Adequacy of the regulation of short-term holiday letting in New South Wales

R&CA Submission

October 2017
Restaurant & Catering Australia (R&CA) is the national industry association representing the interests of over 40,000 restaurants, cafes and catering businesses across Australia. R&CA delivers tangible outcomes to small businesses within the hospitality industry by influencing the policy decisions and regulations that impact the sector’s operating environment.

R&CA is committed to ensuring the industry is recognised as one of excellence, professionalism, profitability and sustainability. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the restaurant experience to the public.

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Top (left corner): Aqua Dining Restaurant, Milsons Point, Sydney, Anson Smart.
Top (right corner): Hutchings Camps Pty Ltd, Paperbark Camp, Jervis Bay, NSW.
Middle (centre): Pretty Beach House, Bouddi Peninsula, NSW, Anson Smart.
Middle (top): Cruise Bar, The Rocks, Sydney, NSW, Anson Smart.
Middle (bottom): Tourism Australia, Hunter Valley, SDP Media.
Bottom (right corner): Tourism Australia, Balmoral Beach, Sydney, NSW, Ellenor Argyropoulou.
Bottom (left corner): Tourism Australia, Byron Beach Café, Byron Bay, NSW, Hugh Stewart.
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INTRODUCTION

R&CA appreciates the opportunity to provide comment on the New South Wales (NSW) Government’s Review into the regulation of short-term holiday letting (STHL). R&CA welcomes the work completed by the NSW Government to date in investigating opportunities to pursue regulatory options for the STHL industry. As the only national industry association acting on behalf of over almost 14,000 cafés and restaurants in NSW, R&CA supports the continued operation of the STHL industry and the subsequent economic and employment benefits derived by hospitality businesses.

R&CA believes that the regulatory framework governing NSW’s STHL industry should not impede the growth of the State’s tourism sector by restricting or limiting visitors’ choice of accommodation options. In R&CA's view, the continued growth in the tourism sector can only be sustained with an adequate accommodation supply, particularly during periods of peak demand such as New Year’s Eve. As stated in the NSW Visitor Economy Taskforce’s 2012 report, a lack of adequate accommodation supply is one of the biggest inhibitors to growth in the visitor economy. Therefore, R&CA strongly supports the growth of the STHL providers and the potential to meet areas of accommodation undersupply currently hampering the vitality of NSW’s tourism sector.

R&CA believes that the STHL industry has a significant role to play in meeting tourist demand for accommodation options which are both affordable and in proximity to key amenities such as cafés and restaurants. This is of course contingent on the NSW Government providing the STHL industry with both regulatory clarity and certainty as part of this Review. R&CA believes that the NSW Government’s ultimate framework concerning the STHL industry should not involve intrusive regulatory intervention and instead be focussed on greater industry self-regulation, including a comprehensive, industry-wide code of conduct. R&CA argues that the approach taken by NSW Government should not overly burden the STHL industry through a complicated registration or licensing system, however there should be distinct mechanisms for addressing anti-social behaviour or breaches of the Code of Conduct.

In R&CA’s view, there is a strong need for the NSW Government to work both collaboratively and cooperatively alongside STHL providers to ensure optimal outcomes for both the tourists using various STHL platforms and the individuals choosing to let their vacant residences in a safe and

responsible way. The ultimate regulatory approach adopted from this Review should seek to address any occurrence of anti-social behaviours whilst preserving the range of accommodation options available for tourists. In this way, the strong economic and employment benefits for hospitality businesses resulting from growth in the State’s tourism sector can be further enhanced and meet the NSW Government’s goal to double overnight visitor expenditure by 2020.
POLICY RECOMMENDATIONS

R&CA’s policy recommendations relating to the STHL industry in NSW can be summarised as follows:

