

## Short Term Rental Accommodation Planning Proposal Timeline

### 4 February 2003 to September 2022

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
4 Feb 2003	Council Resolved ( <b>Res 03-43</b> ) to allow "holiday letting of houses" with consent in residential zones <b>in appropriately identified areas</b> (NOM - DM#368809)		
24 Feb 2004	Council resolved ( <b>Res.04-109</b> ) to receive a report on necessary changes such as a development application or a license or any other process that can be utilised to achieve regulation of holiday letting		
23 March 2004	Council resolved ( <b>Res. 04-265</b> ) to investigate development control provisions applicable to short term holiday accommodation.		
9 Nov 2004	Council received a report on the regulation of holiday letting and resolved ( <b>Res. 04-890</b> ) to receive legal advice on the definition of holiday letting and to write to the LG Minister to recommend that an amendment to the Local Government Act 1993 Section 68 be created to define that the activity of <b>temporary letting of 90 days or less in an approved dwelling</b> be required to obtain an approval of Council.	22 July 2005	No support from State Govt to amend S68 of Local Govt Act 1993 to enable regulation (DM535919)
9 Aug 2005	Council resolved ( <b>Res.05-533</b> ) to arrange for a facilitated meeting to include representatives from industry groups, residents, Council staff and Councillors to discuss holiday letting planning controls.		
5 Oct 2005 - 2006	Holiday Letting Forum's – several meetings were held and matters reported to council resulting in many resolutions including: <b>Resolutions: 05-836, 05-837, 05-838, 05-839, 05-841, 05-837, 06-176</b>		
2006	Holiday Letting Forum, subgroups formed and meetings held		

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
	Eg. Subgroup 2 - developing assessment criteria for holiday letting		
2006	Council resolved ( <b>Res.06-810</b> ) to rescind previous resolution ( <b>Res. 05-692</b> ) that Council staff not issue any orders or take any legal action against a property owner deemed to be holiday letting without reporting to Council.		
31 Oct 2008	Council considered a report on the <b>precinct based</b> approach and resolved ( <b>Res.08-676</b> ) to publicly exhibit a proposed urban holiday letting precinct model		
13 Feb to 20 March 2009	<b>Public exhibition of precincts</b> (DM827454)		
2 July 2009	Submissions report to Council, Resolution ( <b>Res. 09-614</b> )  Council adopted the precinct model and reconfirmed that it considers the needs of visitors to be in close proximity to tourism related infrastructure and activities and the impact of the use on residential areas.	12 Aug 2009	Precinct option not supported  Viewed as an activity ancillary to the use of a dwelling house  (DM880973)
28 February 2013	Council meeting resolved ( <b>Res. 13-114</b> ) that Council defer authorisation of proceedings until after results of a workshop that is to be convened with HLO, representatives of letting agents, Councillors and staff to discuss options for regulation of holiday letting	2 May 2013	Dobrohotoff v Bennic [2013] NSWLEC 61, Gosford City Council case found that holiday letting of a dwelling house is not synonymous or ancillary to a dwelling house  DOPI have advised that it is a local matter that Council can address in their local plans
20 June 2013	Holiday Let Meeting with external Stakeholders, Department of Planning Staff, Councillors and Senior Council staff		
27 June 2013	Council considered a Mayoral Minute titled " <i>Holiday Let Working Group</i> " and resolved ( <b>Res. 13-343</b> ) to:  <i>Facilitate a meeting within five weeks, with VOHL and community representatives to discuss options for the management of holiday letting in the Shire.</i>		

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
	<i>Initiate a Holiday Let forum consisting of Councillors and staff, 2 representatives of Holiday Let Organisation (HLO); 2 representatives from the Real Estate Industry; 2 representatives of Australian Resident Accommodation Managers' Association (ARAMA) NR; 2 representatives from Victims of Holiday Letting (VOHL) and 4 representatives from the broader community invited by the Mayor and Deputy Mayor to consider possible precinct and registration options, appropriate rates and charges, and other relevant management issues."</i>		
6 August 2013	Meeting held with VOHL and community representatives to discuss options for the management of holiday letting in the Shire, as per <b>Res.13-343</b>		
10 October 2013	Council resolved to prepare a <b>Holiday Letting Strategy (Res 13-530)</b> with the following purposes in mind: (i) examining issues raised in workshops during 2013; (ii) <b>examining Zoning/precinct options;</b> (iii) facilitating the preparation of a future LEP amendment; (iv) supporting the amendment and hence justifying it to the DOPI; and (v) pursuing legislative changes to facilitate strategy options		
7 Nov 2013	Holiday Letting Forum as per <b>Res.13-343</b> with Holiday Let Organisation, Real Estate and Property Managers, Victims of Holiday Letting, other interested parties, Councillors and senior staff. E2013/72826 powerpoint inc. precincts		
27 May and 24 June 2014	Workshops on <b>Holiday Letting Strategy Discussion Paper</b> <b>Potential Precincts exhibited</b> (E2014/31293)		

