

Department of Planning, Housing and Infrastructure

[dphi.nsw.gov.au](http://dphi.nsw.gov.au)



# Discussion paper on short- and long-term rental accommodation

Review of regulations and supply in New South Wales

February 2024



# Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Published by NSW Department of Planning, Housing and Infrastructure

[dphi.nsw.gov.au](http://dphi.nsw.gov.au)

Discussion paper on short- and long-term rental accommodation

First published: February 2024

Department reference number: SF24/8579

## More information

Produced by Housing and Economic Policy (NSW Department of Planning, Housing and Infrastructure) and Property and Revenue Initiatives (NSW Treasury)

## Copyright and disclaimer

© State of New South Wales through the Department of Planning, Housing and Infrastructure 2024. Information in this publication is based on knowledge and understanding at the time of writing, February 2024, and is subject to change. For more information, please visit [nsw.gov.au/copyright](http://nsw.gov.au/copyright)

DPHI-MC-R-WC-V1.0

# Contents

<b>Acknowledgement of Country .....</b>	<b>2</b>
<b>1 Introduction .....</b>	<b>4</b>
1.1 Purpose of this discussion paper.....	4
1.2 Have your say .....	5
<b>2 Context of this review .....</b>	<b>7</b>
2.1 Housing pressures in NSW.....	7
2.2 Policy considerations for the review.....	13
<b>3 Current regulatory and policy environment.....</b>	<b>16</b>
3.1 Regulatory and policy environment in NSW .....	16
3.1.1 Regulatory framework for short-term rental accommodation.....	16
3.1.2 Independent Planning Commission review of Byron Shire Council’s planning proposal for short-term rental accommodation.....	17
3.1.3 Revenue policy settings.....	19
3.1.4 Other policy settings .....	19
3.2 Policies in other jurisdictions.....	20
3.2.1 Policy approaches within other Australian jurisdictions.....	20
3.2.2 International policy approaches.....	23
<b>4 Issues for consultation.....</b>	<b>25</b>
4.1 Policy objectives.....	25
4.2 Review of the planning and regulatory framework for short-term rental accommodation 27	
4.2.1 Scope of review of planning and regulatory framework.....	27
4.2.2 Suitability of the exempt development planning pathway.....	28
4.2.3 Planning policy settings for short-term rental accommodation.....	28
4.2.4 Day caps on non-hosted short-term rental accommodation .....	31
4.2.5 Short-term Rental Accommodation Register .....	33
4.2.6 Compliance and enforcement .....	35
4.3 Potential revenue measures.....	39
4.3.1 Revenue policy issues.....	40
<b>5 Have your say .....</b>	<b>45</b>

# 1 Introduction

---

## 1.1 Purpose of this discussion paper

The New South Wales Government is investigating policy levers to help unlock housing supply and ease the ongoing pressure on housing affordability across New South Wales (NSW). This discussion paper starts a public consultation process so you can have your say and give feedback.

The NSW Government would like your views and feedback as it reviews:

- how well the current planning and regulatory framework for short-term rental accommodation in NSW is balancing benefits to the tourism economy with the potential costs for housing availability and affordability
- potential policy options, including revenue measures, to encourage property investors to make homes available for long-term rental accommodation.

You can give your feedback by uploading a submission or taking a survey by **14 March 2024**. Go to the 'Have your say' section below to find out how.

## Solutions for the longer term

Housing affordability has deteriorated significantly over the past few years in NSW. At the same time, current projections indicate that another 1.7 million people will call NSW home by 2041. This suggests nearly 900,000 additional homes will be needed.<sup>1</sup>

The most effective way to ensure house prices and rents are affordable is to increase housing supply where demand is highest. The NSW Government has committed under the National Housing Accord to unlock around 375,000 homes over the next 5 years.

Worsening housing affordability has coincided with an increase in the number of people in NSW sleeping rough and the number of priority applicants for social housing. These suggest that homelessness, in addition to financial stress, is becoming an increasingly serious

---

<sup>1</sup> NSW Government (2023) through the former Department of Planning and Environment, 'Population projections', <https://www.planning.nsw.gov.au/research-and-demography/population-projections>, accessed January 2024

challenge in NSW. Homelessness is more than just a housing problem – it is a complex, multifaceted issue, and there is no single solution. However, a key to reversing this trend is the supply of social housing and wraparound support services.

## Solutions for the near future

Policies to unlock supply will not yield immediate effects. It takes time for rezonings or land release to translate into housing approvals, construction and then into properties ready for living. Policies that encourage people to make short-term rental accommodation or underused properties (for example, holiday homes and vacant properties) available for long-term use could make a difference sooner.

---

## 1.2 Have your say

The NSW Government would like your feedback on the regulatory framework for short-term rental accommodation and potential policy options to increase the use of properties for long-term housing. The aim is to encourage long-term rental accommodation and strike a fair balance between NSW housing needs and the benefits of short-term rental accommodation.

To give feedback, you can:

- [complete our survey via Qualtrics](#), or
- [upload a submission via the NSW Planning Portal](#).

Email questions about the discussion paper or review to the project team at [STHL@planning.nsw.gov.au](mailto:STHL@planning.nsw.gov.au)

## Submissions are open until 14 March 2024

We prefer submissions through the online options on the Have Your Say website, or by email in an accessible format. Accessibility is about making documents easy to use for everyone, including people with disability. For more information on how you can make your submission accessible, visit <http://webaim.org/techniques/word/>

The [NSW Government's Guide to Better Regulation](#), which sets out how to apply the 7 principles of better regulation to regulatory proposals, may help you consider the issues and prepare a submission.<sup>2</sup>

---

<sup>2</sup> Visit <https://www.treasury.nsw.gov.au/finance-resource/best-practice-regulation-guidelines>

Likewise, section 4.3 Potential revenue measures outlines some guiding principles of revenue policies that could help in your submission.

## We may publish submissions

We may publish submissions. If you do not want your personal details or any part of your submission published, **please say so clearly in your submission**. An automatically generated confidentiality statement in your email is not enough.

We may refer to submissions in a report on the outcome of the consultation. We will accept anonymous submissions if you do not want us to publish yours, or if you have concerns about safety or your submission being linked back to you. We will refer to these in our report as anonymous submissions.

There may be circumstances where the NSW Government is required by law to release the information in your submission. For example, this may be in keeping with the requirements of the *Government Information (Public Access) Act 2009*.

## 2 Context of this review

---

### 2.1 Housing pressures in NSW

NSW is an attractive and highly sought after place for people to live, work and visit. Yet the factors that make our state desirable to visitors can increase housing pressures for current and future residents.

#### Housing affordability is deteriorating

Since the end of 2019, advertised prices for long-term rentals in NSW have increased more than 38%. Last year alone they rose 14%. Rental vacancy rates are also at near historically low levels. The vacancy rate in Greater Sydney was 1.7% in December 2023, below the decade average of 2.3%. In regional NSW, the vacancy rate has fallen even lower.<sup>3</sup>

Despite the rapid increase in interest rates since May 2022, Sydney dwelling prices by the end of 2023 were 28% higher compared to the end of 2019, and prices in the regions are now up 48% over the same period.<sup>4</sup>

Poor housing affordability in NSW is symptomatic of an enduring supply problem, which is likely to worsen in the near term as new dwelling approvals and completions remain subdued. Rising house prices should encourage more dwelling construction to meet this strong demand. However, it takes time for this new supply to come to the market. Historically, there is a lag of around 2 years between approvals and completions. Shortages of both materials and labour and rising borrowing costs are also affecting construction.

From September 2022 to September 2023, NSW completed about 49,000 dwellings. This is well short of what is required to achieve the NSW target under the National Housing Accord.<sup>5</sup>

#### Vulnerable households

The deterioration in housing affordability has coincided with increased demand for social housing and an increase in the number of people sleeping rough.

---

<sup>3</sup> Changes in advertised rents as reported by CoreLogic; rental vacancy rates are from SQM Research.

<sup>4</sup> Dwelling prices as reported by CoreLogic.

<sup>5</sup> Data on dwelling completions is from the ABS.

The number of priority applicants for social housing on the NSW Housing Register has grown nearly 70% from 4,484 applicants in June 2019 to 7,573 in June 2023. There are now over 55,000 applicants on the NSW Housing Register.<sup>6</sup>

Sleeping rough is also becoming a growing problem in NSW. The NSW Statewide Street Count has found the number of people sleeping rough in the state has increased 34% from 2022 to 2023.<sup>7</sup> The problem is even more pronounced in some coastal regional areas with a high proportion of short-term rental accommodation properties. Within the top 10 local government areas by the concentration of short-term rental accommodation (see Table 1), sleeping rough has increased 72% since 2022. Byron Shire has amongst the highest number of people sleeping rough in the state, and has surpassed the City of Sydney as the local government area with the most people sleeping rough in NSW in 2023.

