



Planning, Environment & Native Title Law

Short-term and long-term accommodation INFORMATION BOOKLET



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NOOSA — SHORT-TERM AND LONG-TERM ACCOMMODATION

HISTORY

Noosa Plan 2020 commenced on 31 July 2020.

The public consultation about the draft Planning Scheme showed a divided community in relation to the allocation of short and long-term accommodation.

Noosa Council attempted to address that division by substantially redrafting Planning Scheme provisions and by a draft Local Law.

The new provisions were circulated for public consultation and the submissions made to them showed the division still existed.

One difficulty faced by the Noosa community was that it received competing submissions about the legality and effect of the new provisions.

Some submissions raised concerns that there was no economic study undertaken to determine the impact of the changes on the tourism industry.

The State government agreed to allow the new scheme provisions to be adopted subject to conditions, including a condition that the effect of the short-term accommodation provisions should be monitored and appropriate studies undertaken.

The Noosa Council has not adopted the draft Local Law.

HOW MANY PROPERTIES WILL THIS AFFECT?

In a letter dated 6 January 2020 to the then Minister for State Development, Manufacturing, Infrastructure and Planning, the former Mayor noted:

Data scraping has revealed over 3,000 individual properties that are listed with on-line booking services in the Noosa Shire. Some of these are traditional holiday properties managed by letting agents. But many are also investment properties being let without professional local or on-site management.¹

The Minister's internal review in relation to the matters raised in the letter of 6 January 2020 noted:

In respect of properties currently being let for short term accommodation, the Council has determined,

following legal advice, that "existing use rights" remain for properties currently being let. That means almost all of the 3,000 or so properties (this number determined by Council examining on-line booking services) being let on-line can continue to do so - outlined in Mayor's letter to Minister dated 6 Jan 2020.²

In addition to those 3000 will be holiday homes which are used privately and not let on-line and those that are privately let. The Planning Scheme change is likely to be of significance to a great number of properties.

LOSS OF RIGHTS

The changes to short-term accommodation provisions under the Noosa Plan 2020 have taken away the ability to use some premises for short-term accommodation. Others have had constraints imposed upon them, such as the number of times and duration for which a premises may be let.

For some, that will be of no concern. For others that may have serious personal and financial ramifications. Some premises have ongoing existing use rights that will allow both short term and long-term accommodation.

Some premises have the benefit of development approvals that will allow both short-term and long-term accommodation.

There is a window of 12 months ending on 30 July 2021 within which a request can be made to Council to ask for short-term accommodation uses under the superseded Planning Scheme – the Noosa Plan 2006.

The Noosa Plan 2020 regulates short-term accommodation according to the various zones and levels of assessment.

The prospect of gaining approvals for short-term accommodation under Noosa Plan 2020 will vary dependent upon the zone, the facts of each individual premises and, sometimes, the prevalence of short-term accommodation in a given area.

All of these matters lead to a complex consideration that we have sought to simplify by producing this Information Booklet.

DEFINITIONS ARE CRITICAL

It is critical to understand the definitions used in Noosa Plan 2020 and Noosa Plan 2006.

When a word is used in a planning scheme it does not necessarily have its ordinary meaning.

To help make this distinction clear in the remainder of this Information Booklet P&E Law has put definitions from the Planning Schemes in bold, italics and inverted commas and where common language is being used it will not be in bold, italics or inverted commas.

To understand whether your use rights have been affected, whether you had existing use rights and what rights you have going forward, you must understand the differences in definitions between the planning schemes.

There are two distinct but interrelated sets of definitions that you must understand in Noosa Plan 2020:

1. **“Dwelling house”, “Dual occupancy”, “Multiple dwelling”** limiting certain land uses to people living together on a long-term basis.
2. **“Short-term accommodation”**.

There are two distinct but interrelated sets of definitions that you must understand in Noosa Plan 2006:

1. **“Multiple housing”** (this includes duplexes, units, townhouses, flats, apartments, villas and small dwelling units) and **“Detached house”** are the most relevant; and
2. **“Visitor accommodation”**.

Your existing use rights are generally determined by the definitions in the Noosa Plan 2006 and the historical use of your property. Sometimes they may be determined by earlier planning schemes and the content of any approval, particularly the conditions of an approval.

Under Noosa Plan 2006 an existing use right could be claimed under **“Multiple housing”** or **“Detached house”**.

