

The status quo for STR should remain as is

- * for making travel affordable for families and the not so wealthy as its not as costly , more room , access to kitchen and laundry
 - *Great way to enjoy local customs and culture and generate local economic activity without the global chain getting the economic benefit
 - *Access to quaint, eclectic venues not noisy,dirty, more expensive small roomed hotels
 - * Allows ST accommodation for temporary needs eg weddings reunions , special events in larger and smaller centres
 - *Increased tourism and economic benefits to community
 - *property owners are more easily able to afford mortgage
 - *A variety of hosts across society can be a host and promote the area. Provides employment in places where unemployment levels are high
- STR should adhere to tax laws and there should be standards of behaviour adhered to
- The status quo for STR should remain as is
- * for making travel affordable for families and the not so wealthy as its not as costly , more room , access to kitchen and laundry
 - *Great way to enjoy local customs and culture and generate local economic activity without the global chain getting the economic benefit
 - *Access to quaint, eclectic venues not noisy,dirty, more expensive small roomed hotels
 - * Allows ST accommodation for temporary needs eg weddings reunions , special events in larger and smaller centres
 - *Increased tourism and economic benefits to community
 - *property owners are more easily able to afford mortgage
 - *A variety of hosts across society can be a host and promote the area. Provides employment in places where unemployment levels are high

However

- **STR should adhere to tax laws**
- **There should be standards of behaviour required**
- **Belong to a Local STR body (not an expensive membership but based on what is earned**
- **Tax paid according to the tax laws**

This STR industry has grown according to a need in the already existing accommodation market. It should not be allowed to be taken over by big business or destroyed by the hotel lobby. It is a boon for small enterprise. I am so pleased to be a part of it

As it is becoming very common in tourist towns, especially Byron Bay, residential accommodation is illegally being let on a short-term basis, within residentially zoned areas for the use of short-term holiday accommodation (**STHL**). I understand the Byron Shire Council has made a submission to the NSW government. Unfortunately, these forces continue to detrimentally alter the social fabric of the town and reduce amenity to surrounding residents in multiple ways.

There are multiple examples in the Byron Shire of absentee landlords renting their properties nearly all the year (365 days) on a commercial scale.

Some residential blocks of units in the Byron Shire operate as one cohesive group and rent all the units in the block, using a dedicated website and permanent onsite office manager operating in the form of a Motel, with no existing DA, in a residentially zoned area. Units are available for rent 365 days per year. **See Julian's Apartments at [REDACTED]**.

I think when discussing STHL it is important to highlight the differences in properties being let for a small short-term gain by local residents compared to blocks of units operating 365 days a year in the form of Motels without appropriate DA's via absentee landlords.

STHL operating within residential zones mostly do not provide adequate disabled access, do not meet appropriate fire regulations, do not have appropriate public liability insurance, do not always pay appropriate GST, mostly do not limit guest numbers and do not contribute a proportionate amount of resources back to the local council for the level of services that they draw down on due to the multiple numbers of guests being turned over within accommodation.

Residential property owners that buy property in Byron Bay buy property with the understanding that the residential zoning rules will be applied. Unfortunately to date these rules have not been applied across the Shire and locals living permanently in the Shire that make up the social fabric have consequently suffered reduced amenity for the commercial gain of STHL owners that have let their properties.

It is my strong belief that all STHL should be capped at 90 days within all R2 and R3 zones. To create areas within each of these zones with different rules (90 or 365 days) undermines the purpose of the zoning rules in the first place.

Any property wishing to use STHL should be registered with the council. The council should also charge an ongoing registration fee to maintain registration. There should also be an updated permanent public register that the public can access so that when they are determining if they should purchase a property or rent a property, they should understand where local STHL exists and the properties history.

It should be remembered SHTL occupants differ from long-term residential occupants in that they:

- prioritise leisure or festive activities
- are unfamiliar with local rules to manage amenity of other permanent local residents; and
- are less concerned about maintaining neighbourly relations

As a long-term resident of the Byron Shire over 40 years I have noted how families have had to leave the Byron Shire because the property prices have become unaffordable. Social networks have been diminished due to the increasing number of absentee landlords renting their properties via STHL.

STHL reduces the amenity for local families and the rights of local families should out way the rights of absentee landlords that rent their properties out for most of the year.

I would hope when the council considers their decision regarding STHL that they appropriately weigh up the importance of the short-term and long-term needs required for local residents against the needs of absentee landlords that are STHL their properties for pure commercial gain.

Submission on the Draft Planning Controls for Short Term Rental Accommodation

Bruce Penman
[REDACTED]

The following submission is made in response to the January 2020 exhibition of the proposed draft planning controls for Short Term Rental Accommodation (STRA) in Byron Shire:

- 1. Lack of reasons and sound evidence base for reducing the rental period.** Council has not provided clear articulation of the reasons why 90 days has been selected in North Ocean Shores and indeed in most of Byron Shire. There is no sound evidence base for the change. How was 90 days arrived at? Why isn't 180 days proposed as per the State Environmental Planning Policy (SEPP) limits adopted for other Shires such as neighbouring Ballina Shire? It is submitted that 180 days is a more reasonable limit, particularly in areas within close walking distance of the beach, where property values are higher, and where there tends to be a greater concentration of STRA properties. There is no reasoning provided to show how a 90 day limit better achieves the objectives of the controls compared to a 180 day limit. This was a requirement of the Ministerial direction (dot points two and three).
- 2. Lack of clear definition of "days".** The planning controls are unclear whether the number of days per calendar year is "availability" or "offering" days or "occupied" days. Properties used for STRA would rarely achieve 100% occupancy so if the intention is for the controls to apply to "occupied" days (nights is actually a better term), then this needs to be clearly defined and not implied. If the 90 days were to apply to available or offering days, then some properties would only achieve 50-60% of this as actual occupancy, and thus would be unreasonably limited as to their use. A definition needs to be included to remove any doubt.
- 3. Poor drafting of the new clause (to Schedule 2 of Byron LEP 2014).** Dot point 3 of the new clause is poorly drafted, and the words "not permitted" are misleading. Non-hosted accommodation on bush fire prone land would be permissible but only as complying development. The wording needs to be reviewed to clarify this.
- 4. Impacts of reducing the STRA period.** For our property which has dual use as a family holiday home and STRA, there will be no social benefits for housing supply or affordability by introducing these controls. None.
There would be an economic loss in Byron Shire as a result of the reduced local expenditure by ourselves (on property management services) and our guests (on local goods and services) if we revert to just using the house as a family holiday home.
But if we choose to continue the part time STRA use, the impact of having to comply with the controls (by submitting a DA, making modifications, complying with bush fire hazard reduction controls, and complying with yet-to-be drafted local requirements) would place an unreasonable financial burden on us as owners, for no social or amenity gain. The STRA use of our property has minimal impact on local amenity as it is already well managed by a local real estate agent.
These economic costs need to be articulated as per dot point four of the Ministerial direction.
- 5. Managed accommodation.** No credit has been given to properties that are well managed by local agents in Byron Shire. A third category should be included in the controls being "managed STRA" which should carry the same exemptions as hosted STRA. Many managed properties already achieve the aims of the planning controls and the SEPP (contracts for renters, 24 hour hotline, bonds held etc) and have been doing so for many years, with a strong investment in local jobs through management fees, local cleaners and local service providers.

6. **Register of STRA properties.** I fear that the register of STRA properties will be used as a basis for higher rates and for the application of a STRA register fee, to raise the revenue needed to manage compliance of STRA under the new controls. Council needs to be clear about whether or not those who participate in the register will be charged commercial rates and an STRA register fee. If the planning controls are truly designed to achieve broad economic and social benefits for Byron Shire, then the compliance costs (which will be considerable) needs to be shared by all ratepayers.
7. **Lack of clarity on new local clause.** There is no information regarding the new local clause under Part 6 of the LEP which will set out the matters to be considered when assessing a DA for STRA. This is a significant omission and leaves property owners like ourselves, exposed to uncertainty as to what the actual rules will be for compliance where a DA is required. If past experience on STRA is the guide, then we fear unreasonable compliance standards will be imposed, if Council drafts provisions that don't align with the SEPP or the State-wide approach to STRA.

Finally, if Council is serious about fair regulation of STRA, then a consistent approach needs to be taken so that all STRA in Byron Shire is targeted for control and compliance. This will take considerable resources, the magnitude of which I expect has been underestimated. Our concern is that managed STRA, being those properties in the portfolios managed by local real estate agents will be seen as "low hanging fruit" to be early targets for compliance. Properties only advertised online don't have the visibility that managed properties do, and can be quickly unlisted by the owners, only to be relisted once the initial pressure from Council eases off. This will need to be addressed.



**BRUNSWICK HEADS CHAMBER OF COMMERCE INC
SUBMISSION TO BYRON SHIRE COUNCIL ON HOLIDAY LETTING
29 January 2020**

The Council Staff Report No 13.27 approved by Council at its meeting on the 12th December 2019, states that the Government's Local Planning Direction 3.7 Reduction in Non Hosted Short Term Rental Accommodation Period, (LPD 3.7) *"gives Council the opportunity to implement local planning rules for short term rental accommodation rather than being subject to the planning rules of the SEPP"* i.e. the proposed State Environmental Planning Policy (Short Term Rental Accommodation) 2019.

