



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF PROCEEDINGS

RE: BYRON SHIRE - SHORT TERM RENTAL ACCOMMODATION
PLANNING PROPOSAL (PP-2021-3351)

**WA DEPARTMENT OF PLANNING, LANDS
AND HERITAGE BRIEFING**

COMMISSION PANEL: DR SHERIDAN COAKES (Panel Chair)
PROFESSOR RICHARD MACKAY AM
JULIET GRANT

OFFICE OF THE IPC: STEPHEN BARRY
OLIVER COPE

WA DEPARTMENT OF PLANNING, LANDS
AND HERITAGE: JACQUIE STONE
LUCY GUNN
CHARLOTTE GIBBS

WA DEPARTMENT OF MINES, INDUSTRY
REGULATION AND SAFETY - CONSUMER
PROTECTION: ROBYN PETERSON

LOCATION: VIA VIDEO CONFERENCE

DATE: 12.15PM, WEDNESDAY, 15 FEBRUARY 2023

TRANSCRIBED AND RECORDED BY APT TRANSCRIPTIONS

DR SHERIDAN COAKES: So before we begin, I would obviously like to acknowledge that I'm speaking to you today from Worimi Land, and acknowledge the Traditional Owners of all the country from which we virtually meet today, and pay my respect to their Elders past and present.

Welcome to the briefing today to discuss the planning proposal to reduce the number of days of non-hosted short-term rental accommodation in parts of the Byron Shire in New South Wales, currently before the Commission for advice. My name is Dr Sheridan Coakes. I am the Chair of this Commission Panel, and I am joined by my
10 fellow Commissioners, Professor Richard Mackay and Ms Juliet Grant. We are also joined by Stephen Barry and Oliver Cope from the Office of the Independent Planning Commission.

In the interests of openness and transparency and to ensure the full capture of information, today's meeting is being recorded and we do have APT Transcriptions online and ready to go, and a complete transcript will be produced and made available on the Commission's website.

This briefing is one part of the Commission's consideration of this matter and will
20 form one of several sources of information upon which the Commission will base its advice. It's important for us to be able to ask - the Commissioners to ask questions in the session and to clarify issues whenever it is considered appropriate, and if all Members here today could introduce themselves before speaking for the first time, for all Members to ensure that they do not speak over the top of each other, to ensure accuracy of the transcript. So we will now begin.

So thank you very much for meeting us today to share some of your knowledge and experience in relation to the management of short-term rental accommodation. Today's briefing is one of a number of briefings that we are undertaking with
30 departments in other jurisdictions to inform our process. We did provide you with an agenda to guide some of the discussion today, and to better understand, I guess, your approach and key learnings in this space. So if we could kick off, I guess, following through that agenda, that would be fantastic. So I guess the initial - one of our initial questions is around what has been sort the rationale or objective for regulation of short-term rental accommodation in Western Australia, and your policy intent.

MS JACQUI STONE: Do you want me to kick off, Lucy? So I'm Jacquie Stone, I'm the Executive Director of policy here at DPLH. We - you'll probably know how the planning system works here, but we provide advice both to the Minister for Planning
40 and to the Western Australian Planning Commission. So all the planning policies we

reference here, while they're prepared by DPLH, they are the Commission's policies, so just to be clear on that.

10 The policy really came about as a result of the Parliamentary inquiry, which was held in 2019, which was called in response to issues that were raised around short-term rental accommodation, and that Parliamentary inquiry made a number – or made ten recommendations to the Government, nine of which were accepted, and one of those was to really look at short-term rental accommodation in the planning system. We had already been in the process of reviewing the Commission's policies around tourism development, and so basically that review and the short-term rental accommodation were rolled into the one project, which is the position statement on tourism land uses, and so that's really what kicked off the policy review and the process for us, and the – I guess the rationale was, the Government wanted to respond to looking at short-term rental.

