

27 October 2017

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

Dear Director

Short-Term Holiday Letting Options Paper

The rapid growth in short term accommodation is changing the landscape of neighbourhoods, particularly in the inner city and tourist areas, and governments have a responsibility to regulate the practice to support a sustainable industry that does not create impacts.

When online short term letting platforms began, they provided an option for people to earn a few extra dollars by opening a spare room to visitors or letting their homes out for a short period while on holiday. Visitors benefit from a more affordable accommodation option and a more authentic, less touristy experience, often with their host providing local information and guides to unique local experiences. This is consistent with the vision of a sharing economy and has general community support; however the business model appears to now be hijacked by commercial operators, with undesirable impacts. At least a third of AirBNB listings are from hosts with multiple listings and therefore fulltime commercial operations.

Short term letting can negatively affect neighbours and other owners within an apartment including through noise from visitors in constant holiday and party mode; reduced safety and security from transient neighbours; wear and tear of facilities like carpet, lifts, gyms and pools; poor waste disposal; higher insurance costs; and risks to fire safety. I am concerned that the options paper fails to investigate these very significant concerns but instead relies on the Adequacy of the Regulation of Short-Term Holiday Letting in New South Wales inquiry report, which claimed that there are few complaints and little evidence of problems.

As a representative of an electorate within and around the city centre that attracts large numbers of visitors, I have observed a growing occurrence of short term letting that has coincided with a significant increase in the volume of complaints about impacts from neighbours and other owners in apartment buildings.

In addition to these obvious problems, my constituents also report significant concern about the loss of community when their neighbourhood or building is overrun by short term letting. Community is very important to people's security and enjoyment of their homes: people want to have neighbours they recognise and can get to know, and being surrounded by visitor accommodation does not support this. In The Rocks and Millers Point where public housing homes have been sold off, tenants evicted and homes converted into holiday lets, remaining residents



report that their neighbourhood no longer has a community. Loss of community cannot be prevented if short term letting is allowed to grow unchecked.

The impact of the short term letting industry on housing affordability is a serious concern. There is a growing body of evidence showing that the permanent transfer of residential homes to holiday accommodation adds to shortfalls in supply and reduced affordability. In the inner city this has led to significant loss of housing stock; AirDNA data prepared for Tourism Accommodation Australia shows that the Sydney electorate alone has lost around 1,500 homes to short term letting. Sydney University research has found that 1 per cent of inner Sydney's housing stock and 3.3 per cent of the rental housing stock has been converted to short term letting – this represents half of the vacancy rate. Sydney cannot afford to keep losing residential housing this way.

Short term letting must remain predominantly a part of the sharing economy – a platform to open a spare room to visitors or let one's home while they are away on holiday. Regulation should prevent the practice getting hijacked by business operators converting homes to hotels to make massive profit, but without having to comply with standards that apply to tourist accommodation providers.

International evidence from cities of high tourist demand such as New York, Paris and Berlin shows that poorly regulated short term letting leads to widespread community outrage and growing calls for blanket bans. Excluding limited circumstances, New York, Santa Monica and Berlin have now banned the practice. My submission aims to support the sharing economy while protecting the community from its impacts.

Different forms of short term letting have different levels of impact and we need a nuanced approach that distinguishes different types to apply appropriate regulations depending on the impact.

Letting Out a Room

There is broad community support for permitting short term letting when a host is present and lets out a spare room in their home, provided overcrowding is not allowed. The host's presence provides a level of guarantee against potential impacts and retains a sense of community in a building or neighbourhood.

Letting Out a Home on a Permanent Basis

There is also a widespread community view that residential homes should not be converted into premises used wholly for short term letting in residential areas and strata apartments. This practice has serious impacts on community, neighbourhood and housing affordability, and is more likely to result in the impacts identified in the options paper.

The government should outright ban the conversion of homes in residential zones and residential strata apartments into premises used permanently wholly for short term letting.

Regulating Short Term Letting

Laws are needed that would enable residents to let out their homes on a short term basis to visitors while they are away on holiday without creating impacts. I support a combination of responses to achieve the right regulatory mix.

The maximum number of nights per year that a home can be leased on a short term basis while it remains classed as residential under planning instruments needs to be specified in law.

Finding the right level of restriction is vital. In Amsterdam, homes can be let for up to 60 days a year; in London, San Francisco, New Orleans and Reykjavik it is 90 days; and in Paris it is 120 days, although it should be noted that Paris recently determined that further restrictions are needed and is introducing a mandatory registration system. I share community concern that a limit of 120 is too long and does not genuinely reflect the sharing economy.

Non-commercial arrangements such as house sitting by relatives and friends should be excluded from any regime.

Preventing Overcrowding

In all cases of short term letting including when a host is present, laws are needed to prevent overcrowding. While overcrowding is a problem in all forms of residential occupation, particularly apartments, there is a high demand for group holiday homes and maximising the number of visitors can be profitable for hosts. Overcrowding creates significant impacts including noise and fire safety, and in apartments it can also lead to the overuse of facilities or cause damage like water ingress from excess use of bathroom facilities.

Preventing overcrowding could be done through planning rules similar to the City of Sydney's consent condition that limits the number of adults to two adults per bedroom in apartment buildings or specific laws could be introduced that target short term letting.

The government should improve mechanisms to address overcrowding to support local government compliance action.

