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Submitted via NSW Planning Portal

Consultation on Short Term Rental Accommodation reform

We thank the Department of Planning, Housing and Infrastructure (DPHI) for the opportunity to provide feedback on the discussion paper on Short Term Rental Accommodation (STRA).

The Property Council has been actively engaged in providing advice on the regulatory and taxation changes required to boost housing supply and affordability to improve the living standards of people in NSW and ensure the NSW Government can achieve its targets under the National Housing Accord.

We commend the NSW Government on their achievements to date in progressing reforms to support the necessary increases in density and improvements to the efficiency of the planning system.

As Australia's peak representative of the property and construction industry, which employs more Australians than any other sector, the Property Council's members include investors, owners, managers and developers of property across all asset classes across NSW. The property industry shapes the future of our cities and has a deep long-term interest in seeing them prosper as productive, sustainable, and safe places.

Summary

As outlined in the discussion paper, while STRA represents a very small proportion of the housing market, it is also one of the fastest policy options available to introduce new homes to the private market.

STRA has a longstanding use in regional coastal areas and has been used effectively to lease out spare rooms in otherwise occupied households to generate additional income for owners. However, when it is run commercially in a dedicated property throughout the year, it circumvents established regulations imposed on short term accommodation operators and removes much needed housing stock from the housing rental market.

AirDNA data highlights the high number of active listings in key markets in NSW and that the vast majority are entire home listings, taking them out of the private rental market:

Airdna Data – Major Cities by Population and Key Tourist Destinations									
Market	Population	Median Revenue	Occupancy	ADR	RevPAR	Active Listings	PPN min stay < 2 nights	Channel	Dominant Rental Type
1 Sydney	5.2m	\$79K	67%	\$324	\$214	13,162	52.1%	Airbnb (78%)	Entire Home (83%)
2 Newcastle	0.4m	\$66.6K	59%	\$310	\$179	731	78.7%	Airbnb (77%)	Entire Home (89%)
4 Wollongong	0.3m	\$71.6K	56%	\$352	\$194	727	76.7%	Airbnb (75%)	Entire Home (90%)
5 Maitland	88K	\$63.5K	46%	\$378	\$174	119	85.6%	Airbnb (71%)	Entire Home (82%)
6 Blue Mountains	78K	\$65.7K	53%	\$340	\$179	1,237	92.8%	Airbnb (51%)	Entire Home (93%)
14 Orange	41K	\$65.3K	56%	\$318	\$176	365	92.8%	Airbnb (33%)	Entire Home (94%)
19 Wingecarribee (Bowral)	25K	\$91.5K	46%	\$543	\$250	866	95.0%	Airbnb (52%)	Entire Home (96%)
Port Stephens	22K	\$63.8K	46%	\$384	\$177	1,780	92.1%	Airbnb (33%)	Entire Home (98%)
Shoalhaven	17K	\$77.8K	45%	\$473	\$215	4,051	89.3%	Airbnb (38%)	Entire Home (98%)
Mid-Western Regional	13K	\$72.6K	47%	\$422	\$202	523	94.7%	Airbnb (56%)	Entire Home (94%)
Byron	11K	\$118.6K	57%	\$566	\$324	2,236	49.90%	Airbnb (65%)	Entire Home (92%)
Clarence Valley		\$67.4K	53%	\$350	\$191	973	95.3%	Airbnb (45%)	Entire Home (97%)
Notes									
Rank	Airdna score out of 100 based on how the market has performed across demand, revenue growth, seasonality and regulation.								
Median Revenue	Generated by a property in this market over the past 12 months								
Occupancy	How often was an active property occupied over the past 12 months?								
ADR	How much did hosts charge on average per day in this market over the past 12 months?								
RevPAR	Total revenue divided by number of available properties in the market								
Channel	Airdna reports on Airbnb and VBRD or both, but does not include Expedia (Stayz) which is the other primary platform in Australia								

We are supportive of the review's policy objectives to encourage favourable and efficient use of dwellings, balance the economic benefits of short-term rental accommodation with costs to housing affordability, minimise market distortions and ensure compliance, enforcement and reporting are effective. In addition, we recommend that regulatory and revenue changes are based on these additional principles:

- the different impacts of STRA in different locations, and the role that STRA plays in supporting some regional visitor economies
- alignment with existing frameworks that differentiate between STRA, residential and hotel accommodation stock, such as building design, safety and accessibility regulations of the National Construction Code and consumer protections, on the basis that property should be used for its approved purpose as the regulatory planning instruments are designed to ensure balanced economic growth and community benefits from housing supply to education, retail and other community benefits.
- reducing red tape and creating frictionless, customer-focused interactions with local and state governments
- continuing to reduce the complexity of the NSW planning system
- a locally informed and nuanced view of 'best and highest use' based on the existing dwellings and tourism profile of the Local Government Area
- impacts of private room versus whole homes being used for STRA
- Australia's well-developed serviced apartment market

As the discussion paper notes, any reform to STRA will rely on a regulation, planning and revenue framework that is enforceable, supports compliance and is informed by reliable and accurate data.

