

ECONOMICS AND INDUSTRY STANDING COMMITTEE

INQUIRY INTO SHORT-STAY ACCOMMODATION



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 26 JUNE 2019**

Members

**Ms J.J. Shaw (Chair)
Mr S.K. L'Estrange (Deputy Chair)
Mr Y. Mubarakai
Mr S.J. Price
Mr D.T. Redman**

Hearing commenced at 10.08 am

Ms GAIL McGOWAN

Director General, Department of Planning, Lands and Heritage, examined:

Mr DAVID CADDY

Chairman, Western Australian Planning Commission, examined:

The CHAIR: On behalf of the committee, I would like to thank you for agreeing to appear today for a hearing for our inquiry into short-stay accommodation. My name is Jessica Shaw, and I am the Chair of the Economics and Industry Standing Committee. I would like to introduce the other members of the committee: to my right, Yaz Mubarakai, member for Jandakot; to my left, Deputy Chair Sean L'Estrange, member for Churchlands; Stephen Price, member for Forrestfield; and Terry Redman, member for Warren–Blackwood.

I advise that the proceedings of the committee's hearing will be broadcast live within Parliament House and via the internet. This broadcast may include documentation provided by you to assist the committee in its investigations. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything you might say outside of today's proceedings. Before we begin with our questions, do you have any questions about your attendance today?

The WITNESSES: No.

The CHAIR: Before we start, the committee would like to extend their congratulations to you, Ms McGowan, for your recent public service award in the Australia Day honours. Congratulations; it is a significant achievement and reflects a wonderful contribution to WA public life. We just wanted to put on the record how grateful the people of WA are for your outstanding work over your career. Having said that, would you like to make opening statements?

The WITNESSES: No.

The CHAIR: I guess I will ask you a question that may force you to make one. That is our job, right?

This inquiry has been incredibly broad ranging. We have had a range of opinions expressed to us from right across the state. As a committee, one thing we have seen is that this topic has attracted an extraordinarily broad range of perspectives. We have done inquiries in the past where it has been pretty simple—there seemed to be quite a bit of consensus around what should be done to address a particular policy issue—but on this inquiry, there have been some really quite divergent views put forward very forcefully. In fact, I understand that this inquiry has had the largest number of parliamentary submissions made to it, and there has been an awful lot of media coverage and a lot of interest in it. To what degree have your organisations been monitoring the progress of the inquiry, and what are your observations on the key sorts of themes to emerge and your thoughts on appropriate policy responses to the challenges?

Ms McGowan: Clearly, I cannot profess to have read every submission, but we have certainly been monitoring all of them. The staff have read all of the submissions and, I think, followed the transcripts. As you quite rightly point out, the diversity of views and the themes are challenging, if nothing else.

I have a couple of observations. I think probably the first time I appeared it was the question of: what is the problem we are trying to solve? To me, it still seems to be that the problem is not the

same problem in every part of the state. The challenge is whether there is a simple solution that can be applied statewide and, if there is a solution, to what extent or where that is best placed. This is me being an absolute bureaucrat here—I spend a fair bit of my day battling away the introduction of red tape, in the sense that when we have a problem, the answer is to introduce a regulation, so how do we make sure that we do not do that unnecessarily? If we are to introduce some controls at that higher level, where are they most appropriately placed? Are they in planning and development regulations? Do they sit in the tourism space? Do they sit at the local government level? It may be a mix of each. To me, equally importantly, if we introduce some form of regime, that is of no use unless there is some form of compliance and monitoring, so what does that mean in terms of resourcing and practicalities? I suppose they are the broad observations.

If I were to go to the simplest of issues—and that is probably overstating it in terms of using the word “simple”—there is the notion of having some form of registration approach at a lighter-handed level. But if there is to be some form of registration, should that sit at an individual local government level? Would they then need a little bit more of what I would term as “guided democracy” in terms of model provisions for having schemes or does it better sit under a tourism regime? I think they are probably the questions.

