



Plan finalisation report – PP-2021-3351

To change the number of days that non-hosted short-term rental accommodation is exempt development in the Byron Shire local government area

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Byron Local Environmental Plan Amendment (Housing) 2023.

1.1.2 Site description

The planning proposal applies to the whole of the Byron Shire local government area (Byron Shire LGA).

1.1.3 Purpose of plan

Planning proposal PP-2021-3351 seeks to amend State Environmental Planning Policy (Housing) 2021 (Housing SEPP) to apply a 90-day cap to the whole of the Byron Shire LGA, except on land shown on the Byron Shire Short-term Rental Accommodation Area Map where no cap will apply to non-hosted STRA. The mapped areas have been identified by Council as suitable for year round non-hosted STRA.

The objective of the planning proposal is to mitigate the impacts of short-term rental accommodation (STRA) on permanent rental housing supply, amenity, local character, and community, while still allowing for a diverse and sustainable base of tourist accommodation options to support the local economy.

1.1.4 State electorate and local member

The site falls within the Ballina and Lismore state electorates. The Hon Tamara Smith MP is the State Member for Ballina and The Hon Janelle Saffin MP is the State Member for Lismore.

The site falls within the Richmond federal electorate. The Hon Justine Elliot MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal. However, the State MP for Ballina has made a number of public statements in support of a bespoke approach to non-hosted STRA in the Byron Shire LGA. Ms Smith also shared her views on the planning proposal at the public hearing held by Independent Planning Commission (IPC).

There are no donations or gifts to disclose, and a political donation disclosure is not required.

2 Gateway determination and alterations

The Gateway determination issued on 24 June 2021 determined the proposal should proceed subject to conditions (**Attachment B**). Byron Shire Council (the Council) has met all the Gateway determination conditions.

The Gateway determination was subsequently altered on:

1. 3 June 2022 (**Attachment C**) to:
 - remove the requirement to update the planning proposal to reflect the economic impact assessment;
 - remove the condition which required Council to submit an updated planning proposal for the Department's review and approval;

- require that all supporting documentation was exhibited with the proposal, including the economic impact assessment;
- require the planning proposal to be exhibited for 56 days;
- extend the timeframe for completion until 24 June 2023;
- add a condition requiring a 12-month deferred commencement date; and
- add a condition authorising Council to exercise the functions of the local plan making authority, provided, among other things, Council did not reduce non-hosted short term rental accommodation periods on any land below 90 days.

2. 13 December 2022 (**Attachment D**) to:

- withdraw the function of local plan-making authority from Council to enable an independent review of the proposal to be undertaken by the Independent Planning Commission (IPC) before finalisation.

3. 16 June 2023 (**Attachment E**) to:

- extend the timeframe for completion by an additional 3 months to 24 September 2023.

In accordance with the Gateway determination (as altered) the proposal is due to be finalised on 24 September 2023.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 1 September 2022 to 31 October 2022 (inclusive).

Table 1 Submission numbers by type

Type	Number of submissions
Survey responses	766
Written submissions	784 <ul style="list-style-type: none"> - 530 of these were made by STRA property owners - 379 used a pro forma
Petition	981 signatures online 142 signatures offline
Stakeholder one-on-one interviews	6 interviews
Focus group sessions	8 sessions with 130 stakeholders

Locale Consulting assisted Council with its engagement activities. Locale's Engagement Report provides a high-level summary of the feedback to highlight the key themes as well as different perspectives and views of the stakeholder groups (**Attachment F**).

Consultation was undertaken with the community and industry group representatives, and individual community members.

The Department considers that Council has adequately considered the submissions. A summary of the key findings of Locale's report are provided in Table 2 below.

