

**Submission
No 123**

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

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Submission for “Inquiry into the adequacy of the regulation of short-term holiday letting in NSW”

Referring to the “Terms of Reference” for the above enquiry, I respond to each item as it arises:

A) The current situation in NSW

We use AirBnB to invite people to stay in our apartment, which provides a unique, safe and local accommodation. Our apartment is on the city’s edge in a complex of around 150 apartments, which is a wonderful place to live and to invite guests to share our living environment. We are not aware of any complaints from other residents.

Legal Use?

Our apartment block has a long history of use by apartment owners/tenants to lease out their apartments as residences, serviced apartments, share accommodation, and for commercial uses such as offices for professional service providers. These and various other commercial activities have taken place in the building over many years, and to date we are not aware of any concerns or issues of disturbance having been raised in relation to such uses.

This commercial use and serviced apartment use has been implemented without Council’s approval. I make this statement on the basis of my inspection of the Council files and a discussion with the duty planner who confirmed that no applications for such uses had been made or recorded. That is, commercial use has been present in our block for some time and over at least the last fifteen years without explicit approval and, as far as I am aware, without any issues of concern or disturbance being raised by the residents, owners or body corporate.

Our apartment block’s development application, as submitted in the late 1970’s and granted in the early 1980s states approval for “Dwelling Units”, which is vague. This approved use has been used in an expansive manner over the years to include serviced apartments and commercial operations. Thus, “Dwelling Units” has been diluted to include commercial operations without any apparent concern or disturbance to residents.

Why use AirBnB instead of using traditional leasing models accommodation?

We raised our children in our apartment and, when they grew a little too big for the space, we leased our apartment out on a long-term basis using a prestigious local real estate agent. The apartment’s new kitchen and other built-in cabinetry were destroyed and the rest of the apartment was in a terrible state after leasing it. The real estate agents took a monthly fee, but alas, did not look after the property.

AirBnB allows me to look after the property, to use the property as a tenant (I spend several days a week in the apartment as a calm space to write) and to keep in contact with my neighbours in the apartment complex. This is not possible with long-term tenants as those long-term tenants have a right to quiet enjoyment and exclusive use, and landlords cannot keep an eye on the property on a frequent basis. Thus, as an owner leasing out the property, I became disconnected with the property and it fell into disarray.

AirBnB allows me to use, to look after and to have guests stay in our apartment. The apartment is now much better cared for and I am actively engaged with the property, the complex itself and all goings-on. I have an active interest in maintaining in good repair at all times, and keeping good relations with the neighbours and building management, who I respect.

Comparison with other jurisdictions

I have used AirBnB in London and thoroughly enjoyed it. I would not have been able to afford a hotel with the quality of accommodation that I enjoyed in London, nor would I have met local hosts who introduced me to great cafes and gave me insight into what to do and see. It also meant I made a new connection with interesting people in London that I would not have had an opportunity to meet. AirBnB also enabled them to change their lives by creating greater exposure to the world (as it has done for me) and providing a source of income in fairly tight financial circumstances. If AirBnB was not available I would have likely not visited London since the expense would have been outside what I could afford.

Further, I trusted AirBnB more than I would have trusted a hotel, serviced apartment or backpackers, of which the latter appears to be totally unregulated and dangerous.

B) The differences between traditional accommodation providers and online platforms

Advantages of AirBnB

AirBnB provides us with exposure to interesting people from wonderfully diverse locations. Other forms of accommodation, such as hotels or serviced apartments, do not provide this “host-guest” relationship or interaction.

We meet people from many different professions, interests and world origins who come and visit our home, wishing to know more about our environment. This provides an education for all concerned that has traditionally been only available to those which have the time, money to travel along with connections to get a view of home existence at a local level. Such an experience has not previously been available to so many people.

This AirBnB exposure allows snippets of education and delight that makes us and our guests feel special. AirBnB has opened up new avenues to expand our knowledge and increase our enjoyment.

Security

We invite guests to stay as we would for a share household, except the duration of our guest's stay is in the order of days instead of months. We have certainty of payment via AirBnB for their stay which is helpful in our circumstances.