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
30 October 2014	Report to Council on draft Strategy council resolved ( <b>Res.14-547</b> ) to place on exhibition.		
11 Nov to 8 Dec 2014	Public Exhibition of draft Strategy		
26 March 2015	Councillor workshop on exhibition outcomes (E2015/19694)		
30 April 2015	Council resolved ( <b>Res.15-186</b> ) to adopt the <b>Short Term Rental Accommodation Action Plan</b> (E2015/14847)		
31 July 2015	<b>Planning Proposal</b> submitted to DPPE A key recommendation of the 2014 Action Plan was an amendment to Byron Local Environmental Plan 2014 (LEP 2014) to introduce a set of planning controls to define and regulate holiday letting. This led to the development of a planning proposal that was submitted to the Department of Planning and Environment in July 2015.	8 Sept 2015	<b>Gateway Determination</b> received
22 Oct to 4 Dec 2015	Public exhibition of PP		
Dec 2015 to Jan 2016	Prepare public exhibition report		
4 Feb 2016	Council report on public submissions Council resolved ( <b>Res.16-026</b> ) to amend and make the LEP		
April 2017	The Planning proposal went through a number of iterations to address issues raised by the Department and Parliamentary Counsels Office. It was eventually submitted to the Dept for completion following a final round of amendments in April 2017  As this process was unfolding, a <b>Parliamentary Enquiry</b> into the adequacy of the regulation of short-term holiday letting in NSW was underway. The Enquiries' final report to Government concluded that short-term rental accommodation should be defined and		

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
	<p>enabled through the planning system as exempt or complying development, supported by a compliance system and a code of conduct.</p> <p>The Government offered qualified support for most of the recommendations, indicating that an options paper would be prepared to implement a whole of government framework in the near future.</p> <p>As a consequence of this announcement, the Department chose to defer making a decision on the planning proposal until after the Governments options paper had been released.</p>		
<p>21 Sept 2017</p> <p>Council Meeting</p>	<p>The impasse resulted in Council resolving (<b>Res 17-407</b>) to withdraw the planning proposal as it did not make sense to continue until it was known how it would interact with the Governments finalised approach</p>	<p>August 2018</p>	<p>Draft NSW regulatory STRA framework released</p> <ul style="list-style-type: none"> <li>• <b>SEPP</b> (Short Term Rental Accommodation) 2019 (Note- STRA controls are now part of the Housing SEPP).</li> <li>• <b>Code of Conduct.</b> Mandatory Code given effect through amendments to the Fair Trading Act 1987 and Fair Trading Regulation 2016 that were passed by the NSW Parliament on 14 August 2018. The Code is a complaint based regulatory system that will be managed by NSW Fair Trading. It applies to booking platforms, letting agents, hosts, and guests and covers matters such as reporting, insurance, neighbour notification, anti-social behaviour and damage to common property.</li> <li>• <b>Fire Safety Standards.</b> Amendment to the Environmental Planning and Assessment Regulation 2000 that will require a dwelling being used for short-term rental accommodation to comply with the requirements of the Short-term Rental</li> </ul>

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
			Accommodation Fire Safety Standard
		5 Feb 2019	<b>Ministerial Direction</b> issued enabling Council to reduce non-hosted short-term rental accommodation to a minimum of 90 days per calendar year
March – November 2019	<p>Work undertaken by Council to satisfy the ministerial direction:</p> <ul style="list-style-type: none"> <li>Preliminary research into Airbnb and other online platforms by staff (data collection, collation, and mining)</li> <li>Southern Cross University survey of Byron Shire residents on the impacts of Airbnb completed</li> <li>Southern Cross University research project to understand how Airbnb has impacted approved accommodation providers progressed</li> </ul> <p><a href="https://scu.edu.au">Impact of Airbnb - Southern Cross University (scu.edu.au)</a></p> <ul style="list-style-type: none"> <li>Baseline economic impact data developed</li> <li>Draft planning controls drafted</li> </ul>		<p>Council was advised that it needed to collate at least 5 years data to support any EIA for the PP.</p> <p><i>Note: there was no baseline data kept by the DPIE and data was otherwise difficult to source as AirBnb would not supply data or information directly to Council.</i></p>
12 December 2019 Council Meeting	<p>Council resolved (<b>Res. 19-676</b>)</p> <ol style="list-style-type: none"> <li>That Council request staff to prepare a planning proposal to amend Byron Local Environmental Plan 2014 in accordance with the draft planning controls in Attachment 1 (E2019/85833) except to replace point 4 with a new point 4 “investigate and apply an appropriate planning mechanism to limit 10% of the total housing stock in use as non-hosted STRA”.</li> <li>That Council request staff to undertake an online community engagement activity of the draft planning proposal controls during December and January to canvass community opinion on the controls.</li> </ol>		

