31 October 2017

PACIFIC WAVES
9-15 Central Avenue
Manly NSW 2094

SUBMISSION IN RESPONSE TO SHORT-TERM
HOLIDAY LETTING IN NSW
PACIFIC WAVES-9-15 CENTRAL AVE MANLY SP51139

OPTIONS PAPER ISSUED JULY 2017

The Owners and Residents of Pacific Waves are opposed to short term rentals being permitted in Pacific Waves. It is considered essential that self determination be allowed under any of the proposed legislative changes.

A copy of the Options Paper Submission Form is annexed to this Submission.

1) PACIFIC WAVES

The Pacific Waves Building is a unique 8 story building located in the heart of the Manly CBD. It contains 124 residential apartments and there is a well balanced blend of owner occupied and tenanted apartments. There are also restaurants, other commercial businesses, The Manly Daily and a council car park located on the site.
The Building was completed in 2001. In the residential part of the Building there is a pool and gym accessible to all residents.

2) SHORT TERM RENTALS

a) Short term rentals are not permitted in the Building. Besides not being permitted in the development Approval. The original development approval specifically banned short term rentals because Manly Council wanted some larger developments so designated to ensure that there would be sufficient long term residents residing within the Manly CBD precinct to maintain the viability of businesses during the winter months when tourist numbers effectively become irrelevant.

By-Laws have also been included banning short term rentals.

b) Lot owner EGM vote in support of Council
   This decision followed a Special General Meeting held in 2006 when a substantial majority of owners voted against allowing short term rentals in the Building.

c) Cost of Safety Regulation
   A significant factor also taken into consideration was the cost, estimated at in excess of $150,000 in 2006 cost values, mandated by Manly Council to upgrade the fire services and disabled access which would have been required to ensure that the Building met all requirements to allow short term rentals.

How would mandated change in the existing policy effect public safety and the obligations of officers of Owners Corporations.

d) Insurers reaction
   Would Insurers agree to continue liability coverage without some restrictions thereby exposing the Owners Corporation to potentially ruinous financial loss.

e) Protection of Officers.
   If change is mandated we would look for protection by legislative change.
In any event, we cannot see how Government could sanction any reduction in existing safety regulations to satisfy the change.

f) Restricted access to Shared Facilities
Last year we had a serious incident in the pool/spa/Gym area where a young child could have lost her life except for the prompt intervention of an adult.

Despite clear signage on use of the Spa the sign was ignored by the child’s parent. As a result we changed the relevant By Laws to mandate that access to the pool/Spa/Gym area be restricted to those adults and their children who had undertaken an induction safety process run by our onsite building manager who is employed Monday through Friday.

This induction process would inevitably fail given the nature of the Airbnb type letting platform and especially in respect of weekend lettings.

3) OPTIONS PAPER

a) Regulation of STHL
The policy options for STHL can be either regulatory or non-regulatory or a combination of both. Irrespective of which option is ultimately chosen Pacific Waves considers that it is essential that an “opt out” provision is included in any proposal adopted. Recognition should be given to policies previously adopted as recognised in By laws etc.

b) Impacts associated with STHL
The issues raised in the paper of noise, party houses, waste, traffic and parking are all relevant to Pacific Waves.

There are many other buildings in Manly, a very well known and busy holiday area where short term rentals are permitted. There is no suggestion that restricting
Pacific Waves from permitting short term rentals would impact to any extent on tourism in Manly.

c) Self regulation
Pacific Waves considers that any self regulation should include the right to opt out of short term rentals. While it is accepted that education and complaint management, together with monitoring and reporting, would provide some benefit the right to self determination is considered essential.

d) STHL in Strata Properties
To maintain a resident’s entitlement to the use and enjoyment of their property it is considered preferable to let those residents exercise the right of self determination by the majority of owners, who include both owner occupiers and owners who currently rent out their properties. In Pacific Waves approximately 40% are owner occupiers and 60% rent out their units for 3 months or more.

While it is accepted that the problems arising from short term rentals can be mitigated, at least in part, by the various provisions covered in the options paper, the preferred and most effective option would still be not to allow short term rentals, if certain conditions are met.

Reference is made to the Strata Schemes Management Act 2015 rendering by Laws that restrict the rights of owners to deal with their lots as having no effect.

Pacific Waves submits that this is an entitlement that should be preserved for the majority of owners, where such a decision is made and certain conditions are met. This right has been recognised by the Grattan Institute which advocated giving owners’ corporations more power to limit the impacts of STHL.

Easier access to remedy the impacts of STHL are essential if STHL is to be allowed, which is not the preferred option

e) Regulation through the Planning System
While not the preferred option restrictions such as the length of stay permitted, days per year, number of bedrooms and the presence of hosts (excluding the recent Victorian experience where the hosts murdered the Airbnb tenant), are all factors that could be considered.

f) Regulation of Licensing
It is considered that licensing is considered essential with strict conditions applicable.