20 In WA previously, we'd had definitions of things like holiday houses and serviced departments, and that was traditionally how what is now termed short-term rental was dealt with previously, so lots of schemes, particularly in regional areas, have holiday house as the definition, and local governments, if they were regulating it, were dealing with it through that mechanism. Serviced apartments, I guess, kind of fell in-between. That was more formal, but I guess they also potentially overlap into the short-term rental accommodation situation as well.

30 So when we looked at the policy, we really looked into, similar to other jurisdictions, looking at hosted and un-hosted accommodation, and really the – what went out in the position statement for advertising looked at defining those two different uses, and what level of approvals were required for them, because previously there was no distinction in the planning system between those two. We had a definition for bed and breakfast, which probably is closer to the – what we're looking at now as hosted, and the intention is that we would actually get rid of that definition and it would be fully covered by the hosted accommodation and wherever we get to with that.

So we've advertised the position statement. We received, in combination between the consultation we did on a registration system and the position statement, we received over 2,000 submissions, so we're just working through those at the moment, and doing – going to do some further consultation with regional – particularly regional local governments, but other local governments, before we finalise that position statement, which we're hoping to do by the middle of this year.

DR COAKES: Okay. And, Jacquie, just in relation to your STRA definitions, have there been any particular, I guess, exemptions? I noticed for hosted, you've got a 365-day sort of cap.

MS STONE: Yes. So what was advertised, we obviously would have to make regulatory changes to give those effect, so we're really just seeking comment on that. So it was proposed that hosted accommodation would be exempt and there would be no day limits, up to four guests or one family. If it was more than that, then they would need to get an approval from their local government, if the local government
10 required approval under their scheme. Not all local governments require approval – some already have some exemptions in place, and for – so that was for hosted, and then for un-hosted, it was proposed that that could be for up to 60 days without approval, and anything more than that would require approval from the local government.

DR COAKES: And was there any, Jacquie, sort of justification, I guess, for the selection of that 60-day?

MS STONE: Yes. There was much discussion around the number of days, because
20 we had also looked at what other jurisdictions were doing, including New South Wales, who had introduced 180 days by the time we were looking at that. Really, a lot of it was more around at what point does it become a change of use from a dwelling to STRA, and the idea that - originally behind concepts like Airbnb was being able to rent your house out to someone while you're away on holidays, so a lot of the policy position, I guess, around the 60-day exemption was to allow people to rent out their primary place of residence while they're away on leave, without the need to get an approval from their local government to do that, because it would be a temporary change of use, rather than a permanent change of use, and so there's lots of discussion about what tipping point does it become a change of use, or is it incidental. So the
30 idea was to put some parameters around that to provide some guidance around that.

As I said, there was much debate around the number of days. We talked about 30 days, because there were – in theory, everyone has four weeks annual leave, but then there was discussion around, well, long-service leave, or – because in WA we also have a lot of fly-in, fly-out, and sometimes they get up to six weeks annual leave or other things like that, so the day of 60 was landed on, at least for the purposes of advertising. We received a lot of submissions who had varying views on what it should be, from no exemptions to 365 days, so we still have to work through where that number might sit, as part of the final determination of the policy.

40

Also, while we'll look at that as part of the policy, because there will be a regulation change that's required to implement those exemptions, so we have planning – we have what's called deemed revisions to the planning scheme, so once we make a change to the regulation, it automatically applies to every planning scheme in WA, so there's a requirement for further consultation to make that regulation change, so we'll have to have a further round of consultation when we actually go to implement the change to the regulations, which will be either later this year, I think, or potentially early next year, but realistic, probably later this year, so we'll have had two discussions around the exemptions.

10

DR COAKES: Yes. So there's been a lot of consultation, hasn't there, in your process, in terms of – it's been over quite a long period of time.

