



HLO Central Coast Inc Submission October 2017

RE: Short-term Holiday Letting in NSW Options Paper
July 2017

Document Authority

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30 October 2017

Attention:

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

Re: The Short-term Holiday Letting in NSW Options Paper 2017.

To whom it may concern,

Holiday Letting Organisation Central Coast (HLOCC) is pleased to provide the following submission which builds on previous HLOCC submissions, including:

- NSW STHL self-regulation mid-trial review;
- NSW STHL self-regulation end-of-trial review;
- NSW General Purpose Standing Committee no.3 Inquiry into Tourism in Local Communities; and
- NSW Parliament Legislative assembly Committee on Environment and Planning's Inquiry on the Adequacy of Regulation of STHL

Short-term Holiday Letting (STHL) is an exciting and integral sector of the NSW tourism economy and is one of the largest sectors of the sharing and collaborative economy. As with other digital technology driven industries, STHL has grown rapidly and significantly; facilitated by the proliferation of online advertising portals.

The rapid growth of STHL has resulted in a wide range of recognised and important economic benefits to the States economy, however, growth driven by digital technology has resulted in regulation challenges that must be addressed to ensure sustainable industry management practices and future growth.

HLOCC's submission makes a number of important regulation recommendations that utilise proven regulatory options. The recommendations acknowledge and support many of the Legislative Assembly Committee's findings and endorse a co-regulation model based on the successfully adopted and implemented regulations found on the NSW Central Coast.

The HLOCC Board believes adoption of the recommendations contained within this submission will contribute to effective and sustainable regulation and management of the STHL industry, and positive outcomes for a broad range of stakeholders; further enabling STHL to positively contribute to the NSW economy as it has on the NSW Central Coast.

Kind regards,
Donat Kobeleff.



President,
HLO Central Coast Inc.

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Regulation Challenges & Recommendations

	Challenges	Recommendations
1	Legal recognition of STHL in Local Government Areas that do not include STHL in their Planning Controls	<p>Co-regulation continue to be adopted and developed. Co-regulation to include:</p> <ul style="list-style-type: none"> a) A standard, statewide STHL planning definition. HLOCC supports the STHL planning definition contained within the Options Paper (page 18) as follows: '<i>STHL is a dwelling, or part of a dwelling, that provides short-term accommodation, but does not include tourist and visitor accommodation</i>'. b) Local Government STHL planning provisions. HLOCC strongly supports the Central Coast Council STHL planning provisions in their current format, as supported by the local industry and community on three separate public notice occasions. These planning provisions include: <ul style="list-style-type: none"> • (conditionally) exempt development provisions for accommodation considered to remain within domestic use criteria (1- 4 bedroom dwellings, maximum 2 adults/bedroom, Code of Conduct compliant), • a development application process for dwellings containing 5 or 6 bedrooms which references the Holiday Rental Code of Conduct (version 1, March 2012) within the Development Control Plan (DCP), • a development application process for dwellings that exceed the exempt development limits as a result of complaint concerning the operation.
2	Determining STHL operating thresholds	Regulators and other stakeholders to utilise the recognised domestic use scale prescribed in the NSW Holiday Rental Code of Conduct V1; agreed to by all stakeholders that participated in the development of the NSW STHL Code of Conduct V1.
3	Effective behavioural management and control	<p>Behavioural management and control to be facilitated by utilising a government endorsed industry Code of Conduct to prescribe STHL management and guest behavioural expectations. Compliance and enforcement to be facilitated by:</p> <ul style="list-style-type: none"> • Strata By-laws • Participating organisations • The Holiday Rental Solutions Pty Ltd Code of Conduct (<i>regulation</i>) enabling system • Council

