

Smart Regulation for Short Term Holiday Letting

Submission to the NSW Department of
Planning & Environment

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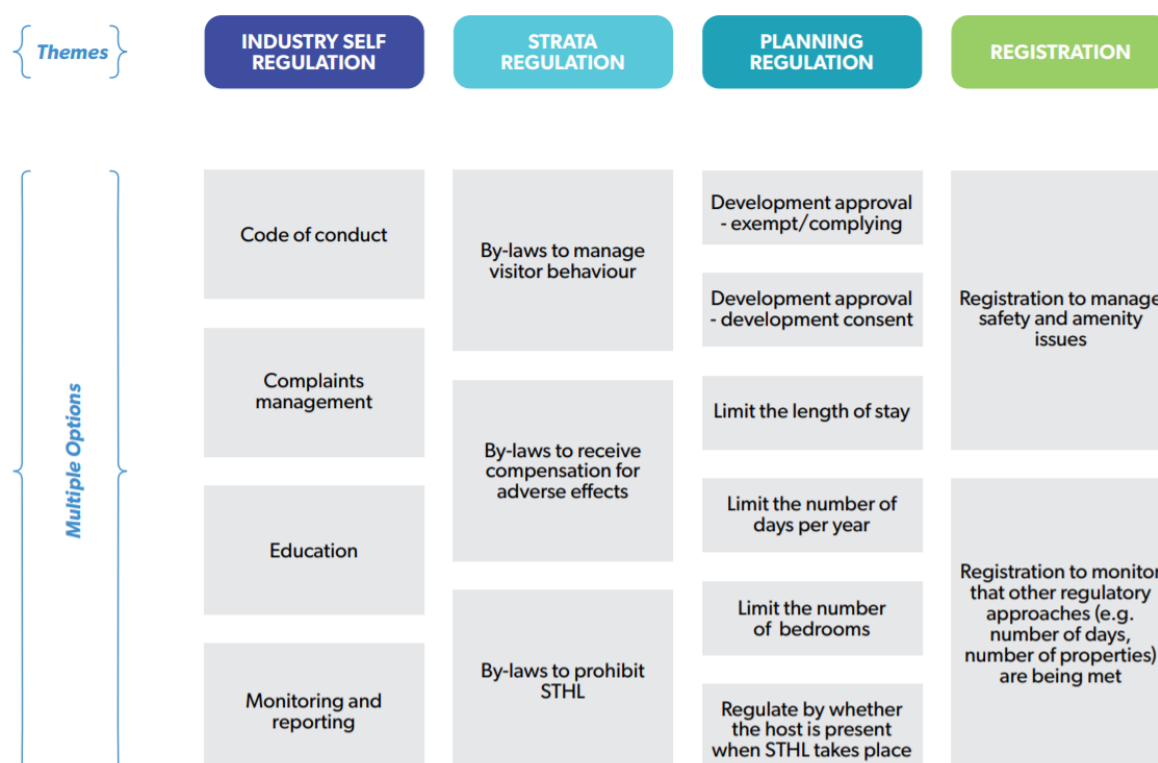
Introduction

The Committee for Sydney (CfS) welcomes the opportunity to respond to the Short-Term Holiday Letting Options Paper. The CfS praises the NSW Government for undertaking consultation to ensure that state regulations are fit-for-purpose and appropriately responsive to an evolving STHL market. The CfS is hopeful that the NSW Government's response to this Paper will strike an appropriate balance between the need to protect tenancy rights, maintain the supply of homes available for rent while also securing the benefits of innovation within the short-term holiday letting (STHL) sector.

The 2016 NSW Legislative Assembly Committee inquiry into this matter correctly identified that there is a scarcity of data regarding the impact of AirBnB and other emerging STHL providers on local communities.¹ Furthermore, an examination of the limited data available has failed to identify any immediate negative consequences arising from the recent expansion of the STHL sector. As such, CfS is of the view that a case has not been yet made for changing the current regulatory settings but that the NSW Government should continue to monitor the sector while working to build a deeper evidence base.

Categories of reform

The Paper has presented a variety of options for possible reform. The proposals vary widely in scope, but broadly fall into four key themes of: industry self-regulation, strata reform, planning reform, and registration requirements.