“Multiple housing” as defined under Noosa Plan 2006 could be “occupied by permanent or semi-permanent residents”.

“Detached house” as defined under Noosa Plan 2006 has the benefit of a judgement in the Planning and Environment Court in an appeal of Trowbridge & another v Noosa Shire Council & others [2019] QPEC 54. That judgment at paragraph [34] noted that a **“Detached house”** could be “used for either permanent occupation or visitor accommodation or a combination of both”.

Those uses permitted under the definitions of **“Multiple housing”** and **“Detached house”** under Noosa Plan 2006 are to be distinguished from the uses permitted under the definition of **“Short-term accommodation”** under Noosa Plan 2020.

“Short-term accommodation” under Noosa Plan 2020 limits the use of premises to less than 3 consecutive months to tourists or travellers.

A non-resident owner wishing to use a holiday home for more than 3 consecutive months would not meet the definition of **“Short-term accommodation”** under Noosa Plan 2020.

Also relevant are the definitions **“Dwelling house”**, **“Dual occupancy”** and **“Multiple dwelling”** in Noosa Plan 2020 which all require occupation by a **“household”**.

In Noosa Plan 2020 a **“household”** specifically refers to people “who live in a dwelling with the intent of living together on a long-term basis”.

In Noosa Plan 2006 neither of the broadly equivalent defined uses, **“Multiple housing”** nor **“Detached house”**, were limited to people living together “on a long-term basis”.

Only once these definitions are understood will you be able to understand the constraints imposed upon short-term occupation of residences under Noosa Plan 2020.

Bearing these matters in mind we set out below the definitions extracted from each of Noosa Plan 2006 (superseded Planning Scheme) and Noosa Plan 2020.

Noosa Plan 2006 (superseded Planning Scheme)	Noosa Plan 2020
<p>Detached house - means the use of premises for a single <i>dwelling unit</i> which comprises the whole of the building on one lot. The term includes uses and works incidental to and associated with the detached house. The term includes the temporary use as a <i>display home</i> or <i>removal home</i>. The use may include a secondary dwelling not exceeding 65m² in area. The use is not divided further</p>	<p>Dwelling house means a residential use of premises involving—</p> <p>(a) one dwelling for a single <u>household</u> and any domestic outbuildings associated with the dwelling; or</p> <p>(b) one dwelling for a single <u>household</u>, a secondary dwelling and any domestic outbuildings associated with either dwelling.</p>
<p>Multiple housing - means the use of premises for two or more <i>dwelling units</i> or <i>accommodation units</i> as the case may be, occupied by <u>permanent or semi-permanent</u> residents, where the occupants may share common facilities on the site. The term includes the following types:</p> <p>Type 2 Duplex Means the use of premises for two <i>dwelling units</i> either attached or detached, on one lot.</p> <p>Type 4 Conventional - Means the use of premises for <i>dwelling units</i> that do not fall within Multiple housing Types 2, 3, or 5. The use includes units, townhouses, flats, apartments, villas and <i>small dwelling units</i>.</p>	<p>Dual occupancy-</p> <p>(a) means a residential use of premises for 2 <u>households</u> involving—</p> <p>(i) 2 dwellings (whether attached or detached) on a single lot or 2 dwellings (whether attached or detached) on separate lots that share a common property; and</p> <p>(ii) any domestic outbuilding associated with the dwellings; but</p> <p>(b) does not include a residential use of premises that involves a secondary dwelling.</p> <p>Multiple dwelling - means a residential use of premises involving 3 or more dwellings, whether attached or detached, for separate <u>households</u>.</p>
<p>Visitor accommodation means accommodation - that is designed and used for visitors to the Shire and where social, recreational and dining services may be provided for visitors by owners or staff. Resident guests stay for a temporary period of time (typically not exceeding 3 consecutive months). The term includes the following types:</p> <p>Type 1 Home hosted: The use of premises for short term accommodation hosted by the resident family within a detached house where there is no more than 6 guests accommodated in no more than three rooms. At least one bedroom within the detached house is excluded from use by guests. Meals may be provided by the hosts, as guest cooking facilities are not available. The use includes bed and breakfast</p> <p>Type 3 Rural The use of premises for short-term accommodation where accommodation has direct connection with the rural production, environmental or scenic values of the premises. The use includes a cabin park, guesthouse or retreat located in a rural setting and host farm offering rural experiences.</p>	<p>Short-term accommodation -</p> <p>(a) means the use of premises for</p> <p>(i) providing accommodation of less than three (3) consecutive months to tourists or travellers; or</p> <p>(ii) a manager's residence, office, or recreation facilities for the exclusive use of guests, if the use is ancillary to the use in subparagraph (i); but</p> <p>(b) does not include a hotel, nature-based tourism, resort complex or tourist park</p> <p>Visitors means persons visiting the area and staying for a short term. The term includes tourists.</p>

