

April 2021

## Short Term Rental Accommodation (STRA)

On 9 April 2021, the NSW Government announced a new statewide policy for STRA that will benefit homeowners who want to take advantage of holiday rentals while providing more certainty and safety for locals and visitors.

The new STRA policy includes a deferred commencement clause, meaning the new provisions do not take effect until 1 November 2021. This will ensure STRA hosts, councils and industry participants have sufficient time to familiarise themselves with the new rules before the policy takes effect on 1 November 2021.

### What is STRA?

Short-term Rental Accommodation (STRA) refers to a dwelling used by the 'host' to provide accommodation in the dwelling on a commercial basis for a temporary or short-term period. STRA is often facilitated through online booking platforms such as Stayz, Airbnb and Booking.com.

### What has been introduced?

The new planning framework includes:

- a new planning policy for STRA in *State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Rental Housing SEPP)*, that:
  - introduces a new definition for short-term rental accommodation, hosted STRA and non-hosted STRA;
  - introduces an exempt development approval pathway for hosted and non-hosted STRA, facilitating:
    - hosted STRA as exempt development in a dwelling, 365 days per year;
    - non-hosted STRA as exempt development in a dwelling, 180 days per in Greater Sydney and nominated regional NSW LGAs, and 365 days per year in all other locations; and
  - provides an exemption of bookings of 21 consecutive days or more from the 180 day limit on non-hosted STRA.
- an amendment to the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) to:
  - introduce new fire safety standards for dwellings used for STRA and associated penalty notice offences for non-compliance; and
  - create a new Government-run STRA Register that will ensure compliance with the new fire safety standards, as well track the day limits of each STRA dwelling.

### How do these changes interact with legislation already introduced?

In April 2020, the Department of Customer Service amended the *Fair-Trading Act 1987*, *Strata Schemes Management Act 2015* and the *Residential Tenancies Act 2010* that provides owners' corporations the ability to pass by-laws prohibiting STRA from lots in their strata scheme that are not the principal place of residence of the host.

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The changes also clarify that STRA activities of three months or less are not agreements covered by the residential tenancy framework.

For further details about the changes to strata and residential tenancy laws, visit the NSW Fair Trading [website](#).

## When do the new rules take effect?

The STRA planning policy will come into effect on **1 November 2021**. The delayed commencement will allow all STRA industry participants adequate time to familiarise themselves with the policy and comply with the new Fire Safety Standards.

STRA hosts, communities and councils will have time to get ready before the new rules take effect. For hosts, this includes complying with new rules, including fire safety standard requirements and the need to register on the new Government-run online STRA Register.

## What planning rules apply until the amendments takes effect?

Until the new STRA planning policy takes effect on 1 November 2021, the relevant local council's existing rules will apply. Currently 11 councils have existing rules relating to STRA in their local planning controls. These provisions will no longer apply when the new statewide planning rules come into effect on 1 November 2021.

For information about current STRA rules, [contact your local council](#).

## Why has the Government made these amendments now?

The amendments are a response to ongoing consultation with stakeholders and feedback received from councils, industry and the general public. The new statewide policy will provide more certainty within the planning system regarding STRA and clearly outline the responsibilities for all industry participants.

## What is an Exempt Development Approval Pathway?

Exempt development typically relates to minor building renovations or works that don't need any planning or building approval. Exempt development is very low impact development that can be done for certain residential, commercial and industrial properties. As long as the proposed works meet all of the development standards (identified in the relevant State Policy), approval may not be needed.

The new STRA planning framework provides a single, streamlined exempt development approval pathway that facilitates STRA in existing, lawfully approved residential accommodation that does not comprise of;

- a boarding house,
- a group home,
- a hostel,
- a moveable dwelling,
- a caravan
- an eco-tourist facility,
- refuge or crisis accommodation,

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- tourist and visitor accommodation,
- a rural workers' dwelling, or
- seniors housing,

STRA is exempt development under two scenarios, being hosted and non-hosted STRA. These include:

- Hosted STRA – must ensure the host resides on the premises during the period of the accommodation provided and may be undertaken on any land in a zone in which residential accommodation of a type corresponding to the dwelling is permitted with or without development consent, 365 days per year.
- Non-hosted STRA – can be carried out without the host residing on the premises and may be undertaken on any land in a zone in which residential accommodation of a type correspondence to the dwelling is permitted with or without consent, and that the use of the dwelling for non-hosted STRA does not cause the dwelling to be used for that purpose for more than 180 days in the following locations:
  - the Greater Sydney Region,
  - the Ballina area,
  - the Bega Valley area,
  - the City of Newcastle area,
  - the Dubbo Regional area,
  - certain land in the Clarence Valley area, and
  - certain land in the Muswellbrook area.

