



15 November 2018

Director, Housing Policy  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Contact: Martin Johnson  
Our Ref: DOC2018/095000  
Your Ref: Short-Term Rental Accommodation

Dear Sir / Madam

### **Short-Term Rental Accommodation, Explanation of Intended Effect**

Thank you for the opportunity to comment on the proposed amendments to the NSW planning framework which seek to achieve a uniform regulatory approach to *short-term rental accommodation* (STRA) in NSW.

We appreciate that the majority of our comments to the Short Term Holiday Letting Options Paper in 2017 have been addressed by the Department of Planning and Environment in its Explanation of Intended Effect (EIE) for STRA. As such, we support the following outcomes of the EIE:

- inclusion of a standard definition for STRA in the Principal Local Environmental Plan;
- clarification that STRA is permissible in zones in which *dwelling*s are permissible;
- provision of a 'scaled' planning approach to managing STRA in NSW; and
- introduction of a mandatory Code of Conduct for STRA.

Notwithstanding these positive outcomes, we are of the view that the following matters need be addressed in any new legislation relating to STRA.

#### Registration of STRA and ongoing compliance with the mandatory Code of Conduct

Council advocates for mandatory registration of STRA. Knowing where STRA is located will assist Council and government agencies carry out necessary compliance action when problems arise. Mandatory registration will also assist in collecting important information regarding STRA, including its impacts on the wider community.

Registration to a NSW government body, such as NSW Fair Trading, would ensure management of STRA is funded through a 'user pays' system. We recommend the system include a requirement for periodic inspections to ensure property owners continue to comply with provisions of the mandatory Code for issues relating to waste management, fire safety, insurance and public health. A requirement for registration and periodic inspections is not an unreasonable impost on STRA operators.

Ultimately, there remains a lack of clarity in the EIE regarding the ongoing regulation of STRA. This is primarily due to the absence of the mandatory Code of Conduct. It is not clear from the EIE what avenues will be made available for councils or other government agencies

to ensure continued compliance with the Code. Likewise, for members of the public what avenues will be available to lodge complaints and have them investigated in a transparent manner by an independent body.

As a minimum, details should be provided in the mandatory Code detailing who is responsible for the investigation of complaints relating to the safety, amenity and impact of STRA. The mandatory Code (or standard definition) should also clarify who may qualify to be a STRA 'host'.

#### STRA connected to a private water supply

In the interest of public health, it is requested that the mandatory Code of Conduct outline minimum requirements for water quality in instances where the development is reliant on a private water supply, such as rainwater tanks, bore water, etc. Water quality requirements presently apply to forms of *tourist and visitor accommodation* and we see no reason why STRA should be exempt from these requirements. The same is true of requirements relating to swimming pools.

#### STRA located on flood prone land

It is unclear why the potential for flooding has not been considered in the development pathway for STRA, noting the short timeframe in which certain areas can experience flash flooding.

The Cessnock Development Control Plan 2010 (the DCP) was updated in 2017 to include a chapter addressing development on flood prone land. The DCP aligns with the NSW Flood Prone Land Policy and the NSW Floodplain Development Manual 2005 and also references the 2016 Australian Rainfall and Runoff hazard classification categories as a basis for assessing development risk. Importantly, the DCP includes controls to minimise the risk to life and property, including controls relating to the location of services and car parking, flood free evacuation routes and a requirement for emergency evacuation plans. While we acknowledge that requirements relating to flooding, as provided in the DCP, are typically translated in conditions of the original *dwelling* consent, there is no guarantee that this important information (e.g. emergency evacuation plans) will continue to be conveyed to the temporary occupants of STRA.

#### Permissibility of STRA

There are approximately 300 known tourist accommodation land uses occurring in the Cessnock Local Government Area (LGA). Well over half of these land uses occur in the Pokolbin wine sub-region. Tourism associated with the Pokolbin wine sub-region is a significant component of the regional and local economy. A delicate relationship exists between tourism and viticulture in the sub-region and additional tourist development needs to be carefully managed to preserve the landscape qualities that underpin tourism demand.

We maintain that councils should retain the option of restricting the permissibility of STRA if the need arises and is satisfactorily justified. This includes the option of restricting STRA in certain zones or further limiting the number of days each year (to less than 180 days) that STRA may operate. Such flexibility will be necessary to address the unforeseen impacts of STRA on nominated strategic land or other exceptional circumstances.

Impact of STRA on the Availability of Rental Housing

It is worth noting the impact STRA may have on the availability of long-term rental accommodation in NSW. An increase in the uptake of STRA is likely to reduce the overall supply of long-term rental accommodation, leading to higher rental costs. Council will continue to monitor the impact STRA has on rental housing affordability and cost of living in the Cessnock Local Government Area.

If you require any further information, please do not hesitate to contact Council's Strategic Planning Manager, Mr Martin Johnson, on telephone 02 4993 4229.

Yours faithfully

A handwritten signature in black ink, appearing to be 'M. Johnson', with a long horizontal line extending to the right.

Martin Johnson  
Acting Director Planning and Environment