

The Director
Committee on Environment and Planning
Parliament House, Macquarie St
Sydney NSW 2000
30 May 2016

Re: NSW Parliamentary Inquiry into the adequacy of the regulation of short-term holiday letting (STHL) in NSW

Dear Sir,

I write and table this letter in response to the HRIA letter drafted by Mr Trevor Atherton¹ dated 11 March 2016 and published on the Committee's website ([here](#)). Mr Atherton writes that he was requested to provide an explanation of versions of the Holiday Rental Code of Conduct cited in various submissions to the Inquiry; with different versions being a source of confusion at the Tweed hearing.

Publication of the HRIA letter necessitates HLO Central Coast (HLOCC) to respond to incorrect information regarding its Organisation, the history of the Code of Conduct and the industry's self-regulation trial within said letter. HLOCC is recognised as a peak industry association by Local and State Governments and regards the publishing of incorrect information on the Committee's website as:

- a very serious matter
- an attempt to discredit HLOCC's submission (no 102 [here](#)) and the HLOCC organisation
- harmful to the Inquiry into the Adequacy of the Regulation of Short-Term Holiday Letting

HLOCC refutes the assertions at dot point 5, page 2/4, under the heading 'Key milestones and developments in the process,' where Mr Atherton states HLOCC:

1. Quit the collaborative code development process prior to the 2012 V1 being completed or adopted

The opportunity to develop the NSW Holiday Rental Code of Conduct was created by the NSW Department of Tourism and the NSW Department of Planning & Infrastructure. The Code development process was a coalition between Government and Industry with the Government acting as an active facilitator.

HLOCC was invited by the State to participate in the Code's development. HLOCC attended all official meetings of the Code Development Committee, and participated in every vote up to the final version of the NSW Code V1 (the Code) and the composition of the CAC was officially agreed to by all parties and took effect on 22 November 2011. This version of the Code document was to be forwarded to the ACCC.

2. Has never been a member of the CAC

The final official meeting of the Code Development Committee was held 22 November 2011. At this meeting, the composition of the Code Administration Committee (CAC) was agreed upon, came into effect and the Code finalised to be forwarded to the ACCC.

The agreed composition of the CAC included the following organisations:

- HLOCC
- REINSW
- The Stayz Group

The minutes of the 22 November 2011 meeting will confirm this.

A number of hours after this meeting, Mr Atherton emailed all members of the Code Development Committee, attaching the final version of the Code to be forwarded to the ACCC. This final version attached to Mr Atherton's email was the version agreed to by all members of the Code Development Committee. The version listed HLOCC as a member of the CAC (Appendix a section 1.4.1/b/ii page 6).

As the author of the email, HLOCC questions Mr Atherton's conflicting representation to the Inquiry in the HRIA letter. Therefore, HLOCC questions the reliability of other representations made in the HRIA letter.

3. *Has never been a Participating Organisation of V1 or subsequent versions of the Code*

HLOCC was admitted as a Participating Organisation on 6 December 2012, evidenced by a letter signed by John Bates, Chair of the CAC (Appendix b).

4. *Quit the collaborative Code development process over disagreement about the composition of the CAC*

HLOCC did not quit the collaborative Code development process and was present at the last official meeting to finalise the Code and the composition of the CAC for submission to the ACCC. HLOCC withdrew from its position on the CAC due to an unauthorised change to the Code document communicated to the Minister.

As previously stated, the Code was finalised and the composition of the CAC negotiated, agreed and voted on by all members of the Code Development Committee on 22 November 2011.

The final version of the Code document as per Mr Atherton's email dated 22 November 2011 listed HLOCC as a member of the CAC. HLOCC was the only HLO listed as a member.

Following the 22 November meeting, HLOCC, HLOBB and the REINSW discussed and agreed via email a proposal to amend the CAC composition to include HLOBB.

On 9 December 2011, A representative of HLO Byron Bay (not affiliated with HLOCC), sent an unauthorised version of the Code to the Minister for endorsement. The version sent to the Minister removed the word 'HLOCC' from the list of CAC members and replaced it with 'HLO' (Appendix c section 1.4.1/b/ii page 5). This new wording did not reflect the Code as agreed to by all members at the 22 November meeting or by email following the meeting. The inclusion of 'HLO' as a term was strongly opposed by HLOCC throughout the Code development process and all subsequent correspondence. This was due to HLOCC and HLO Byron Bay existing as two autonomous, non-affiliated bodies.

It was at that time that HLOCC decided it could not be a party to such a process (Appendix d & e).

HLOCC believes there exists a number of representations within the HRIA letter not relating to HLOCC which are also false or misleading. Examples include (not exhaustive):

1. Mr Atherton advises that STHL codes and guidelines considered prior to the 2010-2012 collaborative process (which produced V1 of the Code of Conduct) lacked *'solid legal foundation based on the available rights and obligations of the parties in contract and property law or an effective enforcement mechanism'* (Paragraph 2 Page 1).

HLOCC questions how the original or subsequent versions of the Code ever provided for effective enforcement or compliance, with the Code being a voluntary industry Code.

In May 2013, the NSW Land and Environment Court (LEC) deemed STHL to be illegal within the Gosford City 2A residential zone. The case involved a dwelling advertised on Stayz Group websites.

The management practices of the STHL in question were not consistent or compliant with the Code's standards and practices. Code non-compliance was facilitated by the Stayz Group (a Code Participating Organisation) and ineffective and non transparent Code governance by the CAC; resulting in unsustainable economic and legal challenges in the Gosford City LGA and wider NSW.

HLOCC wrote to the CAC on the 10th May 2013 requesting the status of the imposition of appropriate sanctions on the Stayz Group for failing to enforce the Code. HLOCC received no response (Appendix f).

- To the best of HLOCC's knowledge, the Stayz Group was not sanctioned by the CAC
- To the best of HLOCC's knowledge, participating online advertising platforms continue to facilitate non compliance by advertising dwellings that clearly do not comply with the Code including advertising dwellings that cater to overcrowding, unapproved parties and commercial functions etc

Non-compliant STHL advertising and management distorts the market and undermines industry and government regulation objectives.

The CAC failed to administer and govern the Code as prescribed in section 1.3.2. CAC compliance enforcement was not effective, transparent or accountable.

HLOCC believes that HRIA compliance enforcement is also not effective, transparent or accountable.

HLOCC also questions the current HRIA Code's 'legal foundation' as it:

- directly contravenes Gosford City and Wyong Shire Council's local planning laws (amongst others)
- was amended and developed from the NSW Code without consultation with key industry and government bodies including HLOCC
- is not endorsed by key industry bodies including HLOCC or any Government body

2. Mr Atherton failed to mention why the Code was re-drafted by the NSW Department of Planning and Infrastructure (the Department). The Department re-drafted the Code due to a number of issues including:

- Stayz's proposal that the HRIA would be a Code Participating Organisation and
- maximum occupancy limits of 2 adults/bedroom + 2 additional adults (2+2)

The Department excluded HRIA as it was not a participant in the Code's development and as it is not a state body. 2 + 2 was deleted to a final occupancy limit of maximum 2 adults per bedroom.

Following the completion of the 2 year STHL industry self-regulation trial, the Stayz Group claimed copyright ownership over the Code and HRIA claimed custodianship of the NSW Code and replaced it with a national Code that includes a maximum occupancy limit of 2 adults/bedroom + 2 adults. This amendment creates confusion for all stakeholders and contradicts various Local Government Area planning laws. It also contradicts the NSW Department's decision to exclude the HRIA and 2 + 2.

The HRIA Code document was amended without consultation or approval from HLOCC (a Code Participating Organisation). It is not endorsed by HLOCC or any Government body and the HRIA organisation has proven to be an ineffective, non transparent and unaccountable administrator.

