

AIRBNB GUIDE TO MAKING A SUBMISSION

WESTERN AUSTRALIA



OVERVIEW

What?

The Western Australian government is seeking public comment on its policy proposals for regulating short-term rental accommodation (STRA) in the state.

When?

Public consultation commenced on 6 December 2021 and closes on 7 March 2022, 5pm.

How?

The consultation is being conducted via two separate processes. Both require you to complete a survey:

Survey 1: Proposed statewide registration scheme
This consists of **1 question** asking for your views.

Survey 2: Planning policy proposals outlined in the Planning for Tourism Position Statement and Guidelines. Herein referred to as 'the proposals'.
It consists of **21 questions**, including:

- Whether the 60 day cap on unhosted accommodation is appropriate;
- Whether hosted accommodation should be exempt from development approval; and
- Changes to planning definitions.

Survey 2 consists of multiple sections, so it's important you proceed through each individual section and answer all of the questions before you press 'Finish'.

We encourage you to complete **both** surveys to have your views heard. Below is broad guidance about the proposals and a step-by-step guide which may assist you in the process.

**Note: We remind you that the below information is intended to serve as guidance only and, in your survey responses, we ask that you articulate how these issues will affect you or your local community in your own words.*

Please check the outline of the policy proposals from the [Tourism Position Statement draft](#) and its [Guidelines](#).



a guide to survey one

THE REGISTRATION SCHEME



What is the government proposing?

The government is proposing a statewide registration scheme for short-term rentals. This means Hosts will be required to register their listings with the state government before they can advertise and operate. We understand this would apply to both hosted and unhosted accommodation.

Beyond this, the government has not provided any detailed information or guidance on how the scheme will operate.

What is Airbnb's position on the registration scheme?

- **Clearer outcomes:** The proposal does not provide any information on how the statewide registration scheme will operate, with the rationale and intended outcomes equally unclear.
- **Simple registration process:** Any registration and renewal scheme should be easy, accessible and online through one central government entity. All Hosts in Western Australia should be enabled to complete every step of the registration process without encountering unnecessary hurdles. A complicated and costly scheme laden with regulatory red tape risks doing more harm than good.

- **Consistent rules:** The statewide register should supersede existing registration requirements at the local council level to ensure consistency and clarity for Hosts.

- **Fairness:** The obligation to register should apply whether the Host is listing online or offline, to ensure that all short-term rentals across WA are on equal footing.

- **Data protection:** Consistent with data protection best practices, Hosts should only be required to provide the minimum data necessary to process their registration and data should be protected in accordance with relevant data privacy laws.

Step-by-step instructions for Survey 1:

Step 1: Follow [this link](#) to access the consultation portal.

Step 2: Read the information and press 'Online Survey' (bottom of the page) to begin your submission.

Step 3: Fill in your personal information for questions 1-8 and then press 'Continue'.

Step 4: Provide your comments on the scheme at question 9 and press 'Continue'.

Step 5: If you are happy with your response, press 'Submit Response'.



a guide to survey two

THE PLANNING POLICY

What is the government proposing?

- Allowing local councils to continue regulating short-term rentals under local planning schemes. In practice, this means 139 different sets of rules will continue across WA
- Concerningly, local councils have also been granted even more discretion to regulate short-term rentals, including imposing onerous rules at constant risk of changing.
- A **60 day cap** on unhosted accommodation, which may significantly reduce the number of days Hosts can share their homes. It's the most restrictive cap in Australia and a step backwards for WA. Currently, **all** forms of STRA are permitted to advertise and operate **365** days a year.
- An exemption for hosted accommodation is also proposed, meaning you can share your home while you are there without the need for development approval.

What is Airbnb's position on the planning policy proposals (survey 2)?