I am certainly not persuaded from what I have seen of the submissions coming through and the diversity of views—because you have the question of the building standards and equitable treatment, as opposed to the affordable housing issue, as opposed to the nuisance value; there are probably more themes as well—that having a statewide imposition is the way to go, but, then again, to some degree, we will be guided by this committee’s recommendations as to where some of those levers might usefully be applied.

The CHAIR: Mr Caddy?

Mr Caddy: Thank you very much. In my 15 months in this role, I have managed to avoid standing committees, so this is my first one.

The CHAIR: We will be gentle with you.

Mr Caddy: Thank you. I have been in this Airbnb space on both sides of the fence, so in the private sector and now in the public sector for 15 months, as I said. I guess the total involvement has been about six years. In my former life, I was very involved in the western suburbs of Perth with Airbnb. It was a big issue in Nedlands and Cottesloe in particular. At one stage, in Cottesloe you could go onto the Airbnb website and see that within that district, there were 800-odd listings for Airbnb, and in Cottesloe beach there were 80. The council was in total denial, because there was absolutely no regulation. There were people who were applying to the council for a B&B and going through that rigorous process, and there were other people who were just registering with Airbnb.

Then, as the Director General said, in this role, we travelled to Augusta–Margaret River and Busselton, and we met with both councils in September last year. It is a huge issue. You would have received a lot of submissions from that particular geographic area. Their problem is very different to those that are apparent in the metropolitan area. We went to Bunker Bay. There is an 8% permanent occupancy rate in the town site of Bunker Bay, so there are all these other properties which are essentially holiday homes but they are also being let. We do realise that there is a problem there.

Before I became the Chairman, the Western Australian Planning Commission did adopt a position statement and was going to advertise that position statement around holiday accommodation, particularly Airbnb. We then decided not to do that, pending the outcome of the inquiry. The inquiry was then announced. All of that information has in fact been given to you through a submission

from the Department. So we are awaiting the outcome of your findings before we take that any further. My personal view is that they should be registered, but the registration and any compliance should come through local government, with as little State Government involvement as possible.

The CHAIR: I will ask two questions around that. Firstly, as both of you have alluded to, this affects planning, local government and tourism. Is there any interagency working group looking at these issues to make sure that there is a whole-of-government, coordinated approach to this; and, if so, could you elaborate on how that functions a little bit more?

Ms McGowan: Probably not so much since the inquiry was commenced. Certainly, regarding the position statement the Chairman referred to, there have been two different tangents. One was a position statement, which has not been published for comment, and that was one we worked closely with Tourism on. That was really wrapping up or updating the existing information we have in relation to caravan parks and planning for tourism and holiday homes.

The second is planning in bushfire-prone areas—I neglected to say at the outset that that is another subset of the issue. We have put out for public comment a position statement into planning for bushfire-prone areas that is, in planning parlance, probably a little bit more relaxed than some of the normal requirements. We have had submissions on that, but we have not finalised it. I think it would be fair to say that there is still some level of concern by Fire and Emergency Services, as there is more broadly in the bushfire space. We are working through that, but, again, it will not be finalised until this committee has put forward recommendations.

The CHAIR: Both of you have mentioned some form of registration scheme. Is your position that registration should be a mandated State Government requirement and then what actually needs to be registered should be determined by local government? I have asked this question over and over again because everyone says, “We want registration”, and I am like, “Well, what do you want the state government to require and what should be left?” Nobody has been actually able to give me the answer: “In a nutshell, this is what the State Government should be doing and running and requiring and this is what should be left to local government.” It probably goes to the core of this inquiry.

Ms McGowan: I am probably going to disappoint you enormously, in the sense that I am struggling, as I said, to see that something at the State Government level—in terms of dealing with the range of issues—is going to be effective, because it would start to be too overcomplicated. So, I am probably in favour more of a lighter touch at the local government level. My staff tell me that the Fremantle model works quite well in terms of the council registers, then I think there might be a fee paid and there are some checks to make sure that certain requirements are complied with.