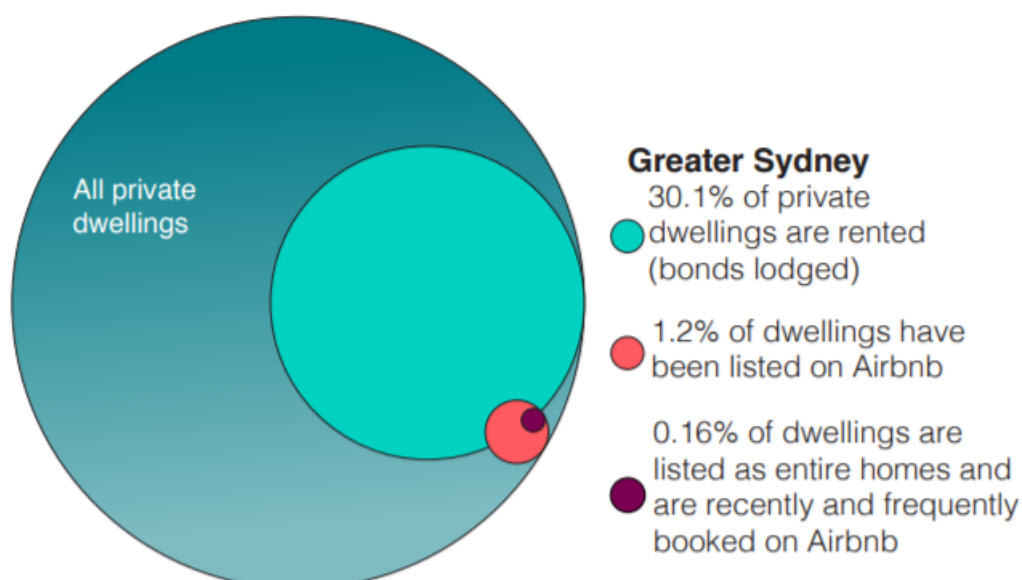


¹ NSW Government, Legislative Assembly Committee on Environment & Planning, *Adequacy of the Regulation of Short-Term Holiday letting In New South Wales*, Report 1/56 October 2016, <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/6080/Final%20Report%20-%20Adequacy%20of%20the%20Regulation%20of%20Short-Term%20Holiday%20Letting%20in%20New%20South%20Wales.pdf>

Variations of these regulations have been trialled in various districts both within Australia and abroad. CfS cautions that every city is different, and that a regulatory framework suitable for an alternative city may not necessarily be suitable for Sydney. As such, the NSW Government's approach should be guided by a closer examination of local factors.

Evidence regarding the impact on local rents

CfS agrees with the Tenants' Union of New South Wales' contention that the STHL sector is unlikely to be driving up rents across Greater Sydney. Research by the Tenants' Union has confirmed that a surge in the number of AirBnB properties has not led to any notable decline in vacancy rates across the city. Evidence suggests that few AirBnB properties are currently leased as entire houses and on a high frequency basis. Many rentals are simply the leasing of housing when the hosts themselves are away, or the occasional leasing of 'spare rooms' in a house. The Tenants' Union has confirmed that just 0.16% of all dwellings are listed as entire homes and rented out on a frequent basis.² As such, this form of STHL stock represents such a small component of the housing market that it is unlikely to be a core factor in rental price changes.



The Grattan Institute has also released a report which disputes allegations that STHL is responsible for recent increases in rental costs. The Grattan Institute's report largely supported the contention of the Tenants' Union of NSW that AirBnB's share of housing stock was too low to influence rents.³

CfS agrees that as AirBnB represents such a small component of the overall rental market in Sydney, current growth in this sector is unlikely to have any material impacts on rent.

CfS notes however that Australia continues to have some of the weakest tenancy laws in the world. Strengthening renter rights and abolishing no grounds terminations should nonetheless be pursued to make it more difficult to evict long term tenants to repurpose a dwelling for STHL purposes.

² Tenants' Union of New South Wales, *Airbnb and Renting in Sydney*, March 2017, <https://files.tenants.org.au/policy/2017-Airbnb-in-Sydney.pdf>

³ Grattan Institute, Minifie J., *Peer-to-Peer Pressure: Policy for the sharing economy*, April 2016, <https://grattan.edu.au/wp-content/uploads/2016/04/871-Peer-to-peer-pressure.pdf>

Relevance to Government strategies

Airbnb guests are already a significant driver of the tourism economy, with a total contribution to New South Wales' GSP of \$512 million in 2015-16. The growth in STHL offerings is well placed to assist with the federal Government's *Tourism 2020* strategy, which identified that 20,000 new capital city rooms would need to be developed to meet visitor demand.⁴ STHL properties also tend to be distributed across capital cities and regional areas, and between the CBD and metropolitan areas. This may assist in achieving another key area of strategic focus in *Tourism 2020*: improving regional dispersal.

The growth in STHL offerings should also assist the NSW Government with its own *Visitor Economy Industry Action Plan*.⁵ Although STHL offerings were not considered in the original taskforce report or in the government's response, platforms like Airbnb can help achieve the Plan's targets for increased accommodation supply. This is especially true with regards to the targets for regional areas. According to Airbnb data, around 8,600 unique listings booked in 2015-16 in New South Wales were outside the Greater Sydney area, out of a total 30,900.