3.1.1 Submissions to Council during exhibition

Table 2 Summary of the key findings of the Locale report

Online survey	Written submissions	Petition	Stakeholder interviews	Focus groups
<ul style="list-style-type: none"> The majority of respondents identified some form of regulation was necessary, but where the balance was between STRA owners' capacity to operate and community desires for amenity and / or access to housing was a key difference. There was concern raised with the precinct model. The main concerns related to the way the precincts were established, the fairness or equity of the outcome, and the potential for concentration of tourism uses that would benefit STRA owners within these areas but would also be to the detriment of the neighbouring community or STRA owners outside these areas that would be unreasonably restricted. 	<ul style="list-style-type: none"> The majority did not support the precinct model (631). These submissions noted that the proposed precinct model was unfair and benefited the wealthy, both in terms of its impacts on property owners and accommodation offerings for visitors to the area. There was concern this would only increase the financial divide within the community and fundamentally change the nature of Byron Shire. The majority did not directly comment on the precinct boundaries. Those that did focused on expanding the precinct boundaries, particularly in Byron Bay and reducing the precinct boundaries, particularly in Suffolk Park and Brunswick. 	<ul style="list-style-type: none"> The 'Byron Deserves Balance' petition was in favour of the 90-day cap and was in response to the 'Byron Deserves Better' campaign run by the Australian Short-term Rental Association (ASTRA). The petition stated there needed to be an equitable solution for all people and that many people have become displaced or homeless due to over-inflated rents or investors turning their properties into STRA. 	<ul style="list-style-type: none"> All stakeholders agreed that the STRA industry needed to be regulated. However, there was a difference of opinion as to how this regulation should occur and whether the proposed changes were an appropriate Response. There was consistent feedback provided during the interviews that any policy changes needed to be supported by accurate and up-to-date data about the number of STRA properties in the Shire. ASTRA did not support the proposed changes in the planning proposal and was against the precinct model and considered the caps unnecessary and unlawful and the precinct mapping arbitrary and unfair. Stayz preferred policy position was not to have any caps and it has advocated for the current framework to be given an opportunity to be tested before further policy changes are made. 	<ul style="list-style-type: none"> There was a low level of support for the planning proposal across all focus groups, with the majority of participants viewing the changes as having negative impacts from their perspective. Some individuals within the focus groups did, however, express support for the planning proposal. The key themes arising from the focus groups were around the appropriateness of the precinct model to address housing affordability and availability in the Shire, the potential for the local economy to be negatively impacted, the potential for the local community to be negatively impacted (particularly those within the 365-day precincts), the need for better data about the number of STRA properties and concerns about how the rules would be enforced. Focus groups included local worker, local property owners, local property industry, local accommodation providers, local community, local businesses, local tourism organisations; and local renters/displaced people.

Online survey	Written submissions	Petition	Stakeholder interviews	Focus groups
	<p>STRA owners</p> <ul style="list-style-type: none"> A large proportion (444) identified they would be adversely impacted by the proposed changes, particularly those that would be the subject of the 90-day cap and felt this was an unfair infringement upon their property rights and would impact property values. The majority stated that they would not return their properties to the long-term rental market because they purchased the property as a holiday home and would retain it for personal use. Many were concerned about the potential for negative impacts on the broader local economy given the wide range of services they use in maintaining and servicing their properties. Those that operated in the hinterland areas viewed it is unfair that the 365-day precincts were limited to beachfront areas. 		<ul style="list-style-type: none"> Airbnb's preferred policy position was for the current regulatory framework to continue giving certainty for landowners and guests in properties that would otherwise sit empty and the planning proposal should be paused until the impacts of the current 180-day cap are known and that consideration should be given to the introduction of visitor levies. If the precinct model does proceed, Airbnb believes that these areas should be expanded. A Perfect Stay was opposed to the precinct model. It is of the view that the vast majority of STRA owners will not return houses to the permanent rental pool and even if they did, these would not be affordable to rent by workers. The STRA industry contributes significantly to the visitor economy and the amenity impacts can be managed through regulation and professionalisation of operators. Neighbours Not Strangers preferred policy position was that no STRA uses are undertaken in residential zones as it considers STRA and residential uses to be incompatible. 	

Online survey	Written submissions	Petition	Stakeholder interviews	Focus groups
	<p>Local economy & tourism</p> <ul style="list-style-type: none"> The majority of submissions (543 with 379 proforma) raised concern about the potential to adversely impact the local economy, with many stating that the local economy relies heavily upon tourism. Some local business owners who support the STRA industry or work in the tourism sector identified they would be adversely impacted by the proposed changes (particularly the 90-day cap) and that the changes could result in a loss of income and the likelihood of job losses. Many submissions from STRA property owners noted the contribution they make to the local economy and cited a wide range of services that they use to service and maintain their properties for STRA guests. A small number of submissions were from visitors who noted that the proposed changes would deter their return to the area. 		<ul style="list-style-type: none"> Victims of Holiday Letting supported the changes in the planning proposal and the regulation of the STRA sector. However, its preferred policy position is for the 365-day precincts to be reduced to a 180-day cap with a reduction in the size of the mapped area of the Suffolk Park precinct because there are residents living within these areas. It supports the 90-day cap in all other areas. 	