From that point of view, the other observation staff make is the big difference between hosted and unhosted, and again that notion of is there someone onsite—is it renting of an ancillary dwelling on the property where the owner is there, is it a room within a house? That seems to be a situation that is far more palatable to most people in the sense that there is someone to contact and someone responsible. That is the other issue, as you would have heard over and over again.

Really the question to me then comes down to: does the state through the planning system, in the same way—and I had my phone sitting there because I was looking at the number of definitions we have in this space now, it extends over two pages. Do we actually go back and revisit the definitions of “holiday home”, “bed and breakfast” and all of those and just simplify it into “hosted”, “unhosted” in a couple of those areas? There could well be merit in the planning system providing some standard definitions that might be then incorporated by local governments into their local planning schemes to deal with it at the local level. The issue, as has been rightly pointed out to me, then is: does it warrant any further intervention by the state for neighbouring localities—so do

Busselton and Margaret River share the same view on what should be regulated where, for instance—and should it be uniform across neighbouring jurisdictions? That then says, well, if you do it for one, it goes statewide.

The CHAIR: I will ask one final question and then I will turn over to my colleagues. We obviously have two eminent public servants working in the planning space, but there is a much broader role for the State Government beyond planning. Particularly with respect to this issue, it has been brought to our attention that there are consumer protection issues, there are insurance issues; there are a whole heap of things that comes with operating a short-stay accommodation property where potentially consumers could be left out to dry or find themselves injured in a property and find out that because registrations were not done properly or things were not being managed well they are uninsured. So, there is a much broader role for the state here.

Ms McGowan: Absolutely.

The CHAIR: I suppose it goes to the question I was asking before about whole-of-government responses and the need to take a look at this from a much bigger picture. Have you had any conversations with other agencies about those types of issues?

Ms McGowan: Look, at the very broad level, yes, particularly with Tourism, but not in terms of what might a regime look like. I am sure the staff probably have. Have I had conversations with Department of Mines, Industry Regulation and Safety? No, not me specifically, but in that whole building regulation/consumer protection area it is a very live issue, and of course the role of the host platform, in terms of what that might demand, may also be a critical point as well.

The CHAIR: Thank you.

Mr D.T. REDMAN: I am pleased to see that you have been tracking all the submissions. It seems to be a pretty strong view, certainly from the people that are raising concerns about the issue, that compliance to registration is a really key piece to this, and in those local government areas where people are registered then all the relevant controls come into play. You have got building codes that have to be met, whether they are allowed to do it in particular zoned areas, fire-risk issues—a whole range of things that get triggered which are our normal planning issues. My question goes to: provided people are registered, are you comfortable, from what you have seen in the submissions to the inquiry, that all the issues that the Planning Commission would normally have with these sorts of processes as they play out through local government are covered off to a sufficient level? You have mentioned definitions being one that might like to be a consistent plane; that is simply putting something out to say, “If you are going to do your planning, plan it around these definitions”, so everyone knows what everyone else is talking about. Provided people are compliant and register, do you have confidence in the rest of the processes that sit there to manage all the competing issues?

Ms McGowan: I think people always find a way round but at a broad level, yes, I think that will address a significant number of the issues because there is, in a sense, a traceability or a locus of control for someone to take responsibility when something is not being done. There is an accountability issue there. I think that, of itself, from a land use planning point of view, assists. I suppose it is in the same sense of home insurance for people that have a cleaner or a gardener or whatever—there will always be the exceptions—and the tension then is how far do you then mandate that as opposed to educate people to make sure? Now, my general view is that on a hosting platform, if there is a registration number—in the same way if I am picking a tour operator I do my due diligence to see they are accredited somewhere, because that is my responsibility as a citizen, and then going through that path, that is generally my observation.

Mr D.T. REDMAN: Further to that, I know that you operate in one particular space—a planning space—what tools or options are available to government on a state level to force compliance to registration? You talked about the example of having someone’s registration up on a site and maybe it is a piece of legislation, it is a legal process, or whether there are some slightly more hardline planning processes that might be a tool to achieve that. What is your advice about that piece?