HLOCC is a community based, not for profit organisation that works for the benefit of its regional community and the STHL industry in general.

HLOCC strongly refutes and opposes what it believes to be illegitimate and false claims [redacted] regarding HLOCC, the history of the Code of Conduct and the industry's self-regulation trial.

Kind regards

[redacted]
Don Kobeleff
President
HLO Central Coast Inc

Appendices

Appendix a Pages 1-14 of the Holiday Rental Code of Conduct

TCA as agreed at 221111 marked up over version submitted to ACCC Nov 2011

[Rationale: shown in blue square brackets hidden text like this where not self evident]

Holiday Rental Code of Conduct

Participating Organisations

| | | |
|-------------------|------------------------|-----------------|
| <i>Stayz Logo</i> | <i>TakeaBreak Logo</i> | <i>RAH logo</i> |
| <i>HLO Logo</i> | <i>HLO Logo</i> | <i>REINSW</i> |
| | | |

Confirm the participation of these Participating Organisations

The CAC should update this table quarterly and reissue V1, V2 etc as organizations are added.

VERSION: 22 November 2011

Holiday Rental Code of Conduct

INTRODUCTION

Holiday rental is a long established practice in Australia and serves a range of purposes. The short term rental of houses and apartments to holiday makers, workers and students makes an important contribution to the local as well as the broader State and national economy. Holiday rental is the term used to describe the rental of a dwelling for short periods, most commonly for weekends or a few weeks for holidays. Short term rental is also used by workers, students and the like who require residential accommodation for a limited period of time.

[Rationale: "rental" is a more accurate term than "letting" for a licence to occupy rather than a tenancy Short term definition differs from state to state so needs to be generic and covered in definitions]

The use of a dwelling for holiday rental is generally seen by local communities as a land use that, due to its historic status, is part of the inherent use of a dwelling. A dwelling includes a room or suite of rooms occupied or used as a separate domicile (including a house, villa, town house, apartment or granny flat) whether for permanent or holiday accommodation.

Holiday rental of a residential property is typically through a licence agreement rather than a tenancy agreement under the relevant state and territory residential tenancy legislation.

Holiday rental of dwellings can make a positive sustainable contribution to local tourism and communities, and should be managed so as to minimise any adverse social or environmental impacts. However in some areas, the increased use of dwellings for Holiday Rental accommodation has led to some impacts on amenity such as in relation to noise and car parking issues.

This Code of Conduct has been developed to provide a self-regulatory approach in the management of holiday rental. This approach has been used in some areas and has been found to be successful in managing amenity impacts associated with holiday rental. The Code of Conduct applies to dwellings properties that are rented for the purposes of holiday accommodation The Code may be applied to short term rental for other purposes in due course.

This self regulatory approach to Holiday Rental incorporates four components:

- Part 1 The Code outlines obligations on Participating Organisations to cooperate and combine efforts to achieve the Objectives of the Code through appropriate administration and enforcement of the Code
- Part 2 The Code outlines obligations on Managers of Holiday Rental Properties
- Part 3 The Code outlines obligations on Owners and Guests required to implement the Code through the Terms and Conditions of the contract between the Owner and Guests, and
- Part 4 The Code provides a framework for House Rules for Visitors and Guests at a Property to ensure that the amenity of neighbouring properties is not adversely affected.

OBJECTIVES OF THE CODE

The objectives of this Code of Conduct 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; and
- (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.

Government authorities and private sector bodies are encouraged to endorse this Code of Conduct and to work cooperatively with Participating Organisations to achieve its Objectives.

DEFINITIONS USED IN THIS CODE

- **Holiday Rental** means rental of Property for holiday purposes within the maximum term permitted for rental without a residential tenancy agreement under state and territory residential tenancy legislation.
- **Dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

[Rationale: included at the request of NSW Department of Planning & Infrastructure to align with the NSW Standard Instrument and incorporated into the definition of Property below]

- **Guest** means a person who stays overnight in the Property during the term of the occupancy.
- **Manager** means the Owner or another person appointed by the Owner (such as a real estate agent), who is responsible for renting the Property.
- **Noise** means any sound which is offensive to occupiers of neighbouring properties

[Rationale: Amendment required to align with established and well understood standards and definitions in state and territory legislation based on the principles of nuisance. Otherwise would open the way for vexatious complaints and be impossible to comply with especially in city and more densely populated areas where some disturbance of peace and quiet is part of ordinary urban living.]

- **Owner** means the person or entity who owns the Property. It includes the lessee of a Property who sublets or licences it to others for Holiday Rental.
- **Participating Organisations** comprise those organisations that endorse and agree to implement this Code of Conduct and include initially:
 - Stayz;
 - Take-A-Break;
 - Rent-A-Home;
 - Holiday Letting Organisation Central Coast;
 - Holiday Letting Organisation Byron Bay;
 - NSW Real Estate Institute (REINSW)
- **Property** means Dwellings and residential premises including houses, dual occupancies, villas, townhouses, apartments, units, secondary dwellings, cabins and the like generally with a maximum of 6 bedrooms unless the relevant local council permits holiday rental in properties with more than 6 bedrooms.

[Rationale: The Code cannot legally impose cartel like restrictions on quantity of supply or take away property rights granted under local government planning law]

- **Visitor** means a person a Guest invites or permits to visit the Property during the term of the occupancy who does not stay overnight.

Part 1. Holiday Rental – Obligations of Participating Organisations

The Part outlines the arrangements and the role and responsibilities of Participating Organisations for the promotion, implementation, administration, monitoring and enforcement of the Code of Conduct.

[Rationale: Heading should accurately reflect the content of the Part]

1. Guiding Principles

The Code of Conduct is for use by Participating Organisations to outline to Holiday Rental Managers, Owners Guests and Visitors what their responsibilities are in order to ensure that the amenity of the Property and neighbours is maintained.

- (a) This Code of Conduct applies to the Holiday Rental of Property owned or managed by members of Participating Organisations;
- (b) Managers (including owners and agents) are encouraged to join Participating Organisations and may become Participating Organisations;
- (c) Participating Organisations consider that compliance with this Code of Conduct is required to achieve the Objectives and undertake to enforce this Code;
- (d) Participating Organisations signify their endorsement and agreement to this Code of Conduct by signing and lodging a copy of it with the Code Administration Committee;
- (e) Participating Organisations may withdraw their endorsement and agreement to this Code of Conduct at any time by lodging a written notice with the Code Administration Committee; and
- (f) Participating Organisations will implement and promote this Code of Conduct and make a copy of it available to the public from their website

2. Implementation of the Code

[Rationale: Moved here from 2]

This Code of Conduct will be implemented through the following mechanisms:

1.2.1 Through Participating Organisations:

- (a) Participating Organisations must require an undertaking from Managers to comply with the Code of Conduct as a condition of membership of their association or of listing their Property as the case may be; and
- (b) Where a Participating Organisation is a Manager they must require an undertaking from Owners as a condition of managing their Property to endorse and comply with relevant provisions in the Code and agree to this Code so far as the Manager's own Property is concerned.

1.2.2 Through Owners and Managers:

- (a) The Terms and Conditions upon which the Property is offered, booked and occupied for Holiday Rental must comply with Part 3 of this Code and be incorporated into the contract between the Owner of the Property and Guests;
- (b) House Rules including the fundamental obligations of Guests and Visitors on Noise and Residential Amenity under the Terms and Conditions must comply with Part 4 and be displayed at all times in a prominent position in the Property to remind Guests of their key contractual obligations and to inform all Guests and Visitors of the conditions upon which they are permitted to enter and remain on the Property; and
- (c) A full printed copy of this Code of Conduct, the Terms and Conditions, the House Rules and any By Laws relating to the strata or community title must be provided in a Guest & Visitor Information Folder within the Property in a location which is prominent and easily accessible to Guests, Visitors and persons authorised by the Manager or law to inspect and enforce compliance.

