



LEGISLATIVE ASSEMBLY OF NEW SOUTH WALES

Legislative Assembly Committee on Environment and Planning

REPORT 1/56 – OCTOBER 2016

ADEQUACY OF THE REGULATION OF SHORT-TERM HOLIDAY LETTING IN NEW SOUTH WALES

REPORTS
COMMITTEES

5

LEGISLATIVE
ASSEMBLY



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LEGISLATIVE ASSEMBLY COMMITTEE ON
ENVIRONMENT AND PLANNING

ADEQUACY OF THE REGULATION OF SHORT-TERM HOLIDAY
LETTING IN NEW SOUTH WALES

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The motto of the coat of arms for the state of New South Wales is "Orta recens quam pura nites". It is written in Latin and means "newly risen, how brightly you shine".

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Terms of Reference

That the Committee inquire into and report on the adequacy of the regulation of short-term holiday letting in New South Wales, with particular reference to:

- (a) the current situation in New South Wales and comparison with other jurisdictions;
- (b) the differences between traditional accommodation providers and online platforms;
- (c) the growth of short-term and online letting, and the changing character of the market;
- (d) the economic impacts of short-term letting on local and the state economies;
- (e) regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity, and licensing and taxation; and
- (f) any other related matters.

Chair's Foreword

I am very pleased to present this report on the adequacy of the regulation of short-term holiday letting in New South Wales.

Short-term holiday letting has been a traditional activity, especially in holiday areas, for many years. Managed by property owners themselves or by local agents, it has sometimes flown under the regulatory radar, occurring with limited impact and scrutiny whether or not it was actually a permitted land use.

With the advent of online advertising platforms, however, it is now much easier for property owners to let their properties, whether their principal place of residence, an empty beach house, or an investment property, for short-term occupation. The numbers we heard about, not just in holiday areas, but across the state, attest to a rapid growth in letting and an expansion of the tourist and visitor accommodation market.

The views we heard from stakeholders were polarised. Many people supported an easing of rules governing short-term letting as a way to grow tourism and broaden ways to earn income from under-utilised assets. Others saw short-term letting as an impost in residential areas, and as having an unfair advantage over traditional accommodation providers whose costs and obligations reflect their commercial status.

There was general consensus, however, around the need for a consistent definition of short-term letting within planning legislation.

On this question there can be no doubt: the current arrangements are fragmented and confusing. In our view, short-term rental accommodation should be defined and permitted in New South Wales. It is a longstanding use which generates a comparatively low level of complaints, and with the right regulation and compliance regime, can be permitted in residential areas.

A rigorous and effective compliance system must be developed. We recommend that this can be achieved within the existing NSW planning legislation. Importantly, it should be a regime that focuses its energy and resources on identifying and solving problems, and not on over-regulating the vast majority of properties which will be compliant with the rules.

We recommend that better employment of some existing planning tools will help achieve the compliance regime we envisage. These include the Holiday and Short-Term Rental Code of Conduct, newly legislated investigative powers, and streamlined development assessment. Further, some relatively minor amendments to planning and strata management legislation, based on existing and proposed models in Queensland and Victoria, will improve the situation of people adversely affected by short-term rental accommodation.

We recognise that short-term rental accommodation in strata properties is a special case. Prohibition, however, is a last resort. Incremental steps should be taken to increase the powers of strata residents and owners corporations to influence the use within their buildings, including the right to recover costs from short-term rental landlords. Importantly, we

recommend that these incremental changes be reviewed over time to make sure they are delivering positive results.

While we found that short-term rental generates a relatively low level of complaints, the complaints brought to our attention were real and serious. We believe that our recommendations can deliver effective responses to these complaints without stifling the growth of an industry which is delivering economic benefits.

The growth of short-term letting via online platforms is a small part of the phenomenon which is the collaborative economy. Undeniably the growth of the collaborative economy is causing disruption within the traditional economy. It is our responsibility as elected representatives to find the balance which allows us all to reap the benefits of this growth without losing what we value.

I am grateful to the 212 people and organisations who made submissions to our inquiry, the 48 people who appeared as witnesses to give evidence in Sydney and Tweed Heads, and the many who wrote, emailed and telephoned to give advice or track our progress.

I thank my fellow Committee members – Deputy Chair Geoff Provest, Mark Taylor, Anoulack Chanthivong and Jamie Parker - for their cooperation through such a long inquiry, their analysis of so much complex information, and their insight in finding practical ways to address the matters before us. I also thank the Committee staff for their support and guidance.

A handwritten signature in blue ink, appearing to read 'Mark Coure', is positioned above the printed name and title.

Mark Coure MP
Chair

List of Recommendations and Findings

RECOMMENDATION 1 _____	2
The Committee recommends that the NSW Government amends:	
a) the Standard Instrument - Principal Local Environmental Plan to include a definition of short-term rental accommodation in the category of tourist and visitor accommodation	
b) the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to allow short-term rental accommodation.	
RECOMMENDATION 2 _____	3
The Committee recommends that short-term letting of rooms in any property where the landlord or host is present be permitted as exempt development.	
RECOMMENDATION 3 _____	3
The Committee recommends that short-term letting of a principal place of residence be permitted as exempt development.	
RECOMMENDATION 4 _____	3
The Committee recommends that short-term letting of empty properties be permitted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as:	
<ul style="list-style-type: none"> • exempt development where the development does not exceed applicable impact thresholds; and • complying development where the development exceeds applicable impact thresholds. 	
RECOMMENDATION 5 _____	4
The Committee recommends that the NSW Government investigates, in consultation with advocates for traditional accommodation operators, the impact of the growth of short-term rental accommodation on their industry, and identifies opportunities to reform current regulations.	
RECOMMENDATION 6 _____	5
The Committee recommends that the NSW Government participates in the management of the Holiday and Short-Term Rental Code of Conduct to ensure that it has a broadly-based management structure, including community representation, and increases its industry coverage.	
RECOMMENDATION 7 _____	6
The Committee recommends that the NSW Government develops a compliance system for short-term rental accommodation under the Environmental Planning and Assessment Act 1979 which considers:	
a) the use of the investigative powers in Division 1C of the Act	
b) streamlined development assessment (Complying Development Certificates)	

c) the Holiday and Short-Term Rental Code of Conduct

d) 'party house' provisions.

RECOMMENDATION 8 _____ **8**

The Committee recommends that the NSW Government prepares advice to councils and the community outlining the changes which will apply to short-term rental accommodation, and implements a communication and monitoring program.

RECOMMENDATION 9 _____ **9**

The Committee recommends that local councils be responsible for communicating with all landowners about their rights and obligations.

RECOMMENDATION 10 _____ **9**

The Committee recommends that the NSW Government considers amendments to strata regulations to give owners corporations more powers to manage and respond to adverse behaviour resulting from short-term letting in their buildings.

RECOMMENDATION 11 _____ **11**

The Committee recommends that the NSW Government reviews the impact of short-term letting in the strata environment after no later than three years.

RECOMMENDATION 12 _____ **11**

The Committee recommends that the NSW Government implements a program to collect data on the holiday industry generally, and short-term letting in particular, to assess the economic contribution of short-term letting and its impact on housing affordability and community viability.

FINDING 1 _____ **14**

The Committee finds that the lack of a consistent state-wide definition for short-term letting is a serious regulatory shortcoming.

FINDING 2 _____ **15**

The Committee finds that there is generally a low level of complaints concerning short-term letting. Given the continuing growth in short-term letting, however, there is potential for more complaints without appropriate land use planning controls.

FINDING 3 _____ **16**

The Committee finds that the complaints heard from stakeholders about the impacts of short-term letting on the quiet enjoyment of their properties are real and serious, and can be addressed within the existing land use planning regulations.

FINDING 4 _____ **17**

The Committee finds that, subject to appropriate definitions and conditions, short-term letting should be regarded as a residential use and as such, should not trigger any Building Code of Australia requirements.

FINDING 5 _____ **18**

The Committee finds that strata properties present a special case when compared with detached housing. The management of short-term letting in strata properties needs to be complemented by amendments to strata management legislation.

FINDING 6 _____ **20**

The Committee finds that taxation of income from short-term letting is a Commonwealth matter.

FINDING 7 _____ **20**

The Committee finds that landlords should hold insurance to cover short-term letting. Appropriate insurance cover can be purchased from Australian insurers and landlords must hold appropriate insurance cover to be compliant with the Code.

Glossary

BCA	Building Code of Australia
CDC	Complying Development Certificate
EP&A Act	Environment Planning and Assessment Act
GST	Goods and Services Tax
HRIA	Holiday Rental Industry Association
IAG	Insurance Australia Group
LEP	Local Environmental Plan
NCAT	NSW Civil and Administrative Tribunal
PIN	Penalty Infringement Notice
PLEP	Principal Local Environmental Plan
SEPP	State Environmental Planning Policy
STRA	Short-term rental accommodation
VCAT	Victorian Civil and Administrative Tribunal

Chapter One – The Committee's recommendations

SUMMARY

In this chapter the Committee lists twelve recommendations for addressing the regulation of short-term rental accommodation in New South Wales.

The Committee recommends that the NSW Government:

- amends planning laws to regulate short-term rental accommodation
- allows home sharing, and letting a principal place of residence, as exempt development
- allows empty houses to be let as exempt and complying development
- investigates impacts on traditional accommodation operators
- strengthens the Holiday and Short-Term Rental Code of Conduct
- develops a compliance system
- issues guidance and provides education for councils and the community
- communicates with owners about their rights and obligations
- amends strata laws and later reviews the effectiveness of changes
- collects information on the industry.

AMEND PLANNING LAWS TO REGULATE SHORT-TERM RENTAL ACCOMMODATION

RECOMMENDATION 1

The Committee recommends that the NSW Government amends:

- a) the Standard Instrument - Principal Local Environmental Plan to include a definition of short-term rental accommodation in the category of tourist and visitor accommodation**
- b) the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to allow short-term rental accommodation.**

- 1.1 We believe that short-term rental accommodation (STRA) should become a defined and permitted use in New South Wales. This can be achieved by adding a definition of STRA to the Standard Instrument – Principal Local Environmental Plan (PLEP) and by making amendments to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP)*.
- 1.2 As discussed in Chapter Three, the evidence we received shows that STRA is an historic and widespread use across the state. It is already a permitted use in a number of councils, and is permitted by default in many other councils which only regulate it in response to complaints received.
- 1.3 STRA is generally operating successfully and generating a low level of complaints in councils which have amended their Local Environmental Plans (LEP) to permit it.
- 1.4 We are satisfied, therefore, that STRA is a low impact activity best regulated by defining it in the Standard Instrument PLEP and by including it as exempt and complying development in SEPP 2008.
- 1.5 There is scope within the scheme we are recommending for councils to tailor the model to suit their local circumstances.
- 1.6 In Chapter Two we discuss the various local variations to definitions of STRA between councils which permit it.
- 1.7 While not preferring any particular definition, we consider that a definition might include:
 - use of a residential dwelling
 - both tourist and visitor accommodation, i.e. not just holiday accommodation
 - time limitations, i.e. a certain number of days per year
 - other relevant limitations necessary to distinguish between exempt and complying STRA development, and which position STRA as a low impact accommodation type.

- 1.8 We recommend that the definition be prepared by the NSW Department of Planning and Environment in consultation with councils and Local Government NSW, having regard to the success achieved by the councils which have already amended their LEPs to permit STRA.
- 1.9 Finally, we recommend that STRA be considered a residential use and that without special circumstances, no change of use occurs to trigger any issues associated with the application of the Building Code of Australia (BCA).

ALLOW HOME SHARING AND LETTING A PRINCIPAL PLACE OF RESIDENCE AS EXEMPT DEVELOPMENT

RECOMMENDATION 2

The Committee recommends that short-term letting of rooms in any property where the landlord or host is present be permitted as exempt development.

RECOMMENDATION 3

The Committee recommends that short-term letting of a principal place of residence be permitted as exempt development.

- 1.10 STRA in its most basic form is a resident sharing their house with and hosting a visitor. We are persuaded that this type of short-term letting has no greater impact than boarding, lodging or other shared accommodation. Given this, we find no reason for restricting house sharing as a way of providing tourist and visitor accommodation, subject to any restrictions already in place through consumer, planning, tenancy, or strata law.
- 1.11 We are also persuaded that where an owner lets their principal place of residence for STRA during an absence such as a vacation, this should be permitted as exempt development. As a principal place of residence, the owner will likely be in residence for a majority of the time. While such a let would not be hosted, we believe that it will be of low impact. This is because the dwelling is a private home rather than an investment property or beach house.

ALLOW OTHER FORMS OF SHORT-TERM RENTAL ACCOMMODATION AS EXEMPT AND COMPLYING DEVELOPMENT

RECOMMENDATION 4

The Committee recommends that short-term letting of empty properties be permitted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as:

- **exempt development where the development does not exceed applicable impact thresholds; and**
- **complying development where the development exceeds applicable impact thresholds.**

- 1.12 We heard that many empty properties made available for STRA may not be available all year round, but are available depending on the wishes of the owners

to make use of their properties in holiday periods. As discussed in Chapter Two, this is a clear distinction between traditional accommodation providers and the short-term rental industry, in that traditional providers make their properties available all year round.

- 1.13 There is no consistency in the conditions that councils place on STRA. Most place an upper limit on the number of days the property can be let in any year. This limit currently ranges from 45 days to no limit.
- 1.14 Other conditions which councils place on STRA include the maximum number of bedrooms which range from as low as three up to no limit, the type of waste management available at the property, the posting of evacuation plans, and meeting specified low impact criteria such as noise and traffic generation.
- 1.15 The impact thresholds where properties available for STRA move from being exempt to complying development, and at which a development application must be submitted, also vary from council to council. For example, a council may allow a four bedroom property to be available as STRA as exempt development, but may require a property with five or more bedrooms to seek development consent before it can be let. Another council may set this threshold at three bedrooms, or have an upper limit of six bedrooms, or have no threshold or upper limit.
- 1.16 We received many suggestions for setting limits below which STRA should be exempt and above which a development application should be required. There is no consistency, however, in the evidence about how best to set thresholds or limits.
- 1.17 Accepting that STRA is generally a low impact activity, we believe there is scope for specified development and compliance standards to be included in SEPP 2008 and for councils to have some local flexibility. In determining what these standards should be, we believe that the regulator's objective should be to set them to reflect a lower level impact than the other tourist and visitor accommodation types defined under the Standard Instrument LEP.
- 1.18 We note the case put by traditional accommodation providers that STRA operators are advantaged by the lack of regulation of their sector, but that the traditional providers put forward few examples of where their industry could be deregulated. In proposing light regulation of the STRA sector, we believe regulation should aim to ensure that the STRA sector has a lower level impact than other tourist and visitor accommodation types such that it can be operated successfully in residential areas.

INVESTIGATE IMPACTS ON TRADITIONAL OPERATORS

RECOMMENDATION 5

The Committee recommends that the NSW Government investigates, in consultation with advocates for traditional accommodation operators, the impact of the growth of short-term rental accommodation on their industry, and identifies opportunities to reform current regulations.

- 1.19 As discussed above, we received evidence from traditional accommodation operators of inequality between the regulated accommodation sector and the less-regulated STRA sector. These stakeholders argued that this inequality gives STRA an unfair advantage in the marketplace. We noted evidence that this advantage is most stark at the boundary between STRA and bed and breakfast operators, who arguably are competing for the same customers.
- 1.20 While the evidence of traditional operators tended towards arguing for greater regulation of STRA as the solution, we believe there is an argument for the New South Wales Government consulting with the traditional accommodation sector to determine the impact of STRA on the market, and identify opportunities to address inequality. The current disruption of the market may result in permanent changes to modes of operation and market share, which may encourage traditional operators, especially those at the boundary, to exit the traditional sector and operate more within the STRA sector. If this proves to be so, the Government should consider how operators wishing to make this move can do so efficiently and with as little cost as possible.

STRENGTHEN THE HOLIDAY AND SHORT-TERM RENTAL CODE OF CONDUCT

RECOMMENDATION 6

The Committee recommends that the NSW Government participates in the management of the Holiday and Short-Term Rental Code of Conduct to ensure that it has a broadly-based management structure, including community representation, and increases its industry coverage.

- 1.21 We heard from a number of stakeholders about the Holiday and Short-Term Rental Code of Conduct (the Code), but there was disagreement and confusion regarding its ownership, legal status, and suitability as a compliance tool.
- 1.22 As discussed in Recommendation 5, the Committee recommended that the Code be part of a compliance system for STRA.
- 1.23 The Code's current management structure and participants are too narrow. We do not criticise the Holiday Rental Industry Association. Rather, we believe that any shortcomings are the result of the uncertain status of the Code.
- 1.24 To ensure the Code is broadly-based and gains broader industry and community support, we recommend that the NSW Government participate formally in the management of the Code. We suggest that both the Department of Planning and Environment and NSW Fair Trading would be useful as participating organisations in the management of the Code.
- 1.25 We also recommend that the NSW Government should use its representation to encourage the Code's management committee to aim for representation from as much of the STRA industry as possible, including the current membership, the real estate industry, the holiday letting organisations, local business and tourism representatives, and the online platforms. The management structure could include representatives of individual landlords. The reputation of the Code should be such that industry players should be persuaded that they are always better off

as participants than as opponents or bystanders. We encourage the industry to become participating organisations and to endorse the Code.

- 1.26 Further, we recommend that the management committee include community representation so that the Code can be seen to reflect community as well as industry input. The evidence we heard at Tweed Heads in particular suggests there is community support for the Code. We believe this support should be recognised and grown.
- 1.27 We do not recommend at this stage that the NSW Government take complete responsibility for the Code or give it a statutory basis, but hopes that the Government will adopt a watching brief from its position on the management committee, and review the operation and management of the Code in the future.

DEVELOP A COMPLIANCE SYSTEM

RECOMMENDATION 7

The Committee recommends that the NSW Government develops a compliance system for short-term rental accommodation under the Environmental Planning and Assessment Act 1979 which considers:

- a) the use of the investigative powers in Division 1C of the Act**
- b) streamlined development assessment (Complying Development Certificates)**
- c) the Holiday and Short-Term Rental Code of Conduct**
- d) 'party house' provisions.**

- 1.28 As discussed in Chapter Two, we weighed the evidence for a compliance regime based on the *Environmental Planning and Assessment Act 1979* (EP&A Act) against a business registration model. In particular, we examined the scope of the investigative powers available to councils under the EP&A Act. The Committee found that the EP&A Act is sufficient to regulate STRA.
- 1.29 While we find that STRA is a low impact activity, the instances we heard of high impact STRA were real and serious. Our recommended light regulatory approach also requires compliance arrangements which are responsive and effective. When STRA is managed badly, or when rogue operators take advantage of their neighbours, it is vital for councils to have tools available which they can use within limited budgets and staffing to respond quickly to complaints and achieve effective outcomes.

The investigative powers

- 1.30 The investigative powers contained in Division 1C of the EP&A Act are thorough and comprehensive. In the Committee's view, the powers appear fit for the purpose of underpinning a light regulatory regime with an effective and targeted complaints-driven compliance strategy.

- 1.31 Division 1C contains clear and practical investigative powers which councils may apply to non-compliant properties. These powers cover investigation and authorisation, entry and search, obtaining information, and recording evidence. Section 119J of the EP&A Act in particular, establishes a requirement to provide information and records. We believe that this section can be directed by councils towards obtaining information from landlords which will be required to demonstrate whether or not a complained-about property is compliant with development standards specified in the amended SEPP 2008.
- 1.32 We received very limited evidence about the current use of the investigative powers by New South Wales councils although we understand that City of Sydney Council is both using these powers and assisting other councils to understand and apply them. It concerns us that the powers may be little used and not well understood.

Streamlined development assessment (Complying Development Certificates)

- 1.33 It is important given the numbers and low impact of STRA that where development assessment is required, it can be streamlined to ensure that assessment is fast and economical for both applicants and councils.
- 1.34 We endorse the use of Complying Development Certificates (CDC) to achieve streamlined development assessment, both for initial assessment and as a compliance tool where a council is investigating a complaint. CDCs allow for neighbour notification, while not establishing objection rights. They may also require the payment of fees to pay for the cost of assessing the application and notifying neighbours, and may require a contribution to councils towards public amenities and services.
- 1.35 The requirements which councils include in CDCs vary. Depending on the definition adopted for STRA and the degree of local variation allowed, CDCs might include such matters as the installation of smoke alarms, the posting of bush fire evacuation plans, the posting of the code of conduct, minimum standards for waste disposal, and so on. What constitute appropriate matters for inclusion in a CDC is a subject where we believe the Department of Planning and Environment can educate councils, as discussed in the following recommendation.

