

**Submission
No 141**

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

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Response to the Adequacy of the regulation of short-term holiday letting in New South Wales
(Inquiry)
submitted by Stayz Pty Ltd

Introduction

Stayz operates across NSW and Australia, as well as internationally through its parent HomeAway Inc. and other related entities within the HomeAway group. Here at Stayz, we are supportive of regulations being made at a State and Federal level, to give clarity and consistency to property owners and domestic and international travellers.

We acknowledge that the growth in popularity of alternative accommodation has given rise to some neighbourhood amenity concerns and believe the Holiday Rental Industry Association (HRIA) is well placed to address those concerns through its Code of Conduct (Code)¹. In our experience, complicated regulations with burden administrative processes have proved ineffective in addressing neighbourhood amenity concerns and are potentially damaging to homeowners, travellers and local economies.

We think this review gives NSW an exciting opportunity to create a clear, State-wide regulatory framework which will serve as a model for other States to follow. We welcome the opportunity to submit our response.

NSW is a key market for our business and effective regulation is important to the thousands of Australian holiday home owners and millions of travellers who use Stayz to list their property and book their trip.

We have over 40,000 holiday home listings on Stayz, of which over 16,000 are in NSW, making it our largest State by listing volume and nights booked. Whilst short term holiday rentals (STHR) make up only a very small portion of the total travel accommodation market², bookings made via Stayz generate over \$100M per year in gross revenue for holiday home owners in NSW. We have over 10 million website visits per year from travellers looking to book a stay in a holiday home in NSW.

In our response, we will reply to each term of reference to explain that:

- The STHR industry is a traditional Australian industry of significant importance to thousands of home owners and millions of travellers in NSW.
- STHR provides great economic benefit to NSW, particularly for home owners and local businesses in country and regional areas.
- The current regulatory landscape and NSW is unclear and inconsistent across the State. This approach does not deal effectively with neighbourhood amenity concerns.
- We have first-hand experience of a number of approaches to regulation and believe that NSW has an opportunity to embrace the Code and create a clear regulatory framework that will benefit home owners and travellers while also addressing neighbourhood amenity concerns.

¹ Copy available here: http://c.ymcdn.com/sites/www.hria.com.au/resource/resmgr/Docs/Holiday_and_Short_Term_Renta.pdf

² For more information see TRA report at http://www.tra.gov.au/documents/Economic-Industry/State_Tourism_Satellite_Accounts_2013_14_FINAL.pdf

We would welcome the opportunity to meet with the committee to discuss some of the issues we raise in more detail, as part of the enquiry process.

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

We think the current regulations for STHR in NSW are unclear when looked at holistically, largely due to the different approaches taken, and regulations implemented, by different local councils.

We are in favour of regulations that are easy to understand and therefore straightforward to comply with. We believe that clear, consistent regulations are good for travellers, property owners and listing sites such as Stayz, and tend to result in high levels of transparency and compliance.

We support the principles behind the regulatory changes we expect will be proposed in response to this enquiry by the HRIA, an organisation Stayz is a founding member of. In particular, we are in favour of:

- the amendment of the NSW Standard Instrument – Principal Local Environment Plan (LEP) to clarify the definitions and provisions relating to short term rental;
- the introduction of regulations providing that most holiday properties are exempt from requiring Development Authority (DA) approval;
- the condition that in order to benefit from the DA exemption, owners must comply with the Code; and
- the promotion of the LEP as a State-wide template document to be used by all local authorities in NSW, to provide a clear and unified approach throughout the State.

We believe that regulations must be straightforward to comply with and have minimal administrative requirements in order to be successful, hence our support for exemptions from the DA process for most STHR properties.

We do not believe prohibiting STHR, registration or licensing systems or mandatory approval processes are desirable; nor will they achieve high levels of compliance. Historically, banning STHR and imposing burdensome administrative requirements have achieved low levels of compliance and effectively driven STHR underground, or driven travellers out of the area.

NSW councils vary in their use of DA processes. Some have tried to use DA processes as a quasi-licensing system by requiring some or all STHR owners to obtain approval. We do not think DA processes are suitable for widespread use. In the experience of our owner customers who have gone through DA processes, they tend to be lengthy, administratively burdensome and seem to place significant stress on the resources of local authorities. A move towards DA processes could see up to 50,000 applications submitted to local authorities around NSW and would require enormous resources to process and manage. Ultimately, we see DA processes as a barrier to entry and not an effective tool to deal with neighbourhood amenity concerns.

