

Admin, LACO

Subject: FW: Copy of the draft Options Paper for Short-Term Accommodation
Attachments: Options for regulating sharing economy short term accommodation in WA.pdf

From: D'Sa, Brendan [REDACTED]
Sent: Monday, 29 October 2018 9:21 AM
To: Committee, Economics & Industry Standing [REDACTED]
Cc: Davies, Amelia [REDACTED]
Subject: Copy of the draft Options Paper for Short-Term Accommodation

Good morning Dr Worth

I apologise for the delay in providing a copy of the draft Options Paper. I attach a copy to this email.

The Minister for Planning has requested, however, that the following points be noted by the Committee:

- Whilst prepared at the request of the Minister through the WAPC, the Minister has not had an opportunity to review or consider the draft Options Paper but recognises the need for it to be made immediately available to the Economics and Industry Standing Committee; and
- the Options Paper hasn't been provided to, considered or approved by the WAPC.

Regards

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Department of Planning,
Lands and Heritage



The department acknowledges the Aboriginal peoples of Western Australia as the traditional custodians of this land and we pay our respects to their Elders, past and present.

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From: Committee, Economics & Industry Standing [REDACTED]
Sent: Wednesday, 24 October 2018 3:42 PM
To: Davies, Amelia [REDACTED]
Cc: Gregory, Lachlan [REDACTED]
Subject: RE: Attendees to the briefing Wednesday 31 October

Hi Amelia
Many thanks for this information.

OPTIONS PAPER

August 2018

Options for regulating sharing economy short-term accommodation in WA

1. Introduction

There has been rapid growth in the short-term holiday letting market, particularly since the emergence of the sharing economy and online e-commerce operators. The current land use planning policy framework does not cover all short-term accommodation situations, as such, an enhanced planning response is required to address the diverse range of tourist accommodation now on offer and evolving in the future. It should be noted the source of the accommodation booking (i.e. Airbnb, Stayz) is not relevant. The planning issue relates to the use of residential dwellings to provide short-term accommodation. Short-term accommodation is classified as residential occupancy of less than 3 months in any 12 (refer to Appendix 1).

This Options Paper summarises key issues raised by the tourism industry in relation to e-commerce operations, approaches taken by other states and local government, and options for how the State government may wish to respond to these changes.

2. The policy challenge

The tourism industry has raised a number of concerns in relation to disruptions created by the sharing economy to existing short-term letting operators. There are both perceived and real impacts that create a challenge for policy, including:

- a) Inequality in regulation:
 - Tourism operators such as hotels, serviced apartments, bed and breakfasts or caravan parks are captured by differing levels of regulation dependent on the local government, Local Planning Scheme (LPS), local planning policies and local laws which can be perceived as inequality in red tape.
 - Tourism operators are required to be insured appropriately and there is perceived inequality in short-term operator requirements.
 - Private and/or shared rooms within dwellings, ancillary dwellings, whole dwellings and residential apartments being utilised for short-term accommodation, are generally not regulated and these operators are not required to comply with the same measures as tourism operators.
 - The method via which short-term accommodation is booked often confuses discussions on matters of regulating short-term accommodation as these forms of accommodation are often perceived as different. The booking platform does not have any impact on the type of short-term accommodation being provided and its regulation, which is dictated by the land use definition (Appendix 1).
- b) Inequality in building standard requirements:
 - There are different construction standards, namely fire safety and access requirements, between classes of buildings (refer to Appendix 2). Generally, the construction requirements for buildings designed for short-term accommodation are more onerous than residential buildings. For example, a building constructed for a residential purpose later used for short-term accommodation is not required to be built to as high a standard as a building initially designed and constructed for short-term accommodation.
 - There is potential for short-term apartment operators to purposely seek a lesser classification at the building licence stage to benefit from less stringent fire safety and access requirements (lower costs).
 - A building containing residential apartments is considered a Class 2 building. If it was identified that a portion of apartments were intended for short-stay accommodation, those apartments would be considered as Class 3 and required to comply with the relevant construction standards. A concern in regards to competitive neutrality is that some apartments within a Class 2 building could potentially be offered for short-term accommodation without reclassification or the requirement to upgrade facilities to comply with Class 3 building requirements.

