



31 October 2017

Director, Housing Policy  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

By email: [STHL@planning.nsw.gov.au](mailto:STHL@planning.nsw.gov.au)

Dear Sir/Madam,

### **Short-term Holiday Letting in NSW: Options Paper**

Byron Shire Council appreciates the opportunity to participate in the consultation on the options for regulation of short-term holiday letting ("STHL") discussed in the Options Paper: 'Short-Term Holiday Letting in NSW'.

Council's submission strongly recommends a toolbox approach to STHL that includes a suite of mechanisms and controls acceptable and appropriate to local areas and their community's for the purposes of regulating STHL.

As such, Byron Shire Council does not accept a standard State wide approach to this issue, given in particular our unique circumstances to that of other local government areas in NSW in relation to the impacts of STHL on our community.

Refer to Addendum 1 at the end of this letter for a comparison of AirBnB listings in the Northern Rivers. Currently Byron Shire has 2,655 listings of the total Northern Rivers listings 4,256. Listings are up from 1,483 listings in 2016. Byron Shire has a total of 15,645 dwellings. AirBnB currently represent @17% of part / all dwellings use. Staggering compared to other local government areas in NSW!

As such legislative change and industry reform is required. To progress this, Council seeks an undertaking from the NSW State Government that further engagement with Byron Shire Council and its community will occur subsequent to this consultation, to ensure that the changes needed to deliver a Byron Shire specific regulation toolbox to STHL are effected expeditiously.

### **Options for regulation**

The Options Paper discusses a number of regulatory options that could be considered either individually or in combination as having the potential to manage STHL impacts. These include:

- Greater industry self-regulation through a stronger code of conduct:



TRADITIONAL HOME OF  
THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE  
ADDRESSED TO THE GENERAL MANAGER  
PO Box 219 Mullumbimby NSW 2482 (70-90 Station Street)  
E: [council@byron.nsw.gov.au](mailto:council@byron.nsw.gov.au)  
P: 02 6626 7000 F: 02 6684 3018  
[www.byron.nsw.gov.au](http://www.byron.nsw.gov.au) ABN: 14 472 131 473

Each of these options is discussed below with a specific recommendation for change.

The proposed Byron regulation toolbox supports and enhances the planning, registration and self regulation themes in the options paper. By way of general comment Council supports the changes proposed to the Strata Laws, as such no further comment on these have been made.

## **Planning**

Council considers this to be the most effective and appropriate mode of regulation for STHL but not as a stand alone solution.

Mechanisms and controls recommended in concert with other recommendations include:

- Opt in /out option for councils in certain zones or defined precincts (overlay in LEP) to protect local character and amenity

An example of this is to include host only accommodation in the residential zones. This could take the form of a bed and breakfast or home stay.

Accommodation offer without a host would need to comply with the definition of short term holiday let or other tourist and visitor accommodation in the standard LEP instrument and could be excluded from zones or locations.

- New definitions of 'home stay', 'short term holiday let' in standard LEP instrument

It is important to include clear definitions of the above; and also differentiate these from a house swap, house sitting arrangement where no money is exchanged for the period of stay. These arrangements have been traditional for families where friends or other family members stay at a home when the permanent/residing family are away on holiday to look after the property and or pets.

- New Development controls / model provisions to address: numbers of rooms / people, number of nights, presence of a host, compliance with fire safety requirements, noise, waste management and carparking.

These controls would assist the above, and the classification under the Building Code of Australia.

Using the planning system to manage STHL will enable investigation, compliance and enforcement powers which presently exist under the Environmental Planning and Assessment Act 1979 to be utilised to manage the impacts of STHL.

## **Registration**

Council strongly supports the registration of STHL operators.

Mechanisms and controls recommended in concert with other recommendations include:

- Mandatory registration scheme rolled out and administrated by councils via e portal for operators viz. Western Australia
- Initial registration and annual renewal fee collected by council to regulate operators
- Council to have the ability to refuse to register non compliant operators

A registration process will provide greater information for potential users, help manage safety and amenity issues and also help monitor the management of the industry.

Licensing will be used to address issues that would not be addressed through the planning framework (such as by limiting the number of STHL properties run by a single operator) and could

work within the existing planning system as other licensing schemes work (such as child care and liquor licensing).

Incentives for improved industry self-regulation could also be explored via licensing exemptions.

### **Self Regulation**

Council does not support self-regulation as a sole method of regulation.

Mechanisms and controls recommended in concert with other recommendations include:

- Code of Conduct to be mandatory for operators
- 'Scores on Rooms' program – rating to be included on registration list and council and operator web pages
- Education – 'be a local and respect the locals' this should be linked to 'Scores on Rooms' program
- Good will to community - % of local host fee where collected by booking service could be returned to the local council and invested back into local community projects necessary due to tourist demands – council could develop a tourist levy plan

To achieve this, legislative change and industry reform is required. As such, Council should seek an undertaking from the NSW State Government that further engagement with Byron Shire Council and its community will occur subsequent to this consultation, to ensure that the above changes needed to deliver a Byron specific regulation framework can be progressed expeditiously.

### **Other**

Mechanisms and controls recommended in concert with other recommendations include:

- Introduction of a Tourism Accommodation Levy (Bed Tax)

State government legislation does not currently enable Council to impose a tourism accommodation levy (bed tax).

There is a need to explore revenue raising options not currently available to councils to address the impacts of visitors on local areas. Byron Shire has just over 32, 000 residents (15,000 ratepayers) but has over 2 million extra people a year visiting. Council has no current alternate but to seek revenue from locals to pay for infrastructure and services that the visitors readily use. This is through special rate variations and paid parking schemes.

