Dear Director,

This submission addresses the Government Options Paper on STHL, in particular, but not exclusively, issues related strata dwellings. It also considers related matters of transparency matters and potential conflict of interest.

While highlighting the concerns of strata owners and residents at the prospect of enforced STHL in their residential strata buildings the submission supports carefully regulated STHL, with stringent oversight, within appropriate housing styles and locations.

To our dismay the opening paragraph of Section 5 patently declares that the Government has, at this untimely stage in the consultation and review process, already determined in favour of commerce and against the democratic wishes of virtually every strata community.

The NSW Government is committed to providing a balanced regulatory approach to the issue of STHL in strata schemes. This approach is centred on maintaining a resident’s entitlement to the use and enjoyment of their property, providing the appropriate compliance and enforcement tools to address bad behaviour, while supporting the positive economic benefits that derive from STHL.

The disclosure is frankly shocking and must be removed from the process of deliberation.

The Options Paper at large displays a clear disposition favouring STHL, in particular “industry self-regulated STHL”.

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STHL is estimated to be worth $31.3 billion nationally, providing income for property owners and creating jobs through the establishment of new businesses to manage transactions between property owners and customers. In NSW, STHL constitutes approximately 50% of the national total, accounts for 25% of total visitor nights and occurs in both regional and metropolitan areas. It is expected that STHL in NSW will continue to increase its share of visitor night demand over the next ten years.

While Government intervention in the form of regulation may address some issues associated with STHL, it should not be seen as the default option where other solutions, such as industry self-regulation, exist.

There are a range of distinct regulatory options available to manage the impacts associated with STHL including greater self-regulation by industry, registration of STHL operators along with acceptable standards of operation, changes to strata laws, stronger regulation through the planning system, or a combination of these approaches.

STHL contributes an estimated $31.3 billion to the national economy including upwards of 238,000 jobs.

Some jurisdictions are regulating the number of properties a host can advertise. In NSW, any attempt to regulate STHL ownership may be anti-competitive and would need to be carefully considered.

Section 5, STHL in Strata Properties

Economic benefits stand large within the Options Paper. Enormous figures are quoted. This may appear true in blunt financial terms. However these economic benefits can be partially diminished or fully extinguished after economically valid ‘discounting’ for negative tangible and intangible impacts on residents, particularly within the strata sector, are appropriately taken into consideration. As such the stated economic benefits are at best misleading.

The Options Paper confirms “The Potential and the level of Concern in relation to impacts are greater in strata buildings”. Given the communal aspects of the ‘close-quarters’ living involved this is a fitting conclusion and has been recognised historically via the very nature of strata laws. These have always stressed the need for owners’ committees to have the power to determine the best interests of owners and residents. Democratic empowerment of Owners Corporations Strata Committees at the ‘building’ level has historically served their communities well, yet the Options Paper signposts that this proven system is now challenged.

Arguments put forward by representatives of the short-term letting industry are deceptive. They argue that the impact of STHL on strata schemes:

- is overstated and unsupported by corresponding data;
- is similar to impacts arising from long term rental or ownership; and
- can be adequately addressed through self-regulatory measures such as adherence to the industry’s Code of Conduct, or changes to strata laws to enable owners’ corporations to better manage the impact of STHL.
We concur that with regard to residential strata there is limited data on STHL. Explanation is simple. Owners corporations at large have, acting upon effectively unanimous demands by owners and residents, successfully disallowed STHL. A study of submissions to the enquiry from stratas not successful in prohibiting STHL well demonstrates the unacceptable negative imposition on owners and residents amenity. There is no evidence of any kind available to support the claim that there are similar impacts to the above arising from long term rental and ownership. This claim is at best mischievous.

Code of Conduct or similar self-regulatory measures, or by-law changes to provide owners corporations with better STHL management tools, is not a solution. Such proposals are purely reactive. The damage has been done. Effective enforcement is highly questionable. The amenity owners and residents presently enjoy is lost. These are people’s homes, purchased or rented, a decision based on existing amenity. These decisions did not include sharing their common space and facilities, losing privacy and security, diminishing the quiet enjoyment of the homes, to the economic benefit of third parties.

The very concept of the “Airbnb Friendly Buildings Program” facilitating STHL in strata properties and enforcing codes likens to the Wolf to guarding Little Red Riding Hood. A prospect not even worthy of discussion let alone consideration.

The Options Paper suggests existing strata by-laws that purport to prohibit STHL bear no validity. We have legal advice to the contrary. However we understand that these opinions remain untested by law. Considering this uncertainty the Government should now legislate to permit Owners Corporations by-laws to allow or to prohibit STHL and thus protect the democratic rights of strata dwellers and secure their rightful quiet amenity at home.

With revenue from STHL not directly covered by MP’s pecuniary interest disclosures, and not required of Staffers or Advising Public Servants, for the sake of transparency and preclusion of any potential conflict of interest it is essential that all such parties make full disclosure of their, or their families related interests, and disqualify themselves from the process. All prior input from any such party must be publicly disclosed and struck from the ongoing process.

**Conclusion**

STHL within strata residential properties whether supported, limited, or prohibited is a matter for democratic self-determination by each individual residential strata.

Carefully regulated STHL, with stringent oversight, within appropriate housing styles and locations offers economic benefits to NSW.

Industry Self-regulation will not provide satisfactory protections.

The presence of in-residence hosts is essential to STHL regulation.
Detailed methodology is required on how oversight and controls are to be managed.

The parallel between STHL and B&B flags that regulatory requirements for STHL at least parallel existing B&B regulation.

Inadequate STHL limits and regulation exacerbate housing shortages and escalate all housing rental and purchase costs.

Full and proper disclosures are critical to avoid risk of conflict of interest or corrupt action.

Yours sincerely,

Maryann Knight
Secretary
* on behalf of Owners Corporation Strata Plan 49822