



**New South Wales Government**  
**Independent Planning Commission**

**TRANSCRIPT OF PROCEEDINGS**

RE: BYRON SHIRE - SHORT TERM RENTAL ACCOMMODATION  
PLANNING PROPOSAL (PP-2021-3351)

**BYRON CHAPTER ASTRA MEETING**

COMMISSION PANEL: DR SHERIDAN COAKES (Panel Chair)  
PROFESSOR RICHARD MACKAY AM  
JULIET GRANT

OFFICE OF THE IPC: STEPHEN BARRY  
OLIVER COPE

BYRON CHAPTER,  
AUSTRALIAN  
SHORT-TERM RENTAL  
ASSOCIATION (ASTRA): COLIN HUSSEY  
CAMPBELL KORFF  
SARAH WORKMAN

LOCATION: VIA VIDEO CONFERENCE

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**TRANSCRIBED AND RECORDED BY APT TRANSCRIPTIONS**

DR SHERIDAN COAKES: So before we formally begin, I would like to acknowledge that I'm speaking to you from Worimi Land, and I acknowledge the traditional owners of all of the country from which we virtually meet today, and pay my respects to their Elders past and present.

Welcome to the meeting today to discuss the planning proposal to reduce the number of days of non-hosted short-term rental accommodation in parts of the Byron Shire currently before the Commission for advice. My name is Dr Sheridan Coakes. I am the Chair of this Commission Panel, and I am joined by my fellow Commissioners, Professor Richard Mackay and Ms Juliet Grant. We are also joined by Stephen Barry and Oliver Cope from the Office of the Independent Planning Commission.

In the interests of openness and transparency and to ensure the full capture of information, today's meeting is being recorded and a complete transcript will be produced and made available on the Commission's website.

The meeting is one part of the Commission's consideration of the matter and will form one of several sources of information upon which the Commission will base its advice. It's important for Commissioners to ask questions of attendees to clarify issues whenever it is considered appropriate. If you are asked a question and you're not in a position to answer, please feel free to take that question on notice and provide any additional information in writing, which we will then put up on our website. I request that all members just introduce themselves formally before speaking for the first time and for all members to ensure they do not speak over the top of each other to ensure accuracy of the transcript. So we will now begin.

So thank you very much for your time today. We pulled together a bit of an agenda of the sort of items that we'd like to cover, and we do understand that you have prepared a presentation. Is that correct?

MR COLIN HUSSEY: Yes. I'll share that with you now.

DR COAKES: Okay, lovely. So if you're comfortable, what we'd quite like to do is maybe if we roll through that presentation, and then as we go, we can probably, in the interests of time, if we could ask questions as we go, that would be great.

MR HUSSEY: Yes, that's fantastic, and thank you very much for having us. Welcome, almost, to Byron, virtually, anyway, to Byron. Yes, it's a great opportunity for us to have 30 minutes with you, so we really appreciate it. Thank you. None of us have ever presented to the IPC before, so one question I have is, how would you like us to refer to you - Commissioners? Is there some, can give us some guidance on that, if you can?

DR COAKES: Commissioner is fine. It might make it easier. That's fine.

MR HUSSEY: Right. So what we thought we would do, as we said in the beginning, my name is Colin Hussey, I have a holiday rental or a short-term rental business in Byron. I was one of the owners that's recently sold, and the CEO of that business, and I'm also the Chair of the ASTRA chapter, and I'll let Cam introduce himself.

MR CAMPBELL KORFF: Campbell Korff. I'm the owner of Byron Coastal Real Estate. We manage both holiday rentals and permanent commercial rentals in Byron Bay, and I have a couple of other businesses in the area and grew up here.

MS SARAH WORKMAN: My name is Sarah Workman. I'm the Project Manager for ASTRA Byron and the Byron Deserves Better campaign, and I also work within the short-term rental accommodation industry in Byron Shire.

MR HUSSEY: So some of the things that we thought you would want to know, and probably relates to our backgrounds, our businesses, you know, I've been in the area for 20 years, so our specific IP is, you know, what is the objective that the local  
10 council and State are trying to achieve? Does the policy that's on the table achieve that, and does it sort of sync in with the strategy of the Byron Shire Council? And once we look at that, if we think that it will or won't, are there any unintended consequences that this policy may have? So, and then we had it set up so there'd be questions at the end, but, yes, feel free to jump in. I think it's easier that way, actually, because I always forget my questions in these sorts of things.

