



Planning Bulletin 115/2023

Short-Term Rental Accommodation (STRA) – Interim Guidance for local government

115/2023



9 November 2023



1. Purpose

The Western Australian State Government has announced several new initiatives to improve regulation of the short-term rental accommodation (STRA) sector. From a land use planning perspective, these will result in amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) to introduce new land use classes and exemptions for STRA.

Local governments will play an important role in implementing these changes through their local planning frameworks. Most significantly, this will include amendments to local planning schemes to incorporate new land use classes for STRA, along with the deletion of any superseded land uses where relevant. Local planning policies may also be prepared to provide further guidance on various other matters.

This Planning Bulletin serves to provide an interim summary of the upcoming land use planning changes applicable to local government, as well as outline next steps for implementation. Further updates to this document will be made once the LPS Regulations are formally amended in 2024.

2. Background

For some time, there has been a lack of clarity on how STRA should be approached as a land use class. This has led to some inconsistency between local government areas and challenges in those areas where tourism accommodation and local housing issues require more strategic consideration.

The WAPC has released *Position Statement Planning for Tourism and Short-Term Rental Accommodation* (Position Statement). Along with associated Guidelines, it outlines the WAPC’s position for clearer, more consistent regulation of STRA in planning frameworks. The release of this

Position Statement complements other whole-of-government reforms relating to STRA, responding to recommendations made in the 2019 parliamentary inquiry *Levelling the Playing Field: Managing the impact of the rapid increase of short-term rentals in Western Australia*.

Importantly, these initiatives **do not** introduce a blanket ‘cap’ on the number of nights a property can be leased on the short-term rental market, as has been introduced in other jurisdictions in Australia and around the world.

3. Objectives

The Position Statement makes the following key statements and recommendations:

- STRA is considered to be a land use class for planning purposes and should be included in the Zoning Table of all local planning schemes. Model land use classes and definitions will be updated accordingly.
- STRA will be broadly classified as two types: **hosted** – where the host lives on site, or **unhosted** – where guests have exclusive use of an entire dwelling.
- Hosted STRA is considered an incidental land use and will not require development approval state-wide.

For the Perth Metropolitan Area (i.e., where the MRS applies), the following provisions will apply:

- STRA issues are similar across the metropolitan area. A clearer, more consistent regulatory environment is required, and the need to ensure appropriate planning oversight.
- Unhosted STRA operated on an ad-hoc basis is considered ancillary to a predominant residential use and accordingly will be exempt from development approval where operating for 90 nights or less in a 12-month period.

- Where not exempt, unhosted STRA should require development approval and be designated discretionary (D or A) or prohibited (X) in applicable local planning scheme zones.
- In Tourism zones, STRA may be designated permitted (P) if appropriate to the local setting.

For regional local planning schemes (including Peel), the following points are noted:

- Housing and STRA issues vary considerably across regional areas, as does the need to provide for local tourism markets.
- Regional local governments will have the flexibility to designate STRA as they see fit within each planning scheme zone, depending on local context.
- Notwithstanding, STRA should still be listed in the zoning table using applicable model use classes.

The above foreshadows changes to both Schedules 1 and 2 of the LPS Regulations to implement the various reforms, including new land use classes and exemptions.

4. Implementation

Timeframes

Amendments to the LPS Regulations are being prepared, to assist with implementing consistent regulatory changes. Changes will include modifications to land use definitions, with STRA definitions to be placed in the Deemed and Model Provisions.

The development approval exemption for hosted STRA (state-wide) and unhosted STRA operating 90 nights or less within the metropolitan area will also be included in the Deemed Provisions.

A separate consultation process with local government will occur on all proposed regulatory changes prior to

implementation, in accordance with s.256 of the *Planning and Development Act 2005*.

It is anticipated this consultation will occur in the first quarter of 2024.

Updating Local Planning Schemes

Amendments to local planning schemes will need to be implemented progressively in 2024, after the LPS Regulations are finalised.

Further direction and resources will be provided closer to this time; however, it is anticipated that all local governments will be required to amend their local planning scheme zoning tables to introduce new STRA land uses, delete superseded uses and assign an appropriate permissibility within each zone.

Metropolitan local governments will also need to ensure that any existing exemptions and planning provisions are amended to avoid conflict with the 'deemed provisions' exemptions.

To assist with this transition, the WAPC has formed a position that all scheme amendments which propose to replace superseded land uses with new STRA land uses, without changes to permissibility, can be processed as 'basic' amendments.

