



To: *Owners Corporations and Other Acts Amendment Bill Exposure Draft*
Policy and Corporate Services
Consumer Affairs Victoria
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From: Mr Eacham Curry
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Date: 10 May 2019

Thank you for the opportunity to provide our comments on the Exposure Draft of the Owners Corporations and Other Acts Amendment Bill (the Bill).

As a leading online marketplace for short-term rental accommodation (STRA) across Australia and Victoria, Stayz are committed to working closely with the Victorian Government to share our ideas, experience and knowledge. Further, we are dedicated to working collaboratively with the Victorian Government on fair regulatory arrangements and innovative compliance systems to address concerns and maximise the contribution of the STRA industry to the State's prosperity.

Amendments contained within the Bill are broadly fair, sensible and beneficial reforms for strata title communities and their various users including owner occupiers, long-term rentals (LTR) and STRA users. However, to clarify the intent of some of the amendments and to ensure no unnecessary impact on STRA homeowners and guests we seek a number of minor changes which we outline below. In doing so, we have sought to provide value to your deliberations and a starting point for our further engagement with you.

Insurance levies and special fees and charges – Clauses 12 and 13

Clause 12 of the Bill enables an owners corporation (OC), at its discretion, to levy individual owners for:

- (a) any excess on an insurance claim or premium attributable to the negligence or wilful act of the lot owner or their lessee or invitees
- (b) any uninsured damage to common property caused by a lot owner or lessee
- (c) any excess attributable to a particular lot.

Clause 13 enables an OC, at its discretion, to levy individual owners for special fees and charges relating to repairs, maintenance and other works arising from the particular use of a lot.

There is some merit in both these amendments, however, any scope for OCs to use such rules to unfairly target STRA homeowners or guests should be removed. In giving discretionary power to

OCs, the Bill, or its associated processes should also provide guidance on how, when, where and why levies can reasonably or fairly be imposed. This clause would also benefit from making it clear these rules apply to all strata lot uses. An alternate approach would see the Clause 56 provision that a *rule* is of no effect if it "is oppressive to, unfairly prejudicial to or unfairly discriminates against, a lot owner or an occupier of a lot" extended to also cover such levies.

No effect provision – Clause 56

We welcome the amendment in Clause 56 which expands the operation of the provision from "discriminatory" to also include rules that are "oppressive to" or "unfairly prejudicial to" a lot owner or an occupier.

We seek further clarification regarding the use of the terms "owner" or "occupier" to ensure that the intent is that all lawful users of a lot are included.

Invitees – Clause 57

We see merit in Clause 57 of the Bill which introduces new provisions governing invitees which:

- (a) require an occupier of a lot to ensure that invitees comply with the OC Rules
- (b) make the occupier and invitee jointly and severally liable for any penalty or compensation arising from breaches of the OC rules by the invitee
- (c) provides that the occupier is not liable if the occupier provides the invitee with a copy of the OC rules.

To ensure that all parties can understand and comply with their responsibilities we seek further clarification regarding the use of the terms "occupier" and "invitee" in the Bill. We note that there is some uncertainty over whether an STRA guest is a tenant or licensee following *Swan v Uecker*¹.

Litigation – Clause 70

Clause 70 of the Bill enables individual lot owners to apply to the Victorian Civil and Administrative Tribunal (VCAT) for approval to commence, prosecute, defend or discontinue proceeding on behalf of the OC. We seek clarification on whether this clause has the potential to undermine the OC governance system including to facilitate vexatious complaints. If so, we request this provision be deleted.

Fire Safety – Clause 82, Subclause (1)

The safety of Stayz guests and home owners is our highest priority. We support Clause 82(1) of the Bill which empowers OCs to make rules requiring advice to be given to occupiers about fire safety procedures and the operation of the fire alarm system. However, the application of this clause across the full suite of property users must be fit for purpose and reasonable. For example, it is impractical and unnecessary to require the same level of detail be provided to short-term invitees, guests or visitors as long-term tenants and occupiers. Further guidance should be provided in the Bill or its associated processes.

Access to common property – Clause 82, Subclause (3) and (4)

Clause 82 subclauses (3) and (4) of the Bill make rules regarding the use of common property, equipment, services and amenities as well as access to such facilities, services and amenities. We seek clarification that all lawful users retain full access to common areas, property, equipment, services and amenities.

¹ [2016] VSC 313.

Community concerns and regulatory solutions

The growth of the sharing economy and peer-to-peer platforms can create tensions as markets are transformed and grow in differing ways. This can be said for STRA as evidenced by the concerns being raised by some groups and individuals. It is important to highlight that concerns in general with STRA (especially in inner-city apartment buildings) are not new and pre-date the uptake of online sharing platforms. It is also pertinent to note that amenity, sense of community and safety issues are not limited to the provision of short-term rentals. By far the highest proportion of complaints councils receive relates to the activities of permanent residents.

The growth of the sharing economy has come about through technology enabling people to make better use of their spare assets – empty houses, spare rooms and the empty seats in their cars. Rules and regulations specific to the sharing economy – like STRA – should be light-touch and protect consumers and communities without creating undue regulatory burden that stifles the huge shared benefits. Further, in regional areas, where tourism is often the main source of revenue for local businesses, any restrictions on STRA designed for city problems will have detrimental economic effects in regional areas. We do not support one-size-fits-all regulations designed for inner-city problems. A more sophisticated and evidence-based approach to policy design and planning is required; and is demonstrably achievable.

We recognise that with the growth of any new industry there is some disruption caused to traditional sectors and concerns raised by groups and individuals. That's why Stayz is working closely with state and territory governments across Australia looking at how best to create a safe and enjoyable visitor accommodation environment. It is fundamental to the Stayz approach to business that we support homeowners, guests and the local communities where our accommodation is located.

Stayz commits to working with the Victorian Government to further share our ideas, experience and knowledge on tourism, STRA and related issues. We request a meeting with you to discuss in more detail these issues and the points we raise in this submission. We look forward to hearing from you.

Kind Regards,

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