- Without a change in class, there is no trigger for the application of the Building Code of Australia (BCA). A single dwelling or unit being converted to a holiday home has no requirement to be assessed against the BCA.
- c) Environmental and amenity impacts:
 - Antisocial behaviours, including excessive noise and/or parties, when short-term holiday homes or apartment are situated amongst residential apartments and dwellings.
 - Strata issues surrounding the wear and tear of communal spaces, potential security risk with non-residents permitted access to the building, the use of communal facilities (e.g. pool, gym) and enforcement of their rules (e.g. hours of operation), and waste management including the correct use of bins (e.g. recycling).
 - Issues surrounding the requirement of car parking bays and the use of visitor parking bays.
 - No onsite owner/operator/manager to which complaints can be made and immediately addressed.
- d) Enforcement burden:
 - Local governments often lack the resources to enforce and/or proactively regulate. In addressing planning issues through the LPS and/or a local law governing short-term accommodation, these mechanisms of registration, require resourcing and compliance costs.
 - Local governments generally follow a complaint-response process, whereby no enforcement or regulation occurs unless a complaint is made at which time the local government will act.

The issues raised above can be addressed through a number of policy and regulatory mechanisms within land use planning and other mechanisms outside of the planning system. The following examples highlight approaches undertaken by the government of NSW and the City of Fremantle. They demonstrate a variety of options available from policy through to regulation that can be engaged to manage short-term accommodation.

3. NSW approach

In response to a Parliamentary Inquiry into the regulation of short-term holiday letting in New South Wales, the NSW's Government released an options paper which supported putting in place a regulatory framework for short-term holiday lets. Approaches ranged from minimal intervention to substantial Government regulation. The policy options outlined included regulatory and non-regulatory approaches, or a combination of both.

NSW are now working to implement the options deemed most appropriate following consultation on the options paper. The new planning framework will simplify and clarify the planning regulation of short-term holiday lets by providing:

- a single definition for the use
- clear pathways for approval, specifically –
 - when the host is present onsite overnight, short-term holiday lets will be allowed as 'exempt development' all year;
 - when the host is not present onsite overnight, short-term holiday lets will be allowed as 'exempt development' with a limit of 180 days for hosts in Greater Sydney and 365 days in all other areas of NSW;
 - councils outside of Greater Sydney will be able to decrease, through their local environmental plans, the 365 day threshold to no lower than 180 days per year; and
 - certain planning rules will apply to properties on bushfire prone land.

The options paper identifies that regulating length of stay and setting a limit on the total days per year that a dwelling can be used as a short-term holiday let would control the degree to which a dwelling is used for short-term rental and retain its primary use as long-term residential. However, it is noted that if the limit is set too high, the income generated through short-term holiday lets may remove the need for long-term residential use

the rest of the year. Conversely, too restrictive a limit could stifle the demand for short-term holiday lets. As such, the 180 days a year limit approximately equates to weekends, school holidays (90 days) and public holidays which was considered a 'fair and balanced' approach. The NSW's policy outcome is being driven by the need for long-term residential rentals to be made available in Greater Sydney, as outside of the Greater Sydney area there are no restrictions on length of stay. The issue in WA is the reverse; there is a lack of long-term residential rentals in regional areas of the state, and in particular the South West. Many residential properties are being purchased specifically for short-stay accommodation with short-term rentals being more profitable than long-term residential rentals. As well as this, historically many people have purchased a holiday house for personal use, typically over the summer and in school holidays. Now, through online platforms, holiday house owners are able to rent their property for short-term instead of leaving their property empty when not in use.

As the new planning framework has yet to be implemented in NSW, the permissibility and operation of short-term holiday lets remains at the discretion of local councils. Until the new policy is in operation for some years, it is uncertain as to whether or not the objective of providing more long term residential rental dwellings is being achieved.