Despite the changes introduced in 2020, the current regulatory approach remains fragmented and incomplete and has little or no mechanisms for enforcement. Currently, both local and state governments do not have the necessary powers to effectively monitor non-compliant providers, let alone enforce the current light-touch regulatory regime.

International experience of STRA reform and implications for NSW

At its inception, platforms like Airbnb were positioned as part of the sharing economy, providing a way for owners to efficiently maximise on a spare room or a vacant dwelling while they were away. The market has since matured to be dominated by commercial owners, which operate non-hosted STRA year-round without the same regulation that is required of traditional lodgings such as hotels, motels and hostels¹. A study by Wachsmuth & Weisler (2018)² found the median NYC renter experienced a \$384 annual increase in rent from 2015 to 2017 due to Airbnb's expansion over that time.

International cities with high visitation like New York, Florence, and Paris have experienced comparable challenges to Australia's tourism destinations such as Byron Shire, and Sydney's Northern Beaches, City of Sydney and Waverley, where homeowners are leasing to the short-term rental market for higher returns when compared to the long-term market, further exacerbating tight rental conditions³.

In response, New York moved to regulate STRA and have since strengthened certain regulations in line with the maturing market. In 2022, New York City passed Local Law 18, which strengthened existing short-term rental legislation and put an emphasis on mandatory host registration. The impact of this law was immediate, with analysis by AirDNA finding previous STRA has been converted to Medium-Term Rental Accommodation for residents⁴.

Ayouba, K et al.'s (2020) analysis of Airbnb's impact on French cities also found a disproportionate effect on housing costs in certain areas over others. This suggests that in NSW, local governments should be the authority to impose day caps in accordance to how STRA impacts the rental conditions of that local area.

A study of STRA in Barcelona found that the estimated impact in neighbourhoods with high Airbnb activity was rental increase around 7 per cent.⁵ Barcelona became the first European city to ban short-term private rental rooms in 2021. Licenses are now required for owners who wish to rent entire properties, creating a registration scheme.

In the context of policy interventions from other state and territory governments in Australia being relatively recent, the NSW Government should consider the lessons from these international case studies which quantify the impact of STRA and the effectiveness of certain policy responses over others. Registration schemes and lowering of day caps have been effective in several cities, including New York, Florence, San Francisco, Toronto, Amsterdam and Singapore.⁶ Ensuring these policy measures are adapted for NSW will require both state and local government coordination, with enforceable registration schemes and localised day caps determined at the different levels.

¹ Bivens, J. (2019), The economic costs and benefits of Airbnb, Economic Policy Institute, <https://www.epi.org/publication/the-economic-costs-and-benefits-of-airbnb-no-reason-for-local-policymakers-to-let-airbnb-bypass-tax-or-regulatory-obligations/>

² Wachsmuth, D., & Weisler, A. (2018). Airbnb and the rent gap: Gentrification through the sharing economy. *Environment and Planning A: Economy and Space*, 50(6), 1147-1170. <https://doi.org/10.1177/0308518X18778038>

³ Ayouba, K., Breuillé, M.-L., Grivault, C., & Le Gallo, J. (2020). Does Airbnb Disrupt the Private Rental Market? An Empirical Analysis for French Cities. *International Regional Science Review*, 43(1-2), 76-104. <https://doi.org/10.1177/0160017618821428>

⁴ <https://www.hotelinvestmenttoday.com/Asset-Management/Airbnb-crackdown-is-a-windfall-for-New-York-City-hotels>

⁵ García-López, Miquel-Àngel and Jofre-Monseny, Jordi and Martínez Mazza, Rodrigo and Segú, Mariona (2019): Do short-term rent platforms affect housing markets? Evidence from Airbnb in Barcelona.

⁶ <https://www.euronews.com/travel/2023/06/11/italy-malaysia-usa-which-cities-and-countries-are-cracking-down-on-airbnb-style-rentals>

Thank you for the opportunity to provide a submission on Short Term Rental Accommodation. We have provided further responses to the answer sheet below. If you have any questions about this submission, please contact NSW Policy Manager Michael Player at mplayer@propertycouncil.com.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'K Stevenson', with a stylized flourish at the end.

Katie Stevenson
NSW Executive Director
Property Council of Australia

Questionnaire Answer Sheet

Regulatory changes

Q1: What is the preferred planning pathway for short-term rental accommodation?

A: We consider the current planning pathway, with short term rental accommodation as 'exempt development', to be sufficient.

Avoiding the need for approval for STRA reflects the logic of STRA having similar impacts to private residences and aligns with the aims to minimise red tape and planning complexity across the system.

Maintaining a pathway for councils to approach the Department if they wish to request stricter approval triggers, where the cumulative impact of STRA is more impactful than cumulative private residences, is sensible and allows local councils to make the case to NSW Government demonstrating the impacts in the local area.

Q2: Should short-term rental accommodation be characterised as a type of tourist and visitor accommodation land use?

A: An amendment to tourist and visitor accommodation land use may effectively prohibit their use in many residential zones. This would potentially create further complexity and require amendments to many Local Environmental Plans (LEPs) if the zoning was to be resolved to allow these uses. The scale and complexity involved in the implementation of this change makes it a less effective means to rebalance accommodation uses. A possible alternative may be to specify STRA as a tourist and visitor accommodation use once it exceeds a certain threshold (i.e. 90 days). This still poses some complexity in updating LEPs.

