



City of **HOBART**

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Our Ref: S32-013-07

7 August 2018

The Secretary
Legislative Council Select Committee
Short Stay Accommodation
Parliament House
Hobart Tas 7000
Via Email: ssa@parliament.tas.gov.au

Dear Ms Mannering

SELECT COMMITTEE - SHORT STAY ACCOMMODATION IN TASMANIA

Attached is a submission on behalf of the City of Hobart for consideration by the Select Committee – Short Stay Accommodation in Tasmania.

The submission addresses the following terms of reference:

- (2) The impact of short stay accommodation on the residential housing sector;
and*
- (4) Regulatory issues including customer safety, land use planning,
neighbourhood amenity and licencing conditions compared to other
jurisdictions in Australia and worldwide.*

The key points made in the submission are:

- The impact of short stay accommodation on the private rental housing market and house prices generally should be monitored on an ongoing basis in relation the supply and cost of housing for permanent residents.
- It is appropriate for planning controls to regulate residential amenity impacts particularly in apartment complexes.
- It is important that any planning regulations be sufficiently flexible to take account of local circumstances and the character of particular localities with Battery Point being a case in point.

Please note this is an officer level submission and has not been endorsed by Council. Please contact Council's Manager Planning Policy and Heritage, James McIlhenny should you require any further information.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Neil Noye". The signature is fluid and stylized, with the first name "Neil" and the last name "Noye" clearly distinguishable.

(Neil Noye)
DIRECTOR CITY PLANNING

City of Hobart Submission
Legislative Council Select Committee
Short Stay Accommodation in Tasmania

TOR - The impact of short stay accommodation on the residential housing sector:

There is a growing body of evidence from a number of cities that the supply of self-contained visitor accommodation, available through online booking platforms such as Airbnb, Stayz or Gumtree, also referred to as peer-to-peer accommodation, has seen the extensive conversion of properties from long term rental to visitor accommodation properties which has had implications for the supply and cost of housing for permanent residents.

There are anecdotal links between cause and effect i.e peer-to-peer accommodation and the issues in the Hobart rental market but it is apparent that more data is needed to fully understand the issues. The Airbnb website itself is designed in such a way that accessing current and regional specific data on property styles, locations, prices points, is extremely difficult to access and therefore hard to link in any robust way directly to the issues in the housing market (ownership or rental).

The publicly available data on the supply and cost of housing in Hobart and rental vacancy rates, does indicate affordable housing is becoming increasingly difficult to find.

The most recent Anglicare Tasmania's Social Action and Research Centre Rental Affordability Snapshot 2018 states:

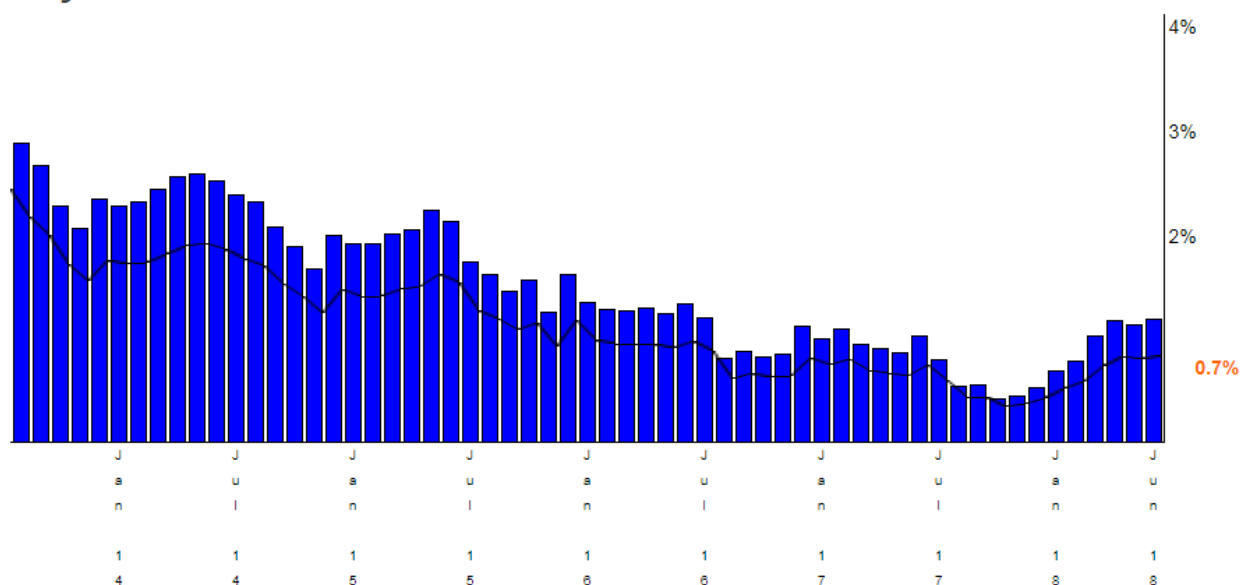
South - Low-income families and individuals have been increasingly locked out of Tasmania's southern rental market, with the region entirely unaffordable for eight of the 14 low-income household types examined in the Snapshot.