4	Custodianship and credible, effective administration of an industry Code	<p>The NSW Government to formally participate in the management of an industry Code and the formation of a new NSW industry based Code Administration Committee (CAC), overseen by the NSW Government, to administer:</p> <p>a) The NSW Holiday Rental Code of Conduct (version 1, march 2012),</p> <p>or</p> <p>b) The NSW government produce a NSW-specific Code of Conduct. HLOCC endorses the outcomes based Code included in the Options Paper pg29.</p>
5	Industry support of a government endorsed Code of Conduct	Peak industry associations such as HLOCC, become Participating Organisations to support, promote and assist compliance with a government endorsed Code and agreed regulation objectives.
6	Effective management of STHL in strata complexes	<p>Strata by-laws that comply with Council planning instruments and reference the Code of Conduct to be utilised by owner's corporations to address unique STHL challenges.</p> <p>By-laws that require compliance with a government endorsed industry Code of Conduct to aid enforcement and as a way of addressing behavioural challenges.</p>
7	<p>STHL dwelling managers require a recognised enabling system to implement and prove compliance with:</p> <ul style="list-style-type: none"> • A government endorsed industry Code of Conduct • Planning Controls and Development Applications 	<p>An industry based enabling system that supports stakeholders, and facilitates Code implementation and compliance, complaints management, education, and monitoring and reporting be endorsed and utilised by the industry. Organisations that facilitate regulation and standards implementation, institutionalisation and accreditation should complement, support and work in collaboration with regulators, industry associations (participating organisations) and insurance companies.</p> <p>The Holiday Rental Solutions Pty Ltd Quality Assurance and Accreditation System has been operating for over 6 years on the NSW Central Coast, successfully providing enabling functions and supporting the Central Coast Council's STHL co-regulation planning provisions.</p>

Introduction

STHL in the (former) Gosford City Local Government Area (LGA) conservatively contributes in excess of:

- 3,000 visitor accommodation dwellings
- 9,000 visitor rooms
- 18,000 visitor beds
- 25% of all visitor accommodation
- 50% of all commercial visitor accommodation
- \$350-\$500 million annually (direct & indirect)

HLOCC is a peak industry association that represents and supports hundreds of Central Coast STHL managers and owners. The HLOCC Committee is comprised of STHL industry experts with many years of experience both within the STHL industry and in other complementary industries and professions.

HLOCC continues to support and promote the NSW Code (version 1) as the only credible method currently available to prescribe minimum standard STHL management “standards and practices”. The Code is referenced in the Central Coast Council's Development Control Plan. Unfortunately the NSW Code version 1 currently has no Code Administration Committee and does not function practically beyond it's administration and promotion by HLOCC and the Central Coast Council.

HLOCC:

- was invited by The NSW Department of Planning and Infrastructure to participate in the development of the NSW Holiday Rental Code of Conduct (please see appendix 1),
- co-developed version 1 of the NSW Holiday Rental Code of Conduct,
- was voted onto the Code Administration Committee (CAC); relinquishing this position when it became clear that the committee was not a functional body,
- was a [Code Participating Organisation](#) endorsed by the CAC on 6 December 2012,
- complies with all Participating Organisation obligations as prescribed in the Code,
- requires all members to meet the Code standards and Council planning requirements,
- believes ineffective Code administration is a significant impediment to the future sustainability of Central Coast STHL,
- believes legal recognition and ineffective Code administration is a significant impediment to the future sustainability of NSW STHLs in general,
- strongly supports the Central Coast Council's STHL planning provisions.

NSW Regulation History & Experience

STHL historically operated in a mostly unregulated environment in NSW, with minimal impact on community amenity.

The proliferation of online advertising portals (amongst other factors) has led to the rapid expansion of STHL in the last decade; resulting in substantial economic benefits to regional economies. Unfortunately, in some circumstances this expansion has also resulted in recognised community amenity challenges.

To address the challenges and enable a sustainable future, HLOCC joined with other industry organisations to lobby for:

- legal recognition of STHL,
- STHL industry self-regulation involving a Code of Conduct, administered by an industry group, supported by industry associations that addressed recognised community amenity challenges.

HLOCC was invited by the NSW Department of Planning and Infrastructure (now the NSW Department of Planning and Environment) to assist with the development of the NSW Holiday Rental Code of Conduct.

HLOCC viewed the development of the Code as:

- the first and vital step towards meeting the challenges of an unregulated and rapidly expanding accommodation sector,
- a possible alternative to government regulation,
- the development of a minimum standard policy document that prescribed acceptable STHL management standards and practices to satisfy community and guest expectations.

The Code took years to complete and approximately 18 – 20 draft versions. The major points of contention that held up publishing and government endorsement included:

- occupancy numbers (domestic scale occupancy max 2 adults/bedroom or 2 adults/bedroom + 2 adults. Code version 1 includes maximum occupancy limits of 2 adults/bedroom),
- permissible number of bedrooms,
- CAC voting rights (who would sit on the CAC and what voting rights each entity would have),
- possible inclusion of a not yet formed national body proposed by Stayz.

