



PCU072761



Strata Plan 76706 Genesis Residential
Strata Plan 76736 Genesis Commercial
74-76 Rawson St
Epping
NSW 2121
25th October, 2017

Director, Housing Policy
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001.
cc. NSW Premier; Minister for Planning; Minister for Innovation and Better Regulation; Member for Epping.

Response to Short-term Holiday Letting (STHL) Options Paper

Dear Director,

We write as the Building Management Committee representatives for SP 76706 Genesis Residential and Strata Plan 76736 Genesis Commercial to provide feedback to the STHL Options Paper recently published by the NSW government. Genesis is a Mixed Use Residential and Commercial building in the centre of Epping. Genesis provides housing for around 400 people in 98 Apartments as well as 40 Businesses including Restaurants, Commercial Offices and Medical Practices. We are close to a train station and multiple bus stops, surrounded by restaurants, pubs, clubs and bars and are within 30 mins of the CBD.

We do not have an opinion on the use of STHL in free-standing, individually owned homes, and have no wish to interfere with their owner's possible rights or actions. We are uniquely concerned about the potential impact of STHL on Genesis.

A free-standing home is generally owned by an individual or a family. Within reason they should be able to deal with that property as they wish subject to the law, council regulations and respect for their neighbours.

Strata plans were first introduced to NSW in 1961. The NSW government mandated that each Strata plan be collectively owned by an Owners Corporation and that it be 'governed' by an Executive Committee (now Strata Committee). There are strict rules relating to how Owners Corporations and Strata Committees operate. Strata plans are run under legally mandated, democratic principles and are effectively the fourth level of government in Australia.

Within a Strata plan a lot owner effectively owns a hole in the air. Within their lot they own the carpets, the paint on the walls and their possessions. The surrounding walls, floors, ceilings, balconies and windows are collectively owned by the Owners Corporation of the Strata plan. The land and the building are common property, as are the jointly used and community funded foyers, entrances, lifts, stairwells, gardens, gyms, pools etc.

The original 'Adequacy of Short Term Holiday Lets in NSW (STRA)' report tabled in parliament in October 2016 acknowledged that 'Strata is different' but then did little to address this situation. The current Options Paper also notes that 'Strata properties have different requirements to detached properties' and accordingly makes two recommendations (10 & 11) specific to Strata.

We believe these recommendations are weak for Strata and self-serving to the STHL industry.

Recommendation 10; Suggests that Strata Committees be given some extra retrospective powers to address problems after the fact.

Recommendation 11; Suggests that the situation regarding STHL in Strata plans be re-visited three years after any legislation relaxing STHL in NSW is enacted.

We believe that Recommendation 10 will fail as it assumes that Strata plans are commercial enterprises with full-time, possibly even 24/7, staff that can be deployed to respond to these issues as they arise. This is not the case.

The Recommendation completely ignores the reality that Strata plans are run by unpaid volunteers who are in many instances already stretched by the necessary duties required under NSW law to properly run a Strata scheme.

Recommendation 10 would exacerbate workloads. Strata Committees are unpaid volunteers. The workload for properly conducted Strata Committees is ever increasing; in large schemes, it requires a level of professional expertise. The

core tasks of Chair and Secretary are serious part-time jobs such that they are often and necessarily performed by retired owners.

The vast majority of Strata plans do not have twenty-four-hour concierge and or building managers; so, who will manage the unknown guests? Who will manage party noise, damage and resident amenity issues, inevitably at 3 o'clock in the morning? It is utterly unfair and unreasonable to expect the person, who has given up their time to be chair or secretary of the Strata Committee, to be responsible for breaking up the party.

We do not have, and do not want to have, CCTV in every corridor (our residents would be appalled), security-trained concierges (at 100%+ pay loadings), increased insurance to cover the potential damages and liabilities, the extra fire safety issues of unknown guests, the invasion of utterly unknown strangers into our homes with all the attendant security issues or to be maintaining booking management or expanded concierge services.

Recommendation 11; Suggests that the situation regarding STHL in Strata plans be re-visited three years after any legislation relaxing STHL in NSW is enacted.

We suggest that Recommendation 11 would be significantly improved by amending it so that Strata is exempt from any changes to the laws regarding relaxation of STHL in NSW for three years. This approach would enable a review of the impacts on the simpler ownership and more easily controllable environments of free-standing dwellings to achieve a proper and thorough assessment of any law changes before addressing the vastly more complex Strata issues.

Strata plans are owned and run by communities not individuals. Strata Committees are tasked with creating, managing and policing their own rules...rules designed for that unique Strata plan and decided by the owners of that unique Strata plan.

Every remedy that is promulgated in the Options Paper to the myriad potential issues of STHL in Strata is retrospective. It assumes that each Strata plan has ready access to professional help over and above their Strata manager with all the concomitant legal and financial implications. Airbnb's dispute resolution plan also requires action after the event. The Options Paper alludes to resolving issues, often involving now departed guests, by recourse to NCAT.

The reality is that NCAT is not effective in Strata matters; it has no relevant expertise (no specialist Strata mediators); a work-load that defies quick or easy access and crucially no ability to enforce decisions once made. This creates a farcical 'catch-22' where to enforce an NCAT decision we have to go to the District or Supreme Court but neither the District nor Supreme Court will hear a Strata case until it has first been heard at NCAT...and we can advise from direct experience that this combined process is tortuous and expensive.

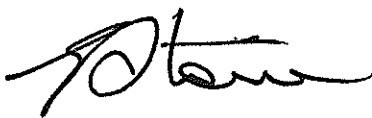
STHL presents a clear threat to a Strata plans resident amenity, with unacceptable increases in property damage, insurance and fire risk, realistic management protocols by Strata Committees and to owner values.

We strongly believe that, the solution for STHL in Strata is that any NSW law should allow each Strata plan to make up their own mind on allowing STHL within their Strata plan by a vote of the Owners at a General Meeting which would be required within 12 months of the passage of the law.

On Behalf of the Owners of Strata Plans

76706 and 76736

Yours



Mr G Stone

BMC Representative for and Chairperson of SP 76706 Strata Committee



Mr W. Schafer

BMC Representative for and Chairperson of SP 76736 Strata Committee