In total, there were 562 properties advertised to rent in the South on the 2018 Snapshot weekend, a 40% drop since 2014. An average of 9% of properties were affordable to those earning a minimum wage in 2018, compared to 13% in 2017, respectively.

As can be seen in the chart below, SQM research (www.sqmresearch.com.au) is reporting that the rental vacancy rate in Hobart is now 0.7%, from a peak of just under 4% in 2013.

Residential Vacancy Rates

City: Hobart



The Domain Rental Report (April 12, 2018) reported:

“Prices in Hobart have skyrocketed so much in the past year it now costs just \$10 less to rent a house in the Tasmanian capital than in Melbourne, and \$20 a week more than in Brisbane.

The median asking rent now sits at \$420 a week, which is a whopping 15.1 per cent increase year on year – the biggest surge in rent across Australia’s capital cities.

The rapid surge in rental prices in Hobart has put tenants in the Tasmanian capital in a precarious position. While renters are now paying \$55 a week more than they were a year ago, the median household income for Greater Hobart, at just \$1234, is the lowest of all the capital cities.

In just the last quarter alone, rent surged 6.3 per cent,”

<https://www.domain.com.au/news/renting-a-house-in-hobart-just-10-cheaper-than-melbourne-domain-group-rental-report-20180412-h0yfkq/>

The Domain Rental Report (April 12, 2018) also reported that independent economist Saul Eslake agreed Airbnb played a key part in the surge in Hobart’s rental prices:

“Tasmania has gone from having the sort of the regulation that other states have to almost open slather on Airbnb,” Mr Eslake said.

“A lot of people with investment properties have decided that it’s more lucrative.”

He also said a housing stock “supply blockage” had added fuel to the fire, with the construction of homes not keeping up with Hobart’s growing population.

The availability of affordable rental accommodation is also a key issue for the university sector with the media recently reporting that students in Hobart were being forced to live in hostels and other temporary accommodation.

While a direct link between the increase in the number of self-contained visitor accommodation places and the residential rental vacancy rate and increased housing costs has not yet been proven by definitive data, it is obvious that the impacts need to be closely monitored.

In response to a letter from the Council in June 2017, the then Minister for Planning and Local Government advised that the Government is aware of concerns that some housing stock will be removed from the longer term rental market to provide for the more lucrative short-term visitor accommodation use. He further advised that the operation of the new home-sharing accommodation policy will be reviewed periodically to assess its impact.

In its representation on Planning Directive No. 6 Exemption and Standards for Visitor Accommodation, Council submitted that the State Government should be encouraged to commence this review as a matter of priority.

The report published by the Institute for the Study of Social Change, University of Tasmania; ‘Insight Three: A blueprint for improving housing outcomes in Tasmania’ contains the following findings:

- *The rise of Airbnb and other holiday letting platforms is having a significant impact on rental supply, especially in major cities and demands more careful regulation;*
- *rental vacancy rates have continued to decline in all Tasmanian regions as a result of population growth and the transfer of rental stock into short-term holiday accommodation;*
- *more than three-quarters of the 4,552 properties available on Airbnb in Tasmania were ‘entire properties’, as distinct from spare rooms;*
- *Tasmania-wide the number of ‘entire properties’ on Airbnb is up more than 290% since 2016, coinciding with a decline in advertised long-term rental housing;*
- *the number of ‘entire properties’ listed on Airbnb in the Hobart LGA increased from 250 to 876 (167% pa) in the past 18 months;*
- *if just 70% of the ‘entire properties’ listed in Tasmania in January 2018 were previously in the long term rental market, it would mean that approximately 2500*

homes statewide, and more than 600 homes in inner Hobart alone had been removed from the private rental housing pool; and

- *the sector needs to be better regulated to ensure that its growth is not at the expense of providing Tasmanians with access to affordable, appropriate rental properties.*

Recommendation 8 of the UTAS Report that: “The regulation of home sharing sites should be included in zoning and residential development controls and the impact of Airbnb on the private rental housing market should be monitored on an ongoing basis in relation to affordable housing, local communities and social outcomes” is consistent with the basis of Council’s representation in relation to the Planning Directive No 6.

