

SHORT-TERM RENTAL ACCOMMODATION BILL 2024

Second Reading

Resumed from 12 March.

MR P.J. RUNDLE (Roe — Deputy Leader of the Opposition) [3.35 pm]: I have been looking forward to finally getting the opportunity to speak on the Short-Term Rental Accommodation Bill 2024. Firstly, I point out that the opposition supports the bill. I will briefly go back through a bit of history. I used to share an office with Hon Terry Redman, in the last term of Parliament, and I remember when he had in his office some Margaret River hotel providers and the like from his electorate of Warren–Blackwood. They were very concerned about the proliferation of short-term rental accommodation places, such as Airbnb and the like. He was part of a parliamentary inquiry into short-stay accommodation in September 2019. That was just a little bit of history of how some of this originated. Not only does the opposition support the bill, but I support it as well. It is important that whichever government is in the mix on the day needs to have a handle on where those short-term rental accommodation places are and how many there are in each town or local government area.

The minister has spoken many times on housing shortages and on what seems to have transpired over the past few years, since COVID and so forth, whereby the housing shortage has been exacerbated. One thing that seems to have developed is that people who used to rent out their house for, let us say, \$400 or \$500 a week have started stepping aside since the likes of Airbnb and Stayz and others came on board saying that they will rent out their house for \$350 or \$400 on a Saturday night, down in the south west. They take that house off the market, but it was originally providing a weekly rental for another family or occupant. I think that has developed to some extent.

The definition of “short-term rental accommodation” means —

residential premises provided, on a commercial basis, for occupation under a short-term rental arrangement;

Key changes to Western Australia’s planning framework will include: statewide planning exemptions for hosted STRA—we call it “STRA”, which is short-term rental accommodation—new planning exemptions for un-hosted STRA within the Perth metropolitan area; the implementation of planning rules for regional local governments, including Peel, to suit the needs of their communities; and the introduction of new and revised definitions into all local government planning schemes that deal with STRA and tourism land uses. For the metro area, an exemption from the requirement to obtain development approval will be in place if an un-hosted STRA does not intend to rent out the property for more than 90 nights within a 12-month period. Proposals in which the property is intended to be rented out for more than 90 nights will require the relevant approval from the local government prior to registration and operation. Each regional local government authority will determine planning approval requirements based on local conditions and needs.

I turn to the time lines that have been put out there by the government. Local governments have until mid-2024 to make amendments and update their local planning schemes. Registration will become mandatory in January 2025. Property owners must demonstrate compliance with local planning requirements by January 2026 or risk deregistration.

I turn to some key issues associated with this legislation. Local government authorities will bear the brunt of the workload to enforce these changes. It is a concern for me that the current government has the propensity to bring in legislation, saying it needs this and that, but then loads up local governments with the administration of it. We saw that, for argument’s sake, with the puppy farming legislation. The state government put that legislation through and then loaded up all the local governments with the administration of it. I am curious whether the minister has any plans to help those local governments enforce and administer the system. A commissioner will be responsible for short-term rental accommodation registration, leaving local governments with the management.

Development approval conditions in this bill will apply to only metropolitan areas, leaving regional local government authorities to determine, define and update planning rules for STRA, which the minister confirmed a minute ago. Until this bill’s introduction, local governments had already managed STRA in their areas, setting their own requirements for compliance and rental conditions. However, there are concerns that this bill will put even more onus on local governments to determine criteria for development approvals, enforcement, checking properties, and handling inquiries and complaints. All LGAs will have to update all town planning schemes. A question to the minister might be whether they have been given adequate time. The suggested time frame is 2024. Is there a cut-off point, or will they be given an extension beyond that? I imagine they will be.

As I said, we support the legislation. Some of the positives will be that the data gathered through the mandatory registration of STRA will help state and local governments to get a clearer picture of the sector in WA, which will help guide future decision-making and regulations. More information will be available to the community and consumers about what STRA exist in an area, helping decision-making for property buyers and neighbours. On the upside, if regional LGAs do not want or do not have the capacity to implement building on development

approvals for STRA, they do not have to. It appears that the legislation will not affect worker accommodation, for instance, on farms. Flexibility also remains for casual accommodation, as long as there is no commercial benefit to the owner—for example, letting a mate or family members stay for a few weeks. There might be a beach house in the south west or wherever, and people let their friends and family stay for a few weeks. I assume this legislation will not affect that in any way.

