



Restaurant
& Catering

Short-term rental accommodation regulatory framework

R&CA Submission

September 2019

RESTAURANT & CATERING AUSTRALIA

Restaurant & Catering Australia is the national industry association representing the interests of more than 47,000 restaurants, cafés and catering businesses across Australia. R&CA delivers tangible outcomes to small businesses within the hospitality industry by influencing the policy decisions and regulations that impact the sector's operating environment.

R&CA is committed to ensuring the industry is recognised as one of excellence, professionalism, profitability and sustainability. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the restaurant experience to the public.

Cover images courtesy of Tourism Australia:

Top (left corner): Aqua Dining Restaurant, Milsons Point, Sydney, Anson Smart.

Top (right corner): Hutchings Camps Pty Ltd, Paperbark Camp, Jervis Bay, NSW.

Middle (centre): Pretty Beach House, Bouddi Peninsula, NSW, Anson Smart.

Middle (top): Cruise Bar, The Rocks, Sydney, NSW, Anson Smart.

Middle (bottom): Tourism Australia, Hunter Valley, SDP Media.

Bottom (right corner): Tourism Australia, Balmoral Beach, Sydney, NSW, Ellenor Argyropou.

Bottom (left corner): Tourism Australia, Byron Beach Café, Byron Bay, NSW, Hugh Stewart.



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INTRODUCTION

R&CA appreciates the opportunity to provide comment on the New South Wales (NSW) Government's proposed Short-term rental accommodation (STRA) regulatory framework. R&CA notes the following matters are currently open for public consultation as part of a joint consultation by the Department of Customer Service and the Department of Planning:

- A Draft Code of Conduct for the Short-term Rental Accommodation Industry (the Code);
- The Draft Fair Trading Amendment ('Code of Conduct for Short-Term Rental Accommodation Industry') Regulation 2019 (the Amendment Regulation) that will support the Code's implementation; and
- Various draft planning instruments, which will allow residential premises to be used for STRA under certain conditions and provide a state-wide definition of STRA

R&CA welcomes the work completed by the NSW Government to date in investigating opportunities to pursue regulatory options for the STRA industry. As the only national industry association acting on behalf of over almost 17,000 cafés and restaurants in NSW, R&CA supports the continued operation of the STRA industry, and the subsequent economic and employment benefits derived by hospitality businesses.

R&CA believes that the regulatory framework governing NSW's STRA industry should not impede the growth of the State's tourism sector by restricting or limiting visitors' choice of accommodation options. In R&CA's view, the continued growth in the tourism sector can only be sustained with an adequate accommodation supply, particularly during periods of peak demand such as New Year's Eve. The NSW Visitor Economy Taskforce's has continually reported that a lack of adequate accommodation supply is one of the biggest inhibitors to growth in the visitor economy.

It is for these reasons R&CA strongly supports the growth of the STRA providers and the potential to meet areas of accommodation undersupply currently hampering the vitality of NSW's tourism sector.

R&CA believes that the STRA industry has a significant role to play in meeting tourist demand for accommodation options which are both affordable and in proximity to key amenities such as cafés and restaurants. This is of course contingent on the NSW Government providing the STRA industry with both regulatory clarity and certainty as part of this Review. R&CA believes that the NSW Government's ultimate framework concerning the STRA industry should not involve intrusive

regulatory intervention and instead be focussed on greater industry self-regulation, including a comprehensive, industry-wide code of conduct. R&CA argues that the approach taken by NSW Government should not overly burden the STRA industry through a complicated registration or licensing system, however there should be distinct mechanisms for addressing anti-social behaviour or breaches of the Code of Conduct.

In R&CA's view, there is a strong need for the NSW Government to work both collaboratively and cooperatively alongside STRA providers to ensure optimal outcomes for both the tourists using various STRA platforms and the individuals choosing to let their vacant residences in a safe and responsible way. The ultimate regulatory approach adopted from this Review should seek to address any occurrence of anti-social behaviours whilst preserving the range of accommodation options available for tourists. In this way, the strong economic and employment benefits for hospitality businesses resulting from growth in the State's tourism sector can be further enhanced and meet the NSW Government's goal to double overnight visitor expenditure by 2020.