## The rise of short-term rental accommodation

As housing affordability in NSW has decreased, people have become concerned that owners are making fewer properties available for long-term use, and that this may be contributing to a rise in costs.

Over the past decade, the short-term rental accommodation market has expanded rapidly in NSW. The emergence of online booking platforms has supported this, as they make it easier for property owners to enter the short-term rental market.

In response, the NSW Government introduced a statewide regulatory policy framework in November 2021. The regulations aimed to balance the positive effects of short-term rental accommodation on the tourism economy with the amenity of local neighbourhoods and supporting housing supply and affordability.

The existing regulatory framework for short-term rental accommodation in NSW is purposely 'light touch'.

This approach to regulating short-term rental accommodation was informed by a 2016 Parliamentary Inquiry. It found that short-term rental accommodation was generally seen as a low-impact activity that does not alter the otherwise residential characterisation of a dwelling but makes a significant contribution to the tourism economy. The inquiry did touch on housing

---

<sup>6</sup> Social housing applications data is from the Department of Communities and Justice.

<sup>7</sup> 2023 NSW Statewide Street Count, Department of Communities and Justice.



affordability, but found that short-term rental accommodation's contribution to housing pressures at the time was mostly anecdotal.<sup>8</sup>

In an increasingly tight housing market, the effects of short-term rental accommodation on housing affordability have become more apparent. In some local government areas with high concentrations of short-term rental accommodation registrations, such as Shoalhaven and Eurobodalla, local mayors wrote to non-resident owners of such dwellings. The mayors urged owners to make their dwellings available for long-term rental to ease rental availability pressures in these areas.

The focus of the government has, therefore, shifted from addressing guest behaviour and neighbourhood amenity to the effects of short-term rental accommodation on the housing market and housing affordability.

---

<sup>8</sup> Section 1.71, Adequacy of the regulation of short-term holiday letting in New South Wales

## Managing the existing housing stock

While increasing housing supply is the best way to address affordability, there is a renewed focus on how we manage the use of the existing housing stock. For example, we need to consider if we should encourage owners of vacant homes, holiday homes and non-hosted short-term rental accommodation to make these properties available for long-term use.

Internationally, academic studies of short-term rental accommodation have suggested that an increase in short-term rental listings can increase house prices and rents. A 1% increase in short-term rental listings has been found to increase house prices by as much as 3.7%, and rents by up to 0.52%.<sup>9</sup> However, the impact is highly variable across countries. The extent of the impact depends significantly on the local housing market. Short-term rental listings will have a bigger effect on housing markets that have more constraints on supply.

As of January 2024, there are approximately 52,300 dwellings registered for short-term rental accommodation across the state. About 33,000 of these are registered for non-hosted short-term rental accommodation.

The number of registered dwellings fluctuates throughout the year. For example, the number of registrations may increase during peak seasons, or some dwellings may be deregistered.

The total number of non-hosted short-term rental accommodation registrations represents approximately 1% of the stock of private dwellings in NSW. However, concentrations of non-hosted short-term rental accommodation vary across the state. Registrations in some tourist destinations make up a significantly larger share of total private dwellings.

Table 1 outlines the local government areas with the highest concentrations of non-hosted short-term rental accommodation registrations. These locations are historically popular tourist destinations, but have also had constraints on housing supply.<sup>10</sup>

---

<sup>9</sup> Franco & Santos (2021), The impact of Airbnb on residential property values and rents: Evidence from Portugal. Ayoubia et al. (2019), Does Airbnb Disrupt the Private Rental Market? An Empirical Analysis for French Cities

<sup>10</sup> Non-hosted short-term rental accommodation registrations are from the NSW Short-Term Rental Accommodation Register as of 15 January 2024. These numbers are compared to the total stock of private dwellings as reported in the ABS 2021 Census.

Table 1. Areas with the highest concentrations of non-hosted short-term rental accommodation registrations

Local government area	Total private dwellings	Non-hosted short-term rental accommodation dwellings	Percentage of total private dwellings
Byron Shire	15,220	1,259	8%
Snowy Monaro Regional	10,589	771	7%
Shoalhaven	55,463	3,418	6%
Kiama	10,317	612	6%
Eurobodalla	22,827	1,074	5%
Kempsey	13,104	570	4%
Port Stephens	34,100	1,472	4%
Waverley	31,190	1,217	4%
Bega Valley	17,546	654	4%
Mid-Coast	47,366	1,608	3%

High-level estimates suggest around 95,000 residential properties in NSW are not used for long-term housing.<sup>11</sup> This includes around:

- 35,000 dwellings used as non-hosted short-term rental accommodation throughout the year<sup>12</sup>
- 45,000 dwellings used as holiday homes that are not also used as short-term rentals
- 15,000 dwellings that are left vacant throughout the year.

This represents around 3% of the stock of private residential properties. This is broadly equivalent to about 2 years of current home completions in NSW.

<sup>11</sup> NSW Treasury calculations based on analysis of ABS Census 2021 data on dwelling occupancy and on data from the NSW Short-Term Rental Accommodation Register. This analysis was also based on earlier research by SGS Economic and Planning in 2017, available at <https://sgsep.com.au/publications/insights/why-was-no-one-home-on-census-night>

<sup>12</sup> As properties can leave the Register, the total number of STRA properties through the year is higher than the number at any one point in time.

In the context of rising housing costs and a growing number of people sleeping rough, the NSW Government is committed to achieving the right balance between improving housing affordability, reducing episodes of homelessness and supporting the tourism economy and other benefits of short-term rental accommodation.

This discussion paper uses specific terms for short-term and long-term rental accommodation. Box 1 outlines key terms and definitions.

### Box 1: Key terms and definitions

**Principal place of residence** means the one place of residence that a person uses and occupies as their main place to live. This definition is used, for example, to assess if a property is subject to land tax in NSW.

**Short-term rental accommodation** means a dwelling the host uses to provide accommodation on a commercial basis for a temporary or short-term period.<sup>13</sup>

**Hosted short-term rental accommodation** means accommodation where the host lives on the premises while providing the accommodation.

**Non-hosted short-term rental accommodation** is where the host does not live on the premises while providing the accommodation.

**21-day exemption** means non-hosted short-term rental accommodation bookings for a period of 21 consecutive days or more that do not count towards any applicable day cap.

**Long-term rental accommodation** means a home let on a long-term basis, which is generally for longer than 90 days.

**Holiday homes** are typically dwellings used by the owners occasionally during holidays but not on a permanent basis. Owners may also let out their holiday homes for short-term rental accommodation.

**Vacant property** means a dwelling that is not used or occupied.

---

<sup>13</sup> Part 6, State Environmental Planning Policy (Housing) 2021 – also known as the Housing SEPP – accessible at <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714#ch.3-pt.6>

---

## 2.2 Policy considerations for the review

The NSW Government will consider the right balance between improving housing affordability and supporting tourism, and the policy levers it can use to achieve this.

### Benefits of short-term rentals

Dwellings used as holiday homes and short-term rental accommodation play a key role in supporting local economies, particularly in holiday destinations such as Byron Bay, the South Coast or the Snowy Mountains. Tourists benefit from increased accommodation options, new travel destinations, greater flexibility and potentially greater cost-effectiveness compared to other forms of accommodation.

Local businesses benefit from the increased demand for goods and services, which also supports the employment and wages of workers. In the case of short-term rental accommodation, owners benefit from the potential to earn a return while retaining flexibility in how they use their property.

The benefits of short-term rental accommodation can go beyond tourism. Short-term rental accommodation near hospitals and medical centres, or near employment or education hubs, gives patients, their families, workers and students added accommodation availability. It gives them flexibility of location, reduced costs, and better amenity.

### Disadvantages of short-term rentals

Dwellings that are not used for long-term purposes may contribute to higher housing costs by reducing the availability of long-term rental accommodation and the number of properties available to buy. This can lead to higher property prices and long-term rental costs.

### Vacant properties and holiday homes

Making vacant properties available for long-term users would contribute to housing supply with the least effect on tourism markets.

Similarly, making holiday homes that are not used as short-term rentals available for long-term users could result in fewer homes being left vacant for much of the year.