[Rationale: Parts deleted moved to 2.1 where they are relevant]

i. Sanctions

[Rationale: Moved here from 5]

Each Participating Organisation is responsible for dealing with instances where Managers are not complying with this Code of Conduct.

- (a) Sanctions which may be imposed by Participating Organisations upon Managers for non compliance
 - i If the Manager is a member of or has Property listed with any other Participating Organisation(s), then such other Participating Organisation(s) may impose the sanctions.
 - ii In any other case, the Code Administration Committee may impose the sanctions.

Appendix a

- (b) The sanctions should reflect the nature, seriousness and frequency of the breach and include in increasing severity:
 - i Issuing a censure or warning to the Manager
 - ii Requesting the Manager to rectify the harm done or compensate for the damage caused by the breach.
 - iii Requesting the Manager to take remedial action to ensure the breach does not reoccur. Remedial action may include more restrictive practices, for example limiting the number of Guests permitted to stay at a Property to a lesser number or restricting the number of Visitors and the hours when Visitors can be on the Property
 - iii Expulsion from membership or delisting of the Property as the case may be.

ii. CODE ADMINISTRATION

1.4.1 Code Administration Committee

This Code of Conduct will be administered by the Code Administration Committee ("CAC").

- (a) The CAC will consist of representatives of Participating Organisations or key stakeholders from the Holiday Rental industry.
- (b) The initial CAC will comprise representatives from:
 - i. Stayz or its nominee;
 - ii. HLO Central Coast; and
 - iii. REI NSW.
- (b) Members of the CAC may be appointed and dismissed by decision of the CAC.
- (c) The CAC may invite other relevant authorities to act as observers or advisors when appropriate, for example the Australian Competition and Consumer Commission and State and Territory Government agencies such as Tourism, Planning and Fair Trading Departments, law enforcement and the Local Government and Shires Associations.
- (d) The chairman and secretary of the CAC will be appointed by decision of the CAC.
- (e) The CAC will be industry-funded.
- (f) Decisions of the CAC will be made according to the following:
 - i. CAC decisions to amend the Code of Conduct or changes to the membership of the CAC require a majority of at least 66%;
 - ii. All other CAC decisions require a simple majority;
 - iii. In the event of a deadlock the Chairman shall have an additional casting vote.

1.4.2 The role of the CAC

The role of the CAC will be to:

- (a) publicise and promote the Code of Conduct
- (b) maintain a register of Participating Organisations, receive and process signed copies of the Code of Conduct and any notice that any signatory ceases to be a Participating Organisation
- (c) monitor and review the operation of the Code of Conduct
- (d) consult with Participating Organisations and key stakeholders from the Holiday Rental industry (where appropriate) on proposed amendments to the Code of Conduct
- (e) determine necessary amendments to the Code of Conduct
- (f) provide for the adequate financing of Code administration expenses
- (g) produce an annual report on the Code of Conduct and its administration
- (h) report on the operation and effectiveness of this Code of Conduct as required to such state and territory government Tourism, Fair Trading and Planning authorities as have endorsed this Code of Conduct; and
- (i) report to Participating Organisations and key stakeholders from the Holiday Rental industry on the operation and effectiveness of the Code of Conduct..

1.5 MONITORING OUTCOMES OF THE USE OF THE CODE

The CAC will monitor the implementation of the Code:

1.5.1 Monitoring criteria

The criteria which will be used to monitor and measure the effectiveness of this Code of Conduct include:

- (a) number of Participating Organisations
- (b) number of Owners and Managers of a Property represented by Participating Organisations
- (c) number of endorsing government authorities and private sector bodies
- (d) number of relevant complaints (bearing in mind that implementation of this Code of Conduct will provide and promote mechanisms for lodging complaints) received by:
 - a. Participating Organisations
 - b. Fair Trading authorities in states and territories that have endorsed this Code of Conduct (so far as data is readily available)
 - c. local councils (so far as data is readily available).
- (e) success rate in resolving disputes and complaints without recourse to litigation (so far as data is readily available) and
- (f) instances of acceptance of this Code of Conduct as a practical self regulatory alternative to government regulation.

1.5.2 Outcomes from the monitoring

- (a) The code is designed to be a living document that will evolve based on monitoring outcomes and stakeholder feedback
- (b) The CAC will be responsible for making necessary changes to better achieve the objectives of the Code.

Part 2 Holiday Rental - Obligations of Managers

This Part outlines the role and responsibilities of Managers standards, practices and procedures for implementation of the Code of Conduct.

[Rationale: Heading should accurately reflect the content of the Part]

2.1 Role and Responsibilities of Managers

- (a) Managers are required to comply with this Part of the Code of Conduct as a condition of membership of a Participating Organisation or of listing their Property with a Participating Organisation as the case may be.
- (b) Managers must also comply with any request made by a Participating Organisation under the Sanction provisions of this Code'
- (c) Managers must use their best endeavours to ensure that Property under their management used for Holiday Rental complies with this Code of Conduct generally including in particular the standards, practices and procedures under this Part.
- (d) Managers must outline to Guests (and Visitors) the consequences of not complying with any Terms and Conditions.
- (e) Managers are to provide information to neighbouring properties on the relevant authority to contact in the event of a contravention of the Terms and Conditions. This can include the provision of a telephone number to contact in this event.
- (f) Managers are to provide information to neighbouring properties on the relevant authority to contact in the event of a contravention of the Terms and Conditions. This can include the provision of a telephone number to contact in this event.

[Rationale: Moved here part from 1.2 and augmented for clarity]

2.2 Property Management generally

- (a) Managers should:
 - i act with integrity, professionalism, courtesy and consideration when dealing with Guests, neighbours, Owners corporations and other community stakeholders; and
 - ii cooperate with other stakeholders including industry associations, tourism bodies, local councils and other government authorities to enhance the image, standards and contribution of Holiday Rental to the economy.
- (b) The Property must not be offered, described, or advertised:
 - i in a false or misleading manner;
 - ii for a purpose inconsistent with this Code, or
 - iii for more than the maximum number of Guests or Visitors determined in accordance with this Code or in any relevant environmental planning instrument.
- (c) The Property offered must:
 - i be offered in a clean, safe and habitable state of repair; and
 - ii comply with relevant planning, building and fire safety and health regulations.
- (d) Managers should
 - i provide general, after hours and emergency telephone numbers to Guests and neighbours.
 - ii have a local representative to manage Guests and Property issues.

2.3 Terms, Conditions and House Rules

Managers must ensure that:

- (a) The Terms and Conditions upon which the Property is offered, booked and occupied for Holiday Rental must adequately cover and be consistent with this Code of Conduct and the Terms and Conditions specified in Part 3.
- (b) These Terms and Conditions must be incorporated into the contract between the Owner and the Guest
- (c) Managers must:
 - (i) provide and have displayed prominently in the Property, the House Rules
 - (ii) provide a Guest & Visitor Information Folder containing other information including a copy of this Code of Conduct and information promoting good neighbourly behaviour
- (d) The House Rules upon which Guests and Visitors are permitted to enter and remain upon the Property must be consistent with this Code of Conduct and must be consistent with and

adequately cover the issues in the House Rules specified in Part 4 and must cover any other any key issue relating to the particular Property.

