

# Short-term rental accommodation Planning Proposal

## Frequently Asked Questions

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## Overview of the Planning Proposal

Council is proposing to limit non-hosted short-term rental accommodation (STRA) to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. A Planning Proposal has been prepared and is now on public exhibition.

### How did the Planning Proposal come about?

The Planning Proposal is the result of a “Local Planning Direction” originally issued by the Minister for Planning on 15 February 2019. The Direction gave Byron Shire Council the opportunity to lodge a Planning Proposal that could identify or reduce the number of days that non-hosted STRA may be carried out in parts of its local government area.

### What does the Planning Proposal do?

At the current time, non-hosted STRA is limited to 180-days per year. This rule is set by the NSW Government and has applied to the Byron Shire since 31 January 2022.

If the Planning Proposal is adopted, non-hosted STRA will be limited to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year.

## Why is Council considering a limitation on non-hosted STRA?

The region's popularity as a tourist destination, combined with the emergence of online accommodation platforms and the ability for landowners to achieve comparatively high rental yields, has led to a boom in the STRA sector over the past decade. What was once a relatively low-key industry, consisting of holiday houses and apartments let out for part of the year, has expanded to become the dominant provider of tourist and visitor accommodation services in Byron Shire.

Council believes that the shift away from permanent housing towards STRA has contributed to a range of social and economic issues in the region including upward pressure on house prices and rents and reduced levels of accommodation availability for workers. See the [Social and economic impacts section on page 3](#) for more details.

The changes only apply to non-hosted STRA as Council considers this to have a greater impact on the residential housing market than hosted STRA.

## Overview of exhibition and finalisation process

Council is proposing to limit non-hosted short-term rental accommodation (STRA) to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. A Planning Proposal has been prepared and is now on public exhibition.

### How long will the Planning Proposal be on public exhibition?

The Planning Proposal is on public exhibition from 1 September 2022 to 31 October 2022.

### What happens after the exhibition process ends?

Council will consider the submissions made during the public exhibition period together with the feedback received from the broader consultation activities. It will then review the Planning Proposal and may implement changes to address any issues raised.

### Will the precinct boundaries change because of the consultation?

As part of the consultation process, Council is seeking feedback on the precincts mapped for 365-day non-hosted STRA. Council will consider this feedback when it makes a decision on whether to proceed with the Planning Proposal. Any changes to the precincts must still meet the objectives and intended outcomes of the Planning Proposal.

### Who makes the final decision about the Planning Proposal?

Council has been given delegation to make the final decision on whether to proceed with the Planning Proposal. This is called acting as the "Local Plan Making Authority". Importantly, Council cannot reduce the cap for non-hosted STRA below 90-days. Council must also thoroughly consider all of the submissions received during exhibition of the Planning Proposal. Council must also publish reasons for its decision.

## When will the Planning Proposal be finalised?

Council must finalise the planning proposal by 24 June 2023.

## When will the changes come into effect?

If the changes are supported by Council following exhibition, there will be a 12-month transition period for the introduction of the provisions. This means the changes will not come into effect until 2024.

## Social and economic impacts

Council is proposing to limit non-hosted short-term rental accommodation (STRA) to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. A Planning Proposal has been prepared and is now on public exhibition.

## What are the social impacts that are of concern to Council?

Council is concerned that rapid growth in the number of STRA properties and resulting reduction in available permanent accommodation in recent years has contributed to a range of social issues in the Byron Shire, including:

- Loss of housing for workers and residents
- Housing affordability issues
- Increased housing stress
- Increased rates of homelessness and unstable or intermittent accommodation
- Dislocation of community due to a significant loss of housing stock
- A sense of isolation for remaining residents in areas with high STRA concentrations who are surrounded by a transient population

The Planning Proposal is projected to significantly increase the supply of permanent housing and Council considers it to be the most effective policy for addressing social issues that have arisen primarily due to a loss of housing to the STRA sector. The outcomes of the Planning Proposal are expected to result in a 27% increase in long-term rental and owner-occupied dwellings, higher than any of the other policy options that were explored in the Economic Impact Assessment (EIA).

## What economic impacts are expected?

Council does not expect the proposed changes to have a significant effect on overnight visitation or retail driven spending, which are both predicted to grow between 2021 and 2027. A Peer Review of the EIA highlighted that the potential economic effects of the proposed 90-day cap may have been overestimated in the EIA because there was limited analysis of the positive impacts of increased long-term rental tenants on local spending and employment.