So the ASTRA is - just to give you a little bit of background, the very first code of conduct that was ever developed for this industry was actually developed in Byron. Byron, as you know, is a coastal, very popular, you know, holiday destination town. It's been dealing with and grappling with tourism for a long time. About 20 years ago,  
20 Byron Shire Council sent a letter to all of the managing agents, it was more like traditional real estate agents that managed holiday homes at that period, saying they needed to shut down, and if they didn't, they'd have a million-dollar a day fine. So the owners got together and some groups got together and created what was called the HLO, Holiday Letting Organisation, and kind of rebuffed or refuted that, and this probably has been going on for 20 years, since that point, angst in the community around this issue.

The HLO, the Holiday Letting Organisation, actually developed the very first code of conduct. It then got picked up by what was called the HRIA, Holiday Rental Industry Association, which was a state-wide and then national industry, and it was really  
30 controlled by OTAs - are you guys across, the Commissioners across, the OTA, online travel agents, Airbnb, Booking.com?

DR COAKES: Yes.

MR HUSSEY: Yes. If I use any acronyms or, you know, anything - - -

DR COAKES: I'll ask you to explain. Thanks, Campbell.

MR HUSSEY: Yes. Just yell out. But the HRIA was really controlled by the OTAs. They put the money in and they had certain agendas. Really, the industry took over that body and it became what's now known as ASTRA. It is a far more representative body of the entire industry, because the industry is not just OTAs, it's obviously owners, it's people like us that manage on behalf of owners, it's all of the (not  
40 transcribable) that work in the industry, cleaners, pool, gardeners and so on and then

the ancillary community, whether that's, you know, retail, restaurants, cafes, but also obviously the community that we live in. So it's far more representative of the total industry. And then Byron ASTRA was developed, or was set up, really quite recently in response to this particular policy, the 90 days, and what's happening on the ground in Byron. Does that kind of answer your, or does that give you enough background?

MS WORKMAN: Colin, if I can jump in. Sarah here. One of the questions that the Commission had was, are there other chapters or other subgroups of ASTRA? The answer to that is yes. ASTRA has actually formed the National Advocacy Subcommittee, and they're also looking at responding to different issues in each State. So they're quite active within their own State, because obviously the legislation is quite different for rental accommodation by State. They've got a national hat, they've got State chapters, and then in this instance, like Colin has just said, where there's an immediate need in the Local Government Area, the ASTRA is mobilised. So ASTRA overall is a highly mobilised industry that's very connected to its stakeholders and creditors and personas and people on the ground.

PROF. RICHARD MACKAY: It's Richard Mackay here. Could I just query, how many chapters of ASTRA are there around the country, just to give the Commission some idea of the spread, please?

MS WORKMAN: I believe - we can check with the chairperson of ASTRA, but I believe there's one in each State. There's also a national advocacy subcommittee that overarches that, and then obviously there's ASTRA Byron, and I believe there's a group mobilising in Noosa at the moment, but we can take that question on notice as well, and definitely confirm that back to you in writing.

PROF. MACKAY: Thank you.

MR HUSSEY: So if everyone is okay to move on, what we thought we would give you a little bit of background is to, you know, how did we get to talking to you guys today. There's a lot of numbers that have been floating around over many, many years, but what we see pretty consistently is a very - so we work in the industry - a very inflated number of the total number of homes that are used for holiday houses, and there's some, there is a little bit of difference. So we're talking specifically about non-hosted accommodation, non-hosted holiday homes, but obviously there's also hosted, which is what some people refer to as Airbnb style, even though they're just another OTA, but there's also a whole range of other types of accommodation, whether it's caravan park or bed and breakfast, or - so the numbers kind of push it into the community, and there wouldn't be probably a week that goes by without some article in the local paper here referring to STRA or backpackers or potholes - they seem to be the big three - but quite, the kind of regular number is somewhere between four to five thousand homes have been removed from the total letting pool, and they're used by STRA and therefore it's creating this huge vacuum for affordable housing, and to ban holiday houses, because it's about 30, 35 per cent, 25 - I've heard all sorts of different numbers, but, you know, somewhere around 30 per cent of all of the homes, because there are about, according to the latest ABS, there's just under 17,000

dwellings in the Byron Shire, 16,900 and something or other, so the argument is, 30-something per cent of homes are allocated or used for holiday houses, and that's causing this huge issue around affordable housing.