Online survey	Written submissions	Petition	Stakeholder interviews	Focus groups
	<ul style="list-style-type: none"> Some submissions identified a 90-day cap would result in STRA properties being rented at peak time only, driving up accommodation prices, creating seasonal tourism and reducing the diversity of accommodation options for visitors. <p>Housing availability & affordability</p> <ul style="list-style-type: none"> The majority of submissions (523 with 379 proforma) identified that changes would not solve the housing issue within the Shire as property owners would not return houses to the long term rental pool and the homes are not affordable to those in need of housing. Some submissions raised concern about increased housing insecurity for tenants if STRA property owners decide to permanently rent for 9 months of the year and then evict tenants over the peak Christmas / Easter period. Other submissions noted that the real issue is a lack of affordable housing supply and that more land needs to be released for housing, with higher density options. 			

Online survey	Written submissions	Petition	Stakeholder interviews	Focus groups
	<ul style="list-style-type: none"> A number of submissions (53) considered the changes would improve housing affordability and availability, particularly for local workers who have difficulties accessing affordable housing. This issue appeared to be more acute in Byron Bay compared to other locations in the Shire. <p>Residential amenity & sense of community</p> <ul style="list-style-type: none"> A number of submissions (62) noted the detrimental impact that STRA has on the amenity of local residents living within residential areas. Some submissions agreed that the 90-day cap would improve amenity and the sense of community within residential areas. This feedback was strongest in Suffolk Park, where there was strong objection to the inclusion of any area in the 365-day precinct due to amenity concerns. Other submissions spoke more broadly to the special nature of the Byron Shire and how it is important to retain its eclectic feel and that STRA use erodes the sense of community by driving out essential workers and long-term residents who have contributed to its culture. 			

Online survey	Written submissions	Petition	Stakeholder interviews	Focus groups
	<p>Proforma Letters</p> <ul style="list-style-type: none"> • Pro-forma letters received via Byron ASTRA (306) raised issues related to loss of property rights, decreased property values, inadequacy of evidence base, personal uses and contribution of STRA to the local economy • Pro-forma letters received via Byron Bay Accom Net (73) were identical to the pro-forma letters submitted via Byron ASTRA. • Pro-forma letters were received from business owners (28) who support the STRA industry representing businesses including (but not limited to) cleaning, property management, gardening, landscaping and waste removal which all indicated they would suffer losses as a result of the proposal. • Pro-forma letters were received from holiday letting businesses (7) that raised concerns about transparency in the economic modelling, impact on investments, impacts on local economy and creation of a “black market”. 			

3.1.2 Submissions to the Independent Planning Commission

On 13 December 2022, the former Minister for Planning asked the IPC to provide advice on:

- the status of housing and rental affordability and availability in the LGA, and recommendations to improve them;
- the economic contribution of the STRA industry and any potential implications of the proposal; and
- whether or not the planning proposal should be finalised, with or without any amendments.

The IPC consulted widely in the preparation of its advice, including listening to 75 speakers at a two-day public hearing in Byron Bay on 21 and 22 February 2023 and reviewing more than 500 written submissions. The IPC collected and considered material and insights from the community and experts on the issue and also engaged the Australian Housing and Urban Research Institute to undertake additional analysis.

The IPC received a total of 532 unique author written submissions on the planning proposal made via the Commission's online submission portal, or by email or post. The IPC also received numerous form submissions and comments that were provided by Byron ASTRA and the 'Byron Deserves Balance' campaign. The unique written submissions comprised (Figure 1):

- 327 submissions in support of the Planning Proposal (61%);
- 179 submissions in objection to the Planning Proposal (34%); and
- 26 neutral comments on the Planning Proposal (5%).

Most submissions were received from the Northern Rivers region of NSW, with some submissions made from interstate areas and capital cities including Brisbane, Sydney and Melbourne.