Mr Caddy: There is a very common theme throughout the submissions, and that is having a level playing field. When you look at the eight, as I call them, planks of your inquiry, one of those is land use planning. If we can actually establish a statewide framework within the land use planning framework that applies to every local authority, there may be regional variations, but at least you have written into regulations a land use definition. As the Director General said, hosted and unhosted appears to be key to this whole question. I think the hosted is going to be a lot easier to deal with. It is the unhosted: Stayz and Airbnb et cetera.

What we need to do is establish that statewide framework, a land use planning definition, and then by regulation we can deem that into each of the local government schemes and then effectively through the land use planning system we take care of bushfire, we take care of all of those things that apply to land use planning. The building, the insurance, the taxation, consumer affairs—they all rest with other departments. I think there would need to be an effort between Planning and Local Government to make sure that we can actually then get a system that works, but it comes back to having that level playing field.

Ms McGowan: That issue of where that, I suppose, primary responsibility for coordination across government—I mean, we have some good mechanisms such as our leadership council and things now—I think broadly is, “What is the solution you are proposing?”, and then, “Where is that best placed?” It might not fit neatly, say, in planning or in industry regulation and safety or in tourism—if it in fact belongs to a government agency—but you then in a sense charge one agency with leading in that and then coordinating that effort. Given the breadth of the problem, you will not get a solution that sits obviously with one agency or one local government. So, I think you figure out how best —

Mr Caddy: We can create that level playing field regarding definitions and regulation. We cannot then force local government to adopt it. So if a local government says, “We are not going to entertain Airbnb” —

Mr D.T. REDMAN: Probably with the exception of the local government planners, because the issues come in their door—they have not gone out and found it, but they have said, “Okay, there are a few things maybe we should look at here”—in the submissions that have come to us, the people that have been aggrieved by the impact of the Airbnb platforms on unregistered accommodation providers really have not raised the planning issues. All they are saying is, “If these people just simply are not complying with the things that I have to comply with, make sure they go and sign up.” I guess I come back to your advice about what tools there are in order to force compliance. What do you think is available? Does it have to come to a piece of legislation that enforces this, or are there planning tools that can fine someone for not signing up, or fine the platform if they do not do it? It is that piece, I think, that is a critical piece.

Ms McGowan: Yes. I hate to be in a position of speaking on behalf of another agency, so I will qualify this by saying this is on the basis of not having the extent of expertise, but the industry regulation and safety space is where any of those practices would sit. If there is a regulatory regime and a fine—for shoddy consumer behaviour or whatever—it sits in what would have been the old consumer protection function, or the compliance function, which is effectively within that space. Now, that of itself begs the question, as I think you said: “Does it have to be at that state level?” I suppose if

a local government in its by-laws had some provisions then, yes, it can fine people for breaches of by-laws; and if with any registration process there was a fee, that could cover your enforcement or whatever. So it is at whichever scale, I would expect that if you were to have a regime that involved any form of registration, no matter for what purpose, you would want to impose a fee, because otherwise that burden will fall on the taxpayer more generally and there is not a lot of resourcing to support it.

Mr S.K. L'ESTRANGE: I think what I am about to ask is linked to this, because it is such a broad area. I am looking from a Planning Commission perspective more than any other perspective. Often a lot of things that come before the Planning Commission are in and around land use in different areas. One of the things that we have been looking at is called the 'Venice effect', where you end up at a certain period of time and the value or the rent return of the property can be higher through Airbnb than it can be by just renting it out normally.

Ms McGowan: Yes.

Mr S.K. L'ESTRANGE: Do you have oversight over the areas that you expect to be suburban and then what you expect to be short-stay accommodation in holiday-type destinations? Are you seeing a change in the urban makeup, which is kind of pushing your suburban dwellers out and bringing in your short-stay tourists and changing the fabric of any areas in and around WA?

