



**Submission to the Legislative
Council Select Committee on
Short Stay Accommodation in
Tasmania**

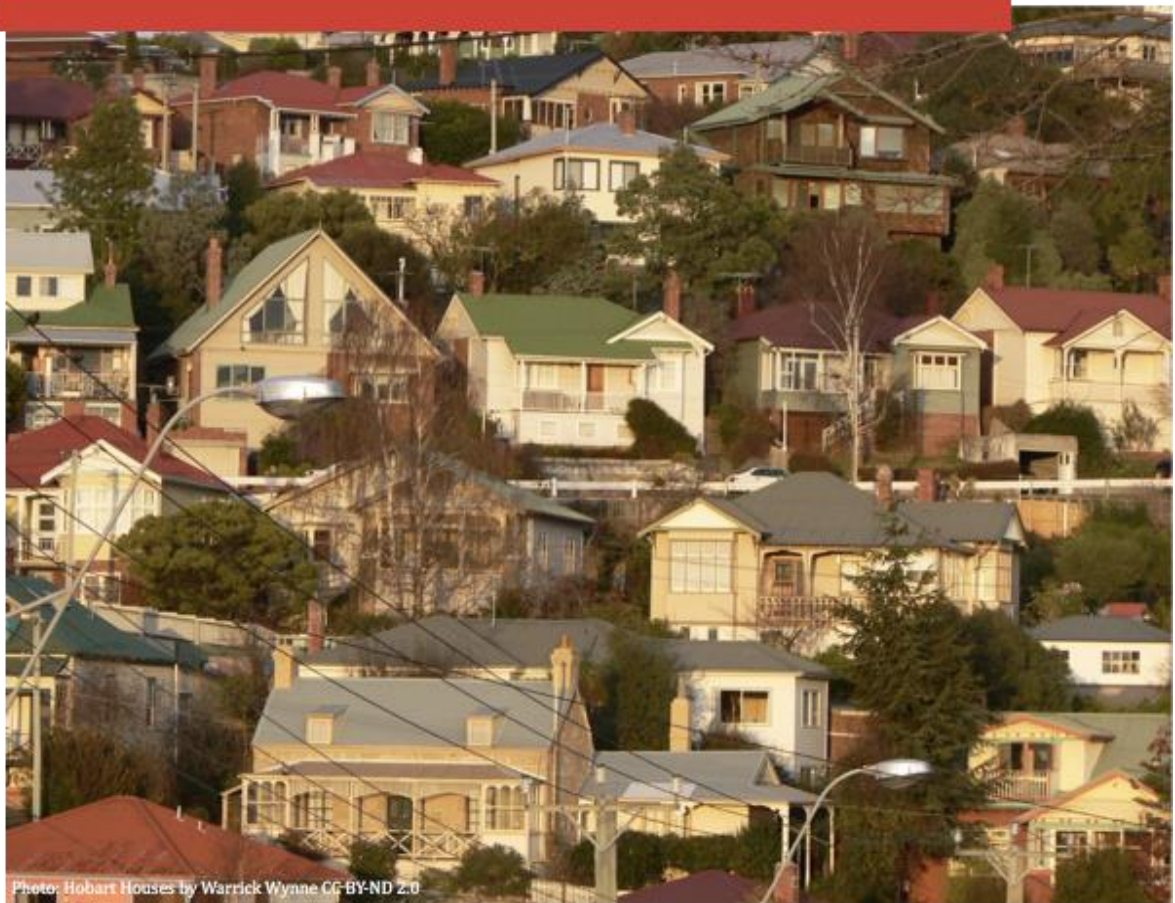


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Tenants' Union of Tasmania: Submissions to the Legislative Council Select Committee on Short Stay Accommodation in Tasmania

About the Tenants' Union of Tasmania

The Tenants' Union of Tasmania Inc. is a not for profit community organisation offering free services including tenancy advice and support. We also offer free community legal education and training in issues relating to tenancy, and advocate for the improvement of tenants' rights. We are an incorporated body run by members through an elected Management Committee, and staffed by employees and volunteers.

