

Changes to rules for short-term rental accommodation in Byron Shire.

This document answers frequently asked questions about changes to rules for non-hosted, short-term rental accommodation in the Byron Shire local government area.

More information on the NSW Government's statewide short-term rental accommodation policy is available on the [department's planning website](#).

Why and how has the NSW Government regulated short-term rental accommodation?

The NSW Government introduced a policy for short-term rental accommodation in response to the outcomes of a 2016 Parliamentary Inquiry into the Adequacy of Short-term holiday letting in NSW. The state-wide policy framework provides consistency across NSW and balances the needs of hosts, guests and neighbours. The rules regulate a previously unregulated industry and ensure holidaymakers can enjoy their stay safely and that neighbours aren't disturbed.

Councils are responsible for compliance with the policy, including ensuring owners register their rental properties and adhere to any limits. NSW Fair Trading has discretion under the industry's code of conduct to issue strikes against hosts and guests for deliberate and persistent breaches of the law, including planning laws. If a council believes a matter warrants consideration for a strike, it can refer the matter to NSW Fair Trading.

When did these changes happen?

On 1 November 2021, the statewide short-term rental accommodation policy, including a government-run, short-term rental accommodation register, came into effect for the majority of NSW. On 31 January 2022, the policy took effect in Byron Shire and applied a 180-day exempt development cap for non-hosted, short-term rental accommodation across the whole local government area. The Byron Shire Council subsequently proposed to lower the 180-day limit within its local government area.

What are the changes to Byron Shire regulations and when are they happening?

The NSW Government has amended and approved the council's planning proposal to lower the number of days that non-hosted, short-term rental accommodation is exempt development in the Byron Shire. The cap on non-hosted, short-term rental accommodation will be reduced from 180 days to 60 days across the local government area, while specific precincts in and around Byron's town centre and Brunswick Heads will soon operate without a cap, allowing for non-hosted, short-term rental accommodation for the full year.

The new rules respond to a recommendation of the Independent Planning Commission (IPC) and will take effect on 23 September 2024, providing a 12-month transition period during which the community and industry can prepare.

Who has requested these changes?

Byron Shire Council prepared a planning proposal to reduce the number of days a dwelling within the Byron Shire local government area can be used for non-hosted, short-term rental accommodation. The planning proposal was to help residents who are struggling with housing supply and affordability issues in the area and difficulties finding long-term rental or affordable housing options.

Will there be another opportunity to provide feedback on the Byron short-term rental accommodation reforms?

Byron Shire Council exhibited its planning proposal between September and October 2022. The IPC also consulted widely when preparing its advice, holding a public hearing in February 2023, multiple meetings and briefings with stakeholders and organisations and calling for written submissions from December 2022 through to March 2023.

The NSW Government is committed to a broader statewide review of the short-term rental accommodation policy and there will be another opportunity to provide feedback then.

What do these changes mean for other local government areas?

Byron Shire's housing pressures are different to other coastal NSW locations. Some 8.5% of current housing stock (approximately 1,300 properties) is registered as non-hosted, short-term rental accommodation, well-exceeding that of similar destinations.

The IPC's assessment and recommendations are unique to the specific circumstances in the shire and were not intended to apply to other locations. However, the recommendations will form an important part of our broader review of the statewide short-term rental accommodation policy.

Why did the decision on the council's proposal take so long to make?

Short-term rental accommodation is a complex matter in the Byron Shire – the housing market and housing pressures are quite different to other locations.

The IPC acknowledged that managing the impacts of non-hosted, short-term rental accommodation was only one part of addressing housing supply and rental affordability in the Byron Shire local government area. Therefore, it was important for the minister to understand the council's commitment to increasing its housing supply through mechanisms other than changing the non-hosted, short-term rental accommodation day cap before making any decisions.

How will the policy impact short-term rental operators and long-term renters?

The dual 60- and 365-day caps strike a balance between supporting the tourist and accommodation industry and encouraging much-needed housing stock. It will help preserve permanent housing in residential and rural areas and allow areas in Byron Bay and Brunswick Heads with high tourism appeal near beaches and services to be used for year-round, short-term rental accommodation.

The 12-month deferred commencement period will provide an appropriate level of certainty and transition time for the industry. Also, bookings of 21 consecutive days by the same person will continue to be excluded from the number of days a dwelling can be used for non-hosted, short-term rental accommodation, giving longer-term short stays relief from the cap.