The new planning controls proposed for Short Term Rental Accommodation (STRA) published by Council on 23rd December 2019, states that *"we are the first Council in NSW with a proposal to amend issues we experience as a result of short term rental accommodation in our shire" and "Staff will review the feedback received from the community and refine or amend the planning controls where necessary. A planning proposal to amend Byron LEP 2014 will then be prepared and reported to Council for endorsement."* While this amendment was approved at the Council Meeting held on 12th December, *"the aims and objectives and matters to be considered when assessing a development application for short-term accommodation"* to be included in these amendments, have not as yet been determined.

However, the State Government's LPD 3.7 does not request that any amendment to the Byron LEP 2014 needs to be made. It only requests a planning proposal which would *"identify or reduce the number of days that non-hosted short-term holiday accommodation may be carried out in part of its local government area"*.

In addition to being subject to the SEPP referred to above, the 12 Councils in NSW that have already been approved by the Government for reduction in their number of days per year of non-hosted STRA, have been required to delete all clauses, definitions and schedules specifically related to STRA's from their Local Environmental Plans.

We don't believe that Byron Shire Council should be the only Council in NSW permitted to make such major changes to its LEP. This is because such changes would not be compatible with the proposed State Government's Fair Trading Amendment (Code of Conduct for Short-term Rental Accommodation Industry) Regulation 2019 under the Fair Trading Act 1987. The intention of this Code of Conduct is to achieve *"a state-wide planning framework to achieve consistency and certainty across local planning controls."* We don't believe that such consistency and certainty across local planning controls is likely to be achieved if the Byron Shire Council is permitted to make such major changes to its LEP. We are also concerned that these changes to the Byron LEP 2014 will result in ongoing fees being applied to STRA's by the Council, in addition to the fees that Fair Trading is also expected to charge.

The LPD 3.7 also requires that:

1. *"The reasons for changing the non-hosted short-term rental should be clearly articulated."*
2. *"There should be sound evidence for the proposed change, including 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."*

3. *“The impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including the social and economic impacts for the community in general, and impacted property owners specifically.”*

The New Planning Controls proposed for Short Term Rental Accommodation published by the Council on 23rd December 2019 ([www.byron.nsw.gov.au/Council/Media-centre/Media-releases/New planning controls provides proposed for Short Term Rental Accommodation](http://www.byron.nsw.gov.au/Council/Media-centre/Media-releases/New%20planning%20controls%20provides%20proposed%20for%20Short%20Term%20Rental%20Accommodation)) and the Council’s related request for Feedback on its Draft Planning controls for Short Term Holiday Letting (<https://www.yoursaybyronshire.com.au/holiday-letting>), do not provide any of the essential information that is required by the LPD 3.7 as detailed above.

In the Council’s request for feedback under “What are the new planning provisions?” it states that “365 days per year has been suggested at Wategos, Belongil and Shirley St” and that “the rest of the shire will be limited to 90 days per calendar year.” No explanation has been provided as to why the 365 days per year have been suggested for Wategos, Belongil and Shirley St or for the basis on which the decision has been made for the rest of the shire to be limited to 90 days. The Brunswick Heads Chamber of Commerce has made a number of previous submissions to maintain the current 365 days per year, but it appears that the Council staff preparing the current proposal were not aware of the Chamber’s submissions.

Brunswick Heads holiday accommodation

The Brunswick Heads’ tourist demographic is very different from that of Byron Bay and the Brunswick Heads’ Simple Pleasures branding has been highly successful in managing tourism. We have ensured that the relationship between visitors and residents is harmonious and that tourists visiting Brunswick Heads have a minimal negative impact on the local community, whilst boosting the local economy.

Holiday accommodation alternatives to STRA in Brunswick Heads are very limited compared with Byron Bay. Brunswick Heads has very little commercial tourism accommodation. There are only four motels and one licenced bed and breakfast on the outskirts of town, and its only hotel no longer provides any tourist accommodation. Although the town has three holiday parks, managed by NSW Crown Holiday Parks, many people prefer to stay in the towns STRA holiday houses and apartments. Brunswick Heads has no backpacker or serviced apartment holiday accommodation.

For over 60 years, until the late 1980’s, Brunswick Heads had a higher level of tourist visitation than Byron Bay. However, since the late 1980’s the town has not experienced the same sort of rapid growth in its tourism numbers as Byron Bay. Tourism is still the only significant driver of the Brunswick economy.

In the last 20 years there has not been a significant growth in STRA managed by the 3 local real estate agents in Brunswick Heads. In 2008 it was estimated that there were 59 holiday letting properties in Brunswick managed by local real estate agents. There are now about 61 such properties. There has, however, been some growth in Airbnb and similar services during this time, both hosted and not hosted, although the exact number of these is difficult to determine. But there has not been anywhere near the significant growth in this sector as in Byron Bay. Any negative social impacts from the growth in non-hosted Airbnb in our town has been minimal.

Housing Affordability

Attempts to limit holiday letting several years ago were made on the basis of noise and party related behaviour. A more recent focus of the anti-holiday letting lobby has been to claim that holiday letting is the cause of housing unaffordability and the loss of permanent rentals. This may well apply to Byron Bay, but there has been no evidence to suggest that this is the case in Brunswick Heads. The level of STRA’s has not increased dramatically in Brunswick Heads, as it has in Byron Bay.

There are housing affordability problems in Brunswick Heads, as in many coastal towns. However, these problems will not be resolved by limiting STRA’s to 90 days p.a. Even if some current owners were to convert their STRA properties to permanent rentals, they would not

necessarily become “affordable”. Council has provided no evidence of any cause and effect of STRA’s in Brunswick Heads over the last decade and no social impact studies have been undertaken to confirm that this is the case. It is not acceptable to look at the issue purely on a shire-wide basis and to make radical changes that will have serious flow-on effects on our town’s fragile economy. As stated previously, Brunswick Heads is very different from Byron Bay and should be considered separately, using data collected from Brunswick Heads.

A number of the more affordable residential rental properties in Brunswick are located above or directly connected to shops and offices in the commercial zone. If a 90 day limit is placed on STRA’s in the residential zone, it is then quite likely that a number of these residential properties in the commercial zone would be converted to holiday letting for 365 days a year, to make up for the closing down of many of the STRA’s in the residential zone. This could have a significant impact on residential housing affordability in the town. The three Brunswick Heads holiday parks might also take advantage of this resultant loss of holiday accommodation and seek to significantly extend the number of holiday cabins along the foreshore. The local community was not happy when this was proposed in a previous Holiday Parks Plan of Management.

Impacts of Reducing Non-hosted STRA’s to 90 days

We have evidence to show that when cleaning costs, management fees, repairs and maintenance, marketing and other costs are deducted, the net income from Brunswick Heads real estate agent managed STRA’s is quite similar to the net permanent rental income that could be derived from these properties. In fact, our three real estate agents generally encourage new investors to permanently rent out their properties, rather than holiday let them. Most of these properties are owned by people who do not live permanently in Brunswick Heads. They use their holiday homes themselves and make them available for their family and friends. A number of these people also purchased these properties with a view to eventually living there permanently themselves. Net annual returns on holiday rentals in Brunswick Heads are also nothing like they are in Byron Bay.

A 90 day limit, resulting in maximum occupancy rates of 25%, would render most local real estate managed STRA’s in the town financially unviable. In 2015, when the Council was then also considering a 90 day per year limit on holiday letting, the Brunswick Heads Chamber conducted a survey of the local real estate agents’ holiday property clients. Over 80% of them said that if they were limited to only 90 days of holiday letting, they would consider either selling their properties or retaining them for holiday use by their own family, friends and relatives, rather than letting them out permanently. Most of those that are converted across to permanent accommodation, are unlikely to be affordable.

It is most unlikely that most families who frequently visit Brunswick Heads and who normally stay in holiday houses and apartments would not be happy staying in accommodation in someone else’s home, as is the case in hosted STRA’s. This is likely to result in a further decrease in the visitation by our traditional family based tourists.

If non-hosted STRA’s were limited to 90 days a year, it may be that some STRA’s, which are not managed by local real estate agents but are listed on Airbnb or similar platforms, may continue to operate, but to what extent is difficult to estimate.

We are most concerned that the introduction of a 90 day per year limit on non-hosted STRA’s in all of Brunswick Heads will have dire consequences on our small businesses, employment and our local economy and with far reaching economic multiplier impacts. This will also affect the social cohesion of the local community. We believe that the Council has, to date, failed to consider these consequences.

It is therefore incumbent upon our Council and its representatives to consider carefully all the possible ramifications of the current proposal. The possibility of gaining a few more permanent rentals in town would not justify the negative social and economic impacts of changing the status quo.

