

ECONOMICS AND INDUSTRY STANDING COMMITTEE

INQUIRY INTO SHORT-STAY ACCOMMODATION



**TRANSCRIPT OF EVIDENCE
TAKEN AT MARGARET RIVER
THURSDAY, 2 MAY 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 9.26 am

Ms PAM TOWNSHEND

Shire President, Shire of Augusta–Margaret River, examined:

Mr IAN EARL

Shire Councillor, Shire of Augusta–Margaret River, examined:

Mr NICK LOGAN

Acting Director, Sustainable Development, Shire of Augusta–Margaret River, 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 is Deputy Chair Sean L'Estrange, member for Churchlands; and to my left is Stephen Price, member for Forrestfield; and Terry Redman, member for Warren–Blackwood. Yaz Mubarakai, the member for Jandakot, is an apology.

It is important 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 here today?

Before I invite you to make opening statements, I would like to thank you very much, on behalf of the committee, for hosting us. We have had a fantastic couple of days and we certainly appreciate your making the council chambers available to us. I would also like to put on the record thanks to Rebecca Kevill and Nick Logan for their assistance in arranging the hearings for us while we have been down here. It has been fantastic. We really do appreciate your hospitality and it has been an absolute pleasure to be down here in your patch.

Having said that, would you like to make an opening statement?

Ms Townshend: Yes, thank you, Madam Chair, and thank you very much for coming along. We have very much enjoyed hosting this inquiry and we are very pleased to have this opportunity to make our submission.

This shire is a key tourism destination in the state and there has been a long history of the use of houses for holiday purposes. The majority of unhosted holiday houses in the shire are located on the coastal settlements—that is, Flinders Bay, Prevelly and Gnarabup areas—rural residential areas and close to town centres in the inland settlements. Council has made a distinction between hosted and unhosted forms of accommodation using the existing land use definitions within the local planning scheme, with hosted accommodation classified as guesthouse and bed and breakfast, and unhosted accommodation being classified as a holiday house. The location of what can be considered hosted and unhosted accommodation is largely a consequence of historical patterns of use and application of the shire's policy for location of these uses.

Shire policy seeks to address the key known and potential issues arising from both hosted and unhosted short-stay use specifically; potential impacts on the use of dwellings for short stay on the availability and price of permanent rental accommodation; potential effects on housing affordability through the impacts on dwelling prices resulting from the increasing demand on dwellings; amenity issues that may arise through inappropriate or insufficient management; and the slightly more

intangible concept of the cohesiveness of residential areas—that is, the knowledge and security of the community in a neighbourhood.

[9.30 am]

Shire policy provides a relatively liberal approach for the geographic areas where small-scale hosted accommodation that falls within the definition of bed and breakfast may be located. This recognises that the hosting of guests in someone's dwelling has minimal potential for affordability impacts and, in the shire's experience, are rarely the cause of amenity impacts. Shire policy is more restrictive on the locations within which unhosted holiday houses may be approved, restricting these to coastal suburbs, rural residential areas, areas in close proximity to the town centres, and larger properties over one hectare. In this way, unhosted accommodation is excluded from the majority of dwelling supply and the typical suburban residential areas. While there is no definitive objective evidence around the potential impact on affordability, the shire has taken a restrictive and precautionary approach, which is viewed as particularly important given the underlying affordability issues in this shire.

The shire implements these policy directions through requiring planning approval for all forms of short-stay use. This is viewed here as a superior approach when seeking to distinguish geographical areas and more appropriate where a more restrictive approach is required. The alternative approach, which is the licensing regime under a local law, may be preferred where a more permissive registration-type approach is preferred. Through various means, including the preparation of the shire's tourism planning strategy, the consultative process that led to modifications to our shire policy last year and through further representations from existing tourism operators in the shire—tourism accommodation providers in the shire—it is evident that there are real issues with the viability of some existing tourism developments that is likely being impacted by the growth in both hosted and unhosted forms of accommodation.

The response sought to address this issue is commonly represented to the shire in two ways. Firstly, it is accepted that competition from legitimate short-stay use of hosted and unhosted forms of accommodation will exist but that it should be on a level playing field with traditional providers. The second and quite distinct point is that hosted and unhosted short-stay accommodation should be restricted to enhance or preserve the viability of existing operators through restricting competition.

The shire undertook a detailed analysis of the tourism sector, with a particular emphasis on land use planning outcomes, through the preparation of the shire's tourism planning strategy. This strategy was commenced in 2012 and endorsed by the state in 2015. It found particular things, including that there were comparatively low occupancy rates and limited profitability in many forms of tourism accommodation in the shire. This was found back between 2012 and 2015.