In summary, Airbnb advocates for:

- A **statewide system for STRA** to ensure fair, clear and consistent outcomes.
- A **statewide system for unhosted accommodation** to operate 365 days a year without development approval, and an 'opt-in' days cap for local councils to address legitimate local needs (provided the caps cannot be reduced below 180 days).
- An **exemption for hosted accommodation**, regardless of the type of home and with a balanced approach to guest or host limits. The government is currently proposing to limit hosted accommodation to 4 adults (or one family) and 2 bedrooms.

- A **simple, low-cost and accessible statewide registration scheme** that supersedes existing schemes at the local council level to ensure consistency and clarity for Hosts, and reduces unnecessary red tape.
- An **industry-wide, mandatory Code of Conduct** applicable to guests and Hosts to protect neighbourhood and community amenity by addressing isolated incidences of anti-social behaviour.

Step-by-step instructions for Survey 2

Step 1: Follow [this link](#) to access the consultation portal.

Step 2: Read the information and press 'Online Survey' (bottom of the page) to begin your submission.

Step 3: Press 'Introduction' to complete your personal information at questions 1-8 and then press 'Continue'.

Step 4: Press 'Section 2: Exempting low-scale hosted and host accommodation information' and read the page before pressing 'Continue'.

Step 5: 'Press Section 2: Hosted Accommodation exemption questions' and answer questions 9-12 in the provided white boxes. Then press 'Continue'.

Step 6: Press 'Section 2: Unhosted accommodation exemption questions' and answer questions 13-17 in the provided white boxes. Then press 'Continue'.

Step 7: Press 'Section 3: Defining hosted accommodation and bed & breakfast' and answer questions 18-19 in the provided white boxes. Then press 'Continue'.

Step 8: Press 'Section 4: General policy approach to short-term rental accommodation' and answer question 20 in the provided white box. Then press 'Continue'.

Step 9: Press 'Section 5: General feedback' and answer question 21 in the provided white box. Then press 'Continue'.

Step 10: Press 'Finish' and on the next page press 'Submit Response'.

Questions: Below is an explanation of the questions and issues to consider as you make your submission (Note: questions 1-8 are for recording personal details, contact information etc):

Hosted accommodation in a single house or ancillary dwelling, grouped dwelling or multiple dwelling (Q9-11)

- Question 9 asks whether hosted accommodation should be exempt from development approval in a single house or ancillary dwelling (e.g. house on a single, discrete lot without any shared property or granny flat).
- Question 10 asks whether hosted accommodation should be exempt from development approval in a grouped dwelling. A grouped dwelling refers to houses on lots where there is shared common property (e.g. pools, driveways or bin stores) but where no part of one dwelling can be above or below another. An example could be a holiday unit or townhouse.
- Question 11 asks whether hosted accommodation should be exempt from development approval in a multiple dwelling. A multiple dwelling is where one dwelling sits above or below another and could include a holiday apartment.
- **Our guidance:** We strongly support these exemptions as they allow Hosts to continue sharing the underutilised spaces in their homes without needing to engage in burdensome, costly and time consuming development application processes. It also allows guests to travel to new and unique places on a budget and allows Hosts to maximise the benefits of hosting for the wider community.

Guest and room cap for hosted accommodation (Q12)

- Question 12 asks whether the proposed guest and room caps for hosted accommodation are appropriately captured. That is, a maximum of 4 adult guests (or one family) and 2 guest bedrooms in hosted accommodation.
- For example, Hosts would not be able to accommodate more than 4 adults (or one family) in their home at one time, even if they live in a large home with multiple empty bedrooms. It's also unclear how these limits would apply to bed & breakfast accommodation that can comfortably accommodate more than 4 guests in a hosted environment.
- **Our guidance:** No. As the proposal suggests, hosted accommodation is a low impact form of accommodation since the Host resides on site and can manage issues in a timely and constructive manner. The caps may reduce opportunities for different families to stay together in hosted accommodation and the proposal lacks clarity on how the limits apply to bed and breakfast-style accommodation. We advocate for a balanced approach to guest and bedroom limits that ensures certainty for guests and Hosts.