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
	3. That Council receive a report on the community engagement activity with a finalised planning proposal, for endorsement to submit to the Department of Industry and Environment for Gateway Determination in February 2020.		
Jan- Feb 2020	Items 2 and 3 of <b>Res. 19-676</b> progressed.		
20 February 2020 Council Planning Meeting	Council resolved ( <b>Res. 20-021</b> ): <i>That Council forward the Planning Proposal (Attachment 1 #E2020/9498) to NSW Department of Planning for a Gateway determination after making the following adjustments:</i> (Council report - I2020/111)		
9 March 2020	The planning proposal was amended in accordance with the Council resolution and forwarded to DPIE for a gateway determination on 9 March 2020.	24 June 2020	Deputy Secretary Tim Hurst, wrote to Council on 24 June 2020, requesting the following information: <ul style="list-style-type: none"> <li>• Further direction from Council whether it is seeking to incorporate a savings provision for properties currently being used for non-hosted STRA purposes and, if not, the implications for any existing landowners and whether they would be able to continue their existing practices despite the introduction of new requirements.</li> <li>• An economic analysis that evaluates and considers the impacts on the tourism industry and long-term rental housing market if landowners are required to limit the use of their non-hosted STRA to 90 days or less.</li> <li>• Further clarification on the intention for any new STRA provisions in Byron LEP 2014 to override any STRA SEPP as it applies to Byron Shire.</li> </ul>



Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
24 July 2020	<p>Teleconference with the Department to discuss the RFI, noting the economic study may take significant time and expense to complete.</p> <p>Department provides verbal advice indicating that further clarification on the EIA would be forth coming.</p>	10 Dec 2020	Department provides a draft Economic Impact Assessment framework to clarify the scope of the study.
19 Nov 2020 Council Planning Meeting	<p>Council resolved (<b>Res 20-605</b>):</p> <p><i>That Council:</i></p> <p>...</p> <p><i>2. Agrees to amend the planning proposal to include precinct areas that permit non-hosted STRA for 365 days per year in those areas that have already been taken up almost exclusively for STRA, and 90 days for those areas that have not. The precinct areas are shown in the maps in Attachment 1(#2020/89860) with the exception of the Brunswick Heads map, which is to be amended and replaced with a map that deletes the 365-day area from land west of tweed street.</i></p> <p><i>3. Authorises staff to submit an amended planning proposal to the Department of Industry and Environment for Gateway determination that satisfies item 2.</i></p> <p>(Councill Report - I2020/1740)</p>		
5 March 2021	<p>The Planning Proposal was amended in accordance with the Council resolution and resubmitted through the planning portal on 5/3/2021. The amended planning proposal responds to the departments RFI however the economic study is not provided as the costs is prohibitive for Council.</p> <p>(letter to DPE E2021/41694)</p>	5 March 2021	<p>Planning proposal not accepted because it was lodged through the 'Online Submission System', rather than the new 'Planning Proposals Online' section of the portal.</p> <p>Further investigation revealed that Council staff did not have access to the Planning Proposals Online section of the Planning Portal. This is later corrected by the Department.</p>
4 May 2021	The revised planning proposal is resubmitted though the Planning Proposals Online Section of the Portal.	4 May 2021	Revised planning proposal accepted by the Department on 04/05/2021.



Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
May-June 2021	Ongoing discussion between Council and Department of Planning's Northern Region Office and the Department's Planning Development Unit (PDU) over funding for the EIA due to high cost.  Joint funding agreement reached in June 2021.	24 June 2021	Conditional gateway issued. The planning proposal will now be an amendment to the Affordable Rental Housing SEPP rather than Byron LEP 2014. The economic study needs to be completed prior to public exhibition and the planning proposal must reflect the recommendations of the report.
26 July 2021	Urbis engaged as consultant to undertake EIA. PDU agree to joint funding arrangement with Council.	22 July 2021	Letter from Marcus Ray, Deputy Secretary NSW Department of Planning, and Environment confirming that no further extensions of time will be made available.
12 Oct 2021	Response to Marcus Ray letter dated 22 July 2021 requesting advice on existing use rights and how the register will respond to the SEPP commencing ahead of finalising the planning proposal and clarification of the ambiguous Gateway determination which reads that both instruments (LEP and SEPP) are to be amended.	21 Oct 2021	Draft STRA EIA issued for review and comment.
		27 Oct 2021	Letter from Marcus Ray responding to questions in Council's 12 Oct 2021 letter and makes certain conclusions in relation to the draft EIA prior to council review and feedback.
2 Nov 2021	Response to Marcus Ray letter dated 27 Oct 2021 requesting that due process be respected to enable considered review of the draft EIA and for broad community consultation through the planning proposal process.		
4 Nov 2021	Preliminary comments on Draft STRA EIA provided to PDU with detailed comments to follow.		
10 Nov 2021	Detailed comments on Draft STRA EIA provided to PDU.		
30 Nov 2021	Council received a final STRA EIA		

