

**Submission
No 175**

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

Organisation: Victims of Holiday Letting
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Position: Coordinator
Date Received: 9/11/2015

**Adequacy of the regulation of short-term holiday letting
in New South Wales (Inquiry)
Submission from Victims Of Holiday Letting**

VOHL

Terms of reference for an inquiry into the adequacy of the regulation of short-term holiday letting in NSW

That the Committee inquire into and report on the adequacy of the regulation of short-term holiday letting in NSW.

What is VOHL?

Victims Of Holiday Letting is a community based organisation formed from people who have been impacted by Holiday Letting and people concerned about the serious erosion, both existing and increasing, of our local communities.

SUMMARY

This report will very likely reach the Planning Minister

VOHL understands the complexities and roadblocks that exist.

We would like the following:

- 1.) Enable legislation that allows Councils to charge appropriate fees to cover or mostly cover the costs associated with registration and the employment of dedicated Compliance staff.
- 2.) Enable legislation that allows Councils to make appropriate changes to the LEP and to DCPs.
- 3.) Enable legislation so that BSC can charge these commercial businesses the appropriate Business Rate.
- 4.) Somehow influence HRIA to change The Code of Conduct to contain a 2 person per bedroom limit, excluding children 2 years and under. No more than 8 Occupants per property.

- 5.) In the BSC Plan: The DA Category requires Council Consent. Maximum number of bedrooms to be 5 with 2 persons per bedroom, excluding children 2 years and under.
- 6.) Allow BSC (or any other Council) to set specific time limits on outside pools and spas.
- 7.) Advise BSC that an owner/manager be required to attend **IN PERSON** at any property where there has been a complaint within 30 minutes of that complaint being phoned in.

VOHL's concerns have always been for neighbours and the destruction of our unique community.

VOHL believes that implementing a suitable registration and Compliance policy will help protect our residential neighbourhoods whilst providing certain for the holiday let interests.

a) The current situation in NSW and comparison with other jurisdictions.

Our community has always had some form of holiday houses. There were many so called fishermen's cottages dotted everywhere on the coast. The Family Owners/Lessors would come at holiday time and leave them empty for most of the year. Then their friends started to use them either free of charge or for a modest charge. Roughly about 20 years ago it was an acceptable practice to go away over Christmas and/or New Year and holiday let your house. This supplemented incomes in a low wage area.

With greater and greater car ownership domestic holiday travel increased. Byron Bay in the 1970's was a decaying industrial town with its animal based industries almost extinct. Locals spoke of "Struggle Town". Surfers and Hippies arrived. Property was cheap. Some of these arrivals now sit on extensive holdings of houses and business premises.

The coastal natural environment was free of development and had survived the strip mining of its sand dunes. Environmental groups have spent many years removing weed species and revegetating with native species. Byron Bay is a beautiful place.

Property prices were always lower than the major cities. After a lengthy period of holiday visitors people from our cities looked to buy property here. Those that moved were "Sea Changers". I arrived in Byron Bay on holiday in 1982. Allegedly I described it as "Paradise". I immigrated here, from UK, with family in 1996. Rents were as low as \$150 pw. Couples and even single people could afford to live here. There were unique, alternative shops and cafes in town. Multi-coloured inhabitants ambled in the streets.

BUT, Byron Shire was ripe for development. In the late 1980's Backpacking was on the up and the number of "hostels" grew rapidly. When I arrived I had a computer but the Internet was slow and cumbersome. By the late 1990's The Internet was taking over our lives. Little old shops became Internet Cafés. Real Estate Agents handled sales and holiday rentals. Permanent Rentals were becoming much more expensive.

Before long it was clear The Internet could be good for business - the holiday business. Software was developed to enable online booking. Holiday Let Owners could advertise worldwide and have payment made directly into their bank accounts. Stayz and other online portals appeared. More and more houses became holiday lets and the community started to really feel the impact. These holiday let businesses were right next door. The old neighbour you had known for years had gone!

In the last 10 years the lives of many residents have become miserable! Residents came together to do something. Byron Shire Council tried to help and attempted to introduce Precincts, areas where Holiday Letting would be permitted. At this time The HLO (Holiday Let Organisation) appeared. It has opposed every form of external regulation, relying instead on “self regulation”. HLO has managed to keep profits flowing unfettered. HLO did produce a Code of Conduct which applies to all member properties. Latterly this Code is developed by HLO, Stayz and other “industry” bodies. It currently is under The Holiday Rental Institute of Australia (HRIA). Some describe it as a front organisation.

VOHL (Victims Of Holiday Letting) became a formal organisation 3 years ago. We have researched widely, looking at other jurisdictions across Australia. WA appears to have the most effective regulation. It is ironic that Busselton based some of its policy on what Byron Shire Council produced back to 2005.

b) The differences between traditional accommodation providers and online platforms.

Traditional accommodation providers would be hotels, motels, commercially zoned apartments, Bed & Breakfasts, hostels. Previously they would have advertised in print media, possibly TV, directories. They would now have an extensive online presence.

The differences with online platforms, if we assume the heading to mean holiday letting type accommodation, are huge.

The first category does not rely on self regulation. There is extensive legislation that applies relating to health & safety, building standards, employment and taxation. A free market exists where all these businesses compete on, price, quality and reputation.