TOR - Regulatory issues including customer safety, land use planning, neighbourhood amenity and licencing conditions compared to other jurisdictions in Australia and worldwide:

Roles and powers of body corporates

Under the Strata Titles Act 1998 (Tas) (s 90(1)) body corporates are provided with the power to make by-laws in relation to the administration, management and control of the common property, and the use and enjoyment of the lots and common property. Section 90(2) stipulates that a by-law may adopt with or without modification the by-laws set out in Schedule 1 of the Act.

The model by-laws set out in Schedule 1 are not exhaustive (dealing mainly only with issues of maintenance and nuisance), but as noted they can be modified by each individual body corporate. Whilst s 91 provides some limitations on the by-law making power, s 91(2) stipulates that by-laws can impose a minimum term (not exceeding 6 months) for the letting of lots. This section therefore indicates that whilst the minimum term that can be imposed cannot exceed 6 months, body corporates do have the power to impose some limitations on the term for the letting of lots. This power can therefore be used to protect residential uses by imposing minimum terms which exclude ‘short stay’ occupants.

Despite these provisions in the Strata Titles Act it is often difficult for body corporates to address the issues arising from visitor accommodation in dwelling complexes as one owner may own a number of units and have greater voting rights for example.

The amenity issues involved with the mixing of permanent residents and short term residents in dwelling complexes was a significant issue with the Sullivans Cove Planning Scheme 1997 and was addressed by the prohibition of visitor accommodation in dwelling complexes unless all dwellings were to be used for visitor accommodation.

The provisions in the of the Sullivans Cove Planning Scheme 1997 relating to changes of use from Residential Accommodation to Visitor Accommodation in strata complexes were inserted in response to seven representations made when the draft Sullivans Cove Planning Scheme was placed on exhibition.

The representations were from residents of the Salamanca Mews complex in Gladstone Street who were concerned that changes of use from Residential Accommodation to Visitor Accommodation would result in a loss of community of interest and security and physical damage to property through there being a transient population intermingled with the owner occupied units.

The Council supported the representations and recommended a number of modifications to the draft of the Sullivans Cove Planning Scheme 1997 to restrict changes of use from Residential Accommodation to Visitor Accommodation in strata complexes.

In its decisions on representations, the then Resource Planning and Development Commission (RPDC) acknowledged the concerns of the residents and considered that it was reasonable for the planning scheme to protect residential amenity within purpose build residential buildings.

The RPDC also acknowledged that the provisions provide a greater degree of regulation for conversion of dwellings to another use than has been conventionally sought in planning schemes. It considered however that where there is a competing interest for changes of use, as in Salamanca Mews, then to achieve the objectives, values and strategic principles for residential land use such provisions are necessary.

The RPDC also considered that residential amenity should be protected within the context of the broader economic objectives for the Cove otherwise the residential component will not be sustainable.

Outlined below are some specific examples of issues in relation to the impacts of visitor accommodation use in strata complexes:

In a Planning Appeal (J180/96) in relation to visitor accommodation use in an apartment block at 5-7 Gladstone Street, unit owners in their submissions identified their concerns as being; increased wear and tear of common areas, increased noise created by itinerant occupants, presence of strangers, movement of luggage, lack of neighbourliness and exclusiveness, and failure of body corporate regulations being observed.

Evidence from the occupants of 3/15 indicated that activities of Visitor Accommodation in the southern block (Nos. 15-17 Gladstone Street) had resulted in noisy parties, clothing and cigarette butts dropped from above units, rubbish in lifts and food spilt.

The Appeals Tribunal concluded in that case that: *Because of the experiences of the occupants with Visitor Accommodation, and the evidence of the appellants and Mr Shield the Tribunal finds that the proposed use impacts upon the use of Private Residence. The intermixing of the proposed use with residential in the ad hoc manner proposed in*

apartment buildings has a greater potential impact than would be expected if the uses were established in adjacent single dwellings on separate lots.

In a Planning Appeal (199/09P) in relation to a visitor accommodation use at 13-15 Bath Street, Battery Point, amenity issues identified were: noise from visitors occupying the upstairs balcony late at night, balcony used more on weeknights for socialising compared to permanent resident who generally confine such activities to weekends, coming and going of taxis early morning and late at night and noise from baggage trolleys on the footpath.