The advantage of AirBnB is that we can make a careful selection of our guest(s) before they arrive. This is much more similar to interviewing of potential flatmates and not similar to a hotel or serviced apartment. Getting local knowledge from a host is very different from getting information from a concierge, who may get "kickbacks" for recommending certain restaurants or other suppliers and has spent no time getting to know you before you arrive in the hotel, to find out what your individual interests might be.

AirBnB allow us to have our guest's:

1. identities validated so as to provide accurate information as to who they;
2. behaviour rated via prior stays via the host rating system; and
3. payment certainty, via AirBnB's escrow payment system, and
4. satisfaction to be ensured - if a guest is not happy, they can seek a refund (so money is not an awkward issue when a guest stays).

AirBnB also removes the grey areas of insurance, since if a problem arises, then there is protection to cover potential breakages etc. Alternative share accommodation sites for short term guests do not provide such resources.

C) The growth of short-term and online letting, and the changing character of the market

The market has changed in that travel often involved isolation due to lack of contact with known people, landmarks, cultural normative exchanges and activities. This is being reduced by AirBnB's activities in making homes available to guests and thus removes some of the obstacles and raises the enjoyment of the exchange. This is one reason why AirBnB's reach into the market has grown so exponentially.

D) The economic impacts of short-term letting on local and the state economies

Increased accommodation and increased expenditure that would have not previously supported our local goods and services providers is a great benefit for the local community.

Our guests do not travel to only our home, but visit many locations through NSW and spend money throughout the local neighbourhood (e.g. getting coffee, buying supplies, going past local shops or amenities that they might otherwise not have been exposed to).

Online providers like AirBnB allow people to become hosts efficiently simply by listing their homes: no other tourism industry can form, let alone expand or contract as the market fluctuates, with such little detriment and huge benefit on the surrounding community.

For example, the *REINSW Real Estate Journal September 2014* states the following statistics for AirBnB:

- *“98% of hosts suggest local attractions, restaurants and shops, increasing local tourism.*
- *59% of hosts in Sydney are over 40. A typical host earns \$4505 per year.*
- *80% of Airbnb listings in Sydney are outside of main tourist areas.*
- *48% of Airbnb guests were first-time visitors to Sydney last year. “*

This “local” benefit is able to take place anywhere throughout NSW and so enables the formation of a tourist destination infrastructure in an extremely efficient manner without involving development beyond what is already in place. How many hotels might you otherwise see in Bexley, Wahroonga or Lane Cove? These kinds of local experiences (waking up to the sounds of nature in a bushland setting, or the wonderful local Vietnamese bakery in Mascot) are “off” the typical tourist maps.

This is spreading the tourist dollar wider and deeper than traditional holiday accommodation models, which are typically concentrated in the city and surrounds and where the local bakery is unlikely to deliver the “backstreet” experience by virtue of placement also in the city /surrounds, where rents are high and “small” food operators are limited to global franchisees or food courts. This dissemination of the tourist dollar is a great benefit of the NSW economy.

Hotel accommodation currently has decreased vacancy rates (see *Deloitte Access Economics’ Tourism and Hotel Market Outlook*) so there is a great need to overcome this shortage of accommodation before there are knock-on effects to other industries (conferences, business, the Arts etc.)

E) Regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity

Is AirBnB a commercial operation (serviced apartment) or share accommodation?

We believe our apartment's use via AirBnB is more inline with "*share accommodation*" than with a "*serviced apartment*" definition. This is because we offer a place that is a home away from home, with the same facilities as would be found in a home. It is a one-off apartment, not a whole block of apartments that we are leasing on an individual basis. The surrounding neighbours are a mix of locals and their guests.

I have sought clarity from the Council (including speaking to Duty Planners, requesting and reading our building's development application, talking to a myriad of planning and compliance officials) along seeking information from other sources (reading hearings concerning AirBnB's operations in NSW, trying to determine the scope of Strata Committee's powers in using By-Laws to regulate AirBnB's activity, reading publications that appear to also have no guidance).

Currently there is no clarity as to whether our activity is within or outside the law; however, there is a lot of misinformation being used to intimidate those seeking clarity.