The Code development committee included the following organisations:

- The NSW Department of Planning and Infrastructure (now Department of Planning and Environment),
- Destination NSW,
- Local Government and Shires Association,
- HLOCC,
- HLO Byron,
- REINSW,
- the Stayz Group.

On 31 May 2012, the NSW STHL industry commenced a Government endorsed self-regulation trial involving the Code. The two year trial was voluntarily established and endorsed by all of the industry stakeholders that participated on the Code Development Committee. A Code Administration Committee (CAC) was established under the request and guidance of the State Government to administer the NSW state code.

The voluntary nature of self regulation requires the collective action of all stakeholders to succeed. All stakeholders must commit to participating, supporting, implementing and enforcing regulation standards and practices. Effective and credible governance is imperative in any system of regulation.

In the case of the STHL self regulation trial, transparent and accountable CAC and Participating

Organisation governance and administration would determine the credibility and effectiveness of the industries self regulation trial.

HLOCC became a Code Participating Organisation to:

- support the objectives of the self regulation trial and Code,
- assist STHL managers to address community amenity challenges,
- assist STHL quality improvement and control.

HLOCC partnered with the company Holiday Rental Solutions Pty Ltd (HRS). HRS provides an online Code (*regulation*) enabling system that:

- Ensures our members have the ability to implement and prove compliance with the Code, and
- facilitates effective quality improvement & control, complaints management, and monitoring and reporting.

HLOCC member Code implementation and compliance has been very successful.

Approximately halfway through the self regulation trial the NSW Land & Environment Court defined STHL as a prohibited land use in the former Gosford City LGA 2A residential zone (02 May 2013, Dobrohotoff v Bennic).

The case was brought before the Court by a STHL neighbour as a result of amenity challenges (specifically addressed by the Code) including overcrowding, nuisance noise and parties in the neighbouring STHL (amongst other things).

HLOCC notes that the dwelling in question was:

- Never a member of HLOCC,
- advertised on Stayz in a manner not consistent with the Code's requirements (Stayz was a Participating Organisation and member of the CAC which required them to ensure dwellings advertised on their website complied with the Code),
- not managed in accordance with the Codes standards and practices.

The LEC ruled that STHL was illegal in the former Gosford City LGA, principally as the occupation of a property for the purpose of STHL was not sufficiently permanent to comprise a 'dwelling house' with regard to the original zoning development consent. Further, the Court found that adoption of the former Gosford City Council draft LEP2009 Short-term Rental Accommodation (STHL) Planning Provision was not imminent or certain.

It is now widely understood that continued use of a dwelling for STHL in an LGA without STHL Planning Controls or not in accordance with Council Approvals/Controls leaves stakeholders open to prosecution for illegal operation and may void applicable insurance contracts leaving stakeholders open to liability without the protection or (possibly) even the option of insurance.

Unapproved STHL may incur significant joint &/or several forms of liability concerns for the following stakeholders:

1. The NSW State Government,
2. local Governments,
3. insurance Companies,
4. STHL Property Owners/Managers/Guests,
5. online STHL advertising facilitators & marketplaces (portals). Portals may be liable to third parties such as neighbours and Local Governments.

The management practices of the STHL in question were not consistent or compliant with the Code's standards and practices, resulting in a LEC Case that found STHL to be illegal in regions without STHL planning provisions. Code non-compliance was facilitated by a Code Participating Organisation (the Stayz Group) and ineffective and non transparent Code administration and governance by the CAC; resulting in

unsustainable industry, community and economic challenges in the Gosford City LGA and wider NSW.

The CAC did not:

- act in the best interests of the industry and community,
- act responsibly,
- effectively, transparently and accountably administer and govern the Code.

As a result of the CACs ineffective governance and a lack of government oversight, Code compliance was poor and the STHL self regulation trial failed. NSW STHL stakeholders now face greater uncertainty and significant liability concerns.

The CACs failure to comply with the responsibilities and obligations prescribed in the Code resulted in serious and unsustainable industry, community and economic challenges including:

1. failure of the industries government endorsed self-regulation trial
2. a loss of confidence in the industries ability to self regulate and institutionalise the Codes standards and practices,
3. the objectives of the Code and self regulation trial not being realised,
4. market failure and industry uncertainty,
5. the undermining of HLOCC and other Participating Organisations ability to govern and administer the Code,
6. market distortion between complying and non complying dwelling managers,
7. a LEC Case that deemed STHL illegal in the former Gosford City LGA's 2A residential zone,
8. significant liability concerns,
9. unacceptable economic loss in the former Gosford City LGA.