Further to the measures above, a mandatory Code of Conduct will also be introduced and apply to anyone involved in providing or using short-term holiday lets including hosts, guests, online booking platforms, and letting agents.

The WAPC already provide a clear definition for short-term accommodation and its associated land uses (Appendix 1) to assist in regulation. NSW's approaches could be implemented in WA, both within the planning system and through other legislation. The limitation of short-term accommodation to a specific number of days in a year within certain locations is feasible, however this would require significant policing by local government or engagement with the online platforms to ensure they limit the time period that short-term accommodation is available for. It is also questionable if limiting stays to 6 months within a 12 month period would achieve the policy outcome of more housing becoming available in the long-term residential rental market.

4. City of Fremantle approach

The City of Fremantle has a local law governing short stay accommodation (*Short Stay Accommodation Local Law 2008*). The law requires any dwelling, which provides accommodation for a maximum of six occupants for a minimum of two nights but no more than three consecutive months, to be registered with the City. The applicant is required to pay a fee, agree to the conditions of registration and be issued a registration certificate. The conditions of registration are that:

- each short stay accommodation booking and tariff must be for a minimum stay of 2 consecutive nights;
- a short stay dwelling registered for not more than 6 occupants must at all times have a minimum of one onsite parking bay for the exclusive use of one or more of the occupants;
- the manager of the short stay dwelling must be contactable, using the contact details given to the City, at any time of the day or night and the manager must respond within 12 hours, to any contact relating to the short stay dwelling; and
- the proprietor must promptly inform the CEO in writing of any change that would affect the currency of the details submitted with the application for registration.

Registration does not affect the rights and obligations of an owner/occupier under the by-laws of a strata company, including any requirements to obtain approval, or to comply with any restrictions, in connection with the use of premises as a short stay dwelling. Compliance and investigation of complaints relating to short stay accommodation are dealt with by the City's Environmental Health and Compliance teams. Providing the registered property complies with the local law (conditions of registration), the owner/operator/manager are able to legally advertise the short stay accommodation on online platforms such as Airbnb or Stayz.

Short-term accommodation hosting more than 6 individuals requires planning permission.

5. State and Local Government based options

Regulation of short-term accommodation can be accommodated via a number of planning and non-planning mechanisms at differing scales to suit requirements. The following options are listed in order of increasing regulation.

5.1 No change to current arrangements

Current Planning Bulletins 99 *Holiday Homes*, 49 *Caravan Parks* and 83 *Tourism* are silent on the sharing economy. These bulletins do provide guidance to local government on the appropriate location for tourist accommodation and options local governments may wish to consider through regulation such as restricting land uses within particular zones/locations within the scheme and having a form of license/approval/registration of short-term rental operators. This approach does not provide specific guidance on short-term accommodation where a room within a home or a granny flat are being rented through sharing economy platforms.

A number of local governments that have significant short-term accommodation demand, such as the City of Fremantle, Augusta Margaret River and Busselton, have utilised a range of existing planning and legal mechanisms to regulate short-term accommodation to suit their respective needs (i.e. scheme provisions, planning policies and local laws).

Benefits	Limitations
<ul style="list-style-type: none"> Provides local government with complete discretion to tailor regulation to their specific needs Requires no additional resource from state government 	<ul style="list-style-type: none"> Inconsistent approaches across WA Could restrict tourism accommodation in appropriate locations Lack of regulation to industry

5.2 Provide guidance delineating between hosted/un-hosted accommodation leaving full regulatory discretion to local government