Noosa Plan 2006 (superseded Planning Scheme)	Noosa Plan 2020
<p>Trowbridge & another v Noosa Shire Council & others³</p> <p>Noosa Council has been involved in an appeal that confirms the definition of detached house does not preclude use for visitor accommodation⁴ and that each of the town planning experts who gave evidence agreed that “the proposed development will not prevent the subject houses from being used by the permanent occupation of visitor accommodation or a combination of both.”⁵</p> <p>NB: This is not an extract from the Planning Scheme.</p>	<p>Household means 1 or more individuals who—</p> <p>(a) live in a dwelling with the intent of living together on a <u>long-term basis</u>; and</p> <p>(b) make common provision for food and other essentials for living.</p>
<p>Dwelling unit means a building or part of a building used as a self-contained residence for the exclusive use of one household. It includes outbuildings and works normally associated with a dwelling.</p>	<p>Dwelling means all or part of a building that—</p> <p>(a) is used, or capable of being used, as a self-contained residence; and</p> <p>(b) contains—</p> <p>(i) food preparation facilities; and</p> <p>(ii) a bath or shower; and</p> <p>(iii) a toilet; and</p> <p>(iv) a wash basin; and</p> <p>(v) facilities for washing clothes.</p>
	<p>Inconsistent use means the use is strongly inappropriate in the relevant zones because it is incompatible with other uses generally expected in that zone.</p>

EXISTING USE RIGHTS

WHAT DOES THE LAW PROVIDE?

An existing lawful use is protected under the Planning Act 2016 (Qld) (the **Act**):

260 Existing lawful uses, works and approvals

(1) If, immediately before a planning instrument change, a use of premises was a lawful use of premises, the change does not—

- (a) stop the use from continuing; or*
- (b) further regulate the use; or*
- (c) require the use to be changed.*

The planning instrument change referred to in the section above, is the change from the Noosa Plan 2006 to Noosa Plan 2020.

The use of premises protected by the section above is qualified by numerous Court decisions and is restricted to the purpose for which the premises were used immediately before the change.

“Premises” is defined under the Act and includes land, a building or part of the building. As section 260 above is protecting existing use rights they have to be determined by starting with the definitions in Noosa Plan 2006. Consider the definitions “**Detached House**” and “**Multiple Housing**” under Noosa Plan 2006 in the definitions section above.

Careful consideration must be given to each premises and its history of use and development approvals. The general description below does not address

all the considerations but are intended to give a conceptual understanding for a starting point.

It is important to note that there is a difference between a 'use' as defined in a planning scheme and a use that is protected by section 260 of the Act. Section 260 protects the actual use that has been made of the premises, not the category of activities that could be conducted under a use definition in a planning scheme.

The purpose for which premises is used can be considered by asking the following series of questions.

1. Were the premises used for the purpose of long-term accommodation prior to 31 July 2020?
2. Were the premises used for the purpose of short-term accommodation prior to 31 July 2020?
3. Were the premises used for the purpose of long-term accommodation and short-term accommodation prior to 31 July 2020?

The answers then lead to the following likely conclusions.

- a. If you answer yes to 1 above and no to 2 and 3 above, then the purpose that is protected is likely to be the long-term accommodation use. If you are content with that limitation you do not need to take any action. If you want to use the premises for short-term accommodation or a combination of short-term and long-term accommodation you should consider making a superseded scheme application. (refer to the section on Superseded Planning Scheme Applications, below)
- b. If you answer yes to 1, 2 and 3 above, then the use that is likely to be protected is a mix of long-term and short-term accommodation. Provided you do not abandon the mixed use of the premises, you will be able to continue to use the premises for both long-term and short-term accommodation.
- c. If you answered yes to 2 above and no to 1 and 3 above, then the use that is likely to be protected is short-term accommodation. If the premises are subsequently used for long-term accommodation Council could argue you have abandoned the existing use right for short-term accommodation. (refer to the section on abandonment of existing use rights, below.) If you want to use the

premises for a mix of short-term and long-term accommodation you should consider making a superseded scheme application. (Refer to the section on Superseded Planning Scheme Applications, below)

It may also be relevant to consider:

1. when the premises were *first* used for each of those activities;
2. when the premises were *last* used for each of those activities;
3. particularly for short-term uses, what was the nature, frequency, and duration of the use; and
4. any increase in the nature, frequency, and duration of short-term uses may not be protected.

