

TRANSCRIPT

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Inquiry into the Owners Corporation Amendment (Short Stay Accommodation) Bill 2016

Melbourne — 24 March 2017

Members

Mr David Davis — Chair	Ms Samantha Dunn
Ms Harriet Shing — Deputy Chair	Mr Khalil Eideh
Ms Melina Bath	Mr Cesar Melhem
Mr Richard Dalla-Riva	Mr Daniel Young

Participating Members

Mr Greg Barber	Mr James Purcell
Mr Jeff Bourman	Mr Simon Ramsay
Ms Colleen Hartland	

Staff

Inquiry Officer: Mr Matt Newington

Witnesses

Mr Paddy O’Sullivan (sworn), chief executive officer, Australian Hotels Association, and
Mr Dougal Hollis (sworn), general manager, Tourism Accommodation Australia (Victoria Branch).

The DEPUTY CHAIR — I might call the next witnesses then. The Australian Hotels Association, Mr O’Sullivan and the Tourism Accommodation Australia, Victorian Branch, we’ve got Mr Dougal Hollis. If you would like to have a seat. We’ve had to set rather a cracking pace for today’s hearing so we will get right into it gentlemen.

Thank you for attending the public hearing. Please note that all evidence that you give here today is protected by parliamentary privilege. Therefore you’re protected against any action for what you say here today, but bear in mind that if you do go outside and repeat the same things, those comments may not be protected by privilege.

The DEPUTY CHAIR — Thank you, Mr Hollis. As with all witnesses to committee inquires of this nature, I would now invite you to provide five to ten minutes of oral evidence and anything that supplements further the information that you’ve provided to the Committee to date and then we can get underway with some questions.

Mr O’SULLIVAN — Thank you. I’ll kick off. Paddy O’Sullivan Is my name. I’m the CEO of the Australian Hotels Association here in Victoria. With me is the general manager of Tourism Accommodation Australia, the Victorian Branch.

What I would like to do to start off with is just talk about our organisation, our position. I want to perhaps focus in on some other aspects which are not necessarily contained within the Bill including our concerns — and broader concerns they are — over consumer protection measures for guests in unregulated accommodation facilities.

Just a bit of a recap about the Australian Hotels Association and Tourism Accommodation Australia. The AHA is an organisation of employers in the hotel and hospitality industry. We are registered under the Fair Work Registered Organisations Act and of course, that is a Federal piece of legislation and of course, here in Victoria we are the Victorian branch.

TAA (Vic) is a division of the AHA Victorian branch and represents the needs and interests of major licensed accommodation hotels in Victoria’s tourism and accommodation sector. In essence, TAA is the accommodation hotels and AHA is the pubs and accommodation hotels.

We have a diverse membership of more than 400 accommodation properties including pub style hotels, apartments, boutique hotels, backpacker accommodation and of course, the 3, 4, 5 star international accommodation hotels which are located right across metropolitan Melbourne and regional Victoria.

As far as our position is concerned, we do welcome genuine sharing and hosted accommodation, but we also appreciate that these activities encourage competition, product innovation and lead to growth of the sector. However, we do have some concerns with short-term letting of an entire house or apartment where it perhaps is beyond someone’s primary residence.

When it comes to hosted accommodation, we believe that it should not be subject to restrictions of lengths of stay given that physical presence of a host in that, sort of, accommodation, mitigates possible detrimental consequences, particularly for neighbourhood amenity. We do believe that government intervention is required to ensure that fair and equitable application of regulations in the accommodation sector are provided to discourage the conversion of residential lots into quasi hotels, and we are opposed to quasi hotels which is, in essence, commercial tourist accommodation being provided out of residential houses or apartments.

The DEPUTY CHAIR — So you would say that is not genuine sharing and hosted accommodation?

Mr O’SULLIVAN — Yes, in essence, that’s right.