Byron Bay provides a good example of a local area which has struggled with how to regulate STHR and deal with neighbourhood amenity issues. The local authorities there came close to effectively prohibiting STHR in 2005/06, but ultimately backtracked amid concerns from local businesses and fears travellers would go elsewhere. They are currently considering regulations that would be

tantamount to prohibiting STHR once again, notwithstanding this enquiry being underway at a State level. On a wider scale, we are concerned that excessive regulations in NSW could have the effect of moving both supply and demand to QLD and VIC, in the process hurting local economies in NSW.

A further example of an attempted regulatory approach we do not think works well can be drawn from the ongoing saga in the Melbourne Docklands in Victoria. This case involves an owners' corporation attempting to ban STHR within its building complex and has gone through several rounds of court cases since 2012. The owners' corporation has recently announced it will again appeal the court's decision that banning STHR is beyond the authority of the corporation³. The years of uncertainty and significant cost incurred on both sides in this case shows why STHR should be regulated for at a State level, not at a more local level. Clear, State-wide regulation in NSW could ensure this type of situation does not arise here.

We think the HRIA and the Code offer an excellent solution to neighbourhood amenity issues. Stayz requires home owners listing properties on its site to comply with the Code and ensure travellers who book with them also comply with the Code.

We were instrumental in developing the Code, which sets out the roles and responsibilities of property owners and travellers and includes a framework for the terms and conditions owners must put in place and ensure travellers comply with. Importantly, because compliance with the Code is a requirement for listing with most major STHR marketplaces (including Stayz), owners who do not comply with the Code, and do not manage any issues caused by travellers, risk having their properties delisted. The Code has proven to be a very effective form of industry regulation and is, in our view, well administered by the HRIA.

The effectiveness of Code is tempered in some areas where local councils have not embraced it. This manifests itself where owners and travellers are bound by the Code, but councils are hesitant to pass complaint data to the HRIA to allow the HRIA to deal with neighbourhood amenity areas effectively. Gold Coast is an example of an area where privacy concerns have prevented the local authorities involving the HRIA. The HRIA can use the Code to ensure its member organisations (such as Stayz) have the information they need to deal with neighbourhood amenity issues by delisting problem properties. Building compliance with the Code in to the DA exemption conditions would create a powerful and effective framework that would support home owners and travellers as well as dealing with neighbourhood amenity issues and problem properties.

As previously noted, the approach to STHR regulation varies by council area in NSW. Whilst we are concerned by the restrictive approach taken by some councils, we are broadly supportive of the approaches taken by councils such as Lake Macquarie, Great Lakes, Kiama and South Coast. These councils are generally in favour of adopting the Code of and making STHR a permitted use that does not require DA approval in most cases. Again, the exact approach varies even between councils taking broadly the same approach, making it more difficult for Australian holiday home owners to find out and understand the detailed requirements in their area than if there was a common State-wide regulation in place.

b) The differences between traditional accommodation providers and online platforms

³ http://www.docklandsnews.com.au/editions/article/oc-to-appeal-short-stay-decision_11324/

We don't differentiate between traditional accommodation providers and online platforms as such, but see online platforms as a tool to enable travellers to find all forms of accommodation.

Our customers who are property owners tend to use their property for personal use for some part of the year and make it available for STHR when not in use. Only 21% of Stayz' owner customers rent out their home as their primary business. The remaining 79% rent their home to cover costs, allow them to maintain their holiday home or to provide a secondary income. STHR is therefore very different to hotel accommodation on the supply side.

STHR is an accommodation option for guests who are typically staying for a longer period of time than in traditional accommodation such as hotels. STHR properties typically cater for larger groups of friends or families than those staying in hotels, are often located in non-metro areas and generally provide a more relaxing holiday experience. STHR is therefore also very different to hotel accommodation on the demand side.

Online platforms, such as Stayz, provide a platform to create a marketplace for STHR across NSW, Australia and globally. STHR have been a popular form of travel accommodation for over one-hundred years; this is a traditional type of accommodation in NSW and across Australia.

Online platforms such as ours provide a resource where travellers around the world can find an appropriate accommodation for their stay, connecting owners with travellers who want to experience a traditional form of accommodation. We make it easier for people to search for and book accommodation, but do not think online platforms have changed the underlying nature of accommodation available.