- R&CA does not believe that substantial intervention is necessary on behalf of the NSW Government in the regulation of the STHL industry and that a ‘light touch’ approach could be adopted as part of a holistic, whole-of-government regulatory framework;
- R&CA also argues that a comprehensive, industry-wide code of conduct developed in close collaboration with the major STHL providers should be one of the key outcomes arising from this Review;
- R&CA supports the ability of the NSW Government to put in place carefully designed measures which specifically target and seek to address anti-social behaviours, provided that they do not place restrictions on the ability of people to let their residences in a respectful and responsible way;
- R&CA would caution against the NSW Government placing overly onerous requirements on home-sharers in terms of a complex registration or licensing scheme so that new and existing users are not discouraged from participating in the STHL industry;
- R&CA argues that a policy framework similar to those already in operation in South Australia and Tasmania should be adopted whereby there are no caps or limits placed on the overall number of nights a primary place of residence is available to be let; and
- R&CA is supportive of using strata regulation as a means of targeting anti-social behaviour amongst STHL occupants, however strata should not be able to pass bylaws banning STHL entirely.
INDUSTRY SNAPSHOT: CAFÉ, RESTAURANT AND CATERING SECTOR

THE SECTOR CONTRIBUTES $15 BILLION TO THE NSW STATE ECONOMY

- **Takeaway component $6.7 billion**

DOMESTIC TOURISTS SPENT $10 BILLION ON RESTAURANT MEALS FOR YEAR ENDING JUNE 2017.

YOY GROWTH OF 10.2% IS THE HIGHEST OUT OF ANY LISTED SUBCATEOGRY.

THE SECTOR CURRENTLY EMPLOYS 192,400 WORKERS IN NSW

31,000 MORE POSITIONS TO BE ADDED OVER THE NEXT 5 YEARS

15,030 CAFÉS, RESTAURANTS & CATERING BUSINESSES IN NEW SOUTH WALES.

88% ARE SMALL BUSINESSES WITH ≤19 EMPLOYEES

EMPLOYMENT GROWTH IS PROJECTED AT 14.9% OR 84,100 JOBS BY MAY 2022.

THIS RATE OF GROWTH IS HIGHER THAN ANY OTHER SUB-SECTOR IN THE AUSTRALIAN ECONOMY.
OVERVIEW OF HOSPITALITY INDUSTRY

SIZE AND VALUE

The hospitality sector, including cafés, restaurants and catering businesses, makes a significant contribution to the NSW economy. Total industry turnover for the sector in NSW, including turnover generated from takeaway sales, amounted to $15 billion for the year ending August 2017. The turnover recorded in NSW accounted for 32.6 per cent of industry turnover Australia-wide. As of June 2016, there were just over 13,500 cafés and restaurants operating in NSW which grew 5.2 per cent over the 2015-16 financial year. Of these businesses, over 94 per cent are small businesses with 19 or less employees. Cafés and restaurants in NSW accounted for 34.6 per cent of all cafés and restaurants across Australia.

Figure 1: Turnover in the Café, Restaurant & Catering Industry

<table>
<thead>
<tr>
<th>State</th>
<th>Café, Restaurant &amp; Catering Services</th>
<th>Café, Restaurant &amp; Takeaway Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>Aug 16 ($M)</td>
<td>Aug 17 ($M)</td>
</tr>
<tr>
<td></td>
<td>671.6</td>
<td>706.3</td>
</tr>
<tr>
<td>VIC</td>
<td>618.3</td>
<td>653.7</td>
</tr>
<tr>
<td>QLD</td>
<td>172.8</td>
<td>178.4</td>
</tr>
<tr>
<td>SA</td>
<td>99.8</td>
<td>113.0</td>
</tr>
<tr>
<td>WA</td>
<td>284.2</td>
<td>300.5</td>
</tr>
<tr>
<td>TAS</td>
<td>24.3</td>
<td>25.6</td>
</tr>
<tr>
<td>NT</td>
<td>22.9</td>
<td>23.6</td>
</tr>
<tr>
<td>ACT</td>
<td>45.4</td>
<td>42.4</td>
</tr>
<tr>
<td>Total</td>
<td>2115.5</td>
<td>2172.8</td>
</tr>
</tbody>
</table>

Source: ABS 8501.0 Retail Trade, Australia; State by Industry Subgroup, Original.

The significant growth recorded in the number of cafés and restaurants in NSW is a reflection of increased popularity of dining out as a leisure activity amongst consumers. Dining out at cafés and restaurants is consistently ranked as one of the most popular activities for domestic and international travel.