Why didn't the department support the council's proposal for a 90-day cap?

The IPC's report stated that the council's proposed 90-day cap would not mitigate the impacts of non-hosted, short-term rental accommodation. The IPC considered that under the proposed 90-day cap, there was the potential that residents might use a property for long-term rental most of the year but be displaced during the peak tourism period so the property could be used as non-hosted, short-term rental accommodation.

Unlike the proposed 90-day cap, the IPC considered a 60-day cap would send a serious signal to the market and encourage a shift from non-hosted, short-term rental to long-term rental.

How will the council address the wider housing challenges that have been outlined?

The council recently wrote to us with a plan to deliver 5,825 additional houses over the next 20 years. This exceeds our forecast need of 4,522 dwellings.

The council will deliver new dwellings through a refresh of its residential strategy, which it is due to submit to the department by March 2024 for endorsement, as well as planning proposals and the take-up of existing infill and greenfield land.

We will work with and closely monitor the council's performance on its housing supply commitments. We expect the council to deliver the 3, 6 and 12-month milestones it has nominated. We will ask for further milestones to be met after the first 12 months, depending on the council's progress.

How have the mapped precinct areas been selected and what areas are included in the 365-day cap?

The council developed criteria for the 365-day precincts that considered data for unoccupied dwellings, access to services and leisure experiences, safety, evacuation and community feedback.

The mapped precincts were refined following the council's exhibition of the proposal in response to submissions received, specifically expanding the precinct boundaries in and around the Byron Bay township and reducing the precinct boundaries in Suffolk Park and Brunswick Heads.

The council's precincts aim to preserve permanent housing in residential and rural areas, while recognising some areas with high tourism appeal near beaches and services may be more suitable for year-round, non-hosted, short-term rental accommodation.

How will this impact Byron Bay's tourism industry?

Our recommendations aim to strike a balance between the recommendations of the IPC, the council's planning proposal, the Byron Shire's unique circumstances as one of Australia's most popular holiday destinations and the need to return homes to long-term rental.

The precincts where no cap applies will provide a diverse and sustainable base of tourist accommodation options to support the local economy.

A 12-month deferred commencement period will provide certainty and an appropriate transition period for industry. Bookings of 21 consecutive days by the same person/s will continue to be excluded from the number of days a dwelling can be used for non-hosted, short-term rental accommodation, giving longer-term short stays relief from the cap.

Will this change guarantee more long-term rentals for locals?

The IPC found that tightening the non-hosted short-term rental accommodation day cap to 60 days would put the financial returns from non-hosted, short-term rental accommodation on a more level playing field with long-term rental housing.

The outcome will help preserve permanent housing in residential and rural areas and allow areas in Byron Bay and Brunswick Heads with high tourism appeal near beaches and services to be used for year-round, short-term rental accommodation. It will also encourage the return of homes used for short-term rental to permanent residency.

What difference will this make for affordability and supply?

The housing market and housing pressures are different in Byron Shire than in other Australian locations. The social impact of non-hosted, short-term rentals is more significant. The return of short-term rental properties to permanent residency is only one part of helping to address housing supply and rental affordability issues in the Byron Shire.

The council must also work to provide more than 4,500 new homes in the local government area by 2041, including diverse housing options, as part of its broader approach to addressing the housing crisis.

When will the department's short-term rental accommodation review be taking place and what will it entail?

The statewide regulatory framework for short-term rental accommodation came into effect on 1 November 2021. The government has made it clear a review will take place after 2 years of operation.

The scope of this review is being finalised but will likely consider the impacts of the policy on the state's housing market, stakeholder feedback and the IPC recommendations that relate to the existing framework.

How has the number of new and diverse homes needed for Byron Shire by 2041 been calculated?

We produce population, household and implied dwelling projections for the whole of NSW using information about births, deaths and migration to paint a picture of the population until 2041.

Implied dwellings are the expected housing needed for the projected population.

The Byron Shire local government area implied dwelling demand projection for the 20 years from 2021 to 2041 is 4,522 dwellings.

Councils need to plan for crisis accommodation and affordable housing for seniors, people with a disability and temporary and seasonal workers in addition to catering for population growth.