The neighbourhood amenity is enhanced through the following:

1. increased awareness of our local environment so we take pride when AirBnB guests arrive, stay and explore;
2. increased interaction with our neighbours and building since we are in and out on an almost daily basis (as opposed to leasing our apartment via a residential lease of 90 days or more);
3. certainty that our apartment and local environment is not being misused (which we cannot do via a long term lease); and
4. increased local tourist expenditure that would have not previously supported our local goods and services providers;

Accommodation suitability and variety for the many needs of our visitors

Accommodation via AirBnB enables one or more guests to select accommodation that is as suitable and as variable as the guests are.

Typical guests include, for example, the following:

1. a family with young children who require space, washing machine/dryer, close proximity to a supermarket, a park and so on;

2. a family with an elderly parent or a disabled child in a wheelchair will also require the above facilities along with ramp access etc.; and
3. scientists visiting for a conference, who have limited budgets, and a need to exchange information with each other and so sharing a house or an apartment which has enough room to sleep along with room to discuss and write is required.

Hotels and serviced apartments generally provide only enough room to sleep – eating, talking etc. takes place in the sleeping quarters. AirBnB via homes allows space to meet the needs for living (playing, discussing, etc.) that is apart from the sleeping quarters – this makes a huge difference to groups that need to interact outside of the sleeping quarters, and also to families.

These needs are typically not easily met with traditional accommodation via hotel accommodation or via serviced apartments at a cost that a family can generally afford. Serviced apartments are often “soulless” because they are and have never been homes. The apartments may be clean and offer facilities such as a full kitchen and laundry, but usually there will not be a bookshelf full of books or a person to get “tips” from regarding great local food or coffee and so on.

The choice via AirBnB is so much wider and so provides for the vast array of guests needs. AirBnB has been terrific as a host enabling platform, because it provides all the appropriate infrastructure and also protects guests and hosts during potential and actual transactions.

There is a great need for AirBnB to help meet accommodation needs in NSW in a safe, suitable, affordable and transparent manner.

F) Any other related matters

Why do I use AirBnB?

Our apartment has a beautiful outlook overlooking the park. It is a quiet place where my wife and I go to write during the week. The apartment is often empty in the evenings since we travel or go to our family home. Thus, the apartment has great capacity to house someone on a short-term basis. We are in our late 40s early 50s who seek guests who will enjoy our things and space, so we correspond with potential guests much like seeking a new member for a share household; however, we do not want to guests there on a permanent basis. Short stays with guests are much more suitable in our circumstances.

Legal regulation or intimidation?

Wanting to stay on the right side of the law, I do not want to infringe Council regulations, so I have been active in trying to work out if we are “compliant”.

Council has been less than helpful by forcing our activity to fall into categories of accommodation that do not fit, such as:

1. “Tourist Accommodation” or “serviced apartment” because our guests are tourists and there is a commercial transaction involved;
2. “Bed & breakfast” due to guests staying, even though we do not provide food etc.; and
3. “Serviced Apartment”

Here the Council has thrown us all categories that would make our activity an “Unauthorised Use”, without looking at our use, but making their determination because it involves a new platform called “AirBnB”. We see our activity as “*share accommodation*” and are horrified that Sydney in 2015 has such hard views that are not in keeping with the true activities taking place.

We believe that a space can have more than one purpose, but regulators seem to be insisting that premises can only be used for one purpose and not any other. The fact we use our apartment as a quiet space to work in during the day but not to sleep in, seems to be the focus of concern. If we slept in the apartment (which is too small to accommodate our growing children’s needs and comfort) then having guests stay with us would be acceptable.

Historical Precedent?

Sydney has a strong historical precedent where households have housed guests, such as home guest accommodation from at least the late 1940s onwards, where wool purchasers, itinerant workers and travelers stayed in city homes for short stay accommodation.

Such accommodation is strongly marked in Australian literature such as in “*Summer of the Seventeenth Doll*” by Ray Lawler, so this issue of Council hardline regulation is very un-Australian, not timely and certainly not good willed to our visitors.

This Australian tradition where homes are opened to invite guests to stay for a small sum of money should not be removed.