

**Submission
No 145**

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

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**The Real Estate Institute of New South Wales
Limited**

Submission 9 November 2015

***Inquiry into the Adequacy of the Regulation of
Short-Term Letting in NSW***

To:

Attention: Mr Glenn Brookes MP (Liberal Party)

Environment and Planning Committee
Parliament of New South Wales

By email:

environmentplanning@parliament.nsw.gov.au

Introduction

This Submission has been prepared by The Real Estate Institute of New South Wales (**REINSW** or the **Institute**) and is in response to the inquiry by the Committee on Environment and Planning into the adequacy of the regulation of short-term holiday letting in NSW.

The REINSW is the largest professional association of real estate agents and other property professionals in New South Wales. The REINSW seeks to promote the interest of members and the property sector on property related issues. In doing so, the REINSW believes it has a substantial role in the formation of regulatory policy in New South Wales.

The preparation of this Submission has been guided by members of the Holiday and Short Term Rentals Chapter of the Institute (the **HSTR Chapter**), who have also provided the content and research for this Submission. Members of the HSTR Chapter are licenced real estate professionals with particular experience and expertise in the holiday and short-term rentals area of real estate practice.

The REINSW appreciates the opportunity to provide this submission and welcomes discussion of the issues raised with the Members of the Parliamentary Committee.

The current situation in NSW

The holiday and short-term rentals market has undergone a significant transformation in the last 15 years. Participants and stakeholders include:

- property owners;
- consumers;
- local Councils;
- managing and letting agents;
- online booking platforms;
- neighbours and communities where short term letting takes place;
- travel agencies;
- travel providers;
- service and property maintenance providers.

In the experience of REINSW HSTR Chapter members, there are differing planning and land use regulations in the Local Environmental Plans applicable to the various Local Government Areas in NSW when it comes to holiday and short-term letting. Individual Councils tend to adopt their own treatment of short-term lettings. There are also differing levels of enforcement by individual Councils, with anecdotal evidence suggesting that some Councils simply take no action in respect of non-compliances.

With the introduction of digital technology all participants including short-term letting property owners, real estate agencies and digital platforms, accepted they were in the hospitality industry and needed to introduce hospitality procedures and protocols into their various management practices, partly due to the lack of legislated regulation of the industry.

It is recognised that the holiday and short-term rentals sector is an integral part of the property landscape and brings many benefits to the NSW economy. In the NSW Government Response to Legislative Council Enquiry: Tourism in Local Communities dated 14 October 2014, the NSW Government stated that “Overnight visitor expenditure in NSW plays a vital role in the State’s economy, with a direct value of \$22.2 billion per year.”

It is clear, however, that the industry needs to be regulated under a common framework in order to address issues such as customer safety and protection, guest behaviour, land use approvals, neighbourhood amenity and licensing and taxation issues.

There are numerous frustrations experienced by consumers, owners and communities in relation to various letting practices and issues, which often create tensions between stakeholders. Given the lack of formal regulation, in an endeavour to elevate industry standards and improve the consumer experience, industry participants have set their own standards and processes in various voluntary codes of practice.

Legislated regulation should take into account and balance the needs and interests of the various participants in the industry as well as the impact on local economies.

It is important to note that any regulation should consider the impact on the resources of local Councils. The Fit for the Future Report released by the Independent Pricing and Regulatory Tribunal of New South Wales found that 71 per cent of Sydney metropolitan Councils and 56 per cent of regional councils are not fit to continue operating in their existing capacities. Accordingly, additional regulatory and enforcement functions imposed on Councils will need to be appropriately resourced.

Differences between traditional providers and online platforms

Traditional providers

Traditional accommodation providers fall into the following categories:

- private property owners offering the whole or a part of their properties for short term and/or holiday accommodation; and
- real estate agencies offering managed properties for short term and/or holiday accommodation occupancy.

Traditional accommodation providers have the ability to:

- personally engage potential occupiers prior to a booking being accepted;

- select or reject potential bookings;
- request acceptance of terms and conditions and any industry voluntary codes of practice;
- personally prescribe particular 'house rules';
- obtain full details of occupiers prior to acceptance of a booking;
- collect a security bond if required;
- attend to any occupant behavioural issues;
- ensure compliance to local Council regulations;
- inspect the property regularly for safety and risk management compliance issues;
- be accountable for compliance with applicable regulations.