Brunswick Heads Business Survey

The Brunswick Chamber of Commerce has been actively involved in STRA issues for about 15 years. However, its many representations on this issue to the Byron Council seem to have been largely ignored. In 2004, in conjunction with the Brunswick Heads community, the Chamber's Tourism Management Group developed the Brunswick Heads Tourism Management Strategy. The central element of this strategy is the Simple Pleasures campaign. The Strategy included the following key objectives:

1. *"To protect the town from inappropriate tourism development and provide the right kind and amount of accommodation in keeping with the town's vision and the visitors' expectations;*
2. *To protect the town from a loss of tourism accommodation;*
3. *To develop a marketing plan for 2004-2009 which focuses on targeting only tourists who are compatible with our community values, rather than increasing tourist numbers."*

Since that time, owners who are associated with the Chamber and the local real estate agents managing STRA's have consistently adhered to these principles.

In November 2019 the Brunswick Heads Business Survey was prepared by the Brunswick Chamber of Commerce. Comprehensive business surveys have been conducted every three years since 2000. The level of survey responses was very strong last year with a total of 70 businesses replying to the survey.

59 businesses responded to Q11 in the survey: *"What percentage of your business is tourism related?"* The results of this response were that:

- *91.7% of businesses are patronised by tourists to some extent. Thus only 8.3% of businesses have no reliance whatsoever on tourism.*
- *For 20.4% of businesses, tourism makes up 90% of their trade.*
- *For over a quarter (26.7%) of businesses, tourism makes up more than 80% of their income.*
- *For two thirds (66.6%) of businesses, tourism makes up half or more of their trade.*

These responses were all made by local businesses.

The 2019 Survey highlighted the town's dependence on tourism. There are no other major economic drivers and none on the horizon. Therefore, business owners are very concerned about any changes that could negatively impact on their business. They shared their concerns and offered up suggestions for how to make the town's economy stronger. Most suggestion resolve around protecting the tourist industry."

In the concluding list of 13 opportunities that were identified by the Survey, Item 11's suggestion was to: *"Persuade Council to retain the status quo for short-term holiday letting, so that tourism, the local economy and jobs are not impacted as a result of reducing the number of days permitted."*

Conclusion

Brunswick Heads is very different from Byron Bay. Unfortunately, much of the information provided by the Council has been generalised for the whole of the shire, when in fact most of this data applies to Byron Bay. The number of tourists visiting Byron Bay and their demographics are profoundly different from those in Brunswick Heads. Indeed, the scale and demographic of tourist visitation in Brunswick Heads is actually not too distinctly different from many other parts of Coastal NSW. It makes no sense that this town should be treated differently from most of the rest of the regional coastal areas of NSW.

Brunswick Heads should therefore not have its STRA reduced to only 90 days per year. Brunswick Heads, just like the rest of state, should also be able to fully take advantage of the Code of Conduct for Short-term Rental Accommodation Industry Regulation under the Fair Trading Act. After all the intention of this Code is to create *"a state-wide planning framework to achieve consistency and certainty across local planning controls"*.

Brunswick Heads does not want to be collateral damage for policies and regulations that are put in place to resolve issues related in Byron Bay. We have no doubt that limiting holiday letting to 90 days would be detrimental to our local economy and employment. As required by the State Government, the impact of reducing the non-hosted short-term rental accommodation period should be fully analysed and explained. This should include the social and economic impacts for the community in general, and impacted property owners specifically and should occur before the Council makes any decision on the matter.

The status quo of 365 days per year STRA has been working well in Brunswick Heads for over a century. The suggested solutions for what is essentially, we believe, a Byron Bay problem, should not be a basis for destroying an industry that has been working so well for our town.

In summary, the Brunswick Heads Chamber of Commerce urges the Council to:

1. Retain the status quo of 365 days for non-hosted STRA's in Brunswick Heads
2. Discuss our rationale and other regulatory proposals with the Chamber and its Holiday Letting Committee
3. Comply with the Fair Trading regulations rather than seeking to significantly amend the Byron LEP 2014.
4. Research & collect data to justify any of Council's proposed changes for Brunswick Heads and provide information on any possible negative ramifications (which the State Government requires) before proceeding.

Sincerely



JULIANA HARMSSEN
Acting President
Brunswick Heads Chamber of Commerce Inc

To: submissions@byron.nsw.gov.au ▾

Cc: | 

Subject: Proposed Development Application for 12 Burns Street

Dear Council,

I am writing to you to oppose the development application of 12 Burns street, Byron Bay DA NO 10.2019.666.1

I do oppose the "Everick Heritage company" for proposing to build a double story set of 4 Apartments totalling in 12 bedrooms . With a total of 16 bathrooms. 4 swimming pools. 4 Garages To be built onto one heritage residential block of land at 12 Burns street which extends onto the small laneway of Little Burns Street.

This seems like an obvious air BNB type Hotel / Mega rental property.

12 Burns street's proposed plan is for a double story set of 4 units Maximising every inch .

I oppose the height level of two stories

As a resident of Little Burns Street when building my home 6 years ago I was allowed to build only a one story dwelling. This was stated because in regulation of this being a heritage area of the town.

The Heritage areas being Buttler street, Burns and Little Burns Streets.

This proposal is a Maximum development development and is Totally out of character to our (once again) 'heritage area.'

It is not family or elderly friendly, it shows no outside grassed living areas. All bedrooms are upstairs making it unsuitable for the elderly. The buildings which are close to the property boundaries show significant height shadowing to properties either side. It does not provide extra parking off the very narrow laneway of Little Burn Street where two of the units face.

It seems that this is the beginning (in our part of town)of profiteers who are not themselves Byron residents to profit in the commercial holiday rental businesses.

The excess of profiteers who come to Byron undermine our community our families and our life style for their gain.

Thank you very much for taking time to read my objections.

Sincerely, Carole Coffey

Submission to Your Say, Byron Council

Byron Council's consideration of limiting short term rentals to 90 days per year is counter-intuitive if the aim is to give Byron "back to the residents" or to return it to a quiet beachside community. It will ensure it's the absolute summer party town. We own a small house on Alcorn St, Suffolk Park that is tightly managed (no parties, weddings or photo opportunities) and largely let to small families. If the 90 day regulation was to apply we'd have to maximise our return to pay the mortgage. That would mean STRA (at maximum rates) for December and January, Easter and other peak school holidays. So we can continue to use it ourselves, we would not rent it out at other times. If others do the same sums it'd ensure a boom and bust cycle for the Byron area.

The 90 day limit would certainly greatly reduce the money we put into the community. At present we have a single mother as our cleaner and she'd lose 9 months work each year. We also use a local linen service and delivery but their income would be reduced 75%. Others we employ regularly but would no longer need for the majority of the year include: bin service, gardener and lawn mower, pool service, window cleaner, BBQ cleaner, gas supply and handyman. We also leave a guide to local shops and restaurants in the house and that is well embraced by our guests. Those businesses would no doubt be busy over summer and quieter at other times.

Obviously, our home would be empty for long periods (ie weeks at a time) when we couldn't be there. I wonder if this is going to be a boom for petty criminals who can rely on exploring many empty houses with good furnishings and equipment?

The NSW government is examining a limit of 180 days per year of STRA. If that was applied in Byron we could manage much as we do now – STRA at times when people wish to visit (spring, summer, school holidays) and live in it ourselves for much of the other half of the year.

Finally, the council is obviously considering applying different rules in different areas. It seems strange that only 90 and 365 day options are provided. But any examination of AirDNA or the like will show there are some (beach and bay-side) streets and areas (ie Suffolk Park east of Broken Head Road) that are much more favoured for a high turnover of visitors while others are more suited to regular suburban life.

Gratefully submitted for your consideration
David McGonigal

Dear Sir / Madame,

Re: Short Term Holiday Letting.

We are owner and permanent residents at Broken Head Reserve Rd. Broken Head.

In our area, we are opposed to non - hosted holiday letting in excess of 90 days. There are several properties where there are non - hosted holiday letting in our small neighbourhood as well as the Pavilion complex which is across the road from us. The complex contains seven residences where there is already unlimited holiday letting. At times there are large groups of people partying noisily past 2 a.m.

The noise and behaviour of all these renters is seriously affecting our community's peace and quiet in this beautiful, tranquil area.

Kind Regards,

Julie and Les Rothbart.



Submission to BSC's Draft planning controls for STRA

I have lived in Byron Shire for 12 + years.

My family have owned the land I live on for 40 + years.

My family have run accommodation in Sydney since 1960's and I have 25+ years in the accommodation industry.

Declaration of advocacy: I own one other property other than my home – a holiday rental in Byron Shire.

I applaud BSC for addressing community concerns regarding the rapid increase of STRA at the expense of the local community. I believe BSC has also done the right thing over the years restricting massive development for a more 'village' feel. However, this has meant in order to cover the distinct lack of larger accommodation providers, Byron has become dependent on STRA picking up the slack. If 40% of houses in Byron town (BSC review) are now available as STRA, does that not suggest an enormous market otherwise not catered for? That converts to a huge number of visitors whose money has attracted local investment and created local jobs. Clearly the issue of STRA needs to be addressed with great caution. BSC's current draft plans will create a number of responses most of which will not be to the advantage of the local community.