The Department of Planning obviously has a regime now where you have to register with them if you want to conduct this activity. ASTRA was really heavily involved in setting up all those regulations and we're big supporters of the code of conduct and the prior compliance and registration. As of 26 January, we reached out to the Department and asked how many non-hosted homes are registered in the Byron Shire. It's not just Byron Bay, the town, but the Shire, and there were 1,288, which is about 7.6 per cent of the 17,000 and that number, really, is broken up into two categories. If you live in Byron and want to go Bali for three or four weeks, which a lot of people do in this, and you want to short-term let your home, and you're not going to be in it, that is classified as a non-hosted, therefore it would fall into the 1,288.

The Holiday Letting Organisation, which is that thing I talked about earlier, provides a security service for the region, and they've pretty consistently said to us that the number of full-time, fulltime holiday homes, because that's really the number we're talking about, because if you're trying to move homes across to the permanent rental pool, obviously homes of people living for 50 weeks of the year, or 40-odd weeks, 48 weeks of the year, don't count, and they're not going to solve that issue. So the HLO has said pretty consistently, they think there's about 900 homes, there have been about 900 homes for maybe the last ten years, that are fulltime holiday let. That would seem to be pretty consistent with what we see. We represent 850 of the homes in the Byron Shire. There's no data to split that out, but that's probably about right, somewhere in that range. So maybe fulltime homes, there's 6 per cent. I actually haven't done the numbers, but if it's 900, it would be a lower percentage. That all make sense?

DR COAKES: Yes. And just, Campbell, just a quick question there. So in your view, are there unregistered non-hosted STRA properties? Because obviously that number, that 1,288 that you're quoting there, is registered.

MR HUSSEY: You can't list your property on an OTA if you don't have a registration number. They won't take you.

DR COAKES: Yes.

MR HUSSEY: So businesses like the one that Cam and I own, about 50 per cent of our bookings come direct, so maybe a big business like ours - well, when I say big business, we're not BHP - when a business that represents a number of properties, and I represent about 176 in this region, about 50 per cent of our bookings come direct. So a business like us probably could maybe put homes that aren't registered on our website and get half the number of bookings, but there's no way we would do that, because we worked with the Department of Planning to implement this legislation, you know, I'm not going to risk my business, my plan, whatever.

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So, really, the only people that could possibly do that would be individual owners. If you're an individual owner and you don't have the databases that we've got, then you are 100 per cent relying on Airbnb, Stayz, Booking.com, those types of booking channels, and you can't register without having an ID. So I don't know how you would get bookings without having an ID.

10 And a lot of people have said that to me, have said, "Oh, you know, but there's heaps of properties out there that aren't registered." I'm like, yep, maybe, but where are they getting their bookings from? Because, really, you're either getting them direct from a company like us that manages it on behalf of owners, or you're getting them through  
OTAs. So I'm, just being in the industry, I'm super sceptical. You are not filling up your calendar, I don't know, posting on Facebook or Twitter or TikTok, like, it's just, it just doesn't happen. You've got to use the big OTAs. They're just too big, they're too powerful, they spend way too much money, you just would never get bookings.

MS WORKMAN: Dr Coakes, could I just say, that's actually Colin who's speaking, not Campbell, just - - -

DR COAKES: Thank you.

MS WORKMAN: That's all right. For the transcription.

MR HUSSEY: Does that answer your question okay?

DR COAKES: Yes.

20 MR HUSSEY: Thanks, Commissioner. All right. We'll move on. So the Byron Shire Council actually did a fantastic job of going out to the community. They were developing what was called their tourism strategy, 2020 to 2030. We think it's really important to find out from the community what sort of tourism they want. I won't take you through the whole thing, but they did a great job, lots of community engagement, and they came up with these points, which are, they want high-yield, low-impact, yes. So they want them to disperse throughout the - not just come to Byron Bay, the town, but have any of you ever been to Byron in January?

PROF. MACKAY: Yes.