The feasibility of new tourism developments was limited and, in many cases, negative. Innovative responses were required that may include incorporating additional residential development in key tourism sites or in a mixed-use form of development—so, residential tourism, some of which has occurred. The tourism industry in the shire required reinvestment and rejuvenation to avoid becoming stagnant and to meet changes in demand. It may be possible that tourism developments or tourism zoned sites may become no longer feasible and would require rezoning or modification of use.

So that sets the scene. I would now like to hand over to Councillor Earl to continue our comments.

Mr Earl: Thank you very much. Other methods, where possible, are utilised to bring equity and a level playing field between the short-stay use of dwellings and purpose-built accommodation. Since 2014, the shire has charged a commercial rate to all short-stay properties, which is the same rate

that is applied to most tourism providers, with the exception of rural tourism operations who pay a considerably lower rate. Equity in construction requirements has been described by other submitters, and the shire has little scope to resolve this issue, which we suggest should be given further consideration by the state.

The shire follows state planning policy 3.7 in making decisions for short-stay accommodation, excluding short-stay use where the fire risk is above the nominated acceptable risk level of BAL 29, as specified in SPP 3.7 and associated guidelines.

Effective implementation of the shire's policy direction relies on effective enforcement. The shire has been actively pursuing compliance, which has been successful when resourcing permits, but is resource intensive. The burden of proof for some compliance processes sets a high threshold, which can be very challenging to establish. A property owner must be caught in the act rather than simply be advertising. The shire considers that a complementary restriction on advertising by the state would resolve much of the compliance burden. This assistance to make the compliance process more effective and efficient would go a long way to levelling the playing field, which we view as one of the key issues to be resolved.

Further research is needed to ensure evidence-based policy controls are being undertaken. The shire welcomes this inquiry and looks forward to pairing the outcomes of this research with the outcomes of this inquiry to reach the most appropriate outcome for the betterment of our community. To this end, the following are the key recommendations of our submissions and we commend them to the committee.

An ability should be retained to tailor an approach to a local context. There may be more permissive or flexible approaches that would be appropriate in different parts of the state, dependent upon local issues. The ability should be retained to prevent particularly unhosted accommodation in certain geographic areas, predominantly residential suburbs, if a local situation dictates this is an appropriate response. The shire supports simplifying land-use definitions to distinguish between hosted and unhosted accommodation, as opposed to holiday houses, guesthouses and bed and breakfast, although there should be some associated thresholds for capacity of accommodation.

There should be a state level prohibition on the advertising of short-stay use without approval, with the advertising platforms responsible for checking approvals exist, and this action potentially overseen by the Department of Mines, Industry Regulation and Safety. I think this one is probably the key to us getting the compliance sorted out, so that everyone must have an AMR3, or whatever it is, to show that they are compliant, that they do have approval from our shire. I think that would go a long way to solving most of the problems we have.

That is the end of our opening. I would like to thank you very much for your attendance here over the last few days. I wish you well in your deliberations. Apologies for the noise out the back, but we have a fair bit of construction going on out there that will be terrific for our town in the future. Thank you very much.

The CHAIR: Thank you very much for your opening statement. We have heard a lot about a level playing field since we have been down here and what it would mean to establish a level playing field. One thing that we are grappling with is what it is appropriate for the state to do and what it is appropriate to leave to local government to tailor a local solution, as you have mentioned in your opening remarks. In the statement that you have just given us, it seems that the state functions that you have identified are around construction standards, fire, and restrictions on advertising, but the rest, the balance of the regulation of the industry, are you saying should be left to local government, or are there other things that you anticipate the state government should be doing in this space other than in those three areas?

Mr Logan: I think that is a fair summary you have outlined there of the distinction for us when we are talking about what we can do in the local context to level the playing field. It really is about those functions of local government requiring approval in the first instance, making sure everyone is subject to the same checks and balances through that approval process, and everyone is compliant with the shire policy in this context in terms of location and the like, and also that everyone is charged consistent local fees through rates and whatnot. Some of the other elements relate to items that have been discussed previously in the National Construction Code and also items that are governed by state government regulations, such as swimming pool regulations. A lot of those things—well, the construction-based elements outside the scope of local government to dress—we can address the need to get an approval and we can address local fees and charges.

[9.40 am]

The CHAIR: Can I explore with you this whole idea around compliance and monitoring and making sure that people are doing the right thing. We heard from the Shire of Busselton this concept of whack-a-mole, which I found quite amusing actually—the visual image you get in your head of whack-a-mole. In terms of ensuring compliance, what resources are available to local government? Assuming people are not registering, how do you think the compliance function could be improved?

