

Application for Review under Section 8.3 of the
Environmental Planning and Assessment Act 1979

Application 2018/254

Submission made 17 April 2019 by Peter and Ksenia Webber

16 Short Street Nambucca Heads

Review of Condition \$17,664 levy has to be paid

As part of Development Approval that has been granted

My wife, Ksenia, and I have been renting out two bedrooms in our house exclusively on Airbnb at 16 Short Street, about 250m from the centre of Nambucca township. Recently a Shire Officer told us we needed to apply for development approval to continue to rent out the two bedrooms. So we applied for Development Approval to continue to rent the rooms on Airbnb. The Planning Department granted Development Approval to operate a *Bed and Breakfast* even though we had not asked for that. But as a condition of that Approval it imposed a Condition that we have to pay \$17,366 as a contribution to water and sewer. We don't want to operate a Bed and Breakfast and we consider the levy very unfair, disproportionate and a prohibitive condition. There has been no new bathrooms or taps added to the house since it was built about 40 years ago. We didn't build the two bedrooms.

The Planning Department Officers have told us they cannot waive or reduce the levy Condition of the Development Approval; only the Council itself can do that. The levy has been applied as a result of a Council Policy. We request that Council exercise its discretion in considering this Application to Review.

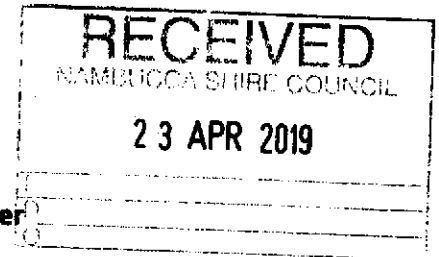
Please remove the Condition on the Development Approval that we have to pay \$17,366. There never has been any plumbing added to the house, the bedrooms we rent on Airbnb were in the house when we bought it and we need the income from renting out the rooms to support us and our 12 year old daughter. We do not have the money to pay the levy without borrowing. We rent the two rooms at \$60 per night and even in a good year don't earn \$17,000 from them. We feel like we are being asked to work for more than a year and pay the Shire everything we earn.

The Development Approval also requires us to put fire screens on the windows and provide a fire extinguisher. We have done that.

Following the granting of the Development Approval a series of exchanges have taken place with Mr Walsh, Manager Development & Environment that have clarified our position. We thank him for his patience.

The State Government has a policy to encourage Airbnb rentals. It is in the process of introducing regulations so that people like us don't have to apply for Development Approval at all. That is because an Airbnb is "Tourist & Visitor Accommodation" which is a permitted use for R3 land, which our land is. Calling our two bedrooms on Airbnb a *Bed and Breakfast* was never right. (Nor was calling our house an *illegal dwelling*). At the moment planning law in NSW requires Airbnb rentals on R3 land to have Development Approval, but that is anticipated to change very soon.

However, because our land is also "Bushfire Prone" land, even when the State Government introduces the changes, Mr Walsh has explained we will still need to have Development Approval. Bushfire Prone land will be an exemption from the general exemption. We will be caught on this technicality.



That seems to us to make our situation even more unfair. Airbnb houses in fire prone areas (like us) will have to get Development Approval (and pay the \$17,666) but all the other Airbnbs will not have to get Development Approval and therefore will not be obliged to pay anything under the Council Policy. We are only about 250 metres from the centre of Nambucca township and R3 is a zone meant to encourage tourist and visitor accommodation. Even though the bathrooms and plumbing have been in the house since the year dot, the Shire's Policy, applied without flexibility, requires us to pay \$17,666.

It has been made clear to us that the discretion on whether or not to impose the levy resides entirely with Council. Council has the flexibility to apply its Policy on a case by case basis.

So we ask that the Council exercise its discretion and entirely remove, or at least significantly reduce, the Condition that we have to pay \$17,666 towards sewer and water.

The house is physically in the same condition as when we purchased it. There are bathrooms upstairs and down stairs. There is nowhere to prepare food downstairs and there is no common eating area. The arrangement is not suitable for bed and breakfast even though that is what the Planning Office has given approval for. All we applied for, and want to do, is continue to rent the two bedrooms downstairs. In granting the permit for a Bed and Breakfast the Planning Office has clearly formed the view it is suitable for that business, and 'use' as 2 bedrooms on Airbnb must be less intense in planning terms. We respectfully suggest that as part of this Review, the Council change the approval from *Bed and Breakfast*, which we never applied for, to *Tourist & Visitor Accommodation (Airbnb)*.

We moved to Nambucca Heads for lifestyle reasons nine years ago. We currently sustain ourselves working sporadically as house cleaners, gardeners and renting out the rooms on Airbnb. Our income is below the poverty line but with a frugal lifestyle, we are free of any government support.

Not only does renting out the bedrooms help us, it provides useful tourism to the Nambucca area. Our guests have to eat out every night as no cooking is allowed in the downstairs area. They visit local shops to purchase goods thus helping the local economy, which is struggling for survival.

If the full levy is imposed it really won't help the Shire. If we close the Airbnb then we would have to go on welfare and the Shire's revenue will suffer. Not only will the tourism revenue the Shire receives be lost, our contributions will reduce in a considerable number of ways as welfare recipients.

In the final analysis, it just makes no sense to insist we pay the full levy when we haven't carried out any building work, nor placed any major additional load on the water or sewerage system. The State Government is about to bring in regulations that will exempt Airbnb operators from having to apply for Development Approval and then the only reason we would still need Approval is because we are in a fire prone area. We have been granted Development Approval and have already complied with all the building requirements that requires. The imposition of levy is unfair in our circumstance. It was meant to be applied to new developments where new services are required or large changes in use occurred. In our case it is just a tax which cannot be justified, practically speaking. The water we use is paid for in the same manner as everybody else, through quarterly billing and the sewerage use is paid for in our rates.

Thank you for considering this submission.

Peter and Ksenia Webber