

**The Honourable Members of the Economic and Industry Standing Committee**

Ms Jessica Jane Shaw MLA

Mr Sean Kimberley L'Estrange MLA

Mr Yaz Mubarakai MLA

Mr Stephen James Price MLA

Hon. Donald Terrence (Terry) Redman MLA

15<sup>th</sup> December 2018

**RE: Inquiry into Short-Stay Accommodation**

Dear Committee Members

**Introduction**

- Stay Margaret River is a 4-star hotel in Margaret River, comprising of 56 rooms, an 80 seater restaurant and convention facilities for up to 400. Set on 5 acres of land, the business is privately owned and the land owned by Margaret River Local residents.

**About our BUiness**

- Stay Margaret River offers 4-star accommodation to a range of customers including couples of all ages, corporate regulars, groups & tours, coach companies, clubs & associations, special interest groups and young families.
- We are the only hotel in Margaret River to offer a full service experience with on site dining and meeting facilities.
- We accommodate local charities such as Rotary on a weekly basis who are instrumental in developing support in our community.
- We offer a wide range of rates and packages to attract both budget conscious and affluent clients.
- In light of the demand for self-catering facilities we have installed microwaves, toasters, crockery & cutlery to all our 2 bedroom apartments and created a similar Self Catering Centre in our Hotel block. This has come at tremendous expense.

### **Background – identification of issues:**

Online booking platforms promoting residential properties for tourism accommodation have experienced rapid growth in the past 2 years.

This growth is detailed in a study commissioned by BCEC (Bankwest Curtin Economics Centre) on The Impact of Airbnb on WA's tourism industry. In October, 2016 there were 295 Margaret River and 190 Busselton listings on Airbnb. In 2018 this grew to over 800 Margaret River listings and 1200 Busselton listings.

This is the equivalent of **9 Crown Towers hotels** being built in the Margaret River region over the past 2 years.

The oversupply of accommodation has not been matched by an increase in demand, we, as well as my fellow accommodation providers from resorts to B&B's are reporting occupancy declines of over 30% in some cases. Related room rate reductions have led to businesses planning to sell or close.

Of the 2000 Airbnb listings in the Margaret River Region;

- **88% (1760) are "entire homes"**
- **14% (246) of these are rented out by owners with multiple listings**

The data contradicts the marketing myth of Airbnb as the "shared economy" or "living like a local". Only 12% of listings are hosts renting out spare rooms.

Online booking platforms have become a means for real-estate entrepreneurs to convert residential and holiday homes into pop-up hotels. They are operating largely without regulation and in direct competition with licenced accommodation providers while affecting the quiet enjoyment of residential neighbours.

Long term rental accommodation availability has become severely compromised with real estate agents reporting no long-term rental availability. Growth of online booking platforms will continue to negatively impact families looking for affordable housing in the south west and businesses looking to employ staff.

Companies like Airbnb book Australian residential properties for tourism accommodation while avoiding paying taxes in Australia.

Airbnb extracts a commission in the vicinity of 15%, plus undisclosed service and cleaning fees added to the advertised price. The ACCC refers to this as "drip pricing" and it is not allowed by any other booking platform.

All revenue is channelled through Ireland where the corporate tax rate is 12%. By operating on this basis, Airbnb manages to avoid paying its fair share of tax in Australia.

Airbnb has created no new economic value in the Australian context. Tourism spend has been moved from the existing sector to the residential housing sector and most of it is lost to

leakage away from regional areas as the ownership of investment properties is city-based, and booking profits move offshore.

Regional holiday homes were previously advertised by owners through property management companies or local real estate agents for weekly stays during school holidays. They did not directly compete with accommodation providers for 1 or 2 night stays and if they were, it was at a fair market value, not at a reduced rate with hidden extras.

The BCEC report states that holiday makers using Airbnb have a median total spend of AUD \$1000 less per person (in Australia) than non-Airbnb users. Airbnb users spend less on accommodation, tours, shopping and food. They have been described by Evan Hall of WA Tourism Council as “empty spenders”.

The reduction in spending has been evident throughout the Margaret River Region over the past year. The self-catering market bring their own food and alcohol and choose heavily discounted accommodation, offered by illegal operators, without the same overheads as licenced accommodation providers.

Un-hosted tourism accommodation provided by online booking platforms severely compromise the safety of guests, and display a flagrant disregard for:

- **Planning laws**
- **Fire safety**
- **Disability access**
- **Insurance requirements**
- **Workplace regulations**
- **Health & Safety Laws**

Airbnb ignore local laws all around the world. Liability issues have been created for local government as illegal activity takes place under their jurisdiction. Where they have approved residential short stay operations in fire prone areas without adequate planning assessment the possible liability is enormous.

As reported by Inside Airbnb:

- **In New York City, 72% of listings violate state and city laws.**
- **In multi-dwelling buildings, it is illegal to rent out an entire apartment for less than 30 days, however there are 17,000 “entire homes” still listed.**
- **In Portland, Oregon only 12% of active listings had a permit posted on the Airbnb website despite city ordinances requiring this.**
- **In San Francisco, the home of Airbnb, only 10% of active listings had the required permit posted on the Airbnb website.**
- **The San Francisco Planning Department, which is responsible for enforcement said “we have no way of enforcing” the new laws**

**At the Margaret River Region local government level:**

Both Augusta Margaret River Shire and the City of Busselton have not adequately addressed the many issues arising from the rapid development of the un-hosted holiday home sector.

Both authorities have made scheme and policy changes within recent years to allow the proliferation of un-hosted properties and have failed to respond to the ensuing tourism industry and long-term rental crises.