### Regulatory and revenue measures

The NSW Government can use a mixture of regulatory and revenue measures to strike the right balance between the benefits of short-term rental accommodation and housing affordability.

Regulatory measures that could increase the use of properties for long-term housing include:

- higher registration fees for short-term rental accommodation
- more onerous approval requirements for short-term rental accommodation
- lower day caps on the maximum number of nights a dwelling can be let for non-hosted short-term rental accommodation
- limits to the number of homes in an area that can be used for short-term rental accommodation
- limits on the number of guests that can use a short-term rental property.

Revenue measures that could increase the use of properties for long-term housing include:

- a levy on the revenues from bookings of short-term rental accommodation
- day fees per guest staying in short-term rental accommodation
- an annual levy based on the use of the property (for example, non-hosted short-term rental accommodation, holiday homes and vacant properties).

## Lower day caps

Lower day caps on non-hosted short-term rental accommodation can encourage some property owners to lease their property in the long-term rental market rather than on the short-term market. This is because day caps may make short-term rental accommodation less profitable.

However, day caps could also encourage owners to leave properties vacant throughout much of the year, as they restrict their short-term rental accommodation availability to peak holiday periods when they can earn the highest returns. This could hinder tourism and affect local economies without necessarily increasing the availability of properties for long-term users.

In addition, some owners of short-term rental accommodation may want to keep the ability to use their property for personal purposes. Because of this, they may be reluctant to make their property available for long-term use in response to a day cap.

## Revenue measures

Revenue measures can be designed to shift the financial returns of a broader set of properties, including non-hosted short-term rental accommodation, holiday homes and vacant properties. Imposing a levy on these properties that are not used as a long-term rental or as a principal place of residence can increase the financial incentives for owners to shift these properties to the long-term uses.

Revenue measures can raise government funds for programs to support the most vulnerable. With rising housing affordability pressures and increasing numbers of people sleeping rough in NSW, support for homelessness is an important priority of the government.

## Considering all options

The costs and benefits of different policy options differ. The government will consider them carefully, including the extent of any potential side effects beyond the intended policy objectives. One potential side-effect could be properties being left vacant for longer periods. Vacant homes do not contribute to long-term rental supply, and, unlike short-term rental accommodation, do not support the tourism economy.

The NSW Government aims to find the right mix of regulatory settings and revenue measures. The aim is to balance the ongoing housing affordability pressures throughout NSW with supporting tourism and economic activity throughout the state.

# 3 Current regulatory and policy environment

---

## 3.1 Regulatory and policy environment in NSW

### 3.1.1 Regulatory framework for short-term rental accommodation

On 1 November 2021, the NSW Government introduced a statewide planning and regulatory framework for short-term rental accommodation. This was in response to the industry's growth. It aimed to provide a consistent approach to balancing the effects of short-term rental accommodation on local tourism, housing supply and affordability, and neighbourhood amenity.

The planning and regulatory framework for short-term rental accommodation does not extend to holiday homes or vacant property, as the planning system is not designed to regulate how owners use their property.

The current planning and regulatory framework in NSW for short-term rental accommodation involves the Department of Planning, Housing and Infrastructure; the Department of Customer Service; and local councils. The framework comprises:

- an exempt development planning pathway for hosted and non-hosted short-term rental accommodation within the *State Environmental Planning Policy (Housing) 2021* – also known as the Housing SEPP, including:
  - definitions for short-term rental accommodation, hosted short-term rental accommodation and non-hosted short-term rental accommodation
  - associated general requirements
- a 180-day cap in any 365-day period on non-hosted short-term rental accommodation in Greater Sydney and certain local government areas, including:
  - Ballina
  - Byron Shire (with a 60-day cap commencing in most of the local government area from September 2024)
  - parts of Clarence Valley and Muswellbrook(hosted short-term rental accommodation is not restricted)



- an exemption for bookings of 21 consecutive days or more from the day limits for non-hosted short-term rental accommodation
- fire and safety requirements for short-term rental accommodation dwellings within the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 – also known as the EP&A Regulation (Fire Safety) – and the Short-term Rental Accommodation Fire Safety Standards
- an online, government-run Short-term Rental Accommodation Register to capture compliance with the fire safety standards and other regulations for short-term rental accommodation (for example, day caps).

## Registrations

Hosts of short-term rental accommodation must register their dwelling on the NSW Government's Short-term Rental Accommodation Register. Booking platforms must ensure that a short-term rental accommodation dwelling is registered and that the registration number for the dwelling is displayed before being listed on a platform's online booking service. The Short-term Rental Accommodation Register is accessible to local governments, allowing them to verify registrations for short-term rental accommodation dwellings in their areas, and to support compliance and enforcement activity.

### 3.1.2 Independent Planning Commission review of Byron Shire Council's planning proposal for short-term rental accommodation

In April 2023, the Independent Planning Commission gave advice to the Minister for Planning and Public Spaces after its review of Byron Shire Council's planning proposal for short-term rental accommodation. The planning proposal proposed to reduce the annual day limit for non-hosted short-term rental accommodation in most of its local government area to 90 days.

The Independent Planning Commission made 12 recommendations, including that the non-hosted short-term rental accommodation day cap be reduced to 60 days for a 365-day period across the whole local government area.<sup>14</sup>

After considering the Independent Planning Commission's advice, the Minister for Planning and Public Spaces determined the Byron Shire Council's planning proposal in September 2023. The new provisions in the Housing SEPP will apply from 23 September 2024.

---

<sup>14</sup> Byron Shire Short-Term Rental Accommodation Planning Proposal PP-2021-3351 Advice Report at NSW Independent Planning Commission (<https://www.ipcn.nsw.gov.au/news/2023/04/byron-bay> and [https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/12/byron-shire-short-term-rental-pp/advice/230424\\_byron-stra-pp\\_advice-report\\_final.pdf](https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/12/byron-shire-short-term-rental-pp/advice/230424_byron-stra-pp_advice-report_final.pdf))

They introduce a 60-day cap for non-hosted short-term rental accommodation across the entire Byron Shire local government area, except for 2 precincts in and around Byron Bay Town Centre and at Brunswick Heads.

The NSW Government acknowledges the advice and recommendations handed down by the Independent Planning Commission on Byron Shire Council's planning proposal. While the NSW Government did not implement all the recommendations from the Independent Planning Commission because of implications for councils beyond Byron Shire, this discussion paper draws from the recommendations where relevant for aspects of the current planning and regulatory settings.

### 3.1.3 Revenue policy settings

The NSW Government and local councils do not currently apply specific revenue measures to:

- short-term rental accommodation
- holiday homes not used for short-term rental accommodation
- vacant property.

The NSW land tax does not differentiate investment properties by use. The land tax system treats investment properties used for long-term rental accommodation the same way as those that are rarely or never occupied.

### 3.1.4 Other policy settings

The planning and regulatory framework for short-term rental accommodation is complemented by the Code of Conduct for the Short-term Rental Accommodation Industry. This sets out responsibilities for all industry participants. The Commissioner for Fair Trading administers the code, which commenced on 18 December 2020.

Under the code, the Commissioner for Fair Trading can impose a range of disciplinary actions, including warnings, directions and recording a strike against a host, a host's dwelling, or a guest. The Commissioner can also record a host, a host's dwelling, or a guest on the exclusion register for 5 years if they have 2 strikes against them within a 2-year period, and the Commissioner considers it appropriate to exclude them.

Changes were also made in April 2020 to the:

- *Fair Trading Act 1987*
- *Strata Schemes Management Act 2015*
- *Residential Tenancies Act 2010*.

These changes allow owners corporations to pass by-laws that ban short-term rental accommodation within strata schemes, but only in lots that are not a host's principal place of residence.

This review will not consider changes to the existing policy and regulatory settings of the code or strata legislation.

---

## 3.2 Policies in other jurisdictions

Jurisdictions outside NSW have responded in various ways to the expansion of the short-term rental accommodation industry and to growing concerns about housing affordability pressures.

Some jurisdictions have chosen relatively minimalist approaches, with little or no regulation and limited oversight. Other jurisdictions have implemented new regulations or taxes on short-term rental accommodation and vacant properties. In some places, such as New York, the restrictions effectively ban short-term rental accommodation outside narrow exceptions.

Policy responses have also varied in their intended goals. Common policy objectives typically include a combination of addressing:

- housing supply and affordability
- preserving neighbourhood amenity
- concerns about guest safety
- ensuring that the short-term rental accommodation market operates on a level playing field with the hotel industry.