The Tenants' Union is a member of the National Association of Tenant Organisations (NATO), National Association of Community Legal Centres (NACLC), International Union of Tenants (IUT), Community Legal Centres Tasmania (CLCTas), Shelter Tasmania and TasCOSS. For further information please contact Meredith Barton, Principal Solicitor on 6223 2591 or meredith_barton@clc.net.au

Introduction

The Tenants' Union of Tasmania welcomes the opportunity to provide a submission to the Select Committee Inquiry into Short Stay Accommodation in Tasmania.

Since 2016 there has been an acute housing crisis in the greater Hobart area. According to the Australian Bureau of Statistics rents in Hobart have increased by 8.4 points between June 2016 and June 2018 – more than the previous five years.¹ The most recent data demonstrates that Hobart has a vacancy rate of 0.7 per cent,² and rents increased by 5.4 per cent across Tasmania, and 8.7 per cent in the south of the state, in the year ending March 2018.³ As well, Hobart has recently been declared the most unaffordable city to rent in Australia relative to average income, displacing Sydney.⁴ Supply of rental properties in southern Tasmania decreased by 61% in the four years to 2017.⁵ Homelessness has increased from 1,264 persons in 2001 to 1,623 persons in 2016,⁶ and, anecdotally, has only increased since, with people being forced to live in tents at the Hobart Show Grounds in Glenorchy.

In July 2017 the State Government introduced a state-wide policy to deregulate the short stay accommodation market.⁷ Generally, use of a permanent residence for short stay accommodation no longer requires local council approval. Placing an investment property or shack on a short stay accommodation provider requires prior council approval, but the requirements are not onerous.

While there are no doubt many factors that have contributed towards the current rental crisis, including a growing economy, rising house prices, positive net migration, onerous restrictions on medium/high density development, the shift towards smaller household sizes, and

¹ Australian Bureau of Statistics, 'Consumer Price Index, Australia, June 2018' (6401.0, Australian Bureau of Statistics, 25 July 2018) Table 9, index A2326416W.

² SQM Research, *Residential Vacancy Rates: City: Hobart* (2018) SQM Research <http://sqmresearch.com.au/graph_vacancy.php?region=tas-Hobart&type=c&t=1>

³ "Tasmanian Rents: March Quarter 2018" Tenants' Union of Tasmania (2018)

⁴ Felicity Ogilvie, *Hobart now Australia's most unaffordable city for tenants, new report finds* (23 May 2018) ABC News < <http://www.abc.net.au/news/2018-05-23/hobart-beats-sydney-most-unaffordable-for-renters/9788300>>

⁵ Social Action and Research Centre (2017) Rental Affordability Snapshot 2017, <<http://www.socialactionresearchcentre.org.au/wp-content/uploads/2017/05/RAS-Report-2017.pdf>>

⁶ Australian Bureau of Statistics, '2016 Census of Population and Housing: Estimating homelessness, 2016' (Data cube no 2049.0, Australian Bureau of Statistics, 17 April 2018) Table 1.3.

⁷ Tasmanian Government, *Visitor accommodation just got easier*, Tasmanian Government

<https://www.planningreform.tas.gov.au/updates/visitor_accommodation_just_got_easier>

lack of investment in public housing, we strongly believe that, by allowing owners of investment properties to use those properties for short stay rental accommodation, homes that would otherwise be used as long-term rentals have been and will continue to be removed from the market. This has made it harder for Tasmanian tenants to secure affordable long-term housing.

Executive Summary

The Tenants' Union of Tasmania supports the sustainable growth of tourism across Tasmania. However, long-term, affordable accommodation for Tasmanian residents must be prioritised ahead of temporary visitors. It has been shown that, left unregulated, the short stay accommodation market increases rents and lowers rental supply.⁸ As such, we recommend fair and reasonable regulations of the short stay accommodation market – similar to those that have been adopted by some of the world's great cities – be introduced so as to better protect the rights of ordinary Tasmanians:

- Use of investment properties for short stay accommodation to be prohibited within greater Hobart;
- Outside greater Hobart, use of investment properties for short stay accommodation to be restricted to 60 days per annum;
- Hosts be required to register their listing with the Government, and be permitted only one listing at any one time;
- CBOS be given the power to penalise providers, hosts or guests that do not comply with regulations, and/or cause a nuisance to neighbours.