The Current Regulation Situation In NSW

Following the NSW LEC STHL ruling and completion of the STHL self regulation trial, NSW Council's are adopting STHL Planning Control's to address liability concerns and community amenity challenges.

The LGNSW Association describes Local Government obligations following the NSW LEC STHL ruling as follows:

'This decision serves as a reminder to all councils to review the wording of their planning instruments. If there is ambiguity surrounding the definition of 'dwelling house' and whether the use of a property for short term holiday rental accommodation is permissible in a particular zone, councils have a duty to amend ambiguous terms and remedy any deficiencies in their planning instruments.'(Land & Environment Court Reporter issue 4, 2013 Dobrohotoff v bennic (2013) NSWSC 61)

1. The former Gosford City Council adopted an amended version of the draft LEP2009 Short Term Holiday Letting Planning Provisions on 15th October 2013 via the NSW Department of Planning and Environments Gateway Process. The planning provisions legally recognise STHL, provide effective, sufficient and sustainable controls and recognise and support the NSW Holiday Rental Code of Conduct. (s 3.14.7 of the GCC DCP2013).
2. The former Wyong Shire Council (WSC) STHL Planning Controls were gazetted on 10 Oct 2014 via the Gateway Planning Process.
3. HLOCC strongly endorses the Central Coast Council's (the amalgamation of GCC and WSC), NSW Holiday Rental Code of Conduct policy support.
4. At least 11 other Local Government Areas have adopted STHL planning provisions.
5. STHL is illegal in all other Local Government areas with LEP's that do not contain STHL planning provisions
6. HLOCC members and the Central Coast community strongly support the Central Coast Council STHL Planning Control's as effective and sustainable STHL co-regulation measures that effectively guide and define acceptable STHL standards and practices and ensure STHL is consistent with domestic scale and the amenity/environment of a neighbourhood.
7. The Central Coast Council STHL Planning Controls combined with Code of Conduct compliance, supported by HLOCC and facilitated by the Holiday Rental Solutions Pty Ltd Quality Assurance and Accreditation System (*regulation enabling system*) have proven over a number of years to be effective in addressing community amenity challenges and addressing liability challenges.
8. Credible NSW Code of Conduct administration is imperative to the effectiveness and sustainability of the Central Coast and broader NSW STHL planning provisions.
9. The Central Coast Council planning provisions that directly reference the NSW Code of Conduct are being undermined by ineffective and narrow Code governance by the HRIA.
10. Local Government's are having difficulty adopting STHL planning provisions without a standard planning definition.

Co-regulation: A Proven & Sustainable Solution

The HLOCC Board, and the broader NSW Central Coast's STHL industry and community strongly support the Central Coast's STHL co-regulations. Co-regulation has proven to be popular, effective and sustainable because it enables:

- effective, appropriate regulation without costly red-tape and inefficiencies
- the industries unique qualities and challenges to be balanced,
- regulators to react to the ongoing changing nature and regulatory requirements of the industry
- industry and regulators to retain and enhance the industries unique attributes

HLOCC recommends the adoption of a statewide co-regulation model that utilises a standard planning definition and available existing controls and support tools (such as those utilised on the NSW Central Coast), including:

- a) A Standard planning definition and Local Government Planning Controls**
- b) An Industry Code of Conduct**
- c) Participating Organisations**
- d) Strata By-laws**
- e) A Code of Conduct (*regulation*) enabling system**

a. Standard Planning Definition & Local Government Planning Controls

The NSW Central Coast Council (CCC) Planning Provisions legalise STHL by way of a planning definition included in the Council's LEP's and DCP's.

The CCC utilises the NSW Code of Conduct to prescribe STHL management and guest *behavioural expectations*. To prescribe STHL planning requirements and facilitate compliance enforcement, The CCCC utilises:

- exempt development controls,
- development assessment guidelines,
- development consent controls, and
- council's compliance department.

Council can require the submission of a development application because the development limits for the use are exceeded as exempt development or as a result of complaint concerning the operation of the use as per exempt development limits.