2.4 Number of Guests and Visitors

- (a) The maximum number of Guests permitted at a Property must not exceed a maximum of 2 adults per bedroom.
- (b) The number of Visitors permitted at a Property must not be such as may conflict with residential amenity and must comply with all the other requirements of this Code of Conduct including the Terms and Conditions and House Rules.

2.5 Functions and parties

- (a) Properties located in residential areas must not host commercial catering or functions unless they have local council permission to do so.
- (b) So called "party houses" conflict with residential amenity, are damaging to the Holiday Rental industry and are not permitted.
- (c) Any gathering, celebration or entertainment permitted at a Property must not conflict with residential amenity and must comply with all the other requirements of this Code of Conduct including the Terms and Conditions (Part 3) and House Rules (Part 4) and any other relevant planning approvals.

2.6 Access and Parking

Managers must provide information prior to arrival regarding access or parking restrictions to ensure ease of access with minimum disturbance to other residents or neighbouring properties.

2.7 Recycling and Garbage

Managers must:

- (a) inform Guests of the garbage disposal or recycling usual practices at the Property including
 - (i) the allocated bins and how excess rubbish should be managed and not left in public or common areas
 - (ii) details of local council garbage and recycling collection days, and
 - (iii) any special requirements relating to the disposal of garbage or waste minimisation
- (b) make arrangements for the removal of any excess garbage left by Guests and Visitors.

2.8 Insurance

- (a) Owners and Managers should hold appropriate insurance, including comprehensive landlords' and public liability insurance (as appropriate)

2.9 Complaints handling

2.9.1 Managers must:

- (a) have a policy, setting out how to deal with disputes or complaints;
- (b) retain a log of related communication and actions taken
- (c) respond to complaints professionally and take effective action to stop any problems; and
- (d) cooperate and participate in any complaint handling, response or resolution system implemented by their relevant Participating Organisation or local council.

2.9.2 Managers must also make and maintain a record of the following particulars of each complaint:

- (a) date and time received;
- (b) name and designation (e.g. Guest, neighbour, council, police etc) of complainant(c) contact details of complainant;
- (c) nature of complaint;
- (d) action taken (by whom and when); and
- (e) outcome and/or further action required (e.g. community consultation, meet with council, meet with local police, review management systems or issue resolved).

2.9.3 Participating Organisations and Managers should encourage and facilitate complaint handling and dispute resolution through the following stages:

- (a) initially by the Manager;
- (b) if not resolved in (a) then through the relevant Participating Organisation;
- (c) if not resolved in (b) then through the relevant state or territory Fair Trading authority.

2.10 Consequences of not meeting the Code of Conduct requirements

Where required to ensure compliance, Managers must make Owners, Guests and Visitors aware that:

- (a) Depending on the Terms and Conditions of the contract between the Guest and Owner, the consequences of not meeting the Code requirements can include enforcement action from:
 - (i) the Owner and its agents including Manager and security services,
 - (ii) local councils or,
 - (iii) in some instances, the Police.
- (b) Such enforcement action could result in the eviction of Guests from the Property and the loss of rental paid, deductions from security deposits and extra charges.
- (c) It is therefore important for all Guests to be aware of their obligations and of their responsibilities to make any Visitors to the Property aware of these requirements to maintain the amenity of the Property and its neighbourhood.

Part 3. Holiday rental – Terms and Conditions between Owners and Guests

The Terms and Conditions upon which a Property is offered, booked and occupied for Holiday Rental under the contract between the Owner and Guest must adequately cover and be consistent with the Code of Conduct and provisions set out in this Part.

[Rationale: Heading should accurately reflect the content of the Part and how it works at law]

3.1 Formalities:

[Rationale: Moved here from 2.2 as this is where it is relevant]

The Terms and Conditions:

- (a) must be in writing;
- (b) may be in electronic, printed or other legally compliant form;
- (c) must include the information and cover the matters in Part 3 of the Code.
- (d) may incorporate information by reference including Booking Conditions, Occupancy Agreement, House Rules, By Laws and information made available to the Guest from web sites;
- (e) may cover such other matters generally required in relation to Holiday Rental of the Property and any special conditions provided they are not inconsistent with this Code of Conduct including in particular this Part 3.

3.2 General Content

The Terms and Conditions must include:

- (a) the address and description sufficient to identify the particular Property;
- (b) Guest's name, usual residential address, email and phone number(s);
- (c) dates of occupancy and check-in/check-out times;
- (d) total rental payable and any other charges;
- (e) amount and timing for payment of deposit and balance of moneys due;
- (f) provisions on variation, cancellation and forfeiture or refund of moneys paid;
- (g) contact details for the Manager or their nominated representative.

3.3 Licence not a tenancy

The Terms and Conditions must include:

- (a) Guests are granted a limited permission to occupy the Property for holiday purposes.
- (b) This is not a residential tenancy agreement under the residential tenancy legislation.
- (c) Failure to comply with any of the Guest's obligations in the Terms and Conditions may result in immediate termination and eviction.

3.4 Security Deposits or Bonds

A security deposit (or equivalent) should be obtained from the Guest (e.g. as cash or a credit card transaction or authorisation) prior to commencement of the occupancy;

- (a) Guests should be advised that failure to comply with the Terms and Conditions may result in charges against the security deposit;
- (b) Security deposits should be administered, processed and accounted for and any balance released or returned to the Guest as soon as possible following their departure in accordance with the applicable law

[Rationale: Amended so accurately covers all situations]

3.5 Maximum number of Guests and Visitors

In compliance with the Code of Conduct the Terms and Conditions must specify:

- (a) maximum permitted number of Guests; and
- (b) maximum permitted number of Visitors.

3.6 General obligations of Guests and Visitors

Guests and Visitors must:

- (a) comply with all House Rules and By-Laws
- (b) respect the residential amenity and security of the Property and neighbours;
- (c) refrain from anti-social behaviour;
- (d) Guests must control and be responsible for Visitors and ensure that Visitors comply with the House Rules
- (e) comply with any instructions from the Manager and security services during their stay; and

- (f) notify the Manager of any disputes or complaints as soon as is practicable.

3.7 Noise and Residential Amenity

- (a) Guests must not create noise which is offensive to neighbours especially between 10pm-8am and during arrival and departure at any time throughout the occupancy.
- (b) Offensive noise is prohibited and may result in:
 - a. Guests being evicted without refund of rental, and
 - b. extra charges for security and other expenses which may be deducted from Security Deposits or Bonds
- (c) Guests must abide by any noise abatement conditions, standards and orders issued by police or any regulatory authority to minimise impacts upon the residential amenity of neighbours and local community.

3.8 Functions and parties

- (a) The Property is not a "party house" and any such activities are strictly prohibited.
- (b) Any gathering, celebration or entertainment permitted at the Property must not conflict with residential amenity and must comply with all House Rules.

3.9 Access and Parking

- (a) Guests and Visitors must comply with parking regulations and show consideration to neighbours
- (b) Information on any constraints on access or any parking restrictions to ensure ease of access with minimum disturbance to other residents or neighbouring properties.
- (c) If relevant, specify maximum number of vehicles permitted onsite and parking space(s) allocated.
- (d) If relevant, Guests may be required to supply vehicle/trailer registration numbers.

3.10 Recycling and Garbage

- (a) Guests must dispose of garbage and recycling in accordance with the usual practice at the Property and in the allocated bins
- (b) Guests must not leave excess rubbish in public or common areas;
- (c) Guests should co-operative in complying with requirements in relation to the relevant local council garbage and recycling collection days, and any special requirements relating to the disposal of garbage or waste minimisation.

3.11 Complaints and dispute resolution procedure

Information on complaints handling including

- (a) Guest's obligations to report any problems or incidents promptly; and
- (b) complaints and dispute resolution procedure.

