



31 March 2022

The Hon Anthony Roberts  
Minister for Planning, and Minister for Homes  
PO Box 5341  
Sydney NSW 2001  
Via email

Dear Minister

## Meeting with Byron Shire Council – Housing Crisis - 30 March 2022

Thank you for your time on Wednesday to discuss our planning proposal to manage short term rental accommodation in the Byron Shire.

I have attached to this letter the full planning proposal document as requested. This has been uploaded to the planning portal and is with DPE staff for gateway determination.

In summary this is what we seek:

New provisions in Part 6 of the Housing SEPP that will:

1. introduce a mapping overlay for the Byron LGA known as the Byron Shire Short-term Rental Accommodation Area Map to identify precincts where non-hosted STRA is permitted 365 days per year.
2. include a new clause that limits non-hosted STRA in the Byron LGA to 90-days in any 365-day period where a dwelling is located on land outside a mapped precinct. The Byron LGA will need to be removed from the list of "prescribed areas" under Clause 112(3) of the Housing SEPP for this provision to have effect.

A three-year time frame is also proposed for these planning controls to apply to provide a reasonable time period to monitor their effectiveness against their objectives and to identify whether any changes are needed as part of any DPE review process of the Housing SEPP.

We have an indicative map series prepared for the above purpose that illustrates the proposed STRA precincts (Attachment 4 to the Planning Proposal).

An example clause outlining drafting instructions for Point 2 above is also provided in Attachment 1 to the Planning Proposal.



As you appreciate from our discussion, never has our need to reclaim and secure housing in Byron Shire for our community and key workers been greater. The flood events of the past month on the back of COVID lockdowns and borders closure has left our community reeling, and many without places to go.

Our proposal for 90/365-day cap precincts for STRA in Byron Shire, is a balanced and fair approach for all stakeholders to the issue which is supported by our community and business chambers.

Further, this proposal is backed up by the Urbis report which shows that the 90-day cap would see the largest return, of over 1,500 properties to the long-term rental pool.

Interestingly, the URBIS report also shows that the number of visitor nights would not be impacted by the policy, it would simply spread them out more evenly amongst the total short-term stock

Ultimately, we accept that the decision is one for you as part of the wider cabinet to make, however believe that given the unique circumstances of the Byron Shire and with the information we have provided our proposal can be justified.

In reference to your visit to our Shire in the coming weeks, I welcome this and look forward to talking further in person with you then.

Kind regards



Michael Lyon  
MAYOR

Encl.  
#E2022/18935 - 26.2020.1.1 Updated Planning Proposal for Short-term Rental Accommodation (V3)  
#E2022/28762 - 26.2020.1.1 - STRA Planning Proposal (V3) Appendix 1 - Example Clause  
#E2022/28787 - 26.2020.1.1 - STRA Planning Proposal (V3) Appendix 4 - Mapping



Byron Shire Council

## **Planning Proposal 26.2020.1.1**

### **Amendment to State Environmental Planning Policy (Housing) 2021**

Short-term Rental Accommodation in Byron Shire

#### **Version #3**

Post-Gateway Amendment

**Date: March 2022**  
**#E2022/18935**

## Document History

Doc No.	Date	Details Comments Resolution No.
E2020/5132	Feb 2020	Planning Proposal Pre-Gateway Version #1.1 (WORD Version)
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E2022/18935	Mar 2022	Planning Proposal Post-gateway SEPP Version #3 (WORD Version)

## Contents

Part 1	Introduction .....	3
1.1	Objective and intended outcomes .....	8
1.2	Subject land .....	8
1.3	Background.....	3
Part 2	Explanation of provisions .....	9
Part 3	Justification .....	9
Section A	Need for the planning proposal.....	9
Section B	Relationship to strategic planning framework .....	15
Section C	Environmental, social and economic impact .....	41
Section D	State and Commonwealth interests.....	42
Part 4	Mapping.....	49
Part 5	Community consultation.....	49
Part 6	Project timeline .....	49
Conclusion	.....	50
Appendix	.....	50

# Background

## Short-term Rental Accommodation in Byron Shire

Byron Shire is one of the most popular tourist destinations in NSW with stunning beaches, attractive hinterland, and vibrant towns and villages such as Byron Bay, Brunswick Heads and Bangalow. In 2019, 2.21 million people visited Byron Shire and visitors stayed for a total of 5.5 million nights.

However, the region's popularity as a tourist destination, combined with the emergence of online accommodation platforms such as Airbnb, and the ability for landowners to achieve comparatively high rental yields, has led to a boom in the local short-term rental accommodation (STRA) sector over the past decade. What was once a relatively low-key industry, consisting of holiday houses and apartments let out for part of the year, has expanded to become the dominant provider of tourist and visitor accommodation services in the Byron local government area (LGA).

Growth in the local STRA sector has been prolific. Recent research by Urbis (2021, p. 61) identified a total of 5,248 active Airbnb and Stayz listings for entire homes and apartments in 2019, which equates to 35% of the Byron LGA's total dwelling stock listed on just two online platforms. Similar findings were also made in an earlier study by Gurren et al. (2018, p. 44), which found that 18% of the LGA's dwellings stock was on Airbnb, further supported by a Council study carried out in 2020 which put the figure closer to 25%, indicating rapid growth had occurred in recent years.

Based on the findings of the research, Byron is estimated to have the highest concentration of STRA of any LGA in NSW by a considerable margin.

The shift away from permanent housing towards STRA has contributed to a range of social and economic issues in the region. These include dislocation of long-term residents, upward pressure on house prices and rents, increased housing stress and homelessness, disruption from community, and a sense of isolation for remaining residents. The diminishing availability of housing near major employment areas such as Byron Bay also makes it harder for workers to live close to their place of employment, potentially leading to increased use of the Pacific Highway (exacerbating existing congestion on a critical transport link for Australia) and limiting the LGA's ability to attract and retain workers to the region.

The growth of STRA has contributed significantly to housing market failure. Research by Urbis for an economic impact assessment that accompanies this planning proposal concluded that "a lack of clear regulation and attractive revenue prospects have led many property owners to convert their residential properties into STRA properties. This has caused further tightening of an already low vacancy residential market, thereby creating further upward rent and price pressure which attracts additional investors and is leading to worsening affordability for renters and prospective purchasers" (Urbis, 2021, p. 44).

## Ministerial Direction

This planning proposal is the result of a Direction issued by the Minister for Planning and Housing on 15 February 2019 which gives Byron Shire Council the opportunity to lodge a planning proposal that could identify or reduce the number of days that non-hosted STRA may be carried out in parts of its local government area. The primary objective of the

Direction is to mitigate the significant impacts of short-term rental accommodation, and to ensure that the impacts of short-term rental accommodation and views of the community are considered when Council prepares the planning proposal.

The Direction recognises that the impacts of STRA are not evenly distributed across NSW and that a one-size-fits-all policy response is not the best solution for all communities.

### Gateway Determination

A conditional Gateway determination (Gateway) for the planning proposal was issued by the Department of Planning, Industry and Environment (DPIE) on 24 June 2021. The Gateway requires Council to prepare an economic impact assessment (EIA) that investigates the likely economic effects of the new planning rules, and then update the planning proposal to reflect the recommendations of the EIA. The amended planning proposal is required to be resubmitted to DPIE for consideration and approval prior to public exhibition.

The Gateway also requires the planning proposal to be redrafted as an amendment to State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP), instead of Byron LEP 2014 as originally proposed. However, this is no longer possible due to recent legislative changes which resulted in the ARH SEPP being repealed and replaced by the State Environmental Planning Policy (Housing) 2021 (Housing SEPP) on 25 November 2021 as part of DPIE's consolidated SEPP reforms. Therefore, this planning proposal recommends an amendment to Part 6 of the Housing SEPP to reflect the recent change in legislation.

Several other changes to the proposed planning rules are also required to ensure consistency with the SEPP's simplified exempt development framework. Changes include removal of provisions that allowed a development application to be lodged for STRA, and removal of the standards for car parking, guest numbers and limitations for dwellings located on bushfire prone land and flood prone land.

A copy of the Gateway determination can be found in **Appendix 6**.

### Economic Impact Assessment

An economic impact assessment of the planning proposal was completed by Urbis (a Sydney based consulting firm) in late 2021. The study was jointly funded by Byron Shire Council and the Planning Development Unit (PDU) of DPIE, with PDU arranging the consultant, overseeing the study and managing delivery of the final report.

The EIA attempts to model the likely economic and social impacts of the planning proposal and compares the outcomes with five alternative policy responses, ranging from the existing SEPP Option (which establishes a 180-day per year cap across the entire LGA), through to an unregulated model with no day limits, and three other 'precinct' models that would see non-hosted STRA limited to either 90 days or 180 days per year in certain areas. The modelling was informed by baseline data on the STRA sector and the local economy and was underpinned by information gained from the results of a survey of STRA operators and a series of interviews with industry representatives.

To identify a preferred policy, the report uses a cumulative distributed net-benefit analysis framework to compare the likely net benefits or disbenefits for seven key stakeholder groups, being:

- Visitor Market – Operators.
- Visitor Market – Visitors.
- Residential Property Market – Renters and Purchasers.
- Residential Property Market – Owners.
- Local Businesses and Services.
- Local Workers, and
- Local Residents.

The aim is to identify the policy with the best overall balance of costs and benefits for all stakeholders, acknowledging that some impacts will be beneficial for certain groups and detrimental to others. For example, increased property values would be beneficial for property owners, but detrimental to prospective purchasers and renters.

A copy EIA can be found in **Appendix 2**.

The findings of the EIA provide several useful insights. For example, analysis of the demographic and housing data revealed that the Byron LGA is experiencing housing market failure, with poor affordability, very low rental vacancy rates and high concentrations of non-hosted STRA approaching 35% of total dwelling stock. In addition, the EIA found there was a relatively high proportion of underutilised STRA properties in the LGA which are ‘available’ but not occupied for much of the year. This demonstrates an oversupply of STRA, but also reflects the choice of some owners who buy and hold properties primarily for enjoyment and may not be motivated by income from short-term or long-term rentals.

While the impacts of each policy option vary, it is apparent that a lower day cap is going to decrease the supply and availability of STRA, which in turn will increase the supply of long-term rental accommodation. Unsurprisingly, this effect would be felt more strongly under a 90-day cap compared to a 180-day cap. However, due to latent capacity in the STRA market from underutilised properties, even a 90-day cap is unlikely to have a significant impact on visitation levels or retail driven spending and employment. The EIA predicted that forecast demand for visitor accommodation could likely be met under a 90-day model if occupancy rates increased within the remain stock of non-hosted STRA and commercial accommodation.

The final recommendation of the EIA is that the SEPP Option (180 day per year cap across the entire LGA) is the preferred policy from an economic perspective. The EIA concludes that a 180-day per year cap would provide substantial benefits across the relevant stakeholder groups while minimising detrimental impacts on the visitor market.

### Peer Review of EIA

Council commissioned a peer review of the EIA by Dr. Peter Phibbs to gain a second opinion on the report’s methodology and final recommendations. Dr. Phibbs is a former Professor in the Faculty of Architecture, Design and Planning at the University of Sydney and has considerable experience in the field of economic impact assessment. His recent research has focused on housing issues including detailed examinations of the short-term rental market and appropriate planning responses. Along with his colleague Professor Nicole Gurrán, Peter authored one of the early papers in the international planning literature on planning responses to short-term rental housing.

