

# Response to Options Paper: Short-term Holiday Letting in NSW

## Preamble

This is a submission on behalf of The Tempo, Strata Plan 88695.

The Tempo is a mixed-use residential complex located in the heart of Mascot, immediately opposite Mascot Station. It is considered a landmark building in the area, because of its location, its spacious apartment sizes and its stylish architecture.

From the outset, it was conceived, designed, constructed, sold and registered as a *residential* strata development. No-one who bought in was under any illusion that it was intended for anything other than long-term owners and residents.

In recent times there has been a push to allow Short Term Holiday Letting (STHL) into the market-place. This despite the overseas trend which has banned or severely restricted such practices in many cities. Despite this, companies like Air BnB have lobbied hard, even mounting the ludicrous claim that big hotel chains are behind the mounting opposition to STHL. Despite its fervent desire that strata properties be forced to allow STHL, Air BnB take no responsibility for the harmful effects that communities suffer as a result of groups of strangers being given security access to valuable properties.

The reason that opposition is mounting is not because big hotels are frightened of losing business. Their customers would *never* consider STHL. It is because ordinary people, mum-and-dad owners and long-term tenants, quite rightly fear the incursion of a steady stream of outsiders, people who come and are gone before anything can be done about their behaviour, with the consequent negative impact on the security, safety, amenity and harmony of their community.

In putting together this submission, the Executive Committee representing the owners' corporation of The Tempo hopes to persuade the Government that there are many strata schemes like ours, where owners have invested millions of dollars in quality housing, and are continuing to work hard to maintain their property, preserve their way of life and protect their investment into the future.

We do not wish to see our investment, and the quality of life we aspire to, threatened by a minority of owners interested in short-term gains at the cost of everyone else's long-term loss.

## STHL

The Options Paper identifies STHL clientele as 'corporate and business trips, annual community events, family reunions, temporary accommodation', but fails to recognise what most of these people are actually doing... Holidaying. People on holiday aren't necessarily out to annoy nearby residents but they aren't particularly interested in their welfare either. Primarily they are out to enjoy themselves, have a good time, relax with a few drinks, etc. They may – or may not – clean up after themselves. They may – or may not – be considerate of neighbours. They may – or may not – be responsible. And they may – or may not – be held accountable. The problem with

STHL isn't so great when it is a holiday flat in Toukley; it is when STHL visitors move into primarily residential complexes in 'holiday mode.'

The Options Paper quite properly recognises that the 'amenity and safety impacts ... can be real and warrant consideration' and 'the potential and level of concern in relation to impacts is greater in strata buildings.'

## **Amenity**

Unlike many modern apartment complexes, The Tempo is built to a high standard, with desirable features such as a podium garden, swimming pool and gymnasium. The majority of residents, owner occupiers and long-term tenants, pay a premium to maintain and enjoy these facilities. Protecting them, and living in close proximity to each other, requires everyone to be aware of and considerate toward their neighbours.

As an attractive property, The Tempo is very susceptible to the aggressive and irresponsible marketing techniques of companies such as Air BnB. The prospect of blow-in blow-out STHL visitors, with no interest in or care for the well-being of residents, is daunting. But it is dwarfed by the fear we have of being forced into accepting this, by a minority of owners, backed by Government legislation.

Our amenity is something precious to us – we have paid a lot for it and we work hard to protect it. It keeps us safe, and sane, and provides sanctuary and sustenance in an increasingly hectic and unpredictable world.

## **Security**

As a landmark building, The Tempo provides a tempting target to thieves, and security is very important to us. Since completion, we have suffered several break-ins, at least one of which was an 'inside job', in that thieves obtained access to resident level parking and then stole a substantial amount of items from vehicles and locked storage cages. The only way this access can be gained is with a resident-only AirKey, and as a community we have taken steps to tighten security and ensure that only bona fide residents have access to secure areas.

Naturally, many Air BnB guests will arrive by vehicle, and expect to be able to park it somewhere. To reach resident parking levels, they will need the owner to provide them with an AirKey. As soon as that happens, our security is breached.

This is why we have a by-law that prohibits residents from issuing or lending security keys to non-residents. Any proposed regulation or legislation that overrides this would have detrimental effects for us.

## **Noise**

As the Options Paper recognises, strata schemes are particularly susceptible to noise, as residents live in close proximity. The Options Paper also recognises that many STHL patrons are on holiday, meeting up with friends and family or just having a good time. The Paper identifies noise complaints as higher among STHL visitors, and unhelpfully points out the avenues of redress, ie local Councils or the Police.

We say unhelpfully because you cannot contact the local Council at 11 o'clock at night, when party houses kick into gear. And frankly, the Police have better things to do than quell irresponsible behaviour. But if they do attend, all the party hounds have to do is refuse them entry. Our security system does the rest.

By the time the authorities show an interest, the offenders are long gone, and the owner and Air BnB shrug their shoulders. To rely on self-regulation or Government intervention is to shut the gate after the horse has bolted.

It goes without saying that STHL, an activity generally associated with travel, tourists, reverie and fun, does not sit comfortably in a close-knit community of people who live peaceably and work for a living, and who wish to relax in peace and quiet out of hours. That is why our complex is zoned for residential, long-term accommodation. Quite properly, STHL visitors should be restricted to areas better equipped, with transport, hospitality, venues – and most importantly *zoning* – to cater for their needs.