The current draft Position Statement (PS) on Tourism introduces the land use definition of **hosted accommodation** as *'a portion of a dwelling or entire ancillary dwelling used to provide short-term accommodation with a permanent live in host (owner/occupier/manager) but does not include a bed and breakfast or caravan park or serviced apartment'*. The introduction of a definition for hosted accommodation fills a gap in the current *Local Planning Scheme Regulations 2015* (LPS Regs). Improved definition of short-term accommodation as a result of the sharing economy takes a similar approach to that proposed in NSW. Under the draft PS, the WAPC does not consider it necessary to regulate hosted accommodation, given the operator resides in the dwelling or on-site and its tourism value is incidental to the primary residential land use, but does not preclude regulation should the local government choose to do so. This is based on the concept that the local government is best informed about tourism activity within its boundary and its impact on local communities. Should a local government consider it necessary to amend their scheme to specifically address this form of tourist accommodation, it is recommended the above definition is utilised to ensure consistency across the state.

All other forms of short-term accommodation (un-hosted) are considered in accordance with existing definitions in the LPS Regs (Appendix 1). The draft PS proposes these forms of short-term accommodation such as holiday homes are regulated at the local government's discretion as currently undertaken. The draft PS and draft guidelines provide guidance on scenarios in which local government may wish to regulate such as allowing forms of short-term accommodation as a P use in areas of high demand/tourism value or as an X use in predominantly residential areas.

Benefits	Limitations
<ul style="list-style-type: none"> Limits regulation on small scale individual operators renting out a room in their home Provides local government with discretion 	<ul style="list-style-type: none"> Unlikely to provide any regulation of those renting rooms in their home for short-term accommodation

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| <ul style="list-style-type: none"> • Provides for regulation of larger scale (un-hosted) short-term accommodation tailored to the local government's specific needs | <ul style="list-style-type: none"> • Inconsistent approaches across WA • Could restrict tourism accommodation in appropriate locations |
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5.3 Clear policy framework to regulate un-hosted short-term accommodation with implementation detail by local government

Amend current wording within the draft PS to state that the WAPC considers regulation of un-hosted short-term accommodation to be necessary. The approach on how it is regulated could be left to the discretion of local governments with clear guidance and a framework provided by the WAPC. Options for which guidance could be provided may include but not be limited to:

a) *Recommend amendment to Local Planning Schemes*

1. Make all or specific types of short-term accommodation (e.g. holiday home, serviced apartments) a D use in the local planning scheme and require planning approval to operate. Through conditions on a planning approval local government could require specific matters such as the provision of car parking bays to be addressed. This could apply to all forms of short-term accommodation, different types or be differentiated based on scale such as number of individuals to be accommodated. Guidance in the form of criteria could assist local governments in determining where and at what scale this should apply. Planning approval could also restrict the number of days accommodation is available for short-term rent (i.e. for un-hosted short-term accommodation limit days of operation to a range between 90-180 days/year in Greater Perth and coastal areas, and up to 365 days/year in all other regions of WA in consultation with respective local governments. Hosted accommodation will not be limited in terms of days of operation). Consider an appropriate minimum consecutive length of stay (for example, the City of Fremantle impose a minimum stay of 2 consecutive nights).

2. Make all or specific types of short-term accommodation an X use within certain areas of the local planning scheme. This could apply to specific types of short-term accommodation or certain locations. Guidance in the form of criteria could assist local government in determining where this should apply.

b) *Recommend introduction of local law under Local Government Act 1995*

Local governments could introduce a local law requiring individuals running short-term accommodation businesses to register for a license with the local government annually. This would provide the opportunity for the planning, building and health officers within local government to apply any requirements considered appropriate such as emergency evacuation plans, fire alarms, car parking bays etc. The license is tied to the operator of the business not the building itself. This could apply to all forms of short-term accommodation, different types or be differentiated based on scale such as number of individuals to be accommodated. As previously mentioned, the City of Fremantle utilises this approach. The drafting of a standard/model local law under the *Local Government Act 1995* may be beneficial.

c) *Local Planning Scheme Regulations 2015*

The definition of hosted accommodation will need to be inserted into the LPS Regs to assist local governments in distinguishing levels of regulation for different forms of short-term accommodation.

