



**THE PALM BEACH & WHALE BEACH  
ASSOCIATION INC**



PO BOX 2 PALM BEACH NSW 2108

31 October 2017

The Director – Housing Policy

Department of Planning and Environment

New South Wales Government.

Dear Madam/ Sir

**SUBMISSION: SHORT TERM HOLIDAY LETTING OPTIONS (STHL) PAPER**

The Palm Beach & Whale Beach Association (PBWBA) is a community-based group, with a membership of approximately 300, representing the interests of both property owners, tenants and local businesses in Palm Beach and Whale Beach on Sydney's Northern Beaches. For this area, Short Term Holiday Letting (STHL) is an important matter as it represents a significant component of the local economy. We are very conscious of the need to balance the rights of property owners to use their properties for any purposes permitted by law, including the right to let them for short term periods as well as the rights of neighbours to enjoy their properties free of disturbance by the actions of adjoining property owners or occupiers.

We are pleased that the Government has put out the Options Paper for STHL to stimulate discussion of the issues that short term lets raise generally and submit below some suggestions for improved handling of STHL -

1. For many of our members, income from STHL of houses is a significant source of income so restrictions on their ability to let could have an impact on their income. Restrictions on the length of stay for STHL or the number of days or bedrooms would not be appropriate in holiday areas like Palm Beach and Whale Beach and there was no evidence put forward in the Options Paper that the problems associated with STHL in other areas could be remedied by such measures.
2. There are sound reasons for providing for a simple registration process of STHL premises, on safety and hazard grounds. For example, in case of fire or bushfire or gas leaks, the ability to contact the property owner to establish whether there were tenants in the property and whether there were any other risks, such as gas cylinders, could be vital for police and fire authorities. Such a register would need to be accessible online to these authorities on a 24 hour basis; all that would be required would be the address of the property, the number of bedrooms, the name of the owner and a 24-hour contact number. This should not be difficult or costly to set up. Failure to register could result in the landlord being unable to let the premises and possibly liable to sanctions if they did so without registration. There are possible implications for building/contents insurance of these premises as well as public liability insurance.

3. There would appear to us to be no need for registration of premises where the owner-occupier only lets a single room or suite of rooms and remains on the premises at all relevant times.
4. There are relatively few strata title residential buildings in our area but making STHL illegal in strata unit buildings seems a disproportionate restriction on the normal rights of ownership.
5. We agree that there should be a code of conduct for STHL lets. It should be mandatory and enforceable and binding on landlords and tenants. A copy should be on permanent display in all STHL premises and a copy should be provided to all new tenants. Breaches of the code should have consequences, such as requiring violators to vacate premises; multiple breaches in respect of a particular property could result in loss of the right to let – perhaps a “three strikes and you’re out” approach. (The Gold Coast City Council Local Law No. 19 has provisions relating to “regularly emitted” noise from party houses which it defines as “emitted from the property – (a) more than 2 times during a 12 month period”). We fully support this approach.

The existing code of conduct of the Holiday Rental Industry Association (HRIA) is not mandatory and is not well-known; the HRIA is not appropriately constituted to be a self-regulatory body, either in terms of membership or of geographic spread; self-regulation is a semi-judicial function.

6. For our members, the principal concern is “party houses” or unofficial function centres booked for entire weekends. Guests cause nuisance, are rowdy and noisy, cause parking problems in an area where parking is already a significant issue, leave litter and rubbish and there are few controls. Enforcement of complaints by neighbours directly affected by the party houses is difficult and often impossible as neither police nor the local council appear to have the necessary powers to deal with the issues in a timely manner. These party houses/function centres impact significantly on the rights of neighbours to quiet enjoyment of their property. In Palm Beach and Whale Beach, bucks or hens weekends (amongst other events and functions) are held with strippers, excessively loud music, excessive consumption of alcohol and drugs - often in full view of neighbours and passers-by - in an otherwise quiet R2 residential zone.

Extracts from a current Airbnb listing (31/10/17) of a residence located in a quiet R2 residential area of Palm Beach follow -

*"The space This level rented on it's own has hardwearing floors and is intended to be robust enough for most kinds of groups and their kind of parties. A great setting for a masquerade ball."  
"There is a bar and other props that make this a dance floor space or group exercise floor class if weather is inclement. (We have yoga and Bootcamp retreats - ask if interested in attending)  
Bands have rehearsed and written albums here in perfect harmony of life, work, play balance!"  
"The professional kitchen on level 2 can be worked out in your hire to cater meals larger than the guest kitchenette can handle and the BBQ and massive outdoor table that seats 20 is available. There is also a dining table inside off the kitchen area that seats about 20 people". "Suitable for parties". "Other things to note -Most holiday rental places aren't tolerant or encouraging of parties. We are! The guest level in particular is sunk into the landscape making it easier to absorb sound (and) allow your enjoyment to continue. The location is surrounded by nature so if you want peace over party it's all there."*

The community has serious concerns relating to vandalism, damage to property and the lack of safety measures, e.g. overcrowding, fire doors, fire extinguishers and fire exits which are mandatory in licensed premises/serviced apartments/official function centres. When the tenants of a property are causing a nuisance to the neighbours, remedial action needs to be taken quickly – so remedies based on council sanctions for inappropriate use of premises or action in the Consumer, Trader and Tenancy Tribunal for breaches of the Residential Tenancies Act (which applies to short term lets) are not adequate in dealing with the issues.

7. Almost all of Palm Beach and Whale Beach is zoned for low or medium density housing. Holding functions in premises within Zones R2 and R3 (low density and medium density housing) is specifically barred under most LEPs. The difficulty which Councils' face is to prove that a function has taken place and as compliance officers are unable to inspect premises on weekends or without providing advance notice, this does not provide a practicable remedy.

8. Councils should have the power to ban party houses (such as already exists in Queensland) and advertising a house for use as a party house on social media, websites etc should be sufficient evidence to justify a council ban.

9. Dealing with STHL through the planning process would appear to us to be expensive, cumbersome and not an appropriate solution. However amending all LEPs to give Councils specific power to regulate (or ban) party houses would seem to be a useful step.

10. The Residential Tenancies Act provides obligations on tenants and may be applicable to STHL but neither it nor the Options Paper deals with the accountability of landlords for the conduct of their tenants. Where tenants cause nuisance or disturbance, there should be some obligation on landlords to remedy the situation. The Residential Tenancies Act could usefully be amended to do this.

11. In strata developments, the proposition that owners of STHL units should be liable to pay compensation to other unit owners in the building for nuisance cause by their tenants seems sensible, as does the proposition that such owners should pay a higher proportion of the insurance for the building. Both would bring a useful discipline to the process.

We appreciate the opportunity to put forward our views in relation to the Options Paper.

Yours faithfully

Richard West AM

President