The Advice Report noted the following key themes across unique written and verbal submissions.

- A: Lack of affordable long-term accommodation for local residents
- B: Benefits of short-term rental and risks of restrictions
- C: Community way of life and community resilience
- D: Compounding challenges of housing, flood disasters and mental health issues.

The majority of submissions to the IPC related to the lack of affordable long-term accommodation for local residents (Figure 2).

The IPC's analysis of submissions also identified four key issues of concern in the submissions, being (1) social impacts (2) economic impacts (3) housing impacts and (4) policy, regulation and management. The frequency of the key issues are shown in Figure 3.

On 24 April 2023, the IPC provided the report entitled "Byron Shire Short-Term Rental Accommodation Planning Proposal PP 2021-3351" (Advice Report) to the Minister for Planning and published its advice (**Attachment G**).

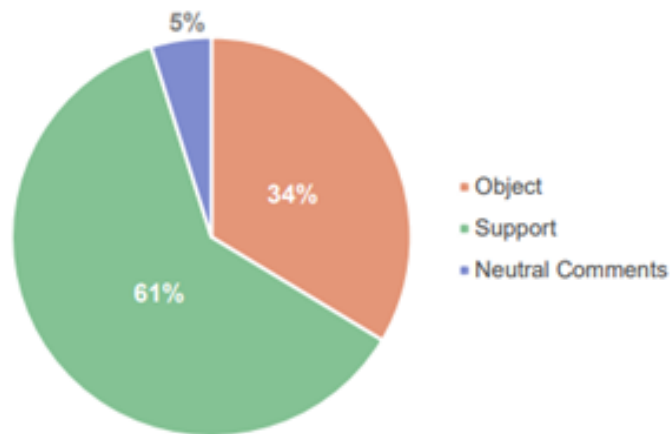


Figure 1 Overview of unique submissions received by the Commission (source: IPC Advice Report)

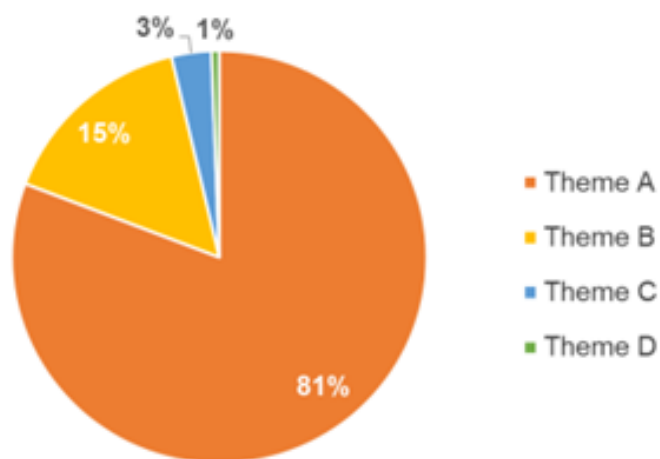


Figure 2 Thematic analysis of submissions (source: IPC Advice Report)



Figure 3 Top key issues raised in submissions by frequency of occurrence (source: IPC Advice Report)

3.1.3 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with the agencies listed below in Table 3 who have provided the following feedback (**Attachment H**).

Table 3 Advice from public authorities

Agency	Advice raised
NSW RFS	No concerns or issues raised
NSW Department of Fair Trading	No response provided

3.1.4 Post-exhibition changes

3.1.4.1 Council resolved changes

The planning proposal originally nominated 365-day precincts in Byron Bay East (Figure 4) and West (Figure 5), Brunswick Heads (Figure 6) and Suffolk Park (Figure 7).

Council resolved at its ordinary meeting on 15 December 2022 to finalise the planning proposal with changes to:

- include an additional precinct in Byron Bay Central and expand the proposed Byron Bay West precinct where no cap would apply (Figure 8); and
- remove two areas that had previously been identified as not being subject to the 90-day cap at Suffolk Park and Brunswick Heads (Figure 9).

In the preparation of the planning proposal, Council developed criteria to inform the location of these 365-day precincts which considered data for unoccupied dwellings, access to services and leisure experiences, safety, evacuation and community feedback.