The Holiday and Short-Term Rental Code of Conduct

- 1.36 Some councils already refer to the Code within their planning schemes or in their advice to landowners, but there is widespread confusion about the Code. The evidence we received concerning the Code's use by holiday letting managers suggests that it can be effective, but is hamstrung currently by the major limitation of government not participating in its management.
- 1.37 Using the Code as a compliance tool will give councils additional grounds on which to regulate properties including such aspects as holding adequate insurance, and meeting advertised response times to complaints. Where Code-supporting organisations manage multiple properties, using the Code as a compliance tool will free councils from much frontline compliance work, leaving them to focus on the most problematic properties.

- 1.38 Given the suitability of the Code as a compliance tool, the Committee believes that with NSW Government participation as well as community representation on the management committee, the Code can aim for whole-of-industry coverage, and may be referred to in council planning approvals as setting standards of compliance.

Party house provisions

- 1.39 We recommend that the NSW Government introduce Queensland-style party house regulations as an additional compliance tool.
- 1.40 The *Queensland Sustainable Planning Act 2009* includes provisions which allow councils to designate party houses which are properties used for high impact STRA such as regular parties, bucks nights, hens nights, raves, wedding receptions and similar events. Councils may restrict party houses to particular precincts and ban them from others, and may isolate party houses for more stringent development assessment.
- 1.41 We note the Victorian Government has announced its intention to adopt party house provisions.
- 1.42 In our view the Queensland party house provisions give councils and the community an additional tool to target rogue operations amongst an industry which we have found to be low impact. In such a widespread industry it is essential that compliance tools can be targeted effectively and economically at the problems and not wasted on the compliant.
- 1.43 We envisage party house provisions which allow councils to impose penalties and prohibitions on rogue operators quickly and which give neighbours confidence. By giving councils powers to place lengthy bans on letting, party house provisions put an even greater onus on landlords to ensure their STRA meets compliance standards. These provisions should be sufficiently harsh as to constitute a significant deterrent to operators wishing to flout the planning rules and neighbourhood conventions. In our view measures which include a 12 month ban on any form of short-term letting following an offence might meet this description.

ISSUE GUIDANCE AND PROVIDE EDUCATION FOR COUNCILS AND THE COMMUNITY

RECOMMENDATION 8

The Committee recommends that the NSW Government prepares advice to councils and the community outlining the changes which will apply to short-term rental accommodation, and implements a communication and monitoring program.

- 1.44 We recognise the implementation of our proposals will require a comprehensive education program for councils, planning practitioners and the community. This education must be a priority for the NSW Department of Planning and Environment, but must also be designed and provided in partnership with councils, practitioners and the community.

- 1.45 We are aware of reports that a small number of councils are already sharing their experiences of implementing the investigative powers under the EP&A Act which we discussed above. The experience of these councils and the support of the NSW Department of Planning and Environment will be essential in giving all councils the confidence that these powers are effective and can be used with current budgets and staffing resources.

COMMUNICATE WITH OWNERS ABOUT THEIR RIGHTS AND OBLIGATIONS

RECOMMENDATION 9

The Committee recommends that local councils be responsible for communicating with all landowners about their rights and obligations.

- 1.46 Communicating with landowners about their rights and responsibilities is an essential element of ensuring that STRA can benefit landowners while preserving the amenity of neighbours.
- 1.47 Just as the philosophy which underlies the short-term letting movement is based on sharing principles, the effective rollout of changes permitting short-term letting should be based on collaboration and good neighbourliness. Property owners, whatever their stake in short-term letting, need to understand and accept that their rights and responsibilities do not trump the rights and responsibilities of their neighbours.
- 1.48 We were particularly impressed with the written and oral evidence of Shoalhaven City Council. Shoalhaven is an area of longstanding short-term letting and has amended its LEP to permit this land use. In its evidence Shoalhaven City Council advised that it experiences a very low level of complaints despite the high incidence of STRA. Council also tendered to the Committee an example of its communication with ratepayers concerning the rights and obligations of landowners proposing to short-term let their properties, and of the neighbours of such properties.
- 1.49 In our view, Shoalhaven City Council's practice of communicating directly with its ratepayers is a simple and sound way to encourage good letting practice and compliance, and to open channels with people who might be affected by STRA.
- 1.50 Similarly, we endorse the communication practices of NSW Fair Trading and the online letting platforms whose websites contain clear and practical advice for landlords, consumers and neighbours of STRA.

AMEND STRATA LAWS TO GIVE OWNERS CORPORATIONS MORE POWERS

RECOMMENDATION 10

The Committee recommends that the NSW Government considers amendments to strata regulations to give owners corporations more powers to manage and respond to adverse behaviour resulting from short-term letting in their buildings.

LEGISLATIVE ASSEMBLY COMMITTEE ON ENVIRONMENT AND PLANNING
THE COMMITTEE'S RECOMMENDATIONS

- 1.51 We recognise that strata is a special case.
- 1.52 The proximity of residents in strata buildings and the nature of common property mean that any conflicting uses in strata buildings have the potential to be problematic.
- 1.53 We do not accept, however, that STRA is incompatible with strata living. As we have said, STRA is a low impact activity. This is borne out by the evidence of councils that they receive few complaints.
- 1.54 Further, we received comparatively few submissions from owners' corporations, and a relative balance among the submissions from strata residents in favour or opposed to permitting STRA.
- 1.55 The cases of badly managed STRA in strata buildings, however, are serious and require special consideration and a tailored response. Several notable cases were the subject of evidence and of continuing publicity during our inquiry, including the Bridgeport and Maestri Towers cases in the City of Sydney and the Docklands case in Melbourne.
- 1.56 A major issue of discussion concerning strata was whether or not owners' corporations have or should have the power to make by-laws which manage or even prohibit STRA in their buildings. We received evidence from some corporations that they had passed such by-laws and received advice that they have legal authority, but the NSW Government submission makes clear that they do not.
- 1.57 A second issue was if STRA is permitted in strata buildings, should corporations be able to recover costs from the landlords for wear and damage to common property generated by their guests.
- 1.58 We noted the Victorian Government's response to the report of its independent panel on short-stay accommodation in CBD apartment buildings, which considered the Docklands case among others. Its response was to propose laws to help reduce unruly behaviour by short-term tenants in apartments. The changes include making apartment owners liable for any damage, noise or loss of amenity caused by their guests, fining guests themselves for conduct breaches, and giving new powers to the Victorian Civil and Administrative Tribunal (VCAT) to award compensation to neighbours and ban short-stays in apartments which are repeatedly used for unruly parties.
- 1.59 We also noted the release of the Grattan Institute's report 'Peer-to-peer pressure, Policy for the sharing economy' in April 2016. With regard to strata, the Institute proposed a better balance between short-term use and neighbours' amenity, giving corporations more power to limit disruption, and streamlined dispute resolution. The Institute argued that prohibiting STRA in strata buildings should only be a last resort. Many of the Institute's recommendations regarding targeting compliance and effective regulatory responses are already reflected in our recommendations above.
- 1.60 Finally, we noted the NSW Government's proposed *Strata Schemes Management Regulation 2016* about which consultation occurred during our inquiry. The

regulation updates two by-laws: one placing an onus on residents to ensure their guests do not interfere with neighbours' amenity; and one requiring an occupier to notify the owners' corporation of any change in use including any lease, however short. The NSW Government advised that the second updated by-law would assist corporations to check compliance with development approvals and maintain security of premises where different people might be entering and leaving buildings from time to time.

- 1.61 Having considered the evidence, we are not persuaded that STRA should be excluded from strata buildings. Nor are we persuaded that owners' corporations should be granted the power to prohibit STRA at this stage.
- 1.62 However, we believe that Victorian-style amendments which increase the rights of corporations and neighbours to prosecute unruly behaviour and damage should be introduced in New South Wales, including giving new powers to the NSW Civil and Administrative Tribunal (NCAT) which mirror the Victorian proposals. Coupled with the proposed by-law updates and our other recommendations, we believe that this is a reasonable response to recognising that STRA can give rise to particular problems in strata buildings.

REVIEW THE EFFECTIVENESS OF CHANGES TO STRATA LAWS

RECOMMENDATION 11

The Committee recommends that the NSW Government reviews the impact of short-term letting in the strata environment after no later than three years.

- 1.63 In considering the evidence regarding strata, and the Grattan Institute report, we believe that it is important for the NSW Government to revisit strata and review the impact of the changes we recommend. Put simply, we expect STRA to grow in the coming years. It is possible that strata impacts will increase. The NSW Government should review the impact of STRA in the strata environment after no later than three years. If this review shows positive outcomes have not been achieved or the situation has worsened, the NSW Government should consider an incremental approach of progressively increasing the powers of owners' corporations and other aspects such as penalties and sanctions.
- 1.64 While we reiterate that we do not currently support giving corporations the power to prohibit STRA, we contemplate a move towards increased powers for corporations over time if the facts merit it.

COLLECT INFORMATION ON THE INDUSTRY

RECOMMENDATION 12

The Committee recommends that the NSW Government implements a program to collect data on the holiday industry generally, and short-term letting in particular, to assess the economic contribution of short-term letting and its impact on housing affordability and community viability.

- 1.65 There is limited information about the economic contribution of STRA.

LEGISLATIVE ASSEMBLY COMMITTEE ON ENVIRONMENT AND PLANNING
THE COMMITTEE'S RECOMMENDATIONS

- 1.66 Several STRA providers and facilitators provided us with data about their operations sufficient for us to be satisfied that STRA is a rapidly growing market sector.
- 1.67 Much of the evidence about STRA, especially in local contexts, was anecdotal.
- 1.68 The most commonly quoted source of data was the website Inside Airbnb. Indeed, the creator of the website made a submission to our inquiry. Inside Airbnb also shows that the growth of STRA is rapid and uneven, being concentrated in particular neighbourhoods.
- 1.69 Several councils were concerned that the lack of data concerning the sharing economy was hampering their abilities to plan and allocate resources. We received evidence which suggested official statistics showed tourist numbers to be declining in an area when anecdotal evidence suggested the opposite. Yet it was official statistics guiding decision making.
- 1.70 We are also concerned that lack of data makes it difficult to assess the arguments that the sharing economy is taking business from traditional accommodation providers. We cannot be sure that there is simple competition between traditional operators and the sharing economy for the same market, or to what extent the sharing economy is encouraging the growth of a new market, without robust measurement and data collection.
- 1.71 We also received evidence suggesting that the rapid growth of STRA is affecting housing affordability and availability, and community viability, by removing properties which might otherwise be rented to long-term tenants who would then become active members of the community. Again, without robust measurement and data collection to address this issue, the evidence, however compelling, is only anecdotal.
- 1.72 In its report, the Grattan Institute addressed the question of impact on rents. The Institute reported that Airbnb listings amounted to half of one per cent of Sydney bedrooms or two per cent of Sydney's rental capacity, concluding that any impact on rents is small and localised.
- 1.73 The claim of impacts on community viability was particularly strong in evidence received from Byron Bay. As we discuss later in Chapter Two, however, we believe Byron Bay is an unusual case and not representative of most communities. It is not always effective policy to design a regulatory system to meet the demands of an unrepresentative case. The needs of Byron Bay will also be served by better data collection, and hopefully the other recommendations we make will also assist that community.
- 1.74 We know that the drivers of housing affordability and availability are complex, and predate the advent of the sharing economy. It is essential that we better understand the housing market and the role of the sharing economy within it, by collecting the data which will inform government decision making.

Chapter Two – The Committee's findings

SUMMARY

In this chapter the Committee lists seven findings it made when it weighed up the evidence before it.

The Committee finds that:

- there is no consistent state-wide definition of short-term rental accommodation
- there is generally a low level of complaints and no need for heavy regulation
- short-term rental accommodation is not a change of use
- strata properties need additional regulation
- taxation is a Commonwealth matter
- the market is responding to insurance needs.

THERE IS NO CONSISTENT STATE-WIDE DEFINITION OF SHORT-TERM RENTAL ACCOMMODATION

FINDING 1

The Committee finds that the lack of a consistent state-wide definition for short-term letting is a serious regulatory shortcoming.

- 2.1 The question of a state-wide definition for short-term letting is one of the few areas of debate within this inquiry around which a consensus emerges. Whether in favour of permitting short-term rental accommodation (STRA) or not, most stakeholders argue that the absence of a single and consistent definition contributes to confusion across all stakeholder groups and the wider community.
- 2.2 This confusion is compounded by the fact that STRA is a traditional land use in many parts of New South Wales, notably in coastal and other holiday areas. We note that in some of these areas, councils have amended their land environmental planning (LEP) to permit STRA, and in others they have not. We heard no evidence that STRA is any more widespread or more accepted in traditional holiday communities where it is permitted compared with traditional holiday communities where it is not. STRA has occurred for many years and continues to occur in traditional holiday areas, and there is generally a low level of complaints.
- 2.3 Given that STRA is defined by the councils which permit it under their LEPs, we believe that it should be a defined use across the state. As a defined use, permitting STRA in all council areas, subject to appropriate conditions, will reduce confusion for all stakeholders.
- 2.4 We note that current definitions of STRA vary from one council to another where it is a permitted use. As well as the term 'short-term rental accommodation' (used by Gosford City Council and Wyong Shire Council), some councils use 'short-term tourist and visitor accommodation' (Bega Valley Shire Council, Eurobodalla Shire Council, Great Lakes Council and Port Stephens Council), and 'short-term holiday rental accommodation' (Pittwater Council) while others only define 'short-term' (Kiama Municipal Council, Palerang Council and Shoalhaven City Council) and 'holiday accommodation' (Wingecarribee Shire Council).
- 2.5 The scope of these current council definitions also varies. Gosford City Council, for instance, defines STRA as 'a dwelling that is commercially available for rent as short-term accommodation on a temporary basis, but does not include bed and breakfast accommodation'.
- 2.6 Pittwater Council defines STRA similarly to Gosford City Council, but excludes eight defined land uses: backpackers' accommodation, bed and breakfast accommodation, commercial premises, entertainment facilities, farm stay accommodation, function centres, hotel or motel accommodation, and serviced apartments.
- 2.7 Great Lakes Council's definition includes a time constraint: 'short-term tourist and visitor accommodation is tourist and visitor accommodation (except bed and

breakfast accommodation) where the maximum period for which any person is accommodated is 60 consecutive days in a 12 month period'.

THERE IS A LOW LEVEL OF COMPLAINTS

FINDING 2

The Committee finds that there is generally a low level of complaints concerning short-term letting. Given the continuing growth in short-term letting, however, there is potential for more complaints without appropriate land use planning controls.

- 2.8 While we heard evidence of real impact and serious complaints, overall the evidence we received demonstrates that complaint levels generally are low.
- 2.9 The growth in short-term letting, however, has the potential to generate more complaints simply through weight of numbers. We heard evidence of particular hotspots where complaints are or may be more likely to arise.
- 2.10 For example, we received substantially more submissions from people living in the City of Sydney and Byron Shire areas than any others. Submissions from both areas included people in favour or opposed to permitting STRA.
- 2.11 Many Sydney residents raised issues relating to strata buildings. We acknowledge that strata is a special case, not just in City of Sydney, and have made recommendations which address this in Chapter One.
- 2.12 Regarding Byron, while STRA is a longstanding activity in traditional holiday areas, and particularly coastal areas, residents of other coastal councils were not strongly represented among the submissions we received. Several coastal councils which made submissions reported that they receive few complaints about short-term letting even though during holiday periods the populations of their communities grow to several times the permanent population.
- 2.13 We also note that within the Byron community a strong polarisation has developed. Views for or against STRA are expressed through a level of debate not experienced to the same degree in other communities. We further note some evidence that even within the Byron Council area, not all communities are experiencing the impact and polarisation that the Byron Bay township is experiencing.
- 2.14 At our public hearing in Tweed Heads on Monday 7 March 2016, we heard evidence from representatives of Byron Shire Council, Byron tourism accommodation operators, and Byron residents. We anticipated that there would be pressure on regulators to adjudicate between polarised sections of the community. We heard, however, evidence of past cooperation, potential compromises, and support for the Holiday and Short-Term Rental Code of Conduct as a mechanism for better regulation.
- 2.15 We believe that Byron Shire Council, and Byron Bay township in particular, is not typical of what other communities are experiencing with the growth of short-term letting. Byron has particular commercial and community attributes and

expectations which are being aggravated by the extraordinary popularity of Byron Bay as a place to holiday and invest. We hope our recommendations will assist in bringing some clarity to the situation in Byron Bay.

THERE IS NO NEED FOR HEAVY REGULATION

FINDING 3

The Committee finds that the complaints heard from stakeholders about the impacts of short-term letting on the quiet enjoyment of their properties are real and serious, and can be addressed within the existing land use planning regulations.

- 2.16 We acknowledge that badly managed STRA can cause and is causing real and serious problems for neighbouring property owners whose right to the quiet enjoyment of their properties is being impinged.
- 2.17 In a few cases we agreed that this impact may have gone beyond affecting neighbouring properties to impact on a whole strata building where common property is being misused, or even on the wider community.
- 2.18 The question before us, however, is whether a new type of regulation of STRA, or even prohibition of STRA are appropriate responses to these cases, or whether they can and should be managed within the existing regulatory framework.
- 2.19 In simple terms, the views of stakeholders on the question of regulation focused on two models: land use planning regulation, and business regulation through a registration model.
- 2.20 Several stakeholders, including some traditional accommodation providers and strata advocates, proposed that any person wishing to provide STRA should be required to register as a business. The purpose of registration would be to ensure all STRA locations are operating in compliance with the applicable regulations such as land use planning, fire safety, consumer rights, and so on. The register would be a public record of STRA operations in a way that online letting platforms are not. Registered operators would pay a fee which would fund the maintenance of the register and a compliance regime to ensure operators are complying with required standards.
- 2.21 If a registration model was to be implemented it would be necessary to identify an authority to be responsible for maintaining the register and managing compliance.
- 2.22 On balance, we conclude that the costs of establishing a business registration model for STRA outweigh the advantages. STRA is already subject to land use planning and consumer regulation, and generally complaint levels are low. A registration model would be an expensive and bureaucratic response to what is a mostly low impact activity. It would transfer resources from managing problem properties to managing compliant ones. The pragmatic response which councils take now to responding to complaints would be replaced by the task of administering the registration of all STRA, the vast majority of which are not causing problems.

- 2.23 We find, therefore, that industry performance and complaints can be managed through the current planning regulatory framework, with certain changes which we discuss elsewhere.

SHORT-TERM RENTAL ACCOMMODATION IS NOT A CHANGE OF USE FINDING 4

The Committee finds that, subject to appropriate definitions and conditions, short-term letting should be regarded as a residential use and as such, should not trigger any Building Code of Australia requirements.

- 2.24 We heard evidence from many stakeholders, and particularly the NSW Government, concerning compliance with the Building Code of Australia (BCA).
- 2.25 Building work must meet the technical standards for design and construction specified in the BCA. The BCA classifies buildings according to their use with different standards set for each classification. New buildings are designed and constructed to meet the BCA dependent on the use for which they are approved. Existing buildings may require upgrading to meet the BCA where they are approved for a change of use.
- 2.26 Some of the areas identified by stakeholders where the BCA is relevant are fire safety, noise attenuation, and access. Traditional operators in particular, argue that STRA is advantaged economically where tourist and visitor accommodation is provided in residential properties constructed to a lower BCA compliance standard.
- 2.27 We also note evidence that a significant distinction between traditional accommodation providers and new providers relates to the number of days per year which any provider wants to let their property. Traditional operators aspire to let their properties 365 days per year. Many newer STRA providers aspire to let their properties for much shorter periods. This is reflected in the provisions contained in many of the amended council LEPs which set thresholds and time limits for the availability of STRA.
- 2.28 A question for us is to determine whether a residential property which is available for STRA has undergone a change of use which should then trigger a requirement to upgrade the property to comply with the BCA.
- 2.29 A second question for us is whether there are any opportunities to lighten the regulatory requirements for traditional operators whether imposed by the BCA or other aspects of approving and licensing their operations. We received evidence from traditional operators that building and planning approval conditions for traditional operators are costly and bureaucratic, both in the approval and construction phase and in relation to ongoing inspections and compliance once operation has commenced.
- 2.30 This distinction between the regulatory requirements for STRA and traditional accommodation provision is most stark at the boundary between short-term letting, and bed and breakfast accommodation. Such establishments may be of similar sizes and conducted from similar buildings in the same neighbourhood,

yet the STRA is a residential use and the bed and breakfast generally a commercial one. While the bed and breakfast is approved to operate on a 365 day basis, the STRA may be restricted to a set period if permitted by the council LEP, or may be limited practically by the aspirations of the property owners to let the property only when they are absent or do not wish to holiday there themselves. An empty or second home available for STRA, however, may for all practical purposes, be available to let 365 days per year.

