

**Submission
No 37**

**OPTIONS TO IMPROVE ACCESS TO EXISTING AND ALTERNATE
ACCOMMODATION TO ADDRESS THE SOCIAL HOUSING SHORTAGE**

Organisation: Byron Shire Council

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**NSW LEGISLATIVE ASSEMBLY COMMITTEE ON COMMUNITY SERVICES'
INQUIRY INTO**

**OPTIONS TO IMPROVE ACCESS TO EXISTING AND ALTERNATE
ACCOMMODATION TO ADDRESS THE SOCIAL HOUSING SHORTAGE**

SUBMISSION FROM BYRON SHIRE COUNCIL

AUGUST 2021



Acknowledgement to Country

Byron Shire Council recognises the traditional owners of this land, the people and the wider Bundjalung Nation, Arakwal people, the Widjabal people, the Minjungbul people and the wider Bundjalung Nation.

We recognise that the most enduring and relevant legacy Indigenous people offer is their understanding of the significance of land and their local, deep commitment to place.

The Council respect and embrace this approach by engaging with the community and acknowledging that our resources are precious and must be looked after for future generations.

Byron Shire Council welcomes the opportunity to respond to the Legislative Assembly Committee on Community Services' Inquiry into options to improve access to existing and alternate accommodation to address the social housing shortage.

Housing - where does local government fit in?

In Australia, housing policy has not been the traditional domain of local government. While councils have a strong role in setting and implementing planning controls, they have not typically been involved in broader aspects of housing policy, which has been the responsibility of the Commonwealth and State Governments.

Commonwealth and State Government legislation and policy directly influence the provision and cost of housing in Byron Shire.

Commonwealth policy has a major influence on housing supply and demand, through economic investment and the setting of economic policy, taxation policy, pension benefits, immigration levels, and residential aged care, which in turn influences interest rates, income levels and employment.

The State Government sets planning policy, which influences housing provision, through the New South Wales Planning Provisions, including the State Planning Policy Framework and the suite of zones, overlays and other planning controls that are made available to Councils as part of their local environmental plans. State Government is also responsible for the provision of social housing and enabling community housing providers through transferral of housing management/ownership.

Typically, Councils have not been responsible for developing housing but given the current housing crisis, many, like Byron Shire Council, are investigating possible options with state government entities and community housing providers.

Byron Shire Council submission and recommendations

This submission addresses the Committee inquiry into and report on options to improve access to existing and alternate accommodation in order to help address the social housing shortage in NSW, with particular reference to:

- a) *options to better support 'meanwhile use' (temporary -supportive accommodation), and the current major planning barriers to 'meanwhile use'*
- b) *options to improve access to existing accommodation to provide community housing*
- c) *options for crisis, keyworker and other short-term accommodation models*
- d) *barriers to additional supply across NSW, including for smaller non-CHP housing providers*
- e) *support for and accountability of registered community housing providers.*

Items b) & e) are not within scope of our submission. The following submission offers response and recommendations regarding items a), c) and d).

Byron Shire Council's response to the Terms of Reference is as follows:

a) options to better support 'meanwhile use' (temporary -supportive accommodation), and the current major planning barriers to 'meanwhile use'

Context

Byron Shire Council welcomes Action 2.6.2 of the *NSW Housing Strategy Action Plan 2021-22*. This action commits the State government to partner with local government to trial ways to facilitate temporary supportive accommodation options for people experiencing homelessness.

The core responsibility for providing affordable and social housing is with the State and Federal government and not individual local councils. However, given the housing crisis, Byron Shire Council (alongside other Northern River Councils), is seeking to support the State by providing additional temporary housing through 'tiny home' villages/relocatable home parks and caravan parks.

The fundamental barrier for Councils to be able to assist in this way is that planning policy and guidance remains bereft of a well-defined 'meanwhile use' policy approach due to the following issues:

- current planning system definitions and permissibility are often ill-suited, leading to delays and planning impediments;
- appropriate unconstrained and well-serviced sites are inherently in short supply in the Northern Rivers region;
- there are difficulties in ensuring such facilities are temporary in nature and do not become a long-term (sub-optimal) "solution";
- the provision of such housing solutions needs to be provided with appropriate, adequately funded support services, which State and Federal Government appear reluctant to invest in, resource or provide; and
- private sector (profit driven) models have the potential to further reinforce social disadvantage and lead to exploitation of residents for regulatory arbitrage (to gain planning outcomes).