Mr Logan: One main problem we have with compliance at the moment is a holiday house in the planning context is reasonably unique in that when it is not operating as a holiday house, it is a dwelling, so it is a perfectly legitimate enterprise, and the fact that it is advertised does not in itself constitute an offence. So we actually have to gather evidence about the transaction taking place between someone who is staying in one of these premises and the person who is letting it—the commercial transaction. To do that we have to visit the site, we have to interview the people who are staying there, they have to basically accept that they have stayed there for a charge. That is not only resource intensive but it is quite tricky to do, and it is not hard to subvert that process. That is really the genesis of our submission, that there should be restriction on advertising premises that do not have approval. To us, that would fix a whole bunch of those compliance and evidence gathering issues we have.

Mr D.T. REDMAN: To extend that, you are basically saying that if you were able to force compliance by ensuring the platforms that advertise have a registration on there, that would be significant enough to sort the issues that are there. I assume there may well be premises that might not register but they simply are not able to use the platform without someone getting fined for doing so. What is your judgement about how much that would take it out of play?

Mr Earl: That is a great question. I think that will significantly help the shire to deal with the problem of unregistered operators. If I can just go back a step. If, say, on Easter Sunday the shire decided to send half a dozen people to knock on doors to see if they were legitimate operators, we would then be upsetting a heap of people who have come to our region who are here for a holiday and suddenly feel a bit like outcasts or the bad person because they thought they legitimately booked some accommodation that they thought probably had approval. They would probably be concerned whether it is or not.

So for the state to have some legislation that says you must—must—have a shire or local government approval number prominently on your advertising, it is exactly the same that happens in my business as an electrical contractor. I must have my EC number on my advertising. I think that is what we need. Then I suspect we will get rid of 75 or 80 per cent of the problem. It is easy for the shire to deal with. There will always be people who try to get around it. People will probably put the thing on there as happens in others, but that will get rid of most of it. Then we can start to deal with

some of the other issues that may well be out there. But once we get rid of most of them, we will be getting somewhere.

Mr D.T. REDMAN: I understand that, but did I get the sense in your submission that you also want to address the threshold of the burden of proof for demonstrating that someone was breaking the law? Was that the sense I got?

Ms Townshend: Yes, because at the moment—and Nick can add to this because he is working with the compliance officer. A compliance officer, that is an additional wage we have to pay. We do not have a full-time person at the moment, so we bring them on to do I suppose a blitz over a period of months. If somebody could just go on to the platforms, check all the ads and see the unique identifier quickly, that would reduce the workload enormously, rather than having to pull up each individual thing. If you have gone onto Airbnb and Stayz and all these platforms, it is very hard to find the address unless you book, so it does take quite a lot of time. If we just could have the unique identifier, that would certainly make compliance a lot less resource intensive for us. We would appreciate that. I am sure Nick would like to add to that—possibly or maybe not.

Mr Logan: I think you have covered it.

Mr D.T. REDMAN: If I can take a different line of questioning. In your submission you talked about the compliance challenge, and that is what we have just been talking about now. I got the sense also that you wanted to have a push for a greater level of restriction beyond—so people come in, presumably have a mechanism that will drive registration, which means you get to check compliance and you will check that against your town planning scheme and where you allow hosted and unhosted accommodation. But I got the sense that you wanted to have a level of restriction on top of that that allowed the investment sector to maintain their premises and maintain investment interest in the tourism accommodation space in the region on the back of restrictions. I am assuming when you talk about that, you are talking about limiting days that they operate or some other thing? Did I get that sense in your submission or did I read that wrong? I thought you mentioned the word “restrictions”.

Mr Earl: I actually think that part of that is what other providers like RAPMRR and others have been trying to push us to have.

Mr D.T. REDMAN: So basically the principle is that provided they come in the door and they are compliant with your requirements now, as your set of rules exist, then you would be satisfied that that sets up people doing the right thing and, therefore, that is simply a competitive market out there as that plays out?

Mr Earl: Yes.

Ms Townshend: Our policy changes last year did tighten up the policy, because the online platforms made the rate of change very fast. There were a lot of approvals under the old policy that happened very quickly. I think that is where a lot of the complaints have come from—the quick rate of change. We took one item in particular out of our policy, which was that a place could be approved if it was near a tourist attraction. It was very hard to say what is a tourist attraction, so it was a bit too permissive really, and it really depended on somebody’s idea of what a tourist attraction is—that could be a playground or it could be a beach. So we took that out, which means now it has to be, as we have said in our submission, in a coastal area, over one hectare or in a set area around coastal inland settlements, so rural–residential.