There are a number of outcomes that could play out from BSC's blanket experiment. Markets usually adapt to conditions and in this age of the disrupter, this is the most likely outcome.

Enforced hosted holiday lets is something already trialled and failed as a solution to Airbnb overseas. Whilst the individual owner/operator may be forced out of the business, a new multi-property investor moves in. These predatory companies essentially commercialize residential communities. They appoint area managers responsible for finding 'hosts' whose job it is to live in the holiday lets and fill the remaining bedrooms as best as possible. (As a property owner I was approached to do just this last year). Here's what happens: A backpacker or cheap alternative stays in the dwelling. They rent out individual rooms to guests. GONE is the family holiday group who so love having their own space and renting a home. Inside Airbnb quotes 79.2% of listings are entire homes or apartments – families don't want to stay in hosted lettings. BSC has worked so hard to make Byron a real family friendly destination and this will utterly undermine those efforts. In effect what happens is these properties become a string of de facto 'backpackers' and the parties will increase now WITH Council's blessings. Yes, the code of conduct is meant to patrol this but in effect Council has created a bigger problem than before and under the new LEP these properties are now development exempt.

For operators like myself who enjoy using the property when not booked, we can no longer enjoy their house as our own as there is a 'host' living there permanently. I have a great relationship with my neighbours, and we work together on numerous local issues – removing owners such as myself will increase dislocation from community.

For other holiday let owners, installing a 'host' will make the investment financially unviable. Previous 2-bedroom places become a one bedroom etc. Again, this will mean the

type of tourist will change – who doesn't mind sharing a house so much? Young folks, not families. BSC claims they would like to see visitors stay longer and spend more. Young, itinerant travellers are the opposite of this.

There is the possibility that the housing market could collapse and it's not the STRA operators who have the most to lose, it's the local community dependent on tourism for their livelihood that will bear the brunt. I don't personally believe this will occur, but it is a possibility and in tandem with other developing economic storm clouds, BSC's gamble is a risky one.

Possible effects of a 90 day restriction on non-hosted holiday lets in residential zones:

1. Massive drop in tourist numbers outside peak periods. How many businesses can survive on 90 days trade a year? If they can't, they're gone. Have a look at the type of businesses that operate in completely seasonal markets. Usually owners lock up shop out of season. Is that what BSC wants to see 6-9 months of the year through the main streets of Byron? The type of businesses that can continue to operate on such seasonal fluctuations are generally ones that have multiple outlets that can spread the risk. i.e. Chain stores. Local, one-off operators will be the most affected.
2. Those who can afford to keep their rental properties will. Houses will sit empty. Favours the rich. As an example, I require to rent my property out approximately half the year to pay for costs, (mortgage, land tax, rates, running costs). 90 days rent will not cover this.
3. Those who can't afford 90 days will either break the law, (BSC be prepared for extended lawsuits), or they will sell up – most likely bought by rich outsiders who will then let the house sit idle. The folly that house prices will crash to the extent that locals who can't afford Byron now will be able to buy in is just a fantasy. Byron house prices will remain high because of demand – see point 2.
4. Affordable housing is a completely different issue and requires proper planning and purpose-built dwellings. The belief that existing multi-million-dollar properties will become 'affordable' housing lacks any credible proof.
5. Properties will be held but turned in to full time rental properties. On the surface, this is not a bad outcome, however if rental rates crash, then look to points 1-3. People aren't going to hold onto properties if they can't get a reasonable return, (remembering what they paid for them). The demand for property in Byron is still huge, so people wanting holiday homes will buy in and leave them idle.
6. A huge amount of money private and public has been invested in events that sit outside the school holiday and busy periods of the year. Music festivals, writers festivals, film festivals, surf festivals, swim festivals, spirit festivals, vintage car & clothes etc and those that exist outside of Byron town itself including Mullumbimby and Bangalow's various festivals and of course the entire wedding sector. Imagine all the workers dependant on these industries who will be unable to find continual work 6-9 months a year, where will they go? The restaurants, cafes, retail, cleaners, carpenters, electricians, plumbers and all the artisans and local markets whose survival is dependent on tourists. This is the very heart of our community. Where will they get the money to live when all these tourists go?

7. Indiscriminate plans will punish good operators and reward those who will weasel their way around it. In terms of dealing with the issue of disruptive behaviour, a properly funded and enforced code of conduct is the way to proceed.
8. BSC must accept that much of this problem is their own making. E.g. the exempt development of granny flats has created a huge STRA outlet and Council has had no success so far in enforcing its rules here. The history of holiday lets in Australia is iconic – yes it has got out of hand, but how that is handled is critical to the future of the Shire.

Suggestions:

1. Find a middle path. Why not spread the tourist load so that Byron Shire becomes a truly sustainable tourist destination? Perhaps limit STRA in zoned high-density and/or mid-density residential areas? Allow nearby towns to share in the dollars. Definitely create a code of conduct but ensure its enforceable.
2. ALL accommodation providers be they hotel/backpackers/apartment and Airbnb type should pay a bed tax to help cover the cost of vital infrastructure of Byron Shire and help alleviate the impact of tourists on public infrastructure. What about \$1 per bed, per night? If this is not possible, then a specific rate levy should be applied. Properties that comply would earn a BSC 'tick of approval' to advertise with. This could be part of the Code of Conduct or a voluntary system that with BSC awareness campaign and advertising through on-line platforms etc, would become the preferred option for visitors wishing to support sustainable tourism. This money could then go towards the huge cost of enforcement. Businesses and tourists must pay their share – it is currently unsustainable for the small amount of rate payers to cover the costs of 2 million visitors a year.

Byron Shire has built a solid reputation for low-key, family friendly tourism. This amendment threatens that vision. Keep the community happy. Keep the family-friendly vision. Keep the jobs. Fund BSC to better deal with the influx of visitors. There are ways to deal with this but the current draft amendment will create more problems than it solves.

Sincerely,

James Mayson
Federal

Response to Byron Shire Council's proposal for a 90 day limit on Short Term Rental properties

This document provides my feedback to the Council on the proposal to limit some areas in Byron Shire to maximum 90 days short term rental.

In short I do not agree with the proposal.

My key reasons for objecting to the proposal are as follows:

1. The change will impact the local economy negatively.
 - a. It will reduce the earnings of supporting businesses who rely on short term housing occupancy rates i.e. cleaners, laundry services, garbage bin managers, real estate agents, gardeners.
 - b. It will reduce the income from water rates/usage, power usage for organisations providing these services.
 - c. It will reduce the income for all local businesses due to the reduction of tourists visiting the area if unable to find accommodation
 - d. It will reduce the income of the rental property owner, running a legitimate business just like any hotel or motel in the area.

** Note: modelling can be done for the dollar impacts here .. however limiting rental to 90 days guarantees a maximum 25% occupancy per annum .. and I expect most places run at between 30 and 50%+ occupancy today)

2. The change will not contribute to housing availability or the erosion of housing supply. Having a property available for 90 days a year does not necessarily make it available for the other 175 days ! It will sit empty. Housing supply will not necessarily erode, because short term property rentals will only survive if there is demand. As demand reduces with more properties becoming available then the growth will slow.

3. The change will increase costs for visiting tourists ... eventually impacting the number of tourists to the region .. tourism being the largest revenue source for local business and the council itself. Costs will increase because the cost per person per night on your average short term rental property is significantly less than a motel or hotel. This cost differential is the main reason short term rentals are so popular ! In addition, if rental properties are only available 90 days a year when they are currently available more often .. then the tariffs will need to increase. Finally, as an unintended consequence, if properties are only available for 90 days versus the current 365 days then there is the potential that the excess demand will be filled by having even more short term rental properties !

4. The proposal may very well significantly reduce the number of families visiting Byron. Short term rental properties provide the perfect arrangement for family holidays. Houses provide all the amenities a family needs for a good holiday for the kids. If properties are limited then families will be forced into less suitable motel suites or apartments at a much higher cost. The result could be less families coming to and enjoying Byron. And risk the area becoming more of a party town for couples, singles and backpackers.

5. The proposal will not achieve the stated aims of the Council:

(note; **Byron Council Stated Reasons**: prevent erosion of housing supply, manage impacts on amenity, safety for tourists)

 - a. Prevent erosion of housing supply ... see earlier points .. supply and demand will dictate this
 - b. Manage Impacts on Amenities ... amenities being say parks, beaches, toilets, reserves, shopping centres, AND Council has advised parking, noise and garbage are also of concern. Short term rental properties of their own accord do not impact amenities any more or less than what is driven by the number of visitors to the region (and I am assuming the Council objective is NOT to reduce the number of visitors to Byron). Properties are less densely populated per sq mtr of land, don't create ugly multi storey building complexes, provide yards, and pools etc. Parking has also been raised as an issue associated with short term rental

properties, however rental properties compared to say hotels have more car parking spaces available off street. And if illegal parking is a problem then there are fines for that. Personally, I have seen significant numbers of cars parked outside permanent rental properties where each bedroom is sub-let to people. Noise has been raised as a concern for properties and is occasionally an issue. Again there are regulations for this just like any home and police can be called and fines issued. Byron also has an organisation called HLO who manages and addresses these issues should they arise for property owners. As for the significance of the noise issue, I checked with a local real estate agent on property noise and discovered they had had on average one noise complaint per annum across some 60 properties. The impact of Short Term Rental Properties on Garbage escapes me. The amount of garbage produced is directly related to how many people are living or staying in the township .. not where they are staying. However, some holiday makers can produce a large quantity of garbage in a visit. To my knowledge this excess is addressed by the “Rubbish2Move” type organisations who will do an extra collection at any time. Regarding excess garbage, Council would be well advised to drive down Broken Head Road on garbage bin night and witness the nearly 1 km of bins lined up along the road and across the bus stop. This from a Council approved development !

