

New short-term holiday letting regulations for NSW

The NSW Government has announced a new a regulatory framework to govern the short-term holiday letting industry. Short-term holiday letting has rapidly expanded in recent years due to the growth of online booking services such as Airbnb and Stayz.

The new framework will include new planning laws, an industry Code of Conduct and new provisions for strata scheme by-laws.

Management Rights Industry Concerns

Whilst the new laws are directly aimed at owners letting their properties through companies like Airbnb and Stayz, there is a real concern that the Management Rights industry is going to get caught up in the cross fire under these new regulations.

Planning laws

New planning laws will allow short-term holiday letting under certain conditions. If the host is present, they can use their home for short-term holiday letting all year round as exempt development. That is, they do not need to submit a development application to local council.

If the host is not present, that residence can be used for short-term holiday letting up to 180 days per year in Greater Sydney, with 365 days allowed in all other areas of New South Wales. Councils outside Greater Sydney will have the power to decrease the 365 day limit to no less than 180 days per year.

Code of Conduct

A mandatory Code of Conduct will be introduced that will apply to anyone involved in providing or using short-term holiday letting, including hosts, guests, online platforms, and letting agents. **This Code will apply to Management Rights operators.**

The Code will establish the ‘2 strikes and you’re out’ policy. Hosts or guests who commit 2 serious breaches of the Code within 2 years will be banned for 5 years. Platforms and letting agents (**including Management Rights Operators**) will not be permitted to offer services to anyone, or any dwelling, that is listed on the exclusion register.

A strike will include any behaviour which unreasonably interferes with a neighbour’s quiet and peaceful enjoyment of their home.

The Code will establish a complaints system, which will be available to neighbours of short-term holiday letting premises, strata committees and owners corporations.

Complaints will be assessed by independent and impartial adjudicators, approved by the Commissioner for Fair Trading. Adjudicators will be required to make decisions on evidence and after giving both complainants and respondents a chance to put forward their case.

Strikes will be recorded on an online register to ensure that guests and/or hosts cannot ‘platform shop’. Platforms and property agents will have to check the register before taking on new customers. Failure to do so may result in significant penalties of up to \$1.1million for corporations and \$220,000 for individuals.

NSW Fair Trading will have powers to police online platforms and letting agents.

Strata Schemes

Strata scheme management laws will be amended to clarify that by-laws can prohibit short-term holiday letting, but only for lots that are not a host's principal place of residence.

That is, if a host is genuinely sharing their home unit, they will still be able to use a spare room for short-term holiday letting, and will be allowed to let out their principal place of residence while they are away on holidays.

These change of by-laws will require a 75% majority to be passed.

When will the new framework start?

The introduction of the new framework will require changes to existing laws which must be approved by Parliament.

The Code will be developed in consultation with Government agencies, and industry and community groups during 2018.

The reforms will be reviewed a year after they commence.

What should Management Rights Operators in NSW do?

This proposed legislation could be quite detrimental to operators of short-term Management Rights in NSW. Also, this legislation could easily be adopted by other States. The ability for an Owners Corporation to pass a 75% majority vote that has the effect of overriding a town planning approval (that allows short-term letting) is simply bad law and should be opposed by everyone in the industry.

It is time to make your voice heard!

Every Management Rights operator in NSW should immediately contact their local Member of Parliament and voice their concern about this proposed legislation.

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