The wider geographic dispersal of STHL accommodation relative to the traditional hotel industry is also likely to result in a greater dispersal of tourism spending. The CfS will soon release a strategy to bolster Sydney's 'Night-Time Economy'. This report will emphasise the need to ensure an approach that is not overly CBD centric, while noting that more localised strategies are needed to ensure that Sydney's suburbs are able to develop their own late-night economies. These objectives are well supported by the growing number of accommodation options that are located outside the traditional hotel hubs. The suburban dispersal of STHL makes it more likely that tourism dollars will be spent in suburban restaurants, bars, and other night-time venues.

The addition of the "local experiences" feature on AirBnB should also expand tourism spending in the suburbs, as visitors connect with activities that are closer to their place of stay. Such an outcome would be unlikely to occur under a CBD centric hotel model of tourism accommodation.

The potential for STHL to support both the *Tourism 2020* strategy and the NSW Government's *Visitor Economy Action Plan* is one of the core reason why the CfS is promoting an approach that avoids unnecessary regulation that could stifle growth within the STHL sector.

Accepted and rejected reforms

Self-Regulation

CfS believes that enhanced self-regulation represents the most appropriate avenue for improvement given that a case has not yet been made for stronger regulatory reform. Possible options for reform include:

- Working with industry to encourage the development of modern, voluntary code-of-conducts
- Strengthening Complaint Management Mechanisms
- More thorough Monitoring & Reporting Frameworks

The CfS does not identify any immediate barriers to the implementation of these reforms.

⁴ Australian Government, Austrade, *Tourism 2020*, December 11, <http://www.tourism.australia.com/content/dam/assets/document/1/6/w/u/3/2002107.pdf>

⁵ NSW Government, Department of Industry, *Visitor Economy Industry Action Plan*, June 2012, https://www.industry.nsw.gov.au/_data/assets/pdf_file/0008/53684/VET_finalreport_20120810.pdf

Strata Reform

The NSW Legislative Assembly inquiry recommended that the NSW Government further examine whether to amend the Strata Schemes Management Act to provide owners' corporations with greater powers to manage and potentially limit the operation of STHL properties within their building.

The CfS agrees with the NSW Government's response to the Legislative Assembly inquiry that the most appropriate time for an examination of Strata Laws is at the next planned review in five years' time.

Should the NSW Government determine that an earlier review is warranted, then reform should be limited to measures that seek only to protect amenity and reduce nuisance behaviour. Granting owners corporations' the power to block or severely restrict the development of STHL within a building would represent an unnecessary degree of regulatory overreach, and would likely undermine the potential benefits associated with an expanding and innovative STHL market.

Regulation through the Planning System

The CfS believes that the scarcity of available data regarding the impacts of STHL on local communities makes it difficult to justify reform to the current planning framework at this stage. Should the NSW Government seek to enact planning reform, then the scope of those reforms should be limited as described.

One potential area of worthwhile reform might involve an attempt to standardise regulation across LEPs. Few LEPs in NSW currently refer specifically to STHL, but of those that do, many use different definitions of what constitutes STHL and have different thresholds for when STHL requires development consent. Some LEPs attempt to restrict the sector by imposing a maximum number of consecutive days that STHL can occur, or a maximum number of bedrooms allowed for STHL. Other LEPs set thresholds for days and bedrooms beyond which a more detailed level of approval from council is required.

The CfS believes that encouraging a shift towards a standardised terminology would be worthwhile, as would a more consistent approach regarding development consent. The CfS is opposed however to any expansion in the number of LEPs which attempt to overtly restrict the use of STHLs. Specifically, the CfS has not been persuaded of the benefits of LEPs which attempt to restrict:

- The number of total days per year that a room or dwelling can be rented out
- The number of consecutive days that a room or dwelling can be rented out
- The maximum number of bedrooms that can be rented out
- The ability of landlords to rent out a property that they themselves do not live in

The CfS also remains unconvinced of the need to enforce a mandatory Code of Conduct on the industry at-this-time. The CfS notes that the largest provider in the industry, AirBnB, already has its own Code of Conduct and is working actively to ensure that self-regulation is effective at addressing concerns raised by members of the public.

Registration or Licensing

The CfS is unconvinced of the need to introduce a mandatory registration or licensing scheme for the STHL industry at this stage. Mandatory registration programs would need to be supplemented with a compliance program, both to enforce registration and to ensure that any accompanying requirements are met. Such a program would represent a substantive and costly increase in red-tape. This outcome is undesirable given the lack of any identifiable negative outcome arising from recent growth in the STHL sector.

Concluding comments

Regulating disruptive tech-based models is not easy and views differ across the community as to how to ensure such new business models operate in the public interest. Existing business models are being challenged by new entrants to markets such as AirBnB or indeed Uber. We believe on current evidence that the NSW Government approach provides the right balance and that regulatory reform is not justified. However, our analysis is determined by evidence and if the evidence of benign public impact were to change our view may change. That is also the approach correctly being taken by the NSW Government.