The CCC determines STHL operational thresholds based on the STHL's potential to effect amenity. Thresholds determine the type of planning control a dwelling will be subjected too.

The CCC STHL operational thresholds include:

- Dwellings that contain 1 to 4 bedrooms, compliant with the Code of Conduct (therefore 2 adults/bedroom), can operate as (conditionally) exempt development. Conditions include the requirement to operate within the predetermined domestic use scale for residential zones as described in the NSW Code of Conduct. Non-compliance triggers enable the Council to utilise compliance enforcement provisions.
- Dwellings containing 5 or 6 bedrooms are required to obtain development consent as they may cause unsustainable amenity challenges beyond normal residential scale zoning allowances.
- Dwellings with more than 6 bedrooms cannot operate legally as STHL as Council deems that they will cause unsustainable amenity challenges not consistent with domestic scale use.

	Challenges	Recommendations
1	Legal recognition of STHL in Local Government Areas that do not include STHL in their Planning Controls	<p>Co-regulation continue to be adopted and developed. Co-regulation to include:</p> <p>c) A standard, statewide STHL planning definition. HLOCC supports the STHL planning definition contained within the Options Paper (page 18) as follows: <i>'STHL is a dwelling, or part of a dwelling, that provides short-term accommodation, but does not include tourist and visitor accommodation'</i>.</p> <p>d) Local Government STHL planning provisions. HLOCC strongly supports the Central Coast Council STHL planning provisions in their current format, as supported by the local industry and community on three separate public notice occasions. These planning provisions include:</p> <ul style="list-style-type: none"> • (conditionally) exempt development provisions for accommodation considered to remain within domestic use criteria (1- 4

		<p>bedroom dwellings, maximum 2 adults/bedroom, Code of Conduct compliant),</p> <ul style="list-style-type: none"> • a development application process for dwellings containing 5 or 6 bedrooms which references the Holiday Rental Code of Conduct (version 1, March 2012) within the Development Control Plan (DCP), • a development application process for dwellings that exceed the exempt development limits as a result of complaint concerning the operation.
2	Determining STHL operating thresholds	Regulators and other stakeholders to utilise the recognised domestic use scale prescribed in the NSW Holiday Rental Code of Conduct V1; agreed to by all stakeholders that participated in the development of the NSW STHL Code of Conduct V1.
3	Effective behavioural management and control	<p>Behavioural management and control to be facilitated by utilising a government endorsed industry Code of Conduct to prescribe STHL management and guest behavioural expectations. Compliance and enforcement to be facilitated by:</p> <ul style="list-style-type: none"> • Strata By-laws • Participating organisations • The Holiday Rental Solutions Pty Ltd Code of Conduct (<i>regulation</i>) enabling system • Council

b. Industry Code of Conduct

Following the completion of the NSW STHL self regulation trial, the Stayz Group formed an organisation called the Holiday Rental Industry Association (HRIA). HRIA claims to be the industries national governing body. HRIA have illegitimately taken over custodianship and administration of a self amended national Code. The illegitimacy of the HRIA Code was brought to the attention of the recent NSW Parliamentary Inquiry Legislative Assembly Committee (the 'Committee') in a document tabled by HLOCC at the Inquiries third public hearing and subsequently published on the NSW Parliament's website (see [here](#)).

The 'Committee' found that the Code's current management structure (the HRIA management) and participants (participating organisations) are too narrow; however, the Committee were of the view that a Code of Conduct might be a valuable tool in the management of the STHL industry. The Committee recommended that the Code should be strengthened and be part of a compliance system for STHL.

The Committee suggested that there may be value in reviewing the Code of Conduct or producing a NSW-specific Code of Conduct that is supported by all providers and the government in NSW (recommendation 6). The Committee also recommended that the NSW Government should participate formally in the management of the Code.

HLOCC strongly supports the Parliamentary Committees Code recommendations.

The NSW Department of Environment and Planning, and The Department of Fair Trading are advised that the HRIA and it's national Code do not have the support of the peak industry bodies that developed the original NSW state Code.

HRIA's Code is also not endorsed or formally recognised by any government body, nor is it supported by NSW industry, including peak bodies such as HLOCC, an original member of the Code development committee and CAC. In addition, the HRIA Code was developed and promoted without consultation with the NSW industry.

The promotion of a Code which is not formally recognised by the State, or supported by the NSW industry, creates confusion for consumers and industry stakeholders, as well as conflicts with the current and proposed planning legislation of various NSW councils (such as the Central Coast Council).