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3 Ibid.
5 Ibid.
6 Ibid.
tourists. In 2016, 23.4 per cent of Australian holidaymakers identified dining out and drinking wine at cafés and restaurants as their most popular activity whilst on holiday which was second only to visiting friends and family.\(^7\)

**TOURISM EXPENDITURE**

According to recently released data from Tourism Research Australia (TRA), NSW attracted 30.1 million domestic tourists who stayed a total of 97 million nights and spent $17.2 billion in the State’s visitor economy for the year ending June 2017.\(^8\) For the same period, NSW attracted 4 million international tourists, who spent a total of $10.1 billion, which represented Year on Year growth of 11 per cent.\(^9\) The value of the tourism industry to the hospitality sector can be seen with domestic tourists’ expenditure on restaurant meals exceeding $10 billion for the year ending June 2017, an increase of 10.2 per cent from the corresponding period in 2016.

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\(^8\) Tourism Research Australia (2017) Travel by Australians: Results of the National Visitor Survey for year ending June 2017.

BENEFITS OF STHL FOR CAFÉ AND RESTAURANT SECTOR

The increasing popularity of STHL, combined with strong growth in visitation from domestic and international tourists, has directly benefitted the café and restaurant sector in NSW. In Sydney alone, it was estimated that in 2016, Airbnb generated $115 million in expenditure for the city’s restaurant industry, a figure which grew by $45 million from 2015.\(^\text{10}\) The overall expenditure for Australia’s food services sector from Airbnb hosts was estimated at $554.1 million in 2015-16, representing 27 per cent of the total (the most out of any listed subcategory).\(^\text{11}\) The benefits of the STHL for the state’s café and restaurant industry manifest themselves in variety of ways which are outlined below.

### Figure 1: Tourism Expenditure of Airbnb Guests in Australia, 2015-16

<table>
<thead>
<tr>
<th>Category</th>
<th>Total Expenditure ($m)</th>
<th>Share of Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accommodation</td>
<td>$441.6</td>
<td>22%</td>
</tr>
<tr>
<td>Food Services (e.g. restaurants)</td>
<td>$554.1</td>
<td>27%</td>
</tr>
<tr>
<td>Groceries</td>
<td>$185.6</td>
<td>9%</td>
</tr>
<tr>
<td>Shopping</td>
<td>$353.8</td>
<td>17%</td>
</tr>
<tr>
<td>Other leisure</td>
<td>$245.8</td>
<td>12%</td>
</tr>
<tr>
<td>Transportation</td>
<td>$216.7</td>
<td>11%</td>
</tr>
<tr>
<td>Other services</td>
<td>$43.7</td>
<td>2%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,041.3</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Table reproduced from Deloitte Access Economics (2017) Economic effects of Airbnb in Australia New South Wales

**INCREASED PATRONAGE**

The increased patronage and foot traffic enabled by the STHL industry also significantly benefits café and restaurant businesses which are located outside of more densely populated areas popular with tourists. Various STHL platforms provide holiday-makers with the ability to stay in and explore areas which do not attract the same type of foot traffic as other traditional tourist hotspots. According to a Deloitte Access Economic Report published in 2017, three-quarters of Airbnb properties in major global markets are located outside traditional tourist areas.\(^\text{12}\) The flow-on economic effects to the hospitality industry are dispersed across a wider range of businesses in a variety of different locations which would not have otherwise benefitted. The letting of vacant properties also generates additional income for STHL hosts who may also patronise local cafés and restaurants more regularly.

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\(^{10}\) Airbnb (2017) Generating $6.5 billion for restaurants around the world.

\(^{11}\) Deloitte Access Economics (2017) Economic effects of Airbnb in Australia New South Wales

\(^{12}\) Ibid.
as a result. In this way, the economic profile of these businesses and local communities are strengthened due to the increased patronage associated with the STHL industry.

**JOB CREATION**

In addition to the direct economic benefits of the STHL industry for the state’s café and restaurant sector are the flow-on effects on employment and job creation. Already, the café, restaurant and catering sector is expected to generate 31,000 new positions in NSW by May 2022.\(^{13}\) Expressed in percentage terms, this represents 19.2 per cent growth.\(^{14}\) At present, the sector employs 132,000 people throughout the state, representing a large majority of jobs within the food and beverage services industry sector.\(^ {15}\) It is estimated that Airbnb guests have supported 4,452 full time equivalent (FTE) jobs\(^ {16}\), many of which would be directly within the hospitality sector such as café and restaurant businesses.