3.12 Consequences of not meeting the Terms and Conditions

Information on the following:

- (a) The consequences of not complying with the Terms and Conditions requirements can include enforcement action from the owner, Manager, security services, local councils or, in some instances, the Police.
- (b) Such enforcement action could result in the eviction of Guests from the Property and loss of rental paid, deductions from security bonds and extra charges.
- (c) It is therefore important for all Guests to be aware of their obligations and of their responsibilities to make any Visitors to the Property aware of these requirements to maintain the amenity of the Property and its neighbourhood.

Part 4 Holiday Rental - House Rules for Guests and Visitors

House Rules are provided at the Property to ensure that Guests and Visitors know and comply with the specific Rules governing their permission to enter and occupy the Property. House Rules are to be displayed in a conspicuous place in the Property so they can be easily viewed by Guests and Visitors, such as in the Property's kitchen. Matters contained in House Rules should include those set out in this Part and should be adapted and augmented to suit the particulars of the Property, such as specific instructions for car parking arrangements and the like and rules appropriate for any special equipment, facilities or local risks.

[Rationale: Heading should accurately reflect the content of the Part and how it works at law]

4.1 General requirements

- (a) Guest and Visitors must comply with all House Rules, By-Laws and instructions from the Manager and security services during their stay
- (b) Guests must notify the Manager of any disputes or complaints from neighbours as soon as is practicable.

4.2 Noise and Residential amenity

- (a) Guests and Visitors must not create noise which is offensive to occupiers of neighbouring properties especially between 10pm - 8am and during arrival and departure at any time throughout the occupancy.
- (b) Offensive noise is prohibited and may result in Guests being evicted without refund of rental and extra charges for security and other expenses which may be deducted from Security Deposit or Bond under the Terms and Conditions;
- (c) Guests and Visitors must not engage in anti-social behaviour; must minimise their impact upon the residential amenity of neighbours and local community;

4.3 Visitors

- (a) Guests are responsible for ensuring the limits set on Visitor numbers is complied with at all times;
- (b) Guests are responsible for ensuring that Visitors comply with these House Rules.

4.4 Gatherings or functions

- (a) The Property is not a "party house" and any such activities are strictly prohibited
- (b) Any gathering, celebration or entertainment permitted at a Property must not conflict with residential amenity and must comply with all the other requirements

4.5 Parking

- (a) Guests and Visitors are to comply with parking regulations and other requirements set out below and show consideration to neighbours and other vehicles;
- (b) Parking arrangements at the Property are as follows:

4.6 Garbage and recycling.

- (a) Guests and Visitors are to dispose of garbage and recycling in accordance with the usual practice at the Property (as set out below) in the allocated bins, and excess rubbish must not be left in public or common areas;
- (b) Garbage and recycling arrangements at the Property are as follows:

4.7 Security

Whenever you are absent from the Property, close all windows and doors to maintain security and prevent rain and water damage;

4.8 Swimming pool/spa (if applicable)

- (a) The swimming pool/spa must not be used between the hours of 10.00pm and 7.00am.
- (b) No glassware is permitted in the pool.

4.9 Deck and balcony areas (if applicable)

4.10 Smoking

Smoking is not permitted indoors (if applicable).

4.11 Pets

Pets are not permitted indoors (if applicable).

4.12 BBQ

(if applicable)

4.13 Damages and breakages

Damages and breakages must be reported to the Manager.

4.14 On departure arrangements

Arrangements for keys, security, dishwashing, rubbish, etc are:

4.15 Emergency Contact

In the event of an emergency relating to the Property, please telephone on

4.16 Compliance

- (a) Breach of these House Rules is a breach of the Terms and Conditions of occupancy
- (b) The Owner and Manager reserve the right to evict from the Property, Guests or Visitors who refuse to follow these House Rules or who cause a nuisance.

Appendix b

Holiday Rental Code of Conduct Code Administration Committee

23 December 2012

Mr Donat Kobeleff
President
HLO Central Coast Inc
PO Box 4164
Copacabana NSW 2251

Dear Mr Kobeleff

Thank you for your application dated 19 November 2012 on behalf of HLO Central Coast Inc (INC9890925) to be admitted as a participating organisation under the Holiday Rental Code of Conduct.

I am pleased to advise that at its meeting on 6 December 2012 the Code Administration Committee considered your application for admission and resolved to admit HLO Central Coast Inc as a participating organisation.

Accordingly, as a participating organisation HLO Central Coast Inc and its members agree to be bound by the Holiday Rental Code of Conduct. A copy of the Code is attached.

Please contact me by email at reproturn@bigpond.com or call me on [REDACTED] if you require any further information or assistance.

Yours sincerely

[REDACTED]
John Bates
Committee Chair

Encl.

Appendix c

Pages 1-13 of the Holiday Rental Code of Conduct

Holiday Rental Code of Conduct

Participating Organisations

| | | |
|-------------------|------------------------|-----------------|
| <i>Stayz Logo</i> | <i>TakeABreak Logo</i> | <i>RAH logo</i> |
| <i>HLO Logo</i> | <i>HLO Logo</i> | <i>REINSW</i> |
| | | |

VERSION: 2 Dec 2011
Pre final editing

Holiday Rental Code of Conduct

INTRODUCTION

Holiday rental is a long established practice in Australia and serves a range of purposes. The short term rental of houses and apartments to holiday makers, workers and students makes an important contribution to the local as well as the broader State and national economy. Holiday rental is the term used to describe the rental of a dwelling for short periods, most commonly for weekends or a few weeks for holidays. Short term rental is also used by workers, students and the like who require residential accommodation for a limited period of time.

The use of a dwelling for holiday rental is generally seen by local communities as a land use that, due to its historic status, is part of the inherent use of a dwelling. A dwelling includes a room or suite of rooms occupied or used as a separate domicile (including a house, villa, town house, apartment or granny flat) whether for permanent or holiday accommodation.

Holiday rental of a residential property is typically through a licence agreement rather than a tenancy agreement under the relevant state and territory residential tenancy legislation.

Holiday rental of dwellings can make a positive sustainable contribution to local tourism and communities, and should be managed so as to minimise any adverse social or environmental impacts. However in some areas, the increased use of dwellings for Holiday Rental accommodation has led to some impacts on amenity such as in relation to noise and car parking issues.

This Code of Conduct has been developed to provide a self-regulatory approach in the management of holiday rental. This approach has been used in some areas and has been found to be successful in managing amenity impacts associated with holiday rental. The Code of Conduct applies to dwellings properties that are rented for the purposes of holiday accommodation. The Code may be applied to short term rental for other purposes in due course.

This self regulatory approach to Holiday Rental incorporates four components:

- Part 1 The Code outlines obligations on Participating Organisations to cooperate and combine efforts to achieve the Objectives of the Code through appropriate administration and enforcement of the Code
- Part 2 The Code outlines obligations on Managers of Holiday Rental Properties
- Part 3 The Code outlines obligations on Owners and Guests required to implement the Code through the Terms and Conditions of the contract between the Owner and Guests, and
- Part 4 The Code provides a framework for House Rules for Visitors and Guests at a Property to ensure that the amenity of neighbouring properties is not adversely affected.

OBJECTIVES OF THE CODE

The objectives of this Code of Conduct 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; and
- (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.

Government authorities and private sector bodies are encouraged to endorse this Code of Conduct and to work cooperatively with Participating Organisations to achieve its Objectives.