CAUTION

It is important to understand that the history of use, planning scheme changes and any development approvals can affect the general outcome indicated above. Appropriate research needs to be undertaken to determine what existing use rights are protected.

Where existing use rights are protected the premises may be used for the purpose of the existing use rights.

Changes to the way in which the premises are operated may cause the loss of existing use rights.

By way of example:

1. A owned a **“Detached House”** and holiday let it;
2. B purchased the **“Detached House”** before 31 July 2020 and moved into it on a permanent basis; and
3. C purchased from B after 31 July 2020.

The Council could maintain that there is no existing use right to short-term let as the right was abandoned.

By way of example:

1. A owned a **“Detached House”** and holiday let it and also permanently resided in it over a number of years;
2. Since March 2020 there was no short-term letting; and
3. A had intended to travel extensively through Europe and short-term let to cover the travel costs, but covid stopped that.

Council may argue that there is only long-term use because of the time between short-term letting has lead to the abandonment of the existing use rights.

In the two examples above the Council would likely succeed in the first and would less likely succeed in the second in maintaining the existing use rights have been abandoned.

Every matter will be looked at on its individual circumstances and proof of intention and actions supporting that intention should be retained.

Be careful not to unwittingly abandon existing use rights.

“I HAVE AN APPROVAL”

Rights granted directly under approvals may also be protected from the changes to short-term accommodation regulation in the Noosa Plan 2020.

The Act relevantly provides:

Section 260(3) *If a planning instrument change happens after a development approval is given, the change does not—*

- (a) stop or further regulate the development; or
- (b) otherwise affect the approval to any extent to which the approval remains in effect.

WHAT APPROVALS APPLY TO A PREMISES?

There are numerous approvals given by Council to permit development and each approval will have been obtained under the law current at the time the application for the development was made.

Those approvals could include a rezoning under the Local Government Act 1936, or the Local Government (Planning and Environment Act) 1990. They could include approvals for material change of use under the Integrated Planning Act 1997, the Sustainable Planning Act 2009 or the Act.

The approvals could have been given in the context of the **Town Planning Scheme for the Whole of the Shire of Noosa** gazetted on 4 May 1985, or any of the schemes adopted, and as amended from time to time (which happens frequently), up to **Noosa Plan 2020**.

Without considering each and every approval in those contexts, this Information Booklet can only be a general guide to flag the need to consider the rights given under development approvals and whether those rights are protected from further regulation under Noosa Plan 2020.

Approvals under **Noosa Plan 2006** for a material change of use to a “**Detached House**”, “**Multiple Housing Type 2**” or “**Multiple Housing Type 4**” are most likely to obtain the protection of section 260(3) of the Act.

We have seen a number of development approvals issued under **Noosa Plan 2006** for a material change of use for a “**Detached House**”. On their face, the material change of use development approvals allow the use of the premises to change from vacant land, which is a nil use, to be used for a “**Detached House**”.

A common condition in these material change of use approvals is:

Unless otherwise stated, all conditions of this Decision Notice must be complied with prior to the use commencing, and then compliance maintained at all times while the use continues.

Under section 73 of the Act, while a material change of use approval remains in effect, the approval binds the owner and any successors in title or occupiers of the premises.

Therefore, the existing use right within the approval remains in effect and passes with the title.

In the words of section 260 (3):

*the change [introduced by **Noosa Plan 2020**] does not—*

- (a) stop or further regulate the development; or
- (b) otherwise affect the approval to any extent to which the approval remains in effect [bracketed words introduced]

Additional protection is given under the Act to approvals that have been obtained, have not lapsed, but have not yet commenced:

261 Implied and uncommenced right to use

(1) *This section applies if—*

- (a) a development approval comes into effect; and
- (b) when the development application was

properly made, a material change of use for a use that the application implies was accepted development; and

(c) after the application was properly made, but before the use started, a planning instrument change provided for the material change of use to be assessable development or prohibited development.