Byron Shire Local Government Area is exempt from the STRA policy until 31 January 2022.

A single exempt pathway allows for STRA to be undertaken without development consent so long as the new fire safety standards are met. Compliance of these standards will be enforced through the new Government-run STRA Register.

Please note the exempt development pathway is for the dwelling and as such does not exclude any particular zone in which STRA may occur. The exempt development pathway relies on the dwelling STRA is proposed to be carried out in being permitted with or without development consent on the land on which the dwelling is located.

## Can I undertake STRA in my dwelling?

STRA can be undertaken in lawfully constructed dwellings used for the purpose of residential accommodation in all land use zones in which dwellings are currently permissible.

Typical residential accommodation dwelling types include:

- ✓ a dwelling house (e.g. a detached house),
- ✓ an attached dwelling,
- ✓ a dual occupancy,
- ✓ multi dwelling housing,
- ✓ a residential flat building (e.g. a unit in a block of flats),
- ✓ a secondary dwelling (e.g. a granny flat),
- ✓ a semi-detached dwelling, and

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- ✓ shop top housing.

For clarity, STRA is not permissible in the following dwelling types:

- × a boarding house,
- × a group home,
- × a hostel,
- × a rural workers' dwelling,
- × seniors housing,
- × moveable dwellings,
- × camping grounds,
- × a caravan park,
- × an eco-tourist facility,
- × refuge or crisis accommodation, or
- × tourist and visitor accommodation.

## What if my dwelling is part of a strata?

Strata buildings can enact by-laws to prohibit STRA in a building where the dwelling is not a principal place of residence.

This means that if you want to undertake non-hosted STRA in a strata building you must first check that there are no by-laws which prohibit STRA.

For more detail, visit the NSW Fair Trading [website](#).

If your dwelling in a strata building is also your principal place of residence, then you can undertake STRA under the policy without reference to possible strata by-laws. However, as a host you must still comply with all requirements of the policy such as fire safety standard and registration on the STRA Register.

## Day Limits

Day limits apply for some non-hosted STRA activities, subject to its locality. Hosted STRA is not restricted by any day limits and can be carried out 365 days per year.

Non-hosted STRA will be restricted to a maximum of 180 days a year in Greater Sydney and nominated regional councils local government areas (LGA) outlined above.

Non-hosted STRA may take place 365 days a year outside of these nominated LGAs.

Further, where a host is not present (i.e. non-hosted STRA) and the booking is for **21 or more consecutive days**, the booking will not count towards the above day limits.

The exemption will help support mobile workforces which tend to have longer stays and lower amenity impacts. While these arrangements do not count towards any applicable day limit, these dwellings are still be required to comply with any other relevant STRA provision and the fire safety standards.

Under tenancy legislation, a STRA booking cannot last more than 3 months. For more information, visit [NSW Fair Trading](#).

## Dose the new STRA policy apply in the Bryon Shire LGA?

It is acknowledged that STRA is a complex issue in the Byron Shire LGA.

Until 31 January 2022, the new STRA provisions will not apply in the Byron Shire LGA. After this date, the STRA provisions will apply, including a maximum of 180 days per year for non-hosted STRA.

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During this time, Byron Shire Council propose to finalise its planning proposal lodged in response to [Ministerial Direction 3.7](#) issued by the former Minister for Planning, which seeks to limit non-hosted STRA to 90 days in its LGA.

## What if I already have a valid approval for STRA from my local council?

Where a valid development consent has been issued by a local council permitting the use of a dwelling to provide short-term rental accommodation, that development consent remains valid until proven otherwise or is amended by the applicant to vary the conditions of that consent.

Where a valid development consent is in place for such a use, it may benefit from existing use rights under the existing local planning controls and the new statewide STRA planning rules will not apply. For more information about existing use rights, [contact your local council](#).

## What is the STRA Register?

A new Government-run register for STRA has been developed to ensure compliance with the new fire safety standards.

Upon registration, the registrant or host is required to agree to a disclaimer confirming that the relevant owner's consent has been obtained and that the STRA property complies with the fire safety standards.

The Register will also capture the number of days a property is used for STRA and will be integrated with key STRA booking platforms (e.g. Stayz and AirBnB), allowing for improved monitoring of the policy's day limits. Information on STRA properties collected through the register in an LGA will be made available via the NSW Planning Portal to the relevant Council to assist with monitoring and compliance.

Registration of a dwelling on the STRA Register will incur a non-refundable one off registration fee of \$65 for the initial 12 months and an ongoing annual renewal fee of \$25.