A copy of the Peer Review is included in **Appendix 3**.



The most significant issue raised in the Peer Review is that the authors have attempted to use the findings of the EIA as a decision-making tool, just as you would a cost-benefit analysis. In Dr. Phibbs' view, this is a fundamental error. This is because many actions that might generate significant economic benefits could also have significant social and environmental costs that need to be properly considered in the decision-making process.

He further noted that the scoring system used to produce the report's final recommendations does not attempt to weight the relative importance of the various stakeholder groups. This means benefits to the community from less STRA is outweighed by the negative impacts of visitors having to pay more for their accommodation. He commented that "unless you consider the relative weightings of the various stakeholders, it is impossible to come to a balanced recommendation. Just adding up scores is not a method that will generate any precision". As a result, he was strongly of the view that the recommendations that the consultant provides are misleading.

Dr. Phibbs concluded that, while the EIA contains useful information, the recommendations were unreliable for the following reasons:

- The report confuses economic impact analysis with evaluative methods like cost benefit analysis.
- The method it uses to compare options is unreliable because no attempt is made to weight the relative importance of the impacts on different stakeholder groups.
- The economic impacts focus on Byron Shire impacts when some estimates should have been made of the impacts on the NSW economy. In many cases the negative impacts on Byron Shire from the changes proposed by Byron Council will be matched by positive impacts on surrounding Councils.
- The economic impacts ignore the positive economic impacts from the increase in long-term tenants associated with some options.
- The study, perhaps because of errors in estimating the size of the rental market, has underestimated the extent of the market failure. In Dr. Phibbs' opinion, the experience of Byron Shire is so different than Sydney, a more significant planning response to the issue of STRAs is required in Byron – the Sydney STRA cap will not be effective.

## Council Resolution

A report was tabled at the Ordinary Council meeting of 24 February 2022 which presented the findings of the EIA and the Peer Review by Dr. Phibbs. The report noted that given the findings of the Peer Review, it was questionable whether the existing 180-day cap under the Housing SEPP will provide the best balance of economic and social benefits for the Byron Shire community, particularly in the context of the current housing crisis.

Council resolved at the meeting to support the existing 90-day/365-day STRA model outlined in the current planning proposal and instructed staff to amend the planning proposal to meet the requirements of the Gateway determination, except for Condition 1(b), point 3, which requires the planning proposal to be updated in accordance with the recommendations of the EIA.

Council resolution **22-060** is reproduced below:

***Resolved that Council:***

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

### Amendments to the planning proposal

The planning proposal has been updated to meet the requirements of the Gateway determination and Council resolution 22-060.

Key changes are summarised below:

- Additional information has been included to further explain the likely economic and social implications of the planning proposal based on the findings of an Economic Impact Assessment and a Peer Review that were completed in late 2021.
- The planning proposal has been redrafted as an amendment to Part 6 of the Housing SEPP to reflect the recent change in legislation brought about by the consolidated SEPP reforms.
- Proposed amendments to Byron LEP 2014 outlined in sections 2.1 to 2.7 of the previous planning proposal have been removed. This includes removal of draft planning controls that required:
  - Possibility of a development application to be lodged for non-hosted STRA.
  - Signage including contact details to be placed at the front of the property.
  - Guests numbers limited to 2 persons per room to a maximum of 12 persons total.
  - At least one car parking space to be provided for each dwelling.
  - Dwellings on unsewered land must have an approved on-site sewage management system capable of accommodating peak waste water loading from the maximum potential occupancy of the dwelling.

- A matrix framework has been included which summarises the key potential risks of maintaining a 180-day per year cap versus a 90-day/365-day cap model on certain market segments.
- A risk mitigation and monitoring strategy has been included which aims to minimise the potential risks associated with reducing the short-term rental accommodation day cap on certain key groups.

## Part 1 Introduction

This planning proposal explains the objectives and justification for a proposed amendment to State Environmental Planning Policy (Housing) 2021 to introduce new planning controls for short-term rental accommodation in the Byron Local Government Area.

### 1.1 Objective and intended outcomes

The objective of this planning proposal is to mitigate the significant impacts of short-term rental accommodation on permanent rental housing supply, amenity, local character, and community, while still allowing for a diverse and sustainable base of tourist accommodation options to support the local economy.

The objective will be achieved by reducing the ‘day cap’ for non-hosted short-term rental accommodation to 90-days per year across most of the Byron LGA, except in certain precincts where it will be permitted 365-days per year. The aim is to preserve permanent housing in most of the Shire’s residential and rural areas, while also recognising that some areas with high tourism appeal near beaches and services may be more suitable for year-round holiday letting.

The proposal will be facilitated through amendments to Part 6 of State Environmental Planning Policy (Housing) 2021.

### 1.2 Subject land

This planning proposal relates to all land in the Byron LGA.

Previous versions of the planning proposal had applied exclusively to land covered by Byron LEP 2014 and did not cover ‘deferred matter’ areas that were subject to the provisions of Byron LEP 1988. Deferred matter areas of note include residential land at Belongil Beach and Suffolk Park within zones 7(f1) (Coastal Land Zone) and 7(f2) (Urban Coastal Land Zone). Council had originally intended to deal with the deferred matter areas later following successful implementation of the new planning controls into LEP 2014.

A consequence of the Gateway determination is that all land in the Byron LGA will now be dealt with at the same time through an amendment to a single environmental planning instrument.

## Part 2 Explanation of provisions

The proposed outcomes will be achieved by including new provisions in Part 6 of the Housing SEPP that will:

1. introduce a mapping overlay for the Byron LGA known as the *Byron Shire Short-term Rental Accommodation Area Map* to identify precincts where non-hosted STRA is permitted 365 days per year.
2. include a new clause that limits non-hosted STRA in the Byron LGA to 90-days in any 365-day period where a dwelling is located on land outside a mapped precinct. The Byron LGA will need to be removed from the list of “prescribed areas” under Clause 112(3) of the Housing SEPP for this provision to have effect.

An indicative map series that illustrates the proposed STRA precincts can be found in **Attachment 4** to this planning proposal.

An example clause outlining drafting instructions for Point 2 is provided in **Attachment 1**.

## Part 3 Justification

### Section A Need for the planning proposal

#### **Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

This planning proposal follows a Direction issued by the Minister for Planning on 15 February 2019 which allows Byron Shire Council to prepare a planning proposal that could identify or reduce the number of days that non-hosted STRA may be carried out in parts of its local government area. The planning proposal is supported by a sound evidence base, including data of STRA activity in the Byron LGA over the past 5 years and an economic impact assessment that looks at the social and economic impacts of the changes. Consistency with the Direction is addressed in Part B of this planning proposal.

The need to define and regulate short-term rental accommodation is also identified as a Priority Action in the Byron Shire Local Strategic Planning Statement (LSPS), which was adopted by Council in September 2020 following extensive community engagement and consultation.

A key theme of the LSPS is to improve liveability by supporting housing diversity and affordability with housing growth in the right locations. This is to be achieved by three Priority Actions, being:

- LA7 Finalise the draft Byron Shire Residential Strategy and implement relevant priority actions.

- LA8 Prepare and implement planning controls to define and regulate Short-term Rental Accommodation in Byron Shire.
- LA9 Investigate and implement planning controls to encourage an increase in the supply of affordable and inclusive housing stock.

The planning proposal has also been shaped and informed by the following studies and academic research:

1. *Study of Airbnb and Stayz Listings in Byron Shire*

A study of Airbnb and Stayz listings was undertaken by Council staff in 2020 to help understand the scale and extent of the Byron Shire STRA market, its growth over time, and its impact on the permanent housing market. The study found that up to 25% of the Shire's total dwelling supply was listed on Airbnb or Stayz in November 2019, with an estimated 18% of dwellings being 'frequently available' and likely used as de-facto tourist and visitor accommodation.

2. *Planning responses to online short-term holiday rental platforms*

A research project for the Australian Coastal Council's Association was undertaken in 2018 by Gurren et. al. which investigated the issues, opportunities and risks arising from online listings of short-term holiday rental properties in different coastal communities in Australia. Byron Shire was identified as suffering from 'tourism displacement' where local workers and aspiring homeowners can no longer afford to rent or buy in the locality, but there are abundant short-term rentals. The study found that Byron exhibits the characteristics of a market that has been distorted by short-term holiday accommodation and that new housing supply is at high risk of conversion to short-term holiday accommodation.

3. *Third-party impact of short-term rental accommodation: a community survey to inform government responses*

A study by Muschter et. al., (2020) from Southern Cross University was carried out between 2018 and 2019 looking into the community perceptions of Airbnb in the Byron Shire. The study found that most people associated Airbnb with a range of negative effects including loss of housing, reduced affordability, increased traffic, and additional burdens to ratepayers to provide infrastructure. Respondents also perceived a loss of neighbourhood and community due to increasing STRA in residential areas.

4. *An Investigation into the Nature and Range of Impacts of Short-term Rental Accommodation (including Airbnb) on Approved Accommodation Providers in the Byron Shire*

A study by Che et. al. from Southern Cross University (2020) was undertaken in late 2019 looking at the perceived impacts of STRA on Byron Shire approved accommodation providers such as hotels and motels. Most respondents pointed to the negative effects of STRA/Airbnb on their businesses along with the perception of an 'unfair playing field' that favoured the STRA market. Most respondents felt that greater regulation of STRA was required.

The planning proposal has also been informed by an economic impact assessment carried out by Urbis in late 2021 and a peer review of the EIA by Dr. Peter Phibbs. A summary of the EIA and Peer Review can be found in the background section of this planning proposal.

**Q2. Is the planning proposal the best means of achieving the objective or intended outcomes, or is there a better way?**

The planning proposal is the best means of achieving the objectives and intended outcomes outlined in Part 1. Several alternative policy options were considered and explored in the EIA however none will be as effective as the planning proposal at mitigating the adverse impacts of STRA, particularly impacts on the housing market.

The potential options explored in the EIA are summarised in **Table 1**.

**Table 1** – Summary of policy options considered in the EIA.

<b>Policy Options</b>	<b>Description</b>
Base Case – SEPP Option	<u>180-day per year cap across entire LGA</u> This option involves a 180-day ‘cap’ being applied to all non-hosted STRA in the LGA and is currently in force under the Housing SEPP.
Base Case – SEPP Alternative	<u>180-day per year cap outside of Urbis-defined precincts</u> This option involves allowing non-hosted STRA to operate 365-days a year in certain precincts (as defined by Urbis) with a 180-day per year cap applying to non-hosted STRA outside a mapped precinct.
Option 1 – Planning Proposal	<u>90-day cap outside Council-defined STRA precincts</u> This option involves limiting STRA to 90-days per year across most of the Byron LGA, except in certain precincts at Suffolk Park, Byron Bay and Brunswick Heads, where it will be permitted 365-days per year.
Option 1A – PP Alternative	<u>180-day cap outside of Council-defined STRA precincts</u> This option is the same as Option 1, except the ‘day cap’ would be set at 180-days per year outside the mapped precincts instead of 90-days.
Option 1B – Urbis precincts	<u>90-day cap outside of Urbis-defined STRA precincts</u> This option is similar to the SEPP Alternative, except that non-hosted STRA would be limited to 90-days per year outside of Urbis defined precincts (which have a much larger extent than the Council defined precincts).
Option 2 – No Caps	<u>No day caps on non-hosted STRA</u> This option allows non-hosted STRA to be carried out 365-days per year everywhere in the Byron LGA.