Investors should be strongly incentivised to use their properties for long-term rental, or to sell them to people that intend to reside in them. Currently, there is a strong incentive for investors to convert premises to short stay accommodation rather than keep them on, or return them to, the long-term accommodation market.⁹ It is unacceptable that family homes and apartments can be turned into *de facto* hotels in Hobart, a city that is undergoing an acute rental supply crisis. As such, we strongly suggest that similar measures to those taken by New York and San Francisco that prevent investors using properties for short stay accommodation be adopted.

We are cognisant that there are towns across Tasmania that have been economically stimulated by the uptake of short stay accommodation, which fills shacks that are otherwise empty for most of the year. As such,

⁸ See response to question 2 of terms of reference.

⁹ In Los Angeles, an investor can make more, on average, after 83 nights on Airbnb than after a full year of renting on the long term market: Ron Samaan, *Airbnb, rising rent, and the housing crisis in Los Angeles* (report, LAANE, 2015).

we do not consider it appropriate to impose a blanket ban on the use of non-principal places of residence for short stay accommodation. However, nor should there be a strong incentive to use investment properties for short stay accommodation rather than long-term rental. We view a 60-day listing limit per year as an appropriate compromise that balances the interests of the tourism sector and local residents. The situation must be closely monitored, however, especially in major centres, and if it becomes apparent that the short stay accommodation market is negatively affecting long-term tenants, as it currently is in Hobart, stronger measures must be adopted.

We acknowledge that regulation of short stay accommodation can be difficult to enforce. As a result, we strongly recommend that measures such as those found in San Francisco, London, Barcelona and Japan be adopted, where a registry of licenced hosts must be cross-referenced by providers such as Airbnb before properties can be listed. Regulations must be backed up by serious consequences if they are violated. A breach of the law must not be viewed merely as a cost of doing business by wealthy investors. Penalties must be large, such as those in Berlin; CBOS must be well funded to investigate and litigate where appropriate; and Airbnb and other short stay accommodation providers must be forced to provide comprehensive data to the government to assist with enforcement, as is the case in Barcelona.

Reponses to the Terms of Reference

(1) The growth of short stay accommodation in Tasmania and the changing character of the market including recent trends in online letting of short stay accommodation.

For the purposes of these submissions we will focus on Airbnb, as the market leader in the short stay accommodation market. Airbnb does not provide comprehensive statistics as to how many properties are listed in Tasmania, whether those properties are private rooms or entire homes/apartments, how many hosts are advertising multiple properties, etc. As such, we rely largely on a number of third-party sources, including Inside Airbnb and AirDNA, who ‘scrape’ data from the Airbnb website, as well as the Hobart City Council, who tracks applications and approvals of short stay rental accommodation.

Source	Total premises	Entire premises	High availability premises	Multi-premises hosts	Growth YOY
Airbnb ¹⁰				20% ¹¹	

¹⁰ “Economic effects of Airbnb in Australia: Tasmania” Deloitte Access Economics (2017)

¹¹ Australia wide figure

Inside Airbnb: Tas	4,459	3,400	2,923 ^{12 13}	1,313 ¹⁴	
Inside Airbnb: Hobart ¹⁵	1,114	859	656 ^{16 17}	366 ¹⁸	
Hobart City Council ¹⁹		209 (61 ²⁰)			
AirDNA ²¹	155	125	106 ²²	81	48%
University of Tasmania ²³					127.6% ²⁴

While the use of a primary residence for short stay accommodation is generally not subject to council approval, of the 68 applications made to the Hobart City Council to change the use of investment properties to visitor accommodation between July 2017 and February 2018, zero were rejected. 61 were approved, four did not require planning approval, and three were withdrawn by the applicants before assessment.²⁵ As such, the application appears to be a *fait accompli*.

(2) The impact of short stay rental accommodation on the residential housing sector.

The evidence from Australia and across the world shows that short stay accommodation has a negative impact on local long-term tenants and prospective owner-occupiers by way of higher prices and lower supply.