DEFINITIONS USED IN THIS CODE

- **Holiday Rental** means rental of Property for holiday purposes within the maximum term permitted for rental without a residential tenancy agreement under state and territory residential tenancy legislation.
- **Dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.
- **Guest** means a person who stays overnight in the Property during the term of the occupancy.
- **Manager** means the Owner or another person appointed by the Owner (such as a real estate agent), who is responsible for renting the Property.
- **Noise** means any sound which is offensive to occupiers of neighbouring properties
- **Owner** means the person or entity who owns the Property. It includes the lessee of a Property who sublets or licences it to others for Holiday Rental.
- **Participating Organisations** comprise those organisations that endorse and agree to implement this Code of Conduct and include initially:
 - Stayz;
 - Take-A-Break;
 - Rent-A-Home;
 - Holiday Letting Organisation Central Coast;
 - Holiday Letting Organisation Byron Bay;
 - NSW Real Estate Institute (REINSW)
- **Property** means Dwellings and residential premises including houses, dual occupancies, villas, townhouses, apartments, units, secondary dwellings, cabins and the like generally with a maximum of 6 bedrooms unless the relevant local council permits holiday rental in properties with more than 6 bedrooms.
- **Visitor** means a person a Guest invites or permits to visit the Property during the term of the occupancy who does not stay overnight.

Part 1. Holiday Rental – Obligations of Participating Organisations

The Part outlines the arrangements and the role and responsibilities of Participating Organisations for the promotion, implementation, administration, monitoring and enforcement of the Code of Conduct.

1. Guiding Principles

The Code of Conduct is for use by Participating Organisations to outline to Holiday Rental Managers, Owners Guests and Visitors what their responsibilities are in order to ensure that the amenity of the Property and neighbours is maintained.

- (a) This Code of Conduct applies to the Holiday Rental of Property owned or managed by members of Participating Organisations;
- (b) Managers (including owners and agents) are encouraged to join Participating Organisations and may become Participating Organisations;
- (c) Participating Organisations consider that compliance with this Code of Conduct is required to achieve the Objectives and undertake to enforce this Code;
- (d) Participating Organisations signify their endorsement and agreement to this Code of Conduct by signing and lodging a copy of it with the Code Administration Committee;
- (e) Participating Organisations may withdraw their endorsement and agreement to this Code of Conduct at any time by lodging a written notice with the Code Administration Committee; and
- (f) Participating Organisations will implement and promote this Code of Conduct and make a copy of it available to the public from their website

2. Implementation of the Code

This Code of Conduct will be implemented through the following mechanisms:

1.2.1 Through Participating Organisations:

- (a) Participating Organisations must require an undertaking from Managers to comply with the Code of Conduct as a condition of membership of their association or of listing their Property as the case may be; and
- (b) Where a Participating Organisation is a Manager they must require an undertaking from Owners as a condition of managing their Property to endorse and comply with relevant provisions in the Code and agree to this Code so far as the Manager's own Property is concerned.

1.2.2 Through Owners and Managers:

- (a) The Terms and Conditions upon which the Property is offered, booked and occupied for Holiday Rental must comply with Part 3 of this Code and be incorporated into the contract between the Owner of the Property and Guests;
- (b) House Rules including the fundamental obligations of Guests and Visitors on Noise and Residential Amenity under the Terms and Conditions must comply with Part 4 and be displayed at all times in a prominent position in the Property to remind Guests of their key contractual obligations and to inform all Guests and Visitors of the conditions upon which they are permitted to enter and remain on the Property; and
- (c) A full printed copy of this Code of Conduct, the Terms and Conditions, the House Rules and any By Laws relating to the strata or community title must be provided in a Guest & Visitor Information Folder within the Property in a location which is prominent and easily accessible to Guests, Visitors and persons authorised by the Manager or law to inspect and enforce compliance.

i. Sanctions

Each Participating Organisation is responsible for dealing with instances where Managers are not complying with this Code of Conduct.

- (a) Sanctions which may be imposed by Participating Organisations upon Managers for non compliance
 - i If the Manager is a member of or has Property listed with any other Participating Organisation(s), then such other Participating Organisation(s) may impose the sanctions.
 - ii In any other case, the Code Administration Committee may impose the sanctions.

Appendix c

- (b) The sanctions should reflect the nature, seriousness and frequency of the breach and include in increasing severity:
 - i Issuing a censure or warning to the Manager
 - ii Requesting the Manager to rectify the harm done or compensate for the damage caused by the breach.
 - iii Requesting the Manager to take remedial action to ensure the breach does not reoccur. Remedial action may include more restrictive practices, for example limiting the number of Guests permitted to stay at a Property to a lesser number or restricting the number of Visitors and the hours when Visitors can be on the Property
 - iii Expulsion from membership or delisting of the Property as the case may be.

ii. CODE ADMINISTRATION

1.4.1 Code Administration Committee

This Code of Conduct will be administered by the Code Administration Committee ("CAC").

- (a) The CAC will consist of representatives of Participating Organisations or key stakeholders from the Holiday Rental industry.
- (b) The initial CAC will comprise representatives from:
 - i. Stayz or its nominee;
 - ii. HLO; and
 - iii. REINSW.
- (b) Members of the CAC may be appointed and dismissed by decision of the CAC.
- (c) The CAC may invite other relevant authorities to act as observers or advisors when appropriate, for example the Australian Competition and Consumer Commission and State and Territory Government agencies such as Tourism, Planning and Fair Trading Departments, law enforcement and the Local Government and Shires Associations.
- (d) The chairman and secretary of the CAC will be appointed by decision of the CAC.
- (e) The CAC will be industry-funded.
- (f) Decisions of the CAC will be made according to the following:
 - i. CAC decisions to amend the Code of Conduct or changes to the membership of the CAC require a majority of at least 66%;
 - ii. All other CAC decisions require a simple majority;
 - iii. In the event of a deadlock the Chairman shall have an additional casting vote.
- (g)

1.4.2 The role of the CAC

The role of the CAC will be to:

- (a) publicise and promote the Code of Conduct
- (b) maintain a register of Participating Organisations, receive and process signed copies of the Code of Conduct and any notice that any signatory ceases to be a Participating Organisation
- (c) monitor and review the operation of the Code of Conduct
- (d) consult with Participating Organisations and key stakeholders from the Holiday Rental industry (where appropriate) on proposed amendments to the Code of Conduct
- (e) determine necessary amendments to the Code of Conduct
- (f) provide for the adequate financing of Code administration expenses
- (g) produce an annual report on the Code of Conduct and its administration
- (h) report on the operation and effectiveness of this Code of Conduct as required to such state and territory government Tourism, Fair Trading and Planning authorities as have endorsed this Code of Conduct; and
- (i) report to the Participating Organisations and key stakeholders from the Holiday Rental industry on the operation and effectiveness of the Code of Conduct..

1.5 MONITORING OUTCOMES OF THE USE OF THE CODE

The CAC will monitor the implementation of the Code:

1.5.1 Monitoring criteria

The criteria which will be used to monitor and measure the effectiveness of this Code of Conduct include:

- (a) number of Participating Organisations
- (b) number of Owners and Managers of a Property represented by Participating Organisations
- (c) number of endorsing government authorities and private sector bodies
- (d) number of relevant complaints (bearing in mind that implementation of this Code of Conduct will provide and promote mechanisms for lodging complaints) received by:
 - a. Participating Organisations
 - b. Fair Trading authorities in states and territories that have endorsed this Code of Conduct (so far as data is readily available)
 - c. local councils (so far as data is readily available).
- (e) success rate in resolving disputes and complaints without recourse to litigation (so far as data is readily available) and
- (f) instances of acceptance of this Code of Conduct as a practical self regulatory alternative to government regulation.

1.5.2 Outcomes from the monitoring

- (a) The code is designed to be a living document that will evolve based on monitoring outcomes and stakeholder feedback
- (b) The CAC will be responsible for making necessary changes to better achieve the objectives of the Code.