- 2.31 We recognise this dilemma for traditional operators. We heard little evidence from traditional operators, however, about how the regulatory requirements placed on them could be relaxed, but believe that the NSW Government should investigate, in consultation with the traditional operators, opportunities to relax these requirements where appropriate.
- 2.32 On balance, however, we believe that the shake-up which is occurring in the tourist and visitor accommodation sector is a result of disruption through the advent of online platforms. In our view it is the role of government to ensure regulations are fit for purpose and applied in a timely and objective way, but not to preserve traditional operators and exclude new ones without good public policy reasons.
- 2.33 On the question, therefore, of the application of the BCA to new accommodation providers, subject to our recommendations regarding regulatory changes, we find that in principle, short-term letting of a residential property should not trigger a change of use. We regard short-term letting of a residential property as a residential use of the same character as longer-term letting or traditional tenancy.
- 2.34 We find the interpretation made by the South Australian Planning Department, which we detail in Chapter Three, to be helpful in understanding this principle and encourage New South Wales authorities to adopt a similar view.

STRATA PROPERTIES NEED ADDITIONAL REGULATION

FINDING 5

The Committee finds that strata properties present a special case when compared with detached housing. The management of short-term letting in strata properties needs to be complemented by amendments to strata management legislation.

- 2.35 We received submissions and heard evidence from many people with interests in strata dwellings. This evidence included support for allowing strata owners to make their properties available for STRA, and from strata owners arguing that the impacts of STRA make it incompatible with the strata environment such that strata owners' corporations should be permitted to prohibit it in their buildings.
- 2.36 We also had tendered examples of by-laws formulated by owners' corporations which purported to manage or prohibit STRA within the buildings to which the by-laws applied.

- 2.37 We note, however, that the NSW Government submission advises 'no by-law is capable of operating to prohibit or restrict a dealing with a lot' and 'an owners' corporation cannot seek to restrict a lot owner from offering short-term accommodation in the owners' lot'.
- 2.38 We heard several notable cases involving STRA in strata properties. Representatives of the Owners' Corporation Network and of Maestri Towers, a CBD-strata building comprising 384 lots, gave evidence jointly to the Committee at its public hearing held in Sydney on Monday 14 March 2016. The NSW Government submission discusses the case of the Bridgeport building, which also received media coverage during the inquiry. In both cases short-term letting of apartments within these CBD buildings was impacting on other residents sufficient for these impacts to be litigated, and for courts to determine that in these particular cases short-term letting was not permitted under the development consents for the buildings.
- 2.39 A case brought before the Victorian Civil and Administrative Tribunal (VCAT) and then the Court of Appeal concerning short-term letting in the Docklands area of Melbourne also received media coverage during the inquiry. In this case the court determined that short-term letting could not be limited by the owners' corporation.
- 2.40 A third event which received media coverage during the inquiry was the release in April 2016 by the Grattan Institute of its report on the sharing economy titled 'Peer-to-peer pressure, Policy for the sharing economy'. The Institute gave special consideration to the impact of STRA in the strata environment, concluding that while complaint levels generally were low, any disruption which occurred in strata buildings was at the cost of the owners and the corporation and not the STRA providers and their guests. It also described the current complaints process as cumbersome, expensive and untimely, and not offering sufficient recourse, giving support to Queensland 'party house-style' regulations.
- 2.41 In summary, the Grattan Institute recommended:
- a better balance between short-term use and neighbours' amenity
 - giving more power to owners' corporations to limit disruption, and streamlined dispute resolution
 - prohibition of short-term letting as a last resort.
- 2.42 In May 2016 the Victorian Government flagged the introduction of new laws to help reduce unruly behaviour associated with STRA. These changes will see owners become liable for damage, noise or loss of amenity caused by their guests. In addition, the VCAT would be given powers to award compensation to neighbours and ban short-stays where disruption occurred repeatedly.
- 2.43 We are persuaded that strata is a special case. The evidence given to the Committee of strata residents impacted by STRA in their buildings was real, serious and disturbing. This impact is not diminished by our view that, on balance, complaints concerning short-term letting are few overall.

- 2.44 We note the recent consultation by NSW Fair Trading concerning proposed changes to the *Strata Scheme Management Regulation 2016* which require occupiers to notify the owners' corporation of changes of use. This will make it easier for owners' corporations to manage issues like overcrowding and conduct, and will simplify dispute resolution and compliance.

TAXATION IS A COMMONWEALTH MATTER

FINDING 6

The Committee finds that taxation of income from short-term letting is a Commonwealth matter.

- 2.45 The inquiry's terms of reference included the issue of taxation. Many stakeholders submitted that income from short-term letting is untaxed, suggesting this was another way in which new operators are advantaged.
- 2.46 The advice of the Australian Tax Office (ATO) regarding both income tax and capital gains tax liabilities is clear. Clear advice concerning the responsibility to declare income and capital gains is also available from NSW Fair Trading and on online platforms.
- 2.47 We note that the ATO has publicised that it will be pursuing income earned from STRA.
- 2.48 We have not received any evidence which enables us to make any judgements concerning tax earned or undeclared from short-term letting, and find that taxation is a Commonwealth matter.
- 2.49 On the question of whether online platforms should be required to share information with the ATO on income earned from STRA by their advertisers, we find this is also a Commonwealth matter.

THE MARKET IS RESPONDING TO INSURANCE NEEDS

FINDING 7

The Committee finds that landlords should hold insurance to cover short-term letting. Appropriate insurance cover can be purchased from Australian insurers and landlords must hold appropriate insurance cover to be compliant with the Code.

- 2.50 Many stakeholders raised concerns that the insurance requirements for STRA are not well understood, and that both landlords and guests of such properties may be at risk from under-insurance.
- 2.51 We also received reports of claims for death and injury from short-term stay guests which raised questions about insurance coverage, although none of these were Australian examples.
- 2.52 Airbnb advised the Committee of its host guarantee. While we accept this evidence at face value, we note that Airbnb and other letting platforms advise

landlords seeking to advertise their properties to contact their insurers to ensure that they have appropriate insurance to cover potential claims.

- 2.53 The Holiday and Short-Term Rental Code of Conduct also requires that a property must have adequate insurance for it to be compliant. What is adequate insurance, however, is not defined. The question of whether insurance is adequate could be a matter for a council, referencing the Code in its development control plan and consents, to adjudicate upon. In our view, however, questions about whether a property is compliant with the Code and other development and operational standards are more likely to focus on noise, behaviour and amenity impact.
- 2.54 NSW Fair Trading also gives clear advice that anyone seeking to list their property as STRA or stay in a STRA property should investigate whether adequate insurance coverage is held or available.
- 2.55 We heard evidence from representatives of the insurance industry. The industry's view is clear: STRA is a commercial activity and consequently, ordinary household insurance does not provide adequate coverage. These witnesses gave examples of insurance products specifically formulated for and marketed to the STRA industry, advising that these products are in their infancy and may not be widely known.
- 2.56 Secondly, the insurance industry evidence shed doubt concerning the question of coverage by any insurance policy where STRA is not a permitted use under the local council LEP. We are concerned that this question remains unclear, but find that it will be resolved by amendments to planning legislation to permit STRA in all areas.
- 2.57 We are concerned that the need to hold adequate insurance cover be highlighted in communications with property owners and guests, and that state and local regulators, online advertising platforms, and the insurance industry do as much as possible to publicise this. Communications practices like those of Shoalhaven City Council, which we recommend be implemented by all councils, are an important way to promote this information.

Chapter Three – Stakeholder views

SUMMARY

In this chapter the Committee summarises the views of stakeholders on the impact of short-term letting.

Short-term rental accommodation (STRA) is a traditional activity in holiday areas and makes a significant contribution to the state economy. The recent popularity of online advertising platforms and booking services has contributed to the growth of STRA.

STRA is not confined to holiday making, but is now commonly used for corporate and business trips, annual community events, family reunions, temporary accommodation while looking for long-term rental, and emergency accommodation.

While the level of complaints concerning STRA is generally low, there are stakeholders who provided evidence of being adversely affected, including traditional accommodation providers, and neighbours of STRA properties. The Committee also received evidence of impacts on housing affordability and availability, and community viability.

In the absence of consistent state-wide regulation, there is confusion concerning the status of STRA under local planning laws. Further, property owners are unsure if they have adequate insurance coverage for STRA.

The Committee heard evidence that the Holiday and Short-Term Rental Code of Conduct has contributed to decreasing complaints about STRA in some areas, although a number of stakeholders offered critiques of both the contents and the management of the Code.

The experience of STRA in strata buildings and confusion over the powers of owners' corporations concerned many stakeholders.

Some stakeholders proposed a registration and licensing system to manage STRA, in addition to or in place of land use planning regulation.

The experiences of regulating STRA in Queensland, Victoria and South Australia are relevant to the questions raised by this inquiry.

The absence of sufficient data to properly assess the growth of STRA and plan for its impacts was raised by some stakeholders.

The Committee also heard evidence that STRA landlords may not be declaring their income to the Australian Taxation Office.

SHORT-TERM RENTAL ACCOMMODATION IN NEW SOUTH WALES

3.1 Short-term holiday letting is a form of holiday accommodation where people temporarily rent out properties for a period of time less than 90 days.¹ Short-term rental accommodation (STRA) has been a feature of the New South Wales tourism market for a long time. This type of accommodation is particularly common in coastal areas but also occurs across New South Wales, for example, in regional areas where rural properties are made available to let.

3.2 The Holiday Letting Organisation Byron told the Committee that STRA is a well-established practice in Australia, particularly in coastal areas:

Holiday or short term rental accommodation in Australia has been a traditional activity since the 1800's. Many coastal towns and other popular destinations contained a large number of houses owned by families from surrounding cities.²

3.3 Research from BIS Shrapnel in 2014, quoted by the NSW Government, found that:

- there are an estimated 623,000 holiday rental premises across Australia and 215,964 in NSW/ACT
- of the total holiday homes owned in NSW/ACT, an estimated 50 per cent, or 108,000 holiday homes, are made available for rent when not in use by their owner
- 77 per cent of holiday home owners use their holiday home for personal use, on an average of 7.5 weeks a year.³

3.4 According to data provided by the NSW Government from Tourism Research Australia and National Visitor Surveys, for the year ended June 2015, 12 per cent of visitors to New South Wales used non-traditional accommodation (includes rented house/apartment/flat/unit or private accommodation). This accounted for 25 per cent of total visitor nights.⁴

3.5 In its submission, the Real Estate Institute of NSW made the important point that short-term rental use is not just confined to holiday letting, but also includes:

- corporate relocation/migration users
- corporate and consulting short-stays
- temporary accommodation during renovations
- temporary accommodation during medical treatments
- holidays, including overnight, short and longer stays

¹ If a property is leased for longer than 90 days continuously, the agreement is a tenancy and is dealt with under the *Residential Tenancies Act 2010*.

² Submission 205, Holiday Letting Organisation Byron, p5.

³ Submission 190, Department of Premier and Cabinet (NSW Government), p5.

⁴ Submission 190, NSW Government, p5.

- temporary accommodation in between buying and selling homes
 - temporary accommodation during insurance repairs
 - accommodation during an educational course completion
 - death, divorce or other family issues forcing people to stay away from home for a period of time.⁵
- 3.6 Traditionally, properties made available for STRA would usually be managed by a local management agent such as a real estate agent. Real estate agents who manage the letting of a property must be licensed in New South Wales as a real estate agent and are responsible for ensuring the property is well maintained and rents are collected.⁶
- 3.7 The Real Estate Institute of NSW also highlighted some of the services provided by managing agents. These include:
- selecting or rejecting potential bookings
 - explaining and requiring adherence to specific house rules
 - attending to occupant behavioural issues.⁷
- 3.8 Recently there has been an increase in the number and popularity of online booking services such as Stayz, Airbnb, HomeAway and Owners Direct. Property owners are able to use these services to advertise and let their properties directly to potential guests. A number of councils noted that the advent of online booking platforms had led to an increase in STRA in their local government areas (LGA).
- 3.9 Stayz told the Committee that they have over 16,000 holiday home listings in New South Wales and Airbnb has 27,000 listings.⁸ Representatives of both these organisations also highlighted that their businesses were growing.⁹
- 3.10 Similarly, the Visitor Accommodation Demand and Supply Studies for Greater Sydney, the Hunter and the Northern Rivers, conducted by the NSW Government, found that ‘the holiday rental market has recorded strong growth over recent years and is anticipated to continue to increase its share of visitor night demand in the next ten years’.¹⁰
- 3.11 Some of these properties continue to be managed by agents, while others are managed by the owners. Shoalhaven City Council told the Committee that

⁵ Submission 145, The Real Estate Institute of NSW, p5.

⁶ Submission 190, NSW Government, p9.

⁷ Submission 145, The Real Estate Institute of NSW, p4.

⁸ Submission 141, Stayz Pty Ltd, p1; Mr Mike Orgill, Director of Public Policy, Asia Pacific, Airbnb, Transcript of Evidence, 14 March 2016, p25.

⁹ Mr Anton Stanish, Regional Director, Australia and New Zealand HomeAway, Transcript of Evidence, 14 March 2016, p17; Mr Orgill, Transcript of Evidence, p28.

¹⁰ Submission 190, NSW Government, pp4-5.

properties made available through online platforms are more likely to be managed by the owner:

While traditional accommodation providers typically operate through a local management agent such as a real estate agent, online platforms allow owners to operate individually and from a distance.¹¹

STAKEHOLDER VIEWS

3.12 The Committee heard from a variety of stakeholders with a range of opinions and suggestions. Some stakeholders were proponents of short-term holiday letting, while others outlined perceived shortcomings of the practice. This section briefly summarises some arguments made by the following groups: traditional accommodation providers; proponents of STRA; and residents adversely affected by STRA.

Traditional accommodation providers

3.13 These stakeholders can be broadly defined as individuals and businesses, and their representatives, who operate regulated accommodation establishments.

3.14 The common argument made by these stakeholders is that there is inequality between the regulated accommodation sector and the less regulated STRA sector. Ms Margaret Osmond, Chief Executive Officer, Tourism and Transport Forum told the Committee:

I am advocating a level playing field. I am suggesting that at this point in time there is little or no regulation of the short-term letting market place, and the traditional accommodation has a very substantial burden.¹²

3.15 The lower level of regulation for the STRA sector arguably puts it at an advantage due to lower establishment and compliance costs. The Bed & Breakfast and Farmstay Association of NSW and ACT (BBFA) advised:

There is reportedly widespread non-compliance by non-BBFA members, many who advertise via online accommodation platforms. Compliance costs for an average B&B equates to more than 15% of annual turnover, allowing non-compliant operators to unfairly profit, with zero compliance costs.¹³

3.16 Some of the costs of regulation nominated by stakeholders which are avoided by STRA providers include:

- development approval fees¹⁴
- compliance costs for development approvals, for example, ensuring that there is sufficient parking and providing access for people with a disability¹⁵

¹¹ Submission 105, Shoalhaven City Council, p3.

¹² Ms Margaret Osmond, Chief Executive Officer, Tourism and Transport Forum, Transcript of Evidence, 14 March 2016, p34.

¹³ Submission 178, Bed & Breakfast and Farmstay Association of NSW and ACT, p1.

¹⁴ Submission 198, Tourism Accommodation Australia (NSW), pp9-10.

¹⁵ Submission 209, Tourism and Transport Forum Australia, p7.

- the cost of meeting Building Code of Australia (BCA) requirements for non-residential buildings, particularly the fire safety regime¹⁶
- taxes and goods and services tax (GST)¹⁷
- commercial insurance premiums¹⁸
- food health and safety compliance, including food supervisor certificates where relevant¹⁹
- paying commercial council and interest rates.²⁰

Proponents of short-term rental accommodation

- 3.17 The Committee also received a significant amount of evidence from providers and managing organisations of STRA. These organisations ranged from large national and international businesses to smaller or individual operators.
- 3.18 One of the main arguments made by the stakeholders who supported STRA was the economic benefits it provided to hosts, guests and local communities. The economic contribution of STRA is considered later in this chapter.
- 3.19 The proponents of STRA noted that this form of accommodation has been made available in Australia for over one hundred years. Some stakeholders highlighted the differences between STRA and other forms of accommodation as a reason for its ongoing popularity.
- 3.20 For example, it is common for STRA properties to be occupied by the owners for some time during the year and made available for other periods. This allows the owners to enjoy their properties when they are able to, but to also make some extra income when they are not present by making it available to others. Elders Real Estate New Brighton explained that:
- Our holiday houses in New Brighton and South Golden Beach are not run as businesses. They are family owned and used as such for a good part of the year either by the owners, family or friends. The properties we manage are in the main placed into holiday rental to help offset the costs of the property that are used primarily for family and friends and are not used as a profit making venture ie: a business.²¹
- 3.21 Another argument made for STRA is that it enables larger groups of people to be able to holiday together for longer periods of time. One owner of a short-term let property told the Committee that:

The bulk of guests comprise family groups – often at least three generations. These are to celebrate birthdays (eg 60ths), family reunions, annual leave for people with

¹⁶ Submission 198, Tourism Accommodation Australia (NSW), pp15-16.

¹⁷ Submission 198, Tourism Accommodation Australia (NSW), pp9-10.

¹⁸ Submission 129, Backpacker Operators Association NSW, p3.

¹⁹ Submission 178, Bed & Breakfast and Farmstay Association of NSW and ACT, p2.

²⁰ Submission 198, Tourism Accommodation Australia (NSW), pp13-14.

²¹ Submission 112, Elders Real Estate New Brighton/Ocean Shores, p1.

young children (out of school holidays) and general R&R. [The] house, ... can accommodate the group under one roof ...²²

- 3.22 The fact that properties available for short-term letting are usually residential properties means that they are convenient for people who are travelling for a variety of reasons. The existence of a kitchen and other facilities means that guests can cater for themselves and stay in areas that may not have other suitable accommodation. Sharing Australia noted that:

The reasons guests choose home sharing ranges from people who are visiting family in hospital, awaiting the birth of a grandchild, visiting children studying in Australia, conferences or as performers in artistic/musical events and festivals. Many guests report that they would not be able to afford to stay in traditional accommodation for a long period of time and require the "comforts" of a home such as fully equipped kitchen.²³

- 3.23 The rise in online booking platforms such as Airbnb, which give residents the opportunity to host guests in their own home, whether they are present or not, has also led to an increase in property availability in non-traditional tourism areas. One of Airbnb's main claims is that it 'helps strangers see a city as a local does and lets hosts become ambassadors for the communities they love'.²⁴

- 3.24 This sentiment was supported by a large number of the, primarily Airbnb, guests and hosts who made submissions.²⁵

- 3.25 It was also highlighted that STRA can be very useful in meeting demand for tourist accommodation in areas where it is unlikely that traditional operators will invest. This is particularly the case when the periods of high demand are only short, for example local festivals or sporting events. Each year, there are major motor racing events at Mount Panorama in the Bathurst area and Bathurst Council explained that:

As a consequence of these events, short term visitor accommodation during the major events (10 to 14 days) is at a premium. Home hire activities are critical to ensure adequate short term accommodation is available.²⁶

Residents adversely affected by short-term rental accommodation

- 3.26 The Committee also received a number of submissions from people who described being adversely affected by STRA. These people were often neighbours of a property that is available for STRA or lived in an area that had seen a significant increase in the number of such properties.

²² Submission 119, Name Suppressed, p1.

²³ Submission 139, Sharing Australia, p5.

²⁴ Submission 207, Airbnb, p1.

²⁵ See Submissions 11, 28, 29, 30, 31, 32, 34, 37, 39, 44, 45, 46, 47, 50, 51, 52, 55, 56, 58, 61, 63, 64, 65, 66, 68, 69, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 94, 95, 97, 98, 99, 100, 103, 109, 111, 116, 118, 117, 120, 121, 124, 131, 132, 135, 144, 151, 152, 161, 162, 166, 167, 168, 183, 187, 192.

²⁶ Submission 147, Bathurst Regional Council, p1.