I turn to other jurisdictions very briefly. New South Wales has a mandatory code of conduct for the short-term rental accommodation industry. That started on 18 December 2020. It is regulated through a mandatory code of conduct, a statewide planning framework, a mandatory short-term rental accommodation premises register and strata scheme by-laws that restrict certain types of short-term rentals. In Victoria, changes to the Owners Corporations Act 2006 were introduced in February 2019 to help prevent short-term accommodation apartment buildings being used to host unruly parties. From 2025, the Victorian government will charge a 7.5 per cent levy on revenue collected by short-stay accommodation providers such as Airbnb and Stayz. Queensland local governments and councils can regulate short-term accommodation under local planning laws. South Australia introduced the Short Term Holiday Rental Accommodation Bill 2021, which is a bill to provide oversight of the short-term holiday rental property market to provide protection for neighbouring residents and other purposes.

As I said, in general terms, we support the bill. I might just have a few brief questions in consideration in detail. There is one thing I would not mind the minister expanding on. The minister announced the short-term rental accommodation incentive scheme on 9 November 2023, offering a \$10 000 financial incentive to owners of existing un-hosted short-term rental accommodation properties in WA to transfer their properties to the long-term rental market for at least 12 months to support people seeking rental homes. The last time the minister mentioned this, I thought there had been something in the order of 150 applications and around 100 had been processed. The minister might like to enlighten us about how successful that is, how it is going and how many applications there have been.

I will leave my contribution there. As I said, I personally support the bill because I believe it will give the state government, people in the neighbourhood and our local governments a better understanding of what is happening in the area, as well as hotel and motel accommodation providers who do everything right, and follow the health regulations and guidelines. These other forms of accommodation have obviously popped up. We understand this is something that has developed right around the world over the last 10 years, but it is good to have a bit of a handle on it. I will leave it at that. I thank the minister.

MR J.N. CAREY (Perth — Minister for Planning) [3.47 pm] — in reply: I thank the opposition for its important contribution to the second reading debate on the Short-Term Rental Accommodation Bill 2024. As everyone is aware, and as I have said repeatedly, COVID radically reshaped our housing market. Every state is facing the same pressures. The government is doing everything it can to boost housing supply across the continuum. I think it is fair to say that history will show that this government has taken unprecedented measures and made reforms from every angle because we understand that there is no silver bullet or one solution. It is a multifaceted approach. This reform to short-term rental accommodation is critical. It is also in line with the national cabinet's plan by introducing a new STRA registration scheme and complements our existing STRA incentives.

On that note, the incentive scheme, which offers a \$10 000 payment to property owners, is already having success. As of 18 March 2024, there had been a total of 183 applications, and I understand that 79 grants have been paid, which means that 79 additional homes have gone into a long-term lease agreement. That is wonderful. We never overstated the scheme and said it would bring thousands in, but our view is that any home re-entering the housing market is welcome, particularly in the regions. That is welcome news.

These reforms also respond to the parliamentary inquiry into short-stay accommodation, which recommended a statewide registration scheme and greater guidance to the sector. It will provide greater clarity for property owners on what is required to operate a short-term rental property.

The bill will establish a statewide register for all short-term rental properties. Property owners will be required to register all STRA properties in WA before being able to advertise and take bookings, including on online booking platforms. The register will be operated by the wonderful team at the Consumer Protection division, and the registrations are expected to open mid-2024. All STRA properties must be registered by 1 January 2025. As an incentive, the initial registration fee will be waived for three months to encourage early participation, and they will not have to pay that fee until they renew their registration in 2025.

I have talked about the incentive scheme. There was significant consultation. We took this very seriously. I just want to put it on the record. We did significant consultation with the key booking platforms, the Australian and New Zealand Short Term Rental Association, the Western Australian Local Government Association, the Real Estate Institute of Western Australia, the Australian Hotels Association, the Tourism Council, relevant state and local government agencies and authorities, and a range of government agencies.