Ms McGowan: The only areas where, anecdotally, we are seeing anything would be around the South West, in the Augusta–Margaret River–Busselton area. You would intuitively suggest that something that is close to the CBD would be in that space, and that is your 'Venice effect', or Dubrovnik. In Sydney in particular, where they have done the approach, that actually has a different regime for metropolitan as opposed to regional, where they have reported a much higher tendency to sort of almost build apartments solely for the purpose of this. We have not seen that in our experience here.

Mr Caddy: That is more an eastern states thing.

Ms McGowan: It has been much more in the eastern states sphere. Again, the extent to which you define areas as being suitable, and I think it is that blend between serviced apartments—Airbnb or short-stay accommodation, whichever descriptor you call it—and the old, more traditional B&B, will vary, but it is usually proximity to amenities that draw people to areas.

Mr S.K. L'ESTRANGE: And just a follow-on to that then, picking up on your answer with regard to the east coast, sometimes you have, I think they are called, DAP approvals processes—is that right?—where people bypass council and come to you to try to get approval for an apartment building, for example.

Mr Caddy: They go to the DAP.

Mr S.K. L'ESTRANGE: They go to the DAP.

Mr Caddy: Not to us.

Mr S.K. L'ESTRANGE: Okay. But then it might be appealed through you; is that correct?

Ms McGowan: No, it goes to the —

Mr Caddy: No, it is appealed through the SAT.

Ms McGowan: They do not technically bypass. The Development Assessment Panel regime has a threshold at which things must be considered. There is also the optional, so they can choose which regime they go to. There is an appeal mechanism to SAT, but what we do not have here is third party appeal, so often a local government cannot appeal the decision to the SAT. If the question is whether

I am aware of any situation where there has been a development that has been exclusively or primarily for the purpose of short-stay accommodation to take advantage of this regime, absolutely not. I have not seen anything there.

Mr S.K. L'ESTRANGE: In relation to that answer, is there any way that you know of for government or planning to be able to prevent that from being the case, even if it was not known up-front at the start?

Mr Caddy: If you look at South Perth and some of the developments occurring there at the moment, there are proposed buildings where, in order to meet their commercial plot ratio requirement, they are including serviced apartments as plot ratio. We know, in that particular case, and so does the DAP that is making the decision, that a portion of this building is in fact going to be short-stay accommodation, but everyone accepts that because there are no neighbours and other units within that particular development.

The City of Perth many years ago, with the Mounts Bay development—I was the consultant on job—said, “You can have floors which are short-stay, but you cannot pick units on each individual floor.” That was how that was developed and then tenanted and sold. If the question is whether someone could circumvent the local government to apply for a B&B licence with their single house, the answer is probably no, because it would not meet the DAP threshold. If we could establish a framework of land use planning control and then work with local government to create a local law to regulate all of those things that local government regulates and create the register, then you could not circumvent the local government with that first application.

Mr S.K. L'ESTRANGE: I think you have answered my question. Therefore, in the building where you had short-stay units on one floor and normal units on the others, currently people are using those as Airbnb, therefore competing with your short-stay accommodation floors and creating amenity problems for the neighbours on the floor. What you are saying is that you can build in rules up-front for that development so that cannot occur.

Mr Caddy: And that goes into the strata company by-law.

Ms McGowan: I think the power of the strata company by-law process—again, I did read the Strata Company Association’s —

The CHAIR: From last week?

Ms McGowan: Yes.

The CHAIR: It was very good. It was very interesting.

Ms McGowan: Yes. So there are those quirks around poorly drafted or appropriately drafted, which is probably a separate conversation, but I think there is the capacity, and I am aware of strata companies that have by-laws that prohibit short-stay accommodation. I think you only need to look at any of the platforms to see things, and I have seen them overseas, where they say, “Make sure you do not go to the concierge and ask for your keys.” Clearly, people circumvent things no matter what you do.