We want to explain why we oppose commercial residential accommodation and to mention there that that is quasi hotels, in essence, which are unregulated. They raise questions, these properties, as to their level of compliance, particularly with the things such as food safety regulation, food standards, fire safety and compliance, disability access and standards, liquor licensing, genuine employment opportunities, public liability insurance, taxation, and we think that the lines are blurred here and that government can assist in providing clarification on these matters.

I particularly want to pick up on a previous discussion and that is the issue of amenity, and with our properties, because they hold liquor licences, the standard condition on every liquor licence in Victoria is such that the licensee shall not cause an undue detriment to the amenity of the local area of which the licensed premises exists, and that does — and because that is a licence condition, any allegation of non-compliance to disturbing the amenity, carries an on-the-spot fine circa \$980 which can be issued by local council officers. It can be issued by inspectors from the Victorian Commission for Gambling and Liquor Regulation, as well as any number of the members of Victoria police.

We believe that all regulations add costs, affecting regulated accommodation's ability to compete on an even playing field and an uneven regulatory regime is jeopardising the ongoing investment and employment in our regulated space.

In regards to the Bill itself, we believe that it is well and truly a step in the right direction, so in essence we support the government's Bill. We also believe that more can be done if you wish to add to the Bill, to address safety and security of residents in buildings, increase the maintenance and upkeep of these properties, increase the number of transient residents and ability for them to develop a sense of community. That comes as a result of increase short stay accommodation.

The complaints and resolution system contained within the proposed arrangements, it may be a tad complicated but it is certainly a step in the right direction, but we think that the Bill does give opportunity for the government to look at the regulatory imbalance that does cause, under certain examples we've seen, which does cause a disruption to the neighbourhood and community amenity of genuine residents which also coexist. So there is an opportunity to look at that.

I will now please in our introduction, invite Dougal Hollis to also give us some feedback, and also some suggested ideas on how we can look at international examples of beginning to regulate this space as well.

The DEPUTY CHAIR — I would also be interested if you could flesh out a little more your concerns in relation to the Bill. On the one hand you've indicated that it is a step in the right direction. On the other hand, your submission would tend to raise a number of concerns around the Bill. So again, getting some clarity on that too, would be useful.

Mr HOLLIS — So if you look at mature markets overseas, Airbnb has agreed to follow solutions to address housing affordability and some of the amenity concerns that we've raised. A one house/one home policy would remove and significantly mitigate the concerns of residents for commercial operators in this space and the consequential uneven regulatory playing field for commercial tourism operators.

A single host with multiple listings across different addresses indicates a commercial operation and they should comply with the same regulatory framework as traditional hotels. We propose a one house/one home policy to limit hosts from advertising listings at more than one physical address. That is the case in San Francisco and New York. In these cities, Airbnb has declared that commercial operators are unwelcome on their platform and has committed to removing these listings.

The second point we would make is that a limit unhosted nights in entire houses or accommodation. As in San Francisco, London, Amsterdam, New Orleans and Paris, unhosted entire house or apartment listings in Victoria should be limited to a certain number of nights per year. We contend that this threshold should be 90 days per year, above which a commercial enterprise is a residential property.

In Amsterdam and London, Airbnb has installed a night counter, a record of each listings annual nights sold that tracks booking activity and locks booking functionality once the annual limit has been reached. A similar system should be implemented in Victoria.

Such a system would significantly mitigate the concerns of residents, apartment owners and owners corporations that are consequential of an uneven regulatory playing field. The final point we would make is registration. All short-term letting listings should be required to register with the State Government and the government should maintain a publicly accessible register of listings available for short-term let.

As in San Francisco, this register should include the owner's name, the property address and the number of nights per year an entire house or apartment is let unhosted. The registration process should be a light touch

regulatory control that encourages transparency of short-term accommodation supply. This may involve, as agreed by Airbnb in New Orleans, a system where listing a short term let in Victoria on an online platform, automatically triggers registration with the State Government.

A registration number should be required to be displayed on short-term letting advertisements with fines applicable if the registration number is not displayed. A registration system would allow investors to accurately quantify the short-term lets in Melbourne and make informed investment decisions in response. It would also ensure that a one house/one home policy and night count of policies are being adhered to the platform.