The member asked a few questions. The first was: will the bill increase the workload for local governments? No. The simple reason is that it does not place any additional obligations on them. In fact, it will have the opposite effect; it will make it easier because, as the member identified, we will have for the first time a clear register with clear data for all stakeholders, including local governments. The member must remember that local governments already had to do amendments for planning schemes. They already have the responsibility to manage these sorts of issues. When a ratepayer makes an official complaint, a local government will investigate it. We are saying that it will be up to regional local governments to decide how far they want to go in terms of regulation. As the member knows, many regional local governments want to take a very strong approach because that is what their local communities want.

More assistance is being provided to local governments. As we know, Consumer Protection has engaged with the consulted LGAs. It is proposing a roadshow to assist local governments with navigating the web-based register, and it met with specific LGAs with existing local registration laws that will become inoperative under the new scheme. Local laws will continue to operate until registration under the statewide scheme becomes compulsory on 1 January 2025. This will permit an orderly transition.

I have to say that these are great notes from Hon Sue Ellery's adviser and her team. They are brilliant notes—great adviser! The member raised issues in his speech relating to the planning scheme. I need to be very clear because I suspect that there will be questions about it during consideration in detail. I am happy for my office to provide the member further detail into the future as they arise.

There are two components. Under the Minister for Commerce—I am introducing and speaking to this bill on behalf of the Minister for Commerce—is the STRA register, which we all understand. To be on the STRA register, there may need to be planning approval. In the regions, we are saying that that is up to regional councils. In the metro area, we are saying that they will have to seek planning approval beyond 90 nights for an un-hosted accommodation. We will be providing guidance about how that will look in schemes, but I want to be very clear that that is not in this bill. Those questions about planning can be handled in the existing scheme. I know that the member will want to ask questions today, but he needs to remember that this is just about the register. One requirement is that under certain circumstances, councils in the metro area will need to demonstrate planning authority; they always need to demonstrate planning authority. I just want to be clear again that I suspect many questions will relate to the planning changes as opposed to the STRA.

Question put and passed.

Bill read a second time.

[Leave denied to proceed forthwith to third reading.]

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Short-term rental arrangements —

Mr P.J. RUNDLE: I firstly thank our advisers for probably having been here most of the day waiting for a bit of activity. My first question on clause 4 is: am I correct in saying that if the STRA exceeds the 90-day accommodation, it would automatically trigger the registration system to alert LGAs and the commissioner that a developmental approval is required?

Mr J.N. CAREY: The answer is yes.

Mr P.J. RUNDLE: If accommodation is offered to the same person for more than one 90-day period within the 12 months, will that also trigger the registration system?

Mr J.N. CAREY: I will seek clarity. Is the member saying that if two people both have 90-day periods, that would exceed the 90-day target and would need to go through the formal development process?

Mr P.J. RUNDLE: Yes. I want to ask about penalties as well, but I see that they are sort of listed out from clauses 9 to 11 and so forth. Can the minister give his guidance on whether he would prefer me to ask about penalties at those clauses?

Mr J.N. Carey: If we could.

Mr P.J. RUNDLE: Yes, okay. Will this clause require the premises to get a development approval if there is a breach of the 90-day period and permission has not been sought or it has not been registered?

Mr J.N. CAREY: We are talking about two different things, metro versus regions. As the member knows, regions will be determined according to local government, but if they go beyond the 90 days, then yes, they will have to seek a development approval. I understand the scenario that the member is pointing at: if someone says, "I'm only going to do two months a year", and those circumstances change. Then, yes; in the metro area they would have to

seek a development approval. If they are in an apartment building with by-laws that require approval from the strata, they will also need to seek approval from their strata.

Mr P.J. RUNDLE: Further to that, can the minister clarify an issue with strata by-laws: what is the interplay in relation to this legislation? Will this override any strata by-laws, or will they work in conjunction?

Mr J.N. CAREY: To be clear, this legislation is complementary. It will not override strata by-laws. As the local member for Perth, I think I probably have more strata properties than any other member; there are different buildings and it can vary from time to time. I suspect that the building operators that do not have by-laws will look to the register, perhaps find out that they may have a number of Airbnbs operating and then seek to change their by-laws to address that matter—remembering that, if it is over 90 days, they will still have to seek development approval from, say, the City of Perth.