(2) *The use is taken to be a lawful use in existence immediately before the change if—*

(a) the development approval has not lapsed; and

(b) the use starts within 5 years after the completion of the development.

By way of example, the protection under section 261 might apply where:

1. an application for building work to build a “**Detached House**” was made prior to 31 July 2020 under the **Noosa Plan 2006**;

2. the use of the premises for a “**Detached House**” was implied as accepted development (unless a material change of use approval was given for the use);
3. the building work is completed after the commencement of **Noosa Plan 2020** but before the approval lapsing; and
4. the use of the premises for a detached house starts within 5 years after construction of the building

then, the use for a “**Detached House**” is likely to be given protection under section 261.

OVERVIEW

These provisions are yet to receive any substantial judicial consideration.

The matters expressed above are our consideration based upon principles of statutory interpretation.

SUPERSEDED PLANNING SCHEME APPLICATION AND COMPENSATION

The Act requires a request to be made to Noosa Council that an application be assessed under the superseded Planning Scheme by 30 July 2021.⁶

Noosa Council must notify the person making the request whether it will agree or not to assess the application under the superseded Planning Scheme within 30 business days after the request is received, or such longer period as is agreed.⁷

Assume the request was for the use as a “**Detached House**” under the superseded Planning Scheme.

If an application was required for a “**Detached House**” under the superseded Planning Scheme and Noosa Council agrees to the request, the superseded Planning Scheme application must be made to Council within 6 months of the date the decision is given on the request.⁸

If a “**Detached House**” was accepted development under the superseded Planning Scheme and Noosa Council agrees to the request, the premises may be

used as a “**Detached House**” under the superseded Planning Scheme. That means the premises can be used for both short and long-term accommodation or a mixture of both.

If Noosa Council declines either request to assess the application under the superseded Planning Scheme, an application would need to be made under Noosa Plan 2020 seeking a use equivalent to a detached house which would be an undefined use which allows a combination of short-term and long-term accommodation to be used interchangeably.

If Council approved that application with rights equivalent to a “**Detached House**” then there is no adverse change.

If the Council assesses the application under the Noosa Plan 2020 it is unlikely to approve the application and the change in the Planning Schemes is an adverse change.

The Act limits a claim for compensation to specific circumstances:

s 31(3) An affected owner may claim compensation in relation to development that is or becomes assessable development after the adverse planning change has effect, if—

(a) the local government refuses a superseded planning scheme request in relation to the development; and

(b) a development application has been made for the development; and

(c) the development application is—

(i) refused; or

(ii) approved with development conditions; or

(iii) approved in part, with or without development conditions.

The Act identifies an adverse planning scheme change to include a planning change that reduces the value of an interest in a premises.⁹

The person claiming compensation must have “an interest in premises, at the time an adverse planning change starts to have effect for the premises”¹⁰ and

typically is the owner.

The starting point for consideration of potential claims and payments for compensation for “adverse planning change” made under Noosa Plan 2020 is to determine whether the “premises”¹¹ could be used for short and long-term accommodation under the superseded plan without restraint.

Section 30(4) of the PA identifies exclusions to an “adverse planning change” but most are unlikely to impact on an application seeking the ability to short-term let a premises.

The value of the claim for compensation is the difference in the market value of the land prior to the change less the value of the land after the change takes effect.¹²

The requests for application of the superseded Planning Scheme have met with mixed success to date.

Council still retains significant discretion for “**Short-term accommodation**” proposals in the Rural zone and Rural residential zone. The Planning Scheme provides an opportunity for low-key accommodation.

PROSPECTS OF OBTAINING AN APPROVAL FOR “Short-term accommodation”

Prospects of obtaining approvals under Noosa Plan 2020 “**Short-term accommodation**” will vary depending upon a number of factors including:

1. the exact nature of the use being sought;
2. the zone in which the premises are located; and
3. the predominance of permanent residents compared to visitors in the locality.

WHAT IS THE USE?

If an application is for “**Short-term accommodation**”, it will be constrained to providing accommodation to tourists or travellers for a period of less than 3 consecutive months.

It would not permit occupation for longer than 3 consecutive months.