The authors of the EIA recommended that the Base Case: SEPP was the preferred policy from an economic perspective. However, after taking into consideration the findings of the Peer Review by Dr. Phibbs, the SEPP is not considered to be the most appropriate policy response for the following reasons:

- (1) There is robust evidence to demonstrate the local housing market is experiencing market failure. Therefore, a more significant policy response is required.**

The Byron LGA is estimated to have the highest concentration of STRA properties of any LGA in NSW. Background research carried out by Urbis for the EIA found that non-hosted STRA accounted for approximately 35% of total dwelling stock in 2019. Central Byron Bay was found to be the worst affected area, with 44% of dwellings in the town centre being used for non-hosted STRA during the study period.

Rapid growth in the STRA sector in recent years has significantly impacted the availability of permanent rental housing and has put upward pressure on property prices and rents. The Urbis report found that the proportion of long-term rentals versus short term rentals in the Byron LGA declined from 61% in 2017 to 53% in 2019, which means nearly half of all rental dwelling stock was being used for holiday accommodation instead of permanent housing.

Similar findings were made by Gurren et. al. (2018) in a report for the Australian Coastal Council's Association which estimated that 48% of Byron Shire rental stock was listed as 'frequently available' on Airbnb. Researchers for that study commented that the Byron housing market had been 'distorted' by holiday rental accommodation and the area was experiencing 'tourism displacement' where local workers and aspiring homeowners can no longer afford to rent or buy in the locality, but there are abundant short-term rentals. The Urbis EIA concluded similarly that "Byron Shire is experiencing market failure where a lack of clear regulation and attractive revenue prospects have led many property owners to convert their residential properties into STRA properties. This has caused further tightening of an already low vacancy residential market, creating further upward rent and price pressure which attracts additional investors and is leading to worsening affordability for renters and prospective purchasers" (Urbis, 2021, p. 44).

Alarmingly, these findings are potentially an underestimation of the actual market failure. Dr. Phibbs commented on page 5 of the Peer Review that when he calculated average rental bonds in 2019 he arrived at a figure of 3016 rental dwellings, which is far less than the figure of 6030 rental bonds stated in the EIA. If this figure is correct, it would mean Byron is most likely be the only significantly sized LGA in Australia where the STRAs exceed long term rentals by a wide margin (about 200%).

To address the extent of the market failure, a more significant policy response will be necessary to restore balance to the housing market. As noted by Dr. Phibbs on page 7 of the Peer Review, "the experience of Byron Shire is so different than Sydney, a more significant planning response to the issue of STRAs is required. The Sydney STRA cap will not be effective".

**(2) The planning proposal will be the most effective option for mitigating the impacts of STRA on the housing market**

Compared to other potential policy options discussed in the EIA, the planning proposal is likely to deliver the greatest improvements to the local housing market and will be the most effective option for mitigating the impacts of short-term rental accommodation.

Modelling carried out by Urbis predicts that up to 1524 long-term rental dwellings and 224 owner occupier dwellings would be returned to the permanent housing market under the planning proposal, which equates to a 27% increase over current levels. This compares favourably to the SEPP option which is only estimated to deliver an additional 885 long-term rentals and 100 owner occupier dwellings, which equates to a 15% increase. The other policy options analysed in the EIA also performed worse than the planning proposal as shown in Table 2.

**Table 2:** Predicted changes to long-term rental and owner occupier dwellings

Policy Option	Long Term Rental	% Increase	Owner Occupy	% Increase
Option 1 – Planning Proposal	1535	24%	275	3%
Base Case – SEPP Option	885	14%	100	1%
Option 1B – Urbis precincts	840	13%	120	1.5%
Option 1A – PP Alternative	830	13%	100	1%
Base Case – SEPP Alternative	575	9%	45	0.5%
Option 2 – No Caps	420	6.5%	0	0%

**Source:** EIA pp. 112 - 115 (Urbis, 2021).

**(3) The economic impacts of the planning proposal will be manageable**

An important insight from the EIA is that the planning proposal will not have a significant impact on overnight visitation levels or retail driven spending, which are both predicted to grow between 2021 and 2027. This is due in part to an oversupply of STRA beds in the current market and a high proportion of underutilised properties which lie vacant for most of the year. While the total pool of available properties would be lower under the planning proposal (compared to other policy options), the number of available beds within the remaining pool of accommodation (including commercial STA) would still be high enough to meet predicted demand so long as occupancy rates are increased.

Predicted occupied rooms nights for each policy option outlined in the EIA are summarised in table 3. The planning proposal option is expected to result in a 3.8% increase between 2019 and 2027, which is comparable to the other policy options explored in the EIA.

**Table 3:** Predicted Occupied Room Nights 2019 – 2027

Policy Option	2019 (base)	2021 (Covid)	2024	2027	Change p.a. 2021-2027
Base Case – SEPP Option	383,922	306,464	382,743	404,399	4.7%
Base Case – SEPP Alternative	383,922	306,464	382,743	404,399	4.7%
Option 1 – Planning Proposal	383,922	306,464	367,353	383,787	3.8%



Option 1A – PP Alternative	383,922	306,464	382,743	404,399	4.7%
Option 1B – Urbis precincts	383,922	306,464	366,862	384,665	3.9%
Option 2 – No Caps	383,922	306,464	382,743	404,399	4.7%

**Source:** EIA p. 132 (Urbis, 2021)

The total retail spend from overnight visitors is expected to be roughly similar for all policy options as demonstrated in Table 4. Modelling by Urbis indicates that overnight visitation levels and retail driven spending will not be significantly reduced by the planning proposal with retail driven spending predicted to increase by 5.9% p.a. between 2021 and 2027.

**Table 4:** Forecast Total Retail Spend From Overnight Visitors in Non-Hosted STRA (\$m)

Policy Option	2019 (base)	2021 (Covid)	2024	2027	Change 2021-2027
Base Case – SEPP Option	\$234.8	\$107.8	\$159.4	\$175.7	6.2%
Base Case – SEPP Alternative	\$234.8	\$107.8	\$159.4	\$175.7	6.2%
Option 1 – Planning Proposal	\$234.8	\$107.8	\$156.7	\$172.3	5.9%
Option 1A – PP Alternative	\$234.8	\$107.8	\$159.4	\$175.7	6.2%
Option 1B – Urbis precincts	\$234.8	\$107.8	\$156.5	\$172.0	5.9%
Option 2 – No Caps	\$234.8	\$107.8	\$159.4	\$175.7	6.2%

**Source:** EIA p. 140 (Urbis, 2021).

In terms of employment, a lower day cap is likely to have a greater impact on operational jobs such as cleaners and gardeners. However, the impact will be largely offset by employment gains in other sectors related to retail driven spending resulting in only a minor overall reduction in total employment. Predicted changes to employment for each policy option are summarised in Table 5.

**Table 5:** Estimated change in total employment

Policy options	Operational Jobs	Retail Jobs	Total change by 2027
Base Case – SEPP Option	-145	272	127
Base Case – SEPP Alternative	-90	272	182
Option 1 – Planning Proposal	-265	255	-10
Option 1A – PP Alternative	-136	272	136
Option 1B – Urbis precincts	-141	254	113
Option 2 – No Caps	-62	272	210

**Source:** EIA p. 142 (Urbis, 2021).

#### **(4) There may be economic benefits for approved accommodation providers**

The EIA indicated that the planning proposal could potentially increase the occupancy of commercial short-term accommodation providers such as hotels and serviced apartments. More visitors using hotel or serviced apartment accommodation could potentially have increased economic benefits as these businesses typically require additional employees and

services which in turn will flow into the local economy, benefiting more local businesses and workers.

**(5) The positive impacts of additional long-term rental accommodation have not been explored in the EIA**

An important issue raised in the Peer Review is that the EIA did not include much analysis of the positive economic effects of additional permanent rental housing compared to existing levels. Dr. Phibbs commented on page 6 that any increase in permanent rental accommodation would also result in additional expenditure by tenants of the new rental stock. Given that the average letting period is ~120 days, even if the average daily expenditure of a permanent tenant was one third of a STRA guest, there would likely be no net change in total retail expenditure overall. The increase in permanent population would also improve the viability of some service industries and support employment in industries such as childcare that are unlikely to be supported by a visitor economy.

The Peer Review illustrates that although the planning proposal could potentially impact on expenditure and employment in some sectors of the economy, the overall effect is potentially overstated because the EIA does not include a proper analysis of the positive impacts arising from increased permanent rental housing.

**(6) The final recommendations of the EIA are unreliable**

A key problem with the EIA is that the scoring system used to produce the final recommendations does not attempt to weight the relative importance of the various stakeholder groups. This means that positive impacts to permanent residents from having greater access to housing is more than outweighed by the negative effects on visitors having to pay more for accommodation. The Peer Review noted that this approach is fundamentally flawed and that 'simply adding up the scores' is not a method that will lead to any precision. As a result, the recommendations of the EIA are misleading.

On balance, the planning proposal is considered to be the most effective option for mitigating the impacts of the STRA sector as it will deliver a 27% increase in long-term rental and owner occupier dwellings and is unlikely to have a significant impact on tourism or employment. This compares favourably to other options discussed in the EIA which will provide very little assistance to the housing market while offering only slightly greater economic benefits.

## Section B Relationship to strategic planning framework

**Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (in this case the North Coast Regional Plan 2036)?**

The North Coast Regional Plan (the plan) is the NSW Government’s strategic document that outlines a vision for the NSW North Coast over the next 20 years. It identifies key challenges and opportunities for the region, with an emphasis on managing urban expansion and protecting coastal assets and the natural environment. The overall vision of the strategy is to maintain the distinctive character of the North Coast, by directing growth away from significant farmland and sensitive ecosystems and enabling efficient planning for infrastructure and services.

In response to these challenges and opportunities, the plan sets out four goals:

1. The most stunning environment in NSW;
2. A thriving interconnected economy;
3. Vibrant and engaged communities;
4. Great housing choice and lifestyle options.

The plan proposes 25 directions and actions to achieve these goals, providing a regional framework for local environmental plans, local strategic land use plans and future development proposals.

Consistency between this planning proposal and the relevant objectives of the NRCP 2036 is considered in the following tables.