The NSW Holiday Rental Code of Conduct (version 1, march 2012) was endorsed by the former Minister for Planning & Infrastructure the Honourable Brad Hazzard as a policy document that prescribes industry standards, practices and definitions. This Code should be used by:

- All STHL property owners and managers: as a policy document that describes minimum standards and practices
- Communities: to define STHL expectations
- Insurance companies: to help understand the industry being insured and to identify and manage risk
- Legal situations: to define acceptable practices and standards with regards to negligence
- The basis of the industries Code (*regulation*) enabling system: it is vital that organisations utilising a Code of Conduct have a recognised method of implementing, verifying compliance, facilitating quality improvement, addressing complaints and monitoring and reporting. Insurance companies, Council's, Guests and Communities may require identification of managers that are operating and meeting required standards

HLOCC notes:

- the Code was developed in NSW by NSW stakeholders with the assistance of the NSW Department of Planning & Infrastructure. Indeed the Department assisted in the drafting of the final version(s) of the Code,
- The Code is a public document that is not owned by any organisation,
- version 1 (march 2012) of the Code was formally endorsed by all organisations that contributed to it's development,
- version 1 (march 2012) of the Code continues to be endorsed by the NSW STHL Industry and (to the best of our knowledge) the Government,

- no mid trial review was published by the CAC,
- no end of trial report was published by the CAC,
- HLOCC and the major NSW stakeholders disagree with the concept of ownership of the Code by any one entity,
- HLOCC and the major NSW Stakeholders disagree with the Codes standards being reduced below those endorsed by the NSW State Government,
- HLOCC does not recognise the HRIA as the STHL industries national governing body.

The HLOCC Committee unanimously voted to continue to support only version 1 of the Code and reject any other Code because:

1. The Code was endorsed by the NSW State Government,
2. The Code is robust and sets minimum standards with clearly defined responsibilities,
3. The Code has been widely promoted to all Councils in NSW,
4. Councils are endorsing the Code through there planning processes,
5. Gosford City Council referenced and supported the Code in GCC LEP2013 STHL Planning Controls.

	Challenges	Recommendations
4	Custodianship and credible, effective administration of an industry Code	<p>The NSW Government to formally participate in the management of an industry Code and the formation of a new NSW industry based Code Administration Committee (CAC), overseen by the NSW Government, to administer:</p> <p style="padding-left: 40px;">a) The NSW Holiday Rental Code of Conduct (version 1, march 2012),</p> <p style="padding-left: 40px;">or</p> <p style="padding-left: 40px;">b) The NSW government produce a NSW-specific Code of Conduct. HLOCC endorses the outcomes based Code included in the Options Paper pg29.</p>

c. Participating Organisations

HLOCC understands Participating Organisations to be those organisations that:

- Endorse and agree to implement the Code of Conduct,
- Undertake to promote, implement and enforce compliance with the Code to achieve agreed regulation objectives

Participating organisations may be regional, state or national industry associations, tourism bodies, government organisations etc.

Regional Industry Associations:

Regional associations such as HLOCC play a vital role in the implementation, enforcement, monitoring and reporting of the Code of Conduct. Any regulation model adopted should aim to facilitate the further development and participation of peak regional associations.

State Industry Associations:

REINSW played a vital role in the development of the NSW Code. Unfortunately to HLOCC's knowledge, the REINSW does not currently maintain a STHL committee.

National Industry Associations:

National associations rarely play a role in the management of regional and state regulation.

The role of a national association is generally to represent the interests of the broader industry at a federal level. Often these organisations are formed by and on behalf of other smaller state and regional bodies.

In the case of the HRIA, the organisation was formed by Stayz, a multinational company, with no little regard for or consultation with the existing and recognised peak state and regional industry associations.

The HRIA describes itself as the industries representative body. The HRIA is not the industries representative body as they have few formal communication channels with other recognised peak NSW state associations, nor do they represent the views of existing, recognised peak regional industry associations such as HLOCC.

The current HRIA board:

- have little experience in STHL regulation or industry management,
- have not attempted to liase with or form communication channels with existing recognised industry associations such as HLOCC,
- are too narrowly represented to appropriately administer the NSW industries Code of Conduct – as determined by The NSW Parliamentary Inquiry Committee. HLOCC believes the current HRIA Board to be less representative of the broader industry than the Board that presided during the Parliamentary Inquiry,
- Continue to advocate a national Code of Conduct that is not endorsed by any government organisation and has been rejected by the industry and the Parliamentary Committee.