### 3.2.1 Policy approaches within other Australian jurisdictions

Victoria, Queensland, Western Australia and Tasmania regulate short-term rental accommodation, mostly at the local government level. Figure 1 shows the key policy approaches within these jurisdictions. Regulations include:

- data reporting requirements for booking providers (Tasmania)
- specific codes of conduct managing guest and host behaviour (Yarra Ranges, Frankston)
- registration fees (Warrnambool, Frankston)
- zones with limitation on short-term rental accommodation use (Noosa)
- planning approvals (Perth, Gold Coast, Tasmania)
- day caps (Perth)
- higher council rates for short-term rental accommodation properties (Brisbane, Sunshine Coast and Hobart).

Following recent reviews, Western Australia and Queensland may bring forward statewide registers for short-term rental accommodation. The Queensland review also proposed a

statewide code of conduct and information portal.<sup>15</sup> Western Australia has announced that councils will bring forward specific planning pathways, meaning non-hosted short-term rental accommodation will require development approval from the local government.<sup>16</sup>

More details about short-term rental accommodation policies are set out below:

- Victoria announced in September 2023 the introduction of a 7.5% levy on short-term rental accommodation properties from January 2025, which is expected to raise around \$70 million each year.
- Tasmania has a data-sharing agreement with short-term rental accommodation platforms, including on the number and location of short-term rentals in the state. Hobart requires permits for non-hosted short-term rental accommodation properties.
- From 2025, Western Australia will offer non-hosted short-term rental accommodation owners in certain areas \$10,000 to encourage them to transfer their property to the long-term rental market for 12 months.

At this time, it is unclear on how many properties have been returned, or may return, to the long-term rental market because of these measures.

---

<sup>15</sup> Recommendation 1, Review of impacts of short-term rental accommodation in QLD available at <https://planning.statedevelopment.qld.gov.au/planning-issues-and-interests/short-term-rental-accommodation-review>.

<sup>16</sup> WA Short-Term Rental Accommodation Planning Reforms available at <https://www.wa.gov.au/organisation/departments/planning-lands-and-heritage/short-term-rental-accommodation-planning-reforms#:~:text=A%20property%20can%20be%20operated%20as%20a%20short-term,for%20un-hosted%20short-term%20rental%20accommodation%20within%20the%20Perth%20metropolitan%20area%3B>

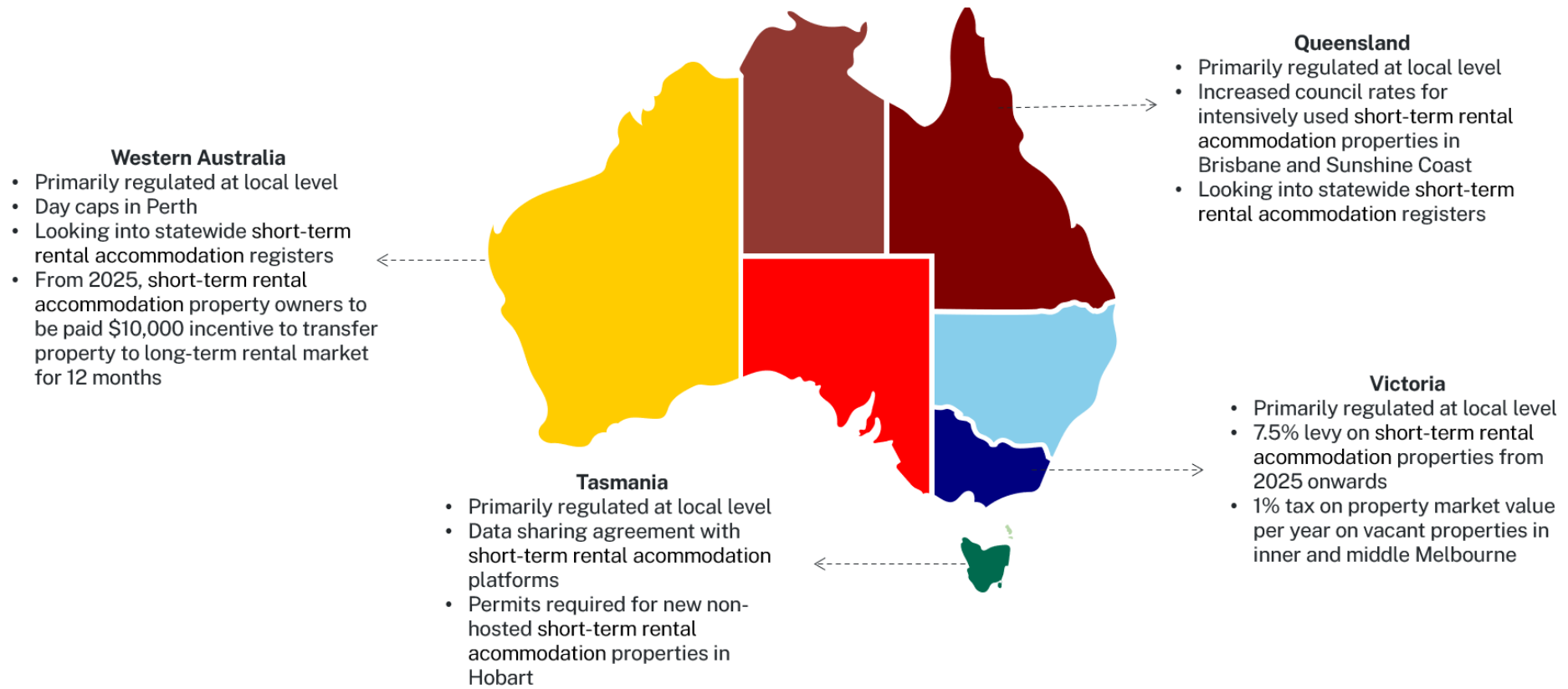


Figure 1. Summary of policy approaches within other Australian jurisdictions

## Vacant properties

Measures to discourage vacant properties in Australia are more limited.

The Australian Government imposes an annual vacancy fee on foreign-owned property bought after 9 May 2017. Foreign owners must pay this fee if their dwelling is not occupied or rented out for 6 months in a year. The fee starts at \$14,100 for property acquired for \$1 million or less. The Australian Government announced in December 2023 that it will double vacancy fees on foreign-owned dwellings.<sup>17</sup>

The Victorian Government currently imposes an annual tax of 1% of the property's market value on vacant properties in inner and middle Melbourne. The tax applies to homes that were vacant for more than 6 months in the preceding calendar year. In October 2023, the Victorian Government announced an expansion of the tax. From 2025, the tax will:

- apply Victoria-wide, and include vacant, undeveloped land zoned for residential use if it has not been improved within 5 years
- increase from 1% the first year, to 2% the second year a property is vacant, and 3% in later years.<sup>18</sup>

### 3.2.2 International policy approaches

Regulatory and tax policies on short-term rental accommodation vary widely internationally. They typically entail a combination of registration requirements and day caps. They may include either a fixed daily charge for each guest or a charge based on a percentage of the listing price.

#### Strict regulations

For example, New York and Amsterdam have some of the strictest short-term rental accommodation regulations. Both jurisdictions have data-sharing agreements with online platforms to help monitor and enforce regulatory and taxation measures.

New York mandates a minimum 30-day stay for non-hosted bookings, with a maximum of 2 guests per booking. Guests are granted access to all the rooms in the dwelling. These requirements essentially ban the majority of non-hosted properties. Short-term rental

---

<sup>17</sup> The announcement of changes to vacancy fees on foreign-owned dwellings is available at <https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/higher-foreign-investment-fees-housing>

<sup>18</sup> The announced changes to Victoria's vacant residential land tax (VRLT) are available at <https://www.sro.vic.gov.au/news/state-taxation-acts-and-other-acts-amendment-bill-2023-0>

accommodation can also be subject to New York's Hotel Room Occupancy Tax of 5.875% of rent, plus a fixed component for each room. Sales taxes can also apply.

Amsterdam limits total annual bookings to 30 days and levies a 12.5% tax on short-term rental accommodation booking prices.

### **A more permissive approach**

Other jurisdictions have taken a more permissive approach to short-term rental accommodation. For example, Auckland only requires that short-term rental accommodation properties pay increased council rates if they are let for more than 28 nights each year.<sup>19</sup>

Other jurisdictions, like Rome, employ a short-term rental accommodation register similar to the NSW register. Booking taxes are based on the number of guests each night, up to a maximum of 5 to 10 nights.<sup>20</sup>

Overall, Airbnb reports 16 countries where the platform has entered into agreements to collect short-term rental accommodation taxes. Most agreements are at a sub-national level, covering specific cities or states within the country. Where the tax is based on a percentage of rents, rates are typically around 5% to 15%.