A submission to the Tasmanian Planning Commission in relation to the Hobart Interim Planning Scheme 2015 from unit owners at 82 Hampden Road stated that:

The majority of owners bought into a residential community and it has been a nightmare living in our strata complex this year with 2/15 units undertaking short term /holiday lets (without Council approval). Our electronic gates have been broken many times - costing the body corporate many thousands of dollars along with common areas been used as parking - blocking egress to unit owners garages and partying nightmare scenarios along with security issues and concerns. The owners live interstate and ignore body corporate communication on this matter.

A unit owner at 13 Battery Square has reported issues with increased common property wear and tear, difficulties with long term rental when prospective tenants find out about short term letting, increased traffic and parking and damage to supporting pillars in the car park caused by rental car drivers.

There is also significant evidence available from interstate experience in relation to the impacts of visitor accommodation in apartment complexes.

The following extracts from the Grattan Institute Report - Peer-to-peer pressure Policy for the sharing economy (April 2016) are relevant:

3.1.4 Short-stay guests can disrupt neighbours

Short-stay peer-to-peer rentals can, however, directly impose costs on neighbours. The imposts seem most acute in apartment complexes, where neighbours are in close proximity and share ownership and use of common areas and facilities such as lifts, gyms and pools. 70 per cent of whole-premise Airbnb listings in Melbourne and Sydney are apartments. In some apartment buildings in Melbourne, more than a quarter of apartments are rented out short-term.⁸²

Residents of some complexes report that disruptions from short-stay tenants rented through peer-to-peer platforms are severe.⁸³ Long-term residents mostly complain about noise and 'anti-social behaviour', but some also note increased wear and tear on common areas, security issues, overcrowding and a 'hotel-like' atmosphere.⁸⁴ There have also been occasional more serious

In a submission to the New South Wales inquiry (2015) on the regulation of short-term holiday accommodation, the Owners Corporation Network identified the following issues:

- *Different building standards for fire safety are needed in apartment buildings catering to visitors, who are unfamiliar with emergency exits and protocols;*
- *Ever-changing strangers often have little regard for building security and etiquette;*
- *Short-term letting of apartments is associated with excessive noise, drunken behaviour, garbage disposal issues, and violations of visitor parking restrictions.*

Council submitted in its representation on Planning Directive No. 6 Exemption and Standards for Visitor Accommodation that the permitted standard in residential zones should provide that self-contained visitor accommodation must not be located on the same site as a dwelling providing long term residential accommodation. This position was subsequently accepted by the Commission and the Minister.

Visitor accommodation compliance regimes

Visitor accommodation compliance regimes vary in different cities around the world from complete bans to no regulation. Some examples are set out below:

Berlin - in May 2016, Berlin banned hosts from renting out their homes to short-term visitors unless the hosts occupied at least 50% of the homes themselves. The fine for listing entire homes on Airbnb and other online booking platforms is significant.

Barcelona - all holiday rentals in Barcelona require a tourist license. In the past, the council has taken to freezing the issuing of tourist licenses in an attempt to control numbers. In March 2016, a new development plan was published and included a complicated set of licensing restrictions by city zones.

San Francisco - short-term rentals are allowed subject to a number of conditions. Properties have to be: offered by permanent residents, registered with the city, pay a hotel tax and carry liability insurance. Entire home rentals are capped at 90 days per year, but owner-occupied rentals, hosts that rent out a private or a shared room are not limited.

Santa Monica - in 2015, the short-term rental of entire homes was banned. The council also restricted home-sharing to hosts that obtain a business license and pay a 14% hotel tax.

New York – prohibits owners from listing properties for terms less than 30 days if a permanent resident will not be present.

New Orleans - allows two types of permits in residential areas. The holder of an accessory permit can offer rentals for as many nights a year as they want, in rooms within homes where the owner also lives. The accessory permit is \$200.

Second homes can obtain a temporary permit, which costs \$150 and allows a person to rent out an entire home, for up to 90 days per year. There's no limit on how many temporary permits one person can obtain. Owners do not need to live on the premises.

Properties in areas zoned commercial are not subject to the 90-day cap and do not have to be owner-occupied. There is, however, an outright ban on short-term rentals in most of the French Quarter, the city's main tourist destination.

