Dear Sir,

Re: Short-Term Holiday Letting in N.S.W. — Options Paper.

This submission is made on behalf of Community Scheme DP270193, known as “Cape Cabarita”, at Phillips Street, Rosemeadow Drive and Jacaranda Drive, Cabarita, comprising 82 detached houses and town houses and 120 strata apartments in three Strata Schemes (SP 61542, SP 63114 and SP 65157).

The scheme is located adjacent to Parramatta River, within easy access to ferries, restaurants and shopping, and provides extensive shared amenities for residents comprising tennis courts, swimming pools, gymnasium, spa and sauna, gardens, village green and barbeque facilities.

The Community Association and the three Strata schemes are all strongly opposed to any dwellings within the complex being used for Short-Term Holiday Lettings and each has by special resolution introduced a By-Law which prohibits such activity. Such By-Laws make abundantly clear the attitude of owners to Short Term Holiday Letting within the complex.

As the options paper notes, there is a very clear difference between the impacts of Short Term Holiday Letting on free standing dwelling houses on the one hand and strata properties on the other.

In the case of owners of free standing houses outside of community schemes, the decision as to whether they engage in Short Term Holiday Letting activity on their property is entirely a decision for themselves and impacts no one else — absent excessive noise and “party house” style behaviour.

In the case of strata apartments, or houses within a community scheme, the potential for noise and party house impacts also exists but such impacts are greatly magnified by the proximity of neighbours and the higher proportion of Short-Term Holiday Letting listings where no host is present. There is also the additional concern about use (or misuse) of shared facilities against the wishes of the vast majority of owners who derive no benefit from the Short-Term Holiday Letting arrangements but bear the detriment of any misbehaviour and substantial additional wear and tear on their community assets.

The Community Association and its subsidiary Strata Schemes are firmly of the view that:

a) existing legislation should be amended to give Community and Strata Schemes the power, if they so choose, to make By-Laws by special resolution prohibiting Short-Term Holiday Letting entirely within their schemes; and

b) that any proposal by the government to make such by-laws illegal should provide a grandfather provision ensuring that existing by-laws remain legal and enforceable by their respective community association or owners’ corporation.

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Whilst some may argue that such By-Laws would place undue restrictions on individual lot owners, the reverse side of the argument is that the rights of a few owners — and the impacts of their Short-Term Holiday Letting activities — can have an undue adverse impact on the overwhelming majority of owners whose own rights are impinged upon.

The idea that the rights of a small number of owners can override those of the majority would be quite inconsistent for example with the legislative provisions which allow for court ordered sale of strata schemes despite the objections of some owners.

The further argument for allowing By-Laws that prohibit Short-Term Holiday Letting is that it allows the strata schemes to take prompt enforcement action on their own initiative — contrary to the present situation where only local Council planning controls can prevent Short-Term Holiday Letting and Councils generally lack the immediacy of interest and action and are frequently not prepared to act unless some health or safety issue arises.

The potential options of Industry Self Regulation and Registration are seen as Claytons' solutions which would essentially allow problems with Short-Term Holiday Letting to fester and grow unchecked. They are therefore not supported.

The option of Planning Regulation may have some merit, but any proposed solutions must include the absolute right of Community and Strata Schemes to prohibit Short-Term Holiday Letting should they choose to do so.

Yours sincerely,

Geoff Duggan
Assistant Secretary Community Association  DP270193