- c. Safety for Tourists .. there is not enough information to inform on what this actually means. In case of fire risk ... short term rental properties are arguably easier to evacuate in case of a fire than large hotel complexes. Appropriate fire regulations are mandated by government just like all homes in Australia. And properties are usually located well away from the rowdy (sometimes dangerous) parts of town, most are located in good neighbourhoods where people look out for each other.

The current short term rental policies today allow for renting 365 days per year. And tourism is a 365 days per year business arguably critical to the Byron Bay economy. At this time I believe the 90 day limit is unique and not well tested or modelled for the results it might produce. Many areas of issue are

not just related to short term renting. And many issue areas can be addressed by regulating the actual rental properties.

Perhaps **IF** some changes are required to create some limitations, and other alternative solutions are not to be pursued, then a 180 day limit might be an appropriate trial step to test impact over say a 3 year trial.

Robert Orth

[REDACTED]

[REDACTED]

Feedback on Byron Shire Short Term Rental Accommodation Holiday Letting

Feedback

My wife and I own two holiday letting properties in Brunswick Heads at [REDACTED], both of which are managed by North Coast Lifestyle Properties. I do not support the restriction of Holiday Letting (STRA) to 90 days a year either on our properties or in Brunswick Heads as a whole.

In the Council's request for Feedback under "What are the new planning provisions?" it states that "365 days per year has been suggested at Wategos, Belongil and Shirley St" and that "the rest of the shire will be limited to 90 days per calendar year." but no justification has been provided as to why the 365 days per year have been "suggested" only for Wategos, Belongil and Shirley St or why a decision has apparently been already made that the rest of the shire shall be limited to 90 days.

The Council has to date has not provided information as required by the Government's Local Planning Direction 3.7 Reduction in Non Hosted Short Term Rental Accommodation Period, (LPD 3.7) i.e.

1. *"The reasons for changing the non-hosted short-term rental should be clearly articulated."*
- 2 *"There should be sound evidence for the proposed change, including 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."*
- 3 *"The impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including the social and economic impacts for the community in general, and impacted property owners specifically."*

I am also opposed to the Council intention "to amend the Byron LEP 2014 so as to implement local planning rules for short term rental accommodation rather than being subject to the planning rules of the SEPP" (i.e. the proposed State Environmental Planning Policy (Short Term Rental Accommodation) 2019). The LPD 3.7 does not require an amendment to the Byron LEP 2014, but only requests a planning proposal which would "identify or reduce the number of days that non-hosted short-term holiday accommodation may be carried out in part of its local government area." It is also interesting to note that the 12 Councils in NSW that have already been approved by the Government for reduction in their number of days per year of non-hosted STRA, have all been required to delete all clauses, definitions and schedules specifically related to STRA's from their Local Environmental Plans.

I don't believe that Byron Shire Council should be the only Council in NSW permitted to make such major changes to its LEP. Such changes are not likely to be compatible with the proposed Fair Trading Code of Conduct. The intention of this Code is to achieve "*a state-wide planning framework to achieve consistency and certainty across local planning controls.*" Based on the Council's inconsistent and disruptive behaviour towards STRA's over many years, I don't believe that the consistency and certainty that the Government is seeking, is likely to be achieved by the Council if it is permitted to make these major changes to its LEP. Also it would appear that such changes to the Byron LEP 2014 will also result in fees then being applied to STRA's by the Council as well as by Fair Trading.

Brunswick Heads

The Brunswick Heads' tourist demographic is very different from that of Byron Bay, and holiday accommodation alternatives to STRA's in Brunswick Heads are very limited compared with Byron Bay, as Brunswick Heads has very little commercial tourism accommodation. Since the late 1980's the town has not experienced rapid growth in its tourism numbers like Byron Bay has. Indeed over last 30 years the percentage of STRA's relative to permanent residential rentals in Brunswick Heads has declined. But Tourism is still the only significant driver of the Brunswick economy.

There is no evidence to suggest that STRA's in Brunswick Heads have resulted in any significant noise or party related behaviour. There are housing affordability challenges in Brunswick Heads, as in many coastal towns, but these are not caused by STRA's and these problems will not be resolved by limiting STRA's to 90 days p.a.

If my wife and my two STRA units are reduced to 90 days per year, we, like most other STRA owners in Brunswick Heads, whose properties are managed by local real estate agents, will cease holiday letting our properties, as this will no longer be financially viable. Most such STRA's are owned by people who do not live permanently in Brunswick Heads and use their holiday homes themselves and make them available for their family and friends. In 2015, when the Council was then also considering a 90 day per year limit on holiday letting, the Brunswick Heads Chamber conducted a survey of the local real estate agents' holiday property clients. Over 80% of them said that, if they were limited to only 90 days of holiday letting, they would consider either selling their properties or retaining them for holiday use by their own family, friends and relatives, rather than letting them out permanently.

The Brunswick Heads Chamber of Commerce 2019 Survey highlighted the town's dependence on tourism, pointing out that "there are no other major economic drivers and none on the horizon. So businesses are very concerned about any changes that could negatively impact on their business."

Recommendations

- 1) Retain the status quo of 365 day for non-hosted STRA's throughout Brunswick Heads.
- 2) That STRA in the Shire be required to comply with the proposed Fair Trading Code of Conduct regulations rather than for the Council seek to significantly amend the Byron LEP 2014.
- 3) That, as required by the Government, that the Council provide sound evidence to justify any proposals that are likely to impact on Brunswick Heads and the rest of the Shire, and make this information available to the public before seeking Government approval.

Background

I am a Member of Brunswick Heads Chamber of Commerce Holiday Letting Committee, was the Project Manager for Brunswick Heads Community Economic Transition Plan 2011-2016 and am a former Vice-President of the Holiday Letting Organisation Byron.

Conclusions

I am also most concerned that the introduction of a 90 day per year limit on non-hosted STRA's in Brunswick Heads will have dire consequences on our small businesses, employment and our local economy, with far reaching economic multiplier impacts. Brunswick Heads is very different from Byron Bay.

Unfortunately much of the information provided by the Council has been generalised for the whole of the shire, when in fact most of this data applies to Byron Bay. The number of tourists visiting Byron Bay and their demographics are profoundly different from those visiting Brunswick Heads. Indeed the scale and demographic of tourist visitation in Brunswick Heads is actually not too distinctly different from many other parts of Coastal NSW. It makes no sense that this town should be treated differently from most of the rest of the regional coastal area of NSW. Brunswick Heads does not need to be collateral damage for policies and regulations that are being put in place to resolve issues mainly related to Byron Bay.

Robert Rosen



SUBMISSION TO BYRON COUNCIL REGARDING SHORT TERM RENTAL ACCOMMODATION

Sandra Hook



1. OPTIONS PRESENTED

I believe the options presented by Byron Shire Council (BSC) in this Community Engagement are LIMITED and too extreme. An option of either 90 days or 365 days does not represent the broader options available to BSC.

There is no discussion of other options including 120, 180, 240 days

The lack of choice and more flexible considerations promotes extreme views and promotes a lack of tolerance among the Byron community.

While BSC's Community Engagement program explores the views of residents and STRA owners only, it does not seek to engage or garner the views of holiday makers. Holiday makers contribute immeasurably to the economics of the Byron Shire community – spending money on retail, food, entertainment, consumer items and beyond. Byron is a global destination as a holiday destination and tourist mecca. Not taking into consideration the views of the 100's of 1000s who love, enjoy and support the Byron Shire is a failure of BSC's engagement program and will distort the policy debate.

2. HOME OWNER RIGHTS

As the owner of a property on [REDACTED] Suffolk Park I feel my rights are being diluted and have reached second-class status. We carefully considered and factored the Short-Term Rental Market when purchasing this property.

We live in Sydney but I have aging parents (84 and 94 years old) nearby and we purchased the property in order to be able to spend more time visiting with my parents and providing them with a place to stay with us nearby as they are no longer able to travel distances.

In the great tradition of holiday home ownership, this house was bought to share with our friends and family. The reality is, if we are limited to only 90 days on Airbnb then it will mean that our place stays empty for many weeks/months each year as we want to ensure it is free for us to come stay, to visit with my parents and have them come to stay. We wouldn't accept long-term renters and any restriction means we wouldn't be able to use our place when we want.