The DEPUTY CHAIR — Just to interrupt you there. What about the situation where we have got, as was the case with earlier evidence, a building whereby there are 300 residences in total with 73 or 74 of them being short stay and 13 to 14 of them being Airbnb. In other parts of the city we've got apartment towers where investment properties are used only for the purposes of investment, whether held nationally or internationally, and/or short stay opportunities as they arise. How does that fit within the 90 day proposal that you have made, the registration proposal, and the idea of how that would cure any issues around amenity and improve community? I'm just trying to understand, there is a gap there for me in the logic.

Mr O'SULLIVAN — Probably the first aspect there is, if there was a registration model put in place, with greater regulation of those properties, then the 90 day aspect would not necessarily be of a concern because there is a registration and accountability factor that is attributed to the owner of that property.

The DEPUTY CHAIR — And why 90 days?

Mr O'SULLIVAN — We say that this point in time, because of the unregulated arrangements, perhaps then we could look at a time frame.

The DEPUTY CHAIR — But why 90 days?

Mr HOLLIS — That's a model that's been employed overseas in more mature markets.

Mr DALLA-RIVA — Can I ask, who regulates that, Deputy Chair? That was my question, regulation obviously has a cost.

The DEPUTY CHAIR — That's right.

Mr DALLA-RIVA — Who pays for it?

Mr HOLLIS — On those platforms it is Airbnb who regulates that overseas.

The DEPUTY CHAIR — Are you talking about a system of registration with the state government?

Mr DALLA-RIVA — Yes. Not talking about Airbnb. You're talking about an overall registration process?

Mr O'SULLIVAN — I'd imagine that it implies that there is a cost obviously of being able to maintain the registration.

Mr DALLA-RIVA — Who bears that?

Mr O'SULLIVAN — I couldn't tell you off the top of my head — we could take that on notice.

Mr DALLA-RIVA — AHA?

Mr O'SULLIVAN — We could take that — I don't know.

Mr DALLA-RIVA — Would you bear the costs?

Mr O'SULLIVAN — I'll take that on notice, if you like, to find out what happens overseas.

Mr DALLA-RIVA — And I am being a bit flippant, but you have suggested registration, regulation but you won't wear the costs?

The DEPUTY CHAIR — They are not your core group in terms of bearing cost as part of the service membership?

Mr O'SULLIVAN — If you want to look at how things operate here in Victoria for our regulated operators.

Mr DALLA-RIVA — Yes.

Mr O'SULLIVAN — The ones that we represent, their liquor licence fees that they pay cover the cost of being regulated.

Mr DALLA-RIVA — I understand.

The DEPUTY CHAIR — What's the eligibility to become a member of the AHA? What are the requirements?

Mr O'SULLIVAN — You need to hold a liquor licence and you also need to ensure that you have accommodation facilities which are standard when it comes to — and meet the other regulated arrangements when it comes to offering accommodation.

Mr DALLA-RIVA — I am not being flippant about it, but when you talk about regulation, there is a cost.

Mr O'SULLIVAN — Yes.

Mr DALLA-RIVA — And I'm thinking from departments from, you know — —

Mr O'SULLIVAN — We've got a user pay model here in Victoria.

The DEPUTY CHAIR — Yes.

Mr O'SULLIVAN — Where we pay through the nose.

Mr DALLA-RIVA — I know you do. I don't take away from the — —

The DEPUTY CHAIR — But in relation to any additional costs? Yes.

Mr DALLA-RIVA — I know you'll defend your members and that makes sense.

The DEPUTY CHAIR — Yes.

Mr DALLA-RIVA — That's all good.

The DEPUTY CHAIR — Excellent. Sorry, Mr Hollis, we did interrupt you.

Mr HOLLIS — That's okay.

The DEPUTY CHAIR — We do have a tendency to go into tangents.

Mr HOLLIS — Thank you. Additionally, we support owners corporations being able to make by-laws permitting or banning commercial residential accommodation to a threshold of a number of nights per year. So in conclusion, governments should embrace shared and hosted accommodation within the agreed limits that we have stated, by addressing the uneven playing field that exists with different regulations for different operators.