**UNIQUE PROMOTIONAL AND MARKETING OPPORTUNITIES**

Various platforms enabling STHL often directly and indirectly promote local café and restaurant businesses to holidaymakers, in addition to allowing them to make accommodation bookings. These platforms provide businesses with a unique form of marketing and promotional opportunities to enhance their appeal to a specific set of clientele. The interactions between guests and hosts throughout the STHL experience helps to facilitate information about different dining options in local neighbourhoods, which can in turn, strengthen the reputation of these businesses. For instance, Airbnb Survey data shows that 98 per cent of hosts suggest local restaurants, cafes, bars and shops in their neighbourhoods.\(^ {17}\) The highly personalised recommendations provided from STHL hosts can be tailored to the individual tastes and preferences of holiday-makers which not only serve to enhance the local experiences of tourists but also maximises expenditure and increases the likelihood of holiday-makers returning to these local businesses in the future.

\(^{13}\) Department of Employment (2017), *Employment Projections to May 2022*.

\(^{14}\) Ibid.

\(^{15}\) Ibid.


\(^{17}\) op.cit p.38.
TOURISM GROWTH IN REGIONAL AREAS

The STHL industry also makes a significant economic contribution to tourism in regional areas, supporting the viability of café and restaurant businesses by helping to attract increased visitation amongst domestic and international tourists. A global survey published by Airbnb in 2017 showed that Australia was the only major country in the world where there were more regional Airbnb stays than in city areas.\(^\text{18}\) Overall, regional Airbnb stays accounted for 56 per cent, or 1.7 million guest arrivals in 2016.\(^\text{19}\) Outside the greater Sydney region, it is estimated that Airbnb’s economic contribution to regional economies is $135.5 million, with Airbnb guests in NSW spending $213.2 million during regional-based stays.\(^\text{20}\)


\(^{19}\) Ibid.


REGULATORY APPROACH

From R&CA’s perspective, ensuring optimal outcomes for the STHL industry are achieved from this Review is critical in ensuring the ongoing growth of NSW’s international and domestic tourism sector. Most importantly, R&CA stresses the need for regulatory certainty surrounding the STHL industry in NSW and welcomes the scope provided in this Review to do so. As part of this objective, R&CA believes that there several options to create a dynamic which best serves the interests of both the tourism and accommodation industry as well as the individuals themselves who engage with the STHL industry.

‘LIGHT-TOUCH’ APPROACH

R&CA does not believe that substantial intervention is necessary on behalf of the NSW Government in the regulation of the STHL industry. In this respect, a ‘light touch’ approach towards the STHL industry could be adopted in pursuing a whole-of-government regulatory framework. R&CA argues that the most effective way to achieve a mutually beneficial system of regulation is through greater self-regulation and involvement from providers in the STHL industry. R&CA would also stress that the ultimate policy framework adopted from this Review should be achieved in close collaboration with these major providers to ensure that growth in the State’s tourism industry is not only maintained but also enhanced.

INDUSTRY CODE OF CONDUCT

R&CA also argues that that an industry-wide code of conduct should be established as one of the key outcomes arising from this Review. Such a code of conduct should be comprehensive in nature and developed in close collaboration with the major STHL providers. The code of conduct would then act as a blueprint to guide and inform a best-practice approach to STHL industry standards as well as provide clarity on issues of contention such as complaints management. R&CA would seek to ensure that the content and guidelines to different issues included as part of the code of conduct should be both fair and reasonable. R&CA believes that making this Code of Conduct both visible and easy to read would ultimately be of significant benefit for both STHL hosts, users and the industry as a whole.
REGISTRATION

R&CA would caution against the NSW Government placing overly onerous requirements on STHL participants in terms of a wide-reaching registration or licensing scheme. R&CA believes that pursuing a licensing scheme for the STHL industry would act as a significant impediment and may cause confusion for existing users and discourage new entrants from also sharing their homes. By creating additional layers of difficulty or complexity to the current SHTL system, this would potentially have the unintended consequence of restricting the number of accommodation options available to NSW visitors. R&CA is not opposed to a registration system per se but would suggest that any system adopted from this Review should be both time and cost-efficient for users. In this way, the adoption of a registration system should ensure that users are not discouraged from participating in the STHL industry because of any increased complexity or bureaucratic hurdles.