Innovative initiatives, such as Byron Shire Council's tiny house project in Mullumbimby, remain inactivated as they are stalled in a lengthy planning proposal process.

We have seen instances where the NSW government has acted quickly in response to crisis. Important precedents include how the NSW government sought to prioritise amending the *Affordable Rental Housing SEPP (ARHSEPP) 2009* to recognise 'short term rental accommodation' as a practice of homeowners and expeditiously set regulations to enable and manage it; and the changes to *Infrastructure SEPP 2007- Hospitals* that were made to improve the delivery of critical

infrastructure projects when seen as essential to the health and wellbeing of NSW communities and to support growth in the local economy, particularly those affected by recent bushfires and the impact of COVID-19.

Further, it is our view that *ARHSEPP 2009* could be expediently amended to recognise low scale 'meanwhile uses – critical shelter'. 'Meanwhile uses' are a sought-after practice by landowners of under-utilised land and buildings and a practical avenue to provide critical temporary supportive accommodation under the umbrella of community infrastructure for:

- domestic or family violence situations
- homeless people (with prioritisation of homeless people with children)
- natural disasters.

It is a practice with capacity to provide both tangible outputs and intangible benefits. The report *Meanwhile Use for London*, authored by ARUP for the Greater London Authority in November 2020 (link provided below), provides useful research and case studies on the opportunities that come with its support.

Source: [Meanwhile Use for London Final Draft - Copy.indd](#)

To quote this source (p78): *There are many opportunities to create a more meanwhile-friendly approach to planning; one that is more pro-active to responding to meanwhile opportunities and in establishing a meanwhile narrative within the wider planning policy context. There are opportunities that exist within the existing framework which could lead to 'quick wins' in addressing some current challenges, as well as opportunities in the longer term.*

In this context the following recommendation is made:

Recommendation 1: That the State Government takes a lead to activate a 'meanwhile use – critical shelter' housing model with allocated funds towards delivery. High priority – in next 3 months.

The model should be delivered in two phases and underpinned by a guideline:

1. Phase 1 - Council land 'meanwhile use - critical shelter' activation to:
 - establish a new definition of a 'meanwhile use – critical shelter' independent to and in addition to caravan parks and primitive camping grounds;
 - ensure the State government will provide funding to enable Councils to activate and facilitate meanwhile use on local government-owned or -managed land, under set guidelines.

The meanwhile use activation potentially enables the following:

- a complying development pathway where a 'plan of management' supports the use such as is the case for Lot 22 in Mullumbimby;
- a development application pathway where not identified in a plan of management;
- where the land has Native Title implications, to work with Local Aboriginal Land Councils (LALCs) or relevant representative bodies to identify avenues to provide

culturally appropriate temporary dwellings to be allocated for the traditional owners, and working towards closing the gap.

2. Phase 2 - CHP and private lands 'meanwhile use-critical shelter' activation to:
 - direct the State to work with LGAs to create a database of sites and underused/vacant buildings with community groups and other stakeholders expressing interest in meanwhile uses;
 - enable Councils to impose conditions that require/enable developers to deliver meanwhile uses on the site or in a building – possibly by a short-term lease at a peppercorn rent to CHP (this is important to ensure the property is professionally managed and maintained) until such time as the development site is to ready for a permanent or staged development;
 - promote existing and develop new funding streams to activate these sites – noting that regarding *meanwhile use – critical shelters*:
 - providers are often charities/not for profit
 - may be perceived as unsustainable structures due to their time-constrained nature, so securing capital is challenging.