### **Party Houses**

The issue of party houses is a real and growing problem. Regularly in the apartment complex next door to ours, a party house erupts. For a strata scheme such as ours, with expensive facilities such as lifts, gym and pool, the results can be catastrophic. While our security system is state of the art, it relies on all residents sharing a common interest. With no host present, we can only rely on the goodwill of visitors, people who have no stake in our strata scheme. The high proportion of whole-premise STHL in apartment complexes, coupled with security access to shared facilities, makes them an attractive target for a monster party.

### **Waste**

For us this problem is more about rubbish than waste. People who don't live in the complex generally don't care if they leave litter and waste around the place. We take pride in our common area gardens and leisure facilities. Let a group of hooligans loose and thousands of dollars of damage can be done in a matter of minutes.

### **Traffic and Parking**

There is very little on-street parking in our area, as all apartment complexes are required to provide on-site parking. In our case, and for good reason, this is secure parking. Allowing STHL visitors into our building presents us with a sizable security risk, with potentially severe consequences for all residents. In the early days we dealt with many instances of people parking illegally, incorrectly, or inconsiderately, usually out of ignorance. Whether accidental or intentional this is a nuisance we don't need to revisit on a continual basis.

### **Hazards and Evacuations**

As a modern apartment complex, our building is well served with fire exits, smoke alarms and a sprinkler system. Since the outset, we have been plagued with false alarms, due not to system failure but to the careless cooking habits of unthinking residents and restaurateurs. Over time we have educated them and vastly reduced the incidence of false alarms, but STHL has the obvious potential to create a real and ongoing problem in this area.

All of our residents are long-term, either owners or tenants. Accordingly, we have a register, so that we know who owns each apartment and have tenancies recorded, which means we can make a fair estimate of people in the building at any given time, allowing for visitors. This helps to keep everyone responsible but, more importantly, means we can account for everyone should there be a genuine emergency requiring evacuation. An introduction of STHL, where a studio unit could have 4-6 people, would mean the owners' corporation and building manager would not be able to determine who is actually in the building at a given time. This is not the case with STHL. To make matters worse, STHL visitors are not normally made aware of, or care about, the by-laws and rules of the building.

## **Serviced Apartments**

There are many apartment complexes now that contain a percentage of serviced apartments to service STHL clientele. Why should we be forced to allow STHL when there are over 100 serviced apartments in the complex next door? In combination with the many hotels in close proximity to the airport, STHL requirements are well and truly met within our locality.

## **Economic Benefits?**

The STHL Options Paper mentions the 'economic benefits' of STHL, yet fails to quantify these benefits or explain what they might be. If, as the Options Paper states, online bookings now represent 25% of all lettings, one can only assume that many properties, previously advertised through traditional channels have moved online. There may be economic benefits in this, but they are going to owners who no longer have to pay agents fees and to companies like Air BnB, who, unlike an agent, are happy to pocket fees but remain conveniently remote and take little or no responsibility for the actions of those who book through them.

And we certainly sympathise with traditional short-term accommodation providers, who are required to be licensed, regulated and accountable, as opposed to online conglomerates who accept no responsibility and are not accountable, but lobby hard for the right to exploit a market at everyone else's cost.

Freeing up a rented property for STHL presumably would require an owner to evict the tenant and remove the property from the rental market, tightening what is already an undersupplied resource. It should be remembered that long-term tenants also contribute to the economy, most working for a living, consuming goods and services, just like a visitor, but more consistently. Admittedly, if an owner is away and lets their home for a few days, it might result in a benefit to the local economy, but it is miniscule. So it is difficult to gauge what these economic benefits might be, apart from a redistribution of income away from traditional channels and into the pockets of holiday unit owners and global online giants.

From our perspective there is little prospect of a net gain but there is the obvious potential for a net loss, in that living in a strata scheme with the shared responsibility for common property means that all residents have to bear the cost of an irresponsible few. Our by-laws are designed to protect against that, by stipulating rules that all must abide by. These are the same by-laws the Options Paper suggests should be watered

down. However, legislation which promotes the rights of a few against the wishes of many would undermine the authority and very purpose of the owners' corporation.

So we ask, on behalf of our owners' that the will of the majority be allowed to prevail, just as it does in other sectors of our society.

## **Conclusion**

We believe the status quo should remain. All our owners understood the zoning covering short-term letting when they bought in. An owner of a stand-alone dwelling is entitled to list – or not list – their residence for STHL. Similarly, an owners' corporation – charged with protecting the interest of *all* owners – should be able to do the same. We don't believe the 'economic benefits' for a few outweigh the impact on the safety, amenity, property and harmony of long-term residents of strata schemes.

However, should the Government decide otherwise, then we ask that:

1. Each owners' corporation be allowed to decide their own future, including the power to prohibit or restrict STHL, as the only sure means of control.
2. The Government abandon any idea of self-regulation because it will not hold multi-national online companies accountable.
3. The Government recognise that regulating the type of STHL use, length of stay, number of people or number of bedrooms will be largely ignored and difficult to police.
4. The Government recognise that no amount of additional regulation is going to ensure the safety and amenity of residents in apartment complexes.
5. The Government recognise that 'the appropriate compliance and enforcement tools' are already in place in Council and strata by-laws.
6. That giving 'more power to owners' corporations to manage and respond to adverse behaviour' means less power to prevent it.