MS STONE: Yes. So before we put the position statement out, we did a series of target issue consultations with both industry representatives and local governments to land on both some details around the exemptions and also around the – what might go into the registration scheme. We have said that we won't introduce any exemptions until the registration scheme is up and running, so that everyone will have to be registered under the registration scheme, regardless whether they need a planning approval or not, or whether they're exempt. So if hosted, un-hosted exempt or not, it all has to be registered, so we want the registration scheme up and running so everyone is registered before we introduce the exemptions. So the drafting that Robyn's team are doing at Consumer Protection for the – because we need a new bill for the registration scheme to have effect, we'll do the planning exemptions in parallel with those, so they will run as two parallel projects.

20

DR COAKES: Okay. Can you give us a little bit more information around your registration scheme, and – because obviously that was – sorry – that was - - -

30 MS STONE: That's all right.

DR COAKES: Yes. I noticed in the recommendations from the Planning Committee reports, that was obviously a key recommendation - around the scheme, there was a lot of details – so just some further detail around that would be great.

MS STONE: Yes. Robyn will do that for you.

MS ROBYN PETERSON: Yes. My name is Robyn Peterson, I'm the General Manager at the Legislation and Policy Branch in Consumer Protection that is responsible for this project. We – this was passed over to us by Cabinet in November

40

2022, so the initial consultation around the registration scheme was done by Planning, so they may be able to give you information if there's specific questions about that.

10 But basically, what Cabinet has asked us to provide is drafting instructions for a build to introduce a register that will be a fairly light touch registration scheme. It will capture all short-term accommodation providers, other than those that are intended – built for that purpose, like hotels and self-contained apartments and things that have been built and designed for accommodation purposes, so it will have a pretty broad reach, in terms of including all of those, and then some particular specific types of accommodation will then be taken out by regulation, excluded by regulation, but it will have a pretty broad coverage, but it will not be a particularly heavy-handed system in terms of what we're going to require.

20 The intention is that owners who are registering a property on the register will have access to links so that they can find out what the regulatory requirements are in their specific council area, and the regulatory requirements are in respect of other government agencies, such as DBAS, around bushfire management and those sorts of issues. They'll be able to find that information and then they will be required to self-certify when they register to say that they have made themselves aware of those arrangements and that they are compliant with those arrangements.

30 We only have a couple of council areas at the moment in Western Australia that have fairly comprehensive registration schemes of their own. Some of them have a few additional requirements. The intention is that the councils will be able to be as – have as little or as much regulation as they believe is necessary in that council area. So some will probably continue just to rely on the information that's coming from our register and not much on top of that. Others will be able to use the information we provide them off the register in order to put any other obligations that they think are appropriate in place.

40 It's intended that the information that will be included will be addresses, contact details for a manager or operator, information such as whether the accommodation is hosted or un-hosted, how many people are – can accommodate – the maximum number of people it can accommodate, the number of bedrooms that are available at the property, and also information around the number of days that it's going to be made available. The intention is that we will build in a mechanism to communicate with the booking platforms so that we will be able to find out, through the information that's provided to them and then stored on the register, how many days a property is let during a particular period. So the idea is that the register will monitor that.

Now, that said, we are going to need to purpose-build an IT system to manage this, and that is still in the very early development stages at the moment, in terms of what the capacity of that will be, and what we'll be able to do with it. But certainly the hope is, the intention is, that the operators will be able to come in and put their own information in, so they'll be able to upload any information that they need to, that they will be able to use links on the register to get other information that they need that's relevant to their operation of a STRA, and that we will be able to interact with the booking platforms in terms of getting information about how the property is used.

10 MS STONE: And it's probably fair to say, Robyn, one of the things is that that information will be available to local governments and other government agencies - - -

MS PETERSON: Yes.

MS STONE: - - - so the platform will have the ability to share the information across Government.

MS PETERSON: Yes. So this – yes. So when someone registers, the intention that the Local Government Area will be notified that there has been a registration, so they
20 will be able to follow up and do compliance work, and that also we will have a capacity to suspend or remove a property's registration if there is work being done at council, either to suspend it, if council is clarifying obligations, and it's likely to be short-term, or to suspend it if the operator is not compliant.