To ensure definitions in the LPS Regs align with the dwelling types in the *SPP 3.1 - Residential Design Codes* (R-Codes), a new definition is considered necessary to capture the use of residential apartments that are proposed to be used as short-stay accommodation (holiday apartment). In addition, an amendment will need to be made to the existing definition for holiday accommodation to ensure that one dwelling in a group of dwellings on one lot is captured. The new definitions and changes to existing definitions proposed in this option are:

Accommodation type	Dwelling type under the R-Codes	Existing definition under the LPS Regs	Proposed definition (yellow highlight to show amendments)
Hosted accommodation	Single Dwelling, with or without ancillary accommodation	None	Hosted accommodation 'a portion of a dwelling or entire ancillary dwelling used to provide short-term accommodation with a permanent live in host (owner/occupier/manager) but does not include a bed and breakfast or caravan park or serviced apartment'
Holiday house	Single Dwelling	Holiday House 'means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast'	No changes proposed to this definition
Holiday accommodation	Grouped Dwelling	Holiday Accommodation 'means 2 or more dwellings on the one lot used to provide short term accommodation for persons other than the owner of the lot'	Holiday accommodation 'means 1 or more grouped dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot, but does not include hosted accommodation'
Holiday apartment	Multiple Dwelling	None	Holiday apartment 'means a multiple dwelling that is used to provide short-term accommodation'

d) Strata Titles Act 1985

Under the *Strata Titles Act 1985* (STA) a strata scheme is comprised of 'by-laws' or a 'management statement'; the plan (depicting lots); and upon registration, the body corporate. The STA requires subdivision approval by the WAPC under the *Planning and Development Act 2005* (PD Act) prior to registration of a strata plan to create a strata scheme. The STA contains deemed by-laws for strata schemes that will come into effect on registration of the scheme. The subdivider/developer may supplement the deemed by-laws with further or varied by-laws, or replace them in their entirety. The planning decision-maker may also require a by-law for a relevant purpose. A land use restriction can exist on the strata plan as well as in by-laws. Once a strata scheme has been established, a planning approval does not override the need for an approval of the body corporate. The drafting of a standard/model by-law for use by planning decision makers, which is then set out by policy, may be beneficial.

Enforcement and compliance of use and development in a strata scheme is more complex than in a conventional green title context, given that there are both public (e.g. local government, body corporate) and private parties (individual owners) that have standing.

The options above can be used in isolation or in combination.

Benefits	Limitations
<ul style="list-style-type: none"> Minimal regulation on small scale individual operators renting out a room in their home Moderate regulation on small commercial operators (holiday homes) Provides local government with discretion to tailor 	<ul style="list-style-type: none"> Inconsistent approaches across WA Could restrict tourism accommodation in appropriate locations May result in no regulation in some locations

<p>regulation on short-term accommodation to their specific needs</p> <ul style="list-style-type: none"> • By-law would provide revenue generation to assist with regulation • Model strata by-law provide strong and consistent position across state to be applied as required 	
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5.4 Clear policy framework to regulate un-hosted short-term accommodation with the introduction of deemed provisions

Amend current wording within the draft PS to state that the WAPC considers regulation of un-hosted short-term accommodation to be necessary. WAPC to provide clear guidance and a framework for local governments through deemed provisions. Options may include but not be limited to:

a) *Deemed provisions under the Local Planning Scheme Regulations 2015*

Deemed provisions under the LPS Regs would be read into all schemes on gazettal. Deemed provisions could insert the hosted accommodation definition to provide distinction between hosted and un-hosted forms of short-term accommodation, as well as, insert the holiday apartment definition and amend the holiday accommodation definition to further strengthen the terminology used and align with the R-Codes. Deemed provisions could restrict the presence of short-term accommodation or restrict certain types or apply standardised minimum requirements through mandatory planning approval.

