning and Environment.

COUNCIL IMPLICATIONS:

a. Policy:

Dependent on the outcomes of the State Government's determination of this new legislation. Council may need to update its Compliance Policy.

b. Budget/Long Term Financial Plan:

There may be ongoing implications for the budget through increased demand on compliance services.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult - We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Explanation of Intended Effects (EIE) for the Short Term Rental Accommodation Planning Framework October/November 2018 (ECM 5607868)

2 [PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

SUBMITTED BY: Director

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Provider**

SUMMARY OF REPORT:

In accordance with the Department of Planning's Planning Circular PS 08-014 issued on 14 November 2008, the following information is provided with regards to development applications where a variation in standards under SEPP1 has been supported/refused.

RECOMMENDATION:

That Council notes there are no variations for the month of October 2018 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

On 14 November 2008 the Department of Planning issued Planning Circular PS 08-014 relating to reporting on variations to development standards under State Environmental Planning Policy No. 1 (SEPP1).

In accordance with that Planning Circular, no Development Applications have been supported/refused where a variation in standards under SEPP1 has occurred.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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