### **Vacant homes**

Some jurisdictions, like Ireland, France, and British Columbia (Canada), also tax vacant homes. Unlike short-term rental accommodation, vacant homes do not produce income and are not publicly advertised on platforms, making tax enforcement potentially more challenging.

British Columbia has tried to improve compliance to its vacant property tax by requiring all property owners to report on the occupation status of their property. This differs from other jurisdictions, such as Ireland, which require property owners to self-report their properties as vacant.

The British Columbia system may improve compliance. However, this is done by obliging virtually all property owners to make an annual declaration, despite the overwhelming majority not owning a vacant property.

---

<sup>19</sup> Rating of providers of online accommodation properties at <https://www.aucklandcouncil.govt.nz/property-rates-valuations/your-rates-bill/Pages/accommodation-provider-targeted-rate.aspx>

<sup>20</sup> [https://www.airbnb.com.au/help/article/1228?\\_set\\_bev\\_on\\_new\\_domain=1694587237\\_NTc5ODIxZTVlYWQz](https://www.airbnb.com.au/help/article/1228?_set_bev_on_new_domain=1694587237_NTc5ODIxZTVlYWQz)



## 4 Issues for consultation

This review considers the current planning and regulatory framework for short-term rental accommodation and the supply of long-term rental accommodation. It aims to explore ways to better balance the housing needs of the people of NSW with the benefits that tourism brings to the state.

Encouraging owners to change their non-hosted short-term rental accommodation, vacant properties and holiday homes to long-term rental use could help reduce the cost of long-term rentals.

We can achieve this through a balance of planning regulation and revenue policies.

This chapter raises issues for discussion and feedback. It lays out the NSW Government's policy objectives for this review. It also outlines the scope and some of the policy levers the government can use to achieve these objectives.

The government welcomes your feedback and input on the issues raised.

### 4.1 Policy objectives

The policy objectives of this review are set out in Figure 2.



Figure 2. Policy objectives of the review

This review is underpinned by the broad policy objectives to:

- **encourage favourable and efficient use of dwellings** – giving property owners incentives to move property into long-term use

Housing policy should prioritise the use of the housing stock for long-term housing.

Incentives to shift property use can boost the supply of long-term rental accommodation in the short run. Importantly, housing policy should encourage owners to use properties more, not less.

- **balance the economic benefits of short-term rental accommodation with costs to housing affordability** – in the context of rising housing costs, increasing demand for social housing and a growing number of people sleeping rough

While shifting properties from short-term to long-term rental accommodation can help increase the supply of long-term accommodation in the immediate term, short-term rental accommodation plays an important role in the tourism industry, particularly in regional areas. The NSW Government is committed to achieving the right balance to improve housing affordability and reduce episodes of homelessness.

Tourism is an important contributor to the NSW economy, and every year thousands of people use short-term rental accommodation to explore and enjoy NSW. Short-term rental accommodation is not just used for leisure – it offers options for people travelling for business or for a hospital appointment, for example.

The government also recognises that accommodation for tourists includes both short-term rental accommodation and traditional accommodation such as hotels, motels, caravan parks and bed and breakfasts. Providers of traditional tourism accommodation compete against short-term rental accommodation, though each are subject to different planning regulations, fire safety standards and taxation arrangements including liability for the GST.

- **minimise market distortions** – in particular, to avoid disrupting housing supply or constraining the highest and best use of dwellings

NSW needs to boost the supply of housing. Planning and rezoning is a key part of the mix, but we should also adjust revenue measures and regulations to support housing supply. Revenue measures or regulation that inadvertently discourages either investment in the long-term supply of housing or the efficient use of the current residential stock should be avoided.

Some properties that are used occasionally for short-term rental accommodation are not likely to be offered as long-term rental accommodation. For example, homeowners who make their principal place of residence available for short-term rental

accommodation while they travel would still be using their property continuously for most of the year.

Likewise, measures that restrict short-term rental accommodation should encourage property owners to move their property to long-term uses, rather than encouraging them to underuse their property.

- **ensure compliance, enforcement and reporting are effective** – the mix of regulation and revenue measures should be practical and enforceable

A regulation, planning and revenue framework that we cannot enforce is unlikely to meet other policy goals. Compliance should be supported by enforceable policy and regulatory settings, and reliable and accurate data.

Ultimately, the policy outcomes should be balanced, effective, efficient, equitable, transparent and easy to comply with.

---

## 4.2 Review of the planning and regulatory framework for short-term rental accommodation

When first introduced, the current planning and regulatory framework for short-term rental accommodation in NSW was purposely designed to be ‘light touch’. More recently, however, people are questioning the positive aspects of short-term rental accommodation. This is part of broader discussions about housing affordability, historically low rental vacancy rates and increased demand for social housing.

Concerns about how the policy works were also brought to light in the advice and recommendations handed down by the Independent Planning Commission in April 2023. The recommendations came from its review of Byron Shire Council’s planning proposal for short-term rental accommodation.

### 4.2.1 Scope of review of planning and regulatory framework

The scope of the present review into the regulatory framework for short-term rental accommodation covers the following aspects of policy:

- **Planning pathway** – consider if the existing exempt development pathway is still appropriate
- **Day caps** – consider if day caps are appropriate for non-hosted short-term rental accommodation and if they are the most effective way to balance the benefits and effects of this accommodation

- **Reporting requirements** – consider the operation of the Short-term Rental Accommodation Register and reporting requirements for hosts, letting agents and industry
- **Compliance and enforcement** – consider the compliance regulatory framework, including complaints-handling and enforcement processes under the planning framework (this includes the relationship with the code of conduct and other legislation).

## 4.2.2 Suitability of the exempt development planning pathway

In NSW, people can carry out short-term rental accommodation in types of residential accommodation that are lawfully approved (for example, a dwelling house) as exempt development. Exempt development is described as very low-impact development that can be done without planning approval, if it complies with any relevant standards and requirements. This means the local council does not need to give planning approval.

The current exempt development pathway is still considered to give the most balanced response to short-term rental accommodation. It keeps a streamlined and consistent statewide framework. It also acknowledges short-term rental accommodation as a low-impact activity that does not alter the otherwise residential characterisation of a dwelling.

The Independent Planning Commission recommended introducing a new planning approval pathway for non-hosted short-term rental accommodation activities in the Byron Shire (Recommendation 2). Under this recommended arrangement, owners would need to submit a development application for non-hosted activities that sought to go beyond the recommended 60-day cap. It commented that the council would be best placed to consider short-term rental accommodation activities of this nature.

If applied across NSW, we would need to establish specific day caps, taking into account local housing markets and tourism economies. If we introduced development applications for short-term rental accommodation, local governments would need to assess each application and consider the likely effects of the development. This process can be lengthy, create uncertainty for applicants and increase costs and administration.

## 4.2.3 Planning policy settings for short-term rental accommodation

### Land use type and definitions

The NSW planning system includes land uses to describe development that could be permitted or prohibited in certain zones.

General feedback on the short-term rental accommodation policy has been that the activity is now overly commercialised and closer to a tourist and visitor accommodation activity. The

Independent Planning Commission also commented that identifying short-term rental accommodation as a type of tourist and visitor accommodation land use was the simplest method of formalising the characterisation of short-term rental accommodation in the Byron Shire.

The current planning and regulatory framework considers short-term rental accommodation as an activity that does not alter the 'residential accommodation' land use characterisation of a dwelling.

While there is no current proposal to change this characterisation, the NSW Government could consider introducing thresholds to ensure the activity remains low-impact and residential in nature. The thresholds could establish a tipping point for activities that blur the lines between residential accommodation and tourist and visitor accommodation land uses. This could include:

- limiting short-term rental accommodation registrations to only one dwelling per property in certain land use zones, or
- characterising the activity by use (that is, new day cap thresholds).

People have been confused about the definitions of hosted and non-hosted short-term rental accommodation. They have also been unsure of the type of residential accommodation in which the short-term rental accommodation activity will take place (that is, the type of dwelling).

There are instances of hosts incorrectly identifying secondary dwellings as hosted short-term rental accommodation when they should be registered as non-hosted short-term rental accommodation. This is because the host lives in the principal dwelling and not the secondary dwelling. Similarly, people often register their short-term rental accommodation dwellings as a 'dwelling house' when in fact they should be registering their apartment as a 'residential flat building'. This creates inaccurate data and compliance difficulties for local governments.

