New Short-Term Rental Accommodation Legislative Regime in NSW

On 9 April 2021, the NSW government announced a new statewide policy for Short-Term Rental Accommodation (**STRA**) including the Environmental Planning and Assessment Amendment (Short-term Rental Accommodation) Regulation 2021 and State Environmental Planning Policy Amendment (Short-term Rental Accommodation) 2021 which introduced a number of important reforms for the industry. These are scheduled to take effect on 1 November 2021.

The new STRA legislative regime will supersede all previous short-term accommodation planning laws in NSW including existing ad hoc local council regulations on the subject-matter.

Relevantly, the NSW government has implemented the following reforms to the STRA:

New Statewide Regulatory Framework for STRA

The new STRA planning policy framework introduces a new definition for STRA; namely, hosted STRA and non-hosted STRA.

Hosted STRA means a short-term rental accommodation provided where the host lives on the premises during the provision of the short-term letting.

Non-hosted STRA means a short-term rental accommodation provided where the host does not live on the premises during the provision of the short-term letting.

The new STRA provides an exempt development pathway for Hosted STRA in a dwelling and non-hosted STRA in a dwelling.

A Hosted STRA in a dwelling is permitted to engage in short-term letting for a maximum of 365 days per year.

A Non-hosted STRA in a dwelling is permitted to engage in short-term letting for a maximum of 180 days per year in Greater Sydney and other nominated regional NSW local government areas and 365 days per year in all other locations.

However, in calculating the number of days a dwelling is used for non-hosted STRA, any bookings for a consecutive period of 21 days or more by the same person is not counted towards the annual day cap.

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Fire Safety Standards for STRA Dwellings

Under the new STRA, dwellings used for short term letting will need to comply with the new Short-term Rental Accommodation Fire Safety Standard (**Standard**) pursuant to Division 7D of the Environmental Planning and Assessment Regulation 2000.

In summary, the Standard requires all STRA dwellings to comply with upgraded and stricter fire safety standards, including but not limited to:

- Installation of an evacuation plan;
- Installation of interconnected smoke alarms;
- Registration with the NSW government-mandated STRA register to confirm compliance with the new fire safety standards;
- Provision of an information sheet by STRA hosts to guests on general emergency advice regarding the meanings of total fire ban, different fire warning levels and emergency service broadcasts and contacts etc; and
- Introduction of minimum fire safety standards for STRA dwellings and associated penalty notice offences for non-compliance.

In particular, the Standard requires that Class 1a buildings (which are single dwellings such as a detached house, or one of a group of attached dwellings being a town house or a row house) to have the following fire safety features:

- Smoke Alarms:

  Smoke alarms must be installed in 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 every other storey in the dwelling not containing bedrooms. The smoke alarms must be installed on or near the ceiling and comply with AS 3786 (albeit with some exceptions). The smoke alarms must also be powered from the mains electricity supply or by a non-removable battery with a minimum 10-year life expectancy and be interconnected (if there is more than one alarm in the dwelling).

- Heat Alarm:

  A heat alarm must be installed in any private garage attached to the dwelling (that is not associated with the dwelling). The heat alarm must be located on or near the ceiling, and be a class type A1 or A2 heat alarm complying with AS 1603.3. The heat alarm must also be powered from the mains electricity supply or by a non-removable battery with a minimum 10-year life expectancy and be interconnected to and will activate the smoke alarms required in the dwelling. Further, notices must be permanently fixed to the dwelling and private garage in prominent locations showing that a heat alarm is installed in the private garage and that the heat alarm is interconnected to the smoke alarms required in the dwelling.

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- Evacuation Diagram:

  An evacuation diagram must be affixed within the dwelling on or adjacent to the entrance door to the dwelling and within each bedroom on or adjacent to the door to the room. The evacuation diagram must comply with certain location, font and content requirements.

Further, the Standard requires that Class 2 Buildings (apartment buildings) and Class 4 part of a building (which is a sole dwelling or residence within a building of a non-residential nature) to also have the following fire safety features:

- Smoke Alarm:

  Smoke alarms must be installed in 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 every other storey not containing bedrooms. The smoke alarms must be installed on or near the ceiling and comply with AS 3786 (albeit with some exceptions). The smoke alarms must also be powered from the mains electricity supply or by a non-removable battery with a minimum 10-year life expectancy and be interconnected (if there is more than one alarm in the dwelling).

- Egress Doors:

  The entrance doorway to the dwelling must be capable of being opened from inside the dwelling without recourse to a key and any modification to the lock must not impair the fire resistance of the door.

- Portable Fire Extinguishers:

  A 2.5 kg ABE portable fire extinguisher must be installed in an accessible location in the kitchen in accordance with Section 3 of AS 2444.

- Fire Blankets:

  A fire blanket must be installed in an accessible location in the kitchen in accordance with Section 6 of AS 2444.

- Evacuation Diagram:

  An evacuation diagram must be affixed within the dwelling on or adjacent to the entrance door to the dwelling and within each bedroom on or adjacent to the door to the room. The evacuation diagram must comply with certain location, font and content requirements.

STRA Register

Registration on the STRA Register commenced on 10 April 2021 to allow STRA hosts to register their dwellings before the commencement of the new STRA planning rules on 1 November 2021.

Registration on the STRA Register is a mandatory requirement prior to a dwelling being used for STRA in NSW. Registration also requires the registrant to confirm that the STRA dwelling complies with the Standard.

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Registration on the STRA Register allows the NSW government to track the number of days a dwelling is used for STRA for compliance purposes.

Code of Conduct for STRA Industry

The new mandatory Code of Conduct (**Code**) and the accompanying Amendment (Short-term Rental Accommodation) (No 2) Regulation 2020 commenced on 18 December 2020.

The Code creates new minimum standards of behaviour and requirements for all industry participants including:

- Booking platforms;
- Hosts;
- Guests;
- Letting agents; and
- Facilitators.

Accordingly, in light of the new short-term rental accommodation legislative regime in NSW, any person or organisation that wishes to participate in the STRA industry from 1 November 2021 needs to ensure that they comply with the new legislative regime and must be well-versed with the new legislative framework.

If you have questions or need assistance in this developing area of the law, please contact our experts at Bannermans Lawyers at enquiries@bannermans.com.au or call us on 02 9929 0226.

Key takeaways

- The new STRA regime introduces a statewide regulatory framework for short-term rentals in NSW.
- Hosted STRA allows for 365 days of letting, while non-hosted STRA is limited to 180 days in Greater Sydney.
- New fire safety standards are mandated for all STRA dwellings, including installation of smoke alarms and evacuation plans.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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