Additional Protections for Apartments

Apartment living will represent the predominant form of housing in the future in New South Wales and already represents over 70 per cent of homes in my electorate. Short term letting impacts are greater in apartment buildings because of shared infrastructure, services and costs and the close proximity of neighbours. Some residential apartment buildings in my electorate have turned into quasi hotels with over half of units let out entirely on a short term basis. This is a serious problem and impacts on amenity and the attractiveness of apartment living.

A large portion of inner city apartment owners and residents have contacted me concerned that their strata communities are at risk. They are particularly concerned that their buildings were constructed and approved as residential not as commercial tourist accommodation. Those who have contacted me also raise concerns that the strata legal structure is designed to provide a level of democratic control that is undermined if owners corporations have no control over short term letting.

The outright ban on all short term letting in apartment buildings in New York demonstrates what could happen if owners are not given any control over how the practice is managed in their buildings. When an industry that provides for high profits is not regulated properly, commercial interests often trump community benefit.

Strata communities should not have short term letting forced upon them. Buying or moving into an apartment building involves rights and responsibilities to other owners and occupiers who share common property. Many apartment owners point out that owners who let their property entirely out to short term visitors attract higher returns than letting it to tenants on a lease, with additional costs borne by the owners corporation. This can mean that an owner benefits financially by externalising their costs to fellow owners, which is unfair.

Owner corporations must be given the authority to control short term letting in their building, including to place limits beyond state controls or to ban the practice outright. Approval for short term letting should be required by the owners corporation by special resolution with approval not to be based on proxies.

This widely held position recognises that apartment buildings must be managed democratically with the interests of the majority not ignored. The vast majority of apartment owners who I have talked to tell me they support some level of short term letting in their buildings but want the power to impose limits to stop cumulative impacts from their strata communities being overrun by holiday

accommodation. There is no evidence to suggest that giving owner corporations the power to ban short term letting would result in widespread bans.

Providing owner corporations with tools to manage problems is the best way to encourage flexible short term letting regimes in buildings and preferable to forcing all apartment buildings to adopt a particular regime. Owner corporations should be able to take a bond from owners or occupants letting their properties out on a short term basis in case of by-law breaches such as noise or damage to common property and action should be available in the NSW Civil and Administrative Tribunal.

If short term letting increases the costs for owners, owner corporations should be able to impose fees on owners or occupiers who are responsible. Owner corporations should have access to data that shows when units are being leased on a short term basis and when they are being offered for lease. Model by-laws with different levels of restrictions could be developed to support owners to adopt ways to manage short term letting in their buildings.

A common concern I hear from apartment owners is the impact short term letting could have on building insurance. Some owners are concerned that their insurance premiums could increase or that their coverage might not be valid due to a change in use from residential to commercial. Others are uncertain what insurance is appropriate if short term letting occurs in their building. The government must resolve this concern and provide information to owners on the outcomes.

Enforcement

There needs to be a robust enforcement regime so that properties comply with restrictions. It is now unlawful to operate short term letting in apartment buildings zoned residential but councils struggle to prevent the practice.

Councils don't have access to data from booking sites and can't use circumstantial evidence such as advertisements, room layout or evidence of persons entering and leaving a premise or depositing luggage. Instead council officers must witness the practice first hand, which is difficult or unlikely because they need an owner's or occupant's permission to inspect. Councils must also determine the type of unauthorised use of a premise such as identifying whether it is being used as a boarding house or a backpackers' hostel, which increases the level of evidence needed. These challenges must be fixed or an alternative enforcement regime introduced.

There is support for a mandatory short term letting registration system to provide oversight and transparency and to ensure participants comply with any regime. Short term letting platforms have not willingly given authorities or researchers ready access to their sites to help enforce laws and collect data, and are unlikely to do so. A register would enable authorities to monitor compliance and has strong support among strata communities where there is a history of short term letting contravening building rules and where it can be difficult to determine which apartments are hosting short term guests. The system could be funded by charging hosts a registration fee and could be managed through Services NSW.

Fire Safety

A number of coronial inquests into fires in multi-level buildings in New South Wales, Victoria and Queensland have shown deficiencies in fire safety in residential buildings, including where new bedrooms have been created through partitioned walls or sprinklers have not been installed. It is important to ensure that short term visitors are not put at greater risk through any regime that allows them to stay in premises that were not designed for their safety needs. Short term visitors do not have the knowledge of escape routes or other local knowledge that permanent residents have or develop, and the government must determine a strong level of fire security needed for a premise to support short term letting.

Governments have a responsibility to introduce appropriate controls to support a sustainable short term letting industry that does not impact on others. The focus of regulation must be to protect community, affordable housing, residential amenity, safety and security, costs for other apartment owners and visitor experience.

The following key regulations would ensure a sustainable short term letting industry that does not impact on the community:

- ***Allowing residents to let out a room if they are present at the time;***
- ***Preventing the full-time conversion of homes into holiday accommodation;***
- ***Introducing caps on the number of nights per year that a premise can be wholly let out to visitors while remaining residential;***
- ***Giving owner corporations the power to manage and limit short term letting in their building; and***
- ***Introducing a registration system and boosting enforcement powers.***

Yours sincerely

A handwritten signature in black ink, appearing to read 'AG', with a long horizontal flourish extending to the right.

Alex Greenwich
Member for Sydney