The mapped precincts were refined following exhibition of the proposal in response to submissions received about the proposed precincts, specifically an expansion of the precinct boundaries in Byron Bay and a reduction to the precinct boundaries in Suffolk Park and Brunswick Heads.

Council's precincts aim to help preserve permanent housing in residential and rural areas, while recognising some areas with high tourism appeal near beaches and services may be more suitable for year round non-hosted STRA.

The Department notes these post-exhibition changes are justified and do not require re-exhibition as they:

- respond to matters raised in submissions; and
- respond to the dwelling availability and affordability issues which have been exacerbated by the effect of a growing non-hosted STRA industry.



Figure 4: Byron Bay East precinct as exhibited



Figure 5: Byron Bay West precinct as exhibited



Figure 6: Suffolk Park precinct as exhibited
(source: planning proposal)



Figure 7 Brunswick Heads precinct as exhibited

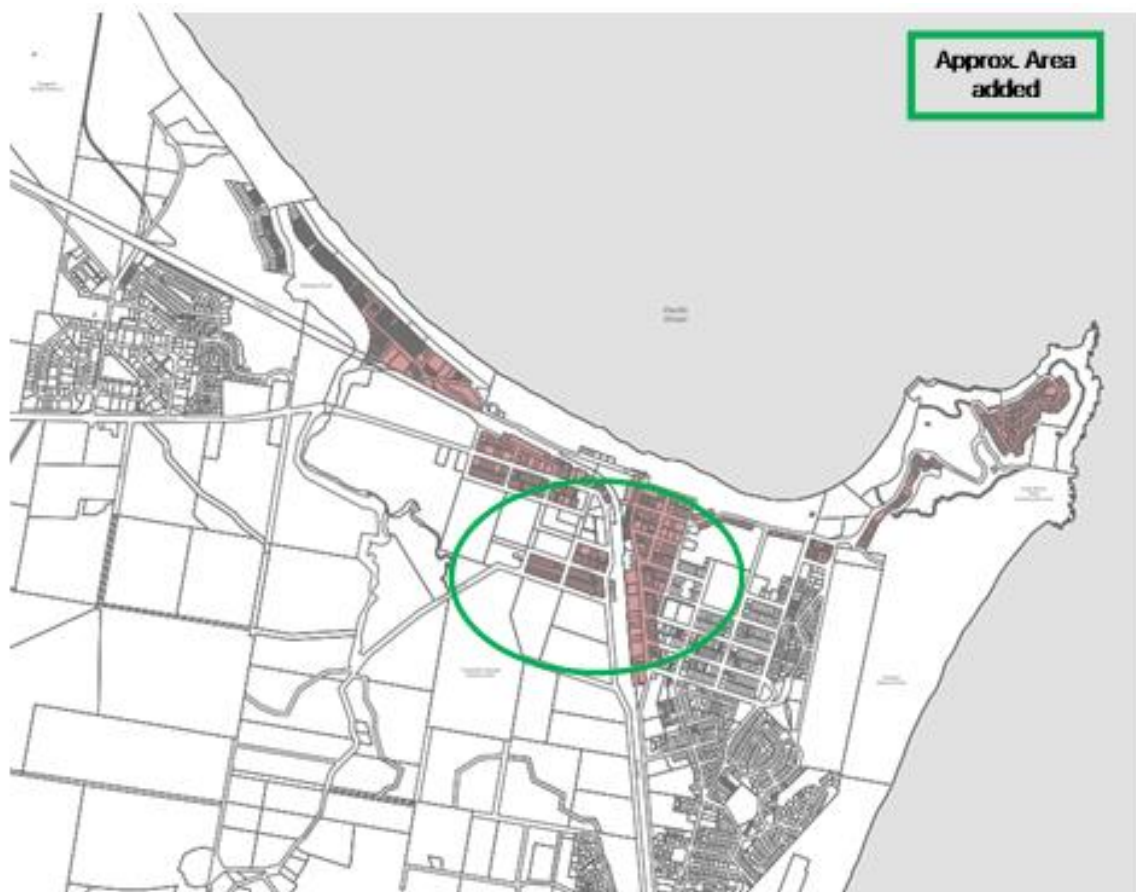


Figure 8 Byron Central, East & West precinct post exhibition (source: planning proposal)



Figure 9 Brunswick Heads precinct post exhibition (source: planning proposal)

3.1.4.2 Independent Planning Commission Advice Report

On 24 April 2023, the IPC provided its Advice Report to the Minister for Planning and published its advice (**Attachment G**). This included 12 recommendations relating to managing the local impacts of non-hosted STRA in the Byron Shire LGA, as well as measures to improve housing availability and rental affordability in the Byron Shire LGA.