Vancouver - is proposing to bring in regulations which allow short term rental of a principal residence short-term with a valid business licence and prohibit short term letting of a dwelling that is not a principal residence. Vancouver Council has published a detailed report on regulating short term rentals available at: <https://vancouver.ca/doing-business/short-term-rentals.aspx>

Tasmania - short term visitor accommodation is regulated by the provisions of Planning Directive No. 6 Exemption and Standards for Visitor Accommodation in Planning Schemes which came into effect on 1 August 2018.

Unlike other cities cited in the above examples, planning authorities in Tasmania do not have the ability to independently regulate short term visitor accommodation. It is considered important that any planning regulations be sufficiently flexible to take account of local circumstances and the character of particular localities with Battery Point being a case in point.

The Interim Planning Directive No 2 had the effect of making self-contained visitor accommodation permitted in the Inner Residential Zone in Battery Point Heritage Area BP1. This was a reversal of the long standing position of Council to prohibit self-contained visitor accommodation in Battery Point.

The 'ban' on self-contained visitor accommodation in Battery Point was in place since the introduction of the Battery Point Planning Scheme in 1979. It was the intent of the Battery Point Planning Scheme to ensure that in the Residential Zone private residential use is given first priority whilst providing for uses which serve local residents or ensure the retention of existing buildings incapable or unsuited to residential usage.

To allow conversion of existing private residences to visitor accommodation was considered inconsistent with the tenor of the Scheme as over time it may result in a significant change to the residential character of Battery Point.

Given the character of Battery Point and its proximity to Sullivans Cove and other tourist attractions, Battery Point is a very attractive location for tourists to stay. The demand for tourist accommodation in Battery Point is likely to be high and this factor combined with the financial return available from providing visitor accommodation, may lead to a concentration of visitor accommodation uses in Battery Point to the extent that the residential function, character and amenity is diminished.

The character afforded to a residential area from long term residents is different to that from an area where there are large numbers of short term visitors. An area primarily occupied by long term residents will have a greater sense of community and neighbourly character than an area where you are likely to have a new neighbour every night. Battery Point residents had an expectation under the Battery Point Planning Scheme that Battery Point will remain a suburb primarily for long term residents as the Scheme gives “private residential use first priority”.

The City of Hobart Planning Scheme 1982 was amended in September 2000 to make self-contained visitor accommodation a discretionary use in the Residential Zones. Council supported this amendment as it considered that it was unlikely that it would result in a concentration of visitor accommodation uses in any particular area and this has proved to be the case. In Battery Point however the opposite is likely to be the case.

Council has been consistent in its approach to the issue of Visitor Accommodation (Use Class 5) in Battery Point and has refused the vast majority of applications. (Note - it has been possible to have bed and breakfast style accommodation in Battery Point.)

The Hobart Interim Planning Scheme 2015 continued the prohibition on self-contained visitor accommodation in Battery Point but allowed the use to be permitted in other residential areas of the city subject to standards limiting the scale.

Given the significant implications for Battery Point, on 19 July 2017 the Council requested the Lord Mayor to write to the Minister for Planning and Local Government drawing attention to the issue of making self-contained visitor accommodation permitted in Battery Point and requested that the proposed Interim Planning Directive not apply to Battery Point Heritage Area BP1 under the Hobart Interim Planning Scheme 2015.

The Minister did not agree to that request but did point out that it was an ‘interim’ Planning Directive that would be subject to independent assessment and review by the Tasmanian Planning Commission.

With the anticipated growth in tourist numbers to Tasmania, the demand for tourist accommodation in Battery Point will inevitably grow. Uncontrolled visitor accommodation will significantly diminish the residential function and character of the area, which is so valued by its residents and tourists.

Restricting the numbers of self-contained visitor accommodation places in Battery Point will help ensure that it continues to exist as a living residential precinct, with heritage values maintained and enhanced.

In its representation in relation to Planning Directive No 6 Council submitted that it should continue the long standing prohibition on self-contained visitor accommodation in Battery Point Heritage Area BP1. This position was subsequently accepted by the Commission and the Minister.

There are about 600 residential properties in the area covered by Battery Point Heritage Area BP1. Based on the AirBnB listing data approximately 8% of properties are used for self-contained visitor accommodation.

The map below shows the location of self-contained visitor accommodation approvals during the operation of Interim Planning Directive No 2 which allowed self-contained visitor accommodation in Battery Point. The map illustrates that the biggest concentration of visitor accommodation approvals has been in the inner suburbs surrounding CBD and North Hobart. The number of permits granted in Battery Point was greater than any other suburb.