The methods by which travellers tend to book other types of accommodation (such as hotels), has also changed significantly since the introduction of online platforms such as Booking.com, Expedia and Wotif. We do not consider STHR to directly compete with the hotel sector, but think both have benefited from the digital revolution, which has also created a level playing field, allowing individual homeowners in the STHR sector, and boutique hotels in the hotels sector, to compete with larger operators who have bigger marketing budgets and can advertise more prominently. This improves the diversity of stock and promotes regional tourism in areas of the State that are not well serviced by the major brands.

Online platforms complement STHR very well as both provide an opportunity for small businesses and individuals to reach a wide audience. The combination of online platforms and STHR helps to promote regional tourism in NSW and provides an alternative form of accommodation to major hotel chains, which typically only exist in major metropolitan areas.

The advent and rapid growth of the sharing economy (and in particular Airbnb) has brought house sharing and short term rental into metropolitan areas in Australia in a much bigger way and created a lot of headlines. Stayz' model is quite different to Airbnb in that we do not allow house sharing and have a much greater focus on regional areas. Stayz' owner customers tend to be experienced and in STHR for the long term, often using STHR for part of the year to finance their holiday home or running a smaller STHR business in retirement. Airbnb is a supporter of the HRIA, but is not a full member and does not require its hosts or guests to comply with the Code. We believe our suggested approach to regulatory reform (including the implementation of the Code as a condition of the

exemption from DA approval) could be very effective in solving the neighbourhood amenity issues arising from the growth of the sharing economy.

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

As mentioned above, the sharing economy has attracted a significant amount of publicity in recent years. We believe the STHR market is an already mature market, that is growing, but perhaps not at the rate the publicity surrounding the sharing economy may suggest. As we previously ascertained, the STHR industry is a well-established, traditional sector of the economy in NSW and Australia.

Stayz was born in 2001, in a shed in Dural, NSW. The first property we listed was on the NSW Central Coast, but STHR was happening a long time before we became involved. In recent years, improvements in technology have allowed providers such as Stayz the ability to build platforms that can cater for online booking and payments, live calendars and intuitive searches. This has changed the character of the STHR and hotels markets by making it simpler, easier and safer to book accommodation of all types online.

Ultimately, we believe that the nature of any market is driven by customer demand and the markets for travel accommodation are no different. We think people's lives have got busier and more stressful in recent years and their family time has become more finite and precious. We think this makes STHR more attractive as people look to get away and spend quality time together as a family, which is what STHR are all about.

Families are traveling more often and for longer periods of time. Surveys by HomeAway Inc. (Stayz' parent company) have found that over two-thirds (67%) of HomeAway travellers are travelling with family or a related group. The average HomeAway traveller took: 3.5 domestic holidays and 0.9 international holidays in the past 12 months. The average length of stay is 6.2 days and the average party is made up of 3.7 adults and 1 child. The success of STHR is apparent when these groups respond that 84% of travellers intend to rent a holiday home on their next trip.

In 2012 a NSW Visitor Economy Taskforce report highlighted the need for more holiday accommodation supply in NSW⁴. We think STHR has a huge part to play in increasing the volume, quality and diversity of holiday accommodation supply in NSW. Travellers increasingly want to go to more interesting locations and stay in more interesting accommodation. We think that demand provides an enormous opportunity for NSW (particularly regional NSW) and everyone involved in STHR.

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

STHR has an enormous beneficial impact on both local and State economies. A recent BIS Shrapnel report commissioned by the HRIA estimated that STHR contributes \$31 billion to national economic growth and support 238,000 jobs in Australia⁵, around one third of which we think can be attributed to NSW.

⁴ <http://www.destinationnsw.com.au/news-and-media/media-releases/nsw-visitor-economy-taskforce-report>

⁵ [http://c.ymcdn.com/sites/www.hria.com.au/resource/resmgr/Media/Holiday_homes_contribute_\\$31.pdf](http://c.ymcdn.com/sites/www.hria.com.au/resource/resmgr/Media/Holiday_homes_contribute_$31.pdf)

Economic study data from around the world shows that STHR has a positive economic impact and supports local jobs globally. For example:

- The United States Conference of Mayors referenced the economic impact of STHR in their policy statement on short term rentals when they said, 'economic impact studies conducted in 2014 show and overall economic impact by the traditional short-term rental activity in Myrtle Beach, SC at \$200.7 million and 2,587 jobs, and overall economic impact to St. Joseph, Michigan of \$24 million and 300 jobs, and the Coachella Valley, California communities of \$272 million and 2,539 jobs'.
- Other economic impact studies in the USA include:
 - Los Angeles economic impact: US\$1.4 billion, 12,300 Jobs.
 - New Orleans economic impact: US\$174.8 million, US\$10.8 million in tax revenue, 2,200 jobs (generating US\$56.1 million in additional earnings).
 - Florida: economic impact: US\$31.1 billion, 322,032 jobs annually (directly and indirectly supported by STHR industry) generating US\$12.6 billion of annual labour income.
- A 2014 study by the London School of Economics found that in the UK:
 - The gross economic impact of STHR is over £4.5 billion in total expenditure (including £450 million spent by holiday rental property owners, as well as the expenditure of holiday rental clients).
 - Around 100,000 FTE jobs are supported by the industry.
 - STHR produces £100 million in tax revenue.

As demonstrated above, studies in Australia and around the world continually show that STHR is good for home owners, holiday makers, local businesses and economies and creates taxation revenue for governments.

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

We understand questions have arisen in respect of these issues, particularly as the sharing economy has grown. We believe neighbourhood amenity to be the key issue that the STHR industry and any regulations must address. Concerns over customer safety, land use planning and licensing and taxation are often used as arguments to support neighbourhood amenity issues, but ultimately addressing neighbourhood amenity significantly diminishes those other concerns.

Whilst neighbourhood amenity is undeniably the crucial issue for our industry, we think it is important that the issue is not overstated. The vast majority of STHR activities take place with no neighbourhood amenity issues at all. The recent independent panel report examining STHR in the Melbourne CBD found that complaints arise in around 1 in every 1000 rentals⁶. The study only looked at CBD apartment blocks, which are the type of property most associated with neighbourhood amenity issues. We expect the overall complaint rate is significantly lower than 1 in every 1000 rentals.

As we have already said, the Code offers an effective solution to neighbourhood amenity issues and we recommend compliance with the Code is built into a State-wide DA exemption for the vast

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[file:///C:/Users/bwray/Downloads/Renting%20report%20on%20short%20stay%20accommodation%20in%20CBD%20apartment%20buildings%20\(2\).PDF](file:///C:/Users/bwray/Downloads/Renting%20report%20on%20short%20stay%20accommodation%20in%20CBD%20apartment%20buildings%20(2).PDF)

majority of STHR properties. Our average owner rents out their holiday home for 60 nights per year, although many rent out for shorter or longer total periods. Treating owners like hoteliers would make it very difficult for most to use their properties for STHR in practice.

STHR has much more in common with long term home rental than with hotel accommodation. We don't think it is helpful to differentiate by length of stay, but by the character of the accommodation and how it is used, which is broadly the same for STHR as for long term home rental.

Addressing the examples provided in the terms of reference:

- Customer safety - There are no traveller safety issues for STHR that do not exist for long term rentals. Regulations for issues such as fire safety are already in place and there is no need for additional regulations.
- Land use planning – From a DA perspective, we believe the model proposed in our response will be an effective land use planning solution. At a holistic level, we don't believe STHR is a different type of use to longer term rental and additional planning regulations would be unsuitable for both.
- Neighbourhood amenity – As discussed previously, we think Code can be very effective in dealing with any neighbourhood amenity issues.
- Licencing and taxation – We don't think any action is required on this issue. Holiday home owners pay all the same taxes as any other property owner (rates, stamp duty, etc), plus income tax on booking profits. Licensing is unnecessary as STHR is no different to long term rental in that sense. Any move to commercial rates for STHR owners would be unsuitable (bearing in mind owners themselves are often the main users and only rent properties for 60 nights per year on average).

f) Any other related matters.

We have seen a number of approaches to regulation both in Australia and internationally, including differentiating between primary and secondary homes and allowing STHR for only up to a certain number of nights each year. We think this type of approach is tantamount to a regulator 'picking winners' and do not support it. In any event such regulations are almost impossible to police in practice.

Our customers (both owners and travellers) are all different and have a broad range of reasons for listing their properties and travelling. We don't believe regulations should deem that a home owner has more rights in respect of a primary than secondary home, or that someone can rent out their holiday property for a certain number of days per year, but no more. Those types of regulations inevitably favour a certain demographic and prevent STHR being a level playing field that has something for everyone, which is exactly what the industry can offer.

Submitted on 06/11/15 by:

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For and on behalf of Stayz Pty Ltd