30 MR HUSSEY: Right. So you know it's a complete and utter zoo, you can't move in the place. So they wanted to try and fix that issue by dispersing into the little towns in the region, which makes sense, to disperse the revenue. They always want to disperse outside of the peak periods, which also makes sense, given the congestion, and spread the love I suppose, was the wrong word, but, you know, spread it out over, not just spread it geographically, but spread it, you know, over the year as well, and look after the community and look after the environment, and we think they're pretty sound, smart objectives that kind of work for the community, that we think that was really clever. You know, I think you've got to use your common sense to work out what  
40 does "respect the community" mean, what does "low impact" mean, but we sort of assume it is, you know, not partying, fighting in the streets, kind of, you know, being respectful of noise, that sort of stuff.

So what we did was look at, well, who are the visitors? What we've done is use 2019 data for you, for the Commissioners, just because it was probably more reflective of - you know, COVID was a little bit odd, obviously, so we used '19 data. There are about 2.2 million visitors that come into the Shire. They spend somewhere between 880 to maybe a billion dollars a year. There is no doubt that tourism is the number one economic driver in this region, and we've got all the data, we can share it with you, where it all comes from, but I don't think we're, you know, Nostradamus in telling you that, and - - -

DR COAKES: That's fine, and on that, Colin - I presume is speaking - - -

10 MR HUSSEY: Yes.

DR COAKES: - - - just on that, we are aware of some of that data, so you can move through, that would be great. I'm just conscious of time.

MR HUSSEY: Yeah, cool. So one of the things that you may not know is, a holiday home, about 50 per cent of the revenue, so the booking money that comes in for a holiday home, gets spent in, more or less in the community. So it takes, say, gardeners, cleaners, pool guys, you know, fire compliance and so on about 45 to 50 per cent of the standard, a normal home, that goes back through the community, you know, through various, you know, we can, it's sort of all there, I won't bore you with who gets it, but it flows through.

20 And to give you an idea of who is coming, there's about a million day-trippers, there's about a million overnight Aussies, and there were about 200,000 international travellers. And the reason we're highlighting that is, not every traveller is created equal. Some travellers spend a lot more than others. So if you look at what their objective is or their strategy, high-yield, low-impact, guests. High-yield, we assume, is high spending, low-impact. The highest-spending guests are the domestic overnights, and the highest-spending group within that category are families that spend in holiday homes by an absolute mile and, again, it's fairly easy to know why Byron is expensive, you're getting guests that are coming from Melbourne, Sydney, capital cities, they've got money, they're coming and spending money in restaurants,  
30 and so it takes, for instance, 38 day-trippers to spend the same amount as one person staying in a holiday home.

So the guests that are staying in holiday homes in Byron Shire, and I would assume most places, are the - we would assume - the lowest impact, because they're families, and I've got five kids, I don't know about you, but, you know, about 8.30, 9 o'clock it's bedtime, for me, and, you know, we're not out, I'm not out with my wife at 3am fighting in the street, and we spend a lot of money. That's just the makeup of family, and all of the data shows that. So - - -

MS WORKMAN: Can I just add something too to that, which I think is really  
40 important, because some of the commentary from the local council has been in and around, okay, it's fine, we've got enough bed spaces so if we lose 1,500 holiday homes, which is what is being touted, then a 4.2 or a few hundred - now I think they're

saying, look, even if it's 10 to 20, that would make a huge impact on the housing crisis. They were some of the last figures that were produced, regardless of those, the types of visitors that come and stay in short-term rental accommodation, they're not the same visitors that are now going to go and redisperse and stay at Elements of Byron, or in a caravan or in one of our (not transcribable). They want that self-sufficient accommodation where they can come with their families, in a house. That's the accommodation type that they're, that they're looking for. So they're either going to move into other regions within New South Wales, which is great for New South Wales if that happens, or they're going to choose other destinations outside of  
10 New South Wales, which means the tourism dollar will go outside of New South Wales. I think that's just really important to note, that the 670,000 visitor nights will not redisperse within traditional accommodation, because that's not what that market is looking for.

DR COAKES: And just a quick question, just in terms of the economic impact assessment, were you, you know, in your view, did you feel that it accurately reflected the linkages and associations between, you know, between STRA and the local service sector?