Mr S.J. PRICE: Following on from all of this, Mr Caddy, on a comment you made earlier on regarding definitions about hosted and unhosted, if that was something we were to consider, where do you think that would leave the requirements that we currently have for a registered B&B? They are essentially a hosted form of accommodation. If we were to simplify the definitions to hosted and unhosted and also bear in mind trying to level the playing field, so to speak, if we viewed a regular B&B as hosted accommodation, the requirements that currently stand to register as a B&B probably would not be required. Is that something that you would see as a consequential effect to the

definition of hosted and unhosted? The second part of that is: would that then possibly flow on to some short-stay accommodation providers that might only have two or three units or something in their little complex that they then offer, which is still essentially a form of hosted accommodation as well?

Mr Caddy: In one case I know of, the proprietor has a registered B&B with the City of Nedlands. The application took six months to go through the system. There were health and building checks—all those sorts of things—imposed by the local government, administered by local government, and it is now registered by the local government. Notwithstanding that that is hosted accommodation, if we were to put in place the local law that applied to all local authorities in WA, all of these compliance things would be picked up through that local law. I would not see any particular change; in fact, it would be more stringent on those people who simply register with Airbnb now and do not go through the local government hoops of getting a registration.

The CHAIR: Just to clarify this, the two alternative positions that have been put to us are that you can either bring everybody up to a standard or you can relax things and let people chill out a little more around standards and things. The traditional accommodation providers fall into two categories, basically—your small B&B small business operator who has a couple of bed and breakfasts either within their house or little chalets on their place, and then there are the great big hotels that we have operating here in Perth. Is your argument then that anybody who wants to participate in short-stay accommodation should be required to come up to the standard of at least the small business traditional bed and breakfast type organisations?

Mr Caddy: It is not an argument; it is a suggestion. If you operate a B&B in most local authority areas and you are registered—you have been through that process—you cannot serve a hot meal. You are offering a continental breakfast, so it is bed and breakfast and that is it. Essentially, that is not a very high standard. Once the health and building people have been through your proposed accommodation, checked it out and given you the tick, you are registered with the council. It is not a very high bar to actually attain, unless of course you then want to go into the hot meal area, and there are some fairly significant differences between the two, and very costly.

Ms McGowan: I do not know how it is appropriate for the committee when it gets to writing its report. For instance, we have at least looked at what a definition of “hosted accommodation” might look like. I am quite happy to share that with the committee or else I was going to suggest even a couple of our staff who probably are a little bit more nuanced on the finer points of some of our definitions. If you are at a stage of saying, “This is what we would like to recommend; are there practical ways that we might give effect to this that we need to be aware of?”, I am quite happy to make available staff for that purpose.

The CHAIR: That would actually be very, very helpful.

Just on a practical matter, in your submission, you outlined options 5.4 and 5.5. I guess the question is: can the local planning and development regulations be amended to accomplish the changes that you have recommended or does it require legislative changes?

Ms McGowan: The regulations will still need to be tabled in Parliament and are subject to disallowance. Anything that involves a change to the regs will have to be tabled, but we believe there are heads of power in the primary legislation to enable that to happen. That would still do it, I suppose. We are probably suggesting that, on face value, our option 5.3 provides the most flexibility to local governments but, again, depending on the level of regulation or protection or requirement.

Mr Caddy: The difference between the two is if you use 5.4, then you are deeming into every local government scheme the fact that you can have as a discretionary use this type of accommodation in these zones. If the local government scheme actually has that zone, you can go along and start saying, “Well, I want to do this”, and the local government must then consider the application. In our 5.3 option, we are saying we set up within the position statement the ability for local government to do exactly that—to adopt those particular uses into their scheme without us deeming it into the scheme. That is just the difference between the two. One is that you are forcing them under 5.4, while 5.3 gives them an option.

Ms McGowan: And 5.3, of course, could be accompanied by some model definitions, which would not be prescribed as such. They would not be put in the regulations but they could be provided as a means of ensuring consistency and on the basis that if that consistency was not forthcoming, the next step could be to put them into regulations at a point in the future—deem them in. That is probably the lighter touch—a staged approach.