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
		30 Nov 2021	PDU advised that Council would receive a letter from the DPIE outlining their outcomes from the STRA EIA.
		7 Dec 2021	PDU made contact seeking Council's agreement to upload the EIA to the DPIE STRA webpage "Byron Shire".
7 Dec 2021	Council advised PDU that it objected to the EIA being uploaded. It is not an agreed position and has not been reported to Council.		
8 Dec 2021	Council writes to DPIE Secretary requesting an urgent meeting.		
		14 Dec 2021	Teleconference between Council and PDU. Council advised that DPIE agree to Council request. That time will be given for staff to report the EIA and Planning Proposal to Council at the first meeting in February 2022. Reiterate that no change to the 31 January 2021 date is possible.
		24 December 2021	Letter from Brett Whitworth advising interalia that the PDU has endorsed the Urbis final EIA report which is for a 180-day cap on non-hosted STRA in Byron Shire. The reason given is it generates the highest overall net benefits to almost all key stakeholders of the six options tested in the EIA.
		21 Jan	Letter from Marcus Rae advising: ...Due to the high level of community interest in this matter over a long period of time and noting that the STRA Register opened to Byron residents on 5 December 2021, the Department's priority is to ensure that certainty is provided as quickly as possible to all Byron Shire homeowners, residents and businesses. To date there are

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
			<p>close to 1,000 STRA hosts registered on the STRA register. Making the EIA publicly available with the planning proposal will help inform the community in relation to this issue.</p> <p>I expect that this will occur as a result of the February council meeting. If for whatever reason the EIA is not made public by the end of next month the Department proposes to make it available on its website...</p>
24 February 2022	<p>Staff report to ordinary Council meeting on STRA EIA and PP. Council resolved <b>22-060</b>:</p> <ol style="list-style-type: none"> <li>1. Notes the findings and recommendations of the Economic Impact Assessment and that of the Peer Review of the Economic Impact Assessment by Dr Peter Phibbs in Attachments 1 and 2.</li> <li>2. Notes the Planning Proposal Timeline including delays to it due to the changing State Government requirements placed on Council in Attachment 3.</li> <li>3. Supports wholeheartedly the existing 90-day/365-day cap option and instructs staff to amend the current Planning Proposal to meet the requirements of the Gateway Determination in Attachment 4, except for Condition 1(b), point 3, which requires the Planning Proposal to reflect the recommendations of the DPIE endorsed Economic Impact Assessment.</li> <li>4. Authorises staff to submit the Peer Review with the amended Planning Proposal to the Department of Planning and Environment for a revised Gateway Determination to enable public exhibition of the Planning Proposal.</li> <li>5. Requests the Department of Planning and Environment to extend the Gateway Determination date to 31 December 2022 or to when the</li> </ol>		

Date	Byron Shire Council Action	Date	State Govt/ DPIE Action
	Planning Proposal is determined and/or notified.		
30 March 2022	Letter to DPE with revised Planning Proposal and a request to extend the Gateway Determination as per Res 22-060 (E2022/28968)	June 2022	<b>Alteration of Gateway Determination</b> received
		July 2022	<b>Ministerial Direction amended</b> The following requirement was removed:  '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'
July/August 2022	Revise Planning Proposal in accordance with Altered Gateway  Prepare for public exhibition		
1 Sept to 31 Oct 2022	Public exhibition		
Dec 2022	Public Exhibition Report to Council		
		24 June 2023	LEP amendment to be completed on or before 24 June 2023

**ORDINARY MEETING**

**4 FEBRUARY 2003**

**RESOLUTION ACTION SHEETS**

**DATE REFERRED: 7/2/03**

---

Page 1

Doc #371744

**REFERRED FOR ACTION TO: Director Environmental Planning Services**

<b>Notice of Motion No. 4</b>	<b>Regulating Holiday Letting</b> (Cr Barham)
-------------------------------	---

COR405527/#368809

**03-43 Resolved** that Council direct that both draft LEP amendments 106 and 110 address the issue of allowing the "holiday letting of houses" with consent in residential zones in appropriately identified areas. (Barham/ Heilpern)

---

**ORDINARY MEETING**

**24 FEBRUARY 2004**

**RESOLUTION ACTION SHEET**

**DATE REFERRED: 27/2/04**

---

Page 1

Doc #441228

**REFERRED FOR ACTION TO: Acting Director Environmental Planning Services**

<b>Notice of Motion No. 12.13</b>	<b>Holiday Letting</b>
-----------------------------------	------------------------

PLN550100/#438384

*Helen Brown, Anne McCabe, Maggie Luke and Grant Hawkins previously addressed Council on this matter.*

**04-109 Resolved:**

- a) That an immediate report be received on necessary changes such as a development application or a license or any other process that can be utilised to achieve regulation of holiday letting.
  - b) That Council acknowledges and congratulates the real estate agents and tourism industry for responding to community concern and look forward to engagement with the industry regarding tourism management.
-

**ENVIRONMENTAL PLANNING AND  
LOCAL APPROVALS COMMITTEE MEETING**

**23 MARCH 2004**

**RESOLUTION ACTION SHEET**

**DATE REFERRED: 24/3/04**

Page 1

Doc #445996

**REFERRED FOR ACTION TO: Acting Director Environmental Planning Services**

<b>Report No. 3.2</b>	<b>Holiday Letting</b>
<b>File No:</b>	PLN550100 #442990

*Cr Tucker left the Chambers at 2.36pm.*

**04-264 Resolved** to suspend standing orders to allow for public access on this item.

**04-265 Resolved** that Council investigate development control provisions applicable to short term holiday accommodation, including:

- a) definitions;
- b) identification of suitable and/or unsuitable precincts;
- c) parking requirements, building construction, site planning or any other matters that may affect privacy or amenity.

