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**BACKPACKER OPERATORS
ASSOCIATION NSW INC**

ABN 71 368 347 179

20th September 2013

Natasha McLaren-Jones MLC
Committee Chair enquiring to Tourism in Local Communities
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Natasha,

Thank you for the opportunity to participate in the General Purpose Standing Committee No. 3 in relation to its Inquiry into tourism in local communities.

Outlined in this letter are responses on behalf of the Backpacker Operators Association NSW to the supplementary questions from members.

1. Can you explain the 'unfair competition' issue to the Committee? What sorts of costs are involved in an approved business compared to the unregulated business?

The basic premise for 'unfair competition' is there are unequal terms for suppliers to adhere to when conducting business. In terms of unfair competition amongst accommodation providers this generally encompasses the idea that there are some operators that conduct business outside of the law. There are very explicit regulations operators must adhere to which attract various costs to the business. Some examples of these costs are:

- DA application and compliance costs
- Full building and public liability insurance
- Fire safety installation, maintenance and monitoring
- Pest control
- Tax compliance
- Building regulations including space and facilities requirements
- Industrial relations for hiring and maintaining staff

2. Can you provide information regarding where illegal / unregulated tourism activities are taking place?

BOA NSW currently has an online process where legal operators can nominate a property that is acting illegally to be inspected. This service has identified that illegal/unregulated tourism activities can occur in both urban (Sydney, Bondi, Manly) and popular coastal locations (Byron Bay, Central Coast, Newcastle).

It is believed however, that the majority of illegal accommodation is primarily unregistered boarding houses. The main concentration of this type of accommodation, which can either be houses or apartments, tends to be prevalent in high density CBD areas for example Haymarket/George Street in many of the high rise apartment blocks. It is difficult to establish precise locales as the majority of operators rarely list an address and advertisements appear on a lamp-post or online if indeed they are offering accommodation to backpackers as a boarding house. This type of advertising, for example, usually indicates they have not registered the property and are operating in an illegal manner. In order to pinpoint illegal activities, one would have to establish a way of locating a fixed address from a vague advertisement.

A more recent example of a property in Byron Bay where an illegal hostel was raided, found the operator guilty on the following charges:

- Planning law breaches – no consent and no zoning
- Safety – exits locked from either side, no smoke alarms, illegal construction
- Resident issues – council wants properly regulated tourism to ensure sufficient amenities are provided like roads etc

ABC North Coast NSW

<http://www.abc.net.au/local/stories/2012/07/23/3551137.htm>

Byron Shire Council

<http://www.byron.nsw.gov.au/media-releases/2012/05/01/council-acts-against-alleged-illegal-hostel>

- 3. You are requesting for LEPs to disallow the use of residential buildings as backpacker accommodation, please explain? Do you regard holiday letting as a form of backpacker accommodation?**

Sydney City Council's Visitor and Tourism Accommodation and Development Control Plan states that premises approved for residential development (such as serviced apartments and /or residential units and the like) are not to be used for backpacker accommodation, or for any other use without development consent. Furthermore, the City's Local Environment Plan does not permit mixing permanent residential use with tourist and visitor accommodation models in the same building. All backpacker accommodation should comply with all DA regulations, applicable legislation and operate to positively impact the greater community. In regard to residential buildings without consent being utilised as backpacker accommodation, there is an increased opportunity for the following:

- Building is not subject to local planning regulations
- Total black market commercial activities (e.g. no tax paid on income)
- No safety checks
- Residential impact
- Unfair competition to legitimate hostels who have to abide by regulations

In recent years there has been a steady growth of private holiday letting with website such as Air BnB leading this change. These sites are a major threat to not just hostels but all forms of legally regulated accommodation. Current newspaper articles have reinforced this growth and concern by outlining issues that have arisen for individuals listing properties on these sites.

Sydney Morning Herald

<http://www.smh.com.au/nsw/hosts-may-lose-most-by-opening-homes-to-holidaymakers-20130913-2tqb9.html>

4. You mention the lack of a uniform approach to licensing and tendering for use of council managed land, please explain how you think they could be improved?

Currently, activities occurring on council managed land are subject to short term license agreements which inherently impede the development of sectors such as youth tourism in regional areas. In the context of management plans, license conditions and monitoring there is belief that longer agreements will be beneficial to all with agreements being subject to conditions and met on an ongoing basis.

The following core recommendations for improvement are suggested for the benefit, support and development of the industry:

- Standard 10 year licence agreements with operational review periods (longer term promotes planning, investment and staff development).
- Licence agreements that are renewable subject to review and to operators meeting all their responsibilities.
- Licence and goodwill transfer ability to approved operators (this values investment into the industry).
- Not using a tender process primarily based on pricing to determine which operators win or lose a licence.

5. How many backpacker operations in NSW?

From July 2010, the Australian Bureau of Statistics ceased the distribution of the Accommodation Survey which provided specific information relating to backpacker operations; as a result no definitive current data is available. However, the final ABS March Quarter 2010 publication is generally accepted as a reliable source of benchmarking which records 94 respondents in NSW identifying themselves as a 'backpacker operator'. Assuming a 70% response rate to this data, it can be ascertained there were in fact approximately 134 operators during the last calculation.

6. What are the number of beds or numbers of occupants?

Utilising the same data provided by the ABS Accommodation Survey March Quarter 2010 publication, with the assumption of a 70% response rate, it can be concluded that there are approximately 17,546 beds available in backpacker operations in NSW.

Kind Regards,

Robert Henke
Honorary Secretary
BOA NSW Inc.