DR COAKES: Okay. Lovely.

MS PETERSON: It should also – sorry, I might also just throw in there that we are also considering, at this point, whether a code of conduct is appropriate in Western
30 Australia, but that is in the very early stages.

DR COAKES: Okay. I'm just going to hand to Richard, who has his hand up.
Richard?

PROF. RICHARD MACKAY: Thank you, Chair. It's Richard Mackay speaking.
Thank you. That's all really helpful and informative. Could I just clarify, is there,
then, an obligation on the operators to ensure that the records are comprehensive?
And why I'm sort of asking is that if you populate using the platform data, that will
capture the bookings that are made through the platforms, but it won't capture any
bookings that are made otherwise, you know, through a billboard in a local shopping
40 centre or something like that. So is there – it is intended that there will be an onus on

the operators to self-report – I mean, you know, or is it just going to be a bulk transfer of data from the platforms, please?

MS PETERSON: No, the data will be fed in from the platforms to the extent possible, but at the end of the day, the onus will be on the operator to make sure that all that information is captured and provided, and if they are using other booking methods, other than the platforms that can interact with the system, they will have to feed that information in manually.

10 PROF. MACKAY: Terrific. Thank you. And in terms of the compliance, so if you've got, say, your 60-day cap, does it fall to the local government agency to – I mean, if there's a breach of that cap, what's the trigger? What would happen, please?

MS PETERSON: The intention is that a breach of the cap would be reported to the local government, and then they would be required to follow that up. I think there was some discussion about whether the platform should be required to stop taking bookings. I don't think that that's our intention at the moment, because of the fact that they can't be sure of what's coming in from where, so I think the intention is that they will only be required to provide the information, and the onus will be on the operator
20 to make sure that it's properly operated, and then it will be reported to the local council area, if it appears from the data that we're collecting that there's a potential breach.

PROF. MACKAY: That's really clear. Thanks very much.

MS STONE: I just probably should clarify as well, when we're talking about platforms, we're kind of using that generically, and we're having discussions around what will be defined, but the intention is that it would cover more than just booking platforms. It would cover real estate agents, property managers, all those other things,
30 so I think in the context of this, we might be talking about platforms quite generically -
- -

MS PETERSON: Yes.

MS STONE: - - - but we're looking at whether we can capture more than just the booking platforms.

MS PETERSON: Well, yes. There's two different issues, I guess, with platforms. There will be different types of obligations on booking services. We will have – there
40 will be a requirement on all booking services, so regardless of whether you're an Airbnb or a local news agency, anyone who is advertising a property will be required

to quote the registration number so that we can track whether a property is registered. So that will apply to anyone who is taking bookings for – or, sorry, who is placing advertising for a platform. But then the data collection will be different, and the data collection obligations will depend on the capacity of the platform that we’re dealing with.

10 DR COAKES: Okay, thanks. You mentioned around – you’ve obviously – a number of your local governments do have current frameworks in place – I think that’s the City of Busselton and Fremantle. Do – can you provide any comments about how you think those are working, and sort of how you see those may interact with the state approach?

20 MS PETERSON: I can’t really comment in terms of how they’re working. They have not, I think it would be fair to say, been in operation terribly long, at least not in their current form, and I’m not sure – I think we – our experience and the feedback we’re getting is that there have not been – they’re not getting a lot in terms of the complaints, in terms of the community relationship issues, there don’t seem to be big complaint numbers coming through, but in terms of their compliance with their planning requirements, I couldn’t comment on that.