**ENVIRONMENTAL PLANNING AND LOCAL APPROVALS COMMITTEE  
MEETING**

**9 NOVEMBER 2004**

**RESOLUTION ACTION SHEET**

**DATE REFERRED: 12/11/04**

Page 1

Doc #487645

**REFERRED FOR ACTION TO: PLANNING, DEVELOPMENT AND ENVIRONMENT  
SERVICES – DIRECTORS REPORT**

<b>Report No. 3.5</b>	<b>Regulation of Holiday Lettings</b>
<b>File No:</b>	PLN106000 #471855

**04-890 Resolved:**

1. That Council receive legal advice on the definition of holiday letting.
2. That Council write to the Minister for Local Government and the Local Government Association to recommend that an amendment to the Local Government Act 1993 Section 68 be created to define that the activity of temporary letting of 90 days or less in an approved dwelling be required to obtain an approval of Council. (Barham/Tardif)

**ORDINARY (PLANNING) MEETING****9 AUGUST 2005****RESOLUTION ACTION SHEET****DATE REFERRED: 11/08/05**

Page 1

#538634

**REFERRED FOR ACTION TO: Director Planning Development and Environment Services**

<b>Report No. 6.2.</b>	<b>Draft LEP Byron Bay - Holiday Letting</b>
<b>File No:</b>	PLN559005 #535910

**05-533 Resolved:**

1. That Council arrange for a facilitated meeting to include representatives from industry groups, residents, Council staff and Councillors to discuss holiday letting planning controls in Byron Shire and that the cost of the facilitation is being shared equally between Tourism Byron and Council.
2. That Council staff and Tourism Byron representatives agree to the process which will include:
  - clear distinction between issues and solutions
  - facilitator to contact all participants prior to workshop so they list their issues and solutions (so they can liaise with community sectors they represent)
  - Facilitator to collate issues and solutions into manageable form
  - Send out issues and solutions to participants
  - Full day workshop to give time to acknowledge the issues and concentrate on solutions
  - Facilitator to prepare report on solution options within two days
  - Council staff and Tourism Byron to liaise to prepare options to present to council within 10 days.
3. That Council funding should be limited to a max of \$1500. (Tardif/Tucker)

---

Holiday Letting Forums Reports to Council and subsequent resolutions

**05-836 Resolved:**

1. That staff in their assessment of Draft Local Environmental Plan for the Byron Bay area, take into account the outcomes of the 5 October 2005 forum and subsequent meetings of forum participants on 19 October 2005 and later dates.
2. That Council thank all participants in the 5 October 2005 forum for their participation in the process.

**05-837 Resolved:**

1. That Council develop assessment criteria for holiday letting, addressing:
  - a) Linking approvals with mechanisms for managing noise and complaints
  - b) Adequacy of car parking
  - c) Garbage requirements
  - d) Any other matters that may arise in the process of investigating assessment tools
2. That Council investigate the feasibility of a Section 94 contributions plan for holiday letting prior to determining an approval process.



**05-838 Resolved** that Council again seek advice from the Department of Local Government regarding amendments to Section 68 of the Local Government Act to facilitate approval of holiday letting and a Local Approvals Policy that provides Council control of the location, duration and other aspects of holiday letting.

**05-839 Resolved** that Council receive and note the following documents received from HLO:

1. Byron Code of Practice for Accreditation (#556730)
2. Phone Booking Enquiry Procedure (#556731)
3. Agreement and Conditions – The Rules (#556735)
4. Booking Request Agreement (#557287)

**05-841 Resolved** that Council pursue compliance action against inappropriate accommodation and tourist uses in response to complaints and adverse impacts on neighbourhood amenity.

**05-837 Resolved:**

1. That Council develop assessment criteria for holiday letting, addressing:
  - a) Linking approvals with mechanisms for managing noise and complaints
  - b) Adequacy of car parking
  - c) Garbage requirements
  - d) Any other matters that may arise in the process of investigating assessment tools
2. That Council investigate the feasibility of a Section 94 contributions plan for holiday letting prior to determining an approval process.

**06-176 Resolved** that Council note all options of the Holiday Letting Forum and further examine all options as part of the analysis of submissions for the Draft LEP for the Byron Bay Area and a Section 68 report to Council.