An uneven playing field means more operators will be attracted to the provision of short-term accommodation. The proposed Bill goes part of the way to prevent an exacerbation of complaints from residents, owners and owners corporations. Only an even playing field for all commercial operators in the accommodation sector will address current disruptions caused to them.

The DEPUTY CHAIR — Just another question then. How do you have an even playing field where you are talking about the provision of accommodation that's occurring in very different circumstances to those of say, a big hotel? It is not an even playing field.

Mr O'SULLIVAN — If they were faced with the same sort of regulatory controls that we face, then perhaps that would begin to level that out. So that would be through the building codes for example.

The DEPUTY CHAIR — What about detriment to the AHA in the context of, other than competition — what is the impact of this upon you in relation to other issues around taxation or what are the concerns that you hold in relation to the Bill and how this current situation as it may be amended by the Bill, in the event that it passes in its current form, how will that actually have an impact on you?

Mr O'SULLIVAN — Well, it really won't have much of an impact upon us, but it does make some of the occupants and some of the providers of those accommodation properties more accountable and through the complaints mechanism, a system that gives other residents opportunities to air their grievances and have them addressed.

The DEPUTY CHAIR — In the context of competition, what impact has the short stay accommodation growth market had on, I suppose, reservations and stays within your membership?

Mr O'SULLIVAN — Yes, good question, and to that extent we are fortunate that here in Victoria, we've got a terrific tourism industry as far as our major events and — —

The DEPUTY CHAIR — The world's most liveable city.

Mr O'SULLIVAN — That's it as well. And we're fortunate enough that there is a high demand upon our existing hotel accommodation rooms and as such, unlike other states, we do enjoy relatively high occupancies in that regard. Probably what we do find is from time to time, some of our guests choose to, if you like, experiment with the unregulated accommodation offers and from time to time they experience some of the negatives that go with that, such as complaints from the things such as not having adequate consumer protection measures, whether it be the fire regulations that we're subject to, as well as having safe amenity, if you like, from other guests that may be in the same apartment block.

The DEPUTY CHAIR — Is that just anecdotal or do you have data?

Mr O'SULLIVAN — That is mainly anecdotal.

The DEPUTY CHAIR — Do you have any data in relation to the changes in occupancy of your membership on the one hand, before the rise of short stay accommodation as something which is generally acceptable as an alternative to hotel accommodation and after?

Mr O'SULLIVAN — We don't have those data, no. We don't have those statistics to offer you.

The DEPUTY CHAIR — All right.

Mr DALLA-RIVA — I think that in the submission you have outlined in Appendix 1, a variety of those concerns.

The DEPUTY CHAIR — That's right, yes.

Mr DALLA-RIVA — Regulatory, food safety, fire safety, disability access, liquor licensing which we are aware of. Development applications, employment in hotels and taxation. In terms of employment in hotels, because that was what I've — we've just had — I think it was reported today in the press Victoria has grown another 135 000 over the last year, so we are now hitting the 6.1 million in Victoria.

So clearly, as a growing State, we need to be conscious about ensuring that tourism maintains its strength. From walking across from getting a coffee noticing a lot of tourists here enjoying the beautiful sun in Melbourne. I am concerned that we don't want to shut down an opportunity for people to come and tour and visit our state. I have heard — I'm trying to get from — I understand the AHA's concern. I would have thought you would be more agitating for tourism and tourism support, so I'm just trying to work out where does Tourism Accommodation Australia — where is it — —

The DEPUTY CHAIR — It is part of overall growth, yes.

Mr DALLA-RIVA — Yes. Where is its philosophy, I guess, in terms of supporting tourism?

Mr HOLLIS — Obviously we are an integral part of that jigsaw and I think where we're coming at it from is the safety and security of the guests. I mean, you mentioned before that the reputation of Melbourne and Victoria's reputation as a destination for both international and domestic tourists, has been hard-fought and it is obviously of a high calibre. So from our perspective and going back to that regulatory aspect, we want to make sure that those guests are safe and secure and do have access to accommodation that they choose.