Mr D.T. REDMAN: We got some evidence yesterday that talked about this retrospective issue. If you force people to come to the table now to register, because they are not able to use platforms if they do not, presumably a number of people will meet the requirements fairly easily because they do

not have the BAL rating issues or land-use planning issues; others will not, but they are presently operating. What will be your attitude to that? Are you expecting to have a glide plane shift or are you saying, “No, you just simply cannot do it and we are going to fine you if do”? I imagine that there would be a number of operators out there who might be a bit angry that they cannot register.

Mr Logan: I think that that is a fair point—that there may be a number of operators out there who would be upset that they could not register. I think the overriding point to that is that they are operating without approval at the current point in time, and if they had sought approval as it is currently required under our framework, there would be no issue with that.

Mr S.K. L’ESTRANGE: You may have covered this in some part, so it is more for clarification for me than anything. In your recommendations—some of them are pretty straightforward, but there are a few that I would like some feedback on. The first one is your first bullet point where you talk about retaining state guidance on the issue in the form of amendments to planning bulletin 99, “providing flexibility to adapt an approach as is relevant to a local context”. Can you provide some examples of amendments you are looking for specific to the Margaret River region?

[9.50 am]

Mr Logan: I believe that when you look at that point of our submission, it is about putting that in the context of the state itself. The potential response that may come forward from this inquiry would be that there would be a uniform approach throughout this state. I guess what we would be looking for is something that allows us to tailor our specific response to our context. That is not something that is currently established by planning bulletin 99–93 I think it might be. Whether it is done by planning bulletin, whether it is done by model provisions that are part of regulations, or whether it is done by deemed provisions or by state planning policy, the outcome that we would be looking for would be something that allows us to use the planning system to say where particularly unhosted accommodation is good, bad or indifferent. For us the planning system is the key to that, because it enables us to distinguish areas by geography—so to say our residential areas can be preserved for residential purposes, which addresses our land supply and rental accommodation issues.

Mr S.K. L’ESTRANGE: Thanks for clarifying that. The second point relates to your second bullet point of your recommendations, where you say —

To support making a distinction between hosted/unhosted short stay use by modifying land use definitions.

Have you got an idea of what those modifications should look like?

Mr Logan: We do. I think at the end of the day that is not critical, because the bed and breakfast definition and the guesthouse definition do kind of cover the hosted stay, but they are a little archaic in their terminology. The bed and breakfast is, I think, two bedrooms, one bathroom, and breakfast in a dwelling. Obviously, that does not capture all forms of hosted accommodation. So if it is going to be consolidated—the guesthouse use or just the bed and breakfast use is going to be re-termed as hosted accommodation, then there needs to be some thought about how that is done and also some consideration as to capacity when looking at hosted accommodation as well. It could not just be broadly hosted accommodation because you might get houses that are pseudo hotels, I guess, without some capacity and constraint in either that definition or in associated rules.

Mr S.K. L’ESTRANGE: With those definition changes that you are considering, how will that benefit the issue of what we have been down here to discuss over the last few days?

Mr Logan: It is kind of a peripheral approach to be honest. I think that we can still work within the definitions of bed and breakfast, guesthouse, holiday house; it really depends on whether you want

to consolidate those things and perhaps modernise that approach to a bed and breakfast that is currently in the model scheme text.

Mr S.K. L'ESTRANGE: My final point on your recommendations—I think it is bullet number four—you say —

To encourage complimentary industry based approaches.

What are you looking for there?

Mr Logan: That would be encouraging something along the lines of the code of conduct that is set out by New South Wales. I do not necessarily see that as a panacea to management and control of amenity impacts; it is more something that would be aligned with any rules that we would have and it would be sort of complementary to ensure there are a suite of provisions that deal with the issue.

Mr S.J. PRICE: My question focuses on holiday houses. A lot of the feedback we have received and the evidence certainly supports some sort of registration process going forward as one of the options. In regard to holiday houses, you have touched on it in your submission, but how do they fit in with regard to a licensing requirement and potential changes that are required to meet the licensing requirements for someone who just has a holiday house that when they use it, it is for that, but then if they decide to occasionally let other people use it, it then becomes an unhosted residence so to speak under these conversations? Do you treat holiday houses differently in that regard?

Mr Logan: Yes, we do. All holiday houses are dwellings as a starting point, and when they are used for short-stay purposes, they are treated as a holiday house or unhosted accommodation; that is, where they are occupied for less than three months in any 12-month period. Typically, there is a bit of leniency there about whether a commercial transaction is actually taking place. So if it is someone's house and they go away and let their friends stay, it is possibly not triggering the approval requirements than if someone is letting it for commercial gain on a regular basis.

