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To whom it may concern

Thank you for giving the Office of the NSW Small Business Commissioner (OSBC) the opportunity to comment on the Department of Planning and Environment's (DPE) Options Paper into Short-term Holiday Letting (STHL) in NSW.

The OSBC advocates on behalf of small businesses in NSW, provides mediation and dispute resolution services, and speaks up for small business in government.

To support the policy harmonisation and regulation reform of STHL throughout NSW, I am delighted to make a submission on the Options Paper.

### **STHL contribution to the NSW economy**

The OSBC recognises that STHL not only creates jobs through the establishment of new businesses to manage transactions between property owners and customers, but also importantly results in significant tourism and economic benefits to small businesses in local areas and NSW more broadly.

### **Potential impacts with other short-term accommodation providers**

Given the potential impact of the growth of STHL on traditional short-term accommodation providers, particularly bed and breakfast operators, the OSBC strongly agrees that consideration is given to better aligning the regulatory requirements for low impact tourist and visitor accommodation and those for STHL. The regulatory requirements for STHL should also be consistent regardless of whether they are managed through innovative online booking services such as Airbnb or more traditional avenues such as local real estate agents or tourism agencies. Doing so will support a more level playing field for small business operators within the accommodation industry.

The OSBC has strong experience in supporting disrupted industries and is very willing to work closely with government and industry on this transition should support be required.

## **Strengthening the existing code of conduct**

The OSBC supports the recommendation that the Holiday Rental Code of Conduct, originally adopted by NSW in 2012 and revised as a national code in 2015, be strengthened and be part of a compliance system for STHL.

The OSBC has worked with a number of industries on issues arising from their codes of conduct including the motor vehicle industry and is very willing to work closely with government and industry to strengthen this Code should support be required.

## **STHL in strata schemes**

The OSBC recognises that any changes to strata laws must balance a resident's entitlement to the use and enjoyment of their property with the positive economic benefits that derive from STHL.

The OSBC supports the recommendation that the NSW Government consider amendments to strata laws to give owners' corporations more powers to manage and respond to adverse behaviour. Such adverse behaviour may negatively impact small businesses operating within strata schemes (e.g. cafes on ground floors of apartment complexes) through reduced amenity of their business space.

The OSBC has also received representations from owners' corporations raising concerns around the impact of STHL on common property and the difficulties associated with recouping costs. As such, the OSBC is interested to explore how relationships between strata managers and STHL owners can be fostered so that they can work cohesively and suggests a formal dispute resolution mechanism could be implemented.

One option could require STHL operators within strata schemes to lodge bond with the OSBC in the event the relevant owners' corporation makes a claim on it due to damage to common property. The OSBC has strong experience in managing retail bonds through its 'WeAgree' platform and is very willing to work closely with government should support be required.

## **Implementing a consistent definition of STHL**

The OSBC agrees that a consistent definition of STHL would provide clarity for local councils, operators and owners. The OSBC is supportive of the definition of STHL 'as a dwelling, or part of a dwelling, that provides short-term accommodation, but does not include tourist or visitor accommodation'.

## **Regulating STHL through the planning system**

While the regulatory and administrative burden from any proposed planning regulatory framework of STHL should be limited as much as possible, the OSBC supports the suggested risk-based approach to determining the appropriate level of regulation on STHL, such as regulating based on the length of stay, as this could match regulatory requirements currently in place for other accommodation providers.



This risk-based approach would support a more level playing field between traditional short-term accommodation providers, particularly bed and breakfast operators and STHL.

Should a planning approach be adopted, careful consideration would need to be given in defining the criteria that would trigger complying development or requiring consent to ensure consistent application.

### **Next steps**

As the NSW Government agency that provides the voice for small business within government including undertaking an agenda of policy harmonisation and regulation reform for small business, the OSBC would welcome the opportunity to work with the Department of Planning and Environment on reviewing and implementing the outcomes of the STHL review.

If you require additional information or wish to discuss this matter further, please contact Alex Ferreira, Principal Advisor Advocacy and Strategic Projects, on 02 8222 4144.

Yours faithfully

**Robyn Hobbs OAM**  
NSW Small Business Commissioner

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