30 In terms of how they will operate together, we’re having a look at that at the moment, and we’ve in fact just this morning sent off a request to the State Solicitor’s Office for legal advice on potential interaction between those two sets of legislation, but I think our intention is that the local government laws that are made under the Local Government Act would effectively – once a property is on the register, they would deem that as registration for the purposes of the application of their laws, and they would then apply whatever additional requirements they want under the local law, based on the fact that you have registered on the central register. That seems to be the way it’s going to work, but, as I say, we’re getting some advice on the detail of that from SSO.

DR COAKES: And I guess, from – in your view, are there other regulatory mechanisms that would encourage – that, you know, you would suggest? I notice, for example, I think it was around the Dunsborough area, that Dunsborough, that Local Government Area, looking at exclusion zones for particular short-term rental accommodation, and I guess that’s starting to look at that, that connection between long-term rental availability and the STRA piece. I just wondered if you had any comment on how effective those are being, or are they still very early days.

40 MS STONE: I think, again, it’s probably difficult for us to comment on the effect - - -

DR COAKES: For us to say, yes.

MS STONE: But – so Dunsborough is in the Shire of – sorry, in the City of Busselton. A fair bit has changed in the last couple of years. I'm not quite sure about whether they've got exclusions at the moment, but certainly the Shire of Augusta-Margaret River, which is immediately south of Busselton, they do, through their local planning scheme provisions, have areas where they don't support STRA being operated, and have a clear policy that talks about the areas where they prefer it to be, so they're trying to avoid it in their – what I would, you know, term residential areas, as opposed to their coastal towns, which have always traditionally in WA been places for holiday homes, anyway, and in some of their coastal towns, they might only have 30 per cent of people who live there permanently, and the other 70 per cent of houses has always been for holiday houses or tourist accommodation, so it does depend on the areas, but there are – both those local governments have reported to the State Government that they do have a long-term rental shortage, and that that's why they're seeking to deal with that.

Part of the issue we have, which other jurisdictions have identified, that without any really clear data, it's hard for us to know, and because those areas have always had a lot of – traditionally had a lot of holiday houses, since – you know, probably since the 1940s, it's quite hard for the Government to make a call on the impact on it. All the evidence we have at the moment is anecdotal and things that came out at the parliamentary inquiry hearings and things like that, so I think one of the clear outcomes from the parliamentary inquiry report that the Government has accepted is, having the register is a good way for us to know what's available or what's being used for short-term rental, and then we can do some of the analysis that I notice that some of the local governments in areas over in the eastern states have done, around that comparison of long-term and short-term rentals against all of the housing stock.

The figures that we can get, though we can't really verify what is short-term rental versus what is long-term rental and the impact that's having on housing availability, but it's certainly anecdotally there is a lot of discussion that's put forward that it is. And I guess it's that impact of areas, the tourist areas, and they need people to work in those tourism businesses who are competing for the long-term rental against the tourists who they're coming to work in the businesses for, so certainly in the southwest, particularly there is that big pressure on long-term housing availability.

DR COAKES: Thanks, Jacquie. And, Jacquie, you touched on the data issue – I guess that is the challenge, is getting that really good baseline. How have you sort of approached that, I suppose? I mean, it's difficult, as you said, to identify those properties.

MS STONE: Yes.

DR COAKES: Is there any learnings you can assist us with in that regard?

MS STONE: Probably not at the moment, just that it's very hard because people are listing as, you know, on – at multiple locations on multiple platforms, so you can't really tell just by listings what the properties are, and unless you go to the various companies like inside Airbnb or whatever, to get them to do it, to purchase the data, it's difficult to establish. I know City of Busselton have certainly purchased data, and at the moment, I think the last figure I'd heard was they spent about \$50,000 a year with those various companies to try and verify what they – what's happening in their local government, in regard – so that they can then identify the properties and know who's got approvals and who doesn't, and look at that for enforcement action, and as some of the other local governments have done, in WA, have done similar, but I guess that was one of the reasons for the registration system. And the Government certainly said, at the moment, they're taking a fairly light touch, but once we have the register up and running, and it does – we can do that – start to do that analysis, that if there needs to be further policy interventions to address that, then that will be done once we have got the figures from a reliable source that we can kind of put some rigour around.