Mr S.J. PRICE: And if they were to decide to throw it up on one of the platforms for a little while, then that would trigger that requirement to be registered under a potential licensing regime going forward?

Mr Logan: Yes, absolutely.

Mr D.T. REDMAN: Would you be able to walk us through the fundamental differences between someone who presented to council to register a B&B or guesthouse or hosted style—in other words, a back room of a private home—versus a residence of a holiday house for whole of facility, unhosted, just the differences in threshold they need to meet to get your approval to operate?

Mr Logan: The key differences between the two are that for an unhosted stay, we consider it against some locational criteria, not so much the process, which is reasonably similar, but we consider it against locational criteria—is it in the right place? There is a more stringent examination of how it is managed and what the management entity is going to be, and how impacts on amenity may be addressed. For hosted accommodation there is a more permissive policy approach, although the process for applying and for getting approval is similar, they are generally permitted throughout the shire and they are more self-managed, so there is less examination of the management requirements, emergency evacuation, those kinds of things that are inherent in unhosted accommodation.

Mr D.T. REDMAN: What about things like disability access, fire alarms, ensuring that if there is a rainwater supply it is tested, or pool testing if there are pools—any of those sorts of things—in hosted arrangements compared with unhosted?

Mr Logan: A lot of the things you are speaking about come under the National Construction Code, and there you get into the distinction between a dwelling, which is classified as a 1 or 1a building and a 1b building, which is purpose-built for tourism accommodation. So the change in use from a dwelling to a holiday house, or a dwelling to a bed and breakfast is not often triggering the requirements of the National Construction Code. The difference between 1a and 1b is not overly substantial; it is more you have a group of them together. So for a 1b where you have, I think it is four or five, it needs to be universal access, and that is when you start triggering those higher requirements. The more significant distinction is when you get into the class 2 and 3 buildings, so apartments versus hotels and the like.

Mr D.T. REDMAN: Fundamentally, is an unhosted holiday home that is being used for short stay required to have disability access?

Mr Logan: No.

The CHAIR: Can I ask some questions around management and complaints. The Shire of Busselton indicated that despite in that local government area there being quite a high number of Airbnb or short-stay accommodation properties, they are only getting 20 to 30 complaints a year—really not many complaints are being made to council about this form of accommodation. How frequently is council getting complaints about these properties being located in your area and what sort of complaints are you receiving?

[10.00 am]

Mr Logan: I guess if you can separate those complaints into two distinct categories: one is complaints about amenity and the operation of a holiday house or short-stay accommodation and the other is about unapproved holiday houses, and that is a largely a locational issue. People are saying either this short-stay use does not have approval or it is located in an area where it should not be and it could not get approval. Last year we received about 30 complaints in total. The majority of those were location based. We do not receive a lot of complaints on an amenity basis. I would say probably 10 out of the 30 were amenity based, and quite often it is the same premises that we are getting complaints about a lot of the time, and it is poorly managed or it is in the same area.

We had an incident like that in Gnarabup in 2014 where a lot of houses were starting to get used for parties and the like on the weekends. We went through and did a reasonably comprehensive compliance process and we did prosecute some people. We issued quite a number of infringements and that seemed to bring that under control; the main residents' group was reasonably happy with the outcome there. So compliance, while it is resource intensive, can be successful in addressing amenity issues. The locational issues, we go back to those other challenges about knowing where they are and catching people in the act.

The CHAIR: To change topic, we had, I thought, a very interesting, very well put together deposition made to this committee yesterday on housing affordability and the impact of this phenomenon on people's access to long-term rental accommodation. It was one of your council colleagues, but not appearing in her capacity as a councillor. I wonder if you could perhaps elaborate on the housing affordability implications for this particular region and, also, if you have had any interactions with the state government to tackle that issue and what that has been like?

Mr Logan: I guess as a starting point we have taken a bit of a precautionary approach. In most of our suburban residential areas, no accommodation is permitted in those areas. It certainly does occur due to noncompliant short-stay use. The purpose of restricting short-stay use from those areas is purely about housing affordability and amenity. Those are the areas, inland residential settlements, where affordable housing is most likely to be provided. Where you have coastal

settlements and holiday houses, it is not so much of an issue because that is not an affordable product anyway. Someone who is looking for an affordable dwelling is not going to buy a house in Gnarabup.

