



YHA AUSTRALIA

31 October 2017

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

Dear Sir/Madam,

**RE: YHA Australia Submission - Short term holiday letting in NSW options paper**

This organisation is the Australian member of the International Youth Hostels Federation (Hostelling International), and operates a network of 80 youth hostels around Australia, including 22 in New South Wales.

Besides operating its own youth hostels, the Association has been proactive in the setting of standards for the sector and was a founding member of the Backpackers Operators of New South Wales over 20 years ago. Over a long period of time, the Association has been concerned about:

- The impact of tourists staying in non-approved accommodation, affecting residents and so giving tourism a bad reputation.
- Accommodation being used as tourist accommodation which is not compliant or fit for purpose.
- Cheaper alternatives undermining the viability of approved operators.

These problems have been particular to the Sydney CBD, inner suburbs and beachside suburbs as well as certain locations in regional NSW such as Byron Bay. From the 1980s, it was mainly the problem of illegal backpacker hostels operating out of former boarding houses and larger private residences. From the 2000s, the problem evolved to apartments where multiple occupancy took place in individual apartments or whole blocks become dominated by short term accommodation having serious impact on residents.

In more recent times, the problem has been exacerbated by the emergence of online letting platforms. Whilst these do incorporate some checks and balances into their business model the sheer number of new holiday lets has increased the impact. YHA has made representations over recent years to the Planning Minister, to Offices of the Department as well as written and verbal submissions to the recent Upper House Inquiry. We would refer you to that submission (see Appendix 1) and the transcript of our evidence (Appendix 2) and we will not repeat those points here.

Beyond the concern arising from the existing short term letting platforms, we believe it is important to also anticipate and plan for the future, where the present main operators (being based in the United States) may be replicated by new operators from other regions such as Asia, and whereby the number of properties made available for holiday letting that we are seeing today could be increased by a multiple factor.

The provision of inexpensive accommodation is difficult due to the rates which young people are able to pay (Sydney and NSW are considered expensive) and the regulatory and operational environment which drive a high cost structure for hostel development. The number of purpose-built backpacker accommodation properties in greater Sydney is very few and some of the others may be described as interim uses of premises. Thus we observe owners are being increasingly motivated to convert to highest and best use – e.g. typically residential development. At the time of writing, we are aware of backpacker hostels which will be closing in Cronulla, Bondi, Collaroy, Pitt Street -Sydney CBD and

Chalmers Street - South Sydney. At the same time, we are not aware of any development applications either underway or proposed for hostel style accommodation. Sydney is in high demand from young visitors and that is not expected to change. These young people will find somewhere to stay and the concerning prospect for the future is that a substantial proportion rather than the fraction today will be in short term holiday letting with multiple occupancy unless the activity is properly regulated. When this is done, then there will be re-incentivisation to develop fit-for-purpose backpacker accommodation.

### **Impacts associated with short term holiday letting**

The main impacts we have observed over the years have been the way holiday letting changes the character of residential accommodation and in particular how people staying for a short time and a good time can have little appreciation of the effect of their activities on others who may have to go to work in the morning. The other impacts on the properties and their fittings can include additional wear and tear on lifts, outdoor areas, floor coverings, and furniture causing higher maintenance expenses and misuse of recycling systems. In addition residential fire safety systems are not designed for tourist use where there is an assumption that residents have an understanding of the building, whereas overnight visitors may not. In addition, there is often no provision for disabled access as is mandated in approved developments.

### **Self-regulation**

We do not believe that an industry-managed code of conduct or self-regulation is adequate without a proper NSW Government regulatory framework. We have little confidence in self-regulation except as it applies to traditional regional holiday letting which primarily occurs on a seasonal basis. Self-regulation is not workable where holiday letting has grown so quickly in the Sydney environment on a 52-week per annum basis.

### **Barriers which reduce the effectiveness of self-regulation**

Certain short term holiday letting platforms have given lip service to self-regulation but in fact have failed to cooperate. This is not a NSW phenomenon but a worldwide one and we have now observed the failures in many other city jurisdictions in Europe, North America and Asia.