- 3.27 The most common complaint made was the negative impact of guests who did not behave in a manner that was in keeping with the residential area in which they were staying.
- 3.28 Among the issues put forward by these stakeholders were:
- the loss of amenity for residents from noise and anti-social behaviour²⁷
 - the lack of action from councils following complaints against STRA properties²⁸
 - overcrowding and associated fire safety issues²⁹
 - parking issues³⁰
 - the excessive use of local infrastructure³¹
 - the lack of affordable housing or rental properties³²
 - the loss of community for permanent residents³³
 - misleading and unregulated advertising of properties available.³⁴
- 3.29 Residents who complained about the problems associated with STRA noted that the recent proliferation has meant that there are more difficulties in traditionally residential areas. Previously, popular holiday destinations would usually have an area where STRA and other forms of accommodation were common but these boundaries are becoming blurred, with adverse effects for other residents. The Victims of Holiday Letting indicated that:
- More and more houses became holiday lets and the community started to really feel the impact. These holiday let businesses were right next door. The old neighbour you had known for years had gone!³⁵
- 3.30 It was emphasised that traditionally, areas which were considered suitable for tourism accommodation would be treated differently to residential areas. This can also involve specific zoning requirements in different council areas. Ms Jan Barham MLC explained that, in Byron Shire Council LGA:
- ... the assessment and consultation of zoning plans, ... the location of tourism zones was determined on the basis that it was important to separate the areas where this use was deemed suitable based on proximity to facilities and attractions, and away

²⁷ Submission 15, Name Suppressed.

²⁸ Submission 127, Mr Adrian Gattenhof.

²⁹ Submission 3, Name Suppressed.

³⁰ Submission 17, Name Suppressed.

³¹ Submission 127, Mr Adrian Gattenhof.

³² Submission 35, Name Suppressed.

³³ Submission 24, Name Suppressed.

³⁴ Submission 42, Name Suppressed, pp5-6.

³⁵ Submission 175, Victims of Holiday Letting, p4.

from residential areas where the impacts and conflicts for residents could be avoided.³⁶

LAND USE PLANNING AND DEVELOPMENT CONTROL

- 3.31 In New South Wales, STRA can be regulated by local councils through their local environment plans (LEPs). Under the LEP, a council controls what land use is permitted across their LGA.
- 3.32 At the time of the inquiry, twelve councils had amended their LEPs to clarify their position on STRA while more were seeking to do so.³⁷ These councils were predominantly in coastal areas where STRA is a common occurrence. The NSW Government summarised the amended LEPs in a table attached to its submission, which can be found at Appendix Three.
- 3.33 However, a recurring complaint from councils and many other stakeholders was that it was difficult to properly define STRA in the current standard instrument LEP template.³⁸
- 3.34 The NSW Government introduced the standard instrument LEP to create a template for LEPs which would encourage consistency across the state. The standard instrument provides definitions for all land use terms.
- 3.35 This includes ‘tourist and visitor accommodation’ which ‘means a building or place that provides temporary or short-term accommodation on a commercial basis and includes any of the following:
- (a) backpackers’ accommodation
 - (b) bed and breakfast accommodation
 - (c) farm stay accommodation
 - (d) hotel or motel accommodation
 - (e) serviced apartments.³⁹
- 3.36 Several councils noted that none of the definitions at (a) to (e) above accurately describe the rental of part of or an entire dwelling for STRA. Kiama Municipal Council emphasised that, ‘[c]urrent, standard template LEP provisions do not adequately define this type of land use nor offer any controls.’⁴⁰ Local Government NSW wrote: ‘The activities can fall under or between a number of definitions under the LEP Template that is critical in determining whether the activity is permissible in the zoning and/or whether it needs council consent.’⁴¹

³⁶ Submission 208, Ms Jan Barham MLC, p6.

³⁷ Submission 190, NSW Government, Appendix 1.

³⁸ Submission 146, Tweed Shire Council, p1.

³⁹ Standard Instrument – Principal Local Environment Plan, Dictionary.

⁴⁰ Submission 160, Kiama Municipal Council, p1.

⁴¹ Submission 197, Local Government NSW, p6.

- 3.37 In an effort to categorise STRA, some councils have considered it to be a form of bed and breakfast⁴², while others include it under serviced apartments.⁴³ This was not considered an ideal situation, however, with Snowy River Shire Council referring to the ‘less than ideal fit’ of designating short-term holiday rentals as serviced apartments.⁴⁴
- 3.38 Hence those councils which have amended their LEPs to permit STRA have adopted their own definitions, with NSW Government approval, but not consistent ones.
- 3.39 As argued by Lake Macquarie City Council, this has led to ‘an inconsistent and ad hoc approach to managing this type of development’.⁴⁵ These concerns were echoed by STRA platforms, hosts and guests who complained about the lack of consistency across the state in how STRA was defined and managed by different councils. Stayz submitted:
- ... the current regulations for [STRA] in NSW are unclear when looked at holistically, largely due to the different approaches taken, and regulations implemented, by different local councils.⁴⁶
- 3.40 The following sections examine some of the approaches taken by different councils in detail.

City of Sydney

- 3.41 As a major tourism destination, the City of Sydney Council has a significant amount of STRA. As with other areas, this has increased following the advent of online booking systems. At the time of the inquiry, there were 4,500 properties available in the City of Sydney LGA to let through Airbnb.⁴⁷
- 3.42 The City of Sydney Council considers that lower impact STRA meets the definition of ‘Tourist and visitor accommodation’ under the *Environmental Planning and Assessment Act 1979* (EP&A Act). The Sydney LEP prohibits tourist and visitor accommodation in the majority of residential zones in the LGA.⁴⁸
- 3.43 The City of Sydney Council also highlighted that while this activity could be considered as bed and breakfast in certain cases, that option is not available to apartments as it is confined to a dwelling house that is a single dwelling.⁴⁹
- 3.44 Given the scale of STRA in the LGA, the City of Sydney Council told the Committee that it does not have the resources to inform every single property advertised for

⁴² Submission 38, Sutherland Shire Council, p1.

⁴³ Submission 146, Tweed Shire Council, p1.

⁴⁴ Submission 154, Snowy River Shire Council, p2.

⁴⁵ Submission 48, Lake Macquarie City Council, p1.

⁴⁶ Submission 141, Stayz Pty Ltd, p2.

⁴⁷ Mr Andrew Thomas, Executive Manager, Strategic Planning and Urban Design, City of Sydney Council, Transcript of Evidence, 14 March 2016, p7.

⁴⁸ Submission 158, City of Sydney Council, p4.

⁴⁹ Submission 158, City of Sydney Council, p5.

short-term rental that they are participating in an activity that is not permissible under the LEP.⁵⁰

3.45 However, the City of Sydney Council does act if it receives legitimate complaints about STRA occurring in a property in a residential zone. Council will advise the property owners that the use is not permitted and should be stopped.⁵¹

3.46 The City of Sydney Council made the point that they were more concerned by illegal boarding houses which have a greater risk to the wellbeing of residents, due to serious safety concerns. The focus for their investigation teams are buildings where rooms have been subdivided and host excessive people rather than Airbnb which is seen as less harmful. Mr Roy Cottam, Investigative Specialist, City of Sydney Council emphasised that:

That is one area that our City of Sydney is focusing on—making sure we are looking after vulnerable people, making people safe and doing what we can as a council to ensure that that type of illegal accommodation is not in our area.

On the other side of the coin—completely different—is Airbnb and Stayz, which from an investigations point of view we have not had many complaints about in terms of that type of high-risk illegal accommodation.⁵²

3.47 The Committee asked City of Sydney Council to quantify the number of complaints received. Council replied that in the year prior to 1 March 2016 it had received 169 complaints concerning to short-term and backpacker accommodation of which 45 had mentioned Airbnb or Stayz.⁵³

Byron Shire

3.48 Byron Shire Council has also seen an increase in STRA and this form of accommodation has become the major provider of tourist accommodation in the LGA as opposed to traditional bed and breakfasts, motels or hotels. The Council estimates that there are up to 1,000 properties available for STRA.⁵⁴

3.49 Currently, this activity is not permitted in residential areas in Byron Shire. However, a council resolution directs staff not to take action against these properties unless there is a significant impact on neighbourhood amenity or there are fire safety issues.⁵⁵ This has led to approximately 100 to 200 complaints, out of a total of around 3,500 complaints received by the environmental and compliance area of council each year.⁵⁶

⁵⁰ Mr Thomas, Transcript of Evidence, p8.

⁵¹ Mr Thomas, Transcript of Evidence, p8.

⁵² Mr Roy Cottam, Investigative Specialist, City of Sydney Council, Transcript of Evidence, 14 March 2016, p3.

⁵³ Mr Cottam, Answers to Questions on Notice, 12 April 2016.

⁵⁴ Mr Christopher Larkin, Major Projects Planner, Byron Shire Council, Transcript of Evidence, 7 March 2016, p14.

⁵⁵ Mr Larkin, Transcript of Evidence, p14.

⁵⁶ Mr Andrew Hill, Community Enforcement Officer, Byron Shire Council, Transcript of Evidence, 7 March 2016, p15.

- 3.50 The majority of concerned residents mentioned in the previous section were from Byron Bay township as is the organisation, the Victims of Holiday Letting which was formed to represent people affected by STRA.⁵⁷
- 3.51 Previously, Byron Shire Council tried to create specific precincts where STRA would and would not be permitted. This approach was not supported by the NSW Department of Planning and Environment.⁵⁸
- 3.52 Council advised the Committee that they have proposed a new amendment to their LEP which will seek to regulate STRA in the LGA. This will set out definitions for when STRA can be undertaken as exempt development and when a development application is required.⁵⁹
- 3.53 The defined limits proposed by Council for exempt development are for home owners with three bedrooms or less, who want to rent their dwelling out for less than 90 days in any one year and live there for the remainder of the year. It caps number of occupants to two per bedroom, excluding children under five years of age. Should these limits be exceeded, a development application will need to be submitted to Council.⁶⁰
- 3.54 Representatives from Byron Shire Council explained that these limits were decided upon through a process of community consultation and council consideration. They noted that the number of bedrooms, for example, was a bit more 'conservative' than other LGAs such as Gosford or Wyong.⁶¹

Tweed Shire

- 3.55 Another popular holiday destination with a significant number of STRA properties is Tweed Shire Council. Representatives from Council advised that there were upwards of 2,000 short-term holiday lettings in their LGA.⁶²
- 3.56 STRA is currently prohibited in all rural and the majority of residential zones in the Tweed LGA. Council noted that, prior to the introduction of the standard instrument LEP, the use was not prohibited.⁶³
- 3.57 However, as with a number of other councils, Tweed Shire Council has chosen to defer action against people conducting this activity unless there is a specific issue that is causing distress to a complainant. It has chosen this approach until a clearer policy framework is in place. Mr Vincent Connell, Director, Planning and Regulation, Tweed Shire Council, reported:

Up to the last one or two years, council would respond on a complaint basis.
Certainly the council would follow that through with a property owner if they

⁵⁷ Submission 175, Victims of Holiday Letting, p4.

⁵⁸ Submission 172, Byron Shire Council, p2.

⁵⁹ Submission 172, Byron Shire Council, pp11-15.

⁶⁰ Submission 172, Byron Shire Council, pp2-3.

⁶¹ Mr Larkin, Transcript of Evidence, p15.

⁶² Mr Iain Lonsdale, Unit Coordinator, Strategic Planning and Urban Design, Tweed Shire Council, Transcript of Evidence, 7 March 2016, p5.

⁶³ Submission 146, Tweed Shire Council, p1.

believed that there was an illegal use. In more recent times our council have tried to be a bit pragmatic. ... So our council have said that unless there is a specific issue that is causing great distress to a community member that is an ongoing, obvious illegal activity, we will defer our action at this point in time.⁶⁴

- 3.58 Tweed Shire Council has also proposed an amendment to their LEP which will recognise the use of a property for STRA as an exempt development up to a maximum of 60 days a year. Owners wanting to make their property available beyond this period will be able to submit a development application for merit assessment.⁶⁵
- 3.59 Representatives from Tweed Shire Council explained that the 60 day limit was chosen as appropriate in their LGA as it reflected the common occurrence of holiday homes being made available for school holiday periods. Mr Iain Lonsdale, Unit Coordinator, Strategic Planning and Urban Design, Tweed Shire Council advised that:
- We looked at roughly how many days a year the schools are closed and in what period families are likely to go away and rent their properties out. That was one of the main categories that became clear to us. It was families taking their children away and using the income from those properties to pay for that holiday. That is a common story around the Tweed. So, two months is around 60 days or 62 days, so we settled on that period for that reason.⁶⁶
- 3.60 Alongside the development requirements, Tweed Shire Council also intends to introduce an accompanying policy providing additional framework for the ongoing management of STRA properties. This policy will highlight the importance of guests and owners being aware of neighbourhood amenity and minimising disturbing behaviour. It will also outline certain terms and conditions which must be agreed to in a contract between the guest and property owner and include compliance action and fines if guidelines are breached.⁶⁷
- 3.61 Tweed representatives reported that Council receives 10 to 20 complaints each year from its 2,000 STRA properties.⁶⁸

Shoalhaven City

- 3.62 Shoalhaven is an area with a long history of tourism and the associated short-term rental of residential dwellings. Shoalhaven City Council recognises the importance of tourism to the area's economy and supports the continuation of STRA in the LGA. Council estimates that there are over 4,000 holiday homes in the LGA.⁶⁹
- 3.63 Shoalhaven City Council was one of the first councils to recognise STRA in their LEP, with an amendment in 2006. Since then, it has made a further amendment

⁶⁴ Mr Vincent Connell, Director, Planning and Regulation, Tweed Shire Council, Transcript of Evidence, 7 March 2016, p3.

⁶⁵ Submission 146, Tweed Shire Council, p3.

⁶⁶ Mr Lonsdale, Transcript of Evidence, p5.

⁶⁷ Submission 146, Tweed Shire Council, pp 4-5.

⁶⁸ Mr Connell, Transcript of Evidence, p5.

⁶⁹ Mr Gordon Clark, Strategic Planning Manager, Shoalhaven City Council, Transcript of Evidence, 30 May 2016, p1.

and the LEP now states that no consent is required for short-term rental of holiday homes, unless there is an impact on neighbourhood amenity.⁷⁰ Mr Gordon Clark, Strategic Planning Manager, Shoalhaven City Council explained that the major change to the LEP in 2014 was the inclusion of elements relating to amenity impacts which gives the council more power to act if there are properties which regularly attract complaints:

However, since 2014 the clause has slightly changed. Basically it still says that a person does not need consent for a holiday home. However, if there is an amenity impact then council can choose to step in. ... It is a way of council potentially being able to step in where houses are problematic. We do not want to regulate the 4,000-plus holiday homes, but it certainly gives us an opportunity to step in and regulate the problematic party houses that we can identify.⁷¹

- 3.64 Council noted that complaints about STRA properties are a very minor area of complaints, particularly when compared to other categories of complaint. It was also noted that '[a]t this stage we have not had to use [the complaint based] provision. It is there as a threat as much as anything'.⁷²
- 3.65 Given the popularity of short-term holiday letting in Shoalhaven, Council has also sought to assist residents by providing them with relevant information. When the Council amended its LEP, it sent out advisory guidelines for short-term holiday rental. More recently it has distributed copies of a voluntary code of conduct and other information informing guests and property owners about the importance of neighbourhood amenity and the consequences of disturbing this amenity.⁷³

Other councils

- 3.66 The positions reported by City of Sydney, Byron Shire, Tweed Shire and Shoalhaven City Councils were generally reflected in submissions received from other councils in New South Wales, whether or not STRA is a permitted use under a Council LEP or not.
- 3.67 Waverley Council, for instance, in which STRA is not a permitted use, advised the Committee that it has too many STRA properties in its LGA to proactively manage compliance. Council intervenes on a case-by-case basis where complaints are made.⁷⁴
- 3.68 Similarly, Mosman Municipal Council advised the Committee that it only becomes aware of STRA when it receives the occasional complaint.⁷⁵
- 3.69 Wyong Shire Council, which permits STRA, advised the Committee that it amended its LEP to allow existing rentals operating without complaint, to continue. Wyong Shire Council also advocated for the introduction of Penalty

⁷⁰ Submission 105, Shoalhaven City Council, p5.

⁷¹ Mr Clark, Transcript of Evidence, p1.

⁷² Mr Clark, Transcript of Evidence, p1.

⁷³ Submission 105, Shoalhaven City Council, p5.

⁷⁴ Submission 211, Waverley Council, p2.

⁷⁵ Submission 57, Mosman Municipal Council, p1.

Infringement Notices (PIN) to streamline the management of any noise, overcrowding, car parking and waste control issues.⁷⁶

- 3.70 Not all councils were sympathetic towards the positions advocated above. Wagga Wagga City Council was concerned that unregulated practices would damage the reputation of the accommodation industry and potentially the local economy.⁷⁷
- 3.71 Some councils also raised the question of whether STRA was placing a burden on the provision of services, but not contributing towards the cost of these services because it was being charged a residential rather than a commercial rate. Snowy River Shire Council argued that STRA was an intensification of land use which warranted the charging of commercial rates.⁷⁸

Other jurisdictions

- 3.72 The Committee invited evidence about the responses made to the growth of STRA in other jurisdictions, both in Australia and overseas.
- 3.73 In its submission the NSW Government provided a brief summary of regulatory responses to STRA in Queensland, London, France, Berlin, San Francisco and New York City.⁷⁹ This section provides more detailed information relating to the regulatory responses of the Queensland, Victorian and South Australian Governments.

Queensland

- 3.74 The Committee was keen to understand more about Queensland party house provisions, which while well known to stakeholders from Northern New South Wales, were not well detailed in evidence.
- 3.75 In 2014, the Queensland Government introduced amendments to the *Sustainable Planning Act 2009* to regulate residential premises operating commercially as 'party houses'.⁸⁰
- 3.76 A party house is defined in section 755A of the *Sustainable Planning Act 2009* as a dwelling that:
- a) is regularly used by guests for parties, including bucks nights, hens nights, raves, wedding receptions, etc.
 - b) is occupied in part or whole for a period of less than 10 days
 - c) attracts a fee to be used (hired out)
 - d) is not occupied by the owner during the period it is hired out.⁸¹

⁷⁶ Submission 156, Wyong Shire Council, p2.

⁷⁷ Submission 182, Wagga Wagga City Council, p5.

⁷⁸ Submission 154, Snowy River Shire Council, p3.

⁷⁹ Submission 190, NSW Government, p12.

⁸⁰ Paul Hemsley, <http://www.governmentnews.com.au/2014/06/party-house-crackdown-powers-given-qld-councils/>, viewed September 2016.

⁸¹ <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/S/SustPlanA09.pdf>

- 3.77 The City of Gold Coast Council implemented local provisions which defined 'regular use' as more than twice in a 12 month period, declared the entire LGA as a precinct for the application of the provisions, and required development consent for use of a residential dwelling as a party house.⁸²
- 3.78 While the Queensland provisions distinguish party houses from STRA, the evidence received by the Committee suggests that similar provisions may be usefully applied to STRA properties in which a predominant or recurring use by renters is the type of functions listed in the Queensland legislation.
- 3.79 The Committee has made a detailed recommendation concerning party houses in Chapter One of this report, noting also the Victorian Government's support for party house provisions.

Victoria

- 3.80 The Victorian Government's independent panel on short-stay accommodation in CBD apartment buildings reported in May 2016.
- 3.81 Following the report, the Victorian Government announced that it will introduce new laws to address problems with short-term letting in strata buildings, and particularly unruly behaviour.
- 3.82 Under these reforms:
- apartment owners could be liable for damage, noise and loss of amenity
 - the Victorian Civil and Administrative Tribunal will be granted powers to award compensation to neighbours and ban short-stays in apartments that are repeatedly causing complaints
 - guests can be fined for unruly behaviour, causing health, safety or security hazards, damage to property, and obstructing other residents and their property
 - apartment owners may be ordered to pay compensation to neighbours for damages caused by their guests in common areas.⁸³
- 3.83 The Committee has made a recommendation about Victorian-style strata reforms in Chapter One of this report.

South Australia

- 3.84 In March 2016 the South Australian Department of Planning published Notice 04/16,⁸⁴ a building advisory notice to assist in interpreting the *Development Act 1993*. The notice states that short-term letting in residential strata buildings does

⁸² The City of Gold Coast, <http://www.goldcoast.qld.gov.au/planning-and-building/temporary-local-planning-instrument-no-2-party-houses-2016-30456.html>, viewed September 2016.

⁸³ Consumer Affairs Victoria, <https://www.consumer.vic.gov.au/news-and-events/news-updates/reforms-to-short-stay-accommodation-laws-news-alert>, viewed September 2016.

