

New rules for Short Term Rental Accommodation (STRA)



Information for Hosts

April 2021

The NSW Government has announced a statewide policy for short-term rental accommodation (STRA) that applies a clear and consistent set of rules while protecting the rights of hosts, guests and neighbours across NSW.

The new rules will apply from 1 November 2021. A delayed commencement gives hosts, councils and other industry participants time to familiarise themselves with the new policy. Hosts will need to comply with the new rules by 1 November 2021.

The new statewide planning framework complements [changes introduced by NSW Fair Trading](#), which included a mandatory Code of Conduct for the Short-term Rental Accommodation Industry and amendments to strata legislation.

What you need to know

This document includes a checklist for hosts to refer to when the new rules apply. It is a guide only and hosts should also become familiar with the STRA planning provisions in the Government's *State Environmental Planning Policy (Affordable Rental Housing) 2009* and the **new Fire Safety Standard**.

Under the changes to the *Environmental Planning and Assessment Regulation 2000* hosts may receive a penalty notice offence for not complying with the fire safety standard or registering on the new Government-run STRA Register.

For information about STRA in strata buildings and the code of conduct, visit the [NSW Fair Trading website](#).

Overview of the new STRA planning rules

The new planning provisions introduced into the Affordable Rental Housing SEPP and EP&A Regulation now permit STRA to be undertaken as exempt development across NSW in existing, lawfully constructed residential accommodation.

Dwellings proposed to be used for STRA must also comply with the new Short-term Rental Accommodation Fire Safety Standard and be registered on the new Government-run STRA Register, that councils will have access to.

STRA can now be undertaken as either hosted STRA or non-hosted STRA as follows:

- hosted STRA in a dwelling, 365 days per year; and
- non-hosted STRA in a dwelling, 180 days per year in Greater Sydney and nominated regional NSW local government areas, and 365 days per year in all other locations.

The new planning provisions have also introduced:

- a new definition for STRA, hosted STRA and non-hosted STRA;
- an exemption from non-hosted STRA day limit restrictions for bookings of 21 consecutive days or more; and
- associated penalty notice offences for non-compliance with the STRA Fire Safety Standard.

What is Short-term Rental Accommodation?

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.

Under the new rules, short-term rental accommodation means:

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.

As a home sharing activity, STRA can be undertaken in most dwellings under the new rules as exempt development.

What is Exempt Development?

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.

An exempt development pathway for STRA

The new STRA planning policy provides a single, streamlined exempt development approval pathway that facilitates STRA in existing, lawfully constructed residential accommodation.

STRA **cannot** be undertaken in:

- | | | |
|----------------------------|----------------------------------|--|
| × Boarding houses | × Camping grounds | × Tourist and visitor accommodation uses to ensure they continue to meet their intended purpose. |
| × Seniors housing | × Caravan parks | |
| × Rural workers' dwellings | × Moveable dwellings | |
| × Eco-tourist facilities | × Group homes | |
| × Hostels | × Refuge or crisis accommodation | |

Serviced apartments are considered a separate type of housing. This is because serviced apartments are classified as "tourist and visitor accommodation", which is defined as "a building or place that provides temporary short-term accommodation on a commercial basis."

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

1. **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.
2. **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. This applies in the following locations:

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- 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.

What areas are included in Greater Sydney?

LGA Council areas included in the Greater Sydney region include:

- Bayside
- Blacktown
- Blue Mountains
- Burwood
- Camden
- Campbelltown
- Canterbury-Bankstown
- City of Canada Bay
- City of Parramatta
- City of Ryde
- City of Sydney
- Cumberland
- Fairfield
- Georges River
- Hawkesbury
- Hornsby
- Hunter's Hill
- Inner West
- Ku-ring-gai
- Lane Cove
- Liverpool
- Mosman
- North Sydney
- Northern Beaches
- Penrith
- Randwick
- Strathfield
- Sutherland
- The Hills
- Waverley
- Willoughby
- Wollondilly
- Woollahra

How many days can a dwelling be used for STRA?

Day limits will apply to some non-hosted STRA, subject to its locality.

Hosted STRA is not restricted by any day limits and can be undertaken **365 days per year**.

Non-hosted STRA will be restricted to a **maximum of 180 days a year** in Greater Sydney and nominated regional 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.

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

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.

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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. Any dwelling proposed to be used for STRA must first be registered on the STRA Register.

Upon registration, hosts will be required to agree to a disclaimer confirming that the dwelling complies with the STRA fire safety standard.

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 will be available via the NSW Planning Portal to the relevant Council to assist with monitoring and compliance of STRA dwellings registered in their LGA.

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 phone 1300 305 695.

What safety standards apply to dwellings used for STRA?

The new planning rules include fire safety standards that are required to be complied with for all dwellings used for STRA. These safety standards provide for the safety of guests and visitors, who might be less familiar with their location than residents of a dwelling.

The [Short-term Rental Accommodation Fire Safety Standard](#) is available on 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 the classification to tourist and visitor accommodation.