Deemed provisions could make all or specific types of short-term accommodation a D use in local planning schemes and require planning approval to operate. This could apply to all forms of short-term accommodation, different types or be differentiated based on scale such as number of individuals to be accommodated. Deemed provisions could also restrict the number of days accommodation is available for short-term rent. NSW are limiting days of operation to 180 days/year in Greater Sydney for un-hosted short-term accommodation. A similar approach could be introduced across the state or in particular locations within WA.

Where heavy regulation is considered appropriate deemed provisions could allocate specific types of short-term accommodation as an X use within the local planning scheme making it a prohibited use.

b) *Recommend introduction of local law under Local Government Act 1995*

Local governments could introduce a local law requiring individuals running short-term accommodation businesses to register for a license with the local government annually. This would provide the opportunity for the planning, building and health officers within local government to apply any requirements considered appropriate such as emergency evacuation plans, fire alarms, car parking bays etc. The license is tied to the operator of the business not the building itself. This could apply to all forms of short-term accommodation, different types or be differentiated based on scale such as number of individuals to be accommodated.

c) *Strata Titles Act 1985*

Under the *Strata Titles Act 1985* (STA) a strata scheme is comprised of 'by-laws' or a 'management statement'; the plan (depicting lots); and upon registration, the body corporate. The STA requires subdivision approval by the WAPC under the *Planning and Development Act 2005* (PD Act) prior to registration of a strata plan to create a strata scheme. The STA contains deemed by-laws for strata schemes that will come into effect on registration of the scheme. The subdivider/developer may supplement the deemed by-laws with further or varied by-laws, or replace them in their entirety. The planning decision-maker may also require a by-law for a relevant purpose. A land use restriction can exist on the strata plan as well as in by-laws. Once a strata scheme has been established, a planning approval does not override the need for an approval of the body corporate. The drafting of a standard/model by-law for use by planning decision makers, which is then set out by policy, may be beneficial.

Enforcement and compliance of use and development in a strata scheme is more complex than in a conventional green title context, given that there are both public (e.g. local government, body corporate) and private parties (individual owners) that have standing.

The options above can be used in isolation or in combination.

Benefits	Limitations
<ul style="list-style-type: none"> • Consistent planning approach across WA • Still provides ability to tailor regulation to scale or type of short-term accommodation • Reduces local government influence on the location and scale of short-term accommodation • By-law would provide revenue generation to assist with regulation • Model strata by-law provide strong and consistent position across state to be applied as required 	<ul style="list-style-type: none"> • Deemed provisions complicates line of sight by having provision physically siting outside of the LPS • Deemed provisions may fail to address local variations • Could restrict tourism accommodation in appropriate tourism locations • Reduces local government influence on the location and scale of short-term accommodation • Would require criteria to determine appropriate scale and type of short-term accommodation to be regulated (if not a blanket approach)

5.5 Fully Regulate

Introduce State level regulation of short-term accommodation. Full regulation of short-term accommodation could be accommodated via a number of mechanisms or combination of mechanisms, including but not limited to:

a) *Deemed provisions under the Local Planning Scheme Regulations 2015*

Deemed provisions under the LPS Regs would be read into all schemes on gazettal. Deemed provisions could insert the hosted tourist accommodation definition to provide distinction between hosted and un-hosted forms of short-term accommodation, as well as, insert the holiday apartment definition and amend the holiday accommodation definition to further strengthen the terminology used and align with the R-Codes. Deemed provisions could restrict the presence of short-term accommodation or restrict certain types or apply standardised minimum requirements through mandatory planning approval.

Deemed provisions could make all or specific types of short-term accommodation a D use in local planning schemes and require planning approval to operate. This could apply to all forms of short-term accommodation, different types or be differentiated based on scale such as number of individuals to be accommodated. Deemed provisions could also restrict the number of days accommodation is available for short-term rent. NSW are limiting days of operation to 180 days/year in Greater Sydney for un-hosted short term accommodation. A similar approach could be introduced across the state or in particular locations within WA.