⁸⁴ Government of South Australia, <http://www.sa.gov.au/topics/property-and-land/land-and-property-development/planning-professionals/building-advisory-notices-and-subscription>, viewed September 2016.

not trigger BCA compliance requirements, and does not change the definition of a dwelling:

Accordingly, a dwelling will remain a dwelling if it is occupied sporadically; let out during holiday periods to short term occupants; let for short term use; or if the owner lives overseas or interstate and uses it occasionally and then for relatively short periods. Unless development is undertaken to physically alter the dwelling such that is no longer a dwelling, it remains a dwelling.⁸⁵

3.85 The Committee reports its finding that ‘short-term rental accommodation is not a change of use’ in Chapter Two of this report.

THE HOLIDAY AND SHORT-TERM RENTAL CODE OF CONDUCT

3.86 In 2011, an industry stakeholder group comprising holiday letting organisations along with the NSW Department of Planning and Environment and Destination NSW developed a draft Holiday Rental Code of Conduct (the ‘code’). The objectives of the code are:

- (a) to establish acceptable standards of behaviour for holiday rental guests and visitors to minimise any adverse social or environmental impacts
- (b) to assist owners and managers of holiday rental accommodation to meet the needs of all stakeholders including guests, neighbours, local communities, local councils and government authorities
- (c) to inform the community of the standards of conduct expected from holiday rental owners, managers, guests and visitors so as to effectively minimise amenity impacts.

3.87 The first version of the code commenced operation in May 2012 and was endorsed by the then Minister for Planning.⁸⁶

3.88 The code was then amended and relaunched by the Holiday Rental Industry Association (HRIA) as version 1.1 in March 2013. These amendments were to address concerns raised by stakeholders that the code was too prescriptive and inflexible to meet the wide range of circumstances across New South Wales. In March 2015, the code was relaunched as the national Holiday and Short-Term Rental Code of Conduct.⁸⁷

3.89 A number of large holiday home rental organisations use this code to ensure that guests and hosts behave in a manner that is appropriate. Stayz stated that it requires home owners listing properties on its site to comply with the code and ensure travellers who book with them also comply with the code.⁸⁸

⁸⁵ Government of South Australia, http://www.sa.gov.au/_data/assets/pdf_file/0006/205764/Advisory-Notice-04-16-Application-of-the-change-in-use-provisions-dwelling.pdf, viewed September 2016.

⁸⁶ Submission 190, NSW Government, p6.

⁸⁷ Mr Trevor Atherton, Holiday Rental Industry Association, Document tabled at public hearing, 14 March 2016, pp3-4.

⁸⁸ Submission 141, Stayz Pty Ltd, p3.

- 3.90 Similarly, a number of stakeholders credited the code with an improved situation for guests, hosts and neighbours of short-term holiday rental properties. Tea Gardens Real Estate observed that since the adoption of the code as part of booking terms and conditions by managers and owners, a number of local councils have reported decreases in the number of holiday property occupancy behavioural complaint.⁸⁹
- 3.91 Despite this general support for the code, some questions and concerns were raised about the ownership of the code and who controls it. In its advice to ratepayers, for example, Shoalhaven City Council refers to the code as 'Government-supported'.⁹⁰ Mr Christopher Larkin, Major Projects Planner, Byron Shire Council told the Committee:
- One of the concerns we have about it is: who is in control of it? Is it a State Government code or is it an industry code? Who gets to have the final say on recommendations on that code and is it endorsed, eventually, by the State Government? I think there were a couple of earlier versions back in 2012-13, which had some sort of State Government endorsement. The latest version, though, seems to be a code that is derived from those earlier versions but it looks as though Stayz and the Holiday Rental Industry Association of Australia now have control of that code.⁹¹
- 3.92 The HRIA explained that the current national code was under their custodianship and the current code administration committee comprises of the board of the HRIA and Mr John Gudgeon, the President of Holiday Letting Organisation Byron.⁹² The NSW Department of Planning and Environment clarified that it was not involved with the development of the national code, which it said had replaced the New South Wales code, and does not have any ongoing involvement.⁹³
- 3.93 These changes have not been well received by certain stakeholders, including both industry representatives and residents. Mr Douglas Luke, Coordinator of the Victims of Holiday Letting argued that while there had been some benefit in the initial code, the current 'code administrative committee is ... dysfunctional, not representative and has no community input'.⁹⁴
- 3.94 Mr Donat Koboleff, President of the Holiday Letting Organisation Central Coast, told the Committee that he supported the original version of the code on the grounds that it was the only version endorsed by all parties.⁹⁵

⁸⁹ Submission 142, Tea Gardens Real Estate Pty Ltd, p3.

⁹⁰ Submission 105, Shoalhaven City Council, see brochure, pp9-11.

⁹¹ Mr Larkin, Transcript of Evidence, p18.

⁹² Mr Atherton, Document tabled at public hearing, p3.

⁹³ Ms Elizabeth Kinkade, Executive Director, Planning Policy, Department of Planning and Environment, Transcript of Evidence, 14 March 2016 p78.

⁹⁴ Mr Douglas Luke, Coordinator, Victims of Holiday Letting, Transcript of Evidence, 7 March 2016, p28.

⁹⁵ Mr Donat Koboleff, President of Holiday Letting Organisation Central Coast, Transcript of Evidence, 30 May 2016 p9.

3.95 These stakeholders argued for a return to the initial iteration of the code and an ongoing role for the Government in overseeing its operation. Mr Luke stated that:

A solution we see would be a strong code of conduct endorsed by State Government, which would inform the behaviour of owners and guests. It is the owners who are ultimately responsible for the behaviour of their holiday let guests. Version 1 of the code of conduct, in March 2012, was endorsed by planning Minister Hazzard, and it should be used by the holiday let industry.⁹⁶

SHORT-TERM RENTAL ACCOMMODATION IN STRATA BUILDINGS

3.96 Short-term letting in apartment buildings received considerable attention during this inquiry from stakeholders and the media. The following section explores the issues raised.

3.97 Living in an apartment building is different to living in a freestanding dwelling. Residents live closer to their neighbours and endeavour to do so in a harmonious manner. To facilitate this, residents must communicate and adhere to building by-laws. Hyde Park Towers explained that:

Successful residential communities provide a “home” environment for their residents. The success of these communities depends upon a high level of dialogue and cooperation amongst their members. ... Strata schemes formalise their own rules and codes of behaviour into enforceable by-laws.⁹⁷

3.98 Some stakeholders saw this form of living as incompatible with STRA. Arguments against STRA in strata buildings included:

- security can be compromised if too many guests are given swipe cards or access codes to enter the building⁹⁸
- common facilities such as lifts, gyms and swimming pools can be used more frequently leading to excessive wear and tear and increased maintenance costs⁹⁹
- the ambience of the building is affected by guests regularly arriving and leaving¹⁰⁰
- by-laws can be breached such as excessive noise or illegal parking¹⁰¹
- fire safety risks can be higher as guests do not know the correct emergency procedures or preventative measures.¹⁰²

⁹⁶ Mr Luke, Transcript of Evidence, p28.

⁹⁷ Submission 149, Hyde Park Towers, p2.

⁹⁸ See Submissions 96, 138, 149, 204.

⁹⁹ See Submissions 8, 19, 138.

¹⁰⁰ Submission 149, Hyde Park Towers, p7.

¹⁰¹ See Submissions 138 176, 181.

¹⁰² See Submissions 8, 138, 149.

3.99 However, the NSW Government noted that these issues are not exclusive to STRA and may also be caused by longer-term residents.¹⁰³

3.100 The conduct of owners and occupiers of units in apartment blocks is governed by by-laws which outline what is expected and acceptable behaviour for all residents. Hyde Park Towers emphasised that:

Strata communities have their own democratic processes designed for owners to make decisions affecting their built environment and the behaviour of their residents. Strata schemes formalise their own rules and codes of behaviour into enforceable by-laws. Strata schemes provide for an equitable sharing of the costs of maintaining their property through a process of “unit entitlements”.¹⁰⁴

3.101 The *Strata Schemes Management Act 1996* provides that, no by-law is capable of operating to prohibit or restrict the devolution of a lot or a transfer, lease, mortgage, or other dealing relating to a lot.¹⁰⁵ The NSW Government indicated that “[t]his means that an owners’ corporation cannot seek to restrict a lot owner from offering short-term accommodation in the owner’s lot”.¹⁰⁶

3.102 This means that ‘owners’ corporations can only seek to control short-term accommodation through the use of “conduct” by-laws, or development approvals that have been issued by the local council in respect of the scheme’.¹⁰⁷ In a case before the Victorian Civil and Administrative Tribunal it was found that an owners’ corporation rule prohibiting short-term letting was not validly made.¹⁰⁸

3.103 The NSW Government has made efforts to clarify strata building residents’ obligations to owners’ corporations if they choose to make their property available to let on a short-term lease.

3.104 On 30 November 2016, the *Strata Scheme Management Regulation 2016* will come into force.¹⁰⁹ This regulation includes a model by-law which provides that owners must notify the owners’ corporation of any change in use including any lease, however short.

3.105 In the accompanying regulatory impact statement, NSW Fair Trading noted that this new by-law would be particularly relevant for those people who wanted to operate STRA and assistance owners’ corporations to monitor behaviour. It stated that:

The new notice requirements will help ensure that owners corporations are informed of leases, particularly those that may be short-term, such as AirBnB leases. Section 139(2) of the Act provides that a by-law cannot prevent the devolution of a

¹⁰³ Submission 190, NSW Government, p9.

¹⁰⁴ Submission 149, Hyde Park Towers, p2.

¹⁰⁵ *Strata Schemes Management Act 1996*, s49(1)

¹⁰⁶ Submission 190, NSW Government, p9.

¹⁰⁷ Submission 190, NSW Government, p9.

¹⁰⁸ Brand Partners Commercial Lawyers, <http://www.brandpartners.com.au/component/content/article/82-news/292-watergate>, viewed September 2016.

¹⁰⁹ NSW Fair Trading, http://www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/About_us/Have_your_say/Strata_schemes_management_regulation_2016.pdf, viewed September 2016.

lot or a transfer, lease, mortgage or other dealing. However, this model by-law will assist owners corporations to check compliance with development approvals and be aware of people entering and leaving the scheme to maintain the security of the premises as much as possible.¹¹⁰

- 3.106 A number of stakeholders, including Woollahra¹¹¹ and Leichhardt¹¹² Municipal Councils, argued that owners' corporations should have the power to choose whether to allow short-term holiday letting in their buildings.¹¹³
- 3.107 Despite the evidence of the NSW Government, the Committee received evidence from several owners' corporations that they currently have by-laws which prevent short-term holiday letting in their buildings.¹¹⁴ One building recognised that their by-law is not valid, but indicated that it was the aspiration of the constituency in the building which did not want to permit short-term holiday letting.¹¹⁵
- 3.108 In recent times in Sydney, there have been two relevant cases concerning STRA in strata buildings. In the case of the City of Sydney Council v Oaks Hotels and Resorts, it was found that Oaks Hotels and Resorts were operating serviced apartments in the Maestri Towers building in contravention of the development consent of that building. They were ordered to stop.¹¹⁶
- 3.109 In 2015, the NSW Land and Environment Court considered a situation where apartments in the Bridgeport building in Sydney were being used for STRA. The Court ruled that this activity must cease based on the development approval for the building specifically prohibiting tourist and visitor accommodation, including short-term letting.¹¹⁷ Mr Andrew Thomas, Executive Manager, Strategic Planning and Urban Design, City of Sydney Council noted that the activity was also considered to a commercial one, while other short-term holiday lets will operate on a less frequent basis. He explained:
- The Bridgeport action is an action under the current legislation framework, which essentially means that if you want to do a commercial type of activity then you need consent. My understanding of that particular action is that those operators have not sought consent and we are following up that action. It is a separate issue. It informs our position in our submission in that we are looking at defining a genuine participant in the share economy as opposed to a commercial activity that is much more frequent and which will challenge the objectives of the zone. That goes towards amenity, safety and character.¹¹⁸
- 3.110 The Committee understands from its reading of the NSW Government submission that in relying on the development consents to rule STRA should

¹¹⁰ NSW Fair Trading, Regulatory Impact Statement, *Strata Schemes Management Regulation 2016*, April 2016, p33.

¹¹¹ Submission 188, Woollahra Municipal Council, p2.

¹¹² Submission 189, Leichhardt Municipal Council, p9.

¹¹³ See Submissions 5, 6, 8, 13, 19, 20, 21, 22, 25, 49, 96, 117, 138, 149, 155, 163, 181, 191, 204, 212.

¹¹⁴ See Submissions 5, 6, 96, 138, 149, 155, 181, 204.

¹¹⁵ Mr Stephen Goddard, Chairperson, Owners Corporation Network, Transcript of Evidence, 14 March 2016, p61.

¹¹⁶ Submission 191, Owners Corporation Network, p5.

¹¹⁷ Submission 190, NSW Government, p9.

¹¹⁸ Mr Thomas, Transcript of Evidence, p5.

cease in these two buildings, it is unclear whether the Court decision would be applicable to consideration of STRA in other strata buildings where a similarly-worded development consent has not been issued.¹¹⁹

ECONOMIC CONTRIBUTION

- 3.111 As has been established, STRA is a traditional form of accommodation in New South Wales and as such, it makes a significant contribution to the economy.
- 3.112 A study by BIS Shrapnel estimated that the short-term accommodation industry supported \$31.3 billion in economic activity and 238,000 jobs nationally.¹²⁰ Given the size of the economy of New South Wales, a significant portion of this activity must take place in New South Wales.
- 3.113 Data from Tourism Research Australia's International and National Visitor Surveys shows that that non-traditional accommodation (includes rented house/apartment/flat/unit or private accommodation):
- was used by 12 per cent of total visitors (1,564,000 visitors) to New South Wales and contributed 18 per cent of total visitor expenditure
 - accounted for 25 per cent of total visitor nights
 - was the most popular accommodation type used for in New South Wales by international visitors
 - contributed 24 per cent of total international visitor overnight expenditure.¹²¹
- 3.114 This expenditure is occurring in both metropolitan and regional areas. A BIS Shrapnel study on the economic impact of Airbnb in Sydney found that, it supported \$214 million in economic activity across Sydney over a 12 month period, including in many suburbs that have not historically benefited from tourism.¹²²
- 3.115 The Department of Trade and Investment's Visitor Accommodation Supply Study in 2014 also found that short-term holiday letting provided 32.1 per cent of accommodation supply in the Northern Rivers and 29 per cent in the Hunter Region. This is expected to grow in these areas to 6.9 million visitor nights in the Northern Rivers Region and seven million nights in the Hunter Region by 2023.¹²³
- 3.116 The Australian Regional Tourism Network also noted that STRA often takes place in areas that do not have plentiful alternative accommodation options. In some cases, this has led to increased spending in the area after other industries have withdrawn. It argued that:

¹¹⁹ Submission 190, NSW Government, p9.

¹²⁰ Submission 190, NSW Government, p4.

¹²¹ Submission 190, NSW Government, p5.

¹²² Submission 190, NSW Government, p5.

¹²³ Submission 202, Holiday Rental Industry Association, pp20-21.

In some regions of NSW, it is a lack of suitable accommodation in line with market demand that holds back growth in overnight stays and subsequent economic benefits to that region. In some cases, short-term holiday letting fills this gap in the market, triggering increased spend and increased length of stay in the region, and generating flow on employment opportunities through the wider visitor economy. Where a regional economy cannot attract investment to build tourist accommodation, short-term holiday letting can be the next best option to meet demand and support the broader visitor economy.

... Many regional economies have had to face their regional economies once based on successful agriculture, mining or other industry contracting, triggering reductions in consumer spending, employment and investment. This can result in the withdrawal of residents and businesses from homes, commercial and industrial buildings. ... [Short-term holiday letting] presents the location as an active landscape – critical for consumer confidence and community pride.¹²⁴

3.117 This factor was echoed by Airbnb who noted that guests using their service were more likely to stay in areas that are not traditional tourist destinations. According to Airbnb, 74 per cent of Airbnb properties in major cities are located outside of the traditional hotel districts.¹²⁵

3.118 Airbnb also stated that guests in STRA properties were more likely to spend time and money in the local area, for example, in shops, restaurants and cafes. This further supports local small businesses in the area. It argued that without these visitors, certain businesses may be less successful:

Such investments in local commercial districts benefit both hosts and non-hosting residents by improving the viability of local service providers such as cafes and shops which might otherwise operate at a more marginal level.¹²⁶

3.119 As has already been discussed, the increase in short-term letting of private properties also benefits the owners of those properties. According to Stayz, a significant majority of the people who let properties through their website do so to cover costs, allow them to maintain their holiday home or to provide a secondary income. Only 21 per cent rent out properties as a primary business.¹²⁷

3.120 Similarly, Airbnb explained that ‘the majority of hosts (85 per cent) rent their primary residences occasionally and earn a modest but significant amount of extra income that they use to help make ends meet’.¹²⁸ The money earned by these hosts is not seen as a primary source of income but is rather ‘extra spending money’ or ‘supplementary income ... to make ends meet’.¹²⁹

3.121 Some of these statements were queried by other stakeholders, particularly the claim that Airbnb was primarily aimed at people sharing their properties while in residence. The Backpacker Operators Association NSW claimed that a large

¹²⁴ Submission 159, Australian Regional Tourism Network, p1.

¹²⁵ Submission 207, Airbnb, p4.

¹²⁶ Submission 207, Airbnb, p4.

¹²⁷ Submission 141, Stayz, p4.

¹²⁸ Submission 207, Airbnb, p2.

¹²⁹ Submission 207, Airbnb, p27.

proportion of properties available to let on Airbnb especially are empty properties. They stated that:

Almost 60% of the stock on Airbnb in Sydney ... consists of whole apartments or whole houses, rather than a spare room in an apartment or house. This 60% of the inventory generates the bulk of the turnover of Airbnb; in other words spare rooms in someone's home represents a small portion of its business and is insignificant from an economic perspective.¹³⁰

3.122 Further evidence of the benefits of STRA for property owners was provided by the large number of submissions that the Committee received in support of the activity. Many of the 86 submissions highlighted the fact that they were pleased to offer accommodation to tourists in non-traditional areas and encourage them to visit their own 'favourite haunts'.¹³¹ They also recognised that letting helped provide additional income, particularly for people who were retired¹³² or seeking full-time employment.¹³³

3.123 STRA also provides revenue for associated local businesses, such as cleaners, launderettes, plumbers or electricians as property owners ensure that their properties are suitable for guests. As this industry continues to grow in popularity, it is also presenting additional opportunities for new businesses to enter the market to provide a conduit between property owners and customers.¹³⁴

3.124 While some concerns were raised that STRA would harm other businesses in the tourism accommodation sector, it was also observed that different accommodation options catered for different sectors of the market. Even those accommodation providers who would potentially be more affected by the proliferation of STRA noted that they were still able to offer distinct benefits to guest. Mr Julian Ledger, Chief Executive Officer, Youth Hostels Association reflected that:

In the backpacker sector the average price point is about \$35 per night. The Airbnb average rate in Sydney now is more than \$150 a night.

...

[The market] has evolved ... we are providing a place where people meet a lot of other people and that does not generally happen when you are in an apartment on your own.¹³⁵

¹³⁰ Submission 129, Backpackers Operators Association NSW Inc, p2.

¹³¹ See Submissions 28, 29, 32, 44, 46, 47, 51, 52, 56, 61, 66, 68, 72, 75, 77, 79, 84, 88, 89, 94, 95, 97, 98, 99, 120, 121, 124, 130, 135, 151, 162, 166, 167, 183.

¹³² See Submissions 28, 29, 30, 32, 34, 37, 39, 44, 45, 46, 47, 50, 51, 56, 58, 61, 65, 66, 68, 69, 72, 75, 76, 77, 78, 79, 80, 81, 83, 84, 90, 91, 94, 95, 97, 98, 99, 100, 103, 107, 116, 120, 124, 131, 132, 135, 137, 151, 152, 161, 167, 183, 187, 192.

¹³³ Submission 44, Name Suppressed, p2.

¹³⁴ Submission 190, NSW Government, p4.

¹³⁵ Mr Julian Ledger, Chief Executive Officer, Youth Hostels Association, Transcript of Evidence, 30 May 2016, p5.