MS WORKMAN: Look, I think there were some things that were captured, and then some things like saying there would be a positive effect on retail of plus 200 jobs, I  
20 think there was, or 265 jobs. I think there were a few discrepancies in there, but overall, in terms of looking at the economic impact and the modelling based on 5,200 nights, they were still staying, even if we think we're going to return 1,500, still don't go with 90-day caps, it will cause too much damage to the local economy, the local community, and staff who live in the local community. So I think that's, I think - I don't know if you guys want to jump in.

MR KORFF: Yes, I think we certainly had some issues, I think, with the data that was collected and the way it was collected. I think there was, you know, whether it's a direction from council or otherwise, I think the questionnaires that went out certainly left room for improvement, but obviously, you know, we agreed ultimately with the  
30 conclusion, which is that 90 days would have an economic impact. I think there's certainly a lot more could be done more thoroughly in coming up with, you know, that economic impact.

DR COAKES: Okay.

MR HUSSEY: But really, for us, I suppose the key point is, if you look at the objective of Byron Shire Council's tourism strategy, they want to disperse guests throughout the year, so if you implement a 90-day cap, then all of their owners have told us they will just rent their properties out under peak periods. I mean, you know, it's fairly obvious that's what you're going to do. If you restrict the amount of product available, the rates are going to go up further in those really peak times.

40 MR KORFF: Yes, I think the, there's a real misconception, you know, or a simplistic approach to the supply argument which is that if you constrain, you know, supply, that



that owners would change their use. It's simply not the case, and we've thoroughly researched our client bases and directly asked them what they would do, but the logic is simple, and that is, most people who own an investment property in Byron Bay don't own it for yield, they own it for their family's enjoyment and to enjoy a summer holiday with their family and extended family during, you know, each year, so yield is not the driver, and, as Colin said, if you constrain the number of days they can rent it out, demand is not going to go anywhere else. It's not like there's 20 hotels that people can suddenly book instead of staying in holiday rental accommodation.

10 So there's going to be very little change in use of those properties. The owners will simply rent them less. All of the people that rely on our businesses will lose their jobs and our business models will fail, but the owners themselves will continue to hold their holiday properties and enjoy them for their families, which is the primary reason they own them.

MR HUSSEY: 96 per cent, so 96 per cent of the owners that responded to our survey said that even if the 90 days came in, they would not move their home across to permanent rental pool for exactly that reason. There would be probably no homes that I represent that would be financially net better off short-term letting their property. So that's another massive myth, that you buy a house in Byron for \$5 million or whatever it costs to buy a house these days in Byron and you rent it for \$100 and then 50 of it  
20 goes out the door and you net 50. That house would rent for two and a half, three grand a week if you just put it on the permanent rental pool. So it is an absolute myth that people do it for financial benefit. They do it because they holiday here, like the place, and want to have a holiday house. That is - I don't think I've got an owner that doesn't fit that profile.

DR COAKES: Okay.

MS WORKMAN: And I think, if I can add to that too, in terms of - because I've just moved through some of the planning consequences that you, that's just information about council's planning strategy over the last 20 years that we believe had sort of  
30 gotten us to this point where we're at today where there is a bit of a gap in the affordable housing shortage, not the price point that our properties sit at. In terms of job losses, you know, you're looking around, you know, 1,448 jobs lost, and the reason for that is, what these guys said before, is that we're having a lot of our capacity reduced by 75 per cent, but we've still got brick-and-mortar buildings to pay for, we've still got to keep the electricity on.

And how can we say to our cleaning teams, do you know what, we really need you for the October school holidays, then you can have a couple of months off and we'll have you back for six weeks over December. Like, it just - none of the businesses can be sustained, and you'll hear from a lot of those at the hearing next week, just how much of a circular economy they contribute. You know, one of our cleaners buys eight cars  
40 for their cleaners. They then buy their vacuum cleaners from the local shop, their cleaning materials. It's very much, like Colin said earlier, it stayed in the region, and a lot of our businesses are supportive. Not only retail, café, dining, you know, there's

lots of other industries, but specifically trades and bread-and-butter jobs for local families in this region.

So we're estimating that there's, you know, 267 million each and every year that will be removed from this economy, and when tourism is your number one driver, I'm not sure council proposing that will go in place of that money, that's just money that's going to be lost to other regions in New South Wales, but more likely outside of New South Wales, which is really concerning. So that just - - -

10 DR COAKES: I'm just conscious of time, so could we move more, then, into that question of caps and regulation, and I guess, you know, what sort of form of or level of regulation would you see as appropriate, then, in the Byron Shire?