**Table 6 – Consistency with the relevant actions of the North Coast Regional Strategy 2036**

Action	Consistency
3.1 Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.	<b>Consistent.</b> The use of dwellings for STRA will not significantly increase risks from natural hazards or the projected effects of climate change.
8.2 Facilitate tourism and visitor accommodation and supporting land uses in coastal and rural hinterland locations through local growth management strategies and local environmental plans.	<b>Consistent.</b> The planning proposal will facilitate STRA across a wide range of coastal, rural and hinterland locations in the Bryon Shire.
8.3 Prepare destination management plans or other tourism-focused strategies	<b>Consistent.</b> Council is working on a Sustainable Visitation Strategy, which acknowledges the role of STRA in the local tourism sector, but also aims to find a balance between tourist accommodation and permanent housing for key workers and long-term residents.
8.5 Preserve the region’s existing tourist	<b>Consistent.</b> The planning proposal will not

<p>and visitor accommodation by directing permanent residential accommodation away from tourism developments, except where it is ancillary to existing tourism developments or part of an area otherwise identified for urban expansion in an endorsed local growth management strategy.</p>	<p>adversely affect the region's existing tourist and visitor accommodation relative to the current 180-day cap operating under the Housing SEPP.</p>
<p>22.2 Facilitate housing and accommodation options for temporary residents by:</p>	<p><b>Consistent.</b> The planning proposal will facilitate flexible use of dwellings to accommodate seasonal and itinerant workers in a variety of residential and rural areas.</p>

**Q4. Will the planning proposal give effect to Council's endorsed local strategic planning statement, or other local strategic plan?**

Community Strategic Plan 2022

In 2012 Council adopted a 10 year + *Community Strategic Plan 2022*. The plan is based on five key themes being Corporate Management, Economy, Environment, Community Infrastructure, Society and Culture. Two of those themes are relevant to this planning proposal:

**Table 7 – Consistency with the relevant objectives of the Byron Community Strategic Plan**

CSP Objectives	Consistency
<p>We manage growth and change responsibly</p>	<p><b>Consistent.</b> The planning proposal will help to sustainably manage tourist accommodation and permanent housing into the future.</p>
<p>We have community led decision making which is open and inclusive.</p>	<p><b>Consistent.</b> A community engagement activity was undertaken in early 2020 on a set of draft planning controls which eventually formed the basis of this planning proposal.</p> <p>In addition, property owners and STRA industry participants were involved in a series of surveys and in-depth interviews which informed the Economic Impact Assessment (EIA) in <b>Appendix 1</b>.</p> <p>It is anticipated that this planning proposal and the EIA will be publicly exhibited for a period of 28 days should it be accepted by</p>

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### Byron Shire Local Strategic Planning Statement

The Byron Shire Local Strategic Planning Statement (LSPS) presents a 2036 vision and framework for land use within Byron Shire, outlining how growth and change will be managed to maintain the high levels of environmental amenity, liveability and landscape quality that characterises the Shire.

This LSPS has been designed to provide a link between the State Government’s strategic plans, Council’s Community Strategic Plan and local land use plans and guidelines. The key themes and priorities from the LSPS are addressed below in relation to this planning proposal:

**Table 8 – Consistency with the relevant themes and directions of the Byron LSPS**

Theme		Consistency
<b>A Sustainable Shire</b>		
SP1	Protect and enhance our biodiversity, ecosystems and ecology	<b>Consistent.</b> Limiting the intensity of STRA usage in most areas with a 90-day/365-day model will minimise the environmental impact of STRA where it occurs on land with high biodiversity values.
SP2	Strive to become a sustainable community	<b>Consistent.</b> The planning proposal aims to create more sustainable balance between tourist accommodation and permanent housing options in Byron LGA.
<b>A Liveable Shire</b>		
LP3	Support housing diversity and affordability with housing growth in the right locations	<b>Consistent.</b> A key action of Liveable Shire theme is to “prepare and implement planning controls to define and regulate Short Term Rental Accommodation in Bryon Shire”.  The proposed SEPP amendments will introduce a 90-day threshold for non-hosted STRA in most areas. This will encourage greater supply of permanent housing and improve both diversity and affordability of housing.
<b>A Thriving Shire</b>		
TP1	Support a strong diversified and sustainable economy based on Byron Shire’s unique character,	<b>Consistent.</b> Council is working on a Sustainable Visitation Strategy (SVS) to guide tourism over the next 10 years. The

	landscapes and important farmland.	<p>draft SVS acknowledges the important role of STRA in the local tourism sector, but also aims to find a balance between tourist accommodation and permanent housing for key workers and long-term residents.</p> <p>The proposed 90-day threshold for STRA outlined in this planning proposal are consistent with aims and tourism planning principles outlined in the draft SVS.</p>
TP2	Develop and implement strategies to support agriculture, agri-business and farmers.	<b>Consistent.</b> STRA can be used as an additional revenue stream to supplement farm income.
TP4	Deliver an adequate supply of employment	<b>Consistent.</b> The Economic Impact Assessment estimated that visitation levels and retail driven employment would not be adversely affected by the planning proposal.

#### Byron Shire Rural Land Use Strategy 2017

Council has an adopted Rural Land Use Strategy which is built on four key themes, being: Rural Environment, Rural Economy, Rural Community and Rural Infrastructure. Consistency with the relevant policy directions and actions in the RLUS is addressed below.

**Table 9 – Consistency with the relevant actions of the RLUS**

RLUS directions and actions	Consistency
<p>3.2 Policy Directions for Our Rural Economy:</p> <p><i>4. The planning framework will provide flexibility for our farmers to diversify their income sources where ancillary to farming operations.</i></p>	<b>Consistent.</b> The proposed planning rules will facilitate STRA in rural zones, providing farmers with the opportunity for diverse revenue streams to supplement farming income.

Council has an adopted Business and Industrial Lands Strategy. Consistency with the relevant policy direction and associated business and industrial planning principles in the BILS is addressed in the table below.

**Table 10 – Consistency with the relevant directions and principles of the BILS**

BILS directions and principles	Consistency
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<p>Direction 4: <i>Promote and attractive investment environment with people-friendly industrial areas and business centres. Business and Industrial</i></p> <p>Suitable Land Principle 4. <i>Support or create a local workforce &amp; Business and Industrial Land Design Principle 4. Better Community</i></p>	<p><b>Consistent.</b> The proposed planning will support business investor confidence as it considers people and community. In particular, the desirability and economic benefits associated with available housing for workers located convenient to employment areas.</p>
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**Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

The consistency of the planning proposal with applicable State Environmental Planning Policies is outlined in table 11. Those SEPPs which are not directly applicable or have been repealed are not included in this table.

**Table 11 – Consistency with the relevant State Environmental Planning Policies**

State Environmental Planning Policy (SEPP)	Comment
<p>State Environmental Planning Policy (Housing) 2021</p>	<p><b>Consistent.</b> In accordance with the conditions of the Gateway determination, this planning proposal has been redrafted as an amendment to the Housing SEPP (which replaced the ARH SEPP on 25 November 2021), instead of LEP 2014 as originally proposed.</p> <p>As described in Part 2 of this planning proposal, the proposed 90-day/365-day precinct model is to be established by introducing a new mapping overlay under Clause 112 (3) that will identify the areas where non-hosted STRA can occur 365-days per year. The map will be supported by an amendment to Clause 112(1) that will restrict non-hosted STRA to 90-days per year in circumstances where a dwelling is located outside a mapped precinct.</p> <p>The proposed amendments are considered to be consistent with the existing SEPP framework and are compatible with the aims and objectives of the policy as it will facilitate short-term rental accommodation while also introducing appropriate measures to manage the social and environmental impacts arising from this use.</p>
<p>State Environmental Planning Policy (Coastal Management) 2018</p>	<p><b>Consistent.</b> Clause 10 of the Coastal Management SEPP will continue to apply. Development consent for STRA could potentially be required in cases where a dwelling is located within the Coastal Wetlands and Littoral Rainforest Area Map.</p>

<p>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</p>	<p><b>Consistent.</b> Clause 113(c) of the Housing SEPP includes a provision that prevents “seniors housing” from being used for STRA. This planning proposal does not alter or extend this prohibition in any way or create any other inconsistencies with the seniors housing policy.</p>
<p>State Environmental Planning Policy (Infrastructure) 2007</p>	<p><b>Consistent.</b> The Infrastructure SEPP includes various provisions that require notification to and/or concurrence from Transport for NSW prior to determining a development application in certain circumstances, particularly where development is proposed near classified roads or other infrastructure.</p> <p>The Housing SEPP amendment will enable STRA as exempt development and therefore none of these provisions will be activated unless other development is proposed at the same time which requires consent.</p>
<p>State Environmental Planning Policy No 55—Remediation of Land</p>	<p><b>Consistent.</b> In this case no land is being rezoned and STRA will only be permissible where a dwelling is already permitted with consent in the relevant zone. The proposal will therefore not significantly increase the range or intensity of sensitive land uses occurring on land that may have been subject to previous contamination.</p>
<p>State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)</p>	<p><b>Consistent.</b> The planning proposal will not affect provisions in SEPP 70 that allow conditions of consent to be imposed requiring the dedication of land or monetary contributions for affordable housing.</p>

**Q6. Is the planning proposal consistent with the applicable Ministerial Directions (s.9.1 directions)?**

The planning proposal has been assessed against each of the Section 117 directions. Consistency with these directions is addressed in Table 12.



**Table 12 – Consistency with Section 9.1 Directions**

**1. Employment and Resources**

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency</b>
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	This planning proposal will apply to dwellings located in business and industrial zones in the Byron LGA. The planning proposal will not reduce the total potential floor space area for employment uses in any business or industrial zones in Byron LGA.	Consistent
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).	This planning proposal will apply to dwelling types permitted in rural zones (apart from rural workers dwellings). The planning proposal will not alter the zone of any rural land or the density of land use within any rural zone.	Consistent
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of:  a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or  b) restricting the potential development of resources of coal, other minerals, petroleum	Nothing in this planning proposal will prohibit or restrict exploration or mining.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>		
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <p>a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or</p> <p>b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.</p>	<p>The planning proposal is unlikely to affect Priority Oyster Aquaculture Areas (POAA) located in the Brunswick River. The proposed use of dwellings for STRA in or near the POAA will not significantly increase the intensity of development or alter the quantity or quality of water entering the marine environment.</p>	Consistent
1.5 Rural Lands	<p>Applies when a relevant planning authority prepares a planning proposal that:</p> <p>a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or</p>	<p>The planning proposal is consistent with the relevant requirements of Direction 1.5.</p> <p>In particular:</p> <ul style="list-style-type: none"> <li>The proposal is consistent with the goals and directions of the NCRP 2036, as discussed in section B, Q3.</li> </ul>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>b) changes the existing minimum lot size on land within a rural or environment protection zone.</p>	<ul style="list-style-type: none"> <li>• A change of use to STRA will not have a significant impact on environmental values because it will be exempt development and low impact by its nature.</li> <li>• Facilitating STRA in rural land will provide farm owners with additional opportunities to diversify income streams by offering short-term rental accommodation to tourist and visitors.</li> <li>• The planning proposal will not have a significant impact on farmer's rights.</li> <li>• The planning proposal is unlikely to result in significant fragmentation or rural land or result in land use conflict.</li> <li>• SEPP (Primary Production) 2019 did not identify any State significant agricultural land in Byron LGA at the time of writing.</li> </ul> <p>Social, economic, and environmental interests are unlikely to be compromised by the planning proposal. Further consideration of the opinion and interests of the community will be canvassed during the public exhibition period.</p>	