The Peer Review concluded that 'the economic impacts on Byron Shire from the changes proposed by Council would be very modest, and on the NSW economy likely to be negligible

since the negative impacts on the Byron LGA would likely be matched by positive impacts on surrounding LGAs’.

The EIA does, however, identify a range of impacts on various segments of the community and wider market, including generally negative economic impacts on residential property market owners due to reduced demand for holiday rental properties and a reduction in accommodation for visitors.

## Planning and policy framework

Council is proposing to limit non-hosted short-term rental accommodation (STRA) to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. A Planning Proposal has been prepared and is now on public exhibition.

### How does the Planning Proposal work within Council’s planning and policy framework?

There are a number of documents that establish a basis for Council’s position on STRA within the Byron Shire. These include:

- Byron Shire Community Strategic Plan 2032
- Local Strategic Planning Statement 2020
- North Coast Regional Plan 2036 and draft Regional Plan 2041
- Byron Shire Residential Strategy

All of these documents acknowledge the difficult housing situation in the area, with increasing prices and decreasing affordability being met with increasing demand for use of dwellings as holiday houses or STRA, as well as the loss of supply regionally from recent natural disasters.

### What other independent information has Council relied on?

There are a number of independent studies that have been undertaken about the impacts of STRA. Council also commissioned a peer review of the Economic Impact Assessment (EIA) that found some key concerns about the process and outcomes. Details of these are provided in the Planning Proposal.

### What are the key outcomes that Council’s work has identified?

There are a number of intended outcomes that have been identified by Council in developing the Planning Proposal and why this form of change is the most effective way of achieving the desired outcomes. In summary, the Planning Proposal identifies:

“On balance, the planning proposal is considered to be the most effective option for mitigating the impacts of the STRA sector as it will deliver a 27% increase in long-term rental and owner occupier dwellings and is unlikely to have a significant impact on tourism or employment. This compares favourably to other options discussed in the EIA which will

provide very little assistance to the housing market while offering only slightly greater economic benefits.”

## The existing rules

Council is proposing to limit non-hosted short-term rental accommodation (STRA) to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. A Planning Proposal has been prepared and is now on public exhibition.

### What are the current rules for STRA?

The NSW Government regulates STRA through the State Environmental Planning Policy (Housing) 2021 (known as the Housing SEPP). Under these rules, a property that is:

- hosted STRA can be used 365-days a year without the need to obtain planning approvals
- non-hosted STRA can be used 180-days a year in Greater Sydney and nominated regional local government areas and 365 days in all other locations

The 180-day cap has applied to the Byron Shire since 31 January 2022.

The Housing SEPP also provides a planning pathway (without obtaining any planning approvals) for hosted and non-hosted STRA and requires all hosts to register their STRA property on the State Government-run STRA Register.

### What is the difference between hosted and non-hosted STRA?

The difference between hosted and non-hosted STRA is whether the host lives on the property whilst guests are staying there. The host could be the owner of the property, a tenant, or a permanent resident. The host needs to be living on the property, but not necessarily in the home being let to guests, e.g. a granny flat.

### How can Council have different rules to the rest of NSW?

Council is seeking to apply different rules to other areas of NSW due to the high concentration of STRA properties in the Shire, and the impact that this is having on the housing market.

Following a number of steps over many years (refer to [Project history on page 9](#)), the Minister for Planning allowed the Planning Proposal to progress through the NSW Government’s “Gateway” process subject to a number of conditions. The exhibition of the Planning Proposal and the associated consultation processes are part of the subsequent requirements that must be undertaken and considered by Council before changes (new rules) under the Housing SEPP can take effect.

## Options considered by Council

Council is proposing to limit non-hosted short-term rental accommodation (STRA) to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. A Planning Proposal has been prepared and is now on public exhibition.

### What options were considered?

There have been several alternative planning options reviewed and considered as part of the Planning Proposal process. In particular, the Economic Impact Assessment (EIA) identified and tested a total of six variations to establish the relative impacts of each. These included:

1. Base Case: being the default under the State Environmental Planning Policy (Housing) 2021, i.e. a 180-day cap on non-hosted STRA across the entire Shire
2. Base Case Alternative: being a 180-day cap on non-hosted STRA across the Shire, except in designated precincts (identified by the EIA authors) that include the majority of urban areas where no restriction would apply
3. Option 1: being a 90-day cap on non-hosted STRA outside of Council identified precincts, with no caps within the precincts
4. Option 1A: being a 180-day cap on non-hosted STRA outside of Council identified precincts, with no caps within the precincts
5. Option 1B: being a 90-day cap on non-hosted STRA outside of designated precincts (identified by the EIA authors) that include the majority of urban areas where no restriction would apply
6. Option 2: being that no caps or restrictions are applied to any non-hosted STRA within the Shire.

