

Name etc provided separately.

Submission Preamble:

We have previously entered a private submission to Shoalhaven Council, on behalf of ourselves and other increasingly numerous affected residents, in relation to significant problems caused by the burgeoning Short Term Holiday Accommodation industry, particularly in the Shoalhaven & Berry area.

That submission follows this preamble.

Because of our lack of timeframe and limited expertise, Shoalhaven Council have advised us to provide that submission, as is, to the State review as a contribution for your information and consideration.

(It has become clear that Council is not the sole manager of the local STHL industry and is therefore, at present, relatively powerless in real terms to assist us).

Because of the time constraints, the submission is "as created", so we beg indulgence if it does not strictly follow a standard format. Additionally, we are not professionals, only severely impacted neighbours trying to seek help in order to arrive at an acceptable win/win solution for both landlords and their neighbours.

We perceive and experience the STHA environment to be dominated by involved profit oriented interests, some under the banner of promoting tourism and commerce. The interests and amenity of various impacted neighbourhoods are then regarded as "Collateral Damage". Affected residents views are poorly represented, by comparison.

The submission is aimed at addressing the:-

- Excessive size of some of the STHA enterprises.
- Over-proliferation and the ease of creating such (*unlicensed* facility) enterprises.
- The lack of any readily *effective* recourse, management and penalty process for neighbours suffering loss of amenity from –e.g. noise, excessive lighting etc.
- The lack of any meaningful practical and timely enforcement. (The police system just doesn't work).

We trust the submission will be of value in your deliberations, and thank you for the opportunity to present an alternative set of principles for your consideration.

Yours Faithfully

Private Submission to Shoalhaven Council
Re
Very Large
Short Term Holiday Accommodation (STHA)
Effects

In the Shoalhaven / Berry region

7th November 2018

By

Name provided separately

Part 1

The following submission is written, as generically as possible, and seeks to address issues which would apply, ideally, across the board, for all **large high impact** or potentially intrusive Short Term Holiday Accommodation (**STHA**) lets. At least in the Shoalhaven.

It does not address Strata issues, about which the author has no experience.

It is hoped some of the concepts promoted here may be of use to Shoalhaven Council in the event that it contributes to the imminent NSW STHA amendments proposals.

Separately & in addition, the authors hope that Shoalhaven Council can, or will, develop its own local regulatory system, should one not already exist, or is incomplete.

The submission is presented in good faith, being based on the experience of living adjacent to a very large and high capacity STHA house.

(The authors have already brought STHA issues to the attention of Shoalhaven Council and Merit Number dated has been created in regard to this).

The following summary items will be discussed in more detail in– Part 3 of the document.

Summary

The submission seeks to address:-

1. The local **proliferation** and **concentration** of **large** high capacity STHAs in a residential area.
2. An apparent perception by some landlords that profitable STHA is freely allowable in (this) area, with minimal **effective official regulation** – other than by already interested Agents or owners.
3. The concept that **any** STHA over four bedrooms *should* automatically be **considered as a Complying Development** - requiring a Council regulated DA.
4. That affected **neighbours**, where possible, ideally should, by default, be **included in any STHA DA consultation** process of item 3 (E.g. to give input for noise - lighting - outside facility layout etc. - knowledge of the DA approval - who is the owner and / or responsible agent etc.).
5. That Self-regulation, despite a Code of Conduct, is open to interpretation and abuse & will, in many cases, not work efficiently until there is a rigidly enforced background regulatory agency AND a **rapidly** enforceable **penalty system**.
6. That Letting / managing **Agents** – as well as owners – should be included in the chain of **responsibility** architecture.
7. That **Absentee landlords** who use their STHA property, (e.g. a non-primary place of residence), as “freebie” between lets, should be subject to the same **conditions** as their paying guests.

References:-

The following NSW Dept. of Fair Trading etc., references have been utilised:

1. The Department of Planning and Environment document:-

<https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/Short-term-Rental-Accommodation-EIE5.ashx>

2. New South Wales Govt : Dept. of Fair Trading:-

<https://www.fairtrading.nsw.gov.au/news-and-updates/news/new-short-term-holiday-letting-regulations>

3. Included documents referenced within the above: - e.g. Code of Conduct etc.

Part 2

Introduction

No discussion is offered as to the attributes of the STHA regulatory system today, but we observe that:-

There appears a perception by interested business elements and STHA property owners, that the philosophy “more holiday trade is good for all” should predominate over the interests of established neighbourhoods. This, however, may be - and frequently is, exploited too far, risking being detrimental to the well-being and amenity of non-participants, - I.e. neighbours and entire neighbourhoods.

- This particularly applies in the case of larger lets.

There is also a view, (*subscribed to by the authorities and mentioned in the NSW Fair trading documents*), that the police and others are already empowered and will deal with noise issues. True in principle -- but experience shows that this is idealistic and ineffective. Previous calls on police services have been fruitless. (Property Managing Agent’s reactions will be discussed later). The well intentioned proposed amendments of the State Government Code of Conduct lack practical “immediacy” and “clout” – & therefore run the risk of, whilst implemented, being of little practical effect or use.

The term “**Absentee landlord**” is used. It is defined as unsupervised guests are staying in an STHA, without the presence of the landlord. Item 7.1 in Part 3 addresses this further.

The acronyms **STHA** (Short Term Holiday Accommodation) and **STHL** (Short Term Holiday Let) are considered synonymous and may occur interchangeable.