## 2. Environment and Heritage

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
2.1 Environment Protection Zones	<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.</p>	<p>The planning proposal will not compromise the protection or conservation of environmentally sensitive areas. No environmental standards will be reduced by the proposed SEPP amendments.</p>	Consistent
2.2 Coastal Protection Zones	<p>This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by the State Environmental Planning Policy (Coastal</p>	<p>Certain land affected by this planning proposal is located within the coastal zone in the eastern portion of the Byron LGA. The planning proposal is consistent with the objects of the Coastal Management Act 2016 as there is minimal likelihood of adverse impacts on the biophysical or hydrological environments because of STRA being</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	Management) 2018.	<p>made permissible in dwellings in the coastal zone.</p> <p>At the time of writing there were no coastal vulnerability areas identified by the SEPP. Council has previously identified certain lands on the coastal fringe which are subject to ongoing coastal erosion processes, most notably at Belongil Beach and New Brighton. However, the proposed intensification of development in these areas because of STRA is unlikely to substantially increase risk to life or property or compromise the public interest by facilitating inappropriate development in high-risk areas.</p>	
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>b) Aboriginal objects or Aboriginal places that are protected under the National Parks and</p>	Existing provisions in the Housing SEPP already allow short-term rental accommodation to be carried out as exempt development in dwellings that are heritage items or dwellings located in heritage conservation areas. The proposed SEPP amendments will not affect these provisions.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>Wildlife Act 1974, and</p> <p>c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>		
2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):</p> <p>a) where the land is within an environmental protection zone,</p> <p>b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:</p> <p>(i) the provisions of the guidelines entitled</p>	This planning proposal does not enable any land to be developed as a recreation vehicle area.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and</p> <p>(ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</p>		
<p>2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs</p>	<p>This direction applies when a relevant planning authority prepares a planning proposal:</p> <p>a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone;</p> <p>b) that introduces or alters an overlay and associated clause.</p>	<p>This planning proposal does not introduce or alter any E2 or E3 zoning or overlays.</p>	<p>Consistent</p>
<p>2.6 Remediation of Contaminated Land</p>	<p>This direction applies to:</p> <p>a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</p> <p>b) land on which development for a purpose</p>	<p>The planning proposal does not attempt to alter any zoning in the Byron LGA or include land in a zone that would permit a change of use.</p>	<p>Consistent.</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p>		



### 3. Housing, Infrastructure and Urban Development

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.1 Residential Zones	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> <li>a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</li> <li>b) any other zone in which significant residential development is permitted or proposed to be permitted.</li> </ul>	<p>The proposed Housing SEPP amendment will encourage a greater supply of permanent housing within the Byron LGA, which in turn will broaden the choice of building type and locations available in the housing market.</p>	Consistent
3.2 Caravan Parks and Manufactured Home Estates	<p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> <li>a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</li> <li>b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan</li> </ul>	<p>The planning proposal does not identify any suitable zones or alter any provisions for caravan parks or manufacture home estates.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>park.</p> <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> <li>a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</li> <li>b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</li> <li>c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.</li> </ul>		
3.3 Home Occupations	Revoked	Not applicable	Not applicable
3.4 Integrating Land Use and	This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision	This planning proposal will not alter zone boundaries or create any new zoned areas. The planning proposal is not inconsistent with the	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
Transport	<p>relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p>	relevant guidelines and will not have a significant impact on public transport in the Byron LGA.	
3.5 Development Near Regulated Airports and Defence Airfields	This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	The planning proposal will not create, alter or remove a zone relating to land in the vicinity of a licensed aerodrome.	Consistent
3.6 Shooting Ranges	This direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.	The planning proposal will not create, alter or remove a zone relating to land in the vicinity of a shooting range.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.7 Reduction in non-hosted short-term rental accommodation period	This direction applies when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.	<p>This planning proposal is consistent with the provisions of Direction 3.7.</p> <p>In particular:</p> <ul style="list-style-type: none"> <li>• The planning proposal does not propose to reduce non-hosted STRA to less than 90-days in any part of the Byron LGA.</li> <li>• The reasons for changing the non-hosted STRA period are clearly articulated, being the failure of the local housing market and the need for improve the supply of permanent accommodation for residents and workers.</li> <li>• There is a sound base of evidence for the proposed changes, including evidence of extremely high concentrations of STRA and an upward growth trend over the past 5 years, and</li> <li>• The impact of the proposed changes has been analyzed and explained, including the social and economic impacts on the community and impacted property owners. These impacts are covered in an Economic Impact Assessment included in Appendix 2, with further comment in a peer review by Dr, Peter Phibbs which can be found in</li> </ul>	Consistent.

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
		Attachment 3.	

#### 4. Hazard and Risk

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Acid Sulfate Soils	This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	<p>The provisions in the planning proposal will not enable or facilitate the excavation or disturbance of acid sulfate soils.</p> <p>The planning proposal is consistent with the principles of the Acid Sulfate Soils Guideline.</p>	Consistent
4.2 Mine Subsidence and Unstable Land	<p>This direction applies to land that:</p> <ul style="list-style-type: none"> <li>a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or</li> <li>b) has been identified as unstable land.</li> </ul> <p>This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <ul style="list-style-type: none"> <li>a) is within a mine subsidence district, or</li> </ul>	There is no land within the Byron LGA within a mine subsidence district, or that has been identified as unstable in a study or strategy.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	b) has been identified as unstable in a study, strategy or other assessment		
4.3 Flood Prone Land	<p>This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p>	<p>Existing provisions in the Housing SEPP already permit short-term rental accommodation as exempt development on flood prone land in the Byron LGA. The planning proposal will not affect these existing provisions or facilitate additional development on flood prone land.</p>	Consistent.
4.4 Planning for Bushfire Protection	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect or is in proximity to land mapped as bushfire prone land.</p> <p>In the preparation of a planning proposal the</p>	<p>The planning proposal will not facilitate additional development on bushfire prone land compared to existing provisions in the Housing SEPP.</p> <p>It is expected that further consultation with the NSW Rural Fire Service will occur in accordance</p>	Consistent.

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of Schedule 1, clause 4 of the Act, and take into account any comments so made.</p>	with the conditions of the Gateway determination.	

## 5. Regional Planning

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.1 Implementation of Regional Strategies	Revoked	Not Applicable	Not Applicable
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to land within Sydney drinking water catchment.	Not Applicable	Not Applicable
5.3 Farmland of State and Regional Significance on the NSW Far North	This applies to Byron Shire Council except within areas contained within the “urban growth area” mapped in the North Coast Regional Plan 2036.	The planning proposal does not involve rezoning any farmland of State or regional significance.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
Coast	<p>A planning proposal must not:</p> <ul style="list-style-type: none"> <li>a) rezone land identified as “State Significant Farmland” for urban or rural residential purposes.</li> <li>b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes.</li> <li>c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.</li> </ul>		
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	This Direction applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	Not Applicable	Not Applicable
5.5 – 5.8 Revoked	Revoked	Not applicable	Not applicable
5.9 North West Rail Link Corridor Strategy	This Direction applies to Hornsby Shire Council, The Hills Shire Council and Blacktown City Council.	Not applicable	Not applicable



<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency</b>
5.10 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	The consistency of this planning proposal with the North Coast Regional Plan is addressed in Section B above.	Consistent
5.11 Development of Aboriginal Land Council Land	This direction applies when a planning proposal authority prepares a planning proposal for land shown on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019.	Not applicable	Not applicable

## 6. Local Plan Making

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency</b>
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</li> <li>b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning</li> </ul>	This planning proposal does not include provisions that require the concurrence, consultation, or referral of development applications to a Minister or public authority. It does not identify development as designated development.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>authority has obtained the approval of:</p> <ul style="list-style-type: none"> <li>(i) the appropriate Minister or public authority, and</li> <li>(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General)</li> </ul>		
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	Consistent
6.3 Site Specific Provisions	<p>This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> <li>a) allow that land use to be carried out in the</li> </ul>	This planning proposal will not amend another environmental planning instrument in order to allow a particular development to be carried out.	Not applicable.

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>zone the land is situated on, or</p> <p>b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>		

## Section C Environmental, social and economic impact

### **Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No. It is unlikely that any critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected by this Planning Proposal. In cases where dwellings are altered or built specifically for the purposes of STRA, impacts on threatened species and communities will be addressed through existing provisions in the planning system.

### **Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

The planning proposal could potentially minimise certain environmental effects such as noise disturbances and parking congestion by reducing the frequency of STRA usage in parts of the Byron LGA.

### **Q9. Has the planning proposal adequately addressed any social and economic effects?**

#### Social Impacts

Rapid growth in the number of short-term rental accommodation properties in recent years has contributed to a range of social issues in the Byron LGA, including:

- Loss of housing for workers and residents.
- Affordability issues.
- Increased housing stress.
- Increased rates of homelessness. Not just sleeping rough, but also sleeping in vehicles and unstable and intermittent accommodation (i.e., 'couch surfing').
- Dislocation of community due to a significant loss of housing stock to the STRA sector.
- A sense of isolation for remaining residents in areas with high STRA concentrations who are surrounded by a transient population.

The planning proposal is likely to result in a significant increase the supply of permanent housing and is considered to be the most effective policy for addressing social issues that have arisen primarily due to a loss of housing to the STRA sector. As discussed in Part C, the planning proposal is expected to result in a 27% increase in long-term rental and owner occupier dwellings, which is much higher than the 15% increase expected under the SEPP and more than double the amount expected under all the other policy options explored in the EIA.

#### Economic Impacts

In terms of economic impacts, the planning proposal is not expected to have a significant effect on overnight visitation or retail driven spending, which are both predicted to grow between 2021 and 2027. Impacts on the State economy are also likely to be negligible because many overnight visitors would choose to take holidays in other destinations in NSW. Thus, the net effect on the State economy could potentially be positive if regional tourism increased in other areas with less stressed housing markets.

The Peer Review also highlighted that the potential economic effects of the planning proposal may have been overestimated in the EIA because there was limited analysis of the positive impacts of increased long-term rental tenants on local spending and employment. It concluded that 'the economic impacts on Byron Shire from of the changes proposed by Council would be very modest, and on the NSW economy likely to be negligible since the negative impacts on the Byron LGA would likely be matched by positive impacts on surrounding LGAs'.

### Potential impacts on various stakeholder groups - risk matrix

The Gateway condition (1)(b), dot point 4, requires a matrix summarising the key potential risks of maintaining the base case vs. that determined by the economic impact assessment. Given these positions are one and the same (180-day cap) the following instead provides a matrix comparing the SEPP base case with Council's planning proposal.

The two options are briefly explained:

- Base Case: SEPP Default policy under the SEPP (Housing) 2021, which includes a 180-day cap on non-hosted STRA across the entire LGA. Under this option the EIA estimates a provision of in the order of 4,265 non-hosted STRA properties with ~885 properties estimated to convert to long term rentals (including 9-month leases) and ~100 properties estimated to convert to owner-occupation on 2019 figures.
- Council Option 1: Planning Proposal - Council's Planning Proposal, which includes a 90-day per year cap on non-hosted STRA except in a set of Council defined precincts where STRA would be permitted 365-days per year. Under this option the EIA estimates a provision of the order of 3,440 non-hosted STRA properties with ~1,535 properties estimated to convert to long term rentals (including 9-month leases) and ~275 properties estimated to convert to owner-occupation based on 2019 figures.

The Gateway requires the matrix to summarise how the key risks associated with impacts are distributed among the market segments as identified in the EIA for two options. Market segments are generally a group of people who share one or more similar characteristics. The gateway lists the following segments:

- Byron region tourism industry (including hospitality; hotels, motels, and serviced apartments).
- Local property industry (private, residential, and commercial).
- Local renters.
- Local homeowners.
- Local workers.
- Local business owners, and
- NSW State economy.

