

Compilation of Ministerial Directions

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

Objective

The objectives of this direction are to:

- (a) mitigate significant impacts of short-term rental accommodation where non-hosted short-term rental accommodation period are to be reduced, and
- (b) ensure the impacts of short-term rental accommodation and views of the community are considered.

Application

This direction applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.

Direction 7.2

- (1) The council must include provisions which give effect to the following principles in a planning proposal to which this direction applies:
 - (a) non-hosted short term rental accommodation periods must not be reduced to be less than 90 days
 - (b) the reasons for changing the non-hosted short-term rental accommodation period should be clearly articulated
 - (c) the impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including social and economic impacts for the community in general, and impacted property owners specifically.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Minister that the provisions of the planning proposal that are inconsistent are of minor significance.

Note: In this direction:

short-term rental accommodation means an existing dwelling:

- (a) in which accommodation is lawfully provided on a commercial basis by the owner or tenant of the dwelling (the host) for a temporary or short-term period, with or without the host residing on the premises during that period, and
- (b) that, if it were used predominantly as a place of residence, would be one of the following types of residential accommodation:
 - i. an attached dwelling,
 - ii. a dual occupancy,
 - iii. a dwelling house,
 - iv. multi dwelling housing,
 - v. a residential flat building,
 - vi. a rural workers' dwelling,
 - vii. a secondary dwelling,
 - viii. a semi-detached dwelling,
 - ix. shop top housing.

Note. Section 137A of the *Strata Schemes Management Act 2015* provides that a by-law made by a special resolution of an owners corporation may prohibit a lot being used for the purposes of a short-term rental accommodation arrangement (within the meaning of section 54A of the *Fair Trading Act 1987*) if the lot is not the

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

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Application

This direction applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.

Direction 7.2

- (1) The council must include provisions which give effect to the following principles in a planning proposal to which this direction applies:
 - (a) non-hosted short term rental accommodation periods must not be reduced to be less than 90 days
 - (b) the reasons for changing the non-hosted short-term rental accommodation period should be clearly articulated
 - (c) there should be a sound evidence base for the proposed change, including evidence of the availability of short-term rental accommodation in the area (or parts of the area) in the 12 months preceding the proposal, relative to the amount of housing in the area, and trend data on the availability of short-term rental accommodation over the past 5 years.
 - (d) the impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including social and economic impacts for the community in general, and impacted property owners specifically.

Now removed

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are of minor significance.

Note: In this direction:

short-term rental accommodation means an existing dwelling:

- (a) in which accommodation is lawfully provided on a commercial basis by the owner or tenant of the dwelling (the host) for a temporary or short-term period, with or without the host residing on the premises during that period, and
- (b) that, if it were used predominantly as a place of residence, would be one of the following types of residential accommodation:
 - i. an attached dwelling,
 - ii. a dual occupancy,
 - iii. a dwelling house,
 - iv. multi dwelling housing,
 - v. a residential flat building,
 - vi. a rural workers' dwelling,
 - vii. a secondary dwelling,
 - viii. a semi-detached dwelling,

ix. shop top housing.

Note. Section 137A of the *Strata Schemes Management Act 2015* provides that a by-law made by a special resolution of an owners corporation may prohibit a lot being used for the purposes of a short-term rental accommodation arrangement (within the meaning of section 54A of the *Fair Trading Act 1987*) if the lot is not the principal place of residence of the person who, pursuant to the arrangement, is giving another person the right to occupy the lot.

tenant has the same meaning as in the *Residential Tenancies Act 2010*.

non-hosted short-term rental accommodation means short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation.

Issued to commence 1 March 2022 (replaces previous Direction 3.7)

3.7 Reduction in non-hosted short term rental accommodation period

Objective

- (1) The objectives of this direction are to:
 - (a) mitigate significant impacts of short-term rental accommodation where non-hosted short-term rental accommodation period are to be reduced, and
 - (b) ensure the impacts of short-term rental accommodation and views of the community are considered.

Where this direction applies

- (2) This direction applies to Byron Shire Council.

When this direction applies

- (3) This direction applies when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.

What a planning proposal authority must do if this direction applies

- (4) The council must include provisions which give effect to the following principles in a planning proposal to which this direction applies:
 - o non-hosted short term rental accommodation periods must not be reduced to be less than 90 days
 - o the reasons for changing the non-hosted short-term rental accommodation period should be clearly articulated
 - o there should be a sound evidence base for the proposed change, including evidence of the availability of short-term rental accommodation in the area (or parts of the area) in the 12 months preceding the proposal, relative to the amount of housing in the area, and trend data on the availability of short-term rental accommodation over the past 5 years.
 - o the impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including social and economic impacts for the community in general, and impacted property owners specifically.

Consistency

- (5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.

Note: In this direction:

short-term rental accommodation means an existing dwelling:

- (a) in which accommodation is lawfully provided on a commercial basis by the owner or tenant of the dwelling (the **host**) for a temporary or short-term period, with or without the host residing on the premises during that period, and
- (b) that, if it were used predominantly as a place of residence, would be one of the following types of residential accommodation:
 - (i) an attached dwelling,
 - (ii) a dual occupancy,
 - (iii) a dwelling house,
 - (iv) multi dwelling housing,
 - (v) a residential flat building,
 - (vi) a rural workers' dwelling,
 - (vii) a secondary dwelling,
 - (viii) a semi-detached dwelling,
 - (ix) shop top housing.

Note. Section 137A of the *Strata Schemes Management Act 2015* provides that a by-law made by a special resolution of an owners corporation may prohibit a lot being used for the purposes of a short-term rental

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accommodation arrangement (within the meaning of section 54A of the *Fair Trading Act 1987*) if the lot is not the principal place of residence of the person who, pursuant to the arrangement, is giving another person the right to occupy the lot.

tenant has the same meaning as in the *Residential Tenancies Act 2010*.

non-hosted short-term rental accommodation means short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation.

Direction 3.7 – issued 15 February 2019