Q3: Should an occupancy limit be introduced, for the number of people within non-hosted short-term rental accommodation?

A: No. An occupancy limit is implied through number of beds, and this proposal does not address the policy objective of introducing additional homes back into rental market.

Q4: Do you think lower day caps would strike a better balance between residential amenity, housing supply and housing affordability with the positive economic impacts of short-term rental accommodation for the tourism economy?

A: Yes. Changes to the triggers for approval (e.g. number of days in certain locations) are a sensible way of striking this balance. We recommend this be determined by NSW Government based on advice from local government to reflect local supply/constraint issues e.g. markets with a high proportion of STRA impacting rental availability e.g. Ballina and Waverley LGAs versus other regional locations where commercial hotel projects may be less feasible.

Day cap calculations should consider the peak periods in accommodation demand. As can be seen in the data, many markets already sit at circa 50 per cent occupancy, which may be the result of short-term letting throughout the year during peak periods. A day cap of 180 days in that circumstance may have little or no effect on supply of housing availability.

Q5: Should each local council be able to determine its own day cap for non-hosted short-term rental accommodation, or should the NSW Government make this decision?

A: Both have a role. NSW Government should maintain oversight, but local councils should provide advice on day caps, and be able to make decisions about rebalancing accommodation uses.

Coordination of state and local governments will be key. If day caps are only set by local councils, there could be very inconsistent applications and a vast array of unintended consequences. A mechanism that provides both state and local government approvals to exceed certain day caps in circumstances where there is a clear community benefit may be an appropriate process.

This could involve maintaining the exempt pathway, but for instance, reducing the number of days to make it more desirable for these dwellings to be used for long-term rental housing, while managing potential impacts.

Compliance and enforcement

Q6: Are the short-term rental accommodation registration fees reasonable?

A: Current registration fees are relatively modest and seem reasonable, however there does not appear to be evidence from comparable markets of a clear correlation between increases to registration fees and homes for STRA being returned to the private market.

Q7: Do you think all booking services (e.g. online booking platforms and letting agents) should be required to register with the NSW Government before being allowed to advertise short-term rental accommodation dwellings?

A: Yes. A registration requirement prior to advertising is a commonsense change as a first step towards improving the regulatory and compliance framework.

Q8: Do you think that local governments have the necessary information and tools to enforce compliance with the short-term rental accommodation regulatory framework?

A: No. Currently no auditing of platforms is undertaken, which relies on councils making determinations on a case-by-case basis.

The Property Council believes there needs to be greater regulatory oversight and supports the introduction of registration and licensing system which will allow government to accurately quantify the supply of short-term leases and make informed policy decisions as a result. It will also allow compliance activities to be carried out against poor operators.

Q9: Do you think that the short-term rental accommodation regulatory framework is best enforced by local government or state government?

A: Enforcement powers at both state and local government level are required, with clearer delineation between their respective powers. Currently, several regulatory issues are 'falling through the cracks' between the two levels of government, such as non-registration, noise complaints etc.

The NSW Commissioner for Fair Trading should have a role beyond monitoring the implementation of code of conduct and be resourced to do spot checks and audit platforms, with an ability to issue fines and penalties to providers who are in breach, particularly repeat offenders.

Revenue measures

Q10: Do you think a levy on short-term rental accommodation, holiday homes and vacant properties would encourage some property owners to consider letting their properties for long-term tenancies instead?

A: No. This would impact a variety of property owners beyond the STRA scope of review and has not been sufficiently tested in the Australian market.

The Victorian Government's expanded vacancy tax (coming into force from 1 January next year) has too low a threshold for occupancy, with owners required to prove they have lived at the property

for at least four weeks of the year if it isn't rented out. There are several preferable policy levers identified in the discussion paper and other NSW Government policies that will be more effective in providing a sustainable supply of homes into the rental market than a levy of this nature.

Q11: If a levy were to be imposed, which categories of accommodation do you think it should apply to? (hosted STRA, non-hosted STRA, holiday homes, vacant (non-residential) property)

A: As above, we do not support a levy being imposed on any of these categories.

Q12: If a levy were to be imposed, should principal places of residence used on occasion for non-hosted short-term rental accommodation be subject to the levy?

A: As above, we do not support a levy being imposed on any of these categories, and the occasional nature of the usage described above would make this difficult to administer and monitor.

Q13: If a levy on short-term rental accommodation were to be imposed, should any dwellings (e.g. granny flats) be exempt, and on what basis?

A: Yes, dwellings such as granny flats should be exempt as they provide a viable accommodation option for certain parts of the market and making them subject to a levy would not free up additional rental options to the private market.

Q14: If a levy were to be imposed, should existing day caps on non-hosted short-term rental accommodation be changed?

A: The discussion paper does not provide a clear rationale for linking these two distinct regulatory and revenue measures in this manner, and international experience indicates that day caps as a standalone measure are effective, with reference to current requirement of 90 days in existing legislation.