If you intend to short-term holiday let for longer

periods than provided for in the definition of “**Short-term accommodation**” the application is for an undefined use and not “**Short-term accommodation**”.

WHAT ZONE IS THE LAND LOCATED IN?

Please refer to the table “Noosa Plan 2020 - “**Short-term accommodation**” by zone - Assessment Categories and Criteria” below.

That table identifies key provisions, not all, of the Noosa Plan 2020 that relate to the assessment of “**Short-term accommodation**”.

If an application is made for an undefined use it will be subject to impact assessment inconsistent in each of the zones. That information is not included in the table. Members of the public may make a submission objecting to an undefined use.

A proposal to use premises for “**Short-term accommodation**” will require varying degrees of assessment, depending upon the zoning of the land. That variation can be seen in the table below.

Where “**Short-term accommodation**” is identified as accepted development subject to requirements, no application is needed provided those requirements are met.

Where “**Short-term accommodation**” is identified as subject to code assessment (eg in the Rural zone), an application must be made and is assessed only against the relevant codes identified in the table, including any additional ‘overlay’ codes.

Where “**Short-term accommodation**” is identified as subject to impact assessment, it is publicly advertised, and members of the public may make a submission objecting to that use. It is assessed against the entirety of the Planning Scheme, to the extent relevant.

It is interesting to note what the overall outcome seeks for each of the low density residential zone, medium density residential zone and high density residential zone.

1. **Low density residential zone:** home to permanent residents with minimal impact of visitors
2. **Medium density residential zone:** predominantly home to permanent residents; Short-term visitor

accommodation is predominately provided through well-established resorts and holiday units

3. **High density residential zone:** predominantly home to permanent residents; Short-term visitor accommodation is predominately provided through well-established resorts and holiday units

The performance outcomes [PO] and the acceptable outcomes [AO] are intended to support the achievement of the “overall outcomes” for each zone. You should refer to these in the Table.

On the basis of those provisions, Council could oppose an application for “**Short-term accommodation**” in each of those three residential zones.

Given the predominance of short-term accommodation uses throughout those zones under previous Planning Schemes, the question of whether a particular area is “predominantly home to permanent residents” will often be answered in the negative.

Council still retains significant discretion for “**Short-term accommodation**” proposals in the Rural zone and Rural residential zone. The Planning Scheme provides an opportunity for low-key accommodation.

By its nature this Information Booklet has to be general and has not sought to go into the rules relating to code assessment and impact assessment under the *Planning Act 2016*.

REFERENCES

- ¹ Letter Mayor Tony Wellington to the Honourable Cameron Dick 6 January 2020
- ² Email Kerry Doss to Stephanie Challen 10 February 2020
- ³ *Trowbridge & another v Noosa Shire Council & others* (2019) QPEC 54
- ⁴ *ibid* paragraph (33)
- ⁵ *ibid* paragraph (34)
- ⁶ Act s29(3)
- ⁷ Act s29(6) and *Planning Regulation 2017* s12
- ⁸ Act s29(9)
- ⁹ Act s30 (see for all changes covered)
- ¹⁰ Act s31 *Claiming compensation*
(1) *This section is about when a person (an affected owner) with an interest in premises, at the time an adverse planning change starts to have effect for the premises, may claim compensation because of the adverse planning change.*
- ¹¹ Act Schedule 2 Dictionary
premises means—
(a) a building or other structure; or
(b) land, whether or not a building or other structure is on the land.
building means—
(a) a fixed structure that is wholly or partly enclosed by walls and is roofed; or
(b) a floating building; or
(c) any part of a building.
- ¹² Act s33 **Amount of compensation payable**
(2) When deciding the market value immediately after the adverse planning change, the local government must consider—
(a) any benefit to the owner's interest in the premises, or in neighbouring premises, because of the adverse planning change; and Example— the likelihood of improved amenity in the locality of the premises
(b) any benefit to the owner's interest in neighbouring premises because, after the adverse planning change but before the compensation claim was made—
(i) another planning change started to have effect; or
(ii) infrastructure, other than infrastructure that the owner funds, was constructed or improved on the neighbouring premises; and
(c) any conditions or other limitations that might reasonably have applied to development of the premises under the superseded planning scheme; and
(d) for an adverse planning change that was the subject of a superseded planning scheme request—
(i) the effect of any other planning change that started to have effect after the adverse planning change but before the superseded planning scheme request was made; and
(ii) the effect of any development approval mentioned in section 31(3)(c)(ii) or (iii).