### Why is Council is going ahead with the 90-day cap?

Whilst each option results in various impacts, the Planning Proposal concludes:

“On balance, the planning proposal [i.e. alternative 3 above] is considered to be the most effective option for mitigating the impacts of the STRA sector as it will deliver a 27% increase in long-term rental and owner occupier dwellings and is unlikely to have a significant impact on tourism or employment. This compares favourably to other options discussed in the EIA which will provide very little assistance to the housing market while offering only slightly greater economic benefits.”

Further details on the options are provided in the EIA and the Peer Review of the EIA.

## Proposed changes & mapped precincts

Council is proposing to limit non-hosted short-term rental accommodation (STRA) to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. A Planning Proposal has been prepared and is now on public exhibition.

## What are the proposed changes?

If the Planning Proposal proceeds, the following changes are proposed within State Environmental Planning Policy (Housing) 2021 (Housing SEPP):

- The introduction of new mapping to identify designated areas or precincts where non-hosted STRA is permitted 365-days per year
- The introduction of a new clause that will limit non-hosted STRA in all other areas of the Byron Shire to 90-days per year

## What are the mapped or designated STRA areas?

The mapped areas, where non-hosted STRA will be permitted 365-days per year, include:

- Byron Bay (East), including the Wategos Beach area, along Lighthouse Road, Lawson Street (east of Middleton Street) and north of Kipling Street
- Byron Bay (West), including areas to the north of Shirley Street and along Belongil Beach
- Part of Suffolk Park adjoining Tallows Beach and with a frontage to Alcorn Street
- Brunswick Heads to the east of Tweed Street and east of Simpsons Creek

You can view the mapped areas on our website – <https://www.byron.nsw.gov.au/stra-pp>.

## How has Council determined the boundaries for the 365-day precincts?

These areas have been identified by Council as they are considered to have high tourism appeal and are most suited for unrestricted holiday letting due to their proximity to the beaches and services.

## What about hosted STRA?

Hosted STRA, where the host (usually the owner) resides on the premises during the provision of the accommodation, will remain available for short-term rental 365-days per year. This includes the rental of a secondary dwelling, such as a granny flat, where the host resides in another dwelling on the site.

## Key reasons for change

Council is proposing to limit non-hosted short-term rental accommodation (STRA) to 90-days per year in most of the Byron local government area. Exceptions to this are proposed to include four mapped precincts in parts of Byron Bay (East and West), Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. A Planning Proposal has been prepared and is now on public exhibition.

## What are the key reasons why Council wants to make these changes?

Research carried out over the past five years indicates that Byron Shire has the highest concentration of STRA of any local government area in NSW by a considerable margin. Rapid expansion of the local STRA sector over the past decade has led to a loss of permanent rental housing and has contributed to a range of social and economic issues in the region. These issues (as identified in the Planning Proposal) include:

- dislocation of long-term residents
- upward pressure on house prices and rents
- increased housing stress and homelessness
- disruption from community, and
- a sense of isolation for remaining residents.

The diminishing availability of housing near major employment areas such as Byron Bay also makes it harder for workers to live close to their place of employment, limiting the ability to attract and retain workers to the region.

### **What has the NSW Government done?**

In recognition of these issues, the then Minister for Planning issued a Direction in February 2019 which gave Byron Shire Council the opportunity to prepare a Planning Proposal that could identify or reduce the number of days that non-hosted STRA may be carried out in parts of the Shire. The Direction recognises that the impacts of STRA are not evenly distributed across NSW and that a one-size-fits-all policy response is not the best solution for all communities.

Importantly, in November 2021 the NSW Government introduced regulations for short-term rental accommodation that apply across the State. This included a mandatory code of conduct for the STRA industry, as well as a State run STRA register that “will ensure compliance with the new fire safety standards, as well as tracking day limits of each STRA dwelling”.

In June 2022, the current Minister for Planning issued an altered Gateway Determination to enable the Planning Proposal to proceed to the current exhibition process. In doing so, the Minister recognised in correspondence to Council the unique and exceptional circumstances facing the Byron Shire. This includes the impact of recent flooding on housing availability and affordability as well as the existing high proportion of STRA compared to permanent housing.

## Project history