POLICY RECOMMENDATIONS

R&CA's policy recommendations relating to the review of the regulatory framework governing the STRA industry in NSW can be summarised as follows:

- R&CA continues to support a 'light touch' regulatory approach and does not believe that substantial intervention is necessary on behalf of the NSW Government in the regulation of the STRA industry;
- R&CA would caution against the NSW Government placing overly onerous requirements on home-sharers such as new complex regulatory requirements or a registration or licensing scheme so that new and existing users are not discouraged from participating in the STRA industry; and
- R&CA are not supportive of proposals that would force STRA owners to commit to significant repairs or upgrades in order to meet new compliance obligations, as we believe it will discourage new STRA market entrants due to high barriers to entry. This will mean less available properties and less positive flow on effects to our industry, especially in regional areas.

BENEFITS OF STRA FOR CAFÉ AND RESTAURANT SECTOR

The increasing popularity of STRA, combined with strong growth in visitation from domestic and international tourists, has directly benefitted the café and restaurant sector in NSW. In Sydney alone, it was estimated that in 2016, Airbnb generated \$115 million in expenditure for the city's restaurant industry, a figure which grew by \$45 million from 2015. The overall expenditure for Australia's food services sector from Airbnb hosts was estimated at \$554.1 million in 2015-16, representing 27 per cent of the total (the most out of any listed subcategory). The benefits of the STRA for the state's café and restaurant industry manifest themselves in variety of ways which are outlined below.

Figure 1: Tourism Expenditure of Airbnb Guests in Australia, 2015-16

<i>Category</i>	<i>Total Expenditure (\$m)</i>	<i>Share of Expenditure</i>
<i>Accommodation</i>	\$441.6	22%
<i>Food Services (e.g. restaurants)</i>	\$554.1	27%
<i>Groceries</i>	\$185.6	9%
<i>Shopping</i>	\$353.8	17%
<i>Other leisure</i>	\$245.8	12%
<i>Transportation</i>	\$216.7	11%
<i>Other services</i>	\$43.7	2%
<i>Total</i>	\$2,041.3	100%

Table reproduced from Deloitte Access Economics (2017) *Economic effects of Airbnb in Australia New South Wales*

INCREASED PATRONAGE

The increased patronage and foot traffic enabled by the STRA industry also significantly benefits café and restaurant businesses which are located outside of more densely populated areas popular with tourists. Various STRA platforms provide holiday-makers with the ability to stay in and explore areas which do not attract the same type of foot traffic as other traditional tourist hotspots. According to a Deloitte Access Economic Report published in 2017, three-quarters of Airbnb properties in major global markets are located outside traditional tourist areas. The flow-on economic effects to the hospitality industry are dispersed across a wider range of businesses in a variety of different locations which would not have otherwise benefitted. The letting of vacant properties also generates additional income for STRA hosts who may also patronise local cafés and restaurants more regularly as a result. In this way, the economic profile of these businesses and local communities are strengthened due to the increased patronage associated with the STRA industry.

JOB CREATION

In addition to the direct economic benefits of the STRA industry for the state's café and restaurant sector are the flow-on effects on employment and job creation. Already, the café, restaurant and catering sector is expected to generate 31,000 new positions in NSW by May 2022. Expressed in percentage terms, this represents 19.2 per cent growth. At present, the sector employs 132,000 people throughout the state, representing a large majority of jobs within the food and beverage services industry sector. It is estimated that Airbnb guests have supported 4,452 full time equivalent (FTE) jobs, many of which would be directly within the hospitality sector such as café and restaurant businesses.

UNIQUE PROMOTIONAL AND MARKETING OPPORTUNITIES

Various platforms enabling STRA often directly and indirectly promote local café and restaurant businesses to holidaymakers, in addition to allowing them to make accommodation bookings. These platforms provide businesses with a unique form of marketing and promotional opportunities to enhance their appeal to a specific set of clientele. The interactions between guests and hosts throughout the STRA experience helps to facilitate information about different dining options in local neighbourhoods, which can in turn, strengthen the reputation of these businesses. For instance, Airbnb Survey data shows that 98 per cent of hosts suggest local restaurants, cafes, bars and shops in their neighbourhoods. The highly personalised recommendations provided from STRA hosts can be tailored to the individual tastes and preferences of holiday-makers which not only serve to enhance the local experiences of tourists but also maximises expenditure and increases the likelihood of holiday-makers returning to these local businesses in the future.