Mr DALLA-RIVA — So you are coming from the view of the visitor or somebody coming into short-term, whether it be from interstate, intrastate or overseas, to enjoy Melbourne or country Victoria. Opposing that obviously is — and we'll hear I guess a bit later — is the concerns of the residents who have set up either retirement or a place for their rest in peace, and I put myself in that position, moving towards a sort of a — —

The DEPUTY CHAIR — Out to pasture as it were.

Mr DALLA-RIVA — Out to pasture.

Ms HARTLAND — No, no, it is called maturity.

Mr DALLA-RIVA — Yes, a maturity.

The DEPUTY CHAIR — Wisdom.

Mr DALLA-RIVA — And I put myself in the position that it would be very difficult for me if I were to retire in an environment where I would want to have that peace and quiet. To then be subjected to 22 year old, 23 year old boys partying every night which they could. So I guess I am trying to reconcile the concerns of tourism, against the concerns of our residents and — —

The DEPUTY CHAIR — Employment, 80 per cent less employment.

Mr DALLA-RIVA — Yes. So I think that would be fair to say, you know. I mean, the hotel, if you had rogue guests, it would be pretty quick to deal with them.

Mr O'SULLIVAN — Correct.

Mr DALLA-RIVA — And I guess that's what I am finding difficult, if you have rogue guests in a short-term, how do you deal with them?

Mr O'SULLIVAN — Well, that is a very good question and currently there is limited opportunities for other residents, apart from calling Victoria Police, whereas we pay for in-house security staff and have suitably trained staff on deck at all times to deal with all situations, particularly bad behaviour.

Mr DALLA-RIVA — And if it escalates, then you can call the police.

Mr O'SULLIVAN — Correct.

Mr DALLA-RIVA — And remove them. One final question, you say that, and I've got it here, the legislation's a move in the right direction, but it says here on page 4 of the submission,

'The Owners Corporation's amendment short-term accommodation Bill is a poor attempt to address these concerns by establishing complicated, arduous complaints and resolutions mechanism that ignores one of the most significant impacts for regulatory imbalance in the accommodation sector. This is the destruction of neighbourhood and community amenity to residential strata title'.

Mr O'SULLIVAN — Yes.

Mr DALLA-RIVA — What did you mean by that because that was of page 4 of your submission.

Mr O'SULLIVAN — In the absence of regulatory arrangements, we believe that there could be further content within the Bill to address some of our concerns and I must admit, I am not happy with the words 'a poor attempt', I'd like to actually take that back and modify that to the extent of saying 'It is a step in the right direction'. We are not critical of the government's efforts in that regard.

The DEPUTY CHAIR — Okay. So that's your evidence today is that that should replace the statement that you've got under section 5 at page 4 of your submission?

Mr O'SULLIVAN — Deputy Chair, if it is able for us to do so, we would enjoy having that — —

The DEPUTY CHAIR — 'Is a step in the right direction'. All right.

Mr O'SULLIVAN — Correct.

The DEPUTY CHAIR — Thank you very much.

Mr DALLA-RIVA — We will make sure that that is — we won't be able to change it, but we can just —

The DEPUTY CHAIR — We've got your oral evidence.

Mr O'SULLIVAN — Thank you. And also — I would also, if I could, where we say the complaints process is arduous, I think that's unfair as well. It is rather technical but I would not be critical of the complaint mechanism either.

Mr DALLA-RIVA — Let me put it to you this way — Deputy Chair, if I may. I will put to you that if you want, re-submit Point 5 in your submission.

The DEPUTY CHAIR — Yes, you have also referred to a regulatory twilight zone. So you might want to have a think about the entire text of that if that's not in fact your position.

Mr HOLLIS — Thank you, Deputy Chair.

Mr DALLA-RIVA — I would be happy, Deputy Chair, if we seek the retraction maybe and then you give us what the words should be.

Mr O'SULLIVAN — I appreciate having that opportunity and we will do so.