HOUSING AFFORDABILITY AND AVAILABILITY

- 3.125 Some stakeholders raised the issue of housing affordability in relation to the increase in property owners operating STRA properties. They claimed that this was removing properties from the market for permanent residents, which was contributing to rising property prices. The Accommodation Association Australia argued that:
- Prices of residential housing, particularly in the inner suburbs of Sydney, are being driven up as a result of less properties being available for permanent residences.¹³⁶
- 3.126 It was also suggested that there were fewer properties available to rent for longer periods as owners would look to rent properties at specific times to collect higher rent. This was raised as an issue in coastal areas in particular, but Byron Shire Council did note that the impact on housing costs has not been quantified.¹³⁷
- 3.127 Similarly, Tweed Shire Council raised both housing affordability and availability with the Committee, but Council's representatives told the Committee that there was an absence of data to support whether STRA had impacted on either.¹³⁸
- 3.128 Proponents of STRA, however, argued that a large number of property owners are able to use the money they earn through the practice to ensure that they are able to keep up with mortgage repayments.¹³⁹

REGISTRATION AND LICENSING

- 3.129 One solution offered to the perceived problems of STRA which were raised by traditional accommodation providers was that operators should be required to acquire a license or be registered in some form before they were able to let their properties. It was suggested that this register or licence be introduced along with a mandatory code of conduct or other set of guidelines which would regulate the standards of STRA, and guest and host behaviour. If the terms of the registration were breached, appropriate penalties could be enforced.¹⁴⁰
- 3.130 Most stakeholders agreed that this register should be hosted by a government agency rather than an industry body. The most likely agency would be NSW Fair Trading who could work with other agencies to ensure it was properly policed.¹⁴¹
- 3.131 Only registered property owners would be able to advertise their properties to rent. A further benefit of the proposed registration model would be that relevant information could be displayed so that potential guests were properly informed about the properties. Ms Bianca Tomanovic, Manager, Tourism Policy, Tourism and Transport Forum told the Committee:

¹³⁶ Submission 180, Accommodation Association Australia, p8.

¹³⁷ Submission 172, Byron Shire Council, p4.

¹³⁸ Mr Lonsdale, Transcript of Evidence, p7.

¹³⁹ Submission 207, Airbnb, pp23-24.

¹⁴⁰ Submission 209, Tourism and Transport Forum, pp19-20.

¹⁴¹ Submission 209, Tourism and Transport Forum, p20.

... there would be a mandatory code of conduct as part of the sign-up process of registering through NSW Fair Trading to become a registered offeror. That would somehow be displayed on the online platform so that customers are aware that the offeror has been certified and are applying the mandatory code of conduct with minimum fire safety standards.¹⁴²

- 3.132 The concept of a registration system was also proposed by representatives of residents in strata buildings. They added that the system could incorporate an online search function which would allow owners corporations to find out which units were offering STRA within a building.¹⁴³

INSURANCE

- 3.133 Many stakeholders questioned whether STRA operators and users are protected by current insurance arrangements and other guarantees. Some stakeholders submitted that current insurance policies that cover commercial rental properties are not suited for home-sharing or short-term holiday letting.

Existing policies that cover commercial renting of property, such as landlord insurance policies, are typically unsuited for home-sharing situations, as they tend to insure stays for longer periods and often require documented tenancy agreements. Likewise, from an insurance underwriting perspective, it may be the case that home-sharing rentals have a different risk profile.¹⁴⁴

- 3.134 Airbnb offers limited protection to hosts for damages to property by guests known as the Host Guarantee.¹⁴⁵ Under the guarantee:

- hosts are covered for damages to property of up to AU\$1m
- not covered are cash and personal effects, pets, injuries, and shared and common areas.

- 3.135 Under the guarantee's terms and conditions,¹⁴⁶ the host must comply with all requirements and conditions to be eligible to receive payments from the guarantee. Hosts are urged to communicate with guests regarding complaints and damages done to their property. If a resolution cannot be reached within seven days of the complaint, the host can then lodge a claim with Airbnb. If damages exceed US\$300, hosts are encouraged to file a police report.

- 3.136 Airbnb also offers a liability cover of up to AU\$1m for both hosts and guests for bodily injury known as Host Protection Insurance.¹⁴⁷

- 3.137 However, Airbnb recommends that hosts still take out basic cover, and adequate liability cover and property protection.¹⁴⁸

¹⁴² Ms Bianca Tomanovic, Manager, Tourism Policy, Tourism and Transport Forum, Transcript of Evidence, 14 March 2016, p40.

¹⁴³ Mr Austin Day, Solicitor, Transcript of Evidence, 14 March 2016, p62.

¹⁴⁴ Submission 171, Insurance Australia Group, p3.

¹⁴⁵ Airbnb, <http://www.airbnb.com.au/guarantee>, viewed September 2016.

¹⁴⁶ Airbnb, https://www.airbnb.com.au/terms/host_guarantee, viewed September 2016.

¹⁴⁷ Airbnb, <https://www.airbnb.com.au//host-protection-insurance>, viewed September 2016.

3.138 NSW Fair Trading states on its webpage that landlords are responsible for conducting thorough research on products and services offered on online platforms before listing their property, as well as ensuring that their home and contents insurance are updated and has adequate coverage for the property.¹⁴⁹

3.139 On the question of coverage, one stakeholder wrote:

Although my insurance company did provide landlord insurance as protection for myself and my guests, only recently have I become aware that under the Sydney LEP 2012, insurance protection for my guests and myself is unobtainable as short term letting of property is classified a 'not permitted' use and therefore any claim I made under this arrangement would not be paid.¹⁵⁰

3.140 Insurers have begun offering products tailored specifically to STRA and home-sharing. Insurance Australia Group (IAG) informed the Committee about its product ShareCover, which covers:

- theft or attempted theft
- malicious damage
- accidental damage
- strata property damage
- personal liability
- identity theft
- portable and valuable contents.¹⁵¹

ShareCover also offers a 'pay per night' policy where landlords only pay for the nights that are occupied by paying guests, for up to 90 days.¹⁵²

3.141 As land use regulation and zoning is the responsibility of local councils, and LEPs vary, there is ambiguity for insurers when developing products and writing policies. The Insurance Council of Australia (ICA) told the Committee:

... in NSW it is the responsibility of local councils to regulate the use of residential property. This has resulted in various – and often ambiguous – legal requirements across the State. Whilst some councils may explicitly prohibit or permit short-term letting, others may be unclear if their regulations have not been updated to address this relatively new activity.¹⁵³

¹⁴⁸ Airbnb, <https://www.airbnb.com.au/help/responsible-hosting>, viewed September 2016.

¹⁴⁹ NSW Fair Trading, http://www.fairtrading.nsw.gov.au/ftw/Consumers/Buying_services/Travel/Holiday_home_rentals.page, viewed September 2016.

¹⁵⁰ Submission 103, Name suppressed.

¹⁵¹ Submission 171, Insurance Australia Group, p4.

¹⁵² IAG, <https://www.sharecover.com/>, viewed September 2016.

¹⁵³ Submission 150, Insurance Council of Australia, p1.

ICA advised that it has been calling on governments to clarify the regulatory environment governing the sharing economy.

Such clarification will encourage the development of insurance products that can offer appropriate protection for these new businesses and their customers.¹⁵⁴

- 3.142 In its submission IAG also cited the need to eliminate ambiguity so insurers can develop products to better protect property owners, hosts, and guests.

While innovative products such as ShareCover can fill gaps and empower consumers to engage in the shared economy with peace of mind, there is a necessity for government to eliminate ambiguity by improving clarity and consistency of regulation. It is anticipated that greater regulatory certainty will encourage additional companies to follow IAG's lead and offer suitable and innovative financial products to meet the unique needs of the shared economy.¹⁵⁵

- 3.143 IAG advocated for state-wide definitions, instead of individual council interpretations, of "home-sharing" and "bed and breakfast".

Categorisation of home-sharing within an existing but inaccurate definition has the potential to subject short-term holiday rentals to unnecessarily burdensome compliance requirements and subject rate-payers to unintended legal consequences.¹⁵⁶

...

Councils could benefit from greater support from the State Government to update their local zoning regulations if required and clarify their respective positions on the legality of home-sharing and the conditions hosts must meet in a transparent manner.¹⁵⁷

- 3.144 The possible limitations to insurance cover based on local planning laws were emphasised by Mr Ron Arnold, Group General Manager IAG, when he gave evidence before the Committee in Sydney on 14 March 2016. Mr Arnold was asked if it is a requirement for a ShareCover policyholder that the use of the property be permissible in the zoning. Mr Arnold told the Committee:

Yes. The contract makes it clear that the homeowner meets the relevant local and other regulatory requirements.¹⁵⁸

- 3.145 Mr Arnold confirmed that clarifying the permissibility of STRA under local planning laws would assist both insurers and their customers.¹⁵⁹

TAXATION

- 3.146 An argument made against STRA, particularly by traditional accommodation providers, is that the operators and the online booking agents do not pay the

¹⁵⁴ Submission 150, Insurance Council of Australia, p2.

¹⁵⁵ Submission 171, Insurance Australia Group, p4.

¹⁵⁶ Submission 171, Insurance Australia Group, p5.

¹⁵⁷ Submission 171, Insurance Australia Group, p5.

¹⁵⁸ Mr Ron Arnold, Group General Manager, Insurance Australia Group, Transcript of Evidence, 14 March 2016, p12.

¹⁵⁹ Mr Arnold, Transcript of Evidence, p15.

appropriate taxes. Many submissions suggested that income from STRA is untaxed, undertaxed or undeclared to the Australian Taxation Office (ATO).¹⁶⁰ This argument included not just income earned from STRA, but also undeclared capital gains taxes.¹⁶¹ Tourism Accommodation Australia (TAA) submitted that the extent to which income earned from sharing services is declared, is unclear while the potential for tax evasion is substantial.¹⁶²

3.147 TAA also highlighted that while hotels pay GST on every transaction, some STRA operators do not as they fall below the \$75,000 per annum turnover threshold required before a business must register for GST.¹⁶³

3.148 The ATO recently released guidelines to clarify the responsibilities of STRA operators with examples of how different types of services are to be taxed.¹⁶⁴ This information has been promoted by online booking services to assist hosts in managing their finances. Airbnb explained that it:

... sends an annual notice to hosts in Australia informing them of the total amount of income they have earned through Airbnb, which both reminds them of their obligation to pay income taxes on the income they earn through Airbnb and helps make reporting their income easier.¹⁶⁵

3.149 Similarly, other proponents of STRA noted that since the most common form of accommodation offered is a residential building, STRA operators 'pay all the same taxes as any other property owner (rates, stamp duty, etc.), plus income tax on booking profits'.¹⁶⁶

3.150 Claims were also made that online booking platforms which are based overseas avoid fulfilling their tax obligations and, as such, do not fully contribute to the tourism industry in Australia.¹⁶⁷

DATA COLLECTION

3.151 The growth of STRA, particularly the recent increase in the use of online portals, has highlighted the lack of good data available in this area. This has led to difficulties in analysing the contribution made by STRA and also the extent to which certain issues raised can be ascribed to STRA in various areas.

3.152 A number of sources of data were presented to the inquiry, including:

- the Australian Bureau of Statistic's Tourism Satellite Accounts
- the Tourism Research Australia International and National Visitor Survey

¹⁶⁰ See Submissions 11, 20, 24, 42, 54, 58, 62, 70, 101, 102, 105, 129, 139, 145, 157, 164, 168, 170, 174, 178, 180, 184, 189, 198, 200, 208, 209.

¹⁶¹ Submission 38, Name Suppressed, p9.

¹⁶² Submission 198, Tourism Accommodation Australia, p11.

¹⁶³ Submission 198, Tourism Accommodation Australia, p13.

¹⁶⁴ Australian Taxation Office, <https://www.ato.gov.au/business/gst/in-detail/managing-gst-in-your-business/general-guides/the-sharing-economy-and-tax/?sbnride1>, viewed September 2016.

¹⁶⁵ Submission 207, Airbnb, pp15-16.

¹⁶⁶ Submission 141, Stayz, p8.

¹⁶⁷ Submission 180, Accommodation Association of Australia, pp6-7.

- the Survey of Tourist Accommodation.

3.153 It was claimed, however, that none of these sources were appropriate to properly collect information on STRA. For example, the International and National Visitor Survey has a number of different definitions from which visitors staying in STRA could select, and the Survey of Tourist Accommodation does not include properties with less than 15 rooms.¹⁶⁸

3.154 These initiatives are conducted Australia-wide, but it was suggested that there was a place for the NSW Government to advocate to the Federal Government that STRA is properly included in future surveys or data collection procedures.¹⁶⁹

3.155 On the local level, the data collected as part of the NSW Department of Trade and Investment Visitor Accommodation Supply Study in 2014, which included STRA, was considered to be very useful. It was noted, however, that this study was confined to the Northern Rivers Region and the Hunter Region and did not extend to Greater Sydney or Sydney City.¹⁷⁰

3.156 The Snowy Mountains region also reported difficulties concerning inaccurate data. Tourism Snowy Mountains highlighted the discrepancy between Kosciuszko National Park recording 1.49 million paying visitors in 2014 and Destination NSW figures of only 1.1 million visitors to the region as a whole.¹⁷¹

3.157 The lack of reliable data leads to difficulties in properly analysing the effects of the increase in STRA. The NSW Government advised that:

There is currently limited quantitative data on how new technology platforms and the increase in short-term accommodation have impacted or may impact established “traditional” accommodation providers.¹⁷²

¹⁶⁸ Submission 209, Tourism and Transport Forum, p17.

¹⁶⁹ See Mr William Tatchell, Chief Executive Officer, Destination Tweed, Transcript of Evidence, 7 March 2016, p21; Ms Tomanovic, p38; Ms Osmond, p39; Mr Frederick Wraight, Director, Tea Gardens Real Estate, p56; Ms Carol Giuseppi, National/NSW CEO, Tourism Accommodation Australia NSW, p69.

¹⁷⁰ Submission 202, Holiday Rental Industry Association, p20.

¹⁷¹ Submission 143, Tourism Snowy Mountains, p1.

¹⁷² Submission 190, NSW Government, p5.

Appendix One – Conduct of the inquiry

Terms of reference

Following a request for assistance from the Hon Rob Stokes MP, Minister for Planning, the Committee resolved on 24 June 2015 to conduct an inquiry into the adequacy of the regulation of short-term holiday letting in New South Wales.

The Committee adopted terms of reference for the inquiry on 9 September 2015.

The Committee resolved to advertise the inquiry on its website and the Chair of the Committee issued a media release on 13 October 2015 seeking public submissions. The Chair also wrote to a number of stakeholders inviting submissions, including government departments and agencies, local councils, tourism and commercial agencies, and online and traditional accommodation providers. Submissions closed on 9 November 2015.

Submissions

The Committee received 212 submissions. A full list of submissions is included in Appendix Two.

The Committee resolved to publish many of the submissions it received, and these are available on the Committee's webpage at: <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=1956#tab-submissions>. A number of submissions were made confidential or partially confidential at the request of the authors.

Hearings

The Committee held its first public hearing at the Tweed Heads Bowls Club on Monday, 7 March 2016 where it heard from 12 witnesses.

The Committee held its second public hearing at Parliament House on Monday, 14 March 2016 where it heard from 27 witnesses.

The Committee held its third public hearing at Parliament House on Monday, 30 May 2016 where it heard from 10 witnesses.

A list of witnesses who appeared at each hearing is available at Appendix Four. Full transcripts of the hearings are also available on the Committee's webpage.

Appendix Two – List of Submissions

1	Mr Steve Hoare
2	Mr Chris Lonergan
3	Name Suppressed
4	Name Suppressed
5	Ms Margo Anderson
6	Mr Richard Tier
7	Name Suppressed
8	Name Suppressed
9	Name Suppressed
10	Name Suppressed
11	Mr Robert Wiggins
12	Confidential
13	Name Suppressed
14	Name Suppressed
15	Name Suppressed
16	Name Suppressed
17	Name Suppressed
18	Confidential
19	Mr David Moncur
20	Mr David Foster
21	Mr Harold Hanson
22	Confidential
23	Confidential
24	Name Suppressed

SHORT-TERM HOLIDAY LETTING
LIST OF SUBMISSIONS

25	Mr Ralf Harding
26	Confidential
27	Cr Jenny Green
28	Mr Christian Trinder
29	Mrs Tracey Trinder
30	Name Suppressed
31	Mrs Jacqui Shaw
32	Name Suppressed
33	Name Suppressed
34	Name Suppressed
35	Name Suppressed
36	Name Suppressed
37	Name Suppressed
38	Sutherland Shire Council
39	Mr Neil Galbraith
40	Name Suppressed
41	Name Suppressed
42	Name Suppressed
43	Name Suppressed
44	Name Suppressed
45	Name Suppressed
46	Mr Glenn Carr
47	Mrs Thais Jacobs
48	Lake Macquarie City Council
49	Mr Arch Macdonald
50	Ms Catherine Di Girolamo

LEGISLATIVE ASSEMBLY COMMITTEE ON ENVIRONMENT AND PLANNING
LIST OF SUBMISSIONS

51	Mr Shane Kennedy
52	Mr Sean Han
53	Mr John Cavill
54	Name Suppressed
55	Confidential
56	Ms Victoria Benzie
57	Mosman Municipal Council
58	Name Suppressed
59	Name Suppressed
60	Kempsey Shire Council
61	Name Suppressed
62	Name Suppressed
63	Name Suppressed
64	Name Suppressed
65	Mrs Natasha Bentley
66	Name Suppressed
67	Confidential
68	Name Suppressed
69	Mr Kent Farrell
70	Name Suppressed
71	Confidential
72	Name Suppressed
73	Name Suppressed
74	Name Suppressed
75	Name Suppressed
76	Ms Janette Bartrim

SHORT-TERM HOLIDAY LETTING
LIST OF SUBMISSIONS

77	Ms Helen Badger
78	Name Suppressed
79	Mrs Lindy Corrie
80	Name Suppressed
81	Ms Michel Hogan
82	Name Suppressed
83	Name Suppressed
84	Confidential
85	Name Suppressed
86	Mr John Lynch
87	Ms Jennifer Lynch
88	Name Suppressed
89	Ms Marianne Hunter
90	Name Suppressed
91	Ms Loretta Egan
92	Confidential
93	Mr Gregory Carroll
94	Name Suppressed
95	Name Suppressed
96	Name Suppressed
97	Name Suppressed
98	Mr Spencer Kirk
99	Name Suppressed
100	Name Suppressed
101	Name Suppressed
102	Holiday Letting Organisation Central Coast Inc

LEGISLATIVE ASSEMBLY COMMITTEE ON ENVIRONMENT AND PLANNING
LIST OF SUBMISSIONS

103	Name Suppressed
104	Mr John James
105	Shoalhaven City Council
106	North Sydney Council
107	Name Suppressed
108	Confidential
109	Name Suppressed
110	Confidential
111	Name Suppressed
112	Elders Real Estate New Brighton
113	Shellharbour City Council
114	Randwick City Council
115	The University of Queensland
116	Name Suppressed
117	Dr John Scott
118	Name Suppressed
119	Name Suppressed
120	Name Suppressed
121	Name Suppressed
122	Urbankeyz
123	Dr Michael Bates
124	Ms Helen Bos
125	Mr Philip Corben
126	Confidential
127	Mr Adrian Gattenhof
128	Confidential

SHORT-TERM HOLIDAY LETTING
LIST OF SUBMISSIONS

129	Backpacker Operators Association NSW
130	Confidential
131	Name Suppressed
132	Name Suppressed
133	Name Suppressed
134	Mr Michael Nossal
135	Name Suppressed
136	Name Suppressed
137	Name Suppressed
138	Mr Peter Thorogood
139	Sharing Australia Inc
140	Name Suppressed
141	Stayz Pty Ltd
142	Tea Gardens Real Estate
143	Tourism Snowy Mountains
144	Mr Timothy Swan
145	The Real Estate Institute of NSW
146	Tweed Shire Council
147	Bathurst Regional Council
148	Eurobodalla Shire Council
149	Mr Allan Hoy
150	Insurance Council of Australia
151	Name Suppressed
152	Name Suppressed
153	Mr Bill Mitchell
154	Snowy River Shire Council