- According to data provided by the Hobart City Council, 209 investment properties are being used exclusively for Airbnb within

¹² More than 60 days per annum

¹³ Of entire premises listings

¹⁴ Ibid

¹⁵ Hobart City Council jurisdiction

¹⁶ More than 60 days per annum

¹⁷ Of entire premises listings

¹⁸ Ibid

¹⁹ Hobart City Jurisdiction – applications for investment premises or shacks

²⁰ Applications granted by council July 2017 – February 2018

²¹ Hobart postcode area only

²² More than four months per year

²³ Eccleston, R., Warren, N., Verdouw, J., Flanagan, K. and Eslake, S., (2018) A Blueprint for improving housing outcomes in Tasmania, Institute Insights, Insight Three, Institute for the Study of Social Change, University of Tasmania, Hobart

²⁴ From July 2016-January 2018, data taken from Inside Airbnb.

²⁵ Information provided by the Hobart City Council.

Hobart.²⁶ The Australian Bureau of Statistics states that at least 6,976 properties in Hobart are rented – 35.1 per cent of total dwellings. Those 209 properties potentially represent 3 per cent of the total rental supply.

- The Tasmanian Planning Commission has accepted that “the conversion of housing stock to short term visitor accommodation is impacting the availability and affordability” of long-term rentals.²⁷
- A study of Sydney showed that short stay accommodation may have reduced permanent housing stock by up to 7 per cent in one municipality.²⁸
- The CEO of rent.com.au, Greg Bader, is quoted by the Australian Financial Review as saying that it is only logical that the withdrawal of a few hundred properties from the rental market would cause rents to rise in a small market such as Hobart.²⁹
- Melos Sulicich, the CEO of MyState, Tasmania’s second largest lender, told the same newspaper that the short stay accommodation market was causing a shortage of long-term accommodation.³⁰

A report by the Auckland Council summarised findings from international jurisdictions:³¹

- Across the USA, a 10 per cent increase in Airbnb listings lead to a 0.42 per cent increase in rents and a 0.76 per cent increase in house prices.³² Adopting the same formula for Tasmania, if Airbnb listings have grown by 127.6 per cent in Tasmania, as per Eccleston et al., that corresponds to a rent increase of 5.36 per cent (\$780.42 per annum),³³ and an increase in house prices of 9.70 per cent.

²⁶ They may also be shacks, but the amount of shacks within the Hobart City Council’s jurisdiction is likely to be negligible

²⁷ Tasmanian Planning Commission, *Exemptions and Standards for Visitor*

Accommodation in Planning Schemes, Draft Planning Directive No 6 (2018) 18.

²⁸ Nicole Gurran and Peter Phibbs, ‘When Tourists Move In: How Should Urban Planners Respond to Airbnb?’ (2017) 83(1), *Journal of the American Planning Association* 80, 81.

²⁹ Larry Schlesinger, ‘Airbnb driving up Hobart rents, but don’t regulate: rent.com.au CEO’, *Australian Financial Review* (online), 13 June 2018 <<https://www.afr.com/real-estate/residential/tasmania/airbnb-driving-up-hobart-rents-but-dont-regulate-rentcomau-ceo-20180613-h11be6>>

³⁰ Larry Schlesinger, ‘Airbnb keeping Hobart housing market ‘robust’: MyState CEO’, *Australian Financial Review* (online), 14 June 2017 <<https://www.afr.com/real-estate/commercial/hotels-and-leisure/airbnb-keeping-hobart-housing-market-robust-mystate-ceo-20170608-gwn25f>>

³¹ Penelope Tuatagaloa and Brian Osborne, *Airbnb and Housing in Auckland*, Auckland Council Technical Report 2018/001 (2018) 9-11

³² Kyle Barron, Edward Kung, and David Proserpio, *The sharing economy and housing affordability: Evidence from Airbnb* (2017).

³³ “Tasmanian Rents: March Quarter 2018” Tenants’ Union of Tasmania (2018)

