

Council Reference:
Your Reference:



19 June 2019

Customer Service | 1300 292 872 | (02) 6670 2400

[NAME AND ADDRESS]

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www.tweed.nsw.gov.au



PO Box 816
Murwillumbah NSW 2484

Please address all communications
to the General Manager

ABN: 90 178 732 496

Dear [SIR/MADAM]

ILLEGAL LAND USE AT [LEGAL DESCRIPTION AND PROPERTY ADDRESS]

Council is in receipt of a concern alleging that the above mentioned property is operating a tourist and visitor accommodation arrangement.

After a desk to analysis, it has been confirmed that the property is operating as a tourist and visitor accommodation. **[INSERT WEBSITE ADDRESS DETAILS]**

The subject site is zoned R1 General Residential area and under The Tweed Local Environmental Plan 2014 a tourist and visitor accommodation is **prohibited**.

The Local Environmental Plan 2014 precludes short term holiday accommodation in specific residential zones, particularly general residential areas such as yours. This decision reflects the numerous complaints Council receives regarding the impact of short term holiday accommodation on neighbourhood amenity in terms of noise, privacy, traffic volume and infrastructure. Consequently the restriction reflects the needs of the *broader* community that Council is compelled to represent.

Council policy is to maintain the principals of The Local Environmental Plan 2014 through Compliance enforcement action.

Council have been inundated with so many complaints on short term holiday letting (STHL) over the last 12 months. It has become a very big problem in the Shire. Unfortunately, Council do not have the resources to take a wide spread action against every STHL in the Shire. The following resolution was passed by the Councillors of Tweed Shire Council in April 2018:

TITLE: [NOM] Short Term Holiday Letting

Cr W Polglase
Cr P Allsop

RECOMMENDED that Council defers taking any widespread action against any unauthorised or non-compliant short term holiday let (STHL) uses, until the release of new, anticipated State Government STHL legislative and planning policy controls, except in those circumstances where it can be demonstrated that such uses are having an unreasonable impact on the amenity of adjoining or surrounding neighbours as determined by Council.

The Motion was **Carried**

FOR VOTE - Cr R Byrnes, Cr R Cooper, Cr K Milne, Cr J Owen, Cr W Polglase, Cr P Allsop
AGAINST VOTE - Cr C Cherry

The main concerns that Council have received alone in the last 12 months regarding compliance issues on STHL in unlawful areas are as follows:

- 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
- There's been numerous occasions where up to 8 people have stayed in a 2 bedroom unit. This will start causing infrastructural problems and the uprise of rates
- Residential units being used for tourism units, apartment blocks are becoming more like informal hotels
- Local residents are now being forced to move away from the Tweed Shire area as there are no places for long term rentals. This is causing a loss of community, residents have sold up and moved away because of poor behaviour by short term rental tenants near-by and by the lure of the high prices being offered. This leads to 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 no desire to fit in.
- Residents specially move to R2 zones so that they can enjoy the quiet residential areas to which now are occupied by STHL
- Traffic issues in cul-de-sac areas
- Parking issues in apartment blocks
- Caravan parks and registered motels/hotels are now experiencing financial woes as they are no longer can compete with platforms such as AirBnb and/or Staysz
- Building Code of Australia – Some residential houses and/or units do not meet the BCA for commercial use

It may be worth having a look at the below links regarding the new short term holiday letting regulations for 2019. Please note, the new framework is expected to commence this year, however in the interim, **Local legislation will still prevail.**

<https://www.fairtrading.nsw.gov.au/news-and-updates/news/new-short-term-holiday-letting-regulations>

<https://www.planning.nsw.gov.au/policy-and-legislation/under-review-and-new-policy-and-legislation/short-term-holiday-letting>

<https://www.planning.nsw.gov.au/STHL>

Government position on Short-term holiday letting

On 5 June 2018, the Minister for Planning and the Minister for Better Regulation and Innovation announced a new approach to regulating STHL in New South Wales. You can view the Ministerial Media Release at [Win-Win](#).

Through a state-wide planning framework and mandatory industry self-regulation, the approach will address the impacts on communities.

The Department of Planning and Environment and the Department of Finance, Services and Innovation (DFSI) are now working to implement the government policy.

The new planning framework will simplify and clarify the planning regulation of STHL in NSW, by providing:

- a single definition for the use
- clear pathways for approval. Specifically:
 - when the host is present on-site overnight, STHL will be allowed as 'exempt development' all year,
 - when the host is not present on-site overnight, STHL will be allowed as 'exempt development' with a limit of 180 days for hosts in Greater Sydney and 365 days in all other areas of NSW,
 - councils outside Greater Sydney will be able to decrease, through their local environmental plans, the 365 day threshold to no lower than 180 days per year and
 - certain planning rules will apply to properties on bushfire prone land.

This new policy has not yet been implemented and until this time the permissibility and operation of STHL remains at the discretion of local councils. Communities are encouraged to contact their councils for provisions for STHL in their local government area.

A mandatory Code of Conduct will also be introduced that will apply to anyone involved in providing or using STHL including hosts, guests, online booking platforms, and letting agents. DFSI will administer and enforce the elements of the Code.

For information regarding the mandatory Code of Conduct and strata regulations, visit the [NSW Fair Trading](#) website or [contact the Department of Finance, Services and Innovation](#).

Should you wish to discuss further options regarding the land use please contact Council on (02) 6670 2400 and ask to speak with the duty officer from the Development Assessment Unit.

Alternatively, should you wish to discuss the regulations and legislation around short term holiday letting, it is suggested that you seek legal advice or alternatively engage in the services of a private planning consultant.

As Council has received a formal complaint **[INSERT COMPLAINT NO]**, Council now have a duty to ensure compliance on the matter.

It is now directed that should any short term holiday letting accommodation be operating, it is to cease immediately and any further bookings should be cancelled.

You are hereby advised that should the property be found to be operating a short term holiday letting accommodation arrangement, enforcement action may be taken against you in the way of penalty infringement notices (\$3000.00) under the *Environmental Planning and Assessment Act 1979* and/or Orders in a Court of competent jurisdiction.

Consultations on policies

Consultations on major projects

- > Exempt Development
- > Community Development
- > Major Projects
- > Growth Management
- > View all

Council will require a written submission (email is suffice) from you within 7 days
[INSERT DATE HERE] advising that the STHL has ceased completely.

Yours faithfully



Zoe Fobian
COMPLIANCE OFFICER
DEVELOPMENT ASSESSMENT AND COMPLIANCE

Attachments Include:

1. Local Zoning Plan – R1 Zone
2. Tweed Local Environmental Plan 2014 – Zone R1 General Residential
3. Definition of tourist and visitor accommodation
4. Tweed Shire Council Media Release
5. Tweed Link