Therefore, limiting STRA to just 90 days would simply mean reducing the economic benefits of STRA, with less people visiting, less people putting money into the local community, and reducing employment opportunities to the local community as well.

We also feel significantly disadvantaged as we do not vote in the BSC and like many other owners of holiday properties, our voice is not heard via the electoral system although we make an equal or greater economic contribution to the local community.

3. CARE FOR THE COMMUNITY

Being an owner of a property available as STRA is NOT incompatible with concern for our community. Although we are part-time residents of Byron Shire, we take a deep interest in the local community and area. We chose this area (over other nearby locations such as the Gold Coast) as we appreciate the sensibility and shared concern for community and the environment. We hope to make this area our home when we retire and participating in the STR market assists in paying the mortgage, while we economically contribute to the community.

We bought our place as we love the area and we want to protect what we love. We are keen to find a middle ground that protects our rights as home owners and respects and supports the community.

As responsible STRA participants we insist that our guests are respectful of our neighbours, we set sensible curfews and do NOT tolerate parties of any kind. As a small property (2 bedroom), our home is mostly rented by families enjoying the space and privacy that a single dwelling affords at a price that is more competitive than hotel accommodation.

4. ECONOMIC BENEFIT

So far there has been little discussion on the Economic Benefit derived from STRA.

Home sharing is an important economic tool for everyday people that should be recognized and fairly regulated by governments.

Analysis around the world by economists consistently show the positive economic impact and number of jobs created by STRA. Such studies also present a broader range of positive impacts including a broadening of where guests spend their money (not just in the tourist high street), and that the income earned by resident hosts and local businesses strengthens communities and economies.

As a regional economy, residents of BSC do not have as many employment options as can be found in capital cities. STRA provides many 1000s and 1000s of varied employment opportunities as well as providing much needed fulltime, part time and flexible employment.

In our instance, 30-40% of our rental income goes directly back into the local community. The rest contributes to paying the mortgage.

We regularly (weekly or more often) employ:

- cleaners

- gardeners
- laundry and linen service
- maintenance people
- a BBQ cleaner
- a Pool maintenance service
- Rubbish bin collector

Over the last 3 months we have paid for the services of:

- Electrician
- Gas delivery
- Plumber
- Window cleaners
- local handyman / builder
- locksmith
- Pest control
- Fly screen maintenance
- Electric blind maintenance
- Electric gate maintenance

We inject cash into the local retail community by frequently updating and locally purchasing:

- white goods,
- appliances
- lighting
- garden plants and horticultural items
- electronic goods
- furnishings
- household supplies

In addition:

We pay rates.

We pay land tax.

We pay for all local services – telco, electricity, gas, water

5. ADDRESSING NEW TECHNOLOGY AND NEW ECONOMIC MODELS

A significant share of Airbnb / HomeStay / Booking.com, Aabode etc hosts use these contemporary platforms to engage in economic activity that existed long before these platforms did – that is, dwellings in the area have always been used as serviced apartments, B&Bs or holiday rentals. Yes, the technology platforms are new but as a tourist destination, the activity is the same. Tourism is one of the fastest economic growth areas globally and vitally important to Australia's economy. BSC must find ways to adapt to this global growth trend and benefit from it rather than seek to limit it.

Restricting STRA is punitive, limiting and lacks creativity.

BSC must find a way to harness the benefits of new technology platforms and new economic models or it will be on the wrong side of history.

BSC must consider creative ways of revenue generation from STRA to underpin and support the beleaguered council resources and help improve infrastructure.

Could BSC consider charging a fee to STRA owners in accord with the property's availability – 90 days (\$900), 120 (\$1200), 180 (\$1800), 240 (\$2400) , 365 \$3650) with monies to be used to provide community resources / infrastructure.

Could BSC consider a room/bed / occupancy tax collected by the new technology platforms and distributed automatically to BSC?.

Could BSC strike a deal (as have other councils / cities around the world) with the various platforms to collect and deliver taxes from its hosts?

Could BSC find other ways to address long term rental accommodation such as new housing models, land release, better commuting services

6. COMPLIANCE AND REGULATION

It is fair to expect STRA to comply with regulations that keeps the local community and guests healthy and safe.

Could BSC work with STRA tech platforms to ban certain illegal listings, and create an online system that automatically registers hosts with the city, among other things.

The absolute majority of STRA owners would desire to be good corporate citizens , restricting rental to 90 days will in no way benefit the broader BS community although it may win a few votes.

What is called for is well considered policy development that contemplates the economic benefits, the global tech trends, the growing visitor economy and marries it with community and environment benefits.

IN SUMMARY

We DO NOTE support the restriction of STRA to 90 days. If the only option is 365, then this is what we support although other more creative options should be interrogated more fully.

26 January 2020 - Tim Hochgrebe - [REDACTED]

Submission in response to Byron Bay Draft planning controls for short-term rental accommodation - on exhibition until 31 Jan 2020

At present, STRA is regulated differently (or mostly not at all) in different local government area (LGAs) across NSW.

It has to be understood that different councils also have different requirements. Small regional communities might be happy to have visitors come to their area and contribute to their economy in a responsible fashion and have no issues with buck's parties, weddings and schoolies.

However, some communities with a high influx of visitors on an ongoing basis might need a very different approach. Especially if there is already a thriving, licensed tourism accommodation industry present.

Byron Bay is a great example where it is going wrong. Just like other popular places such as Margaret River in Western Australia, Tasmania, Amsterdam, Venice, Barcelona and New York, Byron Bay struggles with a partially unlicensed tourism accommodation industry.

Byron Bay actually already offers a variety of licensed accommodation styles ranging from luxury resorts to hotels, motels, serviced apartments, backpackers and B&Bs. The licensing of those business is challenging for the proprietors. They comply with fire safety regulations, they pay commercial council rates and contribute to the infrastructure maintenance and upgrade through their licensing.

The Byron Shire Council has a DCP and LEP regulating the accommodation industry. It is clearly stated what requirements are needed, business owners go through the process and there are and should be areas where things are allowed and other things are not allowed. Nobody wants a holiday apartment block in a purely residential zone - that is not why people buy a house in a residential zone.

With the advance of ease of listing any kind of building (!! garage, sheds etc) for tourist accommodation purposes this has completely gotten out of hand in Byron Bay. Dwellings built to accommodate a family now host twice the number of people it was intended for most of the time, putting pressure on existing infrastructure such as drinking water and waste water facilities. In addition those houses do not offer adequate parking for the extra cars.

Houses are being purchased and sold with the sole purpose of letting them out as holiday letting places, which inflates the purchase prices to a level that no one can afford to just live in them.

Importantly, the rental pool is shrinking and existing rentable places are at a premium. Ironically, some people that do rent, sub-let their place and move in with relatives when they receive a booking.

Backpackers, who are particularly vulnerable being from overseas, have been charged \$500 per week in a shared room in a house!

The houses built with a DA for a 'residence' should be mainly used for this purpose.

NSW Land and Environment Court has analysed case law on the definitions of "residential

accommodation", "residential building", "residential flat building", "domicile" and "flats", and concluded that there must be "an element of permanence or residence for a considerable time, or having the character of a person's settled or usual abode" in order to constitute "residential buildings"

Neighbours of those residences used for unlicensed holiday accommodation - who thought they had moved into a home in a residential street - suffer from sleep deprivation and stress as there is generally no host on-site. Council can't do anything as it is a residential house not a business, police might not always be able deal with the noise issues long term. All they can do is visit ask the visitors to turn it down. However, the next day with new people staying, the neighbours have to go through the whole process again. Hearing the people arrive, music starts but it is still early and then wait until it is past 10 pm.....

Byron Bay tried self-regulation by the Holiday Letting Organisation (HLO) who funded a Holiday Letting hotline. The idea was that a host would get three strikes and they could no longer operate. It doesn't work. The hotline recommends anybody who complains in the middle of the night to call council and report. Council, the next day, says to call the hotline or the police. The police has better things to do as their hands are tied anyway: every time it is a different person causing the noise, so no one can be held responsible. Neighbours give up and sometimes try to confront the perpetrators, resulting often in verbal abuse and revenge vomiting, vandalism and littering by the tourists who feel entitled to have the time of their life. The next week those poor people seize up when they hear the roller bags coming down the drive way next door.

The proposed Code of Conduct for STRA sounds admirable, but to have an exclusion list for hosts and guests is not realistic.

As owners of licensed accommodation, we have seen a significant decline in viability of our business. Before we even open our doors we have a long lists of costs to keep our license current and up to date. Unlicensed premises are able to charge a much lower fee without having all those costs and there is no GST they need to pay despite offering exactly the same service we do.

Surely, the government is missing out on an enormous amount of GST they can't collect.

The number of people staying has not increased, instead people expect to pay less. Our prices are back at what they were 15 years ago! We can't afford staff anymore, we had to let them go.

Many of our colleagues have left the industry, their business being considered worthless. Why get a DA if you will be restricted by the number of people that can stay, have to provide off road car parking, disabled access and pay extra to top it off?