In compiling the matrix for certain risks, it has been necessary for the matrix to combine or split these market segments due to the way the key data and/or potential risks are articulated in the EIA. The EIA did not provide a risk assessment for the NSW state economy, hence only limited summary is contained at the end of the matrix based on broad comments made in the EIA. The statistical data in the matrix is taken from the EIA.

## Interpreting the Matrix

Risk identification: The 'risks' contained in the matrix are taken from the EIA. Hence, they may not necessarily represent a complete set of economic risks. For example, a risk associated with changed demand on council operations such as compliance was not addressed in the EIA. Furthermore, a risk may result in a disbenefit or a benefit for a given market segment. The likely rating is based on the EIA findings largely contained in section 4. In most cases the EIA allocated 'Social' risk as Nil on the basis quoting - *potential impacts have already been identified and quantified as direct and indirect impacts.*

The matrix uses colour coding to signify degree of risk and colours are explained in Key 1 below. Shade of green: benefits, shade of yellow: disbenefits and grey shade represents a negligible benefit or disbenefit.

### Key 1

Impact (Top)	Negligible Nil	Marginal Low	Considerable Moderate	Significant High
Disbenefit risk	1	2	3	4
Benefit risk	1	5	6	7

Indirect (also sometimes referred to as externalities) are:

- a cost or benefit that is imposed onto a third party who is not directly related to the production or consumption of that good or service.
- not financially incurred by the producer/provider and not incorporated into the final cost of the service or good.
- may be negative or positive or negative. For example, negative externality is a business that is noisy at night and affects the wellbeing of residents in the surrounding areas. A positive externality example could be a public information program to encourage visitors to keep their noise to a minimum in residential areas at night and aids the wellbeing residents in the surrounding areas.

Prediction time scale for the risk: The EIA forecasts and impact analysis generally do not extend beyond 2027 as certain key data inputs required in the modelling cannot be reliably estimated beyond 2027.

Matrix Abbreviation coding:

- STRA: non hosted holiday home as short-term rental accommodation;
- CSTA: commercial short-term accommodation for visitors such as hotels, motels and serviced apartments
- STA: combined providers of STRA & CSTA
- LTR: Long term rental accommodation

**Matrix 1: Risk and sensitivity analysis for the local government areas of Byron Shire**

Ref no.	Risk associated with: Market segments	Direct	Indirect	Social	Direct	Indirect	Social
		Base: 180-day flat cap			Council: 365/ 90-day cap		
1.	Supply of rental accommodation trend	STRA ~19% decrease in no. LTR ~14% increase in no.			STRA ~34% decrease LTR ~24% increase		
	Local renters seeking LTR						
	Local workers seeking rental						
	Tourism sector visitors				STRA		
	CSTA accommodation operator						
	STRA accommodation operator						
	Local property industry e.g. agents						
	Tourism visitor available STRA nights <sup>6.</sup>	~0.3% up			~12.8% dwn		
	Tourism visitor available nights CSTA	Not provided EIA notes STRA likely to default to CSTA <sup>2.</sup>					
2.	Occupied visitor night trend						
	CSTA accommodation operator						
	STRA accommodation operator	~4.7% up			~3.8% up		
3.	Prices of rental accommodation						
	STA accommodation operator		~2% up			~3% up	
	STRA accommodation operator	~14% up			~16% up		
	LTR providers		Moderate drop			High drop	
	Local renters – includes workers						
	Tourism sector visitor <sup>6.</sup>	STRA	CSTA		STRA	CSTA	
4.	Revenue STA provider trend						
	STA accommodation operator						
	STRA property operator	~62% up			~98% up		
5.	Residential property values trend	Unlikely to materially impact			Varies with precinct area: <sup>5.</sup>		
	STRA property owner				365	Bal.	
	Local property industry (agent)				Unknown		
	Owner – seeking to purchase		Owner occ. no. up ~1%			Owner occ. no. up ~3%	
	Owner – seeking to sell						
	Local workers - seeking to purchase						
	Compared to rest of NSW						
6.	Other business trends & income						
	Local business servicing STRA <sup>3.</sup>						
	Local business other (non STRA) <sup>4.</sup>						
	Local worker jobs (STRA sector) <sup>3.</sup>	~112 jobs dwn	~33 jobs dwn		~260 job dwn	~ 5 jobs dwn	
	Local worker jobs (retail)		~270 jobs up			~255 jobs up	

Ref no.	Risk associated with: Market segments	Direct	Indirect	Social	Direct	Indirect	Social
		Base: 180-day flat cap			Council: 365/ 90-day cap		
7.	Local property development activity	Low decrease			Moderate decrease		
	Local property industry (agent)						
	Local owner/investor seeking property						
	Following relates to LGA residents						
8.	Purchaser or renter housing stress						
10.	Noise disturbance						
11.	Amenity						
12.	Displacement						
13.	Sense of community						
14.	Local culture and identify						
15.	NSW economy <sup>7.</sup>						
	Inter/intra-state freight efficiency						
	Attracting local workers to the region						

**Notes:**

1. Statistical data in the matrix is taken from the EIA.
2. Tourism Research Australia data for the Byron LGA shows no considerable difference between the types of visitors who stay in non-hosted STRA compared to those who stay in commercial STA Urbis EIA (p 130)
3. Operators affiliated to STRA – such as cleaning, maintenance and other services  
Base: Moderate decrease Indirectly ~\$18.1 million in annual foregone spending on STRAoperational expenses. Council High decrease Indirectly ~\$33.2 million in annual foregone spending on STRAoperational expenses. Urbis EIA (p 139)
4. Such as retail and cafes visitation and spending – Base strong growth and Council – moderate growth
5. EIA estimate: ~7% of homeowners in the Byron LGA are within the 365-day cap area. Overall increase in the total number of owner-occupied properties in the LGA relative to 2021 levels Base: 1% Council 3% Urbis EIA (p 117/101)
6. Whilst STRA visitors are expected experience a high disbenefit risk associated with potentially higher prices for accommodation and reduced night availability, visitors are not singled out as a specific sector for consideration under the Ministerial Direction nor the gateway.
7. The EIA did not provide a risk assessment for the NSW state economy, hence is not addressed by the matrix. The EIA Section 5 key findings did indicate the follow which may have an indirect impact of the economy. The diminishing availability of housing near major employment areas such as Byron Bay town centre may result in:
  - increased use of the Pacific Motorway for commuter traffic (potentially impacting its efficiency as inter/intra-state freight and passenger infrastructure)
  - limit the LGA's ability to attract workers to the region.



## Risk Mitigation and Monitoring Strategy

As shown in Matrix 1 and summarised in the EIA recommendations (p. 165) Council's planning proposal, could potentially lead to a high disbenefit risk for:

- a. Local workers and businesses providing operational services to STRA
- b. STRA visitors, with higher prices for accommodation and reduced night availability
- c. Property owners who long term rent, with reduction in rental return.

Correspondingly high benefits for:

- Local residents/ workers seeking to rent associated with potentially increased long term rental availability and lower rents
- Local businesses outside the operational services to STRA
- Local workers employed outside the operational services to STRA with job creation.

The risk mitigation and monitoring focus is managing the above disbenefit risks with a 'high' rating. All risks aren't equal. The risk matrix allows Council to assess how the impacts will be experienced by different groups in the community and prioritize any response. This risk is considered in the context of the North Coast visitor economy and broader Shire economy.

## Potential accommodation sectors shift, visitor implications and broader tourism visitor economy

A tourism research project in 2020 by commissioned by Destination North Coast Tourism (DNCTRP) is a resource to better understanding the broader dynamics of this sector. This research entailed two separate but intertwined projects, being:

- Project 1: a Tourism Research Services Project, the purpose of which is to undertake detailed visitor data analysis (including current data and projected data) as well as undertaking a product audit and gap analysis; and
- Project 2: an Accommodation Reinvestment Project, which includes researching best practice accommodation reinvestment and investigating accommodation investment opportunities. Byron Shire was part of the study area and research considered the inter relationship of STRA with the rest of the tourism industry sectors.

**Source:** [destination north coast tourism research project \(dncnsw.com\)](https://dncnsw.com)

The EIA indicates an indirect benefit for commercial short term accommodation market (i.e. hotels, motels serviced apartments, etc) where STRA accommodation demands are unmet. Furthermore, Tourism Research Australia data for the Byron LGA shows no considerable difference between the types of visitors who stay in non-hosted STRA compared to those who stay in commercial STA (EIA Urbis, 2021, p. 130).

The DNCTRP concurs with these findings. It found accommodation supply in Byron and the neighbouring LGA of Tweed appears to have a sufficient supply of small, medium and larger scale high-quality properties, including hotels, resorts and more boutique-style accommodation in additions to abundant basic 1-star to mid-range 3-star categories.

The DNCTRP also found a clear correlation between the number of available commercial accommodation properties (this excludes STRA and camping grounds) in an LGA, the

higher ratio of paid visitor attractions and experiences on offer, and the corresponding strength of the visitor economy.

In 2019 an audit of tourism products in the LGA found a high level of products in the paid visitor attraction sectors. The health and wellness were top with 161 product establishments making up (26% of the total products) followed by restaurants with evening trade 137 (22%), events and festivals 95 (15%) cafes (daytime trade only) 78 (12%).

Given this, the indirect benefits for the commercial short term accommodation market could have flow-on benefits to other sectors of the tourism market and economy.

In addition, the DNCTRP indicated that the region would benefit from a coordinated marketing campaign to get more of visitors to travel and explore different parts of the North Coast region outside Byron Shire. In the event of increased STRA prices and diminished availability under Council's planning proposal, this may lead visitors to consider alternative destinations in the region.

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**Action:** Based on the above, immediate targeted mitigation measures are not warranted.

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## Employment

The EIA indicates that whilst jobs will be forgone in the STRA operational sector (such as cleaning and property maintenance), jobs are anticipated to be added in the retail sector with a minimal over impact on job numbers. That said the mitigation considers implications to workers groups and whether the shift in job opportunities will impact different worker groups.

Tourism is a significant contributor to Byron Shire's economy. In 2019 tourism and hospitality industry accounted for 27% of all jobs. In 2017/18 Accommodation and food services, Healthcare and social assistance and Retail trade were the top three employing industries in the LGA.

The LGA had 14,092 jobs as at 2015/16, representing a 23% increase in employment generation from that recorded in 2000/01 (11,442 jobs). Over this period, almost all industry categories experienced increased employment. The job figure continued to rise, with 15,694 jobs as of 2017/18. The jobs-to-resident ratio for the LGA in 2017/18 was 1.00, meaning that there were more jobs than resident workers. The construction industry had the highest ratio (1.41). A strong construction industry should assist in the providing alternative work opportunities for those engaged in the property maintenance sector.

In 2016, women made up 69% of the workers in the above top three employing industries in Byron LGA. In view of this it anticipated that an opportunity exists for workers (women) directly employed in the STRA accommodation service sector to move to the other parts of the accommodation and food service industry or retail or health care and social assistance industries.

An analysis of 2016 Individual income profile by industry sector for the LGA indicated similar female workers income profiles between the Retail and Accommodation and food services industry sectors. Of female workers in these two employing industries, ~57 % earned less than \$650 per week.