Mr P.J. RUNDLE: As the minister knows, a lot of strata companies have fairly old by-laws and we have seen short-term rental accommodation popping up over the last 10 or so years. Does the minister think this will trigger a lot of scenarios in which residents might say, “My neighbour over here has this strata arrangement”? Does the minister think that will force a lot of changes in strata by-laws?

Mr J.N. CAREY: Because more data will become readily available, I can say that, yes, there could be a scenario in which strata councils may become aware of properties operating and they may seek to change their by-laws. I would have to get data for the member about how many strata councils have by-laws of this nature, but I think there will be an initial flurry because there will be more data available on the state of play. Of course, we want that.

Mr P.J. RUNDLE: I refer to the last part of clause 4(1), which states —

... includes an arrangement under which the accommodation provider or an agent of the provider also resides on the premises.

Can the minister provide some clarity on that, or an explanation of it?

Mr J.N. CAREY: This covers a scenario in which a property may be in one person’s name—say, a partner’s name—but another person is living in the home.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Short-term rental accommodation must be registered —

Mr P.J. RUNDLE: Clauses 9 to 16 all refer to a fine of \$20 000. Is there a minimum fine, or do we go straight to \$20 000? Is there any warning system in place?

Mr J.N. CAREY: Yes, that is the maximum. The advice is that, as we transition, we understand that people will be working through the register. That is why, even with no fee, we are trying to guide people to this new system. There will also be an infringement system with lower penalties, and that will be set by regulation. It is \$20 000 for individuals and a maximum of \$100 000 for corporations. We need these penalties so that people will take the register and the information provided seriously.

Mr P.J. RUNDLE: Is there no real guidance at this stage on how many strikes there will be before it is ramped up to \$20 000? I imagine that, over time, there will be people who will push that boundary. Will it be at the commissioner’s discretion in that case?

Mr J.N. CAREY: Ultimately, the level of the fine will be determined by the magistrate. The infringement system will be determined by the commissioner.

Clause put and passed.

Clauses 10 to 13 put and passed.

Clause 14: Removal of prohibited advertisements from booking platforms —

Mr P.J. RUNDLE: Clause 14(1) states —

The Commissioner may, by written notice given to a booking platform provider, or an agent of the provider, require the provider, within the period specified in the notice, to ensure that a prohibited advertisement ceases to be available ...

What will be the specified period? Is there any indication at this stage?

Mr J.N. CAREY: I am advised that that date has not yet been specified. It will be in regulations, and we will be consulting stakeholders.

Mr P.J. RUNDLE: Can the minister explain what he envisages with the registration number? Obviously, the number will be on the booking platforms. Will the registration number have to be advertised in any other place, such as at the local government or wherever?

Mr J.N. CAREY: The number must be visible on any form of advertising, so it would include, for example, notice boards—which we have talked about before—flyers, any online advertising or anywhere where they are promoting their short-stay accommodation.

Clause put and passed.

Clauses 15 to 17 put and passed.

Clause 18: Applications —

Mr P.J. RUNDLE: Clause 18(4) states —

An application for registration of residential premises cannot be made within 3 years after registration of the premises is cancelled under this Act.

I guess the question is: will this apply to someone who is wilfully misleading and has been fined and the like? What if someone has made a bit of an error, run over the 90 days and forgotten to register or whatever it might have been, will they be treated in the same way?

Mr J.N. CAREY: I think it is implied, but it will be the last resort. If it is fixable, their registration would likely be suspended.

Mr P.J. RUNDLE: At this point in time, does the minister envisage that he will not come down too hard? If someone has made an error—or even if they have not and have stretched boundaries a bit—three years is a long period for which they will not be able to re-register.

Mr J.N. CAREY: Yes, there will be a reasonable approach by the commissioner. As I have indicated, I think it is demonstrated in our transition period. We could have just brought a register in like that. There will be a transition period, and there will be no fees. The government is trying to guide, and the agency will work with people because we want people to register. It is all about a transitional process and working with people. I suspect that we all understand that, when something new is brought in, people have to get used to change. We are using that approach.

Clause put and passed.

Clauses 19 to 23 put and passed.