The IPC formed the view that the planning proposal should not proceed in its current form as it would not mitigate the impacts of non-hosted STRA and may have unintended adverse economic consequences. Instead, the IPC recommended a 60-day cap for non-hosted STRA as exempt development alongside its other recommendations, which included a development application pathway for greater than 60-days, on the basis that:

- unlike the proposed 90-day cap, a 60-day cap would send a serious market signal to encourage a shift from non-hosted STRA uses to long-term rental; and
- 60 days reasonably provides for owners to derive supplementary income for a household – for example, using their primary dwelling for non-hosted STRA purposes while the owner is on holiday and/or away.

3.1.5 The Department's recommended changes

The Department of Planning and Environment (the Department) has carefully considered the recommendations of the IPC, Council's resolution to finalise the planning proposal, and the issues raised in submissions made to both the Council and the IPC. Having regard to these matters, it is recommended the planning proposal be finalised with a variation to apply a 60-day cap for non-hosted STRA as recommended by the IPC, rather than the 90-day cap proposed by the Council.

It is also recommended to include the Council's mapped areas where properties may be used for non-hosted STRA all year, rather than to adopt the IPC recommendation of a 60-day cap. It is considered that the post exhibition changes are justified and do not require re-exhibition they respond to matters raised in submissions and respond to the dwelling availability and affordability issues.

The recommendation seeks to achieve a balance between the recommendations of the IPC, the Council's planning proposal, the Byron Shire LGA's unique circumstances as one of Australia's most popular holiday destinations and the need to return homes to permanent residency.

3.1.6 Justification for post-exhibition changes

NSW is currently facing significant housing supply and affordability pressures, which has been described as a 'housing crisis' due to the number of people and households struggling with financial stress and access to shelter.

The Regional Housing Taskforce found that the impacts of the COVID-19 pandemic, the 2019-20 bushfires, and flooding in 2020 and 2021, among other events, have highlighted the housing challenges and the importance of having an adequate supply of affordable, appropriate, well-designed, and well located homes for regional communities' physical, social, and economic wellbeing.

Byron Shire LGA has geographical, economic and social characteristics that are impacting the affordability and availability of its housing, including purchase prices and rental costs that outweigh those in surrounding regional LGAs and many LGAs within metropolitan Sydney. The report prepared by the Australian Housing and Urban Research for the IPC shows that both hosted and non-hosted STRA together makes up 15.7% of the total housing stock in Byron Shire LGA and 27.1% in Byron Bay which significantly exceeds proportions in other key urban and coastal locations in NSW and Australia.

The IPC's Advice Report contained 12 recommendations which identified that managing the impacts of non-hosted STRA was only one part of the problem to addressing housing supply and rental affordability issues in the Byron Shire LGA.

Council has committed to increasing its housing supply through mechanisms aside from the non-hosted STRA day cap in response to the recommendations of the IPC (**Attachment I**). The Council has forecasted that 5,825 new dwellings will be delivered by 2041 which exceeds the Department's implied target of 4,522 dwelling. New dwellings will be delivered through a refresh of its residential strategy which is due to be submitted to the Department within 6 months for endorsement as well as planning proposals and the take-up of existing infill and greenfield land.

To encourage a shift from non-hosted STRA to long-term rental and further boost housing supply, the Department recommends the planning proposal be finalised with a variation to apply a 60-day cap for non-hosted STRA as recommended by the IPC, rather than the 90-day cap proposed by the Council. It is also recommended to include the Council's mapped areas where properties may be used for non-hosted STRA all year, rather than to adopt the IPC recommendation of a 60-day cap.

It is considered the 60-day cap and 365-day exempt development combination achieves a balance which will help preserve and return housing in residential and rural areas for permanent residency. It will also allow areas in Byron Bay and Brunswick Heads with high tourism appeal to be utilised for year round non-hosted STRA.

