



ORDINARY MEETING OF COUNCIL

MINUTE ITEM ATTACHMENTS

Tuesday 19 March 2024

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14 March 2024

The Hon. Paul Scully MP
NSW Department of Planning, Housing and Infrastructure
GPO Box 5341
SYDNEY NSW 2001

Email: STHL@planning.nsw.gov.au

Dear Minister

Regulatory framework for short-term rental accommodation

Thank you for the opportunity to submit feedback from Kiama Municipal Council on the regulatory framework for short-term rental accommodation (STRA) and options to encourage the supply of long-term rental accommodation (LTRA). Council officers have already completed the online survey provided as part of the consultation process. It is noted that these survey responses cannot be retained or printed and therefore are not publicly available. Council has taken this opportunity to also provide a written submission with our feedback to enable our views to be provided to both the Department and to the public.

We acknowledge the complexity of this topic and the competing priorities, needs and views of this type of development. As a key tourist area within the NSW South Coast, the impacts and importance of STRA are keenly understood.

Like other NSW councils and peak industry bodies such as the Planning Institute of Australia and Australian & New Zealand Short Term Rental Accommodation Association we support the “regulation of the short-term holiday letting market to maintain access to housing for local residents and labour force”. We also acknowledge the significant contribution that STRA and tourism plays within our economy. Council is keenly trying to balance housing security, economic development and tourism opportunities with the need to reduce negative community impacts and enhance social cohesion within our Local Government Area (LGA).

Our feedback below is provided as outlined in core topic areas and is in addition to the answers provided to the questions asked within the survey form.

Benefits of STRA

STRA is a significant contributor to our local economy and does offer a range of benefits that extend beyond tourism. Despite facing scrutiny and challenges, the positive impacts and opportunities of STRA on our local community should not be overlooked. It plays a role in supporting our visitor economy, can provide

accommodation for both leisure and non-leisure travellers, and offers flexible residential options. STRA can allow visitors to access accommodation tailored to their needs and plays a role in supporting diverse industries within our community.

Short Term Rental Accommodation – Kiama

In reviewing data available the following statistics are provided:

- total dwellings in Kiama LGA 11,067
- registered 'hosted' properties 217 (1.96%)
- registered 'non-hosted' properties 526 (4.75%).

The National and International Visitor Survey results show that in the Kiama area, approximately 16% will stay in "rented house / apartment / flat or unit (not serviced daily)" to which STRA falls. "Other commercial accommodation" makes up 54% of overnight trips and "private accommodation", 45%.

The economic return to Kiama is as follows:

- On average, people that stay in short term rental accommodation within the Kiama region spend \$669 per trip or \$259 per night, in addition to the cost of accommodation.
- The value of the industry is an estimated \$30M per annum.

Source: Tourism statistical professional, Peter Valerio -Tourism Solutions

The Kiama LGA boasts approximately 550 traditional accommodation rooms, comprising 310 in hotels and motels, 230 in cabins, and 14 in apartments.

Feedback from Industry Forum

A forum was facilitated by Council staff on Thursday 7 March 2024. At this industry forum STRA owners and managers shared their feedback and viewpoints about STRA. They recounted instances where their properties served as emergency accommodation during bushfires, for individuals fleeing domestic violence, and those seeking respite through the NDIS. Some owners, particularly single mothers with caregiving responsibilities, emphasised how STRA provided a crucial revenue source, enabling them to adequately support their families.

The forum also presented a compelling case regarding the potential impact of returning the 4-5% of non-hosted STRA accommodations in Kiama to the long-term rental market. The rental returns necessary to achieve profitability for land tax purposes would likely render weekly rent amounts unaffordable for most families.

Additionally, 90% of ASTRA survey respondents expressed that levies or day caps would not incentivise them to convert their STRA properties to long-term rentals (primarily due to the desire for a flexible holiday home for themselves and their families).

According to data from the ASTRA survey, 93% of STRA owners or managers engage five or more local services to assist in property operations, including cleaners, property maintenance personnel, pool cleaners, and linen services.

Blanket STRA Caps

The state-wide 'blanket' provisions for annual STRA thresholds are not applicable or appropriate in every area, it is therefore crucial for councils to be able to tailor the policy to suit local conditions. Council wishes to be able to recognise the importance and benefits of short-term rental accommodation to local economies, the desire for homeowners to seek additional income, whilst managing any potential negative impacts of STRA.

The provisions in place for hosted STRA are supported and appear to be well managed and impacts mitigated. It is non hosted STRA which require further consideration.

There are many scenarios for which STRA is used and in many cases there are legitimate and positive reasons for utilising the STRA regulation to lessen the financial impact or provide financial benefit to households. The difficulty within current regulations and possible proposed changes is that these aim to accommodate a broad spectrum of potential uses or scenarios and as a result may either be too limited or too stringent for local conditions.

A blanket reduced cap across NSW could have significant economic implications and may result in unintended impacts for each area. For example, in Kiama it is possible that if the STRA rules are overly stringent, properties will be left vacant rather than rented and tenanted. This is stated because currently there is no clear evidence that by changing regulations properties would be returned to the rental market. Rather it is recommended that day caps could be set in alignment with a region or a LGA and established through existing strategic planning frameworks.