Clause 24: Suspension or cancellation generally —

Mr P.J. RUNDLE: I refer to clause 24(d) —

an owner who made the application for registration is no longer the owner of the premises;

Will the three-year cancellation rule that we just spoke about in clause 18(4) apply in this case as well?

Mr J.N. CAREY: No, it will not.

Mr P.J. RUNDLE: I refer to paragraph (f). What if there is a new tenant as well? How will that apply?

Mr J.N. CAREY: Whether it is a new owner or tenant, they will have to re-register, but I am advised that the three-year cancellation will not apply.

Clause put and passed.

Clauses 25 to 30 put and passed.

Clause 31: Register of premises —

Mr P.J. RUNDLE: I refer to clause 31(3)(f). Will there be any circumstances in which the commissioner would release the contact details of the owner who does not reside at the short-term rental premises?

Mr J.N. CAREY: None of the details will be released publicly. They would only be released, for example, to the local government.

Mr P.J. RUNDLE: I assume that the local government and the commissioner will have the register. Will there be any other way for a member of the public to search or find out who in their locality or local government area has these premises or the registration?

Mr J.N. CAREY: Just to be clear, we will not be giving the name or phone number et cetera. The information that will be public is the registered address.

I just wish to readdress that. How the system will work—I am jumping the gun—is that people will enter the address and it will identify whether it is registered or not. The point I am making is that it will only be the address.

Mr P.J. Rundle: Not the owner.

Mr J.N. CAREY: Yes.

Clause put and passed.

Clause 32: Disclosure of Register information —

Mr P.J. RUNDLE: This, I guess, is a flow-on effect from my last question. Clause 32(1) states —

The Commissioner must provide information as to whether or not residential premises are registered premises free of charge to the public in the manner determined by the Commissioner.

What information will the commissioner be providing? Will it be just the address? Will it be the owner? The clause says that it must be provided free of charge to the public.

Mr J.N. CAREY: The key aim is to provide clear data. As I have said, members of the public will be able to search the street address of a property to determine whether it is registered as short-term rental accommodation. They will also be able to enter a registration number. The system will then confirm whether the number entered is associated with a STRA property. A heat map will also show the concentration of STRA across a local government area, but it will not show individual properties.

Mr P.J. RUNDLE: That information will be available to any member of the public. If I wanted to purchase a property in Jurien Bay in the member for Moore's electorate, could I go to either the commissioner or the local government to obtain that information?

Mr J.N. CAREY: No, it will be available only through the online register. The power of the reform is that we are creating a consistent system with one source of truth and information. Of course, if someone puts in a fake registration number, it will not pull up an address.

Clause put and passed.

Clauses 33 and 34 put and passed.

Clause 35: Disclosure of information by Commissioner relating to certain actions —

Mr P.J. RUNDLE: I would not mind a bit more explanation about this clause, which states —

The Commissioner may disclose information obtained in connection with the administration or execution of this Act for the purpose of making the public aware of ...

- (a) investigations or inquiries being conducted under this Act into the conduct of a person ...
- (b) disciplinary action ...

What is the motivation behind this clause and why has it been included?

Mr J.N. CAREY: I think the member is familiar with this. The commissioner already does this under the Fair Trading Act. It is to give, say, a public warning. I will give an example. In other industries, someone might be going around targeting seniors and trying to replace roofs and gates very expensively. The commissioner will name the company. This will potentially operate in a similar way.

Mr P.J. RUNDLE: I hear what the minister is saying, but are processes in place to protect against defamatory or malicious actions that may not be proven during such inquiries? As the minister can imagine, long-term damage could be done to the reputation of a person or STRA provider if the details turned out to be incorrect.

Mr J.N. CAREY: The agency has an internal policy and, of course, legal advice will be sought.

Clause put and passed.

Clauses 36 to 46 put and passed.

Clause 47: Relationship of Act to local laws —

Mr P.J. RUNDLE: Local governments are being given until mid-2024 to update their town planning schemes. Is that adequate time?

Mr J.N. Carey: Where did the member get that information from?

Mr P.J. RUNDLE: I believe it was somewhere in the second reading speech or it may have been in the briefing.