LEGISLATIVE ASSEMBLY COMMITTEE ON ENVIRONMENT AND PLANNING
LIST OF SUBMISSIONS

155	Mr Hugh Spencer
156	Wyong Shire Council
157	Confidential
158	City of Sydney
159	Australian Regional Tourism Network
160	Kiama Municipal Council
161	Ms Louise Drolz
162	Name Suppressed
163	Confidential
164	Name Suppressed
165	Name Suppressed
166	Name Suppressed
167	Name Suppressed
168	Dr Les Schmalzbach
169	Name Suppressed
170	L'Abode Accommodation Specialist
171	Insurance Australia Group
172	Byron Shire Council
173	Ms Samantha Spencer
174	YHA
175	Victims of Holiday Letting
176	Mr David Glover
177	Hornsby Shire Council
178	Bed & Breakfast and Farmstay Association of NSW and ACT
179	NSW Business Chamber
180	Accommodation Association of Australia

SHORT-TERM HOLIDAY LETTING
LIST OF SUBMISSIONS

181	Ms Maryann Knight
182	Wagga Wagga City Council
183	Name Suppressed
184	Port Stephens Council
185	Name Suppressed
186	Byron Bay Accom
187	Mr Kym Burke
188	Woollahra Municipal Council
189	Leichhardt Municipal Council
190	Department of Premier and Cabinet
191	Owners' Corporation Network
192	Mr Ross Whiteley
193	Confidential
194	Mr Rob Jeffress
195	Holroyd City Council
196	Blue Mountains City Council
197	Local Government NSW
198	Tourism Accommodation Australia NSW
199	Inside Airbnb
200	Confidential
201	Welcome In DIY Holiday Rental Management
202	The Holiday Rental Industry
203	Great Lakes Council
204	Mr Brian Adams
205	Holiday Letting Organisation Byron
206	Atherton Legal

LEGISLATIVE ASSEMBLY COMMITTEE ON ENVIRONMENT AND PLANNING
LIST OF SUBMISSIONS

207	Airbnb
208	Ms Jan Barham MLC
209	Tourism & Transport Forum
210	Port Macquarie Hastings Council
211	Waverley Council
212	Mr Harvey Sanders

Appendix Three – Summary of recent provisions in LEPs

Description of councils that have or are addressing short-term holiday accommodation in the relevant local environmental plan (LEP)

Council Area	Progress of planning proposal to amend LEP
Hunter Region	
Gosford (H)	Local provision that enables use of a dwelling with up to 4 bedrooms as exempt development in Schedule of the LEP. Requires a bush fire evacuation plan displayed prominently. Development consent is required where a 5-6 bedroom dwelling is to be used.
Great Lakes (H)	A local provision was on exhibition until 19 June 2015. The proposal does not require consent if the use is for up to 60 consecutive days p.a.
Lake Macquarie (H)	The exhibition period for planning proposal ended recently. Planning proposal proposes short-term holiday accommodation as exempt development for fewer than 5 bedrooms and as development permitted with consent for 5 bedrooms or more.
Port Stephens (H)	A local provision does not limit the number of bedroom for a period of up to 60 consecutive days a year, identifies it as a temporary use, subject to amenity considerations. Probably included in 2013.
Wyong (H)	Short-term rental accommodation is exempt from development consent up to a maximum of 4 bedrooms under certain circumstances; otherwise, development consent may be granted for the temporary use of a dwelling for up to 6 bedrooms.
Northern Region	
Byron (N)	In April 2015, Byron Council endorsed an amendment to its LEP for a local provision to enable short-term holiday accommodation as exempt development in dwellings of 3 or

LEGISLATIVE ASSEMBLY COMMITTEE ON ENVIRONMENT AND PLANNING
SUMMARY OF RECENT PROVISIONS IN LEPS

	fewer bedrooms (maximum of 2 adults per bedroom). Larger dwellings would require a development application. "Party houses" would not be permitted and council is proposing a register for dwellings used as short-term holiday accommodation.
Tweed (N)	Tweed Council was issued a gateway determination on 1 October 2015 regarding short-term holiday accommodation. The next step would be council's public exhibition of the proposal.
Southern Region	
Bega Valley (S)	A local provision which does not limit the number of bedrooms for a period of any time up to 52 days a year and identifies it as a temporary use which does not require development consent for these circumstances.
Eurobodalla (S)	A local provision which does not limit the number of bedrooms for a period of up to 45 consecutive days a year and identifies it as a temporary use not requiring development consent for these circumstances.
Kiama (S)	A local provision which does not limit the number of bedrooms for a period of up to 60 consecutive days a year, identifies it as temporary use, subject to amenity considerations.
Palerang (S)	A local provision which does not limit the number of bedrooms for a period of up to 45 consecutive days a year, identifies it as a temporary use, subject to amenity considerations.
Shoalhaven (S)	A local provision which does not limit the number of bedrooms for a period of up to 45 consecutive days a year, identifies it as a temporary use, subject to amenity considerations.
Wingecarribee (S)	A local provision which does not limit the number of bedrooms for a period of up to 45 consecutive days a year, identifies it as a temporary use, subject to amenity considerations.

SHORT-TERM HOLIDAY LETTING
SUMMARY OF RECENT PROVISIONS IN LEPS

Sydney Regions	
City of Sydney (Syd Central)	City of Sydney regulates the use of residential flat buildings through conditions of consent.
Pittwater (Syd N)	As Schedule 2 exempt development (for less than 3 months by an individual or group).

Appendix Four – List of Witnesses

MONDAY 7 MARCH 2016, TWEED HEADS BOWLS CLUB, TWEED HEADS

Witness	Position and Organisation
Mr Vince Connell	Director, Planning & Regulation Tweed Shire Council
Mr Iain Lonsdale	Coordinator, Strategic Planning and Urban Design Tweed Shire Council
Mr Grant Hawkins	Partner, Byron Bay Accom
Mr John Gudgeon	President, Holiday Letting Organisation Byron
Mr Chris Larkin	Major Projects Planner Byron Shire Council
Ms Sharyn French	Manager, Economic & Environmental Planning Byron Shire Council
Mr Bill Tatchell	Chief Executive Officer Destination Tweed Inc
Mr John Murray	Regional Manager, Northern Rivers NSW Business Chamber
Mr Paul McMahon	Principal, LJ Hooker Kingscliff
Mr Doug Luke	Secretary, Victims of Holiday Letting
Mr Tom Tabart	Resident
Mr Don Maughan	Resident

MONDAY 14 MARCH 2016, ROOM 814-815, PARLIAMENT HOUSE

Witness	Position and Organisation
Mr Andrew Thomas	Executive Manager, Strategic Planning & Urban Design City of Sydney Council
Mr Roy Cottam	Investigative Specialist City of Sydney Council
Ms Sue McMahon	Area Planning Manager City of Sydney Council
Mr Roman Weresczynski	Manager, Health Building & Regulatory Services Randwick City Council
Ms Donna Rygate	Chief Executive Local Government NSW
Ms Jennifer Dennis	Senior Policy Officer, Planning Local Government NSW
Ms Vicki Mullen	General Manager, Consumer Relations & Market Development Insurance Council of Australia
Ms Fiona Cameron	Senior Manager, Government & Industry Relations Insurance Council of Australia
Mr George Karagiannakis	Head of Government Relations Insurance Australia Group
Mr Ron Arnold	Group General Manager, Venturing Insurance Australia Group
Mr Trevor Atherton	Board Member Holiday Rental Industry Association
Mr Anton Stanish	Regional Director ANZ, Stayz
Mr James Cassidy	Sales Director, Stayz
Mr Mike Orgill	Director of Public Policy, Asia Pacific Airbnb
Ms Margaret Osmond	Chief Executive Officer Tourism & Transport Forum

LEGISLATIVE ASSEMBLY COMMITTEE ON ENVIRONMENT AND PLANNING
LIST OF WITNESSES

Ms Bianca Tomanovic	Manager, Tourism Policy Tourism & Transport Forum
Mr Richard Munro	Chief Executive Officer Accommodation Association of Australia
Mr Tim McKibbin	Chief Executive Officer Real Estate Institute NSW
Mr Rick Wraight	Director, Tea Gardens Real Estate
Mr Stephen Goddard	Chair, Owners Corporation Network
Mr Michael Heaney	Chair, Owners Corporation SP 67246
Mr Austin Day	Solicitor
Ms Carol Giuseppi	National/NSW CEO Tourism Accommodation Australia NSW
Ms Olivia Graham	Policy & Research Officer Tourism Accommodation Australia NSW
Ms Alison Frame	Deputy Secretary, Policy & Strategy NSW Department of Planning and Environment
Ms Elizabeth Kinkade	Executive Director, Planning Policy NSW Department of Planning and Environment

MONDAY 30 MAY 2016, MACQUARIE ROOM, PARLIAMENT HOUSE

Witness	Position and Organisation
Mr Julian Ledger	Chief Executive Officer Youth Hostels Association Ltd
Mr Robert Henke	Honorary Secretary Backpacker Operators Association NSW Inc
Mr Don Kobeleff	President Holiday Letting Organisation Central Coast Inc
Mr Daniel Kobeleff	Vice President Holiday Letting Organisation Central Coast Inc
Mr Dean Gorddard	Executive Manager, Tourism NSW Business Chamber
Mr Luke Aitken	Senior Policy Manager NSW Business Chamber
Mr Gordon Clark	Strategic Planning Manager Shoalhaven City Council
Mr Mark Carlon	Manager Strategic Planning Sutherland Shire Council
Mr Michael Ryan	Manager of Building Compliance and Tree Management Sutherland Shire Council
Ms Jodie Willmer	Co-founder, Guest Ready

Appendix Five – Extracts from Minutes

MINUTES OF MEETING NO 1

24 June 2015, 9:38am
Room 1254, Parliament House

Members Present

Mr Glenn Brookes (Chair), Mr Mark Coure (Deputy Chair), Mr Geoff Provest, Mr Anoulack Chanthivong, Mr Jamie Parker

Officers in Attendance

Catherine Watson, David Hale

1. ***
2. ***
3. ***
4. ***
5. ***

6. General Business

The Chair distributed a letter from the Hon Rob Stokes MP, Minister for Planning seeking the Committee's assistance to consider the issue of the adequacy of the regulation of short term holiday letting in NSW. Discussion ensued.

The Committee agreed to invite representatives of the Department of Planning to brief Members on this issue at their next meeting.

7. Next Meeting

The Chair adjourned the meeting at 9:38am until 9:00am on Wednesday 5 August 2015 at Parliament House.

MINUTES OF MEETING NO 2

5 August 2015, 9:03am
Room 1254, Parliament House

Members Present

Mr Glenn Brookes (Chair), Mr Mark Coure (Deputy Chair), Mr Geoff Provest, Mr Anoulack Chanthivong (by teleconference), Mr Jamie Parker

Officers in Attendance

Bjarne Nordin, David Hale, Leon Last, Christopher Herbert

1. Minutes of Meeting No 1

Resolved, on the motion of Mr Parker, seconded by Mr Provest:
That the minutes of Meeting No 1 held on 24 June 2015 be confirmed.

2. Adequacy of the regulation of short-term holiday letting in NSW

The Chair welcomed the following officers of the Department of Planning and Environment to the meeting:

- Ms Alison Frame, Deputy Secretary, Policy and Strategy
- Ms Elizabeth Kinkade, Executive Director, Planning Policy

The officers briefed the meeting. Discussion ensued.

Resolved, on the motion of Mr Parker, seconded by Mr Provest:
That the Committee staff prepare draft terms of reference for a proposed inquiry into the adequacy of the regulation of short-term holiday letting in NSW, a list of key stakeholders in any such inquiry, and a draft inquiry plan and timeline, for the consideration of the Committee at its next meeting.

3. Next Meeting

The Chair adjourned the meeting at 9:40am until 9:00am on Wednesday 9 September 2015 at Parliament House.

MINUTES OF MEETING NO 3

9 September 2015, 9:00am
Room 1254, Parliament House

Members Present

Mr Glenn Brookes (Chair), Mr Mark Coure (Deputy Chair), Mr Geoff Provest, Mr Anoulack Chanthivong, Mr Jamie Parker

Officers in Attendance

Bjarne Nordin, David Hale, Leon Last, Derya Sekmen

1. Minutes of Meeting No 2

Resolved, on the motion of Mr Parker, seconded by Mr Provest:
That the minutes of Meeting No 2 held on 5 August 2015 be confirmed.

2. Adequacy of the regulation of short-term holiday letting in NSW

Resolved, on the motion of Mr Parker, seconded by Mr Provest:

That the Committee inquire into and report on the adequacy of the regulation of short-term holiday letting in NSW, with particular reference to:

- a) The current situation in NSW and comparison with other jurisdictions
- b) The differences between traditional accommodation providers and online platforms
- c) The growth of short-term and online letting, and the changing character of the market
- d) The economic impacts of short-term letting on local and the state economies
- e) Regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity, and licensing and taxation
- f) Any other related matters.

That the Committee advertise the inquiry on its website and call for submissions with a closing date of Monday 9 November 2015.

That the Committee write to relevant stakeholders inviting them to make a submission to the inquiry.

Resolved, on the motion of Mr Parker, seconded by Mr Provest:

That the Committee adopt the stakeholder list, and that other individuals and organisations be included as required.

3. Next Meeting

The Chair adjourned the meeting at 9:18am until a date to be announced.

MINUTES OF MEETING NO 4

17 February 2016

Room 1254, Parliament House

Members Present

Mr Glenn Brookes (Chair), Mr Mark Coure (Deputy Chair), Mr Geoff Provest, Mr Anoulack Chanthivong, Mr Jamie Parker

Officers in Attendance

Bjarne Nordin, David Hale, Leon Last, Christopher Herbert

The Chair opened the meeting at 9.04am and informed the Committee that his electorate office staff member, Douglas Walther, was present. The members agreed that Mr Walther could attend the meeting.

1. Minutes of Meeting No 3

Resolved, on the motion of Mr Provest, seconded by Mr Coure:

That the minutes of Meeting No 3 held on 9 September 2015 be confirmed.

2. The Collaborative Economy in NSW – position paper

The Committee noted the position paper.

3. Inquiry into the adequacy of the regulation of short-term holiday letting in NSW – publication of submissions

The Chair informed the Committee that he had met the partner of the author of one of the submissions on an unrelated matter.

Resolved, on the motion of Mr Parker, seconded by Mr Chanthivong:

That submissions 12, 18, 26, 55, 67, 84, 92, 108, 110, 126, 128, 130, 157, 163 and 193 be kept confidential to the Committee as requested by the authors.

That submissions 22, 23 and 200 be kept confidential to the Committee because they contain personal identifying information, or identify third parties, including third party names and contact details, photographs, and property and business descriptions.

That attachments to submissions 6, 33, 41, 102, 136, 191 and 202 be redacted from publication fully or in part where they identify third parties in correspondence or photographs.

That submission 71 not be published because it is outside the inquiry's terms of reference, and the author be notified of the Committee's resolution.

That with the above exceptions, submissions 1 to 210 be published to the Committee's website, with the following redactions:

- a) Personal contact details including residential addresses, personal telephone numbers and personal email addresses
- b) Signatures
- c) The names of authors of submissions who requested partial confidentiality
- d) Any material which identifies third parties, including third party names and contact details, photographs, and property and business descriptions
- e) Submissions, extracts of submissions, and attachments to submissions which are deemed inappropriate or unsuitable for publication, including exchanges of emails which are repetitive or do not expand upon the submission to which they are attached, attachments deemed too lengthy to publish, and submissions which contain offensive language.

4. Proposed inquiry schedule

Resolved, on the motion of Mr Coure, seconded by Mr Parker:

That the Committee hold a public hearing at Tweed Heads on Monday 7 March 2016, and at Parliament House on Monday 14 March 2016, that the Chair issue media releases announcing the public hearings, that witnesses be invited to appear to give evidence, and that travel and other arrangements be made to facilitate the public hearings.

5. General Business

The Committee discussed issues to be pursued when questioning witnesses at the public hearings.

6. Next Meeting

The Chair adjourned the meeting at 9:45am. The next meeting will be held in the Opals Room, Tweed Heads Bowls Club on Monday 7 March, at 10.30am.

MINUTES OF MEETING NO 5

7 March 2016

Opals Room, Tweed Heads Bowls Club

Members present

Mr Glenn Brookes (Chair), Mr Mark Coure (Deputy Chair), Mr Geoff Provest, Mr Anoulack Chanthivong, Mr Jamie Parker

Staff present

David Hale, Christopher Herbert

The Chair opened the meeting at 10.37am.

1. Minutes of meeting No 4

Resolved, on the motion of Mr Coure, seconded Mr Provest:
That the minutes of Meeting No 4 held on 17 February 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

2. Correspondence

Ms Megan Kobeleff, Secretary, HLO Central Coast dated 19 February 2016, and 3 March 2016. The Committee noted the correspondence.

3. Public hearing Monday 14 March 2016

Resolved, on the motion of Mr Chanthivong, seconded Mr Parker:
That the notice of public hearing for Monday 14 March 2016 be published on the Committee's website.

4. Public hearing Monday 7 March 2016

Resolved, on the motion of Mr Coure, seconded Mr Provest:
That the Committee invites the witnesses listed in the notice of the public hearing for Monday 7 March 2016 to give evidence in relation to the inquiry into the adequacy of the regulation of short-term holiday letting in NSW.

4.1 Media

Resolved, on the motion of Mr Coure, seconded Mr Provest:

That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 7 March 2016 in accordance with the NSW Legislative Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

4.2 Transcript of evidence

Resolved, on the motion of Mr Coure, seconded Mr Provest:

That the corrected transcript of evidence given on 7 March 2016 be authorised for publication and uploaded on the Committee's website.

4.3 Answers to questions on notice

Resolved, on the motion of Mr Coure, seconded Mr Provest:

That witnesses be requested to return answers to questions taken on notice within 2 weeks of the date on which the questions are forwarded to the witness, and that once received, answers be published on the Committee's website.

4.4 Documents tendered during the public hearing

Resolved, on the motion of Mr Coure, seconded Mr Provest:

That documents tendered during the public hearing be accepted by the Committee and published on the Committee's website.

The public hearing commenced at 10.45am. Witnesses, the public and the media were admitted. The Chair welcomed the witnesses and the gallery.

The following witness representing Tweed Shire Council was sworn and examined:

- Mr Vince Connell, Director Planning & Regulation

The following witness representing Tweed Shire Council was affirmed and examined:

- Mr Iain Lonsdale, Coordinator Strategic Planning & Urban Design

Evidence concluded, the witnesses withdrew.

The following witness representing Byron Bay Accom was sworn and examined:

- Mr Grant Hawkins, Partner

The following witness representing Holiday Letting Organisation Byron Bay was sworn and examined:

- Mr John Gudgeon, President

Evidence concluded, the witnesses withdrew.

The following witness representing Byron Shire Council was sworn and examined:

- Mr Chris Larkin, Major Projects Planner

The following witness representing Byron Shire Council was affirmed and examined:

- Mr Andrew Hill, Community Enforcement Officer

Evidence concluded, the witnesses withdrew.

The following witness representing Destination Tweed Inc was sworn and examined:

- Mr Bill Tatchell, Chief Executive Officer

The following witness representing NSW Business Chamber was sworn and examined:

- Mr John Murray, Regional Manager Northern Rivers

The following witness representing LJ Hooker Kingscliff was affirmed and examined:

- Mr Paul McMahon, Principal

Evidence concluded, the witnesses withdrew.

The following witnesses representing Victims of Holiday Letting were affirmed and examined:

- Mr Doug Luke, Secretary
- Mr Tom Tabart, former Byron Shire Councillor
- Mr Don Maughan, Suffolk Park Progress Association

The witnesses tabled the following documents:

- Opening statement of Mr Luke
- Submission of Mr Tabart
- Holiday Rental Code of Conduct Version 1 March 2012
- Holiday Rental Code of Conduct Version 2 March 2013

Evidence concluded, the witnesses withdrew.

The hearing concluded at 3.15pm.

5. Next Meeting

Monday 14 March 2016, 8.45am Room 814-815, Parliament House.

MINUTES OF MEETING NO 6

Monday 14 March 2016
Room 814-815, Parliament House

Members present

Mr Glenn Brookes (Chair), Mr Mark Coure (Deputy Chair), Mr Geoff Provest, Mr Anoulack Chanthivong, Mr Jamie Parker

Staff present

David Hale, Leon Last, Christopher Herbert

The Chair opened the meeting at 8.50am.

1. Minutes of meeting No 5

Resolved, on the motion of Mr Provest, seconded by Mr Coure:
That the minutes of Meeting No 5 held on Monday 7 March 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

2. Correspondence

2.1 Correspondence Out

The Hon Victor Dominello MP, Minister for Innovation and Better Regulation dated 9 March 2016

2.2 Correspondence In

Ms Julia Walsh dated 6 March 2016

Mr Brett Moody dated 9 March 2016

Ms Mary Clancey and Mr Richard Barcham dated 10 March 2016

Ms Evelyn Subagio, Property Council of Australia dated 10 March 2016

Ms Trish Burt dated 11 March 2016

The Committee noted the correspondence.