I guess one of the other challenges in WA is, it's such a big state, and there's such a diversity in the demands and the local economic requirements, that it is – we find with most planning things, it is quite difficult to apply a blanket approach that's appropriate for all local governments. Obviously Busselton realistically probably has the most short-term rental accommodation, and it's a big issue for them that they've got a very well-established tourism economy which they want to continue to support, but, say, another local government, like the Shire of Shark Bay, which is up near Ningaloo Reef, their economy for tourism is quite fledgling and quite small, so they're quite supportive of all of this development and don't necessarily want to regulate as heavily as another area where there is already a lot established, so there is that balance for the Government in trying to provide appropriate mechanisms that each local government can give consideration to their local circumstances and respond to as well.

DR COAKES: And just in terms of the – I guess, through your consultation, the consultation with councils, that's been very positive, and people are – I guess they're very open to, I guess, working in the same direction, are you finding, around this issue?

MS STONE: Yes. It's probably reasonable to say that there's varying views, depending on, again, the local government area and their circumstances. There was

probably some common feedback – I think overall there was general support for the registration system. It was just understanding the mechanics about how it will work was what most of the submissions were. Again, there was mixed submissions around the exemptions. Again, those local governments that have a lot of pressure on them for this type of development, with the other issues, it's probably fair to say, to support the exemptions, they've taken a while, particularly in the southwest, they've got some good systems that they think are working well to manage the issues, and they see that an exemption would potentially – particularly the un-hosted 60 days, would potentially undermine the systems and the things that – the places they've got their local communities too.

10

Other local governments were happy for everything to be exempt, so it was very variable across the state, as I said, reflective of the different demands and requirements of the Local Government Areas. It was different in metro areas than it was in regional areas, which is generally the case in WA, anyway. I know probably similar in other states, but when you've got a population centre of, you know, nearly 2 million people and the rest of your state's population of a million people is distributed across, you know, 95 per cent of the land mass, it gets quite different responses to different issues.

20 DR COAKES: Yes. Juliet?

MS JULIET GRANT: Yes. So can you just clarify for me, when you're talking about the diversity of those regions and the variability that the local governments are allowed to impose, and exemptions, is that purely just in relation to switching on and off the 60 days, or is there something else that they can manipulate, or – yes?

MS STONE: So with the exemptions, basically, there's the two exemptions which would apply state-wide, the 60 days for un-hosted and the hosted one. After that, the local government could decide to, in effect, extend those exemptions. So if they are a local government that didn't want un-hosted to need a planning approval, they could basically do an amendment to their scheme to extend that exemption beyond the 60 days, they could make it 120 days or 365 days, if they chose. So when I'm talking about the variability, it's the host requiring approval. Similarly, wherever we end up with hosted, at the moment, it's up to four people. If a local government was happy to have more people for un-hosted – for hosted than four, if they wanted to have six or eight, they could again, through their scheme provisions, or have a local planning policy to extend those exemptions.

So I guess it's – when I'm talking about what they want to do, it's around, really, going further than what the state is having as its – the minimum that will apply to everyone. They could choose to apply higher or extend those exemptions further. So

40

some local governments - like the City of Mandurah, at the moment, don't require approval for a holiday home, it's a permitted use. They may decide to continue that, so the exemption exists for the six days, and they may extend that to 365 days to continue their current situation.

MS GRANT: Do you have a feel for how many of those councils are going to sort of pursue that, that variation?

10 MS STONE: Not without going back and having a look at – I mean, not every local government made a submission on the proposal. I think, from memory, we've probably got submissions from about 40-ish of our 138 local governments. We also received a submission from the Western Australia Local Government Association, so a lot of the local governments mightn't have put in a submission because they're in agreement with the WALGA position, and similarly some of them may not have made submissions because they were comfortable with what was being advertised. It's a bit difficult to know – I guess it's probably fair to say you generally get submissions from people who want things changed from the position that's been advertised, so yes, it's a bit difficult. Sorry, Lucy.