Mr J.N. CAREY: To be clear, that relates to the planning scheme and not to this bill. I am happy to provide the member with information afterwards, but that is not correct.

Mr P.J. RUNDLE: Can the minister explain the methodology behind the regional and metropolitan differentiation?

Mr J.N. CAREY: I am going to disappoint the member, but that is not in this bill; that is in the planning scheme. However, I will say very quickly that metropolitan Perth is one market, but regional markets can be very different,

as the member knows. Accordingly, from engaging with regional local governments, we thought it appropriate to allow each regional local council to look at their own market and make a determination about their scheme and how to regulate it, whereas Bayswater and Vincent are not that far apart so it is the same rental market.

Mr R.S. LOVE: I spoke to the member for Cottesloe about this because I thought he might know the answer. In the metropolitan area, will development approval of current buildings need to be gained before registration?

Mr J.N. CAREY: As the member knows, we are transitioning. If there is a current requirement, yes, it will.

Mr R.S. LOVE: If all metropolitan planning districts will have their schemes amended to include a requirement, will that requirement apply to any building, even if it is already being used as an Airbnb? In other words, will all existing Airbnbs have to go through a DA?

Mr J.N. CAREY: In the metropolitan area, development approval will be needed only if it hits 90 days-plus. That is a separate equation, so I am happy to brief the Leader of the Opposition on the planning. There will be guidance to local governments about the process and a template in relation to planning approvals for the metropolitan area.

Mr P.J. RUNDLE: I have a final further question on that. Will all current or future Airbnbs have to be registered if they are between one and 89 days, or just if they are 90 days-plus?

Mr J.N. CAREY: Yes, they will still have to be registered. Every Airbnb will have to be registered, whether or not it hits the 90 days, because that will be critical to data collection.

Clause put and passed.

Clauses 48 and 49 put and passed.

Clause 50: Regulations —

Mr P.J. RUNDLE: I have a simple question. Regulations are always a challenge for the opposition. Can the minister foresee the timetable for the regulations to be completed and so forth?

Mr J.N. CAREY: The regulations are being drafted now and they will be ready when the register comes into effect on 1 July this year.

Clause put and passed.

Clauses 51 to 55 put and passed.

Title put and passed.

[Leave granted to proceed forthwith to third reading.]

Third Reading

MR J.N. CAREY (Perth — Minister for Planning) [4.30 pm]: I move —

That the bill be now read a third time.

MR P.J. RUNDLE (Roe — Deputy Leader of the Opposition) [4.30 pm]: I will not procrastinate. I want to thank the advisers who were here for a large part of the day. As I said previously, the opposition supports this bill. We need some clarity. Going back to the days of Hon Terry Redman, I clearly remember him talking in 2019 about this as an issue for accommodation providers in his electorate and, of course, it affects many others. We need accurate information, especially given the housing crisis and the challenges the housing minister has in front of him, to maximise every piece of accommodation in Western Australia. This should be a valuable tool for the government and for local governments. I did not mention out-of-control parties and all the other things that can sometimes happen, but I assume that it would give some assistance to local governments as well when these types of issues come up. I will leave my contribution at that and confirm that the opposition supports the bill.

MR J.N. CAREY (Perth — Minister for Planning) [4.32 pm] — in reply: I thank the opposition for its support. It is great to see members opposite supporting one of our reforms to boost housing supply. That is something we should note. Put that on the public record! I thank all the agency staff for their work. For the record, I said that one of the staff members was from the Department of Planning, Lands and Heritage; however, they were all from the Department of Commerce, so I correct that. Some of the questions that were raised today relate to the planning scheme. I again put on the record that two portfolios are involved: Commerce is dealing with the operation of the register and the planning process for metropolitan Perth requires local governments to review their schemes, which is logical, given that it is one rental market. Some of the questions that were asked today are heavily interrelated because, obviously, the register prescribes that development approval by the local government is required when an un-hosted property is rented for 90 days or more.

This is a critical matter. It will provide clear data but, most importantly, it will result in more Airbnbs. Now that there will be greater regulation, more properties will potentially move across to the private rental market and, of course, that is why we brought in the incentive scheme.

Question put and passed.

Bill read a third time and transmitted to the Council.