The Department proposes to commence a review of the state-wide STRA policy. The review will respond to the remaining IPC recommendations and whether they may be applied to Byron Shire LGA. A key consideration for the review will be the development application pathway for non-hosted STRA in excess of the exempt development day cap. The review will provide evidence based, objective and prioritised recommendations for future approaches to non-hosted STRA. It is anticipated the review will commence before the end of the year.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and subsequent processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report assessment
Regional Plan	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, refer to section 4.1

Table 5 Summary of site-specific assessment

Summary site-specific assessment	Consistent with Gateway determination report Assessment
Social and economic impacts	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters.

4.1.1 North Coast Regional Plan 2041

The North Coast Regional Plan 2041 was published in December 2022. An objective of the North Coast Regional Plan 2041 is to create a diverse visitor economy. It also recognises tourism can both benefit and increase pressure on the environment and smaller communities.

The submissions received by Council and the IPC highlight the significant tension between using residential properties for non-hosted STRA and ensuring the availability and affordability of long-term rental housing in the LGA. The proposal, with the recommended changes, promotes the return of non-hosted STRA to permanent residential accommodation and directs it to areas that Council has identified as suitable for year round holiday use. Including Council's mapped areas where properties may be used for non-hosted STRA all year, rather than to adopt the IPC recommendation of a Byron Shire LGA wide 60-day cap, will help enable a diverse and base of tourist accommodation options to support the local economy.

A 12 month deferral period is recommended to provide an appropriate level of certainty and transition for industry and the community. Further, as discussed in section 3.1.6 of this report, the Department proposes to commence a review of the state-wide STRA policy before the end of the year. The review will respond to the remaining IPC recommendations and whether they may be applied to the Byron Shire LGA, including the development application pathway for non-hosted STRA in excess of the exempt development day cap. As such, the inconsistency with the North Coast Regional Plan has been resolved.

4.1.2 Section 9.1 Directions

The cover letter for the Gateway determination advised Council would need to seek the agreement of the Secretary to its inconsistency with Directions: 1.1 (formerly 5.10) Implementation of Regional Plans, 4.3 (formerly 4.4) Planning for Bushfire Protection and 7.2 (formerly 3.7) Reduction in non-hosted short-term rental accommodation period.

- Direction 1.1 Implementation of Regional Plans

For the reasons discussed in section 4.1.1 of this report, the inconsistency with this Direction has been resolved.

- Direction 4.3 Planning for Bushfire Protection

Council has consulted with the Rural Fire Service (RFS) in relation to the planning proposal. The RFS has raised no objection to the planning proposal proceeding (**Attachment H**). As such, the inconsistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is justified.

- Direction 7.2 Reduction in non-hosted short-term rental accommodation period

Currently, the Direction allows the Byron Shire Council to lodge a planning proposal to reduce the number of days a dwelling within the Byron Shire LGA can be used for non-hosted STRA

from 180 days to 90-days. Consistent with the IPC recommendation, the Housing SEPP is being amended to impose a 60-day cap for non-hosted STRA in the majority of the Byron Shire LGA.

To avoid any perceived inconsistency, the Department also propose to repeal and replace Direction 7.2. The proposed the new Direction will specify that the Byron Shire Council can lodge a planning proposal to reduce the number of days a dwelling within the Byron Shire LGA can be used for the purposes of non-hosted STRA to not less than 60-days.

4.1.3 Economic Impacts

Many submissions raised concern about the potential for negative impacts on the local economy and employment as the local economy is linked to tourism and the STRA industry. The IPC also raised concern about the equity of proposed precinct boundaries.

It is acknowledged the STRA industry is seen to play a significant role in the local visitor economy. Conversely, a limiting factor to the operation and growth of the local tourism industry is reported to be lack of local housing for key workers and workers supporting the tourism.

The Department's recommendation aims to strike a balance between the recommendations of the IPC, the Council's planning proposal, and the Byron Shire LGA's unique circumstances as one of Australia's most popular holiday destinations and the need to return homes to long-term rental.

A 12-month deferred commencement period is recommended to provide an appropriate level of certainty and transition for industry. Further, as discussed in section 3.1.6 of this report, the Department proposes to commence a review of the state-wide STRA policy before the end of the year. The review will respond to the remaining IPC recommendations and whether they may be applied to Byron Shire LGA, including the development application pathway for non-hosted STRA in excess of the exempt development day cap.