Part 3

Detailed Item Description

1.1 Concentration and Proliferation of very large STHA's (Short Term Holiday Accommodation).

The authors of this paper are now immediate neighbours to a **very large** residential, (17 guest), STHA house and thus write from experience. (Additionally there are at least **four** other known **large** STHA properties in the vicinity). Still other such properties exist in the area and can often be heard on weekends. In one instance almost an entire adjacent lane of similar properties is now devoted to private STHA. The STHAs are believed to be non-primary places of residence for the owners. The aggregate nuisance from them is significant. (Whilst hearsay, the authors also believe there are potentially more properties in the area intended for STHA purposes).

2.1 Effective Regulation

Discovery of the NSW "*Planning Framework*" – *Intended Effects* and the proposed/amended *Code of Conduct* documents are encouraging.

At the time of writing, the existing regulation architecture appears complex for residents who are affected by the impositions and effects of STHAs, to discover and research, without expert guidance and assistance.

Consequently, the effectiveness of even the improved regulation could run the risk of being under-utilised. It will almost certainly require policing at no less than empowered Council Policy and Planning level.

There are a number of points where regulation would appear to be imperative.

- There is a definable need for all STHA properties, *especially* when they are not sole places of residence for the owners, to be subject to a mandatory process of "**licensing**" by the Council. Such regulation will prevent "social cowboys" from exploiting the area at the expense and discomfort of full time residents.
 - Local full time residents will gain a defined path of recourse, in the event remedial action becomes necessary.
 - Absentee proprietors will become more cautious of their responsibilities, than at present, because of the increased oversight, accountability and potential penalties.
 - Letting Agents will be forced to be more intermediated, acting more closely in the interests of **all** involved parties, rather than just owners or themselves.

3.1 All STHAs to fall under Complying Development Requirements (by default):

Basically, a premise of this submission is the local STHA properties mentioned to date are **TOO BIG** (See point 5 of Summary).

We submit there are multiple reasons that most STHAs should be considered as **COMPLYING Developments by default**. I.e. they will be brought immediately under full and complete purview of Council regulation.

We believe too that there is a proposal in the new State policy that limits STHA accommodation to 12 persons max, regardless of the number of bedrooms.

Extract STHL Option Paper July 2017 – No of bedrooms (P20) ----- An important statistic to consider is that the average guest group for a Stayz listing is 3.7 adults and 1 child, which equates to 3-4 bedrooms.

An Example will illustrate the importance of this:-

It will be clear that a house now modified to offer seven bedrooms should not be accommodating up to an advertised **seventeen** people, as is the case relating to the above Merit Number item. (Subject advertised = Sleeps 12 adults, 5 children, 2 babies).

Even the proposed twelve people limit is likely to constitute an excessive “party” environment, especially when so closely located to other non STHA neighbours. This is contrary to the intent of the State Fair Trading policy

The scale of this example STHA, coupled with the other similar or bigger adjacent STHAs in the area, will make clear the need for enforced and significant development regulation – in order to preserve at least some private and non-commercial residential amenity, which is rapidly being eroded as pointed out in item 1.1 above.

4.1 Neighbours to be Included in the “Complying Requirements” DA Process

Neighbours in the vicinity be notified and provided the opportunity to comment.

It is proposed that where an application is made to operate a STHA, then the neighbours be provided with the option of contributing to the conditions associated with that DA.

This will allow Council to learn of any specialised local condition(s) which may need to be applied. (E.g. input for - noise creation – outside lighting - outside facility layout etc., location large entertainments areas, use of vehicles - knowledge of the DA approval - and who is the owner and / or responsible agent etc.).

5.1 STHL Approval Process (Private Certifiers).

Because of the downstream impacts implicit with certain STHL application, this submission proposes that Private Certifiers **are not** authorised to grant an STHL

permit. Only Council itself should authorise and issue such permits, after the full process as mentioned in 4.1.

Experience has shown that in an application with so many potential downstream effects, issues can change without the full knowledge / awareness of all parties involved or affected.

Example: - Council will allow certain sized domestic structures without application or approval required. E.g. a small deck. Private Certifiers, however, can certify much larger structures, bypassing the mainstream approval process - and without affected neighbours knowing of the increase.

Therefore Private Certification should **not** be permitted in the case of an STHL.

6.1 Self-Regulation of STHL Activities poses risks

This submission proposes that “Self-Regulation”, whether by owners or their agents is idealistic at best and will likely not be effective. Experience has shown that both parties work for each other, while other affected / offended parties may frequently be bought off with unfulfilled promises or platitudes.

Agents and owners appear to tout and operate a penalty system of fines, which is totally ineffective because it:-

- applies to last weeks departed miscreants only
- does nothing fix next week’s potential miscreants – and
- potentially only likely enhances the owner / agents cash flow.
- makes no redress or improvement to the affected neighbour(s)

If, on the other hand Council becomes the overseeing Regulatory “safety switch”, then complaints escalated to the Council will quickly remove the “idealism” of the process and the *Penalty and Suspension* system described in the (Code of Conduct??) will gain teeth and effectiveness. Mention of this is made in the Fair Trading review where it is to be funded by the industry, thus cost to Council can potentially be alleviated.

7.1 Landlords using their own Properties

This submission proposes that landlords and their associates using their licensed STHA properties as “freebies” are subject to the same rules as their guests.

This observation is prompted from experience in the example property mentioned previously. Some of the worst abuses of noise creation came from the landlord’s relatives/visitors.

End of Submission.