In addition, the LGA experienced a decline in workforce self-sufficiency (the proportion of local workers who also live in the Shire) by 3.7% to 73.9% between 2011 and 2016. The main sectors experiencing a decline in resident local workers were retail trade,

accommodation and food services, health care and social assistance, even though the local workers employed in these industry sectors had risen in same period.

On this basis whilst the planning proposal may lead to shift in work availability, the planning proposal has the potential to provide an indirect benefit for these workers through increases long term rental availability and lower rents, particularly for female workers.

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**Action:** Based on the above, immediate targeted mitigation measures are not warranted.

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Source: [Agenda of Ordinary \(Planning\) Meeting - Thursday, 11 March 2021 \(infocouncil.biz\)](#)

### Property owners who long term rent and potential reduction in rental return

In 2016, Byron LGA was characterised by high levels of private rental 24.5% compared with Regional NSW 21.6%. A similar proportion of households are renters 27% as regional NSW 26.4% however a variance is found in the percentage in social housing 1.7% as opposed to 4.5% of household.

Rents in Byron LGA are typically 80% higher than those for Rest of NSW. The median rent for Byron LGA in December 2021 quarter was \$750: Rest of NSW \$400 and NSW \$495. The EIA indicated the ~24 % increase in long term rental properties is estimated to decrease long term rental yields by ~9%. This could still place rents a level of ~\$680/week well above the rest of NSW and higher than the adjoining LGAs of Ballina @ \$600 and Tweed \$600.

**Source:** ABS census 2016 [Rent and sales | Tableau Public](#)

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**Action:** Based on the above, immediate targeted mitigation measures are not warranted.

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### Summary

Risks are about the future, about probabilities. Even if we can anticipate risks, their consequences are rarely predictable.

Given the external forces of covid and natural disasters over the last 2 years acting as significant forces on the economy and social structure of Byron Shire and the region, it is recommended that the appropriate approach is to monitor the situation. Should issues arise undertake targeted mitigation to redress any adverse impacts being experienced by different groups in the community.

The application of the regulation as set out in Council's planning proposal will be monitored and an annual report prepared for Council that presents key performance indicators in relation to the risks.

This report will be made available on Byron Shire Council's website.

In addition to the annual monitoring and reporting, in line with the SEPP (Housing) 2021 a two-year review of the regulation should be undertaken, with updates undertaken if necessary.

The aim of the review is to ensure that the regulation is effective and that any impacts on the tourism sector and/or housing supply, delivery and affordability can be addressed as soon as possible.

Amending the regulation will most likely require amendment to the SEPP.

## Section D State and Commonwealth interests

### **Q10. Is there adequate public infrastructure for the planning proposal?**

Yes. Existing public infrastructure is deemed adequate for the planning proposal. As discussed in the EIA, the proposed SEPP amendments are unlikely to have a significant impact on visitation levels to the Byron LGA, and therefore existing and future demand on public infrastructure (roads etc.) is unlikely to increase as a direct result of the planning proposal.

### **Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

The gateway determination requires Council to consult with the NSW Rural Fire Service and NSW Fair Trading following completion of the EIA and revision of the planning proposal.

Consultation with the relevant agencies will occur at the same time as public consultation following acceptance of the revised planning proposal by DPIE.

## Part 4 Mapping

Amendments are proposed to introduce a new mapping overlay known as the *Byron Shire Short-Term Rental Accommodation Area Map*. The map will identify the geographical boundaries of certain precincts where non-hosted short-term rental accommodation can occur 365-days per year.

Indicative maps of the proposed precincts where STRA can occur 365-days per year are illustrated in Appendix 4.

## Part 5 Community consultation

A pre-gateway community engagement activity was undertaken over December 2019 and January 2020 to gain feedback on a set of draft planning controls that eventually formed the basis of this Planning Proposal.

Further community consultation will be conducted in accordance with the requirements of the Gateway determination.

Notification of the exhibited planning proposal will include:

- updates to Council's website
- referral to relevant State agencies
- notification in writing to affected landowners

## Part 6 Project timeline

The proposed timeline for the completion of the Planning Proposal is as follows:

Plan making step	Estimated completion
Gateway Determination	24 June 2021
Economic Impact Statement Finalised	November 2021
Council Resolution on EIA and Planning Proposal	24 February 2022
Submit Revised Planning Proposal to DPIE	31 March 2022
Agency Consultation	TBA
Public Exhibition Period	TBA
SEPP amendment notification	TBA

## Conclusion

Research carried out over the past five years indicates that Byron Shire has the highest concentration of STRA of any LGA in NSW by a considerable margin. Rapid expansion of the local STRA sector over the past decade has led to a loss of permanent rental housing and has contributed to a range of social issues including dislocation of long-term residents, increased housing stress, and a lack of accommodation for key workers.

In recognition of these issues, the Minister for Planning issued a Direction on 15 Feb 2019 which gave Byron Shire Council the opportunity to prepare a planning proposal that could identify or reduce the number of days that non-hosted STRA may be carried out in parts of its local government area. The Direction recognises that the impacts of STRA are not evenly distributed across NSW and that a one-size-fits-all policy response is not the best solution for all communities.

As a result of the peer review and other issues raised in this planning proposal, it is considered that the recommendations of the EIA should not be adopted at this stage. It is questionable whether the current provisions for short-term rental accommodation in the Housing SEPP will provide the best balance of economic and social benefits for the Byron Shire community, particularly in the context of the current housing crisis.

In conclusion, it is recommended that the controls outlined in this planning proposal be adopted as an amendment to Part 6 of the SEPP (Housing) 2021. The planning proposal will be the most effective option for mitigating the impacts of the STRA in the Byron LGA by delivering an estimated 27% increase in long-term rental and owner occupier dwellings. The planning proposal compares favourably to other options discussed in the EIA which will provide very little assistance to the housing market while offering only slightly greater economic benefits.

As a final note, it is brought to DPIE's attention that the Gateway determination requires the Council to update the planning proposal to reflect the recommendations of the EIA. In practice, this means that the final form of the planning proposal and the ultimate policy response, will be decided on fairly narrow economic grounds by an external consultant. This is an undesirable outcome and potentially circumvents the right afforded to Council to pursue an appropriate policy that mitigates the impacts of STRA under the Ministerial Direction. Taking into account the findings of the peer review and the other issues raised in this planning proposal, it is considered that a variation to Gateway condition (1)(b) point 3 is justified in the circumstances.

## References

Che et. al. (2020) An Investigation into the Nature and Range of Impacts of Short-term Rental Accommodation (including Airbnb) on Approved Accommodation Providers in the Byron Shire. Southern Cross University.

<https://researchportal.scu.edu.au/esploro/outputs/report/An-investigation-into-the-nature-and/991012856400202368>

Gurran et. al. (2018), Planning responses to online short-term holiday rental platforms. University of Sydney. <https://apo.org.au/node/194081>

Muschter et. al. (2021) Third-party impact of short-term rental accommodation: a community survey to inform government responses. *Journal of Sustainable Tourism*, 2020.

Phibbs (2021) for Byron Shire Council. Peer Review of Byron Shire - Short Term Rental Accommodation Caps: Economic Impact Assessment.

Urbis (2021) for NSW Department of Planning Industry and Environment. Byron Shire - Short Term Rental Accommodation Caps: Economic Impact Assessment.

# APPENDIX 1

Draft Amendment to Part 6 of State Environmental  
Planning Policy (Housing) 2021

## Example clause

Drafting instructions are shown below which provide an example of the proposed amendments to the Housing SEPP. Suggested changes are highlighted in red.

### Part 6 Short-term Rental Accommodation

#### 112 Exempt development—non-hosted short-term rental accommodation

- (1) Development for the purpose of non-hosted short-term rental accommodation is exempt development for the purposes of this Policy if—
  - (a) the dwelling meets the general requirements, and
  - (b) for a dwelling located in a prescribed area—the dwelling is not used for non-hosted short-term rental accommodation for more than 180 days in a 365-day period.
  - (c) for a dwelling located in the Byron Local Government Area—the dwelling is not used for non-hosted short-term rental accommodation for more than 90-days in a 365-day period if it is not located on land shown edged heavy black on the Byron Shire Short-term Rental Accommodation Area Map.
- (2) In calculating the number of days a dwelling is used for non-hosted short-term rental accommodation, a period of 21 consecutive days or more during which non-hosted short-term rental accommodation is provided to the same person or persons must not be counted.
- (3) In this Section—

**Clarence Valley Short-term Rental Accommodation Area Map** means the State Environmental Planning Policy (Housing) 2021 Clarence Valley Short-term Rental Accommodation Area Map.

**Muswellbrook Short-term Rental Accommodation Area Map** means the State Environmental Planning Policy (Housing) 2021 Muswellbrook Short-term Rental Accommodation Area Map.

**Byron Shire Short-term Rental Accommodation Area Map** means the State Environmental Planning Policy (Housing) 2021 Byron Shire Short-term Rental Accommodation Area Map.

**prescribed area** means the following—

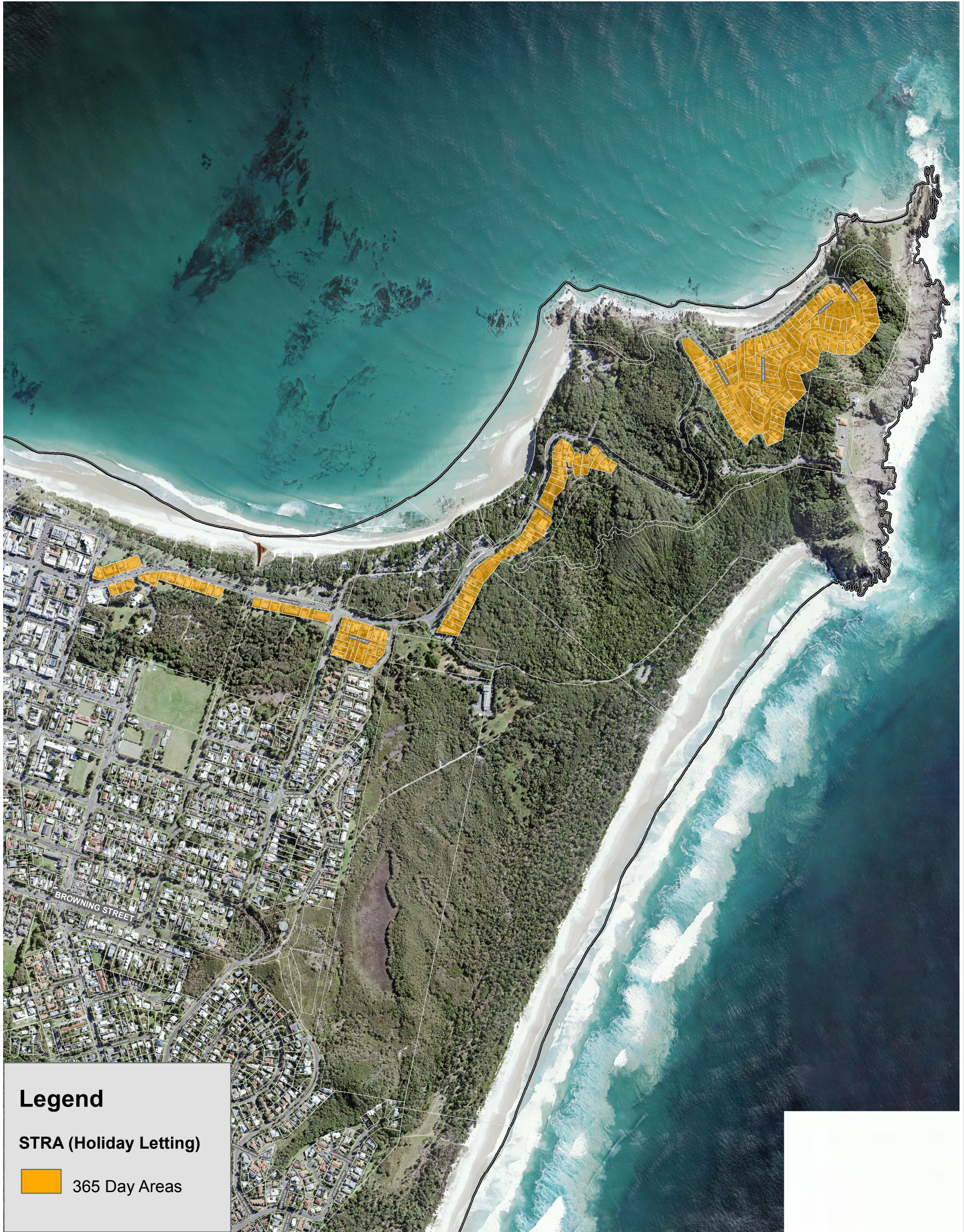
- (a) the Greater Sydney region, other than the region comprising the Central Coast local government area,
- (b) Ballina local government area,
- ~~(c) Byron Shire local government area,~~
- (d) land in the Clarence Valley local government area shown edged heavy black on the,
- (e) land in the Muswellbrook local government area shown edged heavy black on the Muswellbrook Short-term Rental Accommodation Area Map.