As the unlicensed operators do not pay any contributions, do not have to pay for fire inspections once a year or increased council rates it is impossible to compete with the low prices these rogue operators can charge.

AirBnB uses the 'average' of incomes to show how little money is made by individuals, but they have not published the median or spread of money made. If one person can have 30 odd places and uses so-called 'super hosts' to manage them, you can't tell me that there is no money to be made.

Of the many, many listings in the Byron Shire there are 1331 listings for whole

houses/apartment with only 359 landlords, which means that those hosts are not just your regular mum and dad trying to make an extra buck they are full blown commercial operators.

To suggest that these operators can operate 365 days a year or even 90 days is a ridiculous proposal. The hosts/landlords know it is worth their while, why don't they go through the process of obtaining a license. They had their go at seeing if it works for them financially. They could even do a business plan!

Even if Byron Bay would get a 90 day limit it would be not workable for our community. This would still be 45 weekends. This would still be the whole month of January and then 2 more months.

And what does it mean 90 days? Can the property be available for 90 days in total or does it mean 90 nights booked? What if there is a cancellation of 4 days, can that place be re-booked for another 4 days at another time? Can they keep the cancellation fee? How will this be monitored? What about direct bookings? How would this work? How can you expect the on-line booking platforms to keep track on this and be honest about it if they make a 20% commission on each booking.

This does not provide any clarity at all!

It is understandable though as politicians - for example the Deputy Premier - have their own property listed as a holiday home as well.

The proposed framework states that un-hosted bookings of 21 or more consecutive days will not have to comply with the applicable day thresholds.

If a family comes for a 3 week holiday and rents a house, the owner can do two lots over summer and still have 90 days for the rest of the year?

This certainly offers a loophole. Someone can just rent out their property to someone else for 6 months and they can sub-let it on an overnight basis. How is this going to be policed?

The fact that unlicensed tourism accommodation is put under the banner short-term rental is terribly confusing.

The overall proposal seems to have the attitude of "It is all too hard to police, so we are just going to allow it and pretend there is a system in place". Meanwhile, our town is being taken over and no locals will be left. No staff available for restaurants, schools, the hospital, etc because they can't afford to live here.

It is a fact that a regulated industry is being de-regulated, all for the short-term benefit of realistically only a few and the on-line booking agents. This is no longer about home sharing or someone letting out their holiday home on a few occasions a year.

SUMMARY

- The proposal is that a regulated industry has been de-regulated and needs to be re-regulated, but is ridiculously unfair compared to the existing licensed businesses in that same industry
- Unlicensed tourist accommodation providers are not paying GST even though some of them supply overnight accommodation, breakfast, room service just like hotels, motels and B&Bs. They are not paying commercial rates and are not subject to Council inspections for fire safety and compliance

- The proposed Code of Conduct is not a realistic approach. It can not be policed and implemented. The process to bring awareness to hosts and guests about their unruly behaviour and solve the problem of loss of amenity to the neighbours that way is flawed thinking.
- Owners of a property responsible to the noise/interruption to daily life of their neighbours should be held responsible by law when rented out to tourist or visitors. That way there is clarity for the authorities, neighbours, hosts and visitors.
- If people/hosts want to rent out their homes/properties on a commercial basis to tourists or visitors, ie more than twice, thrice a year, they need a DA and contribute to the community as has been decided on by the local council. If local councils feel there is no need for a DA than let them do that!
- Our town of Byron Bay and surrounds and our business are severely negatively impacted by unlicensed operators. A maximum 90 night limit should apply to Byron Bay's unlicensed tourism accommodation and ONLY for host present situations of 1 room not more - else just get a DA, but 60 days (or less!) would be much more preferable.
- We are not confident that the proposed reforms are realistic.

SHORT-TERM RENTAL ACCOMMODATION (HOLIDAY LETTING)

Submission to Byron Shire draft planning controls for short-term rental accommodation



January 2020

Contact:

taa@tourismaccommodation.com.au

1. INTRODUCTION

Tourism Accommodation Australia (TAA) NSW, a division of Australian Hotels Association NSW, welcomes the opportunity to make a submission to Byron Shire's draft planning controls for short-term rental accommodation (STRA).

TAA is the peak body representing the needs and interests of the major hotels, motels, and serviced apartments in Australia's accommodation sector. We accept genuine hosted STRA. This category diversifies the product offering, increases competition in a commercial environment, encourages innovation, and leads to growth throughout the accommodation sector. TAA is primarily concerned with commercial operators using online platforms to offer un-hosted residential properties year-round for short-term accommodation, competing directly with hotels, motels, and serviced apartments but operating outside the existing regulatory framework.

TAA welcomes the opportunity to provide feedback on the draft planning controls for STRA in Byron Shire. We support the proposed definitions by Byron Shire of hosted and non-hosted STRA and argue a cap of 90 days per year should apply to the entirety of Byron Shire. We offer suggestions which expand on the proposed range of requirements which would be required for hosted and non-hosted to be allowed as exempt developments.

2. DEFINITIONS AND CAP

TAA welcomes Byron Shire's proposed definition of hosted STRA and non-hosted STRA. Inherent in distinguishing between hosted and non-hosted STRA is determining the threshold at which short-term letting becomes a commercial activity rather than an occasional activity providing supplemental income. TAA believes that hosted STRA – as inferred by the widely used umbrella term "home-sharing" – can by definition only occur in a home (primary residence). Where STRA is occurring in a property that is not functioning as a primary residence, that property is offering commercial-residential (non-hosted) STRA.

The key consideration is defining when a property is not functioning as a primary residence. Clearly, an investment property is not a landlord's primary residence. Similarly, a vacant property of an absentee owner is not functioning as a primary residence. Landlords and investors do not "share" empty investment properties – regardless of the length of the agreement, a transaction occurs whereby permission for another individual to temporarily occupy the dwelling is granted in exchange for payment. To label such an arrangement as "home-sharing" is duplicitous and ignores the commercial basis of a landlord or absentee owner offering this accommodation.

TAA's definition of commercial-residential accommodation consists of two separate measures. Firstly, a single host with multiple listings across different addresses indicates a commercial operation, as only one of those properties could satisfactorily be the host's primary residence. Secondly, and as stated in Airbnb's Policy Tool Chest, 'at a certain point ... [short-term letting] becomes a more commercial activity requiring additional regulation.'¹ Short-term letting an entire house or apartment beyond an annual threshold of days indicates a commercial activity. Although TAA would support a lower threshold, the *New South Wales Residential Tenancies Act 2010* provides an existing distinction of 3 months. TAA has therefore incorporated a threshold of 90 days per year into our definition of

¹ Airbnb, 2016, *Airbnb Policy Tool Chest*, p 7.

commercial-residential accommodation and supports a cap of 90 days as the maximum number that a dwelling can be used for non-hosted STRA for the entire Byron Shire.

3. EXEMPT DEVELOPMENT – REQUIREMENTS

TAA welcomes allowing hosted and non-hosted STRA as exempt development provided they meet a range of requirements as proposed by Byron Shire. TAA suggests that the range of requirements include:

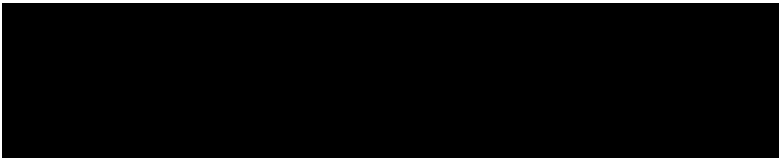
- Nature of the letting; shared or whole property;
- Name of premise host and/or letting agent;
- Address of listed property and facilities i.e. pool, gym etc.;
- Number of days the premise is available and booked for STRA purposes;
- Type of premise, whether that be house or apartment;
- Fire and safety compliance certificate;
- Insurances held for public liability etc.;
- Tax File Number of host;
- Emergency contact details of host;
- The Strata Scheme number to be included if it is a strata property and whether the STRA complies with the by-laws; and
- Confirmation that the host or property is not listed on any state exclusion register.

TAA suggests that this data be captured by Byron Shire. Not only will the collection of data from STRA's premises' lead to a better understanding of the value and size of the industry but it will also assist in forecasting and planning. TAA believes that the integration of data collection is of paramount value to the tourism sector but also to LGAs and strata groups as well as the Australian Tax Office to ensure that any profit generated by a premise is noted as an additional income stream for hosts as with traditional investment property owners who rent or lease their premises.


4. CONCLUSION

TAA commends Byron Shire's proposed definitions of hosted and non-hosted STRA. Whilst commercial-residential accommodation assists in meeting peak seasonal tourism demand (fluid accommodation inventory) in regional NSW, it has considerable impacts on hotel investment, amenity and housing affordability in metropolitan NSW. As such, non-hosted STRA needs to be capped at 90 days per year in Byron Shire.