4.1.4 Social Impacts

The IPC found that the change in the socio-economic make up of Byron Shire LGA has concurrently accompanied a significant reduction in housing options for those on lower incomes, and housing in the area has also been affected by recent flood events. All these conditions are exacerbated by the effect of a growing non-hosted STRA industry on dwelling availability and affordability.

The majority of submissions received by the IPC related to the lack of affordable long-term accommodation for local residents. A number of submissions to Council and the IPC related to the social impacts of non-hosted STRA including matters of amenity and social cohesion and strain on infrastructure. Given the high proportion of non-hosted STRA compared to permanent accommodation in the Byron Shire LGA and surrounding LGAs, it is considered the proposal, with the recommended changes, will result in positive social outcomes by helping with availability and affordability of long-term housing. The recommended outcome also provides an accommodation base to cater for the tourist and visitor market which continues to support the local economy.

The completion of the STRA policy review will allow the Department to provide evidence based, objective and prioritised recommendations for future regulatory approaches for STRA.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 5 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Maps have been prepared by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Council	Council was consulted on the terms of the draft instrument under clause 3.36(1) of the Environmental Planning and Assessment Act 1979.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Parliamentary Counsel Opinion	On 9 September 2023, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

6 Recommendation

It is recommended:

1. The A/Deputy Secretary, Planning Land Use Strategy and Housing as delegate of the Secretary **agrees** that the inconsistency of planning proposal PP-2021-3351 with section 9.1 Directions 1.1 Implementation of Regional Plans and 4.3 Planning for Bushfire Protection are justified in accordance with the terms of the Directions.
2. The Minister **approve** and **sign** the section 9.1 direction entitled Reduction in non-hosted short-term rental accommodation period, to specify that Byron Shire Council can lodge a planning proposal to reduce the number of days a dwelling in the Byron Shire LGA can be used for the purposes of non-hosted STRA to not less than 60 days.
3. The Minister **determines** as the local plan-making authority to make the draft instrument, with recommended changes as outlined in the report, under section 3.36 of the *Environmental Planning and Assessment Act 1979* because it:
 - will help preserve permanent housing in residential and rural areas and allow areas in Byron Bay and Brunswick Heads with high tourism appeal near beaches and services to be utilised for year round non-hosted STRA;
 - broadly aligns with the recommendation of the IPC to apply a 60-day cap across the LGA, noting the IPC found that Council's proposed 90-day cap would not mitigate the impacts of non-hosted STRA;
 - is in the public interest as it will encourage the return of homes used for non-hosted STRA to permanent residency and addresses the key issues identified in public submissions to the IPC, being social impacts, housing supply and housing affordability;
 - recognises the housing market and housing pressures in Byron Shire LGA are different to other places and due to its unique and exceptional circumstances; and
 - has a 12-month deferred commencement date to provide an appropriate level of certainty and transition for industry, the Council and the community; and
 - the Department has committed to commence a review of the state-wide STRA policy which will respond to the recommendations of the IPC, including the development application pathway, and provide evidence based, objective and prioritised recommendations for future regulatory approaches for non-hosted STRA.

Jeremy Gray
Director, Northern Region
6 September 2023

Malcolm McDonald
Executive Director, Local & Regional Planning
7 September 2023

Ashley Albury
A/Deputy Secretary, Planning Land Use Strategy and Housing
11 September 2023

Paul Scully MP
Minister for Planning and Public Spaces
21 September 2023

Attachments

Attachment	Document
A	Planning proposal (V5) dated 02.23
B	Gateway determination dated 24.06.21
C	Gateway alteration dated 03.06.22
D	Gateway alteration dated 13.12.23
E	Gateway alteration dated 16.06.23
F	Locale Engagement Report dated 11.22
G	Independent Planning Commission Advice Report dated 24.04.23
H	Response from NSW RFS dated 21.12.22
I	Letter from Council to the Department 15.08.2023
PC	Parliamentary Counsel's Opinion
LEP	Byron Local Environmental Plan (Housing) Amendment 2023
Map	Byron Shire Short-term Rental Accommodation Map