- Merante and Horn found that Airbnb caused the supply of long-term rentals in Boston to drop by 5.9 per cent, in turn resulting in rents rising by up to 3.1 per cent.³⁴ If a similar increase has occurred in Hobart, Airbnb has caused the median rent to rise by \$583.54 a year.³⁵ In Boston, 18 per cent of hosts had multiple listings at the time of the study, which made up 46 per cent of all listings.³⁶ This can be compared to Tasmania where, according to Airbnb, 20 per cent of hosts have multiple listings, which make up, according to Inside Airbnb, 42.9 per cent of all listings.
- Rapid adoption of short stay accommodation has led to an increase in rents, and a decrease of affordable housing, across Los Angeles.³⁷ As of 2015, 7000 properties had been converted from long-term rentals to short stay accommodation.³⁸
- According to ING bank, house prices in Amsterdam increased by between 2-4 per cent, and mortgages by €10,000, as a result of short stay accommodation.³⁹
- Stulberg found that if all short stay accommodation listings in Williamsburg and Greenpoint, New York City were added to the long-term rental market the median rent would drop by US\$37 to US\$69 per month (AUD\$50 - \$93).⁴⁰ Another study of New York City found that the supply of long term rental accommodation would increase by 10 per cent if high availability short stay accommodation listings were added to the market.⁴¹
- A Canadian study found that Airbnb has reduced the supply of long-term rentals by up to 13,700 in Montreal, Toronto and

³⁴ Mark Merante and Keren Mertens Horn, 'Is Home Sharing Driving up Rents? Evidence from Airbnb in Boston' (Working Paper No 3, Department of Economics University of Massachusetts Boston, 2016)

³⁵ "Tasmanian Rents: March Quarter 2018" Tenants' Union of Tasmania (2018)

³⁶ Ibid

³⁷ Dayne Lee, 'How Airbnb short-term rentals exacerbate Los Angeles's affordable housing crisis: analysis and policy recommendations', (2016) 10 *Harvard Law & Policy Review*.

³⁸ Roy Samaan, *Airbnb, rising rent, and the housing crisis in Los Angeles*, (report, LAANE, 2015)

³⁹ Jim Edwards, 'Airbnb likely does keep rents and property prices high in super-hot cities, statistics show', *Business Insider*, 20 October 2016 <<https://www.businessinsider.com.au/statistics-data-airbnb-rent-prices-2016-10?r=UK&IR=T>>

⁴⁰ Ariel Stulberg, 'How much does Airbnb impact rents in NYC?', *The Real Deal*, 14 October 2015 <<https://therealdeal.com/2015/10/14/how-much-does-airbnb-impact-nyc-rents/>>

⁴¹ BJH Advisors LLC, *Short changing New York City. The impact of Airbnb on New York City's housing market* (Report, prepared for Housing Conservation Coordinators Inc. and MFY Legal Services Inc., 2016).

Vancouver.⁴² Another posited that, if every high availability listing was returned to the long term market, Vancouver's vacancy rate would increase by 0.85 per cent.⁴³

- According to the local government of San Francisco, before new regulations took effect, use of short stay accommodation removed up to a third of vacant rental premises from the long-term market.⁴⁴
- Between February and June 2016 up to 13,320 homes were removed from the long-term market in London to be converted to short stay accommodation.⁴⁵

(4) Regulatory issues including customer safety, land use planning, neighbourhood amenity and licencing conditions compared to other jurisdictions in Australia and worldwide.

From a global perspective it is increasingly common for short stay accommodation to be subject to strict regulations, whether at a local, state or federal level. Australian jurisdictions have thus far lagged behind the world's great cities, but we submit that, as a whole, global opinion is trending towards sensible regulation of the short stay accommodation market.

New South Wales: On 5 June 2018, the NSW State Government announced new state-wide regulations of short stay accommodation, including:

- Strata corporations may introduce by-laws that prevents owners from listing short stay accommodation if they do not otherwise permanently reside at the properties;
- Placing a 180 day-per-year limit on short stay accommodation within the greater Sydney area;
- Allowing councils outside Sydney to set their own yearly limits, if any;
- A mandatory code of conduct, whereby guests or hosts who commit two serious breaches within a two-year period may be banned from using short stay accommodation for five years.

⁴² David Wachsmuth, Danielle Kerrigan, David Chaney, and Andrea Shillolo, *Short-term cities Airbnb's impact on Canadian housing markets* (report, School of Urban Planning McGill University, 2017).

⁴³ Karen Sawatzky, *Short-term consequences: Investigating the nature, extent and rental housing implications of Airbnb listings in Vancouver* (Master's thesis, Simon Fraser University, 2016).

⁴⁴ City and County of San Francisco, *Analysis of the impact of short-term rentals on housing* (report, 2015).

⁴⁵ Tom Simcock, and David Smith, *The bedroom boom: Airbnb and London* (report, Residential Landlords Association, 2016).