Mr Y. MUBARAKAI: Mr Caddy, I have had some experience in local government. It is fortunate that Chris is in the room as well listening in. The thing in this inquiry that I have found through listening to local government talk about this inquiry is that there are two parts to it. One is that there is currently an industry that is already forming rapidly year on year. These are councils like the City of Fremantle that I am talking about that brought in the local law to address what they deem to be a new formation of a new industry because there were no regulations around the use of local law to build parameters. What we found with Fremantle is that they failed to comply. The compliance part is where they failed. I think from a state perspective or from WAPC’s perspective, the deemed provisions are not very clear, guiding them as to what they can use within the acts, whether it is a local planning scheme or whether it is the zoning of the land use. It will be very important for us to get that definition right from a state perspective with adding short-term accommodation. From the local government perspective, pretty much they have the tools but they are looking for guidance.

There are two parts to it, the way I look at it. One is that we already have an existing industry and the second part is that we are now trying to address and empower local government to bring in a level playing field. Any other industry in commerce that would operate with a council would have to abide by the local laws but in the short-stay accommodation industry, it has just been a very blurred sort of situation in which everyone seems to find not enough empowerment to sort of monitor or introduce their compliance with that.

The question is: how do we get those that are in this space that are unregulated and then create something that allows us to move forward with a level playing field? That is the way I am looking at it. I just want to know what your views are.

Ms McGowan: I think it is a very good point. Somewhat it is the motivation of the larger scale, almost, developer who is setting out to circumvent the requirement—that is probably too strong a term—but the requirement to comply with the building laws and things on a large scale compared with someone who is opportunistically making use of a room or a couple of rooms and the question then becomes: does the same requirement apply effectively to the mum and dad?

If we do have the emergence of the build to Airbnb, it moves away from a land use planning requirement into the industry regulation of what those building requirements are—sprinkler systems, the building standard in that sense. My instinct is you would want some flexibility at the lower level and increase as you go up the chain.

Mr Y. MUBARAKAI: Thank you.

Mr D.T. REDMAN: Just one more question from me. There was a pretty strong view by the people that were raising the issues with the platforms that they still wanted to preserve a level of local government autonomy in terms of how they manage these issues, recognising that there are big differences between different regions in Western Australia. They probably did not want to see a blanket rule that stymied that local government flexibility. My question goes to: do you get any inquiries or any significant submissions from local government to say that there is a dire need to have a level of intervention at a state level because something is seriously broken, or are your comments about this simply a product of the fact that an inquiry has been triggered by anxious accommodation providers, and this comes as a subset of that discussion?

Mr Caddy: The simple answer is that we had lunch last September with the Shire of Augusta–Margaret River and I think we got hammered for an hour on Airbnb. That was their biggest issue. So obviously they want regulation; they want State Government intervention. So does the City of Busselton, to some extent. The question is whether we need to do that.

Ms McGowan: And I think their motivation was quite different; it was around the fabric of the community being eroded, rather than the questions of a level playing field et cetera. Through the ministerial systems, we have had about 300 inquiries, which is not a lot different. We gave you that detail when I appeared before you previously. Clearly, then the attention turned to submissions to the inquiry. Apart from Augusta–Margaret River, I cannot recall a local government making a submission to us to say that they needed us to step in, which is probably why I have been a bit guilty of batting it away a little bit, in the sense that I think the broader issues are around the questions of how do you stop the larger scale, or how do you control—not stop, necessarily, because it could be a useful disrupter—where there is an obligation on the part of the provider, the platform, host and probably local government to actually make sure that amenity is not compromised through a business arrangement that is, in some way, taking advantage.

Mr Caddy: Our planning system has a definition of “serviced accommodation”, “hotel” and “motel”. It does not have a definition of “hosted” or “unhosted” accommodation. It is about where you draw the line. When does a B&B become a hotel or a serviced apartment? That is what we need to distinguish.

Ms McGowan: I must admit that until yesterday, I did not realise that you could not offer a hot breakfast at a B&B.