---

**ORDINARY MEETING****19 DECEMBER 2006****RESOLUTION ACTION SHEET****DATE REFERRED: 20/12/06**

Page 1

Doc #645733

**REFERRED FOR ACTION TO: Director Planning Development and Environment Services****Notice of Rescission  
Motion No. 5.1****Holiday Letting**

COR405527/#640330

**06-806 Resolved** that Council rescind Resolution No. 05-692 from its Ordinary meeting held on 27 September 2005 which reads as follows:

*05-692 Resolved that Council take no further compliance action against landowners and agents who "holiday let" until Council formally resolves its planning position on holiday letting.* (Lazarus/Tabart)

**06-807 Resolved** that Cr Mangleson be granted an extension of 1 minute time for her speech.

**06-808 Resolved** that Cr Lazarus be granted an extension of 1 minute time for his speech.

**06-809 Resolved** that Cr Barham be granted an extension of 1 minute time for her speech. (Staples/Lazarus)

**06-810 Resolved** that Council staff not issue any orders or take legal action against a property owner deemed to be holiday letting without reporting to Council. (Tardif/Woods)

**Report DM797504 - PLANNING Draft Byron Shire-wide Local Environmental Plan LEP  
Minutes DM802209**

**08-676 Resolved:**

1. That Council adopt for public exhibition an urban holiday letting precinct model for Byron Bay and Brunswick Heads.

2. That the area for Byron Bay include Belongil, Lighthouse Road and Wategos, to facilitate beachside areas and those precincts that are in close proximity to the town centre, tourism facilities and services and within walkable distances to those cultural experiences see Map 1 #805168.

3. That the area for Brunswick Heads exclude Bayside, but include the older area of town as the area that is in close proximity to the town centre, tourism facilities and services and within walkable distances to those cultural experiences including the beach see Map 2 #805167.

4. That this form of tourism use be regulated to provide an approval system, other than a development application.

5. That an information brochure be developed for the public exhibition period of 28 days and be subject to a councillor workshop which includes specific information on:

- a) part time rental of permanently occupied dwellings for the purpose of short term visitor use
- b) a process for the regulation of holiday let properties by way of an annual licence and property identification as per Tourism Options Paper
- c) a fee for inspection and contribution to Council proposal and how this compared with bed and breakfast
- d) a Frequently Asked Questions leaflet

6. That Council receive a report on a revised process for the approval and developer contribution for Bed and Breakfast establishments. (Morrisey/Barham)

---

## **Report DM858266 - Byron Shire Holiday Letting Model submissions analysis Minutes DM865239**

### **09-614 Resolved:**

1. That Council note the results of the public exhibition of the proposed holiday letting model as outlined in this report.
  2. That Council reconfirm its Draft LEP Holiday Letting Precinct position with the inclusion of the South Beach Road and Riverside Crescent, Brunswick Head areas for holiday letting permissibility.
  3. That Council reconfirm its Holiday Letting tourism model has been assessed as a tourism activity that considers the needs of visitors to be in close proximity to tourism related infrastructure and activities and the impact of the use on residential areas. (Tabart/Morrisey)
- 

**10 October 2013**, resolved to prepare a holiday letting strategy, **(Res 13-530)**:

1. *That Council prepare a Holiday Letting Strategy with the following purposes in mind:*
    - (i) *examining issues raised in workshops during 2013;*
    - (ii) **examining Zoning/precinct options;**
    - (iii) *facilitating the preparation of a future LEP amendment;*
    - (iv) *supporting the amendment and hence justifying it to the DOPI; and*
    - (v) *pursuing legislative changes to facilitate strategy options.*
  2. *That staff pursue planning and legislative discussions with the Dept of Planning.*
-

30 October 2014, Council Meeting

**14-547 Resolved:**

1. That the following amendments be made to the Draft Short Term Holiday Accommodation Strategy prior to public exhibition:
    - a) Include a new provision that a logbook be kept by the owner/manager to record number of guests and dates of stay
    - b) Delete all references to: 'between the hours of 10pm and 8am' in the context of 'the land owner or appointed property manager must be contactable 24 hours 7 days a week and to be able to respond within 30 minutes between the hours of 10pm and 8am'
    - c) Change all references to 'there must not have been 2 substantiated complaints' to 'there must be no more than 2 substantiated complaints'
    - d) Include information on what is meant by a 'substantiated complaint'
    - e) Clarify that renting of a holiday home from 1 up to 90 days (outside of the school holidays) will require approval to operate and be registered with Council
    - f) Include exempt provisions for 1 bedroom Bed and Breakfast (eg. 'airbnb' and 'riparide') that require them to be registered with Council and limits the number of staying adults to two
    - g) Include additional information on the sign required on the front of the holiday home advising of the land owners or property managers details including telephone number to enable complaints to be made, to advise that the property is 'Registered with Byron Shire Council'
  2. That the draft Short Term Holiday Accommodation Strategy be placed on exhibition for a minimum period of 28 days and that midway through the exhibition period a meeting be held with the attendees of the Discussion Paper Workshop.
  3. That following exhibition, the draft Short Term Holiday Accommodation Strategy be reviewed having regard to any submissions received (and amended if required) and reported back to Council for adoption. (Richardson/Cameron)
- 