Ms Townshend: I did not hear the deposition yesterday so I am not exactly sure of all the points that were covered, but I think that going back to what I said earlier about how quick the change happened with the online platforms and how we closed that gap a bit in our policy, I think that there were probably some holiday homes approved, or holiday houses approved, that would not have been under our new policy. But I am not exactly sure how many; I do not know. Do you have an idea—40 maybe?

Mr Logan: I would say less.

Ms Townshend: It is not a lot. But because the change happened so quickly, it could have driven price rises in housing affordability. As for rental, it is still anecdotal, but I know that my council colleague yesterday is part of Just Home, so they have quite a handle on rental affordability. Once again, we need the data, and that is why we are undergoing this research with ECU so we have qualitative and quantitative research that we can say, “Yes, it did have an effect on rental affordability”, or, “No, it does not seem to have had an effect on rental affordability.” Right now we do not exactly know. We want to make evidence-based decisions. We feel that it probably does, but we do not exactly know.

Mr D.T. REDMAN: In terms of noncompliance, if you are successful in getting a prosecution against someone under the current rules, what are the fines for that under your act and, by extension, what should a fine be to discourage that behaviour?

Mr Logan: I guess this goes to one of the key distinctions between the tools that you have available to recommend and the local law versus the planning system. At the moment using the planning system, one of the key reasons we consider this is superior is the enforcement and compliance mechanisms that are built into the Planning and Development Act. The penalty under that for prosecution is up to \$200 000—it is likely to be significantly less for a first offence, of course—whereas, the penalty for prosecution under a local law is a maximum of \$5 000. The process that you need to go through to prosecute under a local law is probably going to cost the council more to do it anyway, so it makes sense for us that if we need to undertake enforcement and compliance actions, to use the planning system. Generally, what we do as a first port of call is issue an infringement, which is a \$500 fine for a single offence under the planning legislation. It would depend on what your local law says as to how much a fine could be under a local law, but it can be no more than \$500 because it cannot be more than 10 per cent of the top prosecution value.

Ms Townshend: Terry asked what should it be. Do you think that that is sufficient?

Mr D.T. REDMAN: What is a discouraging figure?

Mr Logan: I think the penalties under the planning legislation are sufficient enough to be a deterrent if you go through the prosecution process. But it is quite onerous to do that and it is not something that you can do on a repetitive basis because you are likely to wear out your welcome there. I think possibly what could be done is to increase the infringement—the daily penalty you can issue—because at the moment with the \$500 infringement there is almost a financial incentive not to comply.

Mr S.J. PRICE: Just a slightly different question in regard to the tourism industry in this area, how do you think it is going and do you think that the increase of online platforms has been a positive or a negative for the tourist industry down here?

Ms Townshend: Well, I know that the traditional registered accommodation providers have had a bad couple of years, and we hear that from them all the time. They claim to me that if you look at AirDNA, the difference is what is happening in the unhosted and possibly hosted. I think that is probably reflecting the state economy and the fact that people are probably spending less, but then that may mean that people are going overseas less and coming down for domestic holidays more. I do not know. I do not know what all the research is showing around tourist behaviour. I am sure MRBTA have been able to give you figures on that. But then I know that some other tourism operators are having fantastic experiences.

Perhaps it is about the offerings and the experiences that people want in tourism nowadays. Perhaps it is changing. I think the rate of change of tastes and experiences is so high now, it is being driven by Pinterest and Instagram largely. It is very hard for tourism providers of experiences and accommodation to keep up with the changing nature of tourists' expectations. I do not know how, in total, it is going, but I think it is patchy. I think it is very, very patchy throughout the shire.

Mr Earl: I guess over Easter we looked like we were full around the place, but I am not sure all the traditional providers were full. But I think a lot of businesses out there are now being heavily impacted by the internet—some for the better, but some certainly for the worse. That is the new dynamic out there. I guess the problem for some traditional operators out there is that some accommodation is pretty old and it probably starts to need some rejuvenation. It is very difficult to do that when you cannot get your occupancy up, so they are very much stuck between a rock and a hard place.

I feel for those traditional owners who have worked damned hard and have probably got everything backed up against their business, like most businesses do, and are now finding it difficult with these platforms that are allowing people to go into unapproved places. Again, my view would be that if we can deal with the approvals and get rid of the most of the unapproved ones, a lot of this will help. Once we get to that point, we should be able to deal with any of the other issues out there.

[10.10 am]

Mr D.T. REDMAN: The question I have just seeks clarity on a point—and I think it was raised in your submission—that provided there was a tool in order to ensure compliance to the rules that you currently have in place, you are happy that, one, you have the local mechanisms to manage the local issues around that. I got the sense in your submission that you want to preserve some capacity at a local level to manage those strictly local issues, and there will be different local governments that will take a different approach from that, but that is recognised that there are different issues and different things in play in those different areas. Have I got the summary right?