Mr D.T. REDMAN: Do you get any queries or do you have any charge through planning controls about what they describe as a burden of proof for demonstrating someone is not doing the right thing in a regulatory sense, or do you simply apply the rules and let the legal system work that out?

Mr Caddy: It comes back to the question about Fremantle and the fact that they have a local law but it is very specific to Fremantle. Therefore, compliance rests with the City of Fremantle. Prior to 1995, there were 139 versions of signs and hoardings by-laws in WA; there is now one. In Sandstone or the City of Perth, that same local law applies. The local government, if it is concerned about any noncompliance, then needs to prosecute.

The CHAIR: One final question from me. There is a bit of an urban myth circulating that there are apartment complexes being developed purely for the purposes of short-stay accommodation and there is a mechanism to get around the typically higher hurdles that our traditional large hotels need to jump in order to establish their businesses. Have you seen any evidence of that in Perth or anywhere else in Western Australia?

Ms McGowan: I have not. I have heard it anecdotally as well. It is a concern, but I have not seen anything. I am not sure whether the chairman is aware of anything.

Mr Caddy: I am not aware of any developments that are being built specifically. I am aware of a development that was completed in Crawley about five years ago—a multi-level apartment building where the market had collapsed. The owner could afford to keep all the apartments and rented them out during the last boom. That is now finished and the block is empty. But it was not built specifically for that purpose.

The CHAIR: But it is now.

Mr Caddy: It is now empty, but the owner still owns it. There are no other owners within that strata company. Therefore, it is a bit of an anomaly. I would expect that to change.

The CHAIR: So you are aware that the owner is utilising that block for short-stay accommodation?

Mr Caddy: I was made aware anecdotally, yes, but there is no compliance issue with the department or the commission in that particular case.

Ms McGowan: It is also an interesting, I suppose, observation on the cyclical nature of our economy, because, of course, at that point in time I think the number of hotel rooms and apartments was probably lagging behind. That has now caught up and surpassed demand. But in some of the regional areas—I was working on some of the big projects at that time—people were in fact clamouring. I think when we hosted something like LNG 18 in Perth, we were seriously worried and we were almost thinking we would need to go out and encourage people to think creatively about offering accommodation. So we have to be careful about where there is some sort of legitimate short-term uses as well, that we can accommodate that.

The CHAIR: It has been an interesting issue to explore, because we obviously have had so many new hotel rooms come into Perth. There are open questions around what were the assumptions in the business cases for those developments. I mean, we obviously had a mining boom with a very unusual level of business activity. Your traditional corporate markets and holidaymaking markets are one thing, but then there was a very unnatural level of business travel. It would appear there were bodies to fill those rooms back then. A lot of decisions then were made to develop new projects, and that unusual level of business activity fell away. It has been put to us that part of the reason for very low occupancy rates and the undermining of traditional large hotels is because of the emergence of Airbnb. I guess I have been questioning whether that genuinely is the cause or whether there are broader market forces and project assessment frameworks that maybe should have been considered a little differently.

Ms McGowan: I think it is a bit of a mix of everything. I would not like to leave the inquiry without saying that I think that there are some very legitimate reasons to provide for that diversity and choice in accommodation options for people. I quite happily confess that I have stayed in everything from hotel rooms to the equivalent of your short stay for different purposes and at different times. I think the contribution to the economy and to tourism, and people wanting to have different experiences, means that we cannot overlook that there are some very legitimate uses of these sorts of arrangements as well.

But, equally, it is predicting what is going to happen at a point of time. Even in terms of our own housing market here, we have been saying, yes, we must be at the bottom and we are seeing green shoots, but there are a raft of things so that we just happen now to have a supply that is still in advance of the demand, so things are flatter. At a different point in time, when things pick up, again, the conversation even before this committee might be quite different.

The CHAIR: I will proceed to close today's hearing. Thank you for your evidence before the committee today. A transcript of this hearing will be emailed to you for correction of minor errors. Any such corrections must be made and the transcript returned within seven days of the date of the

letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you very much.

Hearing concluded at 10.57 am