Owners Committee
Pacific Waves SP61139
9-15 Central Avenue
MANLY NSW 2095
Appendices

Appendix 1 – STHL Options Paper Submission Form

SHORT-TERM HOLIDAY LETTING OPTIONS PAPER SUBMISSION FORM

The NSW Government has released an Options Paper, building on the work of the Parliamentary Inquiry and existing practice, to start a public discussion on potential options to develop a suitable approach for short-term holiday letting (STHL) in NSW.

The Options Paper for STHL outlines potential options around the development of an appropriate approach to managing STHL. These options could be considered either individually or in combination.

Prior to making a whole of government policy framework, we are seeking feedback from the community and our stakeholders on the options discussed in the paper.

You are invited to respond to the Options Paper by submitting this form to the NSW Department of Planning and Environment.

You can also provide your feedback by:
• filling out the online survey
• email to STHL@planning.nsw.gov.au
• writing to:

Director, Housing Policy
Department of Planning and Environment
GPO Box 39, Sydney NSW 2001

If you have further inquiries, please email us at STHL@planning.nsw.gov.au.

The consultation process is open until 31 October 2017.

By hitting submit you agree to the Department’s Privacy Policy.

How will your personal information be used when you make a submission?

Your personal information is protected under the Privacy and Personal Information Protection Act 1998 (PPiP Act). The Department collects personal information in submissions for the purposes set out in the Department’s Privacy Statement.

We respect your right to privacy. Before lodging your submission, you will be asked to confirm that you have read the terms of the Privacy Statement, which sets out:
• how personal information is defined under the PPiP Act - it includes but is not limited to your name, address, and email address;
• the purposes for which the department collects personal information; and
• how personal information collected by the department will be used.

When you make a submission, we will publish:
• the content of your submission - including any personal information about you which you have chosen to include in those documents
• a list of submitters, which will include:
  - your name
  - your suburb or town

We will not publish offensive, threatening, defamatory or other inappropriate material.

If you do not want your personal information published, do not include any personal information in your submission.

All other information gathered in this submission form will be collated and used towards making a recommendation on the future approach of STHL in NSW.

Name, Surname

Organisation: OWNERS CORPORATION

Suburb: MANLY

E-mail Address

Date of Submission: 31-10-2017

Postcode: 20
### Introduction

1. Do you use or have you ever used short-term holiday accommodation?
   - **NO** - Not permitted

2. Are you or have you ever been a short-term holiday accommodation host?
   - **NO**

3. Do you provide another form of short-term holiday accommodation?
   - **NO**

4. Do you live near a property that provides short-term holiday accommodation?
   - **YES**

5. Are you from an STHL industry group, owners’ corporations or community group?
   - **YES - OWNERS CORPORATION**

### 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 ✓

### 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?
   - **YES - NCAT COMPLAINT PROCESS**

### 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 - BY MAJORITY VOTE OF NOT OWNERS**

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 - ESSENTIAL**

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?
    - **SELF REGULATION WOULD ONLY ASSIST LEGISLATIVE CONTROLS**

### 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:

- **EASY ACCESS TO NCAT REMEDIES ESSENTIAL**

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**Short-term Holiday Letting in NSW**

Options Paper
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

ANY OF THE ABOVE

14. Should there be different planning frameworks in regional and metropolitan areas? If so, how and why?
SAME FOR ALL AREAS

Registration or Licensing

15. Could a licensing system for STHL work in NSW? If so, how might it operate?
YES - IT IS ESSENTIAL - HOSTS MUST BE LICENSED

Summary of Options

16. The options outlined in this paper are summarised in the below table. For the future regulatory framework, which top 3 options (if any) would you like to see in this framework? Why?
(Please tell us the reasons for your choices).

**Potential Options**

<table>
<thead>
<tr>
<th>Themes</th>
<th>INDUSTRY SELF REGULATION</th>
<th>STRATA REGULATION</th>
<th>PLANNING REGULATION</th>
<th>REGISTRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Refer Section 4</td>
<td>Refer Section 3</td>
<td>Refer Section 6</td>
<td>Refer Section 7</td>
</tr>
<tr>
<td>Code of conduct</td>
<td>Development approval - exempt/complying</td>
<td>Development approval - development consent</td>
<td>Registration to manage safety and amenity issues</td>
<td></td>
</tr>
<tr>
<td>Complaints management</td>
<td>By-laws to manage visitor behaviour</td>
<td>By-laws to receive compensation for adverse effects</td>
<td>Limit the length of stay</td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>Limit the number of days per year</td>
<td>Limit the number of bedrooms</td>
<td>Registration to monitor that other regulatory approaches (e.g. number of days, number of properties) are being met</td>
<td></td>
</tr>
<tr>
<td>Monitoring and reporting</td>
<td>By-laws to prohibit STHL</td>
<td>Regulate by whether the host is present when STHL takes place</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: The policy options for STHL could include regulatory or non-regulatory approaches, or a combination of both. A combination of options from any rows or columns (and/or other options not covered in the paper) can be chosen to suggest a policy framework for the STHL in the submission form.