

Short Term Rental Accommodation (STRA) - proposed amendments to NSW planning rules.
(Submission, 10 October 2018.)

1. I have read the Explanation of Intended Effect (EIE) document offered by NSW Planning & Environment for the proposed amendments to NSW planning rules to allow for Short Term Rental Accommodation (STRA).
2. My main concern is that some of the proposed amendments are inconsistent with current building regulations under the National Construction Code 2016 (NCC).
3. I have further concerns that some existing Development Approvals are imprecise and Owners Corporations will have an additional administrative burden in deciding if STRA is an approved 'use'.

The National Construction Code 2016 (NCC)

4. I note the following classification method of the NCC:

A3.1 Principles of classification

The classification of a building or part of a building is determined by the purpose for which it is designed, constructed or adapted to be used.

A3.2 Classifications

Buildings are classified as follows:

Class 2: a building containing 2 or more *sole-occupancy units* each being a separate dwelling.

Class 3: a residential building, other than a building of Class 1 or 2, which is a common place of long term or transient living for a number of unrelated persons, including—

(a) a boarding house, guest house, hostel, lodging house or backpackers accommodation; or

(b) a residential part of a hotel or motel;

5. The BCA Guide to NCC 2016 notes: "Class 3 buildings provide accommodation for unrelated people. The length of stay is unimportant."
6. The BCA Guide to NCC 2016 further states Class 3 buildings include: the residential parts of hotels and motels; bed and breakfast accommodation, a boarding house, guest house, hostel, or lodging house.
7. It would therefore appear that, under the NCC, the Classification of an Apartment Building may change from Class 2 to Class 3 when the building becomes a "common place of long term or transient living for a number of unrelated persons", i.e. when it is used for STRA.

The Explanation of Intended Effect (EIE)

8. Clause 4.2.3 of the EIE indicates that "additional criteria" will apply to STRA as both exempt and complying development approval pathways:
 - The current use must be a lawful use, permissible under an environmental planning instrument (EPI) applying to the land and in a building approved for residential accommodation.
 - The building in which STRA is proposed must comply at all times with all relevant planning, building, strata, fire safety and health regulations.
 - Other than safety standards (below), the STRA activity does not authorise any building works.
 - STRA must not cause contravention of any existing condition of the most recent development consent that applies to the building.
 - STRA must comply with relevant requirements under the strata scheme.
 - The dwelling must comply with the safety standards outlined at 4.2.4. (below).
9. Clause 4.2.4 of the EIE indicates the following standards are proposed:

Dwelling Type	Recommended Standard
All dwellings	<ul style="list-style-type: none">• No more than 2 persons/bedroom or 12 persons, whichever is the lesser• In each bedroom, installation of smoke alarms, which are interconnected where there is more than one alarm.• In hallways, installation of a lighting system that is activated by the smoke alarm system.

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Dwelling Type	Recommended Standard
Dwellings in multi-unit buildings only (Dwellings in Class 2 and 4 buildings)	<ul style="list-style-type: none">• Entry doors should be openable from inside the dwelling without a key.• Installation of a self closing device and smoke seals to all edges of the door if the door opens onto a shared corridor and entrance doorway• In the kitchen, installation of a fire extinguisher and fire blanket.• Making an Evacuation Plan, displaying 'evacuation signage, and familiarising guests with exit system.
Standalone dwellings only (Class 1a buildings)	<ul style="list-style-type: none">• Installation of heat alarms in single dwellings that are located above a garage. This would be required only where the garage is not accessible to the guest/s.

CONCLUSION:

10. The EIE indicates that a building in which STRA is proposed must comply at all times with all relevant planning, building, strata, fire safety and health regulations.

I note certain Standards proposed in Clause 4.2.4. of the EIE are NOT current requirements of the NCC:

- Installation of (interconnected) smoke alarms in each bedroom of ALL dwellings. (NCC Specification E2.2a requires smoke detection only in the sleeping areas of Class 2, 3 or 4 Buildings, not individual bedrooms. Class 1 Buildings are exempt from smoke detection.)
- The installation of a lighting system activated by the smoke alarm system in hallways of ALL dwellings.
(Not a current requirement of the NCC.)
- Installation of a fire extinguisher and fire blanket in kitchens of multi-unit buildings.
(Not a current requirement of the NCC.)
- Making an Evacuation Plan, displaying 'evacuation signage, and familiarising guests with exit system.
(Not a current requirement of the NCC.)
- Installation of heat alarms in single dwellings located above a garage, where the garage is not accessible to the guest/s.
(Not a current requirement of the NCC.)

11. Compliance with the EIE proposed standards would inevitably require alterations and/or additional services in a building and subsequent inspections and certification. There will be ongoing confusion by owners - and Owners Corporations - about their ability to use their property for STRA while proposed amendments to the planning rules are inconsistent with current building regulations under the NCC.

12. I recommend NSW Planning & Environment liaise with the Australian Building Codes Board (ABCB) to draft amended building regulations that recognise STRA as a new 'use' under the NCC. Safety standards for STRA should be developed only after agreement by the ABCB.

13. The EIE is inconclusive about who would test whether or not STRA was an approved use for an apartment and what mechanism an Owners Corporation could use to impose remedies or penalties if use of an apartment for STRA was found to be in breach of a development consent. Owners Corporations, in particular, require certainty that the use of apartments for STRA will not contravene any conditions of a current Development Consent for their building.

14. At present, it is common practice for Strata Insurance to have a condition that apartments are not used as STRA.

15. I further recommend NSW Planning & Environment liaise with the Insurance Council of Australia to ensure Owners Corporations are made aware of any changed conditions that may be imposed by insurers once the insurance industry recognises that strata apartments used for STRA may be commonplace.

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