Unhosted accommodation in a single house (Q13), grouped dwelling (Q14) or multiple dwelling (Q15)

- Question 13 asks whether unhosted accommodation should be exempt from development approval in a single house (e.g. a house on a single, discrete lot without any shared property).
- Question 14 asks whether unhosted accommodation should be exempt from development approval in a grouped dwelling (e.g. houses on lots where there is shared common property, such as a holiday unit).
- Question 15 asks whether unhosted accommodation should be exempt from development approval in a multiple dwelling (e.g. where one dwelling sits above or below another, such as a holiday apartment).

Our position on unhosted accommodation:

- **Our guidance:** We support exemptions for unhosted accommodation to operate without the need for development approval for 365 days a year, **regardless of the dwelling type**. Hosts should be able to share their home as they wish without engaging in costly, time-consuming and onerous development application processes.
- If not exempt, local councils will have the ability to deny development applications for unhosted accommodation and essentially quash any opportunities for hosting in WA.
- Onerous, expensive and highly administrative application requirements may also deter Hosts from sharing their homes, reducing the availability of short-term rental accommodation (STRA) for guests. Families will have less affordable accommodation options and be limited in their ability to travel on a budget.
- This will be to the detriment of all West Australians, including local businesses, cafes and restaurants that might not otherwise benefit from the visitor and tourism economy.
- Short-term rentals also play a vital role in providing accommodation during surge-capacity periods, such as major events or conferences. Exempting unhosted accommodation from seeking approval would allow Hosts to open their homes to provide diverse accommodation options for travelers and support major events, all the while making extra income to help ends meet.
- Requiring development approval does not resolve neighbourhood amenity issues that arise from time to time (e.g. noise and nuisance issues) as identified by the government in its proposals. In fact, it puts hosting out of reach for many everyday Western Australians who are seeking to supplement their incomes or subsidize their own travel.



Days cap for unhosted accommodation (Q16 & Q17)

- Question 16 asks what length of stay is appropriate for unhosted accommodation to be exempt from development approval. The proposal suggests 60, but asks whether 30, 60, 90 days or another length of time may be appropriate.
- Question 17 asks whether you have any additional comments on the proposed exemptions.

Airbnb's position on the days cap for unhosted accommodation:

- We are deeply concerned that a 60 day cap on unhosted accommodation will severely limit opportunities for Hosts to open their homes and subsidize the cost of their own travel, or make supplemental income to help make ends meet. Hosts should be supported to share their homes and welcome guests at any time throughout the year.
- We recognise the government's attempt to impose a consistent approach to unhosted accommodation, however a blanket 60 day cap is not the solution.
- It will reduce the availability of short-term rentals in communities and regions across the state, making it harder for some regions to remain competitive when it comes to tourism. This may be particularly pronounced in regional and rural communities where traditional accommodation is not widely available. Short-term rentals allow these communities to share in the benefits of the tourism and visitor economy and provide vital business for shops, restaurants, cafes, cleaning and gardening services, and a myriad of others.
- Supply or availability issues will also create greater demand for short-term rentals and might make it less affordable to travel in Western Australia. This would make it difficult for families to travel on a budget and deter interstate travelers from making the journey to WA in favour of more accessible or affordable Australian or international travel destinations.
- A cap fundamentally fails to address the government's key concerns about neighbourhood disamenity (e.g. noise, nuisance). In fact, the government has missed a clear opportunity to consult the public on a statewide Code of Conduct that would target problematic behaviour from guests, Hosts or even particular premises. It would also provide a uniform solution for addressing these issues across the state and provide law enforcement with tangible tools to stamp out bad behaviour in the community.

Our proposed alternative to the 60 day cap:

- We consider that a more effective solution would involve the following:
 - a. A statewide approach to unhosted accommodation, whereby all Hosts in Western Australia are **permitted to share their homes for 365 days a year** without development approval.
 - b. An **'opt-in' days cap** for local councils to address local needs. Councils could determine the maximum number of days a Host can short-term rent their home when they are not present, provided it **cannot be reduced below 180 days**.
- Similar approaches have proved effective in other jurisdictions and it represents a fair and common-sense solution to addressing local needs.