Part 2 Holiday Rental - Obligations of Managers

This Part outlines the role and responsibilities of Managers standards, practices and procedures for implementation of the Code of Conduct.

2.1 Role and Responsibilities of Managers

- (a) Managers are required to comply with this Part of the Code of Conduct as a condition of membership of a Participating Organisation or of listing their Property with a Participating Organisation as the case may be.
- (b) Managers must also comply with any request made by a Participating Organisation under the Sanction provisions of this Code'
- (c) Managers must use their best endeavours to ensure that Property under their management used for Holiday Rental complies with this Code of Conduct generally including in particular the standards, practices and procedures under this Part.
- (d) Managers must outline to Guests (and Visitors) the consequences of not complying with any Terms and Conditions.
- (e) Managers are to provide information to neighbouring properties on the relevant authority to contact in the event of a contravention of the Terms and Conditions. This can include the provision of a telephone number to contact in this event.
- (f) Managers are to provide information to neighbouring properties on the relevant authority to contact in the event of a contravention of the Terms and Conditions. This can include the provision of a telephone number to contact in this event.

2.2 Property Management generally

- (a) Managers should:
 - i act with integrity, professionalism, courtesy and consideration when dealing with Guests, neighbours, Owners corporations and other community stakeholders; and
 - ii cooperate with other stakeholders including industry associations, tourism bodies, local councils and other government authorities to enhance the image, standards and contribution of Holiday Rental to the economy.
- (b) The Property must not be offered, described, or advertised:
 - i in a false or misleading manner;
 - ii for a purpose inconsistent with this Code, or
 - iii for more than the maximum number of Guests or Visitors determined in accordance with this Code or in any relevant environmental planning instrument.
- (c) The Property offered must:
 - i be offered in a clean, safe and habitable state of repair; and
 - ii comply with relevant planning, building and fire safety and health regulations.
- (d) Managers should
 - i provide general, after hours and emergency telephone numbers to Guests and neighbours.
 - ii have a local representative to manage Guests and Property issues.

2.3 Terms, Conditions and House Rules

Managers must ensure that:

- (a) The Terms and Conditions upon which the Property is offered, booked and occupied for Holiday Rental must adequately cover and be consistent with this Code of Conduct and the Terms and Conditions specified in Part 3.
- (b) These Terms and Conditions must be incorporated into the contract between the Owner and the Guest
- (c) Managers must:
 - (i) provide and have displayed prominently in the Property, the House Rules
 - (ii) provide a Guest & Visitor Information Folder containing other information including a copy of this Code of Conduct and information promoting good neighbourly behaviour
- (d) The House Rules upon which Guests and Visitors are permitted to enter and remain upon the Property must be consistent with this Code of Conduct and must be consistent with and

adequately cover the issues in the House Rules specified in Part 4 and must cover any other any key issue relating to the particular Property.

2.4 Number of Guests and Visitors

- (a) The maximum number of Guests permitted at a Property must not exceed a maximum of 2 adults per bedroom.
- (b) The number of Visitors permitted at a Property must not be such as may conflict with residential amenity and must comply with all the other requirements of this Code of Conduct including the Terms and Conditions and House Rules.

2.5 Functions and parties

- (a) Properties located in residential areas must not host commercial catering or functions unless they have local council permission to do so.
- (b) So called "party houses" conflict with residential amenity, are damaging to the Holiday Rental industry and are not permitted.
- (c) Any gathering, celebration or entertainment permitted at a Property must not conflict with residential amenity and must comply with all the other requirements of this Code of Conduct including the Terms and Conditions (Part 3) and House Rules (Part 4) and any other relevant planning approvals.

2.6 Access and Parking

Managers must provide information prior to arrival regarding access or parking restrictions to ensure ease of access with minimum disturbance to other residents or neighbouring properties.

2.7 Recycling and Garbage

Managers must:

- (a) inform Guests of the garbage disposal or recycling usual practices at the Property including
 - (i) the allocated bins and how excess rubbish should be managed and not left in public or common areas
 - (ii) details of local council garbage and recycling collection days, and
 - (iii) any special requirements relating to the disposal of garbage or waste minimisation
- (b) make arrangements for the removal of any excess garbage left by Guests and Visitors.

2.8 Insurance

- (a) Owners and Managers should hold appropriate insurance, including comprehensive landlords' and public liability insurance (as appropriate)

2.9 Complaints handling

2.9.1 Managers must:

- (a) have a policy, setting out how to deal with disputes or complaints;
- (b) retain a log of related communication and actions taken
- (c) respond to complaints professionally and take effective action to stop any problems; and
- (d) cooperate and participate in any complaint handling, response or resolution system implemented by their relevant Participating Organisation or local council.

2.9.2 Managers must also make and maintain a record of the following particulars of each complaint:

- (a) date and time received;
- (b) name and designation (e.g. Guest, neighbour, council, police etc) of complainant(c) contact details of complainant;
- (c) nature of complaint;
- (d) action taken (by whom and when); and
- (e) outcome and/or further action required (e.g. community consultation, meet with council, meet with local police, review management systems or issue resolved).

2.9.3 Participating Organisations and Managers should encourage and facilitate complaint handling and dispute resolution through the following stages:

- (a) initially by the Manager;
- (b) if not resolved in (a) then through the relevant Participating Organisation;
- (c) if not resolved in (b) then through the relevant state or territory Fair Trading authority.

2.10 Consequences of not meeting the Code of Conduct requirements

Where required to ensure compliance, Managers must make Owners, Guests and Visitors aware that:

- (a) Depending on the Terms and Conditions of the contract between the Guest and Owner, the consequences of not meeting the Code requirements can include enforcement action from:
 - (i) the Owner and its agents including Manager and security services,
 - (ii) local councils or,
 - (iii) in some instances, the Police.
- (b) Such enforcement action could result in the eviction of Guests from the Property and the loss of rental paid, deductions from security deposits and extra charges.
- (c) It is therefore important for all Guests to be aware of their obligations and of their responsibilities to make any Visitors to the Property aware of these requirements to maintain the amenity of the Property and its neighbourhood.

Part 3. Holiday rental – Terms and Conditions between Owners and Guests

The Terms and Conditions upon which a Property is offered, booked and occupied for Holiday Rental under the contract between the Owner and Guest must adequately cover and be consistent with the Code of Conduct and provisions set out in this Part.

3.1 Formalities:

The Terms and Conditions:

- (a) must be in writing;
- (b) may be in electronic, printed or other legally compliant form;
- (c) must include the information and cover the matters in Part 3 of the Code.
- (d) may incorporate information by reference including Booking Conditions, Occupancy Agreement, House Rules, By Laws and information made available to the Guest from web sites;
- (e) may cover such other matters generally required in relation to Holiday Rental of the Property and any special conditions provided they are not inconsistent with this Code of Conduct including in particular this Part 3.

3.2 General Content

The Terms and Conditions must include:

- (a) the address and description sufficient to identify the particular Property;
- (b) Guest's name, usual residential address, email and phone number(s);
- (c) dates of occupancy and check-in/check-out times;
- (d) total rental payable and any other charges;
- (e) amount and timing for payment of deposit and balance of moneys due;
- (f) provisions on variation, cancellation and forfeiture or refund of moneys paid;
- (g) contact details for the Manager or their nominated representative.

3.3 Licence not a tenancy

The Terms and Conditions must include:

- (a) Guests are granted a limited permission to occupy the Property for holiday purposes.
- (b) This is not a residential tenancy agreement under the residential tenancy legislation.
- (c) Failure to comply with any of the Guest's obligations in the Terms and Conditions may result in immediate termination and eviction.