TABLE: NOOSA PLAN 2020 - “Short-term accommodation” by zone - Assessment Categories and Criteria

Table 5 = Categories of Development and Assessment | Table 6 = Criteria for Assessment

NOOSA PLAN 2020 – “Short-term accommodation” by zone			– Assessment Categories and Criteria	
Low density residential zone	Medium density residential zone	High density residential zone	Rural zone	Rural residential zone
<p>Table 5.5.1 Accepted development subject to requirements If: (a) in the applicant’s principal place of residence; (b) the letting of only one dwelling on site; (c) occupied by short-term guests on no more than 4 occurrences in any calendar year; and (d) occupied by short-term guests for a total of no more than 60 nights in any calendar year.</p> <p>Otherwise Impact assessment and inconsistent use.</p>	<p>Table 5.5.2 Accepted development subject to requirements If: (a) in an existing building which is the applicant’s principal place of residence; (b) occupied by short-term guests on no more than 4 occurrences in any calendar year; and (c) occupied by short-term guests for total of no more than 60 nights in any calendar year.</p> <p>Impact assessment if not otherwise specified.</p>	<p>Table 5.5.3 Accepted development subject to requirements If: (a) not located on a site adjoining or over the road from land within the Major Centre Zone; (b) in an existing building which is the applicant’s principal place of residence; (c) occupied by short-term guests on no more than 4 occurrences in any calendar year; and (d) occupied by short-term guests for total of no more than 60 nights in any calendar year.</p> <p>Impact assessment If: (a) not otherwise acceptable development; and (b) not located on a site adjoining or over the road from land within the Major Centre Zone.</p> <p>Otherwise Impact assessment and inconsistent use.</p>	<p>Table 5.5.13 Accepted Development If: (a) in the applicant’s principal place of residence; (b) the letting of only one dwelling on site; (c) occupied by short term guests on no more than four occurrences in any calendar year; and (d) occupied by short term guests for a total of no more than 60 nights in any calendar year.</p> <p>Code assessment If: (a) located on a site with an area of at least 4 hectares; and (b) not incorporating conference or function facilities; and (c) within a dwelling house no more than five bedrooms; or (d) within no more than four free standing cottages, cabins or permanent tents, accommodating no more than eight guests.</p> <p>Otherwise Impact assessment and inconsistent use.</p>	<p>Table 5.5.14 Accepted development subject to requirements If: (a) in the applicant’s principal place of residence; (b) the letting of only one dwelling on site; (c) occupied by short term guests on no more than 4 occurrences in any calendar year; and (d) occupied by short term guests for a total of no more than 60 nights in any calendar year.</p> <p>Impact assessment If: (a) not otherwise acceptable development ; and (b) not incorporating conference or function facilities.</p> <p>Otherwise Impact assessment and inconsistent use.</p>
<p>Table 6.3.1.2 Purpose and overall outcomes 2. The overall outcomes sought ... are: (a) ... home to permanent residents with minimal impact of visitors.</p>	<p>Table 6.3.2.2 Purpose and overall outcomes 2. The overall outcomes sought ... are:- (a) ... predominantly home to permanent residents. (h) Short-term visitor accommodation is predominately provided through well-established resorts and holiday units.</p>	<p>Table 6.3.3.2 Purpose and overall outcomes (2) The overall outcomes sought ... are: (a) High density residential neighbourhoods are predominantly home to permanent residents. (j) Short-term visitor accommodation is predominately provided through well-established resorts and holiday units</p>	<p>Table 6.8.3.2 Purpose and overall outcomes (1) The purpose of the Rural zone is to: (a) provide for rural uses and activities; and (b) provide for other use and activities that are compatible with: (i) existing and future rural uses and activities; and (ii) the character and environmental features of the zone ...</p>	<p>Table 6.8.4.2 Purpose and overall outcomes (2) The overall outcomes sought ... are: (e) Small scale home hosted guest accommodation does not impact on the amenity or lifestyle of nearby residents.</p>

Note: Overlays may also apply to premises which change the level of assessment and may add additional assessment criteria or requirements for accepted development

TABLE: NOOSA PLAN 2020 - “Short-term accommodation” by zone - Assessment Categories and Criteria