3. A Guideline for Critical Shelter best practice be provided by the State. This guide could set outcomes and requirements for a meanwhile use critical shelter project such as directions to:
 - explicitly address local socioeconomic and sustainability challenges;
 - establish a clear link between short-term meanwhile initiatives and long-term housing policy delivery priorities. Meanwhile uses are not to be viewed as a remedy in themselves, rather they are to provide effective entry points into secure housing. Transition to permanent accommodation from these sites will be problematic without broader systems reform, therefore meanwhile initiatives are not a substitute for systemic solutions to the failure of our housing market to deliver long term affordable housing in the rental sector;
 - utilise modern methods of construction which can easily be disassembled and reassembled in other vacant sites, continuing the legacy of the project;
 - establish a set of main issues for considerations such as but not be limited to:
 - Principle of Development
 - Urban Design
 - Amenity
 - Transport
 - Refuse
 - Inclusive design
 - investigate whether site and buildings could be identified as 'transitional urban sites' in a Development Control Plan schedule (with a linked to a 10.7 certificate notification requirement); and
 - provide a list of grounds where a site cannot be used for such purposes – i.e. the approach should be inclusive and operate under the assumption that every urban

site has potential unless there is an environmental, safety or accessibility, servicing or other specific issues that render it inappropriate.

c) options for crisis, keyworker and other short-term accommodation models

Crisis accommodation

Context

According to Street Counts conducted by the NSW Department of Communities and Justice (2021) Byron Shire LGA has the second-highest number of people sleeping rough in the state, second only to the City of Sydney. There is no crisis accommodation available in the Byron Shire for people experiencing homelessness, and these numbers are rising.

Given the absence of state-supported Emergency Accommodation and the salience of this issue in our shire, Byron Shire Council has passed a number of resolutions to address the urgent need for local crisis accommodation. Proposed initiatives include:

- Van packer accommodation
- Emergency accommodation in caravan parks
- Emergency accommodation in unused student accommodation

Despite these varied proposals, Council as recognised that it is vital that any options for crisis accommodation be provided in a coordinated manner, including adequately funded support services and housing providers. This is in recognition of the acute vulnerability of individuals and families during these periods of crisis, and the need for appropriate, experienced providers to help support people into longer-term options. Appropriate planning, time and resources will be required to establish a safe temporary space for individuals and families and will include at a minimum co-design and co-management by appropriate support services and agencies.

The numbers of people and families experiencing homelessness continue to rise in our Shire, with Council declaring a Housing Crisis in March 2021. Neighbouring Councils have proceeded to declare Housing Emergencies in Tweed and Lismore LGAs. There is an urgent need for a nationally-recognised definition of 'Housing Emergency, and international precedents could inform this functional definition. By defining the housing crisis as an 'emergency', with persons requiring 'emergency shelter', Councils can draw upon best practice in emergency planning and responses such as the *Preferred Sheltering Practices for Emergency Sheltering in Australia* (Australian Red Cross, 2014). There is an opportunity for Councils to facilitate an adequately planned/resourced multi-agency response to ensure better community outcomes and safeguard the public health, safety and welfare of these particularly vulnerable groups.

In this context, the following Recommendation is made:

Recommendation 2: That the State government immediately review locations of state-provided Emergency Accommodation and amend legislation to assist in the provision of emergency accommodation for persons affected by Housing Emergencies. Urgent priority – within 3 months.

This recommendation has two parts:

1. NSW Department of Communities and Justice to review location of current emergency crisis accommodation and:
 - ensure locational provision of emergency crisis accommodation be based upon statistical evidence of homelessness/rough sleeping; and
 - consider locationally-specific barriers related to accessing emergency accommodation, including lack of public transportation and disparate location of support services for vulnerable groups in regional areas.
2. NSW Department of Planning, Industry and Environment to make amendments to the *Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* to allow for the provision of emergency accommodation for persons affected by Housing Emergencies (as declared by Local Councils).

It is noted that this legislation was [recently amended](#) to support the housing needs of people affected by bushfire events. It is proposed that the legislation be further amended to include Council-declared Housing Emergencies. This addition would allow for:

- extended stays in caravan parks or camping grounds (up to two years without the need for council approval);
- installation of movable dwellings on land without council approval for up to two years.
- councils' modification of conditions for camping grounds in designated large public spaces, giving councils the flexibility to modify conditions to which a primitive camping ground is subject.

Key worker and other short term accommodation models

Context

Since 2016, there have been many resolutions passed by the current Council that have highlighted the need to find a way to address housing availability and affordability in the Byron Shire.

However, due to the current state planning framework, and the constraints in which local government operates in terms of finance and co-investment options for housing development and its associated infrastructure, progress remains slow on delivery of any of the Council-initiated projects.