30 April 2015, Council Meeting

**Resolved (15-186) that Council:**

1. Adopt the Byron Shire Short Term Holiday Accommodation Action Plan, Attachment 1 (E2015/14847) subject to the following amendments:
  - a) amend the planning controls to remove all references to '40m' limitation applying to occupiers of separate dwellings in relation to making complaints about the short term rental activities taking place on a property (eg. at Action 5c in the Plan);

- b) further amend the planning controls at Action 6c in the Plan to change “\$250/adult” to “\$250 per adult”;
  - c) amend the planning controls relating to signage to read:

‘An A3 size sign, in accordance with Council’s template, is to be placed where it can clearly be seen from the public domain (eg footpath) advising the public of the land owner’s or property manager’s details including telephone number in 40mm font to enable complaints to be readily made, and wording to advise that the property is ‘Registered with Byron Shire Council’;
  - d) include a new action ‘Develop Signage Template for use by landowners/managers in accordance with the planning controls. Timeframe: prior to LEP amendments being gazetted. Cost: existing budget’;
  - e) change the Actions to ensure that for dwellings (of any size) where the dominant use of the dwelling is short term rental accommodation, development consent is required and other references in the documents be adjusted accordingly;
  - f) clarify wherever needed, that the standard is the total number of occupants being no more than the equivalent of 2 people per bedroom; and
  - g) exclude from the calculation of total number of occupants children under 5 years of age.
2. Prepare a planning proposal to amend Byron LEP 2014 in accordance with the proposed planning controls in Attachment 1 (E2015/14847) amended as in part 1 above and submit the planning proposal to the Department of Planning and Environment for a Gateway Determination.
  3. Request the Department of Planning and Environment to delegate to Council the preparation and making of the LEP amendment.
  4. Publicly exhibit the proposed amendments to DCP 2014 in Attachment 1 (E2015/14847) amended as in part 1 above, for at least 28 days, and concurrently exhibit the planning proposal to amend the Byron LEP 2014.

(Dey/Wanchap)

*The motion was put to the vote and declared carried.*

---

4 February 2016, Council Meeting

**Report No. 13.7**      **PLANNING - Submissions Report on Draft LEP Amendment  
26.2015.4.1 - Planning Proposal for tourism related land use table  
and clause changes**  
**File No:**              I2015/1586

*Crs Hunter, Dey declared a Special disclosure of pecuniary interest earlier in the meeting.*

*Cr Ibrahim left the meeting at 1.37pm in accordance with his earlier declared pecuniary interest in this matter.*

*Cr Wanchap declared a non-pecuniary interest in this matter and stayed in the meeting, participating in the debate and voting on this matter.*

**16-026 Resolved** that Council:

1. Modify the planning proposal in relation Subclause 8 for exempt Bed and Breakfast Accommodation as proposed in the NSW Rural Fire Service submission to:  
  
*8. Prior to commencement, where the dwelling is located on mapped bushfire prone land, a bushfire safety authority under Section 100B of the Rural Fires Act 1997 shall be obtained and all conditions of the Bushfire Safety Authority must be complied with.*
2. Forward the modified planning proposal to amend Byron LEP 2014, as included in Attachment 1 of this report, to NSW Parliamentary Counsel's Office requesting that a draft LEP instrument be prepared, under section 59(1) of the Environmental Planning and Assessment Act 1979.
3. Liaise with Parliamentary Counsel's Office (PCO) as necessary to finalise the content of the draft LEP and to enable PCO to issue an Opinion that the plan can be made,
4. Make the draft LEP under delegated authority and forward the plan to the NSW Department of Planning and Environment for notification on the NSW Government legislation website.

(Richardson/Cubis)

*The motion was put to the vote and declared carried.*

---

21 September 2017, Council Meeting

**Notice of Motion No. 9.5**      **Retraction of Planning Proposal regarding STRA**  
**File No:**                          I2017/1282

**17-407 Resolved** that Council write to the Minister for Planning as per S.58 (4) of the Environmental Planning and Assessment Act 1979, and request that Amendment No.11 Byron Local Environmental Plan 2014, not proceed to enable Council time to reconsider and resubmit a more detailed and well-thought-through planning proposal following the outcome of the State Government's consideration of the Short Term Holiday Letting in NSW Options Paper.  
(Lyon/Ndiaye)

*The motion was put to the vote and declared carried.*  
*Crs Cameron, Spooner and Hunter voted against the motion.*

---

12 December 2019, Council Meeting

**Report No. 13.27**      **PLANNING - Draft Planning Controls for Short Term Rental Accommodation in response to Ministerial Direction 3.7 Reduction in non-hosted rental accommodation period**  
**File No:**                I2019/1925

**19-676 Resolved:**

1. That Council request staff to prepare a planning proposal to amend Byron Local Environmental Plan 2014 in accordance with the draft planning controls in Attachment 1 (E2019/85833) except to replace point 4 with a new point 4 "investigate and apply an appropriate planning mechanism to limit 10% of the total housing stock in use as non-hosted STRA".
2. That Council request staff to undertake an online community engagement activity of the draft planning proposal controls during December and January to canvass community opinion on the controls.
3. That Council receive a report on the community engagement activity with a finalised planning proposal, for endorsement to submit to the Department of Industry and Environment for Gateway Determination in February 2020. (Lyon/Spooner)