	Challenges	Recommendations
5	Industry support of a government endorsed Code of Conduct	Peak industry associations such as HLOCC, become Participating Organisations to support, promote and assist compliance with a government endorsed Code and agreed regulation objectives.

d. Strata

Strata complexes may incur unique STHL challenges, often due to relatively close living environments and shared common areas. Owners corporations have the ability to address these unique challenges by utilising existing legal avenues such as strata by-laws.

Strata schemes are required to comply with Council LEP's.

Council LEP's should clearly define STHL and should reference the industries Code of Conduct in their planning instruments.

By-laws that comply with council planning instruments and reference the industries Code can be legally binding and can therefore assist owners corporations to address the challenges of a poorly managed lot within a given strata scheme.

HLOCC has assisted the development of a proactive strata by-law on the NSW Central Coast that works in tandem with the Central Coast Council STHL planning provisions and the industries Code of Conduct.

	Challenges	Recommendations
6	Effective management of STHL in strata complexes	Strata by-laws that comply with Council planning instruments and reference the Code of Conduct to be utilised by owner's corporations to address unique STHL challenges. By-laws that require compliance with a government endorsed industry Code of Conduct to aid enforcement and as a way of addressing behavioural challenges.

e. Enabling System

A poorly regulated industry can undermine industry trust, and may lead to adverse reputation effects for all STHL accommodation providers that may take years to overcome.

All NSW STHL accommodation providers should implement and comply with the NSW Holiday Rental Code of Conduct.

	Challenges	Recommendations
7	<p>STHL dwelling managers require a recognised enabling system to implement and prove compliance with:</p> <ul style="list-style-type: none">• A government endorsed industry Code of Conduct• Planning Controls and Development Applications	<p>An industry based enabling system that supports stakeholders, and facilitates Code implementation and compliance, complaints management, education, and monitoring and reporting be endorsed and utilised by the industry. Organisations that facilitate regulation and standards implementation, institutionalisation and accreditation should complement, support and work in collaboration with regulators, industry associations (participating organisations) and insurance companies.</p> <p>The Holiday Rental Solutions Pty Ltd Quality Assurance and Accreditation System has been operating for over 6 years on the NSW Central Coast, successfully providing enabling functions and supporting the Central Coast Council's STHL co-regulation planning provisions.</p>

Conclusion

The rapid growth of STHL has resulted in a wide range of recognised and important economic benefits to the states economy, however, growth driven by digital technology has resulted in regulation challenges that must be addressed to ensure sustainable industry management practices and future growth.

HLOCC's position is that excessive over-regulation will not create a sustainable industry, it will simply undermine it. It is also HLOCC's position that doing nothing is leading to market failure that will eventually require the need for heavier regulation which in turn will undermine the sustainability of the industry.

Extensive ground work has been completed to achieve a sustainably regulated STHL accommodation sector in NSW. This includes the development of the original NSW Holiday Rental Code of Conduct (version 1) and local government planning provisions included in LEP's and DCP's.

This HLOCC submission makes a number of important regulation recommendations that utilise existing regulatory options. The recommendations acknowledge and support many of the Legislative Assembly Committees findings and endorse a co-regulation model based on the successfully adopted and implemented regulations found on the NSW Central Coast. The model is adequate, sustainable, proven and includes:

- **A Standard planning definition and Local Government Planning Controls** - to legalise and facilitate compliance enforcement,
- **An Industry Code of Conduct** - to prescribe STHL management and guest behavioural expectations
- **Participating Organisations** - to promote, implement and enforce Code compliance
- **Strata By-laws** - to assist owners corporations to address the unique challenges of a poorly managed lot within a given strata scheme
- **The Holiday Rental Solutions Pty Ltd Code of Conduct (*regulation*) enabling system** - to facilitate Code implementation and compliance, complaints management, education, and monitoring and reporting

The HLOCC Board believes adoption of the recommendations contained within this submission will contribute to effective and sustainable regulation and management of the STHL industry, and positive outcomes for a broad range of stakeholders; further enabling STHL to positively contribute to the NSW economy as it has on the NSW Central Coast.