

**SUBMISSION FROM THE STRATA COMMITTEE OF SP 57970 IN RESPONSE TO THE SHORT TERM
HOLIDAY LETTING IN NSW OPTIONS PAPER**

We write to you on behalf of strata SP 57970, regarding the Short-term Holiday Letting in NSW Options paper released in July 2017.

Our interests specifically relate to Strata Regulation (Section 5) and by-laws to:

- 1) manage visitor behaviour
- 2) receive compensation for adverse effects of STHL
- 3) restrict / prohibit STHL

Our experiences with STHL to date have been negative, however we feel with the appropriately supported legislation that this particular issue can be managed in such a way as to result in a positive outcome for all.

For context, our building contains 45 units, of which 30 are rented and currently we prevent STHL via our by-laws. We've had to rely on this by-law on 24 separate occasions since 2014 to shut down STHL within our building – 21 whole-of-apartment leasing and three private rooms. This has resulted in 21 evictions from our building and a great deal of time and effort involved in collecting and collating sufficient evidence to prove short-term letting has taken place against the bylaws, and unfortunately in all circumstances, without the knowledge or consent of the owners.

Our main concern and focus of our by-laws is to promote the safety and security of all occupants. Misuse of shared building amenities combined with a blatant disregard for our broader by-laws have unfortunately resulted in our passing of by-laws to prohibit STHL. This is due to some of the issues identified within the options paper – noise, waste and parking issues, party houses and hazards / evacuation concerns. We have also experienced additional impacts not specifically covered in the report, such as over-occupancy as well as distraction of our building manager from general upkeep and management of the building to handle and resolve issues specifically related to STHL.

As is common in buildings facing over-occupancy and high STHL instances, we face concerns regarding overuse and expedited degradation of shared facilities and utilities. The limited ability to impose increased levies and include liability penalties to protect ourselves from adverse impacts of STHL, have resulted in our introduction of Strata by-laws prohibiting it altogether. Our experience to date has not been with owners utilising STHL, but with leasees doing so without the knowledge or permission of the owners. We often find ourselves caught between non-owner residents, real estate representatives and the owners to identify the liability for any damages or broken by-laws resulting from STHL.

While the original intent of websites such as AirBnB was to give people the ability to earn supplementary income by utilising spare rooms in their home, our experiences have seen it result in over-crowding and slum-like scenarios. Walking down the streets of Pyrmont past apartments with ground floor units, one can see multiple apartments filled to the brim with bunk beds well beyond the legal occupancy limits. Pyrmont has a population of ~11,600 with ~60% of residents renting, with a median apartment weekly rental price of \$825 and average weekly income of \$1,250¹; the increase in over-crowding is therefore not surprising.

¹ According to the Jacksons Landing and Pyrmont Property Market Report (January – August 2017), produced by Raine & Horne, rh.com.au/pyrmont

While STHL is not the sole cause of this overcrowding, it is a contributing factor, and unfortunately we have seen time and time again that the original intent of STHL has been superseded by greedy, slum-lord-like persons who are taking advantage of the unaffordability of housing within Sydney to make quick and easy, tax-free income.

If owners corporations were empowered by legislation to prohibit or restrict, impose increased levies and include liability clauses, then each individual Strata committee could make an informed decision as to whether they felt such activity should be allowed and what model by-laws to apply in order to provide themselves appropriate protection from adverse effects of STHL.

Our experience to date would lead to a unanimous vote to continue to prohibit STHL as we have no faith that an honesty-based system or set of guidelines would be adhered to, for the following reasons:

- 1) STHL operators have already shown a willingness to breach existing laws, both development consent and strata by-laws which explicitly prohibit such activity
- 2) Despite a clear by-law explicitly preventing the use of apartments within our building for STHL, all operators continued their activity without a request to the owners committee for permission to undertake such activity or disclosure of their activity to the leasing agents or owners
- 3) All instances of STHL were instigated by tenants / leases against the owners knowledge, and often explicitly against their leasing agreement declarations
- 4) When confronted with allegations of their behaviour, most blatantly lied and denied their activities, hence the need for collecting proof of the breach of by-laws

We have seen a concerning level of over-occupancy and over-crowding due to STHL - well beyond legal occupancy limits. In some instances up to 6 persons hosted in a one bedroom apartment and up to 13 persons in a 3 bedroom apartment. This creates obvious concerns regarding excessive wear and overuse of shared services and facilities (such as water, waste and the shared gymnasium) as well as safety concerns in the case of an emergency where the emergency evacuation planning originally designed for the building caters specifically for the maximum legal occupancy of the building.

At the time of buying into the building, the owner's did so with the understanding that they bought into a residential building that was not zoned for serviced apartments or student housing, and yet the increase of STHL has resulted in an overwhelming increase of this type of scenario.

We urge the decision-makers to also consider broader societal impacts to be considered when assessing the impacts and appropriate controls regarding STHL:

- STHL impacts on availability and affordability of housing, specifically in metropolitan areas such as the city of Sydney
- Potential loss of tax revenue – e.g. hosts with turnover >\$75,000 are not required to register for GST
- General increase in congestion and overpopulation

Regarding availability and affordability: Areas such as New York² and Barcelona³ have banned STHL for full apartments to protect the availability of housing in inner city areas.

² <http://mashable.com/2017/04/03/airbnb-nyc-no-vacancy/#eot4nE48UPqh>

If nothing is done to limit the abuse of STHL in NSW, specifically in close proximity to Sydney CBD, then the enticing profit potentials will result in continued and increased move away from normal residential leases to short term tenancies, resulting in greater strain on housing availability and affordability⁴.

Regarding lost tax revenue: The ATO has resorted to data matching to identify those who are not declaring their income received through the 'sharing economy'⁵. It is possible that the people undertaking STHL within our building have not declared their STHL income to the ATO. Not only will we, the owners, be paying additional costs for the upkeep of our building and increased utility usage etc, but we could also see those who abuse our by-laws retain high profits without any contribution of those profits back into society for the ongoing improvement of infrastructure and services through the payment of taxes.

We strongly support legislation which empowers strata and owners corporations to assess the impacts of STHL to their buildings and implement by-laws which either restrict / prohibit, or protect them from adverse effects of STHL as they see fit.

Regards,

Strata Committee SP 57970

3 October 2017

³ <https://www.theguardian.com/technology/2017/jun/02/airbnb-faces-crackdown-on-illegal-apartment-rentals-in-barcelona>

⁴ <http://www.abc.net.au/news/2017-06-18/airbnb-in-australia-the-sharing-economy-has-a-dark-side/8624122>

⁵ <https://www.businessinsider.com.au/ato-is-data-matching-to-catch-tax-dodging-uber-drivers-and-airbnb-landlords-2017-1>