31 October 2017

Director, Housing Policy
Department of Planning and Environment
GPO Box 39
Sydney, NSW 2001

Dear Sir/Madam,

Re: Strathfield Council Submission – Short-Term Holiday Letting in NSW

Thank you for the opportunity to comment on the Department of Planning and Environment’s (DP&E) Short-term holiday letting in NSW Options Paper (July 2017).

Council acknowledge that the growth of online accommodation websites has facilitated the proliferation of short-term holiday letting (STHL). A cursory review of Air BnB has identified more than 300 rentals in Strathfield and surrounds, including a significant number of “private room rentals.” The proliferation of STHL and their associated impacts has appropriately instigated the need to regulate the industry and provide a State-wide uniform approach.

Council officers have reviewed the Options Paper and provide the following comments.

Impacts Associated with STHL

Council’s Compliance officers acknowledge the impacts associated with STHL identified in the Options Paper and confirm that Council primarily receives complaints regarding overcrowding, waste, traffic, safety and noise. It is believed that these impacts can be managed through a combination of regulatory and non-regulatory methods discussed below.

Self-Regulation

Self-regulation of STHL would reduce the resource and financial pressure on government. However, as acknowledged in the Options Paper, self-regulation requires a strong and unified industry body with broad membership and the ability to ensure compliance with self-regulatory measures.

Council officers believe self-regulation through an industry body should have a place in the regulation of STHL through the provision of a Code of Conduct, complaint management system, monitoring and reporting of the STHL industry, and education of users and hosts. However, government intervention is also required to ensure the self-regulation mechanisms remain up to standard, such as government involvement in the management of the Code of Conduct.
STHL in Strata Properties

The adverse impacts associated with STHL may be exacerbated in strata properties given the proximity to neighbouring residents and sharing of common property. Accordingly, owners' corporations should be given powers to manage and respond to adverse behaviour. The Strata Schemes Management Act 2015 may need to be amended to clarify the ability of strata corporations to impose certain requirements on STHLs. These powers may include imposing penalties on property owners and occupants where by-laws are breached, increasing levies for owners of STHL properties and restricting STHL (rather than prohibiting them).

Amendments to the Strata Schemes Management Act 2015 should make it clear to strata corporations the extent of requirements they can impose on STHLs to ensure a consistent approach. For example, specifying the maximum penalties, levies and occupants that can be imposed on STHLs.

Property owners should be required to seek approval from their strata corporation prior to utilising their property for STHL. Owners should submit documentation to the strata corporation providing details of the proposed STHL, such as the number of occupants, length of stay, and an operational management plan to prevent the adverse impacts of STHL. The strata corporation should ensure compliance with the approved application, investigating breaches and imposing penalties if required.

Regulation through the Planning System

The Options Paper investigates opportunities for regulating STHLs through the planning system. Council officers believe STHLs can be adequately regulated through exempt development, complying development and local government approvals under Section 68 of the Local Government Act 1993 based on the following thresholds:

- Exempt development – permissible where a host is present and it is their principal place of residence. Only smaller, limited impact developments would be exempt based on a number of factors, including number of occupants, proximity to surrounding residential properties, and number of days in a calendar year the premises is used for STHL.

- Complying development – permissible where a host is present and it is their principal place of residence. Only limited impact developments that require compliance with slightly less restrictive factors than exempt development.

- Local government approval under Section 68 of the Local Government Act 1993 – permissible where a host is not present and subject to requirements specified in the Act.

Council officers consider it too onerous on property owners to require development applications for STHL and too much of a burden on council resources. However, it is believed that the above thresholds will ensure the adequate regulation of STHLs. Furthermore, STHL operators will require a license from a State Government body in all circumstances as discussed below and a property should only be permitted to be let out to a single group (as opposed to separate individuals to avoid boarding house type developments).

To further ensure the clarity and transparency of the permissibility of STHLs for councils, operators and owners, Council requests that a definition for STHL be inserted in the Standard Instrument.
Registration or Licensing

Council supports the registration or licensing of STHL operators with a State Government body, such as Fair Trading, similar to liquor and child care centre licences. STHL operators should be required to have an Australian Business Number and submit specific information to the State Government body to determine their suitability. Such required information may include floor plans, the number of bedrooms, number of occupants, parking provision, and the manager's contact details. Through this approval system, licences can be restricted to one per person to prevent the proliferation of STHLs.

The State Government body should forward the registration details of the STHL to the relevant council for their records and enforcement.

Enforcement

It should be noted that the investigation and enforcement of STHLs breaching licenses has significant resource and financial implications on councils that many cannot expend. Accordingly, strata corporations, industry bodies and the State Government body registering STHLs need to also be held accountable for investigating complaints and carrying out enforcement procedures.

Furthermore, the ability of councils to monitor and enforce STHLs where council is not the determining authority is difficult. In the case of complying developments, private certifiers need to be held accountable for monitoring and enforcing conditions of consent for STHLs.

Thank you for your consideration of Council’s submission.

Should you require further clarification in relation to any matter discussed, please contact Joanne Chan, Strategic Planner on 9748 9615 during business hours.

Yours faithfully,

[Signature]

Silvio Falato
Manager Planning and Development