PO = Performance Outcome | AO = Acceptable Outcome

Low density residential zone	Medium density residential zone	High density residential zone	Rural zone	Rural residential zone
<p>PO1 Development provides for low density, predominantly detached housing ..., which meets the needs of current and future resident populations</p> <p>PO3 Visitor accommodation is limited to low density formats compatible with the domestic character and use of the area so as not to cause unreasonable loss of residential amenity, having regard to: (a) ... privacy ... ; (b) ... noise ... ; (c) the scale... and ... compatibility with ... character and uses; (d) retention of the primary residential function ... ; (e)... safety and efficiency of ... road network; (f) ... shared access or uses rights of way; and (g) waste storage ... visual amenity.</p> <p>AO 3.2 Short-term accommodation (a) does not constitute a party house; (b) make available no more than one self contained dwelling at any one time; (c) noise does not unreasonably impact on the residential amenity enjoyed by the adjoining or surrounding properties; and (d) make available no more than five bedrooms.</p>	<p>PO6 Visitor accommodation is limited to formats compatible with the character and use of the area so as not to cause unreasonable loss of residential amenity, having regard to: (a) ... privacy ... ; (b) ... noise ... ; (c) scale ... and... compatibility with character and uses ... ; (d) retention of the primary residential function ... ; (e) residential function of ... common property; (f) ... safety and efficiency of ..road network; (g) ... waste storage ... visual amenity; (h)... waste storage ... sensitive land uses; and (i) any impact on shared vehicular access or parking.</p> <p>AO6.1 ... up to four short term guests ... while the host remains in residence.</p> <p>AO6.2 Short-term accommodation does not: constitute a party house; create noise that would unreasonably impact on the residential amenity enjoyed by the adjoining or surrounding properties.</p>	<p>PO1 Development provides for higher density multiple dwellings in a range of dwelling sizes and styles ...</p> <p>PO2 Where adjoining or over the road from land within the Major Centre Zone, residential development is exclusively for permanent residents rather than visitors.</p> <p>PO3 Short-term accommodation ... limited to ... compatible with high density living ... and do not cause unreasonable loss of amenity, having regard to: (a) ... privacy ... ; (b) ... noise ... ; (c) scale ... and ... compatibility with character and uses ... ; (d) retention of the primary residential function ... ; (e) the residential function ... of common property; (f) ... safety and efficiency of ... road network; (g) ... waste storage areas ... visual amenity ... ; (h) waste storage ... sensitive land uses; (i) ... shared vehicular access or parking.</p> <p>AO3.2 Well established visitor accommodation including resort complexes and short-term accommodation is scattered amongst permanent residents.</p> <p>AO3.3 Short-term accommodation is designed and orientated so that the majority of outdoor living areas face away from the habitable areas of adjoining dwellings.</p> <p>AO3.5 Short-term accommodation does not: (a) constitute a party house; and (b) create noise which would unreasonably impact on the residential amenity enjoyed by the adjoining or surrounding properties.</p>	<p>PO1 Land uses ... are compatible with agriculture and the protection of environmental and landscape values.</p> <p>PO3 With the exception of one dwelling house, caretaker’s accommodation or a community residence, any accommodation activity is limited to use by shortterm guests or seasonal workers employed in a rural activity on the same site or on adjoining premises.</p> <p>AO3.1 Only the occupants of a dwelling house, ... reside on the property for any period greater than three consecutive months.</p> <p>PO4 Visitor accommodation: (a) is at a small scale and low density that protects the environmental and rural values of the land; (b) is compatible with rural activities and nature conservation; and (c) does not detract from the rural amenity of adjoining properties.</p>	<p>PO1 Development provides for low density, semi-rural living as well as compatible work from home opportunities, primary production and small-scale visitor accommodation, on large allotments with varying levels of services.</p> <p>PO3 With the exception of one dwelling house or a community residence, any accommodation is limited to use by short-term guests.</p> <p>PO4 Visitor accommodation: (a) is at a scale and density that protects the environmental and lifestyle values of the land; and (b) does not detract from the rural residential character and amenity of adjoining properties.</p> <p>AO1.3 Any business operated on site including accommodation is subordinate to the use of the premises for a domestic residence.</p> <p>AO3 Only the residents of a dwelling house or community residence reside on the property for any period greater than three consecutive months.</p>

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