

## Submission to New South Wales Government on Short Term Accommodation Code of Conduct; Regulation 2019; and Associated Planning Instruments

### **BACKGROUND**

The Property Owners Association of NSW has been the peak body representing the interests of the private landlord residential accommodation market since 1951.

This submission is in response to the Short-Term Residential Accommodation consultation released for public comment on August 14, 2019. This submission was prepared by the POANSW committee of management who are short to long term residential accommodation landlords across the Sydney metropolitan marketplace and throughout NSW.

The committee comprises licensed real estate agents, valuers, rooming and boarding house operators, boutique hotel operators and single to multiple investment property investors/landlords who either self-manage their own tenancies or engage property managers to do so.

There are numerous concerns with the content of the material. Outlined below are some of the major concerns which need addressing.

### **ISSUES**

- The proposal to not count lettings of 21 days or more to count toward the 180-day cap of un-hosted STRA is unacceptable.
- The loss of Local Council control over planning control for short term lettings.
- Mixed use strata schemes with prohibitions on short term letting must retain those development consent conditions. There are many apartment buildings in urban areas with specific development consent conditions that prohibit short term letting (< 3 months).

- Hosts in strata buildings will not be able to ensure all required fire safety measures are met because of ignorance of the requirements and the lack of authority to rectify any deficiencies.
- The implementation of a government run register or a neutral platform (not controlled by members of the short-term letting industry) is required prior to any planning law changes.
- Hosts must register their premises, before listing for STRA. Planning law must require this to ensure unregistered premises for STRA are illegal and penalties apply.
- The Strata Management Act needs modification to allow owners to vote to accept the 180 day cap for non-resident owners or modify the cap.
- No consideration has been given to taxation of STRA. GST payment and supply of TFN should be considered.
- A register of unacceptable hosts and guests is required.
- A consumer disclosure or public database stating what percentage any strata plan is short term letting needs to be established.
- Owners Corporations should be empowered to create by-laws to set additional levies on lot owners persistently undertaking STRA.
- Illegal, unapproved sub-letting by tenants needs to be stopped.

## DISCUSSION

- The risk of fire is increased by short stay tourists and visitors especially in high rise apartment buildings. Residential apartment buildings with complying development is required to ensure that the mandatory fire, BCA and safety standards are implemented.
- How will the 180-day cap be monitored across all available platforms? Cooperation between all platforms is unlikely. How will government ensure data across all platforms is captured?

- Government must have statutory oversight of the host register and undertake regular audits.
- Platforms must have a counter to monitor and report on guest nights
- Hosts must display the unique Host ID on all listings and declare all platforms that their ads appear on, and where applicable, the strata plan number. Hosts must have adequate insurance in place, verify all required fire, BCA and safety requirements have been complied with.
- Platforms and agents need a legal obligation not to list unregistered accommodation. Platforms must share data with state and local government. All listings and other advertising must display clearly the Host's unique ID.
- Independent third parties, such as BNB Guard, are needed to scan the market for unregistered hosts.
- The Host Register must include reporting on remaining days of occupation (caps), disclose all platforms on which the premises are listed. The Register must generate a unique Host ID.
- Local Councils must be involved in designing the system and have unimpeded access to data and monitor to ensure original development consent conditions are complied with.
- First home buyers or owner occupiers purchasing strata apartments require details of the percentage of STRA in the building they are proposing to live in. Purchasers of strata lots in buildings containing 50-70% STRA lettings would have reason to believe they have been deceived. They may think twice before buying.
- STRA causes additional maintenance and cleaning costs in common property areas in strata buildings. Owners Corporations should be empowered to resolve by-laws to recover reasonable additional costs.

- Many residential tenants sub-let their residence without seeking landlord approval when they go away on holiday. There have been numerous instances of adverse outcomes occur in these situations (eg. Bed bug infestations, removal of smoke alarms by short term guests).

## RECOMMENDATIONS

- All Un-Hosted STRA is to count toward the maximum cap.
- Local Councils can set a lower cap and apply zoning restrictions to meet local strategic planning objectives. A uniform state-wide approach is not workable.
- Taxation aspects of STRA must be considered.
- Compliance with all fire, BCA & safety requirements is essential.
- To protect consumers details of unacceptable hosts & guests must be available.
- Monitoring of all aspects of STRA is essential to ensure compliance
- Enabling searches by strata plan number on the register would enable prospective purchasers to determine the percentage of STRA in buildings. Apps such as “Strata Check” proposed by Minister Dominello could be utilised.
- Empower Owners Corporations to introduce cost recovery by-laws to levy STRA lots.
- Introduce landlord approval requirements as part of host listing on platforms.

On behalf of the Property Owners Association of NSW,

Simon Ruben  
Strata Sub-committee Chairperson  
Property Owners Association of NSW.  
A: PO Box 329, Bondi Junction NSW 1355  
P: (02) 9363 3949  
E: [simon@poansw.com.au](mailto:simon@poansw.com.au)  
W: [www.poansw.com.au](http://www.poansw.com.au)