Mr Earl: Yes.

Ms Townshend: I would say so, yes. It is about compliance, largely, and then we can tailor our policy reactions or responses. That is a much more nimble instrument than we have.

Mr D.T. REDMAN: How about things like access to data? I assume you have a certain level of data. I do not know what the quality of that data is like, but one thing that has been raised with us is the notion of getting information, getting data, that gives you a very objective understanding of just what is going on out there and then you can have a policy response if needed.

Ms Townshend: Yes, that is why we want data to make evidence-based decisions. I think Nick would like to say something about that too.

Mr D.T. REDMAN: Before you do start, do you compel through the registration process your current accommodation providers to provide you data?

Ms Townshend: What sort of data?

Mr D.T. REDMAN: Occupancy.

Ms Townshend: No.

Mr Logan: The only thing I can add to that is that the collection of data based on things like occupancy and the number of dwellings that are approved at any one time kind of goes hand in hand with that registration and restriction on advertising mechanism that we were talking about. Once you have that in place, the collection of that data becomes a lot more straightforward.

Mr D.T. REDMAN: When you use the term “restriction on advertising”, you are talking about that ensuring that if someone goes on an online platform, they demonstrate that they are registered? Is that what you mean?

Ms Townshend: A unique identifier, yes.

Mr S.K. L'ESTRANGE: Following up on the registration aspect, we have heard figures that at the moment one in seven residences in Margaret River are up on Airbnb for short-stay accommodation. Some of those will be in residential areas, as you defined earlier, and some, no doubt, will be in what you call your coastal areas. I heard you saying earlier that the coastal areas are defined as an area for holiday accommodation but that you are moving towards saying not in residential areas—did I hear that correctly?

Ms Townshend: We are restricting it in towns to a certain distance from the town centre, so for Margaret River we have a map and for other areas we have a distance from a point.

Mr S.K. L'ESTRANGE: Can you explain to me what will happen? Let us assume that registration aspect is going ahead and everybody has to register. You then get people who have got a holiday home in a residential area within a zone from a defined point or the town. What will you do if they aim to register—somebody who owns a residential home, goes to register it, but it is not in your holiday zone area? Will you simply deny the registration?

Mr Logan: Yes.

Mr S.K. L'ESTRANGE: Then if it pops up, then you are relying on the enforcement aspect; is that what I am hearing?

Mr Logan: Yes.

Mr S.K. L'ESTRANGE: With regard to that, have you canvassed that with your community—that approach you are taking?

Mr Logan: We have had a policy in place for possibly in excess of 10 years, I imagine, that has had some restrictions based on locational criteria. The policy modifications that were just discussed came about last year, and they went through a consultative process where four separate meetings were held with different stakeholder groups and general consultation on the policy, so it is fair to say that it has been canvassed.

The CHAIR: On the consultation process, a lot of the people who own these properties do not live down here; they live in Perth. These are their holiday homes. Do you reach out to the actual property owner? There has definitely been a real tenor of evidence coming from this region in the last two days from the people who are here, but there are a whole heap of people—stakeholders in this process—who do not live here at all; they just own the properties. How are you consulting and engaging those? Do you notice and observe a difference in their positions and opinions?

Mr Logan: Most definitely. I think it is always a difficult aspect of consultation that local government does, and it is not perfect by any stretch of the imagination. But one stakeholder group that was

engaged last year was specifically that cohort that you are talking about—the largely absentee landowners who are operating holiday houses.

The CHAIR: How did you contact them? How did you identify them?

Mr Logan: That was done through an independent facilitator. To be perfectly honest, I cannot tell you how we contacted them.

Mr S.K. L'ESTRANGE: Just to follow up on that —

The CHAIR: Through the Chair.

Mr S.K. L'ESTRANGE: Through the Chair, did you send them a letter reiterating the 10-year policy that has always been in place and saying, “This is the policy that always been in place. Airbnb is now doing this. Be aware that we are looking to tighten up and restrict you from being able to put your holiday house on an Airbnb listing”? Was that made clear?

Mr Logan: We would not write to everyone that is a landowner in the shire for a policy modification like that. We do modify policies that are important—this one, of course, is very important—on a reasonably regular basis. We just do not have the resources to engage with every single ratepayer every time we make a modification to a policy like that.

The CHAIR: Do you have any contact at all with the online platform providers themselves?

