

This submission from the Owners' Corporation, Strata Plan 9438, is in response to the NSW Government's Option Paper of July 2017 on Short Term Holiday Letting (STHL) in NSW.

We see that the most important issue is for people living in strata units to be able to consent or refuse to have STHL in their building.

Response to questions posed in the Options Paper.

The numbering below is the same as in the Options paper.

6 Impacts Associated with STHL

6 Please indicate below which impact(s) are you most concerned about and how do you believe these could be managed.

- *Noise*
- *Waste*
- *Party Houses*
- *Parking*
- *Hazards and Evacuation*

The survey question correctly identifies amongst the negative impacts of STHL those of noise, waste, party houses, parking hazards, and evacuation. All these negative impacts were identified in the local government submissions to last year's Public Enquiry on the Adequacy of Regulation of Short-term Holiday Letting by the New South Wales Parliament Legislative Assembly Committee. Other negative impacts of concern to the owners Corporation include higher levies due to increased maintenance and repair costs, and higher insurance premiums. Increased crime rates in buildings which have both STHL and other resident-occupied units have been identified by the Australian Institute of Criminology.

The special case of strata units has been acknowledged by the Government in the Options Paper.

7 and 8 Self-Regulation

7. Considering the mechanisms below, how could self-regulation in NSW address any negative impacts of STHL?

- *The Code of Conduct*
- *Complaint Management Mechanism*
- *Monitoring & Reporting*

8. Are there barriers that may reduce the effectiveness of self-regulation?

We have looked carefully at overseas experiences with self-regulation. Our investigation shows clearly that self-regulation does not work in this area. In fact, platforms such as Airbnb, with their demonstrated determination to maximise profits and to avoid transparency, have resulted in government intervention in many parts of Europe and North America.

Our responses to the survey take into account the responses of cities in North America and Europe including San Francisco, New York, London, Paris, Barcelona and Vancouver to the negative impacts of STHL.

9, 10 and 11 STHL in Strata Properties

9 Should owners' corporations be given the legal ability to prohibit or restrict STHL? If so, how and under what circumstances?

Yes. Owners' Corporations should be given the legal ability to prohibit and restrict STHL in their building. STHL should only be permitted if determined by 75% of the owners of units in the building. The Owners' Corporation should be permitted to distinguish between owners who are living in their units as their primary place of residence, who wish to let out part of their premises, and other forms of STHL.

10 Should the Strata Schemes Management Act be amended to increase the ability of owners' corporations to manage the impact of STHL and obtain compensation for adverse impacts? If so, under what circumstances?

Yes. The Strata Schemes Management Act should be amended to increase the ability of Owners' Corporations to manage the impact of STHL, and to obtain compensation for any adverse impacts. For example, owners in buildings where STHL is permitted should not be obliged to pay additional levies due to the extra costs which result from STHL activities. Otherwise, all owners would be subsidising the profits being made by those owners who do undertake STHL. For example, if STHL results in increases in fire insurance premiums, then that cost should be wholly borne by those owners who wish to let their units in this manner.

11 Is there scope for industry self-regulation in the short-term holiday letting industry? Would this effectively address issues that occur in short-term letting in strata schemes?

No. There is no scope for industry self-regulation in the short-term holiday letting industry, for the reasons set out above.

12, 13 and 14 Regulation through the Planning System

12 How should STHL be subject to a planning regulatory framework? What would be the impacts of applying a planning framework to STHL?

- *Exempt*
- *Complying*
- *Development Consent*
- *No planning regulation*

Please indicate your reasons below.

STHL should be subject to a planning regulatory framework, which requires complying development consent. This is necessary to ensure that a unit used for STHL is safe, and meets required standards in the provision of facilities for activities such as waste disposal and parking. Councils will then have the ability to impose conditions of consent, and will also have a record of the penetration of the industry in the residential areas.

13 If STHL is to be regulated via the planning framework, how should it apply?

- *Number of total days per year*

- *Number of consecutive days*
- *Number of bedrooms*
- *Length of stay*
- *Presence of a host*
- *Location (metro vs. regional)*
- *Compliance with a Code of Conduct*

All of the above are relevant to planning permission. However, the Owners Corporation should have the ability to determine the terms and conditions, if any, under which STHL is permitted.

The maximum number of days per year let on STHL should not exceed 60, with the length of any stay of not less than 30 consecutive days.

14 *Should there be different planning frameworks in regional and metropolitan areas? If so, how and why?*

Yes. There are areas in regional NSW where, historically, families have let out houses, especially in school holidays, and different planning frameworks may be applicable. The major impacts on the growth of STHL has been in metropolitan areas, and iconic tourist towns like Byron Bay.

15 Registration or Licensing

15 *Could a licensing system for STHL work in NSW? If so, how might it operate?*

Yes. It is essential that the operator is licensed, and that a government agency such as the Department of Fair Trading administer the system, for an annual licence fee that would cover administration and monitoring by the Department. Such a register must be accessible to the public, and the registration number should be included in every advertisement for STHL. In its 2016 Inquiry into STHL, the Legislative Assembly Committee on Environment and Planning stated that a registration system hosted by a government agency was supported by most stakeholders, including residents in strata buildings.

We believe that the NSW Government should review the operations of STHL in two years, following the implementation of changes, to cover, particularly, the impacts of the industry on housing affordability and availability, and the peaceful enjoyment of people's homes.

In reaching its decision, the Government should take into account not only the negative impacts of STHL on residents, but also the effect it is having on the affordability and availability of rental properties by the conversion of permanent rental housing to tourist accommodation.