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](#).

Hosts need to ensure their dwelling meets these standards to undertake STRA. Many of the items you need can be found at your local hardware store. There is the potential to receive a penalty notice offence for not complying with the fire safety standards.

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Table 1 – Fire Safety Standards for STRA dwellings

Dwelling type	Standard
All dwellings	<ul style="list-style-type: none">• Installation of either main powered smoke alarms or long life, sealed battery powered smoke alarms in:<ul style="list-style-type: none">○ 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○ each other storey not containing bedrooms.• Smoke alarms must comply with AS 3786.• Smoke alarms must be interconnected where there is more than one alarm.• 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.
Dwellings in multi-unit buildings only (Dwellings in Class 2 and Class 4 buildings)	<ul style="list-style-type: none">• Entry doors should be openable from inside the dwelling without a key.• Installation of a fire extinguisher and fire blanket in the kitchen.
Standalone dwellings only (Class 1a buildings)	<ul style="list-style-type: none">• 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.

In addition to the preparation of an Evacuation Plan and as part of the dwelling registration process on the STRA Register, hosts are also required to prepare and make available an Information Booklet/Advice Sheet on general emergency advice for the location the STRA activity is taking place. This could include, but would not be limited to, information on:

- what does a total fire ban mean and what you can and can't do on these days?
- what do different fire warning levels mean?
- information on emergency service broadcasts and contacts.

[NSW State Emergency Services](#), the [NSW Rural Fire Service](#) and [your relevant local council](#) provide useful information that can assist hosts with the preparation of general emergency information advice, to ensure guest and visitor safety is maximised.

Further information can be found at the following websites:

- Floods - NSW SES www.floodsafe.com.au,
- Storms - NSW SES www.stormsafe.com.au,
- Tsunami - NSW SES www.ses.nsw.gov.au,
- Bushfires - NSW Rural Fire Service www.rfs.nsw.gov.au,
- Urban fires - Fire & Rescue NSW www.nswfb.nsw.gov.au, and

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- Heatwaves, earthquakes and other disasters - Australian Emergency Management Institute www.em.gov.au.

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 – Obligations for hosts and guest

The NSW Government introduced a [mandatory Code of Conduct](#) (the Code) which applies to all STRA industry participants, including online accommodation platforms, letting agents, hosts and guests.

Hosts are required to comply with a mandatory Code of Conduct which was developed by the Department of Customer Service.

The code of conduct:

- sets out the rights and obligations of STRA participants,
- provides for resolution of disputes and complaints concerning the conduct of STRA industry participants,
- outlines the compliance and enforcement approach that applies for contraventions of the code, and
- facilitates the oversight of the STRA industry.

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

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.

When will the new planning rules take effect?

The new planning rules will apply **from 1 November 2021**.

This provides STRA hosts, communities and councils more 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.

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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.

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.

During this time, Byron Shire Council proposes 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.

Until Byron Shire Council's planning proposal is determined or until the 31 January 2022, Council's existing local planning provisions remain in force.

Where can I find out more?

Visit [our website](#) for access to factsheets for hosts and councils.

You can also email the Housing Policy team on STHL@planning.nsw.gov.au or call 1300 305 695.

If English isn't your first language, please call 131 450. Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.

Definitions

New definitions have been introduced to provide 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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Checklist for hosts

Hosted short-term rental accommodation

- I understand that 'hosted' STRA means that I must reside in my dwelling as my principal place of residence to be hosted STRA.
- I have checked that I can undertake STRA in my dwelling type and satisfy the exempt development general requirement [see clauses 51C and 51E of *State Environmental Planning Policy (Affordable Rental Housing) 2009*].
- I understand that I must comply with Short-term Rental Accommodation Fire Safety Standard and that penalties apply if I do not comply with these requirements.
- I have made available an Information Booklet/Advice sheet on general emergency information for my guests and visitors.
- I have registered the dwelling hosting STRA on the mandatory STRA Register and have confirmed that the dwelling meets fire safety standard.
- I have checked and understand the maximum number of days STRA is permissible in my local government area.
- I have read the Code of Conduct which applies to all STRA in NSW and understand that penalties apply for non-compliances, including a potential five year ban on STRA for two strikes against the policy in a two year period.

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Non-hosted short-term rental accommodation

- I understand that non-hosted STRA means that I am not residing in the dwelling which is being let as STRA.
- I have checked that I can undertake STRA in my dwelling type and satisfy the exempt development general requirement [see clauses 51D and 51E of *State Environmental Planning Policy (Affordable Rental Housing) 2009*].
- I understand that I must comply with Short-term Rental Accommodation Fire Safety Standard and that penalties apply if I do not comply with these requirements.
- I have made available an Information Booklet/Advice sheet on general emergency information for my guests and visitors.
- I have checked and understand the maximum number of days STRA is permissible in my local government area.
- I have read the Code of Conduct which applies to all STRA in NSW and understand that penalties apply for non-compliances, including a potential five year ban on STRA for two strikes against the policy in a two year period.