Changes to planning schemes may cause confusion for existing STRA operators who have not previously required development approval. The Department of Planning, Lands and Heritage (DPLH) will work with the WA Local Government Association (WALGA), the Department of Mines, Industry Regulation and Safety (DMIRS) and local government to manage these changes. Prior to the LPS Regulations changes coming into force, local governments should also consider how best to communicate relevant changes to their communities and/or existing STRA operators ahead of time.

Model scheme amendment documents will also be prepared by DPLH and can be used by local governments to progress amendments to align their local planning schemes with the LPS Regulations and the Position Statement.

Local Planning Policies

Existing local planning policies (LPPs) relating to STRA can continue to operate and be used for assessment purposes. The Position Statement

encourages the development of LPPs to provide further guidance on the consideration of STRA proposals. Local governments should update existing LPPs to ensure alignment with the relevant provisions of the Position Statement and subsequent updates to the LPS Regulations once operational.

A model LPP is also in development, which can be used to base future local policy provisions for STRA.

Appendix 1 provides an overview of planning framework modifications arising from the STRA regulatory changes, including indicative timeframes and contacts for further information.

5. State-wide STRA Register

The state-wide STRA Register will operate alongside the planning changes and will launch in mid-2024, with registration being mandatory by 1 January 2025.

All types of STRA are required to register prior to operation – regardless of whether they are 'hosted' or 'unhosted', or whether they qualify for a development approval exemption.

Importantly, STRA operators will need to ensure they are compliant with any planning requirements prior to registering.

The STRA Register will be administered by DMIRS, with its head of power being the *Short-Term Rental Accommodation Act*. This Act will also repeal any existing STRA local laws currently in effect, to ensure legal continuity across Western Australia.

Further Information

Further information on the Position Statement, LPS Regulations Changes and other land use planning matters set out in this Planning Bulletin can be obtained by emailing policy@dplh.wa.gov.au.

Appendix 1 – CHANGES TO PLANNING FRAMEWORKS – SHORT TERM RENTAL ACCOMMODATION (STRA)

INSTRUMENT	SUMMARY OF CHANGES	TIMEFRAME FOR CHANGES	CONTACT FOR FURTHER INFORMATION
LPS Regulations	<ul style="list-style-type: none"> New land use definitions for STRA. Development approval exemption for hosted STRA (state-wide). Development approval exemption for unhosted STRA operating 90 nights or less in a 12-month period (where MRS applies). 	In progress – anticipated consultation early - 2024	DPLH Tourism Team – tourism@dplh.wa.gov.au
Local Planning Strategies	<ul style="list-style-type: none"> Strategy to acknowledge the role and impacts of STRA in the local area (as appropriate), within tourism and housing sections. 	As required / during regular Strategy review process	DPLH area team or scheme team
Local Planning Schemes – All	<ul style="list-style-type: none"> Existing land uses e.g. ‘holiday house’, ‘bed and breakfast’, can be replaced with new STRA uses in the zoning table. This change can be undertaken as a basic amendment, where the permissibility is not being altered. Where STRA (or similar) is not currently included in the zoning table, an amendment to insert and the associated permissibility will be a standard amendment. 	Estimated to commence by mid-2024, once changes to LPS Regulations are progressed	DPLH area team or scheme team
Local Planning Schemes – Perth Metro (MRS Area)	<ul style="list-style-type: none"> Schemes in the MRS area shall designate unhosted STRA as D, A or X, having regard for local context. Unhosted STRA may be designated P in Tourism zones only. 	Estimated to commence by mid-2024, once changes to LPS Regulations are progressed	DPLH area team or scheme team
Local Planning Schemes – outside MRS Area	<ul style="list-style-type: none"> Aside from alignment with new model land use definitions, local governments to include provisions in schemes to reflect local housing and tourism conditions. 	Estimated to commence early 2024, once changes to LPS Regulations are progressed	DPLH area team or scheme team
Local Planning Policies and aligned local instruments	<ul style="list-style-type: none"> Local governments may develop local planning policies or additional scheme provisions to address specific STRA planning issues in their area provided these are consistent with the LPS Regulations and Position Statement. 	As required, or alongside Scheme amendments if risk of inconsistency	DPLH area team or scheme team
STRA Register	<ul style="list-style-type: none"> Will be established under dedicated legislation – not a planning instrument. Where development approval is required, this will need to be obtained prior to registration. <p><i>Note – All STRA required to Register prior to operation, in addition to any development approval requirements.</i></p>	Mid-2024	DMIRS Consumer Protection – stra.enquiries@dmirs.wa.gov.au

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