Where heavy regulation is considered appropriate deemed provisions could allocate specific types of short-term accommodation as an X use within the local planning scheme making it a prohibited use.

b) *Model local law under Local Government Act 1995*

Introduction of a model local law to require individuals running a short-term accommodation business to register for a license with LG annually. This would provide the opportunity for the planning, building and health officers within LG to apply any requirements considered appropriate such as emergency evacuation plans, fire alarms, car parking bays etc. The license is tied to the operator of the business not the building itself. This could apply to all forms of short-term accommodation, different types or be differentiated based on scale such as number of individuals to be accommodated.

These approaches could also be regulated on the length of stay, as in NSW, hosted short-term holiday letting could be exempt development 365 days per year. When un-hosted, a limit to rent out properties (short term holiday let) for 180 days/year in Greater Perth up to 365 days in all other areas of WA could apply. Some specific tourism areas could have greater control through their schemes.

c) *Strata Titles Act 1985*

Under the STA a strata scheme is comprised of 'by-laws' or a 'management statement'; the plan (depicting lots); and upon registration, the body corporate. The STA requires subdivision approval by the WAPC under the PD Act prior to registration of a strata plan to create a strata scheme.

Given the planning decision-maker may require a by-law for a relevant purpose. A use restriction can appear on the strata plan as well as in by-laws. Once a strata scheme has been established, a planning approval doesn't override the need for an approval of the body corporate. The drafting of a standard/model by-law for use by planning decision makers, which is then set out by policy, may be beneficial.

Smaller and older strata schemes, are likely to currently rely on the deemed by-laws in the STA, which are generally silent in relation to short term letting, but in new and larger strata schemes it would be expected that they do purport to set out restrictions on short term letting.

Benefits	Limitations
<ul style="list-style-type: none"> • Provides for strong and consistent regulation across the state • Still provides ability to tailor regulation to scale or type of short-term accommodation • Reduces local government influence on the location and scale of short-term accommodation • Local law would provide revenue generation to assist with regulation • Local law allows planning, building and health to operate together • Strata by-law provide strong and consistent position across state to be applied as required 	<ul style="list-style-type: none"> • Deemed provisions complicates line of sight by having provision physically siting outside of the LPS • Consistent approach across WA that fails to address local variations (if blanket approach taken) • Could restrict tourism accommodation in appropriate tourism locations • Reduces local government influence on the location and scale of short-term accommodation • Would require criteria to determine appropriate scale and type of short-term accommodation to be regulated (if not a blanket approach) • Local law outside of the PD Act • Strata by-law outside of the PD Act

6. Industry based approaches

The sharing economies impact on short-term accommodation has been addressed in a number of ways internationally. In some jurisdictions, the approach has been to initiate self-regulation of the sharing economy through service providers such as Airbnb. This has been achieved through the establishment of new and in some instances heavy regulation, enforcement of existing regulation previously un-imposed or the intimation of introducing heavy regulation in the absence of industry self-regulation. The options below highlight some examples of how industry can self-regulate. Engagement with industry on self-regulation options would be managed through Tourism WA.

6.1 Industry accreditation

In order to be registered with a sharing economy platform such as Airbnb, hosts would need to be accredited. Accreditation could require minimum standards such as fire and safety requirements as well as insurance etc. There are existing industry accreditation programs in place or individual operators could create their own to suit their clients. Failure to meet the accreditation requirements would result in operators losing their accreditation and correspondingly their ability to advertise on the sharing platform.

6.2 Code of conduct

The requirement to adopt a standardised code of conduct for those operating short term accommodation businesses has been required in a number of jurisdictions. The code of conduct holds the operator accountable to minimum standards of operation such as cleanliness, fire safety, insurances etc. Regulation varies, in some jurisdictions it is a voluntary adoption process and in other locations it is mandatory. In some jurisdictions the operator of the advertising platform (such as Stayz) will not register the short-term accommodation business if they are not a signatory to the code of conduct.

As previously mentioned, in NSW a mandatory Code of Conduct will be introduced with the Department of Finance, Services and Innovation to administer and enforce. A similar approach could be taken with the Department of Mines, Industry Regulation and Safety here in WA.