MR KORFF: I think we have appropriate regulation, and that's the New South Wales legislation, which introduced the registration and compliance and penalty obligations on not only owners but agents and guests, and which we've fully supported, and, by the way, it was only implemented just on 12 months ago. So no-one has really given it a chance to be properly implemented, to see what the impact of that is, so - and obviously that part largely goes to behaviour, not to housing supply, right?

20 So this policy, the 90-day cap, is focused on housing supply, as is the 180-day cap at the State level, so what we're saying is that a cap on holiday letting is not going to achieve the policy purpose, and is going to have very deep economic impact on the local economy. So, you know, it doesn't pass a basic cost benefit analysis. I mean, the cost is going to be significant to the local economy. The benefit is illusory in that 90-plus per cent of owners will not change their use. If they do, those properties are not affordable rental properties, they're a much higher price point than the properties that we've, you know, that the housing crisis is trying to address. So what this requires is housing supply at the right end of the market that will address the crisis. The 90-day cap is not going to have any impact on, any benefit, significant benefit, to the rental crisis.

30 MR HUSSEY: And I think that's the really key point here. No-one has actually said, right, where's the demand, the demand is affordable housing. Well, what is affordable housing? I'm not going to get into that, I'm not a specialist, I know some of you guys are, but what we know is what our stock is. Our stock is not fit for purpose. The homes that we manage - and they're all fully furnished, and all the services are on, they're like mini hotels. So owners aren't going to - let's say that this came in and they were zero days, they're not going to remove their furniture. They use these properties because they want to have a holiday there. They're going to leave the furniture, they're going to leave the internet, they're going to leave the power on. A rough rule of thumb is, you take what the standard rent is empty and you double it.

40 So if a home that's worth 5 million would normally rent for - I think we've got one here - \$3,300 a week, so that would be, if someone wants to rent that for six months, with all the services, because we take the bins out, mow the lawns, you know, we do everything, change the light bulbs and batteries in our smoke alarms. The guest

doesn't do anything, so that's five or six thousand dollars a week. That is not going, the product we have is not fit for purpose. So the owners that have said they will not move to a permanent rental pool, even if they did, the product is not fit for purpose, and we have legal advice that the owners' rights cannot be removed retrospectively. So one of the first ones I would have done is gone, all right - - -

PROF. MACKAY: Could I - - -

DR COAKES: I think Richard has got a question there.

10 PROF. MACKAY: Could I - that legal advice occurs in the submissions. Now, I haven't seen the legal advice, but based on what's in this presentation, and particularly the quote that's onscreen, that does not seem to relate to short-term residential accommodation that occurs through the SEPP exemption. That seems to be confined to existing use rights that arise from an existing development consent. Is that right? I just want to be clear on what's being put before us, please.

MR KORFF: I think it's probably best we, the three of us don't delve into that technical question. We can answer it in writing later, but I'm not sure any of us are qualified to give you a specific answer on that.

20 PROF. MACKAY: All right. Well, the assertions that keep being made - and I'm not using that word "assertions" in a disparaging way - what keeps being said is that there are existing use rights, but it seems to me, on the face of it, that these relate only to the circumstances where there is a development consent, and I'm just asking ASTRA, is that the position that's being put forward. So if that could be answered, taken on notice, that would be really helpful, please.

MR KORFF: Yes, we're happy to do that.

MR HUSSEY: Yes, we'll do that.

DR COAKES: And just in terms of time, we are running over, so can I ask you to sum up the last slide with closing comments that would be fantastic, thank you.

30 MS WORKMAN: I think one of the things that you're going to hear over the next couple of days is that we're not part of the community. Like, the STRA industry, we're treated as quite different. You'll see on the next page, review at your leisure, but the newspaper articles and the things that have been said about this industry is, it's quite offensive, and we want you to know that we represent so many businesses here that don't feel comfortable standing up to council, that we are standing up in front of them. There are hundreds and hundreds and hundreds of local businesses, and, like us, cumulatively, we've lived in this area for 60 years, so you're looking at people, we live here, we work here. The critical point is, this policy is flawed. If, genuinely, if ASTRA felt there were, I believe there were 5,200 properties in Byron, we would feel like that is too much. That's - we live here. We've got integrity.

