



The Hon. Anthony Roberts MP
Minister for Planning
Minister for Homes

IRF22/4173

Professor Mary O'Kane AC
Chair
Independent Planning Commission
Level 3, 201 Elizabeth Street
SYDNEY NSW 2000

Via email: ipcn@ipcn.nsw.gov.au


Dear Professor O'Kane

I write to request the Independent Planning Commission (the Commission) provide advice as part of the finalisation of the planning proposal to reduce the number of days of non-hosted short-term rental accommodation in parts of the Byron Shire (PP-2021-3351).

On 11 February 2019 I issued a Ministerial Direction that allowed Byron Shire Council (Council) to prepare a planning proposal that could reduce the number of days that non-hosted short term rental accommodation (STRA) may be carried out in parts of the local government area (LGA). The Direction outlined some principles for the planning proposal, including that the day cap cannot be less than 90 days and that the impacts of the proposal should be analysed and explained, including the social and economic impacts for the community in general and impacted property owners specifically.

The planning proposal prepared by Council seeks to make amendments to *State Environmental Planning Policy (Housing) 2021* to reduce the number of days of non-hosted STRA in parts of the Byron Shire LGA.

The Gateway determination issued by the Department of Planning and Environment (the Department) on 24 June 2021 required an Economic Impact Assessment (EIA) be prepared to analyse the potential impacts of varying caps on non-hosted STRA. It also required the proposal be updated in accordance with the findings of the EIA.

The EIA, jointly funded by Council and the Department, recommended a cap of 180 days be placed on non-hosted STRA across the Byron Shire LGA on the basis that it would generate the highest net benefit to the community and local industry. This is consistent with the State policy for Byron Shire, which operates under a 180-day cap across the LGA.

However, given the exceptional circumstances that were facing Byron Shire due to the impact of flooding on the availability and affordability of housing, combined with the high proportion of STRA compared to permanent accommodation within the LGA, I decided it was in the public interest for the proposal to progress to exhibition. On 3 June 2022, I issued an alteration to the Gateway determination to allow the proposal to progress to community consultation.

The planning proposal was exhibited for 61 days, from 1 September to 31 October 2022. An online survey on the planning proposal attracted a total of 766 responses. Council also received 784 written submissions, noting 530 of these submissions made by STRA property owners as well as an online petition which received 981 signatures online and 142 signatures offline. In total, over 1,500 forms of feedback were received whilst the planning proposal was on exhibition.

Given the large number of submissions related to the proposal and the potentially significant economic impacts it could have on local businesses, I have made the decision to seek advice from the Commission before the proposal is finalised. I have also removed Council's delegation to be responsible for finalising the proposal, so that the Commission's advice can be carefully considered before the planning proposal progresses further.

In this regard, the Commission is requested to:

- provide advice on the status of housing and rental affordability and rental availability in the Byron Shire, including the impact of non-hosted STRA as well as recent flood events
- provide recommendations to the Department to improve housing affordability and rental availability in the Byron Shire. Noting these recommendations may be used by the Minister, Council and Northern Rivers Reconstruction Corporation
- provide advice on the economic contribution of the STRA industry in Byron Shire, and any potential economic implications for Byron Shire with the introduction of Council's proposed 90 and 365-day caps for non-hosted short term rental accommodation in parts of Byron Shire. The IPC may consider commissioning specific technical analysis to inform its advice on this matter
- hold a public hearing to provide the opportunity to hear public views from the community and industry as part of the IPC's review
- provide advice to the Minister on whether Council's planning proposal to reduce the number of days of non-hosted STRA in parts of the Byron Shire should be finalised, with or without amendments, and whether any further information may be required for finalisation of the proposal.

I strongly encourage the Commission to meet with the Council, the Department and any other relevant agencies to clarify any issues before finalising its review.

The proposal will be reported to Council on 15 December 2022. The staff recommendation is that the proposal be finalised with minor amendments.

I have notified Council regarding referral of the matter of the Commission and have asked Council to provide all information in its possession to both the Department and the Commission for consideration. Some information and documents which may assist the Commission with its review are also attached. A complete package of documentation submitted with the planning proposal is available on the NSW Planning Portal.

I have asked the Department to make itself available to brief the Commission. Should you have any questions, you are welcome to contact Mr Malcolm McDonald, Executive Director, Local and Regional Planning, at the Department on 9274 6267.

Yours sincerely



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Weblinks

No.	Information	Source
1	PP-2021-3351 Planning Portal	Department of Planning and Environment / Byron Shire Council
2	North Coast Regional Plan 2041	Department of Planning and Environment
3	Ministerial Directions	Department of Planning and Environment

Attachments

No.	Document	Source	Date
1	Byron Shire Short Term Rental Accommodation Caps Economic Impact Assessment	Urbis	November 2021
2	Byron Shire Short-term Rental Accommodation Caps Economic Assessment Peer Review	Dr Peter Phibbs	24.12.21
3	PP-2021-3351 Planning Proposal	Byron Shire Council	July 2022
4	Short -Term Rental Accommodation Planning Proposal Engagement Report	Locale Consulting	November 2022
5	Agenda Ordinary Council Meeting	Byron Shire Council	15.12.2022
6	Draft Byron Shire Affordable Housing Contribution Scheme for Exhibition	Byron Shire Council	February 2022
7	Byron Shire Residential Strategy	Byron Shire Council	December 2020
8	PP-2021-3351 Gateway determination	Department of Planning and Environment	24.06.21
9	PP-2021-3351 Alteration to Gateway determination	Department of Planning and Environment	03.06.22
10	Cover letter to Gateway alteration from Minister to Council	Department of Planning and Environment	03.06.22

No.	Document	Source	Date
11	Communication from Australian Short Term Rental Association to Minister	Australian Short Term Rental Association	28.10.22
12	Communication from A Perfect Stay to Minister	A Perfect Stay	06.12.22
13	Letter from Byron Shire Councillor Alan Hunter to Minister	Australian Short Term Rental Association	undated
14	Letter from Byron Shire Councillor Mark Swivel to Minister	Australian Short Term Rental Association	19.10.22
15	Letter from Byron Shire Councillor Mayor Michael Lyon to Minister	Byron Shire Council	31.03.22