Mr DALLA-RIVA — It just didn't reconcile with your comments.

Ms HARTLAND — The one thing that I would like to ask about though is this issue that we received from the previous witnesses about self-monitoring. So clearly in a hotel if there is bad behaviour from a guest, it is dealt with. So you do not have a self-monitoring system, you actually deal with it on the spot?

Mr O'SULLIVAN — That is good question and thank you for that. If you want to address the behavioural issues of particular residents of the hotel or customers, that is largely governed by the Liquor Control Reform Act, whereby it is an offence to serve someone who is intoxicated and it is also an offence to have a drunken person on the licensed premises. It is also an offence to have an unaccompanied minor on the licensed premises.

To that extent, all the enforcement agencies have the ability to deal with those allegations of bad behaviour and certainly what it does do within our industry, it does create a very positive culture of ensuring that persons on your licensed premises, on your hotel property, behave themselves, particularly if alcohol is a contributing factor.

Ms HARTLAND — And of course, you would have a number of members who have hotels in residential areas. So being within a residential area and being a business, is not an unusual thing?

Mr O'SULLIVAN — No, not unusual, but where we are regulated in that space as far as ensuring that we do not disturb others, particularly residents, is under again the amenity clause on every liquor licence in Victoria, relating to our properties that is, whereby the licensee shall not permit an undue detriment on the amenity of the property in which — of surrounding properties to which it relates, but also there is another provision there relating to noise, and that is that the licensee must observe the EPA noise definitions contained under SEPP N-2 which is noise emission controls of that property which are subject to compliance obligations as well.

And of course, in the unregulated accommodation space, the liquor licensing laws do not apply, nor do those EPA noise emission arrangements.

Mr HOLLIS — That comes back to the point you made earlier. We are not adverse to competition but those sorts of issues come to the fore and we just want to make sure that — —

The DEPUTY CHAIR — Particularly in the growth markets that we are in as Mr Dalla-Riva indicated around population growth and growth of visitors to the city and surrounds.

Ms HARTLAND — I just want to say that I have several friends who actually do operate Airbnb, but they are always in the house and it tends to be the people that they are getting are other families to share their house with them. They are not doing party houses.

The DEPUTY CHAIR — Well, it may be a party, just perhaps not a robust party.

Ms HARTLAND — No, it is very cordial rather than a — —

The DEPUTY CHAIR — A bit of Scrabble and an early night.

Mr DALLA-RIVA — They are like the Greens' parties could be but — —

The DEPUTY CHAIR — The Greens — yes, exactly.

Ms HARTLAND — No, I am a cup of tea and a biscuit person. I'm asleep at 9 o'clock.

The DEPUTY CHAIR — They are not the sort of biscuits we are worried about.

Mr EIDEH — Do you have a view on the dispute resolution process that is proposed by the Bill? Do you consider the level of involvement of owners corporations appropriate?

Mr O'SULLIVAN — As far as the dispute resolution process, we think it is quite detailed and we would put our faith in the system that it would go towards addressing some of the concerns that the owners corporation and other residents may have, however, we do not have any detailed expertise as far as whether it would solve all the problems that may arise out of disputes.

The DEPUTY CHAIR — All right. Without any further questions, what I would invite you to do then is to provide an amended submission to the Secretariat. If that could be done as soon as practicable, that would be great. I believe there was one thing that was also taken on notice in relation to any data on changes to visitor numbers in the event that you have that, both pre and post the rise of short stay accommodation.

Just so that we can understand the context within which you've made your particular submission. Anything else that you wanted to add, gentlemen, before we finish your particular part of the hearing today?

Mr O'SULLIVAN — No, thank you.

Mr HOLLIS — Thank you for the opportunity.

The DEPUTY CHAIR — Thank you very much. All right. Thank you for that. Just to remind you, you will actually receive a copy of the transcript of proceedings for your proof-reading and we look forward to being provided with that additional information from the secretariat. Thank you.

Mr O'SULLIVAN — Thank you for your time.

Witnesses withdrew.