Warmest regards,



Michael Johnson
Tourism Accommodation Australia CEO



From: [Julian Moore](#)
To: [council](#)
Subject: Draft planning controls for short-term rental accommodation
Date: Thursday, 30 January 2020 9:10:22 PM
Attachments: [image001.png](#)

Dear Sir,

I wish to express our support for this initiative and the limitation of the duration of non-hosted short term rentals. Without this regulation the STRA industry has the capacity to undermine the viability of businesses who are providing high employment for the community are meeting strict regulatory requirements and sustain and enhance the diversity of the community.

Your consideration of these points in your decision making are greatly appreciated

Kind Regards,



Julian Moore
General Manager
Byron at Byron, a Crystalbrook Collection Resort
77-97 Broken Head Road Byron Bay, NSW 2481,
Australia



From: [lirhazel.evans](#)
To: [council: submissions](#)
Subject: Short Term Rental Accommodation (Holiday Letting) - Draft planning controls for short-term rental accommodation
Date: Thursday, 30 January 2020 4:35:46 PM
Attachments: [Screen Shot 2020-01-30 at 4.31.26 pm.png](#)
[Screen Shot 2018-09-20 at 6.10.28 pm.png](#)

{I had trouble submitting online via the Council website and have emailed the details (following) as instructed by the BSC receptionist.}

I have been a rental resident to the Byron Shire for 20 years after being born and bred in neighbouring shires (Lismore and Tweed respectively).

I've been on the frontline of the problematic dynamic of seeking and attaining long term rental accommodation in the Byron Shire; the difficulties, blocks and challenges increasing exponentially over this time. I've been homeless twice (living in my car for months between homes) moving further and further to the outer fringes of the shire since early 2000 where it was more affordable and easier to find a home. These perimeters don't exist anymore.

Doing the math on constant re-homing the average move has been every 12 months or less. This is not a clear picture though as in one year alone I moved 4 times. I have shared accommodation on the occasion whereby self-contained Accommodation was not available within the deadline between rehousing but mostly I have held sole tenancies. In the last decade I've watched Airbnb grow to dominate the market of self-contained Accommodation simultaneous to impacting the general market of family residences.

I, for one, see the real and negative impact of Airbnb in my neighbourhood whereby the minimal available rental abodes previously listed for permanent leases have been shifted into the holiday rental market. Many times I have directly experienced going through the application process for an advertised rental only to have the prospective landlord change path deciding Airbnb is financially "more viable/advantageous" revenue. As a distributor for the Echo in the Northern districts of the shire for 5 years I see Airbnb (along with non-commercially listed, privately owned holiday homes) steadily encroach on the dwindling rental market.

I admit, I resent the Airbnb neighbour whether they are quiet and respectful, or arrogant, loud and rowdy because they are directly impacting on my ability to find a permanent (or even a short term) tenancy in MY home ground.

I've watched many friends move to another area where rentals are not only more affordable but also easier logistically to acquire and more fitting to their needs as rental home-makers and contributors to their local economy both financially, culturally and esoterically.

The proposal that these holiday listings should be limited to 90 days/year is a first step in the right direction but, I believe, will not have a positive outcome for permanent tenants as this only translates to a 9 month lease threshold for local tenancies. 30 days would have a much more positive impact on the local, long-term rental market.

Maybe this would impact on the overall decision of the home-owner to not holiday let at all and this would be a positive for the local renter. . . IF the landlord does not intend to pass on the loss (from holiday letting income) to the leaseholder. Or, it may translate with the landlord endeavouring to make up for their 9 month "loss of income" by higher impact holiday rentals compressed into the peak times and simply not renting out at all during the down time.

It's important to note, the reviewing (and payment) system engaged with Airbnb holiday letting does make for a much easier business transaction (thus transition from customer to customer) which is an advantage to the property owner. Permanent tenancies involves time-hungry bureaucracy on varying levels: Real Estate involvement and decision-making, abiding to and upholding tribunal laws, complicated logistics of moving-on lease-ends, inviting new and reviewing applications, and other unpredictable elements of the permanent rental market.

I would also like Real Estate's reviewed in their application processing for local tenancies as well as limited in their ability to facilitate holiday letting.

Kind Regards,
Lirhazel Evans



lirhazel evans



Submission to Byron Shire Council re Short Term Rental Accommodation (STRA).

Submitted by Peter Gibson and Alison Roots on January 31 2020.

1. We live at [REDACTED] We have owned our property since 1979.
2. We have an approved B&B on our property.
3. We have taken all appropriate steps to obtain all the appropriate approvals to ensure we provide accommodation to people on a short term basis and that the accommodation provided meets all building codes and fire safety codes, and that it is fully insured against a range of issues to safeguard our paying guests and their visitors. In order to achieve this we have paid a lot of money to meet these appropriately high requirements to ensure public safety of our guests. These payments have been made to the Byron Shire Council, to builders, plumbers, other tradespeople, certifiers, insurance companies and many others.
4. Why should other people, who own houses with “residential only” zonings, be allowed to compete on the same levels as us to provide accommodation to members of the public without the same level of safe construction, and design, and fire safety provisions, and clean drinking water provision, and insurance provision, etc. This is not only potentially unsafe for guests, but it is totally unfair to approved accommodation providers who have done all the right things to obtain their formal approval to provide accommodation.
5. It must be acknowledged that any commercial use of existing residences as STRAs is in direct breach of existing zoning laws, which makes them ILLEGAL. This cannot be just ignored in this debate.
6. Our other concern is the clear impact that uncontrolled STRA is having on the structure and sustainability of communities. The effects of the current situation of uncontrolled STRAs includes:
 - a. the unnaturally high costs of housing,
 - b. the loss of normal available housing stock for normal residents,
 - c. which forces normal people to travel long distances to commute to work, even in rural areas,
 - d. the loss of privacy and amenity for normal residents who are faced with very regular “parties” in neighbouring houses used by STRA,
 - e. significant destruction of normal communities.
7. We recognise that tourism is an important component of our economy and must be encouraged up to the point where communities start to seriously suffer and are no longer sustainable. The current level of STRAs has certainly gone well beyond this.
8. The original concept for STRAs that emerged was for normal legal residents to try to make some additional income to supplement their total income by renting out a room or extra flat in their owner occupied dwelling. This level of STRA could be facilitated, only if it is limited to a maximum of 90 days per year, on the assumption that it is properly registered through Council, is assessed as meeting proper building codes, fire safety codes, meets healthy water standards and is properly insured and is part of a security reporting system during periods of rental to guests. **NO PUBLIC POLICY SHOULD COMPROMISE THE STANDARDS OF SAFETY FOR THE GENERAL PUBLIC.**
9. We strongly recommend making all other non-resident occupied STRAs illegal as they have done nothing to comply with any codes of any nature and are therefore illegal players in a market in which many other approved accommodation suppliers have done all the right

things, as required by the law, by the local council and by other authorities. They are potentially a safety and health threat to paying guests with no oversight and no authority to act. This is a shameful situation in a modern sophisticated country like Australia. There is no doubt that many of the policies that govern the STRA sector will end up being determined by the Coroners Court, with much heartache.

- 10.** If current non-occupied operators want to continue in the STRA industry, a process for them to meet minimum acceptable standards for building fire safety, water safety and other appropriate operational measures should be provided. Local Councils should also be able to assess applications to ensure they are located in acceptable zones within their Shires. The current situation is out of control and must be better regulated. And yes, many owner/operators should be shut down as unsuitable for the viable future of the local communities. Just remember that these STRA dwellings are currently illegal and the income from them is often not even reported to the Australian Tax Office. They should not be rewarded for their illegal activities. In making determination of the suitability of allowing these STRAs to continue, *genuine* negative impacts on the local economy should be taken into account and maybe a phasing in/phasing out process could be considered if appropriate.
- 11.** Councils and governments have allowed the current situation to get out of control, and they must be the ones to pull it back into line, no matter the reasonable costs.
- 12.** Congratulations to BSC for leading in this area.
- 13.** And finally, we have been associated with the Brunswick Heads Chamber of Commerce and the Byron Bay Chamber of Commerce for the last few years. Their respective stated public opinions are fraught with vested interests and questionable statistics which should be openly challenged by BSC in considering the next steps in setting policies in this area.

Submitted by Peter Gibson and Alison Roots

From: [Alan Heathcote](#)
To: [council](#)
Subject: Draft Short Term Holiday Letting Policy
Date: Thursday, 30 January 2020 5:19:15 PM

To whom it may concern,

Please accept this as my submission to the BSC Draft Short Term Holiday Letting policy on exhibition.

I am in agreement with the draft policy except for the omission of an approved Tourism Holiday strip on Alcorn St Suffolk Park.

Many houses on the beachfront have been holiday let for many years (no different from Belongil Beach holiday letting) and it is generally accepted as a holiday let zone by people living in Suffolk Park. Many people have invested in holiday homes there under the current rules and, to them, the proposed outcome of the draft STHL policy is akin to backzoning their land.

I live in house [REDACTED] and even though I don't holiday let, I would like to see houses here retain the right to carry out unlimited holiday letting if they choose.

Regards

Alan Heathcote

[REDACTED]

[REDACTED]

[REDACTED]