To overcome this, the NSW Government could consider making these definitions clearer. For example, it could consider certain dwelling types as 'hosted', keeping in mind the characteristics of particular residential accommodation types and amenity impact (for example, secondary dwellings where the host resides in the principal dwelling or dwellings below a specified size/floor area).

Further considerations to this would need to include, for example, the question of whether secondary dwellings and dwellings of any size could be used for long-term rental accommodation and so contribute to overall supply of homes for long-term use.

## General requirements for short-term rental accommodation

Before they can carry out a short-term rental accommodation activity, the host must ensure that they comply with the exempt development general requirements for such accommodation, as set out in the Housing SEPP. General requirements include, for example, that the dwelling must:

- have been lawfully constructed
- meet the relevant fire safety standards for short-term rental accommodation
- be registered on the Short-term Rental Accommodation Register.

Lastly, short-term rental accommodation **cannot** be carried out in:

- a boarding house
- co-living housing
- a group home
- a hostel
- a rural workers' dwelling
- seniors housing
- build-to-rent housing.

The Independent Planning Commission recommended that owners should be encouraged to use secondary dwellings and dual occupancies for long-term rental accommodation, not short-term rental accommodation (Recommendation 5). This is because they provide a form of affordable rental housing for essential workers within the Byron Shire local government area. Such dwellings could be excluded from the current exempt development pathway for short-term rental accommodation to discourage owners from putting them on the short-term rental market.

The Independent Planning Commission also recommended (Recommendation 2) that additional restrictions be introduced to prevent newly constructed residential accommodation from being used for short-term rental accommodation to help retain new housing stock for the traditional housing market.

## Requirements introduced overseas

Examples of other requirements introduced in international jurisdictions have included:

- occupancy limits for short-term rental accommodation dwellings to limit effects on amenity and limit large gatherings
- short-term rental accommodation registration systems based on a lottery, where only a certain number of dwellings are permitted to be used as short-term rental accommodation
- heavily restricting or prohibiting short-term rental accommodation in certain land use zones.

Any new requirements introduced would need to be enforceable. They also should not outweigh the benefits of tourism activities done in short-term rental accommodation.

### 4.2.4 Day caps on non-hosted short-term rental accommodation

A cap of 180 days currently applies to non-hosted short-term rental accommodation in Greater Sydney and nominated regional local government areas, including:

- the Ballina and Byron Shire local government areas
- mapped land in the Clarence Valley and Muswellbrook local government areas.

From 23 September 2024, a new 60-day cap will apply across the Byron Shire local government area. This is with the exception of certain land in the Byron Bay Town Centre and Brunswick Heads, which will have no restrictions.

The cap was implemented to help balance the potential negative effects non-hosted short-term rental accommodation may have on local areas with the positive economic benefits.

When the day cap was established, it considered:

- holiday and weekend periods
- how properties were let
- views expressed during consultation
- cost-benefit analysis results
- existing local government planning policies.

Bookings over 21 consecutive days do not count towards the day cap. This provision (within the Housing SEPP) acknowledges the role of short-term rental accommodation in supporting mobile workforces and the corporate accommodation sector, which tend to stay longer and have less effect on amenity.

## Localised day caps

Recently, people have been questioning if the 180-day cap balances the effects that short-term rental accommodation has on the long-term rental market. Of the top 10 local government areas with the highest concentration of non-hosted short-term rental accommodation registrations (see Table 1), only 2 local government areas, Byron Shire and Waverley, have the 180-day cap.

In its advice to the then Minister for Planning and Public Spaces, the Independent Planning Commission recommended tightening the day cap for non-hosted short-term rental accommodation for the Byron Shire. Its aim is to ensure the financial returns from non-hosted short-term rental accommodation are closer to those for long-term rental accommodation.

The NSW Government is also aware that some local governments with no day caps want to introduce one, while others that already have a cap on non-hosted short-term rental accommodation cap have asked for a lower cap, closer to that of the Byron Shire.

There is not enough evidence to suggest that a single day cap restriction is the right way to create a level financial playing field for short-term and long-term rental accommodation. Day caps affect all types of properties – including those better used for tourist accommodation and less suited to long-term rental accommodation.

Day caps may result in more (not less) underuse of the property stock. They may not effectively add more properties to the stock of long-term rental accommodation. By restricting short-term rental accommodation, day caps may push booking prices up and encourage more owners to put their properties on the short-term rental accommodation market, not fewer.

Overall, the financial and economic effects of reducing day caps for non-hosted short-term rental accommodation are largely unknown. Similarly, there is not enough evidence to suggest that owners of short-term rental accommodation would make their dwellings available for long-term rental accommodation in response to such policy settings.

## Day caps introduced overseas

Internationally, governments have applied a range of day cap approaches. Where this has reduced the concentration of short-term rental accommodation dwellings, the day caps were accompanied by other policy requirements. For example, requirements included registration, approval/issuing of permits and occupancy limits.

The NSW Government is determined to protect the positive economic contributions that short-term rental accommodation makes to local economies.

But to strike the right balance between short-term and long-term rental accommodation, the NSW Government is open to considering a different approach. That could be:



- more restrictive day caps for non-hosted short-term rental accommodation
- revenue measures on short-term rental accommodation instead of day caps
- a combination of both revenue measures and targeted day caps in areas with disproportionately high levels of non-hosted short-term rental accommodation.

#### **4.2.5 Short-term Rental Accommodation Register**

Under both the Housing SEPP and EP&A Regulation (Fire Safety), all short-term rental accommodation dwellings must be registered on the NSW Government's Short-term Rental Accommodation Register. Registrations must remain valid to maintain compliance with the requirements of the policy settings for exempt development. Registrations must also be renewed annually.

The registration information required for each dwelling includes:

- the address of the dwelling
- the type of residential accommodation
- whether the dwelling will be used as hosted or non-hosted short-term rental accommodation
- the name and address of the host of the dwelling
- a declaration that the dwelling complies with the fire safety standard.

A person cannot successfully complete the registration without a declaration from the host that the dwelling meets the fire safety standard.

### **Registration fees and renewals**

A \$65 registration fee applies for all new short-term rental accommodation dwellings. An annual renewal fee of \$25 also applies for those hosts who wish to keep their dwelling on the short-term rental market. The fees are nominal and fund the ongoing operation and maintenance of the Short-term Rental Accommodation Register.

The NSW Government's Short-term Rental Accommodation Register fees are low compared to that of other jurisdictions. These fees are also distinct from taxes or development contributions. Fees are charged for a specific service and should reflect the cost of that service.

Changes to the policy for short-term rental accommodation may change the associated administrative and compliance costs. Changes to registration fees could reflect these added costs. For example, we could consider increasing fees to reflect increased compliance monitoring if the day cap policy changes. This alone could dissuade hosts from listing their dwellings for short-term rental accommodation.

However, increasing registration fees does not guarantee that the dwellings will become available as long-term rentals instead.

### **Responsibilities of hosts and online booking platforms**

Under the short-term rental accommodation regulations, hosts or letting agents must report the number of days booked in each property on the Short-term Rental Accommodation Register. Online booking platforms must also share this information with the Short-term Rental Accommodation Register.

Many hosts and owners of short-term rental accommodation use online booking platform services to advertise and manage bookings. Some booking platforms are integrated with the

NSW Government's Short-term Rental Accommodation Register. This simplifies the sharing of booking information and ensures broader policy compliance by:

- confirming short-term rentals advertised on their website have a current short-term rental accommodation registration
- sharing usage data for short-term rentals to help hosts and councils monitor compliance with applicable caps on non-hosted accommodation.

If online booking platforms fail to share usage data about short-term rental accommodation or if they advertise unregistered short-term rental accommodation, they are committing offences under the *Fair Trading Act 1987*. The Act is administered by NSW Fair Trading.

The integration and data-sharing arrangements have allowed some booking platforms to meet these obligations more easily. Where a dwelling does not have a valid short-term rental accommodation registration ID, or the registration has not been renewed on time, an online booking platform must not allow the property to accept any more bookings until the owner supplies a correct registration or renews it.

The NSW Government has welcomed the integration and partnership with the major online booking platforms, which has helped ensure high compliance with the planning and regulatory framework for short-term rental accommodation.

However, there are several smaller online booking platforms and boutique websites that are not integrated with the NSW Government's Short-term Rental Accommodation Register. For those hosts and letting agents who do not use online booking platforms, we do not know how much accommodation information they are or are not sharing.