# APPENDIX 4


## Indicative Maps

# Byron Bay (East)



## Legend

STRA (Holiday Letting)

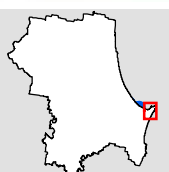
 365 Day Areas



Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on such information shall be at the sole risk of the user. Please verify the accuracy of the information prior to using it. Note : The information shown on this map is a copyright of the Byron Shire Council and the NSW Department of Lands.

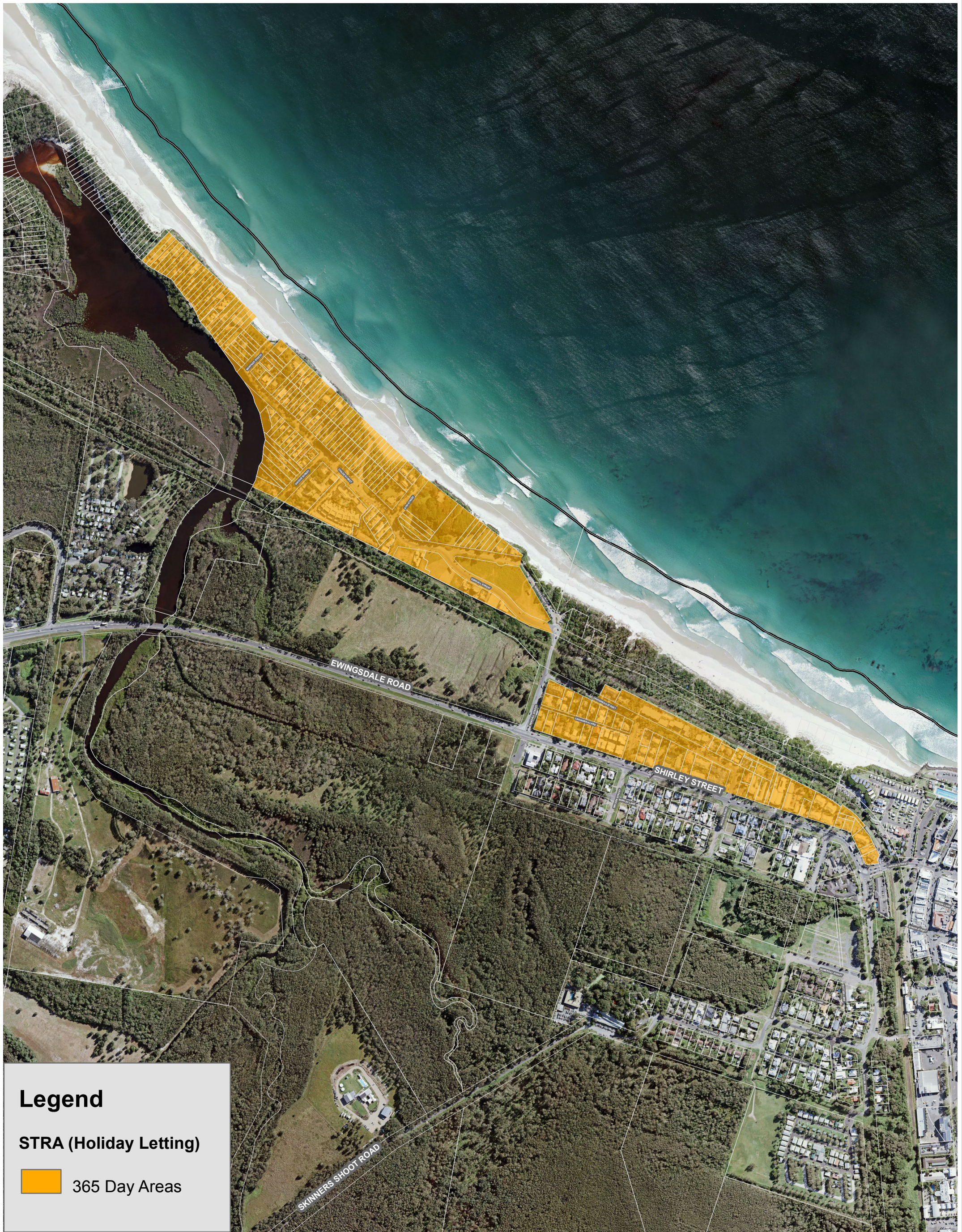
0 460 920 Metres

1:9,026 @ A3 size




Date: 9/11/2020

# Byron Bay (West)



## Legend

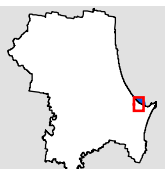
STRA (Holiday Letting)

 365 Day Areas

Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on such information shall be at the sole risk of the user. Please verify the accuracy of the information prior to using it. Note : The information shown on this map is a copyright of the Byron Shire Council and the NSW Department of Lands.

0 370 740 Metres

1:7,319 @ A3 size



Date: 9/11/2020




# Suffolk Park



## Legend

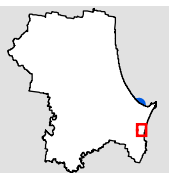
### STRA (Holiday Letting)

 365 Day Areas

Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on such information shall be at the sole risk of the user. Please verify the accuracy of the information prior to using it. Note : The information shown on this map is a copyright of the Byron Shire Council and the NSW Department of Lands.

0 325 650 Metres

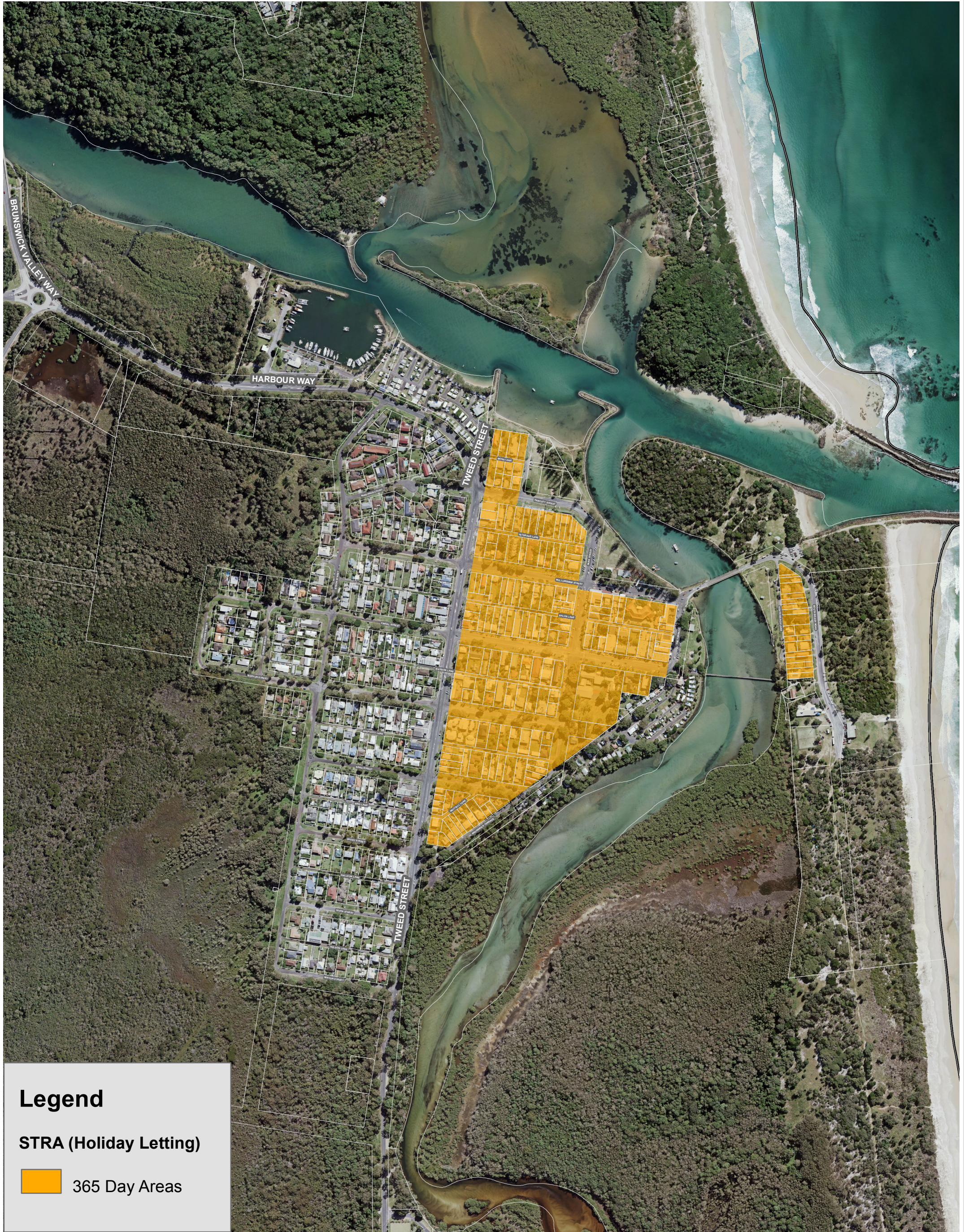
1:6,378 @ A3 size



Date: 9/11/2020




# Brunswick Heads



## Legend

STRA (Holiday Letting)

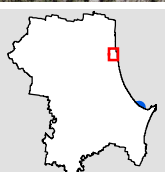
 365 Day Areas



Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on such information shall be at the sole risk of the user. Please verify the accuracy of the information prior to using it. Note : The information shown on this map is a copyright of the Byron Shire Council and the NSW Department of Lands.

0 325 650 Metres

1:6,378 @ A3 size



Date: 18/11/2020