Mr Logan: I think it is fair to say that we have tried in the past but it is very difficult for us to engage with the platforms; they are just not really interested. I think that is one of the key points why we think the restriction should be at a state level; it just carries that much more power. For us, it is possible that we could try to do it by a planning condition and say, “You cannot advertise on a particular platform unless you have an approval”, but us taking Airbnb through the State Administrative Tribunal or trying to prosecute them would be just impossible.

Mr D.T. REDMAN: There was a view put to us yesterday about the pace of being able to get a response to this issue. This is a parliamentary inquiry. It makes recommendations. Government needs to respond to those recommendations, and if there is anything that needs legislative change, then it is a parliamentary process. The Chair took the time to talk to the gallery at the time about that process and the fact that it will take some time. We had evidence a couple of days ago that there are something like 2 500 listings in the Busselton–Margaret River area, growing at five per cent a quarter, which is what the historical growth up to this point has been. Is it your intention to take any further action on top of what you have done now to try to have a more acute response, given that the likelihood of a state-level response is a little time away?

Mr Logan: What we have done is recently added additional resources to the compliance process. We have employed a dedicated compliance officer that specifically targets holiday houses. Within the last, I think, three months, we have issued in excess of 20 infringements, which would be more infringements than we have ever issued in the history of the holiday house use. We are hoping to budget for that same resource next year, so we are trying to undertake compliance to implement what we consider is a reasonably sound policy position.

Ms Townshend: I want to add to that. We have noticed that the number of applications for holiday houses has dropped markedly since we have been doing the compliance actions, so it is having an effect.

Mr D.T. REDMAN: I do not know if there are government agencies that can apply existing government tools, but have you engaged with any government agency, whether it is the department of planning or WAPC, for whether there are any mechanisms through their agencies to assist in that regard?

[10.20 am]

Mr Logan: As far as I am aware, the only real mechanisms that we can have are regulatory through the local law, through the planning process, and to do that we have those rules already in our planning scheme and we have the policy guidance that supports those rules and their interpretation. The real problematic part is ensuring compliance with that direction.

Ms Townshend: I wanted to add another thing, too, just around Airbnb. I know that Airbnb in particular—I am not sure about the other platforms—say tick the box if you have got registration, yet there are people who are ticking that box and they are not registered. My understanding is that they will only cover insurance if you have ticked that box and you actually do have the registration. It worries me greatly that there could be people who are not covered by insurance, and if they get a public liability claim and do not have the public liability insurance, that spells disaster for people, so I think there is also a duty of care in that area.

Mr D.T. REDMAN: What was the source of the information that confirmed that was the case with the insurance?

Ms Townshend: That is my understanding. I have not specifically followed up that with Airbnb, but that is definitely my understanding by talking to people who have been trying to find this out. But you probably have the capacity to find out more from Airbnb, because from what Nick was saying, they actually do not contact us when we contact them. They are very difficult to contact. It is like: where are they?

The CHAIR: Yesterday afternoon, I explained what the process is from here. There are obviously a lot of people here this morning, so there is probably value in me explaining what the process is that we are engaged in now as a committee and the state government's response. It is probably worth it, because people will review this transcript and read what is happening. As a committee, we are a multi-partisan committee, but we are part of the legislative branch of government. Government has a judiciary and an executive, which is my boss, Mark McGowan, and the cabinet, and then the legislature, which is the Parliament. This is a process of the legislature. We are not the government, obviously. So this committee will make a series of findings and recommendations that the government then must respond to—so, the cabinet, the relevant ministers, must then respond to—and they will determine what they do with the recommendations that the committee will make.

We are about halfway through the process of gathering evidence for this inquiry. We will be synthesising and considering it. We have a series of hearings coming up in Perth. We are also having a series of videoconferences into other parts of regional Western Australia to ensure we get as diverse a range of views as possible. We will then publish a report. We had aimed for the end of June, but we have had a record number of submissions into this inquiry—it has been a far greater response than we were anticipating—which means that it will probably be towards the middle of the third quarter that we will table our report.

As I say, the government will then respond and we will see what sort of changes the government decides to put in place. That is the process we are aiming towards. We do keenly appreciate the level of angst in the community and the fact that people do want some clarity and certainty around what should happen. We are working as hard as we can to deliver some findings and recommendations and, in turn, I know that the government also keenly appreciates how important an issue this is.

When we were putting the terms of reference together, this was truly a bipartisan issue. It is pleasing to be able to work constructively and collaboratively and, as far as we can, on a multi-

partisan basis through this process because it is so very important to so many regional and metropolitan communities, so thank you all for your participation.

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 on 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 again very much for having us today and thank you for appearing in front of us.

Hearing concluded at 10.25 am