## 4.2.6 Compliance and enforcement

### Department of Planning, Housing and Infrastructure

The department does not have a role in statutory compliance or the enforcement of the planning framework for short-term rental accommodation. The department prepares and reviews the legislative and planning instruments necessary to carry out the planning framework for short-term rental accommodation. This includes provisions within Part 6 of the Housing SEPP and Part 13A of the EP&A Regulation (Fire Safety).

The department also administers the mandatory Short-term Rental Accommodation Register through the NSW Planning Portal. This includes operational management and system upgrades, collecting registration fees, providing customer support, and integrating the register with the Department of Customer Service Exclusion Register and major online booking platforms. However, the Department of Planning, Housing and Infrastructure does not

have a statutory role in monitoring and enforcing the registration of dwellings for short-term rental accommodation.

### Local councils

Consistent with other planning policies at the local level, enforcing the planning framework for short-term rental accommodation is a general responsibility of local government. The NSW Government recognises that local governments should have the right legislative and regulatory powers to effectively enforce and regulate short-term rental accommodation activities in their local government areas.

Authorised officers within all NSW councils have access to the Short-term Rental Accommodation Register for their local government area through the NSW Planning Portal. This includes:

- confirming whether a dwelling is registered
- details of the registered dwelling
- host details
- fire safety declarations
- a record of planned and completed booking days for each short-term rental accommodation premises.

As illustrated in Figure 3, a council may use existing planning enforcement powers. These are for unauthorised activities where short-term rental accommodation premises do not comply with the exempt development provisions or general requirements under the planning framework for short-term rental accommodation.

Such compliance action may relate to short-term rental accommodation happening in a premises that:

- has not been lawfully built for residential accommodation
- is a boarding house, build-to-rent housing unit, group home, hostel, or rural workers' dwelling, or
- has a development consent condition that bans short-term rental accommodation at the premises.

Part 9 of the *Environmental Planning and Assessment Act 1979* has provisions that councils may use to enforce the planning provisions for short-term rental accommodation, including the right to:

- enter and search the property
- require information from a person or organisation

- take enforcement action if evidence is collected and council can show there has been a breach, using powers within the *Environmental Planning and Assessment Act 1979*  
This includes issuing an order requiring a host to stop using the premises for short-term rental accommodation.

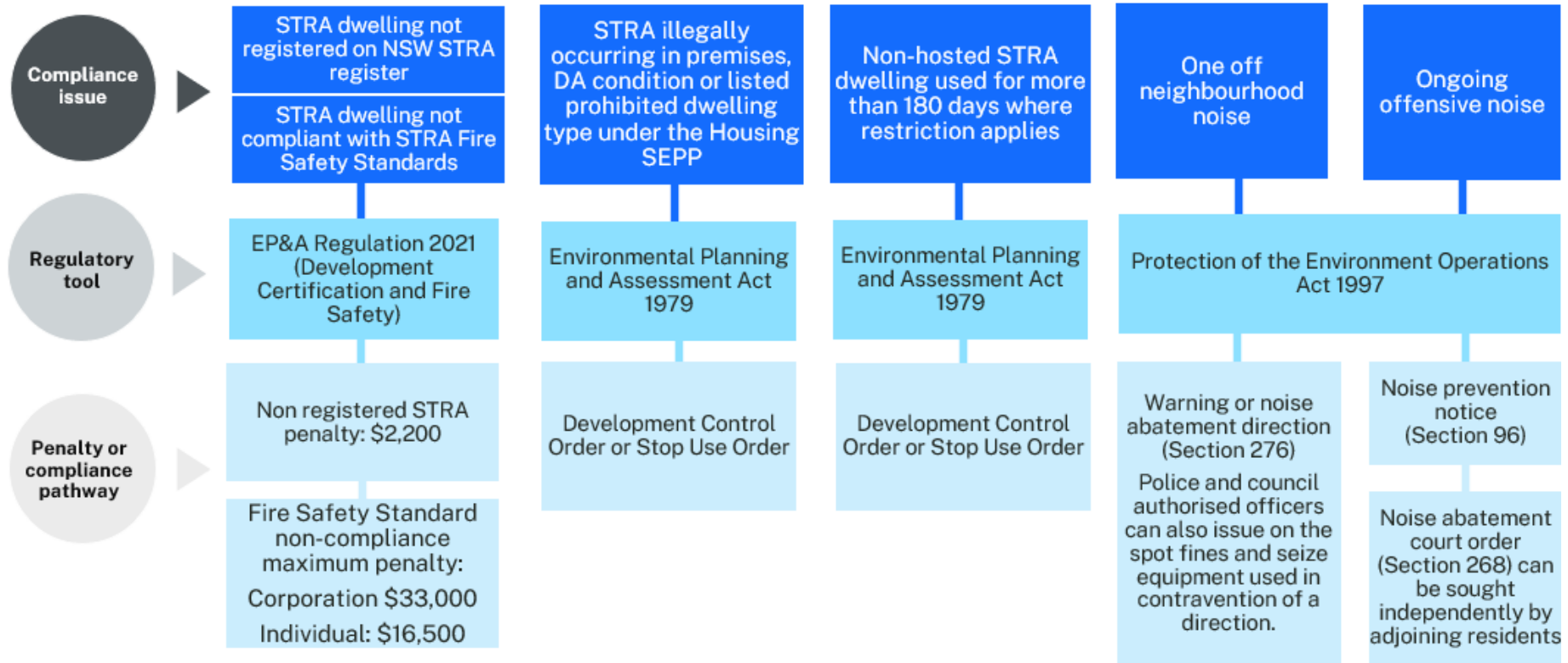


Figure 3. Compliance issues and the regulatory tools to manage them

**Key:** DA = development application | STRA = short-term rental accommodation

## Compliance under the *Protection of the Environment Operations Act 1997*

The *Protection of the Environment Operations Act 1997* allocates responsibilities for pollution prevention and control to various authorities, including local councils.

The right regulatory authority for most matters concerning non-scheduled activities is the relevant local council. This can include offensive noise emissions from short-term rental accommodation dwellings.

Council (as well as NSW Police) may issue a direction to the occupier of a dwelling (for example, a short-term rental accommodation guest) to stop making the offensive noise.

### More offences relating to short-term rental accommodation

The planning framework for short-term rental accommodation introduced new penalty offences for councils to use as part of managing short-term rental compliance issues under the EP&A Regulation (Fire Safety). This sets up the legal mechanism for the Short-term Rental Accommodation Fire Safety Standard and Short-term Rental Accommodation Register.

Under the EP&A Regulation (Fire Safety), a host must not use the dwelling for short-term rental accommodation unless it complies with the fire safety standard. Maximum penalties for non-compliance can reach up to \$16,500 for an individual. Local councils have power under this EP&A Regulation (Fire Safety) to issue a penalty notice under this provision.

There are also penalties for hosts and owners who make their dwelling available for short-term rental accommodation but do not register the dwelling on the NSW Government's Short-term Rental Accommodation Register.

A maximum penalty can reach up to \$2,200 for an individual. However, enforcement actions and fines for this non-compliance depend on the relevant local government bringing the matter before a court. This is time-consuming and costly for local governments, particularly for those that have a large amount of non-compliant short-term rental accommodation activity.

---

## 4.3 Potential revenue measures

Currently, the NSW approach to managing short-term rental accommodation relies solely on a planning and regulatory framework. However, as seen in other jurisdictions, revenue measures can play a role too.

More broadly, we can use the revenue system to encourage the supply of long-term rental accommodation. We can do this by giving owners incentives that discourage them from using residential property in certain ways, such as non-hosted short-term rental accommodation, holiday homes or vacant property, while promoting long-term uses.

By raising government revenue, revenue measures can also be used to fund programs to support homeless people. With rising housing affordability pressures, increased demand for social housing and increasing numbers of people sleeping rough in NSW, support for homelessness is a key priority of the NSW Government.

The NSW Government seeks your views and comments on the merits, benefits and costs of potential revenue measures to achieve the policy objectives identified in section 4.1.

We give the following guiding principles (Box 2) to help the discussion.

### Box 2: Guiding principles

A well-designed revenue measure is one that achieves its intended policy goals while minimising side effects. The following principles give guidance on how such measures should be designed.

- **Be broad based** – spreading a levy over a broader set of properties discourages owners from shifting their properties to alternative, more underused purposes that are not subject to a levy. Also, for the same total revenue collected, a broader levy lowers the burden on the average person paying it.
- **Leverage an efficient revenue base** – an efficient revenue base is one which minimises unwanted behavioural changes from individuals trying to avoid or minimise their liabilities.
- **Be simple, fair, and equitable** – levies should avoid imposing unfair or unequitable burdens on specific groups and minimise undue compliance burdens.
- **Strike an effective balance between competing uses** – any levy should recognise the economic benefits of short-term rental accommodation to property owners, tourists and local businesses, and weigh these considerations against the policy objectives.
- **Be complementary** – any levy should complement the regulatory framework in achieving policy objectives.

