

31 October 2022

To the STRA Project Team at Byron Shire Council,

RE: Planning Proposal for mapped regulation (day caps) of Short Term Rental Accommodation

Shelter NSW thanks Byron Shire Council for the opportunity to comment on the lower-day cap Planning Proposal for Short Term Rental Accommodation ('STRA').

Shelter NSW has been operating since 1975 as the State's peak housing policy and advocacy body. Our vision is to create a sustainable housing system that provides secure homes for all. We pursue our vision through critical engagement with policy, practice, and thought leadership. We provide systemic advocacy and advice on policy and legislation for the whole NSW housing system to resolve housing inequality.

We are especially concerned for low-income households which struggle to afford good-quality and well-located housing in the private market.

Shelter NSW has strengthened its interest in and advocacy for regional housing solutions in NSW. In May 2021, we formally engaged the Regional Australia Institute ('RAI') to undertake a review of every local government area in regional NSW. Our investigation found that **Byron Bay is the second highest ranked locality of concern when it comes to housing pressures** in regional NSW. A copy of this report can be found [here](#); we intend to update data inputs with 2021 Census information in early 2023 and will share our refreshed report in due course.

We support the balanced approach Council is taking in mapping certain areas of Byron Shire as potential "all-year round" non-hosted precincts versus 90-day capped non-hosted precincts. We are of the view that this strikes the right balance between local resident requirements for secure, more affordable housing and visitor economy goals. We are further heartened by the simultaneous Planning Proposal for Byron Shire to introduce an Affordable Housing Contributions Scheme and we foresee these two policy levers working together to materially improve the lives of low-to-moderate income households.

Shelter NSW supports the exhibited peer-reviewed reply by Professor Peter Phibbs to the Economic Impact Assessment. Professor Phibbs' [reply](#) touches on various aspects of the Economic Impact Assessment ('EIA') by Urbis that we found lacking. The weighting of stakeholders in the EIA was rightly called out by Professor Phibbs (p. 4):

No social impact analysis would consider that the social harms of visitors having to spend more for visitor accommodation is the same as the social harm of a family being able to access a dwelling in township in which they have been a long term resident.

The positive economic and social impacts that will occur in the Shire as a result of more owner-occupiers and renters having relatively higher disposable incomes as a result of greater housing security and affordability has likely been underestimated in the EIA. Further, Professor Phibbs goes on to state (p. 6):

The advantage of long term tenant expenditure is that it occurs across the year so can provide more stable employment in Byron rather than just providing employment in the holiday peaks. Tenant expenditure would also support employment in service industries such as health and child care that are unlikely to be supported by a visitor economy.

Industries which are currently [struggling to attract workers](#) may have a greater pool of applicants due to increasing housing affordability and security of tenure. [Retaining critical workers](#) in hospitals and health settings may improve as well. These community-wide goods and services are necessary for the sustainable growth and wellbeing of any township.

The localised changes to STRA regulation as put forward in the Planning Proposal will provide further certainty to the hotelling industry and may stimulate investment in this sector for purpose-built accommodation in and around Byron to make up for any “short fall” in visitor accommodation. It is not clear if, or how, this market aspect has been evaluated in the EIA.

Shelter NSW understands that the Department of Planning & Environment (‘DPE’) is enacting a wait-and-see approach to the impacts of its 180-day STRA cap being introduced in November 2021 in the *Housing SEPP*. Metro Councils are opted into this 180-day cap automatically, and regional Councils must apply to be opted into the 180-day cap. This blanket 180-day cap and monitoring approach may be appropriate for some parts of Sydney, but it is not appropriate for Byron Bay, as Professor Phibbs points out (p. 7):

Perhaps if this issue was better understood by the authors [Urbis], it would have been more obvious that a planning control in Sydney where short term rentals make up about 5 percent of private long term rental properties might need to be adjusted for a market where the equivalent ratio is about 200 percent.

Additionally, Shelter NSW is aware of metro Councils – such as Randwick City Council – that are attempting to opt-into a lower 90-day cap. Randwick’s comprehensive LEP review had to abandon lower-cap STRA provisions to satisfy DPE’s gateway determination. We hope learnings from the Bryon case can be utilised by Councils across the State wishing to opt-into lower day caps for non-hosted STRA.

Lastly and in response to the Planning Proposal process itself, we are of the view that DPE should be more accommodating to Council requests for alternative regulatory approaches to the STRA issue than those allowed by the *Housing SEPP* (and indeed in circumstances where Councils are attempting to work within the existing *Housing SEPP* framework to seek lower day-caps). **Consistency in STRA regulation across jurisdictions serves the purpose of shoring up STRA property investor confidence in converting dwellings to quasi-hotels, but does not serve the expressed needs and will of local communities in wanting to preserve homes for housing.**

Please contact our Policy Officer, Kayla Clanchy (kayla@shelternsw.org.au), should you wish to discuss our submission in more detail.

Sincerely,

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