Council has adopted a Residential Strategy and policy framework and has an innovative housing initiatives program to address our housing crisis, which has now been stalled/delayed by the DPIE. See: [Housing Affordability Initiatives - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/housing-affordability-initiatives-byron-shire-council)

Just this year, there have been multiple submissions to and meetings with the DPIE about these projects without resolution; and advocacy direct to various Ministers on same have all been to no avail. This is as disappointing as it is frustrating given the difficult experience of many residents and the current media coverage of and community concern regarding acute housing stress in our region.

Recent resolutions of Council include:

- *19-152 SEPP 70*
- *20-016 Tiny Homes*
- *20-021 STRA*
- *20-365 AHC scheme*
- *20-069 EOI Carparks*
- *20-611 Lot 22*
- *20-686 Residential Strategy*
- *21-062 Role in Housing Delivery*
- *21-066 Key Workers*
- *21-112 Housing Crisis*
- *21-123 Land Trust*

In this context the following recommendation is made:

Recommendation 3: Support current LGA housing initiatives. High Priority – within 3 months.

As part of the delivery of NSW Housing Strategy Action 5.1.3, support the use of under-utilised Council land by assisting in the progression of multiple innovative housing initiatives are currently stalled/delayed by the DPIE including:

- Lot 22 Planning Proposal,
- Tiny Homes Planning Proposal,
- Affordable Housing Contributions Scheme (SEPP 70),
- Residential Strategy.

This support should include:

- fast tracking of the assessment process;
- where appropriate, provide infrastructure delivery funding;
- direct support for developing partnerships with Landcom;
- progression of the Short Term Rental Accommodation Planning Proposal.

d) barriers to additional supply across NSW, including for smaller non-CHP housing providers

Context

In acknowledgement of the seriousness of the issues surrounding housing supply across the region, Byron Shire Council planners have joined a Housing Working subgroup (HWG) of the Northern Rivers Planners Group – with Ballina, Lismore, Kyogle, Richmond Valley and Tweed Councils. This group compiles and analyses frontline data to support advocacy and collaboration on innovative solutions to housing affordability. The HWG is preparing a submission to the Regional Housing Taskforce and have identified a number of critically important issues in the region, including increased numbers of rough sleepers and an inability for employers to attract and retain key worker (nurses, medical support staff, teachers and child carers, hospitality and retail workers, artists and musicians) due to the housing crisis.

To adequately address these issues, housing supply needs to address the full housing spectrum, from those temporarily without a home to those seeking housing that better suits their needs. There are a number of barriers into and across the housing spectrum, particularly given that housing and rental supply is largely driven by the private market model and therefore subject to supply and demand mechanisms that are rarely matched with social need. The major barriers include:

- *Increasing cost of housing*: whether through rent or purchase, there is wide evidence of the rising cost of housing through increasing median property prices and increasing median rents. Combined with decreasing real incomes, housing affordability is a major barrier to secure housing;
- *Decreasing supply of housing and private rental vacancies*: whether through the return of 'ex-pats', FIFO workers, or increasing short-term rental accommodation (STRA)-use being taken up by property owners, housing supply does not meet current requirements;
- *Deficit of land supply*: 'drip release' mechanisms and land banking strategies, mostly utilised to increase private returns through attempts to limit and control supply, lead to significant interruptions in land development;
- *Uneven policy settings*: these settings promote an attractive property investment climate with financial incentives and taxation advantages that favour profit driven housing-as-investment over housing-as-shelter uses;
- *Deficit of social housing*: the over-reliance on, and subsequent failure of, private markets to provide adequate housing across locations and housing types requires a re-investment in social housing at a broader scale.

Whilst these challenges exist across the State, the Byron Shire and broader Northern Rivers region have been particularly impacted by shifts in population patterns brought about by the COVID pandemic. Whilst some of these issues are a result of broader structural inequities, there are potential solutions being explored by Councils and local communities, including the development of:

- Council-specific Affordable Housing Development Policy;
- Planning Agreements (for planning proposal and development application);
- Inclusionary zone provisions (in Council-specific LEP and DCP development);

- Land Banking sunset clause to activate land development;
- Meanwhile use provisions (repurposing vacant buildings, interim use of vacant crown and council lands e.g., road reserves, rail corridors for alternate uses such as short term/transitional residential accommodation)
- Land Trust entities such as the Byron Shire Land Limited under Res 21-123;
- Affordable Housing Contribution Schemes (SEPP 70).