### 4.3.1 Revenue policy issues

There is a range of revenue measures, each with its trade-offs, advantages and drawbacks. In considering the use and design of any specific measure, the NSW Government will be guided by the above principles and will take into account feedback from the community and interested stakeholders during consultation.



## Scope

A levy on non-hosted short-term rental accommodation will encourage some owners to shift their dwellings to use as a long-term rental. All else being equal, the broader the revenue measure, the more owners will shift their dwellings to long-term use. Broader measures can also encourage fewer properties to become or stay vacant. The broadest revenue measure to encourage long-term use of dwellings would cover non-hosted short-term rental accommodation, holiday homes and vacant property.

But not all properties used for short-term rental accommodation would be likely to shift to long-term rental accommodation. Some properties are not designed for long-term living (for example, they may lack a proper kitchen). It may be appropriate to exclude these properties. On the other hand, such an exemption might create an incentive to modify properties and make them unviable for long-term use to avoid any levies.

Conversely, some short-term rental accommodation properties are already used as long-term rental accommodation or as principal places of residence. Some people choose to rent out spare rooms as hosted short-term rental accommodation to generate supplementary household income. This practice can help support hosts' mortgage repayments or rental costs and improves housing affordability. Even if these rooms were not used as short-term rental accommodation, it is unlikely they would be added to the long-term rental accommodation market.

Similarly, some people rent out their own home on occasion while away on holiday as non-hosted short-term rental accommodation. Discouraging this is unlikely to have a practical effect on the supply of long-term rental accommodation, but would lower overall use of the housing stock.

## Revenue base

A revenue measure could be levied on different bases to:

- discourage non-hosted short-term rental accommodation and underused property
- encourage long-term use of property.

It could be based on annual rental revenue, as is done in several cities across the world. But a levy based on rental revenue would not affect properties that do not produce rental income, such as holiday homes that are not used as short-term rentals or vacant property.

A levy based on land values can use the existing land tax system in NSW. It can also cover, in addition to non-hosted short-term rental accommodation, underused properties that could become long-term rental accommodation but do not produce rental income, such as vacant properties and holiday homes not used as short-term rentals.

In areas where a high proportion of short-term rental accommodation are apartments, the government would need to carefully calibrate a levy on land to achieve the desired effect. This is because land values of apartments are relatively low, and a levy based on land values would tend to impose a proportionally smaller burden.

In this case, a levy on rents or applying fixed charges would likely be more effective at encouraging owners to put short-term rental accommodation apartments into the long-term market. Many popular short-term rental accommodation areas, such as Sydney's Eastern Suburbs, have a high proportion of short-term rental accommodation apartments.

### **By location**

Generally, short-term rental accommodation and holiday homes are not evenly distributed across NSW.

Some regional areas, especially coastal tourism destinations, have a higher proportion of short-term rental accommodation as a share of their stock of properties (see Table 1). For example, non-hosted short-term rental accommodation properties make up over 8% of private homes in Byron Shire Council. In other areas of the state, such as western Sydney or remote inland areas like Bourke, short-term rental accommodation makes up much less than 1% of the private dwelling stock.

In areas where short-term rental accommodation represents a greater share of the property stock, short-term rental accommodation likely has a bigger effect on the local housing market. Levy rates could vary by location, reflecting the fact that the potential effect of holiday homes, vacant land and short-term rental accommodation on the long-term housing market may vary. However, differential rates may increase complexity and conditions in local housing markets may change over time.

### **Revenue collection**

A levy on short-term rental accommodation could be collected by booking platforms on behalf of the NSW Government. Jurisdictions in countries such as Germany, France, the United States and Canada have established voluntary collection agreements with Airbnb to collect charges on behalf of the government.<sup>21</sup> In other jurisdictions, platforms might not directly collect levies, but there may be data-sharing agreements to help the government collect revenue. In 2018, the Danish government entered into one such agreement with Airbnb.

---

<sup>21</sup> More examples can be found at [https://www.airbnb.com.au/help/article/2509?\\_set\\_bev\\_on\\_new\\_domain=1702333750\\_NGjYTI4YmM5M2Zm](https://www.airbnb.com.au/help/article/2509?_set_bev_on_new_domain=1702333750_NGjYTI4YmM5M2Zm)

Having booking platforms collect the levy could help with compliance, as platforms can easily monitor users of these platforms and may make for a better user experience for hosts and guests in complying with their obligations.

However, not all short-term rental accommodation is booked through online platforms. The government would need to consider how to collect a levy from property managers or direct booking websites managed by hosts. Furthermore, collection through booking platforms would not be able to cover underused properties, such as vacant homes or holiday homes.

## Compliance

The NSW Government, through Revenue NSW, would be responsible for administration of, and compliance with, any state revenue measure for short-term rental accommodation or underused properties. This would provide a consistent approach to the design, implementation and compliance across NSW.

In NSW, short-term rental accommodation hosts must register with the statewide Short-term Rental Accommodation Register and give their property's registration number when listing or advertising on booking platforms. This system of mandatory registration would likely promote compliance with a potential revenue measure. Data-sharing agreements with the booking platforms would also promote compliance. Platforms can provide evidence on the use of properties and the rental income associated with this use. However, compliance on short-term rental accommodation listed through small local agencies or direct booking is more complex.

Vacant properties or holiday homes that are not used as short-term rental accommodation do not produce income and are not publicly advertised on platforms. This would make it harder to monitor compliance on these properties.

Internationally, there are 2 broad approaches to designing a system of reporting property use for a levy:

- a **positive** approach
- a **by-default** approach.

Under a positive approach, only properties that are liable for the levy must be reported, with penalties for non-compliance. For example, for a levy solely on short-term rental accommodation, hosts would be required to register or declare their properties, but general owner-occupiers and other groups that do not list their property as short-term rental accommodation would not. For instance, in San Francisco, if a host rents a property for less than 30 consecutive nights, they must apply for a Certificate of Authority to collect Transient Occupancy Taxes then file returns for the tax on a monthly or annual basis.

Under a by-default approach, all property owners must report their property use. They must apply for an exemption if not liable, with the scheme levied by default. For example, short-term rental accommodation hosts and owner-occupiers alike would need to register. This method is used for British Columbia's Speculation and Vacancy Tax. This puts greater administrative burdens on the wider population, but likely increases compliance.

### **Exemptions and concessions**

A case could be made to exempt hosted short-term rental accommodation from a potential levy, as it is unlikely that individual rooms would otherwise enter the long-term rental accommodation market. An exemption for hosted short-term rental accommodation currently applies to the regulated day cap in NSW. An exemption for hosted short-term rental accommodation might increase compliance complexity, though.

If the levy were to include vacant properties, we should also consider cases where a property is vacant for valid reasons, such as:

- during construction or renovation
- in cases where the property has been condemned
- when the owner-occupier is temporarily away for justifiable reasons, including for work.

Other property uses that the government may consider for exemptions include:

- non-tenanted property used as main residence for relatives
- worker accommodation, or
- secondary dwellings mostly used for work.

However, while justifiable in many instances, allowing for a wider range of exemptions would make compliance more challenging and could undermine the fairness, simplicity and transparency of the levy.

## 5 Have your say

This discussion paper starts a public consultation process. The NSW Government invites all interested people and organisations to comment and give feedback on all or some of the issues under consultation.

The NSW Government will continue to seek feedback over the coming weeks through to 14 March 2024.

We may publish submissions from individuals and organisations. If you would prefer to keep your submission private, please say so in your submission.

Please give your feedback by **11:59pm on 14 March 2024**.

To give feedback, you can:

- [complete our survey via Qualtrics](#), or
- [upload a submission via the NSW Planning Portal](#).

If you have any questions about the discussion paper or review, you can email the project team on [STHL@planning.nsw.gov.au](mailto:STHL@planning.nsw.gov.au)

NSW Department of Planning, Housing and Infrastructure

4 Parramatta Square

12 Darcy Street Parramatta NSW 2150

Locked Bag 5022

Parramatta NSW 2124

Office hours:

Monday to Friday

9.00 am to 5.00 pm

[www.dphi.nsw.gov.au](http://www.dphi.nsw.gov.au)