The STRA Register is now live to the public via the NSW Government's [NSW Planning Portal](#). Registrants and hosts can now register their dwellings prior to the new planning rules taking effect from 1 November 2021.

If you require assistance with the Register **please call 1300 305 695**.

## What are the new Fire Safety Standards?

STRA guests face additional safety risks than those of permanent residents, as they are less familiar with the dwelling and its surrounds. The new fire safety standards seek to reduce risks to guests through enhanced early warning, additional safety measures and education.

The [Short-term Rental Accommodation Fire Safety Standard](#) is available at our website.

The fire safety standards have been revised in response to feedback received on the exhibited standards and strike an appropriate and reasonable balance between the need for higher safety requirements and cost prohibitive safety requirements.

The fire safety standards adopt some standards required of shared accommodation under the Building Code of Australia (BCA), without requiring a change in classification to tourist and visitor accommodation.

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The new fire safety standards for the corresponding BCA building classifications are outlined in the following table. Information on Building Classification can be found [here](#).

**Table 1 – Fire Safety Standards for STRA dwellings**

Dwelling type	Standard
All dwellings	<ul style="list-style-type: none"><li>• Installation of either main powered smoke alarms or long life, sealed battery powered smoke alarms in:<ul style="list-style-type: none"><li>○ dwelling floor levels containing bedrooms, every corridor or hallway associated with a bedroom, or if there is no corridor or hallway, in an area between the bedrooms and the remainder of the building; and</li><li>○ each other storey not containing bedrooms.</li></ul></li><li>• Smoke alarms must comply with AS 3786.</li><li>• Smoke alarms must be interconnected where there is more than one alarm.</li><li>• Making an Evacuation Plan, displaying 'evacuation signage' and familiarising guests with exit system, including the national emergency services number (000) and advise guests to download the <i>emergency+</i> app.</li></ul>
Dwellings in multi-unit buildings only (Dwellings in Class 2 and Class 4 buildings)	<ul style="list-style-type: none"><li>• Entry doors should be openable from inside the dwelling without a key.</li><li>• Installation of a fire extinguisher and fire blanket in the kitchen.</li></ul>
Standalone dwellings only (Class 1a buildings)	<ul style="list-style-type: none"><li>• Installation of heat alarms in garages located beneath dwellings located above. This would be required only where the garage is not accessible to the guest/s.</li></ul>

STRA hosts and guests are also encouraged to download an appropriate emergency application to their mobile phones that provides sufficient information on potential environmental hazards for location the STRA is being carried out.

One example is the 'Fires near me' application, developed by the NSW Rural Fire Service to provide users information and warnings about bush fires and other incidents attended to by the NSW Rural Fire Service.

## Code of Conduct

On 18 December 2020, the Department of Customer Service introduced a mandatory Code of Conduct (the Code) which applies to all STRA industry participants, including online accommodation platforms, letting agents, hosts and guests.

The Code addresses impacts like noise levels, disruptive guests and effects on shared neighbourhood amenities. The Code of Conduct also includes the requirement restricting booking platforms from listing STRA properties unless they are registered on the Department's STRA Premises Register.

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For further details about the Code of Conduct and to read it in its entirety, visit the NSW Fair Trading [website](#).

## Who do I contact if I have a concern about STRA once the policy is in effect?

For Code of Conduct matters, such as noise and amenity impacts, contact the Department of Customer Service by visiting [NSW Fair Trading](#).

For planning matters contact 1300 305 695 or [contact your local council](#). Planning matters include:

- Number of days operating as non-hosted STRA, or
- Compliance with fire safety standard.

## Where can I find out more?

Visit the Department of Planning, Industry and Environment's [STRA webpage](#) for access to factsheets for hosts and councils or phone 1300 305 695 or email our Housing Policy team on [STHL@planning.nsw.gov.au](mailto:STHL@planning.nsw.gov.au).

## Definitions

New definitions have been introduced to provide statewide consistency in the permissibility of STRA. This includes a definition of STRA, types of STRA and the roles of individuals participating in STRA in NSW including;

- **short-term rental accommodation** means a dwelling used by the host to provide accommodation in the dwelling on a commercial basis for a temporary or short-term period.
- **host** means the owner, tenant or permanent resident of a dwelling who uses the dwelling to provide short-term rental accommodation.
- **hosted short-term rental accommodation** means short-term rental accommodation provided where the host resides on the premises during the provision of the accommodation.
- **non-hosted short-term rental accommodation** means short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation.
- **permanent resident of a dwelling** means a person who permanently resides at the dwelling.
- **tenant** has the same meaning as in the *Residential Tenancies Act 2010*.

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