So the fact of the matter is, we've had issues the whole way through, because the community has been asked to comment on a planning proposal where council has admitted that the numbers are flawed, and they were incorrect, and how you can go out to public consultation with a planning proposal that has incorrect figures, no wonder this community has been whipped into a frenzy. Again, we're reiterating, the policy will absolutely impact local jobs, and many local and family businesses, and the short-term rental accommodation industry absolutely is being used as a scapegoat as a result of decades of inadequate planning by council, and we've referred two slides there about sewage and development moratoriums, low-density housing strategy, and it's just easy to point the blame at us.

DR COAKES: Okay.

MS WORKMAN: And we believe, again, property owners' rights cannot be removed and caps cannot be implemented retrospectively. Our legal advice does state that things relating to safety standards, such as, the you know fire safety compliance, fall compliance, that absolutely can be made retrospectively, and we support that, but caps cannot be made retrospectively but we will get some information to you from our legal team.

DR COAKES: That would be great. And can I just quickly, then - very quickly, because we are going to have to sign off - but Richard or Juliet, any further questions?

PROF. MACKAY: Well, yes, I would just like to query that last comment made by Sarah, which was stating equivocally that caps cannot be made retrospectively. I think could that please also be addressed in the question on notice, but also the question begs itself, if that is true, what's all the fuss about, because the caps do not affect any existing use rights? So could ASTRA please just take the opportunity to advise on that, if, in fact, it's correct, there's no effect.

MR HUSSEY: So we supplied that legal advice to the Department of Planning, Luke Walton, in the early, early days. We said, look, here's the legal advice we've been given, it's not actually around existing-use rights, it's property rights, and said, you know, it's pretty clear these are the guys that are the key kind of legal eagles in property law in New South Wales, Astill & Free, and their advice is super clear, which is, you can't remove people's rights. So they were allowed to short-term let, you actually just, you can't make it retrospective, but there hasn't been a lot of focus on it, but that's kind of our position is, you can't do it anyway, so - - -

PROF. MACKAY: Well, look, I would simply observe again that the quote that's been presented to the Commissioners is confined to existing-use rights that relate to a development consent, not to short-term residential accommodation that occurs under an exemption and not, and which does not therefore require development consent. And look, invite you to put something back before us, please.

MR HUSSEY: Yes.

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MS WORKMAN: Sure, we'll do that.

MR HUSSEY: Just to be clear, the advice we have really belongs to the individual owners of the property, so we just need to be mindful and - - -

MR KORFF: But to your point about, let's say that that, it's correct that the 90 days cannot be enforced retrospectively, I think what the fuss is about is that that will cause a fuss. So what we're talking about, then, is a policy then, that then is, then finds its way to court for a decade or more, and doesn't solve the housing crisis. So I think our point is, well, if it's unlawful for the bulk of properties in Byron Bay, then why implement a policy that's unlawful?

10 DR COAKES: Okay. All right. Well, thank you. Any further questions, Richard, Juliet? No? Okay. Well, thank you very much for your time, and I - if you could please respond to those questions that have been posed by the panel, that would be excellent, and thank you. Thank you for your time.

MR HUSSEY: Thanks for your time. Thank you.

MS WORKMAN: Just quick question - sorry - that legal advice, though, does that have to be published on the record? Because that's why we had to pull back. We actually were going to send you the legal advice, but we were told it was going to be published, so if you could clarify, please.

20 PROF. MACKAY: Well, Sarah, the simple position is that the Independent Planning Commission, being independent, operates totally transparently, so any submissions, a transcript of this meeting, anything that comes before us is published on our website. Insofar as you do not wish it to be published or it can't be published, we don't receive it and don't have regard to it.

MS WORKMAN: Okay. Thank you.

MR HUSSEY: Well, it's not just our decision, so as per that comment earlier around owners, it's actually their rights.

MS WORKMAN: Yes.

MR HUSSEY: We'll come back to you on that. Thank you very much for clarifying.

MS WORKMAN: Thank you.

30 DR COAKES: Okay. And thank you for your presentation today.

**MEETING CONCLUDED**

**[12.25pm]**