Compliance and Governance

Currently the compliance framework surrounding STRA is complex and roles and responsibilities are unclear. Messages from the Department are that Council has a role to play however the legislative framework to support this function is lacking. There is misalignment in roles and responsibilities and ultimately management of these rest with the Department of Fair Trading. The ability for Council to undertake compliance action is fettered and the ability to resource and control, limited.

The NSW Government must recognise that enforcement of the planning provisions will in some areas, impose additional time and resources for councils. If councils are to undertake this role then the proposed cost recovery measures must include a component to assist local government deal with the additional compliance costs associated with any new framework.

Council believes that there is a significant role that should be played by the hosting platforms and agencies. This does not appear to be adequately explored or articulated

within the discussion paper. The hosting platforms currently have limited management and control over the premise including ensuring compliance for safety and usage.

There is significant ease of entry into STRA which allows for any participants to enter the industry regardless of intent, skills or knowledge. There is need for greater professionalism for all STRA providers which should be enforced and monitored through hosting platforms and other regulatory avenues. There is further review needed to the Code of Conduct and options should be explored for the introduction of licences, with a minimum requirement for safety, industry knowledge and qualifications for operators. It is suggested that a standardised certification process, ensuring that all operators and property owners possess the necessary qualifications and comprehension of the expectations required to operate short-term rentals, should occur.

Planning Pathways

The issues affecting the availability and costs of housing are not the same across regions or the State, as noted in the Discussion Paper. Without needing to explore this issue further it would be apparent to most the underlying approach to STRA regulation is administratively tailored toward a one-size-fits-all

Firstly, it should be stated that retention of hosted STRAs as exempt development is supported. These STRA's have minimal impact and the planning framework appears to be working within this context. It appears this is reiterated by other councils and organisations and as shown through the survey questions it is non-hosted STRA's which should be the focus of the reform process.

The use of the Housing SEPP to support what is in essence a commercial tourist accommodation (non-hosted STRA) in locations where such development would otherwise not be permissible is the primary concern for the ongoing management of this development type.

It is particularly concerning in certain localities within our LGA when developments are assessed through a DA process as residential accommodation, only to once built be marketed and promoted as solely tourist accommodation, utilising the exempt components of the SEPP to achieve the initial intent of the development. These developments are actively being marketed following approval as tourism and visitor accommodation and simply do not align with the intent or objective of the STRA legislation. Unfortunately given the current compliance regime and regulatory framework there is little Council can do to respond to these concerns.

The Dictionary to the Standard Instrument (Local Environmental Plans) Order 2006 provides a description of a commercial accommodation use: Tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following— With limited exceptions specified types of tourist and visitor accommodation may be permitted without the need for development consent under a SEPP, but more generally development approval is required. It is generally accepted that tourist and visitor accommodation, except in some limited circumstances, is not a low-impact development or use.

In the Discussion Paper it is outlined that a STRA “does not affect the characterisation of a dwelling.” The current framework suggested that a STRA only “dwelling” retained its fundamental residential character despite a noticeable shift in purpose. There is concern that this is not the case and impacts do result from STRA development.

Therefore, it is essential that localised housing market conditions be used to inform decision-making about the suitability of and location for non-hosted STRA. The Standard Instrument LEP is a heavily underutilised instrument with the capability of allowing a precinct approach to mapping areas, and clause-based controls that can work in parallel with the Housing SEPP.

Strategic Planning and Other Planning Frameworks

It is important to convey that the current housing crisis and affordability crisis cannot be solely attributed to the impact of STRA. There are a number of policy issues which are outside the scope of this review which are linked to more fundamental issues surrounding housing.

In part a lack of sufficient formal tourist and visitor accommodation to meet demand, coupled with a shortage of affordable rental housing in perpetuity, have exacerbated the negative impacts of non-hosted STRA in certain areas.

It is essential that focus is on key planning levers that could address shortfall of supply both in housing and within tourism accommodation and improve housing outcomes, such as strategic planning to identify well-located land for both housing and tourist accommodation, enabling timely release of land for both housing and tourist accommodation, alongside clear arrangements for sharing the costs of local infrastructure and affordable housing. Kiama Municipal Council is embarking on a Growth and Housing Strategy to undertake this work and to open dialogue with our community to do our part in the housing supply pipeline.

Additional Information

The STRA industry and the impacts and benefits it has to our community is significant. Council wishes to continue to play an active role in the discussion and decision making around this important issue and review.

Council is actively participating (at a cost of \$5,000) in a research project being conducted by Sydney University into STRA, through the Australian Coastal Councils Association and will provide further comment to the DPHI on the outcomes of this research when completed.

Council’s Mayor Neil Reilly and CEO Jane Stroud have been speaking with delegates from Bryon Bay Council about their STRA approaches. Discussions will also be occurring at the ALGA Conference with other councils who have high levels of STRA. This meeting, convened by Kiama Council, aims to seek information from others and to learn about alternative approaches that have been adopted in other LGAs.

Thank you for providing Kiama Municipal Council the opportunity to comment on the regulatory framework for STRA. For any questions or further information, please contact Jessica Rippon, Director Planning, Environment and Communities at jessicar@kiama.nsw.gov.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J Rippon', with a long horizontal flourish extending to the right.

Jessica Rippon
Director Planning, Environment & Communities