TOURISM GROWTH IN REGIONAL AREAS

The STRA industry also makes a significant economic contribution to tourism in regional areas, supporting the viability of café and restaurant businesses by helping to attract increased visitation amongst domestic and international tourists. A global survey published by Airbnb in 2017 showed that Australia was the only major country in the world where there were more regional Airbnb stays than in city areas. Overall, regional Airbnb stays accounted for 56 per cent, or 1.7 million guest - arrivals in 2016. Outside the greater Sydney region, it is estimated that Airbnb's economic contribution to regional economies is \$135.5 million, with Airbnb guests in NSW spending \$213.2 million during regional-based stays.

REGULATORY APPROACH

From R&CA's perspective, ensuring the proposed framework is fit for purpose is critical to ensure the ongoing growth of NSW's international and domestic tourism sector. Most importantly, R&CA stresses the need for regulatory certainty surrounding the STRA industry in NSW and welcomes the scope provided in this Review to do so. As part of this objective, R&CA believes that there several options to create a dynamic which best serves the interests of both the tourism and accommodation industry as well as the individuals themselves who engage with the STRA industry.

'LIGHT-TOUCH' APPROACH

R&CA does not believe that substantial intervention is necessary on behalf of the NSW Government in the regulation of the STRA industry. In this respect, a 'light touch' approach towards the STRA industry could be adopted in pursuing a whole-of-government regulatory framework. R&CA argues that the most effective way to achieve a mutually beneficial system of regulation is through greater self-regulation and involvement from providers in the STRA industry. R&CA would also stress that the ultimate policy framework required for STRA should be achieved in close collaboration with these major providers to ensure that growth in the State's tourism industry is not only maintained but also enhanced.

INDUSTRY CODE OF CONDUCT

R&CA also argues that that the proposed industry-wide code of conduct is ultimately fit for purpose and should be supported as it is comprehensive in nature and has been developed in close collaboration with the major STRA providers and industry. The code of conduct would then act as a blueprint to guide and inform a best-practice approach to STRA industry standards as well as provide clarity on issues of contention such as complaints management. R&CA would seek to ensure that the content and guidelines to different issues included as part of the code of conduct should be both fair and reasonable. R&CA believes that making this Code of Conduct both visible and easy to read would ultimately be of significant benefit for both STRA hosts, users and the industry as a whole.

REGISTRATION

R&CA would strongly caution against the NSW Government placing overly onerous requirements on STRA participants in terms of a wide-reaching registration scheme. R&CA believes that pursuing a

industry wide registration scheme for the STRA industry would act as an obvious and significant impediment to an effective STRA market in NSW. Also, such a registrations scheme, if implemented, would make NSW one of the most strictly and onerously regulated STRA markets in the world. The effect of such as scheme would be a less effective and less successful STRA market, to the detriment of NSW's Tourism and Hospitality Industries.

Government mandated registration may cause confusion for existing users and discourage new entrants from also sharing their homes. By creating additional layers of difficulty or complexity to the current STRA system, this would potentially have the unintended consequence of restricting the number of accommodation options available to NSW visitors.

R&CA is not opposed to a registration system as a policy suggestion but believes that a lower cost, technology driven alternative could be proposed by government without increased compliance on the part of home sharers. For example, a simple digital connection between the NSW Government and STRA providers would provide a real time, night by night register of STRA stock. This solution would be far preferable to a new registration scheme, the compliance cost of which would most certainly be borne by individual home sharers.

BAD BEHAVIOURS

R&CA is cognisant of the potential for undesirable or unpleasant behavioural activities to arise from certain individuals engaging in the STRA industry. In this respect, R&CA supports the ability of the NSW Government to put in place carefully-designed measures which specifically target and seek to address anti-social behaviours. However, R&CA stresses that such regulations should not place restrictions on the ability of people to let their residences in a way which is both respectful and responsible. R&CA believes that any such restrictions could potentially lead to travel becoming more expensive and more inconvenient for tourists, which would ultimately have negative effects for the state's economy as well as the hospitality industry.