---

20 February 2020, Council Planning Meeting

**Report No. 13.12**      **PLANNING - 26.2020.1.1 - Planning Proposal for Short Term Rental Accommodation**  
**File No:**                I2020/111

**20-021 Resolved:**

1. That Council forward the Planning Proposal (Attachment 1 #E2020/9498) to NSW Department of Planning for a Gateway determination after making the following adjustments:
  - a) replace the words "on the premises" with "in the dwelling" wherever they occur.
  - b) change the words in the first paragraph of 3.1.6 from:  
  
"Adequate monitoring and enforcement of the planning controls will be extremely difficult without a STRA register to provide information to Council about which properties are used for STRA and the number of days that properties are let."



to:

“Adequate monitoring and enforcement of the planning controls will be impossible without a locally-operated STRA register to provide information to Council about which properties are used for STRA and the number of days that properties are let.”

- c) add a section/table in Appendix 1, 2.4 which shows the percentage that listings in each suburb/area are of total dwellings in that area, and where relevant elsewhere in the document, to justify the 90-days being implemented shire-wide.
  - d) include a mention of our rental vacancy rate at a relevant point in the document to further justify the need for these measures in Byron Shire
  - e) indicate that effective compliance will require as part of the registration process, the 90-days the short-term rental accommodation will be available to be specified in advance, or at least a portion thereof up to the maximum of 90 days and reflect this in the Planning Proposal.
2. That, following the issue of a Gateway determination, the Planning Proposal be publicly exhibited in accordance with the requirements of it and the Byron Shire Community Participation Plan.
  3. That following public exhibition, a further report is put to Council on the results of the public exhibition and next steps for the finalisation of the Planning Proposal. (Lyon/Richardson)

---

19 November 2020, Council Planning Meeting

<b>Report No. 13.21</b>	<b>Update - Impacts of and management options for short term rental accommodation (STRA) in Byron Shire</b>
<b>File No:</b>	I2020/1740

**20-605 Resolved** that Council:

1. Notes the update provided on the status of the planning proposal and state management options for short term rental accommodation in Byron Shire.
2. Agrees to amend the planning proposal to include precinct areas that permit non-hosted STRA for 365 days in those areas that have already been taken up almost exclusively for STRA, and 90 days for those areas that have not. These precinct areas are shown in the maps in Attachment 1(#E2020/89860) with the exception of the Brunswick Heads map, which is to be amended and replaced with a map that deletes the 365 day area from land west of Tweed Street.
3. Authorises staff to submit an amended planning proposal to the Department of Industry and Environment for Gateway determination that satisfies item 2.
4. Pending gateway determination, undertakes public exhibition of the planning proposal and consult with government agencies in accordance with the gateway determination; and
5. Receives a report outlining the public exhibition outcomes. (Coorey/Cameron)

*The motion was put to the vote and declared carried.*

---

24 February 2022, Council Planning Meeting

**Report No. 13.13 Economic Impact Assessment of Planning Proposal for Short-Term Rental Accommodation**  
**File No:** I2022/98

**22-060 Resolved that Council:**

1. Notes the findings and recommendations of the Economic Impact Assessment and that of the Peer Review of the Economic Impact Assessment by Dr Peter Phibbs in Attachments 1 and 2.
2. Notes the Planning Proposal Timeline including delays to it due to the changing State Government requirements placed on Council in Attachment 3.
3. Supports wholeheartedly the existing 90-day/365-day cap option and instructs staff to amend the current Planning Proposal to meet the requirements of the Gateway Determination in Attachment 4, except for Condition 1(b), point 3, which requires the Planning Proposal to reflect the recommendations of the DPIE endorsed Economic Impact Assessment.
4. Authorises staff to submit the Peer Review with the amended Planning Proposal to the Department of Planning and Environment for a revised Gateway Determination to enable public exhibition of the Planning Proposal.
5. Requests the Department of Planning and Environment to extend the Gateway Determination date to 31 December 2022 or to when the Planning Proposal is determined and/or notified.  
(Lyon/Ndiaye)

Planning Proposal historical versions

**Document History**

Doc No.	Date	Details Comments Resolution No.
E2020/5132	Feb 2020	Planning Proposal Pre-Gateway Version #1.1 (WORD Version)
E2020/15204	Mar 2020	Planning Proposal Gateway Version #1.2 (WORD Version)
E2021/41679	Mar 2021	Planning Proposal Gateway Version #2 (WORD Version)
E2022/18935	Mar 2022	Planning Proposal Post-gateway SEPP Version #3 (WORD Version)
E2022/65945	July 2022	Planning Proposal Post 3 June 2022 Alteration of Gateway Determination -Version 4 - Public exhibition version