Queensland: No state-wide restrictions on short stay accommodation. The primary concern in Queensland appears to be ‘party houses’ and noise in strata properties, which have been restricted by the Gold Coast Council, although strata corporations are unable to prevent properties being used as short stay accommodation through by-laws.

Victoria: The Victorian Civil and Administrative Tribunal is able to fine both hosts and guests for unruly and disruptive behaviour, or for damaging common property. Short stay accommodation is otherwise regulated at a local level. Like in Queensland, strata corps are unable to prevent properties being used for short stay accommodation.

South Australia: The South Australian Government has clarified that short stay accommodation does not constitute a change of use and does not require development approval.

Western Australia: The *Planning and Development (Local Planning Schemes) Regulations 2015* allows local governments to set their own rules vis a vis short stay accommodation. Perth requires hosts to seek planning approval, while Fremantle has a registry that hosts must sign up to.

New York: Owners and tenants are not permitted to list unoccupied properties (including if the owner or tenant has only temporarily vacated) for rental accommodation for less than 30 days at any one time.

Berlin: Owners can apply to the city to list their permanent place of residence for short stay accommodation on an unlimited basis, while, with approval, investment properties may be listed for up to 90 days per year. Owners that do not comply risk fines of up to \$830,000.

San Francisco: Short stay accommodation includes all leases that are for less than 30 days. All hosts must register with the city (which can be done through platforms such as Airbnb). Each host is permitted to have one listing at a time.

Only permanent places of residence (lived in by the resident for at least 275 days per year) may be listed. The properties may be listed for an unlimited period while the resident is present, and can be listed for a maximum of 90 days per year while the resident is not residing at the property.

The host must include their registration number with their listing, and must submit quarterly reports to the city of all stays in that period.

Japan: Prior to 15 June 2018 hosts were required to apply for a permit under hotel law, or operate in a special economic zone, to list premises for short stay accommodation - however many flouted these rules. As of 15 June 2018 hosts must apply for a licence – which allows 180 days of listing

per property per annum – through their local government (which may impose additional requirements) before listing premises. Evidence suggests that the licencing process has been difficult; as of 4 June 2018 around 80% of listings had been purged from Airbnb.⁴⁶

Barcelona: Hosts must receive a licence from the city government before they can list premises. The city government may reject an application on the basis that the area where the premises is located is already saturated with tourists and tourist accommodation, and hosts must pay the highest level of property tax if they choose to convert premises to visitor accommodation. Airbnb has been fined €600,000.00 for failing to purge unlicensed listings, and now provides all data (including exact addresses of listings) to the city government to assist with enforcement.

Paris: All hosts must be registered with the city, and may only list their permanent place of residence for a maximum of 120 days per year. Leases for investment properties must be at least 12 months long unless the owner receives a commercial licence. Tenants looking to list their permanent place of residence for short stay accommodation must first receive permission from their landlord.

London: Hosts are permitted to list properties for short stay accommodation for 90 days per year. If they wish to go beyond that they must apply to change the use of their properties. After admitting that many of their listings weren't compliant, Airbnb now automatically prevents any properties from being listed for more than 90 days per year.

Conclusion

There is clear evidence that short stay accommodation has a negative impact on Tasmanian tenants, particularly in Hobart. Short stay accommodation has likely caused the median rent in Tasmania to increase by hundreds of dollars per year, and reduced supply by hundreds of homes. The benefits of unregulated short stay accommodation do not offset the costs. As such, we support sensible regulations that have been adopted by some of the most visited jurisdictions in the world, including New York, San Francisco and Barcelona. These changes, which:

- restrict the use of investment properties for short stay accommodation;
- require hosts to register premises, and short stay accommodation providers to monitor listings to ensure that they are compliant;

⁴⁶ Nikkei staff writers, 'Airbnb remove 80% of Japan home-share listings', *Nikkei Asian Review* (online), 4 June 2018 <<https://asia.nikkei.com/Spotlight/Sharing-Economy/Airbnb-removes-80-of-Japan-home-share-listings>>

- allow the government to sanction hosts, guests and providers that do not comply
- do not place undue burden on the tourism sector, but prioritise long-term, affordable housing for ordinary Tasmanian residents above the interests of wealthy private investors.