Online platforms

Online accommodation portals principally offer:

- digital display advertising
- the opportunity for property owners and agent managers to advertise and display properties in a highly detailed manner together with live availability online booking facilities;
- ability to require acceptance of the platform's terms and conditions.

It is important to note that online platforms offer:

- no property management responsibilities;
- no occupier selection or rejection ability;
- no assurance that terms and conditions are understood or house rules explained;
- no ability to take bonds;
- no acceptance of responsibility for occupier behaviour or ability to regulate occupier behaviour;
- no assurance of owners' compliance of statutory obligations;
- no quality assurance of the features and quality of advertised properties;
- no regard as to whether the person listing the property is the owner or an existing tenant and, if an existing tenant, what impact does this have on the owners' or strata insurances.

Growth of short-term and online letting and the changing character of the market

There is little doubt that digital technology has been responsible for changing the character of the short term and holiday accommodation market.

Digital technology has encouraged property owners/holiday rental agencies to advertise their properties and to take advantage of the broad market reach of the various platforms.

The available technology allows a wider range of potential occupiers to search and select a variety of accommodation options within specified criteria and to avail themselves of convenient functionalities, including:

- focus a search on specified geographic locations;
- allow search of property types, dates and pricing;

- check availability and book online;
- find virtually any type of accommodation requirement;
- encourage potential travellers and holiday makers to consider a wide range of accommodation types away from traditional hotel/motel styles;
- contribute to a much-needed economic benefit within financially struggling regional districts.

It is important that the Committee appreciate the wide ranges of short-term rental users. They include but are not limited to:

- 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;
- 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.

Economic impact of short-term letting on local and State economies

The short-term letting industry has gained wider recognition and undergone a 'formalisation' over the past 15 years, which has been responsible for the dramatic increase in short-term rental occupancy.

This process created market demand and increased occupancy levels which, in turn, have offered significant economic benefit to local and the NSW State economies.

Essentially the income streams are directed towards:

- property owners;
- property management agencies;
- service and property maintenance providers;
- accommodation platforms in the form of advertising and booking fees;
- local economies by occupiers spending locally in the place of their visit;
- travel providers;
- Local, State and Federal Government agencies through local, State and Federal financial impositions.

As noted above, the economic benefit to the entire state of NSW would be measured in tens of billions of dollars annually.

It is submitted that the economic benefits of short-term lettings can be felt more noticeably in regional communities than in major cities.

These communities have low numbers of economic contributors whereas cities have a diverse range of economic contributors and therefore short-term rentals are a relatively minor percentage of cities' economies.

Regulatory issues posed by short-term letting

Clearly, aspects such as customer safety, occupier behaviour, land use approval and neighbourhood amenity, licensing and taxation issues must be addressed in an overarching regulatory framework.

To achieve a solution the REINSW HSTR Chapter suggests the following be considered:

- that the NSW Government and the Federal Government should collaborate on a national short term rental accommodation compliance standards committee;
- the committee's regulations and recommendations then should be administered by the Federal or State Departments of Planning with recommendations from local councils as to designated areas within a Local Government Area that require a Development Approval to operate, or are a complying development with consent to operate not required;
- all properties (be they entire properties, single rooms or simply vacant land spaces) be required to hold a licence to operate as a short term letting;
- licence fees raised will fund the appropriate jurisdictions to plan and administer compliance;
- all responsibilities for compliance must remain directly with the property owner (irrespective of whether the owner engages an agent or online platform), and the property owner must hold the licence to operate the premises;
- booking platforms (web based accommodation portals) must only accept advertisements from complying and licenced premises;
- property owners must be held totally accountable for their properties' short term rental activities and for occupier behaviour;
- there should be enforceable behaviour standards for occupiers;
- there should be a Government driven education program for owners, consumers and neighbours.

As noted above, additional regulatory and enforcement functions imposed on Councils will need to be appropriately resourced.

Conclusion

The Institute welcomes the introduction of a common regulatory framework for short-term holiday rentals in NSW. However, such regulatory framework needs to balance and take into account the interests of the various stakeholder and participants in the short term and holiday rental space as well as the implications for local communities and their economies.

REINSW appreciates the opportunity to provide this Submission and would be pleased to discuss it further.

Yours sincerely,



Tim McKibbin
Chief Executive Officer
The Real Estate Institute of New South Wales

9 November 2015