The second category is an unleashed beast! At present, under the BSC 1988 LEP, in Residential Zones 2(a) “tourist facility” is a prohibited use. The HLO have blustered for years that holiday lets are not “tourist facilities” and therefore legal. In various Court actions the defending holiday let has always “folded” before a definitive Court judgment could be handed down. No inspections, no approved compliance with standards. No Business Rate paid. It is likely there is significant income tax avoidance. Improper disclosure leads to Capital Gains Tax avoidance. Many insurance companies will NOT insure holiday lets. Yes they may take the premium but will also likely dismiss any claim. VOHL has verified this.

The first category always has On Site Management so there are very, very few disturbances to neighbours. Problem guests are dealt with or evicted at a moment’s notice.

With holiday lets unrestrained overcrowding results in neighbours suffering. Who can help? Do they call Police?; always overstretched. Do they call Council?; daytime staff mostly. Do they call The HLO Holiday Hotline?; regarded locally as a joke and a waste of a call.

Traditional Providers comply with relevant legislation and pay their way through appropriate Rates and contribute to the community.

Online Holiday Letting does none of these BUT does have a significant adverse impact on neighbours, neighbourhoods and the socio-economic makeup of our community.

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

Yes, most people are selfish. “If I don’t look after my own interest then nobody else will”

It is great to have “Choice” whether it’s with accommodation or taxi travel. We now have Uber and AirBnB. These newcomers are described as “disruptive” industries, as if disruptive has acquired some new beneficial definition. In my schooldays disruptive children were sent out of the classroom. They were Baddies!

VOHL does not accept that free markets are the answer to anything. As soon as they run into difficulties they ask for financial support. For example Banks stuff up and Governments spend billions to save them. Self regulation didn’t work so the banks get our money!

With this self-styled “Holiday Let Industry” regulation is urgently required and long overdue. This submission will often include AirBnB when referring to Holiday Letting. AirBnB is difficult to regulate and effectively takes rooms for paying guests away from those people looking for permanent rental lodger accommodation.

In just TWO YEARS the number of holiday lets in Byron Shire has risen from 900 to 1100.

One of our local Real Estates said recently that 25% of all dwellings were holiday lets. He also said that many purchasers were buying in Byron Bay but “would not be moving here for several years”. Our agents can maintain higher prices by telling prospective buyers they can finance their purchases through holiday letting. The agent gets a fee for organising this AND his HIGHER sales Commission. Nice one, T!

The point here is that holiday letting will continue to expand its share of our homes

if “SOMEBODY DOESN’T DO SOMETHING”

I was once told that: “Money talks in Byron Bay”. I foolishly disagreed

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

VOHL asserts that Holiday Letting is NOT the beneficial contributor to either the local or State economy that it is often made out to be. It does hugely reduce the supply of Permanent Rentals and forces up both property prices and Rents, currently averaging \$700.00 per week. Renters are sharing 4 -5 per house. These high rents reduce their disposable income. I was a member of BSC Advisory Committee on Affordable Housing for several years. With escalating land prices we failed to develop any affordable housing.

With the use of Online Booking there are very few human bodies involved. Tradies involved in building maintenance would be needed in similar numbers whether the properties were permanently let or holiday let. A neighbour with 5 holiday lets told me holiday letting was less maintenance than when they permanently let. They stated that permanent rentals caused more damage than holiday lets.

It could be argued that more cleaners are required for holiday lets. Byron Bay is unique in the way it attracts people despite its seedy reputation for low wages. There is a large transient population. People come and they go. Despite all of Byron Bay's attractions it is a very hard place to settle and "make it". In this low wage economy there is no job security.

e) Regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity, and licensing and taxation.

VOHL sees TWO documents with effects on Holiday Letting and lack of effects on Holiday Letting. These are The HRIA Holiday Letting Code of Conduct and The Byron Shire Council Short Term Rental Accommodation Action Plan.

These should be complementing one another.

VOHL sees a lot that is good in The C of C. Owner/Managers could sign up to a Code that meant they were running their properties without problems. Parts of The code have been watered down over its 3 versions.

VOHL sees much merit in BSC's Action Plan. However it's the same here. It has been watered down. BSC has to fit with NSW legislation and can only proceed with more generous resolutions of Councillors.

VOHL has attended workshops with Council and holiday let representatives. From the outset VOHL has been prepared to compromise. We have upset many locals by moving away from the initial aim of STOPPING Holiday Letting in Byron Shire and also conceding that Precincts were unworkable under existing legislation.

From attending workshops VOHL has seen the belligerent, non-compromising attitudes of some holiday let representatives. However there are more moderate voices. We are now seeing a growing number of businesses managing around 100 holiday lets. When talking with these business owners after meetings have ended it is clear they do not permit many of the problems with holiday lets that occur with other properties. One even said: "We don't have problems". It appears they can manage effectively with existing measures.

VOHL would say they are complying with a Code Of Conduct but add some common sense to their methods. Registration through BSC would involve providing details of the property, the owner's name, number of bedrooms maximum number of occupants, undergoing a self check inspection for "Exempt" less than 90 days operation OR a more detailed DA process.

If these managers are conscientious about how they operate they have nothing to fear from Council Regulation. They are already doing it.

If the Code Of Conduct could be stiffened just a little These Managers would have nothing to fear here either.

I understand one of these Managers recently solved problems with a difficult property without the need for Council Compliance legal action AND to the satisfaction of the neighbours.

VOHL believes it should be possible for all parties to work together.

There are, though, properties that are run by “amateurs”, a description that comes from the “industry”.

Therefore regulation is essential. This will lead to better outcomes in the other fields in this section heading.

f) Any other related matters.

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VOHL

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