20 MS LUCY GUNN: Lucy Gunn, Project Manager. Just to add to that, some local governments were supportive in relation to the built form being a holiday home, in relation to the exemptions, but not for grouped or multiple dwellings. So they did actually drill down to that, noting there could be issues with apartments and people having neighbours very close, and common property areas that were being used by tourists and those kind of amenity issues – car parking and other issues are often exacerbated in apartment-type residences, so, yes, there were a few – quite a few submissions that highlighted that issue as well.

30 DR COAKES: Richard, you've got your hand up?

PROF. MACKAY: Thanks. It's Richard Mackay. Just thanks again, this is terrifically informative. Are there any instances or circumstances where the State Government would elect to override or impose a regulatory framework contrary to the wishes of the local government agency? I mean, I absolutely understand and appreciate the fine grain and diversity, the bespoke circumstances, but, you know, are there circumstances where there is either an actuality or a policy intent or an ability to intervene?

40 MS STONE: Well, I guess the deemed provisions do, so the exemptions that have been proposed would apply to all local government planning schemes - - -

PROF. MACKAY: Yes.

MS STONE: - - - and I think it's probably fair to say that local governments like the Shire of Augusta-Margaret River and Busselton don't want those exemptions applied to their schemes.

PROF. MACKAY: Okay. All right.

10 MS STONE: So the way the deemed provisions – so the planning schemes in WA are in two parts, what's called the model part, which is, we've got a model and they put their local development requirements, the zonings and everything, in there, and then the deemed provisions, which are primarily administrative, but also have the exemptions, so a single-dwelling exemption is in the air, and so those apply automatically to every scheme across the state, so when the government amends those regulations, it automatically changes every planning scheme throughout the state. So if we put the exemption into the deemed provisions, it will automatically – when we gazette that, will automatically amend every planning scheme throughout the state.

20 PROF. MACKAY: Okay. Thanks. But that's – I mean, that's a state-wide strategic planning regulatory policy decision. Is there any customised intervention – you know, with a particular local government agency or area, to say, look, we've got an issue here with tourist behaviour, or we've got an issue here with short- or long-term rental accommodation, so we will intervene in a specific way, with a different cap or different control or the like?

MS STONE: So at this stage, no. In theory, we could do a deemed provision that only applies to certain planning schemes, but it's never been used that way in WA. These provisions only came in to effect when we did regulatory change in 2015, so they're relatively new, before each scheme's individual provisions were amended. So
30 I guess that option would be open to the Government, potentially, once we've got the register up and running and we understand what the situation is, although I suspect that in those local governments that do already have the identified problem, that if the Government was open to some variations on that, they would potentially be looking to institute those and amend their schemes themselves. So in WA, the local governments initiate the scheme amendments, so they could start that process off, so it is possible that they – I think it's probably more likely that a Busselton or a Margaret River would like to start that process themselves, because they already understand what their issue is, and, as I said, we haven't used the deemed provisions to only apply to certain or
40 groups of local governments, although the legal theory is you could, we're yet to try or test it, and it may be something that happens further down the track, if we know there are particular outcomes from short-term rental on long-term rental, the Government

feels they have the need to intervene, then we've certainly got some mechanisms, but we're really waiting to see what the data shows and what the analysis of that is.

DR COAKES: Yes. Thanks, Jacquie. Juliet?

MS GRANT: Just making sure I've got my head around the right, because we in New South Wales were looking at is a cap, but you're effectively, with your exemptions, putting a floor, is it? So 60 is the minimum – you've been talking about some councils wanting to make it bigger, there's not councils that would want to make it lower.