The powers available to local government to control the use through their planning schemes are extensive, but both Busselton and AMR have expressed an unwillingness to pursue scheme amendments in response to the issues. It has become evident that they are looking to State Government, specifically the Planning Minister, to provide regulatory guidance on the issue.

### **The present situation:**

In the City of Busselton, the “holiday house” use was previously restricted by their planning scheme to specific residential zones. In 2012 they passed a scheme amendment to remove this restriction and allow the use throughout the entire residential zoned areas. There are now over 1000 registered properties in the Shire, adding over 7000 people to the accommodation capacity of Busselton.

AMR Shire’s planning scheme designates the inland residential areas of the Shire as “not appropriate” for the “holiday house” use, but interpretation of this wording, and use of ambiguous policies has resulted in over 300 additional approvals in the past few years, adding over 2000 people to the accommodation capacity of the AMR Shire.

AMR Shire has an endorsed Tourism Strategy that was approved in 2015 and endorsed in 2016 by the Planning Commission. It specifically warned against creating imbalance between supply and demand in the tourism industry and recommended close consultation with industry to prevent an oversupply occurring. This endorsed strategy has not been referenced in AMR Shire decision making and appears to enjoy no status with either Shire staff or Councillors. Despite the strategy anticipating the present crisis, it appears to have had little impact on decision making. No consultation of the type suggested in the Strategy has occurred.

In 2012 and 2016 the AMR Shire approved two “omnibus” scheme amendments. They were advertised to the community as being technical and administrative in nature, and therefore received little public attention. They contained amendments to the use class table that made “holiday house” a permitted use within the agricultural zones of the AMR Shire, and in a “post-advertising” amendment made limited scale caravan parks a permitted use throughout the agricultural areas also. To date there has been limited take-up of these possibilities, but it has created the potential for uncontrolled tourism development throughout the Shire, with no assessment of the suitability of rural properties for these uses in the context of the strategy and scheme provisions that are designed to preserve rural land for agricultural uses. It surprises a number of us that these changes survived WAPC scrutiny to be approved at State level. Calls for them to be reconsidered as a matter of urgency at local level have been dismissed.

The figures above relate only to “approved” properties. There are also many unapproved residential dwellings being used for short-stay which has created a compliance issue that both local authorities have begun to address only recently.

The downsides of the unfettered approvals taking place in both Shires are well documented in the AMR Shire Tourism Strategy, which warned against this outcome.

The proliferation of holiday houses through fire prone areas, particularly rural-residential areas, has created an enormous risk to life through the placement of vulnerable tourists, with little or no fire awareness, in areas with heavy fuel loads and poorly designed access.

A large number of the AMR Shire approved holiday houses are located in the rural residential zone between the town site and the coast. This area is particularly high fire risk and has many poorly designed street layouts that would not be approved under the present fire design guidelines. Many approved holiday houses are also located in Prevelly Gnarabup, the location of the 2011 fires. The fuel loads in these areas are already back to the same levels they were at prior to the fires. This area is considered so dangerous the Shire erects special signage on the road in. Despite this it contains a large number of Shire approved holiday houses.

Despite the known risks the AMR Shire continues to approve holiday houses in these areas, mostly under delegated authority.

The AMR Shire applies BAL (Bushfire Attack Level) assessments to holiday house applications, but these only assess the safety of the actual dwelling on the development application site. They do not take into account wider landscape access and risk factors. Many of the subdivision road layouts in the rural residential area could be described in planning terms as “illegible”. In the event of an emergency, with the presence of smoke and fire and the possibility of it being at night-time, a tourist would be likely to become disorientated and become a hazard to themselves and others.

Tourism is a designated “vulnerable” land use under the guidelines. The precautionary principle enshrined in the guidelines is not being applied by the AMR Shire.

### **The solution:**

#### **Summary**

It is clear that any regulations must be backed up with proactive enforcement at a local government level. State Government should assist local governments by putting legislation in place which would create fines large enough to deter illegal operators.

We would also like to see the following policy principles considered for all online booking platforms;

1. New laws holding online booking platforms operating in Western Australia **legally** accountable for listings compliance with local and state laws and share relevant data (e.g permit numbers, number of nights rented etc) with authorities.
2. All properties must be registered and compliant with local laws, with identification to be displayed on the booking platforms and fees payable to fund compliance monitoring.

3. Any property offered on any online booking platform like Airbnb should be classed as an “accommodation business”.
4. All properties offering tourism accommodation on online booking platforms must meet fire, safety, building and insurance requirements appropriate to current compliant accommodation providers.
5. Local government to have the ability to refuse registration to comply with local planning schemes or restrict to specified zones. The Minister for Planning should direct Local Authorities to address the suitability of the use in their residential zones with regard for supply and demand balance in the industry.
6. Protection for residential zones and long-term rentals. Neighbours and surrounding properties must be empowered and allowed to have a say to protect the amenity of their residential area. All new and renew applications for holiday homes must be made public to give residents and neighbours a chance to object based on noise and disturbance to their residential peace and quiet.
7. The AMR Shire should immediately amend its scheme to restore the use class table to reflect “holiday house” and “caravan park” to be an “X” use in the priority agriculture and general agriculture zones

I believe the Planning Minister must intervene to remedy the situation.

The Shires are not coping with the myriad issues that have evolved over the last three years and are looking for leadership and guidance to resolve the issues. The WAPC has endorsed the AMR Shire Tourism Strategy which foresaw the possibility of the present crisis in oversupply and gave clear directions to avoid it. Any Ministerial direction can reference this report in support of moves to remedy the situation.

It is very clear that without new legislation these bad corporate citizens will continue to grow and negatively impact not only the compliant accommodation providers, but the community at large.

I would like to thank you for the opportunity to respond to this well-timed inquiry. If the committee requires any further information regarding this submission, please don't hesitate to contact me.

Kindest regards

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