That said, it is important to note that it is essential to ensure the provision of housing to all household income groups – very low, low, moderate and higher groups – and across the spectrum of housing needs. According to the NSW Government’s housing strategy *Housing 2041*, adequate supply includes the amount, location and timing of the supply and “should respond to environmental, employment and investment considerations, and population dynamics”. To achieve this, the strategy has identified the use of data as a Priority Area, aimed at “enabling access to and promoting the use of data and evidence-based decision-making” (p.11). Given the fast-moving shifts in supply and demand for housing in our region, such as population growth, household composition and availability of housing types, Byron Shire Council supports the need for data collection and evidence-based decision-making.

In this context the following recommendation is made:

Recommendation 4: Develop a program to deliver the full spectrum of housing in the Northern Rivers as part of the North Coast Regional Plan (NCRP) review. High to Medium Priority - next 12 months.

The North Coast Regional Plan 2036 is under review. The world has moved on since the adoption of this plan, including the many significant impacts of changing demand and supply patterns associated with the COVID pandemic. The next Regional Plan needs to deliver a more detailed analysis, projection, and range of housing target scenarios. There is a significant need to ensure the review entails funding and work to unify Northern Rivers data and analysis information on housing. The work, to be undertaken in unison with the HWG and local stakeholders who provide and manage residential land and housing, should include the following priorities:

- quantify the pattern of dwelling use in the Northern Rivers;
- quantify the profile of current and project housing requirements across the Northern Rivers using the NSW Housing Strategy ‘spectrum of housing’;
- relate these aspects to identify where there are:
 - shortfalls,
 - oversupply,
 - mismatch of residents to housing types;
- within the subsets of the housing spectrum, determine options for a housing mix (detached/multi-dwelling etc) to set targets by location; by short term; and by long term requirements;

- based on the issues/drivers/emerging solutions, determine the best mechanism to deliver the NSW Housing Strategy 'spectrum of housing'. This should not be limited to planning system solutions.

It is suggested NSW Government could look at the Queensland approach to a regional level of data collection of housing stock: [Queensland Housing Profiles \(qgso.qld.gov.au\)](http://qgso.qld.gov.au)

The below table summarises the housing types by residents (Spectrum) and the relationship to the planning system and responsible level of government and or agency to deliver.

| Housing types by resident need | Explanation | - Relationship to the 'planning system' - Key responsibility to deliver and or support |
|----------------------------------|---|---|
| Crisis housing | Emergency temporary accommodation factors such as: * domestic or family violence situation * homelessness * natural disasters | Delivery largely outside the planning system NSW Government Department of Communities and Justice (DCJ) |
| Social housing | Social housing is secure and affordable rental housing for people on <u>low incomes</u> with housing assistance needs. It includes public, community and Aboriginal housing. | Delivery largely outside the planning system Fed: National rental assistance State: NSW Govt DCJ |
| Affordable rental housing | Affordable housing is housing that is appropriate for the needs of a range of very low to moderate income households and priced so that these households are also able to meet other basic living costs such as food, clothing, transport, medical care and education. | Federal: National rental assistance State: NSW Govt DCJ Private rental where the tenant's rent is subsidised |
| Private rental | Rental accommodation in the private market even if this rent is subsidised or partly refunded. Historical role as a transitional housing sector for households moving into home ownership or social housing to a long-term housing sector for a significant number of Australian households | Delivery effected by planning system – SEPP enabling STRA Private rental market - in the NSW, most private sector tenancies are regulated by the Residential Tenancies Act 2010 (NSW). |
| Supported home ownership | A type of home ownership that can take a variety of forms and largely requires innovative financing arrangements to support the buyer to enter the market. Includes (but are not limited to) shared equity arrangements, rent-to-buy models, and co-living arrangements. | Delivery largely outside the planning system The equity partner assists by sharing ownership, usually up to 30% of the property. |
| Homeownership | Households who own the property in which they usually reside and have either: - owner with mortgage - owner without mortgage | Delivery effected by planning system |
| Specialist housing | Accommodation designed for unique needs such as housing for people with - disability (including group homes) - older people (such as residential care units) | Delivery effected by planning system under SEPP |
| | - Vanlife (emerging new form not listed but suggest could fit this category) | Delivery effected by planning system under SEPP |

END OF SUBMISSION