3.4 Security Deposits or Bonds

A security deposit (or equivalent) should be obtained from the Guest (e.g. as cash or a credit card transaction or authorisation) prior to commencement of the occupancy;

- (a) Guests should be advised that failure to comply with the Terms and Conditions may result in charges against the security deposit;
- (b) Security deposits should be administered, processed and accounted for and any balance released or returned to the Guest as soon as possible following their departure in accordance with the applicable law

3.5 Maximum number of Guests and Visitors

In compliance with the Code of Conduct the Terms and Conditions must specify:

- (a) maximum permitted number of Guests; and
- (b) maximum permitted number of Visitors.

3.6 General obligations of Guests and Visitors

Guests and Visitors must:

- (a) comply with all House Rules and By-Laws
- (b) respect the residential amenity and security of the Property and neighbours;
- (c) refrain from anti-social behaviour;
- (d) Guests must control and be responsible for Visitors and ensure that Visitors comply with the House Rules
- (e) comply with any instructions from the Manager and security services during their stay; and

- (f) notify the Manager of any disputes or complaints as soon as is practicable.

3.7 Noise and Residential Amenity

- (a) Guests must not create noise which is offensive to neighbours especially between 10pm-8am and during arrival and departure at any time throughout the occupancy.
- (b) Offensive noise is prohibited and may result in:
 - a. Guests being evicted without refund of rental, and
 - b. extra charges for security and other expenses which may be deducted from Security Deposits or Bonds
- (c) Guests must abide by any noise abatement conditions, standards and orders issued by police or any regulatory authority to minimise impacts upon the residential amenity of neighbours and local community.

3.8 Functions and parties

- (a) The Property is not a "party house" and any such activities are strictly prohibited.
- (b) Any gathering, celebration or entertainment permitted at the Property must not conflict with residential amenity and must comply with all House Rules.

3.9 Access and Parking

- (a) Guests and Visitors must comply with parking regulations and show consideration to neighbours
- (b) Information on any constraints on access or any parking restrictions to ensure ease of access with minimum disturbance to other residents or neighbouring properties.
- (c) If relevant, specify maximum number of vehicles permitted onsite and parking space(s) allocated.
- (d) If relevant, Guests may be required to supply vehicle/trailer registration numbers.

3.10 Recycling and Garbage

- (a) Guests must dispose of garbage and recycling in accordance with the usual practice at the Property and in the allocated bins
- (b) Guests must not leave excess rubbish in public or common areas;
- (c) Guests should co-operative in complying with requirements in relation to the relevant local council garbage and recycling collection days, and any special requirements relating to the disposal of garbage or waste minimisation.

3.11 Complaints and dispute resolution procedure

Information on complaints handling including

- (a) Guest's obligations to report any problems or incidents promptly; and
- (b) complaints and dispute resolution procedure.

3.12 Consequences of not meeting the Terms and Conditions

Information on the following:

- (a) The consequences of not complying with the Terms and Conditions requirements can include enforcement action from the owner, Manager, security services, local councils or, in some instances, the Police.
- (b) Such enforcement action could result in the eviction of Guests from the Property and loss of rental paid, deductions from security bonds and extra charges.
- (c) It is therefore important for all Guests to be aware of their obligations and of their responsibilities to make any Visitors to the Property aware of these requirements to maintain the amenity of the Property and its neighbourhood.

4.11 Pets

Pets are not permitted indoors (if applicable).

4.12 BBQ

(if applicable)

4.13 Damages and breakages

Damages and breakages must be reported to the Manager.

4.14 On departure arrangements

Arrangements for keys, security, dishwashing, rubbish, etc are:

4.15 Emergency Contact

In the event of an emergency relating to the Property, please telephone on

4.16 Compliance

- (a) Breach of these House Rules is a breach of the Terms and Conditions of occupancy
- (b) The Owner and Manager reserve the right to evict from the Property, Guests or Visitors who refuse to follow these House Rules or who cause a nuisance.



Appendix d



From: Donat Kobeleff <hlocentralcoast@hotmail.com>

Sent: Monday, 12 December 2011 7:33 PM

To: John Bates

Subject: RE: ACCC comments on DRAFT HOLIDAY RENTAL CODE OF CONDUCT

Hi John,

A lot has happened over the last few days.

I firstly would like to thank you for your assistance , wise advise and integrity.

I am not sure if you are aware that I have requested any reference to HLO Central Coast Inc. be removed from the code.

It seems the code was sent of to the Minister without our endorsement which says a lot about the process & creates a large dilemma for HLO Central Coast .

No other organisation within the working group would accept this action.

1 HLO has been promoted with HLO Central Coast as a participating organisation, we have never been able to accept this position .

It has been a very difficult year as I am sure you agree.

Our decision should allow the code to quickly move forward as well as protect our unique position.

We do not wish to interfere or undermine the code.

Please call me if you wish to discuss our position.

We hope the code can now move forward quickly.

All the best

Have a happy festive season

Donat Kobeleff

HLO Central Coast Inc.

Appendix e

From: Donat Kobeleff <hlocentralcoast@hotmail.com>

Sent: Tuesday, 13 December 2011 9:12 PM

To: REINSW DIRK; info@hlobyron.com.au; John Bates; Justin Butterworth; REINSW REINSW

Subject: RE: Code of Conduct Holiday Rental NSW

Hi Dirk,

Thank you for your email & your recognition of the need to acknowledge both HLO 'S as separate organisations.

I appreciate your openness and clarity on the situation.

The CAC has been just one of the endless difficult sections of the Code to be agreed upon.

All organisation need to protect their individual integrity as REINSW & Fairfax have & should.

The real issue is not voting rights but integrity of individual organisations.

To suggest that HLO Central Coast & HLO Byron Bay are one organisation cannot be accepted.

So the issue of voting rights was a sensibly suggested by you in an attempt to allow both organisations to sit on the CAC with technically "1" individual vote as they should.

HLO Central Coast believed this had been achieved .

With the emergence of the single HLO again (as sent to the minister without our endorsement) and the 1/3 position it was clearly not a functional or adequate proposal.

I appreciate your comments and efforts in attempting to resolve this impasse and your respect for all organisations involved.

I would have hoped that you would have been the rep on the CAC with no offence intended to Dominique.

All the best for the festive season

Regards

Donat Kobeleff

HLO Central Coast Inc.

Appendix f

Donat Kobeleff 10/05/2013

To: John Bates, John Bates, John Bates, John Bates

Cc: John Gudgeon, Justin Butterworth, REINSW DIRK

Hi John,

I refer to the recent Land and Environment Court ruling that deems short term holiday rentals illegal in residential zones.

The dwelling was never a member of HLOCC and never contacted HLOCC.

HLOCC was called upon in the 9th hour to provide information.

HLOCC advised the imposition of the following sanctions on the dwelling:

- The dwelling to cease operation until the Gosford City DLEP2009 was approved
- The dwelling to undertake a 12 month educational program
- Advised against court action as the operation clearly did not comply with the Central Coast Code of Conduct, the minimum standard industry Code of Conduct or the Gosford City DLEP2009.

The ruling is a landmark finding that has been devastating for the Central Coast holiday rental sector and visitor economy. These same effects are being felt throughout NSW.

Section 1.3.2 of the Code of Conduct describes the CAC's responsibilities for imposing sanctions on participating organisations who do not uphold their obligations.

HLOCC requests the following information:

- What sanctions has the CAC imposed on the participating organisation that advertised the property?

The properties advertising did not meet the Code requirements.

Please provide a written response to this email address.

Yours Faithfully
Daniel Kobeleff
Vice President
HLO Central Coast Inc
e: hlocentralcoast@hotmail.com
w: www.hlocentralcoast.net