BAD BEHAVIOURS

R&CA is cognisant of the potential for undesirable or unpleasant behavioural activities to arise from certain individuals engaging in the STHL industry. In this respect, R&CA supports the ability of the NSW Government to put in place carefully-designed measures which specifically target and seek to address anti-social behaviours. However, R&CA stresses that such regulations should not place restrictions on the ability of people to let their residences in a way which is both respectful and responsible. R&CA believes that any such restrictions could potentially lead to travel becoming more expensive and more inconvenient for tourists, which would ultimately have negative effects for the state’s economy as well as the hospitality industry. R&CA argues that a variety of penalty measures could be introduced to discourage users from engaging in anti-social behaviour, including temporary to permanent bans from using STHL platforms. R&CA supports carefully designed legislation to curb anti-social behaviour such as the ‘three-strikes-and-your-out’ legislation as part of amendments to the Owners Corporation Act in Victoria.

PLANNING REGULATION

R&CA’s views on amending planning regulations around the STHL industry have been guided by the policy frameworks already present in other Australian jurisdictions such as South Australia and Tasmania. Under these systems, there are no caps placed on the number of nights in which a primary place of residence is available to be let. R&CA argues that a similar system avoiding capping of the
overall number of nights should be adopted in NSW. Such a system would not only ensure cross-jurisdictional consistency regarding the STHL system but would also ensure that the economic flow-on effects to local communities and hospitality businesses are maintained. R&CA notes the recent parliamentary report on the Adequacy of Regulation of Short-Term Holiday Letting in NSW which recommended that short-term letting of a principal place of residence be permitted as exempt development. R&CA also supports this recommendation.

**STRATA REGULATION**

Whilst R&CA would support mechanisms such as strata regulation as a means of targeting anti-social behaviour amongst STHL occupants, R&CA does not believe that strata should be able to pass bylaws banning STHL entirely. The ability for home-owners to make their own decisions regarding their participation in the STHL industry is already permitted under the current laws governing strata buildings and R&CA believes that the Review should resolve to maintain the status quo. R&CA argues that one of the key principles guiding this Review process should be the ability for owners to decide who should be permitted to stay in their homes and therefore believes that strata communities should not be able to override this ability. At the same time, however, R&CA does believe that there is scope for strata regulation to act as a mechanism to prevent instances of anti-social behaviour associated with STHL.
CONCLUSION

The STHL industry makes a vastly significant economic contribution to the tourism and hospitality sectors in NSW, strengthening the viability and reputational pull of local businesses such as cafés and restaurants. The nature of the STHL industry brings increased foot traffic, visibility and most importantly patronage for hospitality business located outside of traditional tourist hot-spots. In this way, the STHL industry assists in dispersing the economic benefits of tourism to businesses which may not have otherwise received them. The increased patronage of these businesses resulting from the STHL industry also leads to job creation in industries such as hospitality which are the biggest beneficiaries of the flow-on effects from tourism.

As outlined in this submission, R&CA believes that the NSW Government should pursue a sensible policy framework which encourages further growth in the STHL industry. At the same time, R&CA cautions the NSW Government against adopting additional regulations which limit the availability of certain accommodation options impeding the growth of the domestic and international tourism sector in NSW. R&CA argues that minimal intervention on behalf of the NSW Government is needed and that greater self-regulation as part of a ‘light-touch’ approach towards the STHL industry could be used to achieve optimal outcomes for tourists and individuals choosing to sublet their residences in a safe and responsible way. In doing so, the NSW Government should collaborate as closely as possible with major stakeholders in the STHL industry to ensure that the vast array of economic and employment benefits of tourism are enhanced.
REFERENCES LIST

Airbnb (2017) *Generating $6.5 billion for restaurants around the world.*


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Tourism Research Australia (2017) *Results of the International Visitor Survey for year ending June 2017.*