### **Short term holiday letting in strata properties,**

The present NSW situation where the NSW Civil and Administrative Tribunal (NCAT) has ruled that a 75% majority of strata residents are not able to control a minority of residents from conducting holiday letting is illogical and a consequence of 1961 legislation which did not anticipate 21<sup>st</sup> century circumstances. Whilst the body corporate can control, for example pets, and by 75% majority decide to redevelop the property, it can't control holiday letting. This does not meet community expectations and the owners' corporation must be given through change to the legislation the ability to prohibit or restrict holiday letting. This should be by the normal 75% majority and once the law is changed the Planning Department should provide pro forma clauses for adoption by those Body Corporates that so decide.

### **Compensation for adverse impact**

What is important is not to allow the circumstances which create ambiguity legal dispute. The owners' corporations must have the power to issue cease and desist notices which are quickly enforceable.

### **Planning Regulatory Framework**

- In metropolitan areas short term holiday letting with the host present for a maximum 60 days per year to a maximum of 4 guests should be exempt:
- Rental of whole dwelling (principal residence) with the host away for a maximum 60 days per year to a maximum of 6 guests could be a complying development in metropolitan areas;

- Where renting a dwelling of more than 60 days per year with the host away, the dwelling should no longer be considered a principal residence. It is therefore a commercial activity that requires development consent through a Development Application (DA).

### **Regional and Metropolitan areas**

There is no difference in principle between the potential impacts of holiday letting on residents whether it be in the city or the country. However in practice, due to the year round intensity of city holiday letting and generally higher density of accommodation, the impacts are worse. Our preference is to see one scheme for the State (and Australia) however, in order to strongly regulate year round letting in the city, we recommend that at this time, one set of provisions be established for Wollongong, Greater Sydney and Newcastle and a lighter regulatory framework apply for the rest of the state. The only other place for consideration is Byron Bay where there has been a long history of conflict and difficulty, including the establishment of the group 'Victims of Holiday Letting'. We recommend that Byron Bay be included with the metropolitan areas.

### **Licencing**


A licencing system is required so there is a transparency of where letting occurs. We have observed the various attempts to manage this problem in many jurisdictions overseas and the difficulties they have had in particular due to the failure of the platforms to cooperate with the provision of information about the names and addresses of those participating. A licencing system managed by the appropriate government department and with information accessible to the Australian Taxation Office will be the single most effective moderator of cowboy activity.

### **Summary of options**

We have a low opinion of industry self-regulation which has not been proven effective despite claims to the contrary and, whilst it may play a role, is inadequate. Strata regulation is the highest priority and power must be placed in the hands of the body corporates to manage their own affairs. This initiative is the single most effective thing that can be done in particular because it does not require significant government resources. Planning regulation is also necessary as the purpose of good planning is to ensure consistent and fair outcomes. Finally as stated above, a registration system is necessary.

We will be pleased to provide further information in particular based on our experience of this problem.

Yours sincerely,



Julian Ledger  
CEO

**Appendix 1** – YHA Australia submission to Parliamentary Inquiry into the Adequacy of the Regulation of Short-term Holiday Letting in NSW, 9 November 2015

[www.parliament.nsw.gov.au/committees/DBAssets/InquirySubmission/Summary/53534/Submission%20No%20174%20-%20YHA.PDF](http://www.parliament.nsw.gov.au/committees/DBAssets/InquirySubmission/Summary/53534/Submission%20No%20174%20-%20YHA.PDF)

**Appendix 2** – Transcript of appearance of YHA Australia CEO at report on proceedings before the Committee on Environment and Planning re Adequacy of the Regulation of Short-term Holiday Letting in NSW, 30 May 2016

[www.parliament.nsw.gov.au/committees/DBAssets/InquiryEventTranscript/Transcript/9704/Sydney%202nd%20Hearing%20Transcript%20-%20Corrected.pdf](http://www.parliament.nsw.gov.au/committees/DBAssets/InquiryEventTranscript/Transcript/9704/Sydney%202nd%20Hearing%20Transcript%20-%20Corrected.pdf)