Defining hosted accommodation and bed and breakfast (Q18 & Q19)

- Question 18 asks whether there is support for the proposed definition of hosted accommodation. That is, 'A dwelling or ancillary dwelling, or a portion thereof, used for the purpose of short-term accommodation, with a permanent resident who is present overnight for the duration of the stay either in the dwelling or ancillary dwelling'.
- **Our guidance:** Airbnb is comfortable with this proposed definition on the basis that it accurately reflects the activities of home Hosts.
- Question 19 calls for comment on removal of the definition for 'bed and breakfast'.
- **Our guidance:** We conditionally support the deletion of the definition for 'bed and breakfast', subject to the above mentioned comments about guest and bedroom limits which might limit the activities of some bed and breakfast operators.

General policy approach to short-term rental accommodation (STRA) (Q20)

- Question 20 asks whether you support the criteria outlined in 5.2.2 and 5.3.3 of the position statement in order to guide local councils in regulating STRA.
- Airbnb considers that preserving a council-by-council system creates inconsistency and uncertainty for the entire STRA industry. In practice, it means that 139 different sets of rules will apply across the state and enable councils to severely limit opportunities for thousands of Western Australians.
- We are concerned that local councils may not be best equipped to deal with these complex and multifaceted issues that have broad implications, since the proposals grant them unfettered discretion to limit or even ban short-term rentals.
- We also retain concerns about the differential treatment of so-called 'traditional' (e.g. hotels) and 'non-traditional' accommodation (e.g. STRA). The position statement encourages local councils to conduct a 'supply and demand analysis' in developing a local planning strategy. This will involve considering the relationship of STRA with permanent housing provision and traditional accommodation provision.
- Such an approach may empower local councils to unfairly prioritize the hotel and traditional accommodation sector based on the impact of STRA on their businesses, without clear justification or need. It unfairly targets short-term rentals and may allow councils broad scope to severely restrict or ban STRA.
- The government's proposal also encourages local councils to consider the zoning and location of STRA, including where it should be 'prioritised, permitted or avoided'. It effectively provides councils with broad discretion to allow STRA in some areas, and not others, and use 'zones' to limit opportunities for short-term rentals.
- The proposal considers short-term rentals primarily through the lens of tourism and holidays, neglecting the myriad of reasons that Hosts and guests utilise STRA. This is reflected in proposed new land use planning definitions that include the term 'holiday' (e.g. holiday house, holiday apartment) with potentially negative impacts on Hosts. For example, it's foreseeable that local councils could expressly prohibit these so-called 'holiday' uses in particular zones or precincts such as non-tourism areas, further curtailing opportunities for hosting in these areas.
- As noted, such an approach neglects the multitude of other reasons that Hosts and guests use short-term rentals beyond holidaying, including accessing essential health care or education, work travel, staying closer to family, for quarantine or housing arrangements, attending major events/conferences or staying in regional and remote areas.



General feedback (Q21)

- Question 21 calls for general feedback on the position statement and guidelines.
- We have repeatedly called for a mandatory, statewide Code of Conduct applicable to guests, Hosts and premises to manage complaints and behavioural issues in STRA.
- The government has identified neighbourhood amenity issues as the core impetus for reform, yet have missed a prime opportunity to use an effective regulatory tool to resolve genuine issues and concerns. This is in addition to proposing a statewide registration scheme that would be enhanced by interaction with a code of conduct to deal with problematic actors in the STRA industry.
- Overall, we advocate for a Code that is fair and reasonable in setting clear expectations and community standards, as well as a transparent framework for reporting, managing and monitoring complaints.
- We think that a Code of Conduct would be a useful tool in the Western Australian context where the industry, local governments and communities are seeking ways to manage the minority of bad actors.
- The overwhelming majority of Hosts and guests are considerate neighbours and respectful travellers, and Airbnb takes the issue of managing bad actors extremely seriously.