A bed tax or tourism accommodation levy has been used around the world for decades as a way to raise revenue from visitors in order to fund infrastructure impacts by visitation. Anecdotaly, this tax / levy has had minimal negative impacts on those areas where imposed, in terms of reduced visitation numbers and or visitor expenditure.

Byron Shire would welcome an opportunity to discuss further a trial implementation of a bed tax / tourism accommodation level for this purpose.

- Rating – levy a business rate on properties used as holiday lets

Will be dependent on how STHL is defined and any consequential changes to rating categories that may result to provide a differential rating category for holiday lets. Further consultation and advice is sought from DPE on this as an option.

## **Conclusion**

As provided in the submission, Council supports legislative change and industry reform to address STHL. Further Council seeks an undertaking from the NSW State Government that further engagement with Byron Shire Council and its community will occur subsequent to this consultation, to ensure that the changes needed to deliver a Byron Shire specific regulation framework to STHL are progressed expeditiously.

Please do not hesitate to contact Shannon Burt, Director Sustainable Environment and Economy on (02) 6626 7616 or by email at [shannon.burt@byron.nsw.gov.au](mailto:shannon.burt@byron.nsw.gov.au) if you would like to discuss this in more detail.

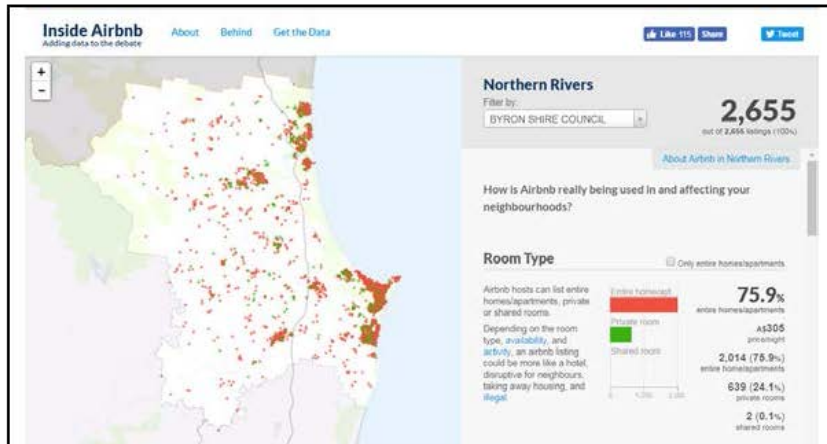
Yours sincerely

A handwritten signature in black ink, appearing to read 'S Burt', is positioned above the printed name and title.

Shannon Burt  
Director  
Sustainable Environment & Economy

**Addendum 1.**

**AirBnB listings – Northern Rivers 21 October 2017**



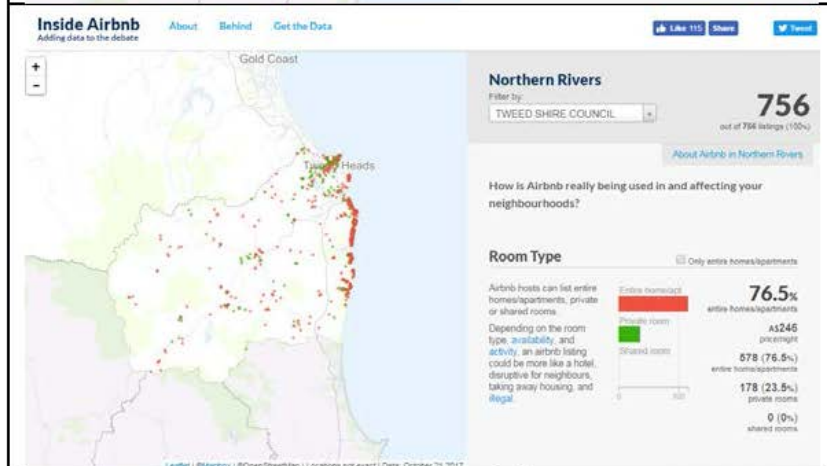
**Byron Shire Council**

Population:..... 32,790

Area: ..... 56,580 ha

Average monthly household rental: ..... \$1,814

AirBNB listings: ..... 2,655



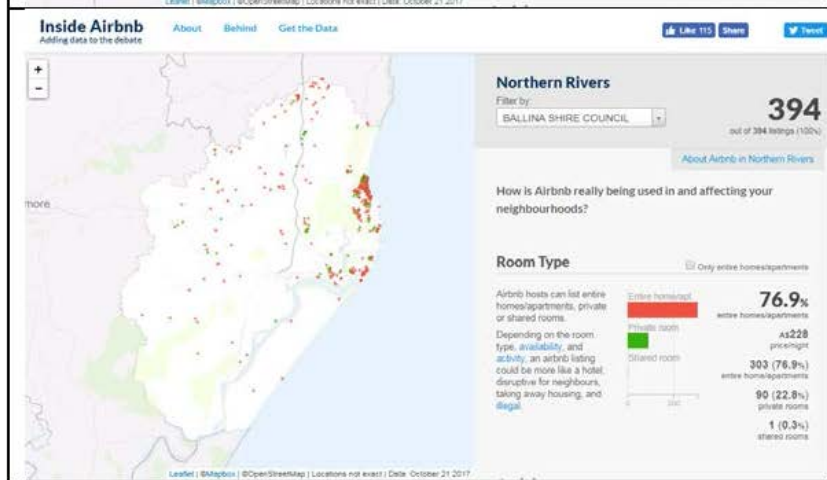
**Tweed Shire Council**

Population:..... 93,458

Area: ..... 130,766 ha

Average monthly household rental: ..... \$1,466

AirBNB listings: ..... 756



**Ballina Shire Council**

Population:..... 42,626

Area: ..... 48,494 ha

Average monthly household rental: ..... \$1,476

AirBNB listings: ..... 394