6.3 Time limited use self-regulation

Some jurisdictions have required the operators of short-term accommodation such as Airbnb to self-regulate the amount of days per year the accommodation can be available for short-term rent. Provider's ability to advertise via the sharing economy platform would reflect this limitation. Short-term holiday letting could be exempt development 365 days per year when hosted. When un-hosted, a limit for hosts to rent out properties (short-term holiday let) of between 90-180 days/year in Greater Perth and coastal areas, and 365 days/year in all other areas of WA in consultation with respective local governments. Some specific tourism areas could have greater controls applied, if considered necessary.

DRAFT

Appendix 1 - Definitions

Current LPS Regulation Definitions

Below are all the definitions and land use terms currently within the Local Planning Scheme Regulations 2015 that relate to tourism accommodation.

Division 1 - general definitions

cabin means a dwelling forming part of a tourist development or caravan park that is —

- (a) an individual unit other than a chalet; and
- (b) designed to provide **short-term accommodation** for guests;

chalet means a dwelling forming part of a tourist development or caravan park that is —

- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
- (b) designed to provide **short-term accommodation** for guests;

short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totaling more than 3 months in any 12 month period;

Division 2 – landuse terms

bed and breakfast means a dwelling —

Schedule 1 Part 6 cl. 38

- (a) used by a resident of the dwelling to provide **short-term accommodation**, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
- (b) containing not more than 2 guest bedrooms;

caravan park means premises that are a caravan park as defined in the Caravan Parks and Camping Grounds Act 1995 section 5(1);

holiday accommodation means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;

holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

hotel means premises the subject of a hotel licence other than a small bar or tavern licence granted under the Liquor Control Act 1988 including any betting agency on the premises;

motel means premises, which may be licensed under the Liquor Control Act 1988 —

- (a) used to accommodate guests in a manner similar to a hotel; and
- (b) with specific provision for the accommodation of guests with motor vehicles;

road house means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services —

- (a) a full range of automotive repair services;
- (b) wrecking, panel beating and spray painting services;
- (c) transport depot facilities;
- (d) **short-term accommodation** for guests;
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;

serviced apartment means a group of units or apartments providing —

- (a) self-contained **short stay accommodation** for guests; and
- (b) any associated reception or recreational facilities;

tourist development means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide —

- (a) **short-term accommodation** for guests; and
- (b) onsite facilities for the use of guests; and
- (c) facilities for the management of the development;

Definitions of relevance in the R-Codes

Dwelling - A **building** or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not compromise a single family.

Building - Any structure whether fixed or moveable, temporary or permanent, placed or erected on land, and the term includes dwellings and structures appurtenant to dwellings such as carports, garages, verandas, patios, outbuildings and retaining walls, but excludes boundary fences, pergolas and swimming pools.

Grouped Dwelling - A **dwelling** that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property.

Multiple dwelling - A **dwelling** in a group of more than one dwelling on a **lot** where any part of the **plot ratio area** of a dwelling is vertically above any part of the plot ratio area of any other but:

- does not include a **grouped dwelling**; and
- includes any dwellings above the ground floor in a mixed-use development.

Residential Building - A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:

- temporarily by two or more persons; or
- permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel, or a residential school.

Appendix 2 – National Construction Code classifications

Classes of Building		
Class 1	Class 1a	A single dwelling being a detached house, or one or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, town house or villa unit.
	Class 1b	A boarding house, guest house, hostel or the like with a total area of all floors not exceeding 300m ² , and where not more than 12 reside, and is not located above or below another dwelling or another Class of building other than a private garage.
Class 2	A building containing 2 or more sole-occupancy units each being a separate dwelling.	
Class 3	A residential building, other than a Class 1 or 2 building, which is a common place of long term or transient living for a number of unrelated persons. Example: boarding-house, hostel, backpackers accommodation or residential part of a hotel, motel, school or detention centre.	

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