10

MS STONE: No, there are local governments who would like – so – to have – to not basically have any cap, just have everything to require approval, so I think it's probably fair to say that very few local governments that don't support the exemption would like to have it at a lower night cap, say, 30 days. I think they're all, it's probably fair to say, without speaking for them, that they either want approval or they think that there should be some level of exemption.

20

So, again, those like Busselton or Margaret River would prefer that there is no exemption or no cap, that everything requires approval, even if it's only for seven days or ten days or whatever it would be. So we haven't really talked around whether local governments would like to lower it from 60 days, because, I mean, in comparison to other night caps, say, New South Wales, 60 days is quite low. I think Amsterdam might have 30 days, but otherwise they all seem to kind of be 60, 90, 180, so there probably, to be fair, hasn't been a lot of discussion around moving that lower from local governments, because I think those that don't support that are of the view that it should require approval from one day rather than somewhere less than the 60 days, it's probably fair to say, yes.

30

MS GRANT: That's right, yes. And is there any threshold – I think we've heard from some quarters, you know, that if it's – if somebody is renting the STRA out for, I think it was 21 days, then that doesn't count in the cap.

DR COAKES: Consecutively, yes.

MS GRANT: But that's considered long enough that it's not short-term. Do you have that kind of nuance as well?

40

MS STONE: No, I guess we're really just looking at – we're assuming that any days counts it as STRA, I guess, and it was that threshold of, when does it become a change of use, and I guess that's partially where the 60 days has come from. We're really saying if you're less than 60 days, it's still primarily being used a residential dwelling,

it's only kind of short-term for STRA, and therefore you don't need approval, and if it's more than 60 days, it's really moving into a change of use territory, and you probably should get approval if the local government considers that to be appropriate.

DR COAKES: And I think, Jacquie, that's consistent with, as you said, some of the international models, in terms of just determining where that change of use actually comes in, what's that – yes, what that - - -

10 MS STONE: And I think by putting that number in, we're looking to provide some guidance or provide that rather than having each local government have to make the decision as to whether it's incidental to the – because we have incidental uses here in WA, so if it's incidental versus predominant, so the idea was to put some clear structure, and have the consistency - certainly fair to say the Government thought that there should be some consistency in that aspect across the state, rather than each local government determining whether it was incidental or a change of use.

DR COAKES: Okay, great. That's great. And just one quick question, just around – so if they – that short-term rental is for 60 days or less, you're still requiring them to register.

20

MS STONE: Yes.

DR COAKES: Yes. So you've got the data across.

MS STONE: Yes.

DR COAKES: Yes, perfect. O.K.

30 MS STONE: And if it's un-hosted, we will also require them to register, even if it, again, meets the exemption criteria for – sorry, for hosted. Yes, so in theory, if you're running short-term rental accommodation in Western Australia, you'll be on the register, regardless of any other planning requirements - - -

DR COAKES: Yes.

40 MS STONE: - - - yes, you should be on the register, and as Robyn said, you – the legislation will be drafted that you can't advertise without being on the register, and it will prohibit the platforms from advertising, unless they're sure that the person has a valid registration number, and hence also the integration and allowing the platforms certain access to the register for them to verify that someone is on the register.

DR COAKES: Yes, okay, terrific. Any other questions? I'm just conscious of time. We're nearly there, but that's been an excellent discussion. Richard, Juliet? No? All good. Well, thank you very much for your time. We do appreciate that. We think it is important to look more broadly and see what other jurisdictions are doing and some of your challenges and learnings as well, so thank you very much, we really do appreciate your time, and I guess as we all move through this process, it will be interesting to see what the data tells us.

10 MS STONE: Look, if you do need anything else, Stephen or Oliver, just feel free to reach out to Lucy, Robyn or myself, and we can give you anything else you might need in terms of your inquiry.

DR COAKES: Okay, terrific, thank you. Thank you very much.

MS STONE: Thank you.

MS PETERSON: Thank you.

BRIEFING CONCLUDED

20