3. Public hearing Monday 14 March 2016

Resolved, on the motion of Mr Coure, seconded by Mr Parker:

That the Committee invites the witnesses listed in the notice of the public hearing for Monday 14 March 2016 to give evidence in relation to the Inquiry into the adequacy of the regulation of short-term holiday letting in NSW.

3.1 Media

Resolved, on the motion of Mr Coure, seconded by Mr Parker:

That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 14 March 2016 in accordance with the NSW Legislative Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

3.2 Transcript of evidence

Resolved, on the motion of Mr Coure, seconded by Mr Parker:

That the corrected transcript of evidence given on 14 March 2016 be authorised for publication and uploaded on the Committee's website.

3.3 Answers to questions on notice

Resolved, on the motion of Mr Coure, seconded by Mr Parker:

That witnesses be requested to return answers to questions taken on notice within 2 weeks of the date on which the questions are forwarded to the witness, and that once received, answers be published on the Committee's website.

3.4 Documents tendered during the public hearing

Resolved, on the motion of Mr Coure, seconded by Mr Parker:

That documents tendered during the public hearing be accepted by the Committee and published on the Committee's website.

The public hearing commenced at 9.00am. Witnesses, the public and the media were admitted. The Chair welcomed the witnesses and the gallery.

The following witnesses representing Local Government NSW were sworn and examined:

- Ms Donna Rygate, Chief Executive
- Ms Jennifer Dennis, Senior Policy Officer – Planning

The following witnesses representing City of Sydney Council were sworn and examined:

- Mr Andrew Thomas, Executive Manager, Strategic Planning and Urban Design
- Mr Roy Cottam, Investigative Specialist

The following witness representing City of Sydney Council was affirmed and examined:

- Ms Sue McMahon, Area Planning Manager

The following witness representing Randwick City Council was sworn and examined:

- Mr Roman Weresczycynski, Manager, Health, Building and Regulatory Services

Evidence concluded, the witnesses withdrew.

The following witnesses representing the Insurance Council of Australia were affirmed and examined:

- Ms Vicki Mullen, General Manager, Consumer Relations and Market Development
- Ms Fiona Cameron, Senior Manager, Government and Industry Relations

The following witnesses representing Insurance Australia Group were affirmed and examined:

- Mr George Karagiannakis, Head of Government Relations
- Mr Ron Arnold, Group General Manager, Venturing

Evidence concluded, the witnesses withdrew.

The following witness representing the Holiday Rental Industry Association was affirmed and examined:

- Mr Trevor Atherton, Board Member
-

The following witness representing Stayz was affirmed and examined:

- Mr Anton Stanish, Regional Director ANZ, HomeAway

The following witness representing Stayz was sworn and examined:

- Mr James Cassidy, Sales Director

The witnesses tabled the following document:

- Letter dated 11 March 2016 regarding the Holiday and Short-term Rental Code of Conduct

Evidence concluded, the witnesses withdrew.

The following witness representing Airbnb was affirmed and examined:

- Mr Mike Orgill, Director of Public Policy Asia Pacific

Evidence concluded, the witness withdrew.

The following witnesses representing the Tourism and Transport Forum were sworn and examined:

- Ms Margaret Osmond, Chief Executive Officer
- Ms Bianca Tomanovic, Manager Tourism Policy

Evidence concluded, the witnesses withdrew.

The following witnesses representing the Accommodation Association of Australia were sworn and examined:

- Mr Richard Munro, Chief Executive Officer
- Mr Michael Georgeson, General Manager

Evidence concluded, the witnesses withdrew.

The following witnesses representing the Real Estate Institute NSW were sworn and examined:

- Mr Tim McKibbin, Chief Executive Officer
- Mr Rick Wraight, Director, Tea Gardens Real Estate

Evidence concluded, the witnesses withdrew.

The following witness representing the Owners Corporation Network was affirmed and examined:

- Mr Stephen Goddard, Chair

The following witnesses representing the Owners Corporation Network were sworn and examined:

- Mr Michael Heaney, Chair, Owners Corporation SP 67246
- Mr Austin Day, Solicitor

The witnesses tabled the following documents:

- Owners Corporation Network Submissions dated 14 March 2016, and letter to Minister Dominello dated 10 March 2016
- Maestri Towers Submission dated 14 March 2016
- Maestri Towers Bylaws 2016
- Public hearing notes of Mr Day

Evidence concluded, the witnesses withdrew.

The following witness representing Tourism Accommodation Australia NSW was sworn and examined:

- Ms Carol Giuseppi, National/NSW Chief Executive Officer

The following witness representing Tourism Accommodation Australia NSW was affirmed and examined:

- Ms Olivia Graham, Policy and Research Officer

Evidence concluded, the witnesses withdrew.

The following witnesses representing the NSW Department of Planning and Environment were sworn and examined:

- Ms Alison Frame, Deputy Secretary, Policy and Strategy

- Ms Elizabeth Kinkade, Executive Director,. Planning Policy

Evidence concluded, the witnesses withdrew.

The hearing concluded at 4.45pm.

4. Next Meeting

The next meeting will be held at 9.00am on Monday 23 March 2016 in Room 1043 at Parliament House.

MINUTES OF MEETING NO 7

Wednesday 23 March 2016
Room 1043, Parliament House

Members present

Mr Mark Coure (Chair), Mr Geoff Provest (Deputy Chair), Mr Mark Taylor, Mr Anoulack Chanthivong

Staff present

Bjarne Nordin, David Hale, Leon Last, Christopher Herbert

The meeting opened at 9.05am.

1. ***

2. Apologies

Mr Jamie Parker

3. Minutes of meeting No 6

Resolved, on the motion of Mr Provest, seconded by Mr Chanthivong:
That the minutes of Meeting No 6 held on Monday 14 March 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

4. Correspondence

- Mr Trevor Atherton, Holiday Rental Industry Association dated 12 March 2016
- Mr Terry Sharples dated 15 March 2016
- Ms Fiona Cameron, Insurance Council of Australia dated 18 March 2016
- Dr Michael Heaney dated 19 March 2016
- Mr Tom Kearney, Department of Premier & Cabinet dated 21 March 2016
- Ms Jill Jensen dated 21 March 2016
- Ms Sarah Adams dated 21 March 2016
- Ms Trish Burt dated 21 March 2016

- Mr Tim McKibbin, Real Estate Institute NSW dated 22 March 2016
- Mr Andrew Thomas, City of Sydney Council dated 22 March 2016

The Committee noted the correspondence.

5. Matters arising from the correspondence

Resolved, on the motion of Mr Provest, seconded by Mr Chanthivong:

That papers submitted by Mr Atherton which the Committee had previously made confidential, be published subject to the redaction of signatures and personal contact details.

Resolved, on the motion of Mr Provest, seconded by Mr Chanthivong:

That the Chair write to the Department of Premier and Cabinet seeking an explanation of and further information about the changes requested to the NSW Government submission to the inquiry.

6. Questions on Notice

The Committee noted the summary paper of questions on notice and answers provided to date.

Resolved, on the motion of Mr Chanthivong, seconded by Mr Taylor:

That the answer to the question on notice provided by Mr James Cassidy, Stayz be kept confidential to the Committee.

7. General Business

Resolved, on the motion of Mr Provest, seconded by Mr Chanthivong:

That the Chair write to the professional body for strata managers in NSW inviting them to make a submission to the inquiry.

Resolved, on the motion of Mr Provest, seconded by Mr Chanthivong:

That the Chair write to the Hon Victor Dominello MP, Minister for Innovation and Better Regulation, requesting that the Committee receive a briefing from NSW Fair Trading at its next meeting.

Mr Chanthivong thanked the staff for their efforts in organising the public hearings and for their support of the Committee.

8. Next Meeting

The meeting closed at 9.37am. The next meeting will be held on a date to be determined.

MINUTES OF MEETING NO 8

Monday 2 May 2016

Waratah Room, Parliament House

Members present

Mr Mark Coure (Chair), Mr Geoff Provest (Deputy Chair), Mr Mark Taylor, Mr Anoulack Chanthivong, Mr Jamie Parker

Staff present

Bjarne Nordin, David Hale, Leon Last, Christopher Herbert

The meeting opened at 2.00pm.

1. Minutes of meeting No 7

Resolved, on the motion of Mr Provest, seconded by Mr Taylor:

That the minutes of Meeting No 7 held on Wednesday 23 March 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

2. Correspondence out

- The Hon Victor Dominello MP, Minister for Innovation & Better Regulation 23 March 2016
- Mr Tom Kearney, Department of Premier & Cabinet 23 March 2016
- Mr Greg Haywood, Strata Community Australia (NSW) 23 March 2016

The Committee noted the correspondence out.

3. Correspondence in

- The Hon Catherine Cusack MLC re Mrs Denise Robertson 23 March 2016
- Mr Tom Kearney, Department of Premier & Cabinet 5 April 2016
- Mr Iain Lonsdale, Tweed Shire Council 5 April 2016
- Ms Trish Burt 6 April 2016, 11 April 2016, 19 April 2016
- Mr Harvey Sanders 9 April 2016, 18 April 2016
- Mr Roy Cottam, City of Sydney Council 12 April 2016
- Mr Don Koboleff, Central Coast Holiday Letting Organisation 13 April 2016, 26 April 2016
- Mr Trevor Atherton, Holiday Rental Industry Association 14 April 2016
- Mr Peter Monks, Waverley Council 15 April 2016
- Mr Steve Hoare 29 April 2016

The Committee noted the correspondence in.

Resolved, on the motion of Mr Provest, seconded by Mr Parker:

That the late submissions from Mr Sanders and Waverley Council be published to the Committee's website subject to the redaction of personal contact details including residential addresses, personal telephone numbers, personal email addresses, and signatures.

4. Grattan Institute report 'Peer-to-peer pressure, Policy for the sharing economy' April 2016

The Committee noted the report.

5. Meeting with NSW Fair Trading

The Chair welcomed the following people representing NSW Fair Trading to the meeting:

- Mr Rod Stowe, Commissioner
- Mr Matthew Press, Director Policy
- Mr Warren McAllister, A/Manager Policy and Legislation
- Mr Graham Monday, Senior Policy Officer, Policy and Legislation

Discussion ensued. The Chair thanked NSW Fair Trading for attending the meeting.

6. Public hearing Monday 30 May 2016

Resolved, on the motion of Mr Taylor, seconded by Mr Chanthivong:

That the Committee hold a public hearing at Parliament House on Monday 30 May 2016, the Chair issue a media release announcing the hearing, and witnesses be invited to appear to give evidence.

7. Next Meeting

The Committee adjourned at 3.00pm until 9.00am on Monday 30 May 2016 in the Macquarie Room, Parliament House.

MINUTES OF MEETING NO 9

9.00am Monday 30 May 2016
Macquarie Room, Parliament House

Members present

Mr Mark Coure (Chair), Mr Geoff Provest (Deputy Chair), Mr Mark Taylor, Mr Anoulack Chanthivong,
Mr Jamie Parker

Staff present

Bjarne Nordin, David Hale, Leon Last, Christopher Herbert

The meeting opened at 9.02am.

1. Minutes of meeting No 8

Resolved, on the motion of Mr Taylor, seconded by Mr Provest:

That the minutes of meeting No 8 held on Monday 2 May 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

2. Correspondence

- Mr Rod Stowe, Commissioner NSW Fair Trading, 28 April 2016
- Ms Gulshan Singh, IAG, 2 May 2016

- Mr Trevor Atherton, Holiday Rental Industry Association, 9 May 2016
- Mr Don Koboleff, Holiday Letting Organisation Central Coast Inc, 11 May 2016
- Ms Bec Jones, Bega Valley Shire Council, 23 May 2016
- Ms Deborah Brill, Department of Planning and Environment 24 May 2016
- Mr Brent Tomas, Airbnb 27 May 2016

The Committee noted the correspondence.

3. Public hearing Monday 30 May 2016

Resolved, on the motion of Mr Taylor, seconded by Mr Provest:

That the Committee invites the witnesses listed in the notice of the public hearing for Monday 30 May 2016 to give evidence in relation to the inquiry into the adequacy of the regulation of short-term holiday letting in NSW.

3.1 Media

Resolved, on the motion of Mr Taylor, seconded by Mr Provest:

That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 30 May 2016 in accordance with the NSW Legislative Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

3.2 Transcript of evidence

Resolved, on the motion of Mr Taylor, seconded by Mr Provest:

That the corrected transcript of evidence given on 30 May 2016 be authorised for publication and uploaded on the Committee's website.

3.3 Answers to questions on notice

Resolved, on the motion of Mr Taylor, seconded by Mr Provest:

That witnesses be requested to return answers to questions taken on notice within 2 weeks of the date on which the questions are forwarded to the witness, and that once received, answers be published on the Committee's website.

3.4 Documents tendered during the public hearing

Resolved, on the motion of Mr Taylor, seconded by Mr Provest:

That documents tendered during the public hearing be accepted by the Committee and published on the Committee's website.

The public hearing commenced at 9.17am. Witnesses, the public and the media were admitted. The Chair welcomed the witnesses and the gallery.

The following witness representing Youth Hostels Association Ltd was affirmed and examined:
Mr Julian Ledger, Chief Executive Officer

The following witness representing Backpacker Operators Association NSW Inc was affirmed and examined:
Mr Robert Henke, Honorary Secretary

Evidence concluded, the witnesses withdrew.

The following witnesses representing Holiday Letting Organisation (HLO) Central Coast Inc were sworn and examined:

Mr Donat Koboleff, President

Mr Daniel Koboleff, Vice-President

The witnesses tabled the following document:

Letter dated 30 May 2016 from HLO Central Coast and appendices

Evidence concluded, the witnesses withdrew.

The following witness representing NSW Business Chamber was sworn and examined:

Mr Dean Gorrdard, Executive Manager Tourism

The following witness representing NSW Business Chamber was affirmed and examined:

Mr Luke Aitken, Senior Policy Manager

Evidence concluded, the witnesses withdrew.

The following witness representing Shoalhaven City Council was sworn and examined:

Mr Gordon Clark, Strategic Planning Manager

The following witnesses representing Sutherland Shire Council were sworn and examined:

Mr Mark Carlon, Manager Strategic Planning

Mr Michael Ryan, Manager of Building Compliance and Tree Management

Evidence concluded, the witnesses withdrew.

The following witness representing Guest Ready was affirmed and examined:

Ms Jodie Willmer, Co-founder

Evidence concluded, the witnesses withdrew.

The public hearing concluded at 12.45pm.

4. Next Meeting

The next meeting will be held on Thursday 23 June 2016 at 1.00pm in Room 1254, Parliament House.

MINUTES OF MEETING NO 10

Thursday 23 June 2016

Room 1254, Parliament House

Members present

Mr Mark Coure (Chair), Mr Geoff Provest (Deputy Chair), Mr Mark Taylor, Mr Anoulack Chanthivong,

Mr Jamie Parker

Staff present

David Hale, Leon Last, Christopher Herbert

The Chair opened the meeting at 1.02pm, and informed the Committee that Mr Justin Cordi, work experience student, was present. The members agreed that Mr Cordi could attend the meeting.

1. Minutes of meeting No 9

Resolved, on the motion of Mr Parker, seconded by Mr Chanthivong:
That the minutes of meeting No 9 held on Monday 30 May 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

2. Correspondence

- Mr Michael Jakob, 10 April 2016
- Mr Doug Luke, 30 May 2016
- Ms Trish Burt, 30 May 2016; 2 June 2016; 10 June 2016; 19 June 2016
- Harris & Co, Solicitors on behalf of Dr John Bennett, 2 June 2016
- Mr Brent Thomas, Airbnb, 3 June 2016; 6 June 2016; 10 June 2016
- Dr Michael Heaney, 3 June 2016; 22 June 2016
- Ms Anne Therese Harvey, 6 June 2016
- Mr Trevor Atherton, Holiday Rental Industry Association, 18 June 2016
- Mr Daniel Koboleff, Holiday Rental Solutions Ltd, 23 June 2016

The Committee noted the correspondence.

3. Draft findings and recommendations

The Chair spoke to the draft findings and recommendations paper previously distributed. Discussion ensued.

4. Next Meeting

The Chair closed the meeting at 1.28pm. The next meeting will be held in the first sitting week of August 2016.

MINUTES OF MEETING NO 11

9.00am Wednesday 3 August 2016
Room 1043, Parliament House

Members present

Mr Mark Coure (Chair), Mr Geoff Provest (Deputy Chair), Mr Mark Taylor, Mr Anoulack Chanthivong, Mr Jamie Parker

Staff present

Carly Maxwell, David Hale, Leon Last, Abegail Turingan

The meeting opened at 9.06am.

1. Minutes of meeting No 10

Resolved, on the motion of Mr Provest, seconded by Mr Parker:

That the minutes of meeting No 10 held on Thursday 23 June 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

2. Media release 25 July 2016

The meeting noted the Chair's media release.

3. Investigative powers under the EP&A Act

The Chair welcomed Ms Alison Frame, Deputy Secretary Policy & Strategy; Ms Deborah Brill, Director Housing Policy; and Ms Natasha Highman, Manager Planmaking, Legal Branch, from the Department of Planning and Environment, to the meeting. Discussion ensued.

The Chair thanked Ms Frame, Ms Brill and Ms Highman for attending.

4. Inquiry progress report

The Chair referred members to the papers previously distributed. Discussion ensued.

5. Next Meeting

The next meeting will be held on Wednesday 24 August 2016 at 9.00am in Room 1136, Parliament House.

The meeting closed at 9.59am.

MINUTES OF MEETING NO 12

10:00am Thursday 13 October 2016

Room 1136, Parliament House

Members present

Mr Mark Coure (Chair), Mr Geoff Provest (Deputy Chair), Mr Mark Taylor, Mr Anoulack Chanthivong, Mr Jamie Parker

Staff present

Carly Maxwell, David Hale, Leon Last, Abegail Turingan, Christopher Herbert

The Chair opened the meeting at 10:07am.

1. Minutes of meeting No 11

Resolved on the motion of Mr Chanthivong, seconded by Mr Parker:
That the minutes of meeting No 11, Wednesday 3 August 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

2. Correspondence

Mr Anthony Cordato, Solicitor dated 2 August 2016.
Ms Denise Robertson and Mr Roy Robertson dated 16 September 2016.

The members noted the correspondence.

3. Consideration of Chair's draft report

The Chair invited members to consider his draft report. Discussion ensued. The members agreed to reconvene at a later date to complete their consideration.

4. ***

5. Next Meeting

The Chair closed the meeting at 10:40am.

The next meeting will be held at 1:00pm on Tuesday 18 October 2016 in Room 1254.

UNCONFIRMED MINUTES OF MEETING NO 13

1:00pm Tuesday 18 October 2016
Room 1254, Parliament House

Members present

Mr Mark Coure (Chair), Mr Geoff Provest (Deputy Chair), Mr Mark Taylor, Mr Anoulack Chanthivong, Mr Jamie Parker

Staff present

Carly Maxwell, David Hale, Leon Last, Abigail Turingan

The Chair opened the meeting at 1:15pm.

1. Minutes of meeting No 12

Resolved, on the motion of Mr Parker, seconded by Mr Taylor:
That the minutes of meeting No 12, Thursday 13 October 2016 be confirmed.

Inquiry into the adequacy of the regulation of short-term holiday letting in NSW

2. Consideration of Chair's draft report

The Chair invited members to consider his draft report. Discussion ensued. The Committee agreed to consider the report chapter by chapter.

Resolved, on the motion of Mr Chanthivong, seconded by Mr Taylor:
That Chapter One be adopted.

Resolved, on the motion of Mr Provest, seconded by Mr Parker:
That Chapter Two be adopted.

Resolved, on the motion of Mr Taylor, seconded by Mr Provest:
That Chapter Three be adopted.

Resolved, on the motion of Mr Chanthivong, seconded by Mr Provest:

- a) That the Committee adopts the recommendations as set out in the report.
- b) That the draft report be the report of the Committee and that it be signed by the Chair and presented to the House.
- c) That the Committee staff be permitted to correct stylistic, typographical and grammatical errors.
- d) That, once tabled, the report be published on the Committee's webpage.
- e) That the Chair issues a press release announcing the tabling of the report.

3. ***

4. Next Meeting

The Chair closed the meeting at 1:40pm.

The next meeting will be held at 9:00am on Wednesday 9 November 2016 in Room 1136.