PLANNING INSTRUMENTS

R&CA's views on proposed draft planning instruments around the STRA industry have been guided by the policy frameworks already present in other Australian jurisdictions such as South Australia and Tasmania. Under these systems, there are no caps placed on the number of nights in which a primary place of residence is available to be let. R&CA continues to implore the NSW Government to

adopt a similar policy position aimed at avoiding capping of the overall number of nights. Such a system would not only ensure cross-jurisdictional consistency regarding the STRA system but would also ensure that the economic flow-on effects to local communities and hospitality businesses are maintained. R&CA however does support the proposed change to exclude stays of 21 days or longer from contributing to the 180 day threshold.

R&CA has serious and strong concerns relating to the proposed fire safety standard. R&CA believes the proposed standard introduces an impossibly high compliance barrier for those wishing to rent their property via STRA. Whilst R&CA is supportive of measures which adequately protect tourists while staying at an STRA property, we believe the suite of required upgrades to STRA property require an almost commercial level of compliance with fire safety standards without a clear explanation as to how STRA can so drastically increase the risk to fire safety over and above routine residential living.

Examples of this include proposals to install self-closing and fire-sealing doors, installation of evacuation lights, the installation of smoke alarms in most areas of a STRA property and for these alarms to be mains powered rather than battery operated, which is the requirement for most residential properties.

The case for this significant increase in fire safety compliance has not been adequately made. To raise the level of compliance to Fire Safety Standards in STRA to the level of commercial accommodation providers is not in keeping with the established risk profile of STRA properties and puts STRA out of step with established tenancy legislation and residential standards more generally.

If implemented the proposal would mean two apartments in a residential complex, both two bedrooms hosting no more than four people would have drastically different fire safety standards despite no obvious difference in risk profile.

R&CA submits that this is new an unexpected policy proposal that can significant impact the entire STRA industry. R&CA would strongly urge the NSW Government to continue to consult closely with industry and STRA providers on the fire safety standard.

STRATA REGULATION

Whilst R&CA would support mechanisms such as strata regulation as a means of targeting anti-social behaviour amongst STRA occupants, R&CA does not believe that strata should be able to pass bylaws

banning STRA entirely. The ability for home-owners to make their own decisions regarding their participation in the STRA industry is already permitted under the current laws governing strata buildings and R&CA believes that the Review should resolve to maintain the status quo. R&CA argues that one of the key principles guiding this Review process should be the ability for owners to decide who should be permitted to stay in their homes and therefore believes that strata communities should not be able to override this ability. At the same time, however, R&CA does believe that there is scope for strata regulation to act as a mechanism to prevent instances of anti-social behaviour associated with STRA.

CONCLUSION

The STRA industry makes a vastly significant economic contribution to the tourism and hospitality sectors in NSW, strengthening the viability and reputational pull of local businesses such as cafés and restaurants. The nature of the STRA industry brings increased foot traffic, visibility and most importantly patronage for hospitality business located outside of traditional tourist hot-spots. In this way, the STRA industry assists in dispersing the economic benefits of tourism to businesses which may not have otherwise received them. The increased patronage of these businesses resulting from the STRA industry also leads to job creation in industries such as hospitality which are the biggest beneficiaries of the flow-on effects from tourism.

As outlined in this submission, R&CA believes that the NSW Government should pursue a sensible policy framework which encourages further growth in the STRA industry. At the same time, R&CA cautions the NSW Government against adopting additional regulations which limit the availability of certain accommodation options impeding the growth of the domestic and international tourism sector in NSW. R&CA argues that minimal intervention on behalf of the NSW Government is needed and that greater self-regulation as part of a 'light-touch' approach towards the STRA industry could be used to achieve optimal outcomes for tourists and individuals choosing to sublet their residences in a safe and responsible way. In doing so, the NSW Government should collaborate as closely as possible with major stakeholders in the STRA industry to ensure that the vast array of economic and employment benefits of tourism are enhanced.

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