



AGENDA

Planning & Environment Committee Meeting

Tuesday, 12 October 2021

commencing at 9.30am

Council Chambers, 9 Pelican Street, Tewantin

Committee: Crs Brian Stockwell (Chair), Karen Finzel, Clare Stewart, Tom Wegener

“Noosa Shire – different by nature”

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2 PROPOSED LOCAL LAW AMENDMENT – SHORT STAY LETTING AND HOME HOSTED ACCOMMODATION – PUBLIC CONSULTATION RESULTS AND ADOPTION

Author	Principal Strategic Planner, Anita Lakeland Environment and Sustainable Development Department
Index	ECM/SUBJECT: 37.15 Local Law No. 1 Amendments – Short Stay Letting
Attachments	<ol style="list-style-type: none"> 1. Administration (Amendment) Local Law (No. 1) 2021 with tracked changes detailing amendments proposed as a consequence of public consultation 2. Administration (Amendment) Subordinate Local Law (No. 1) 2021 with tracked changes detailing amendments proposed as a consequence of public consultation 3. Administration (Amendment) Local Law (No. 1) 2021 (as advertised and distributed for public consultation purposes) 4. Administration (Amendment) Subordinate Local Law (No. 1) 2021 (as advertised and distributed for public consultation purposes) 5. Summary of key issues from public consultation 6. Cost benefit analysis – Proposed local law amendment: short stay letting and home hosted accommodation prepared by AEC Group Pty Ltd and dated September 2021 (24 page attachment provided separately to this agenda) 7. Public Interest Test Report 8. Consolidated version of Noosa Shire Council Local Law No. 1 (Administration) 2015 (30 page attachment provided separately to this agenda) 9. Consolidated version of Subordinate Local Law No. 1 (Administration) 2015 (99 page attachment provided separately to this agenda)

EXECUTIVE SUMMARY

Administration (Amendment) Local Law (No. 1) 2021 and Administration (Amendment) Subordinate Local Law (No. 1) 2021, for short stay letting and home hosted accommodation, seek to regulate the ongoing operation of short stay letting and home hosted accommodation and manage the impacts on permanent residents and guest safety. The proposed local law and proposed subordinate local law have undergone extensive legal review and public, stakeholder and State government consultation over a 2 year period. A final version of the proposed local law and proposed subordinate local law is now presented to Council for adoption and implementation.

The proposed local law and proposed subordinate local law were made available for public consultation purposes from 9 April until 28 May 2021 for an extended 7-week period. This was the second round of public consultation, with the first drafts consulted on in 2019.

615 written submissions were received during the consultation period. A number of minor amendments to the proposed subordinate local law are recommended in response to submissions as well as a range of other actions and procedural changes outside the scope of the local law framework. The scope of changes proposed are to:

1. establish a 24/7 Council complaints hotline and complaints register as an intermediary between the complainant and contact person;
2. use security services to observe and record activity at properties where required, initially on a 12 month trial basis;

3. make minor changes to the proposed subordinate local law by:
 - removing the exemption from Parkridge;
 - requiring additional information on the site plan to include adjoining windows and door openings, outdoor entertainment areas and vehicle parking;
 - amending the contact person location to be within a 20km radius of the property;
 - including security firms as a contact person option;
 - renaming the contact person notice to a standardised approval notice sign including complaints number and approval number;
 - including boats, trailers, jet skis and the like as part of vehicle management;
 - including reference to amenity impacts on adjoining dwellings;
 - requiring confirmation the building is lawfully constructed and classified for its purpose under the Building Act 1975;
 - including a 2 year time frame for keeping of registers;
 - clarifying waste management where no kerbside collection exists; and
 - making other minor editorial and clarification changes.
4. prepare a “good management of short stay letting and home hosted accommodation guide” to support the requirements of the proposed local law and the proposed subordinate local law and for other matters outside the scope of the local law framework;
5. develop a dedicated Council webpage with information including an approvals register, complaints procedure, complaints hotline number, application forms, factsheets and the good management guide;
6. undertake:
 - education for the short stay letting industry;
 - advocacy with the LGAQ and REIQ around short stay letting; and
 - the establishment of a multi interest stakeholders group.

New dedicated internal and external resources will be required to implement and administer the proposed local law and the proposed subordinate local law, including a new dedicated short stay local laws team and external 24/7 complaints hotline and trial security services.

Final versions of the proposed local law and the proposed subordinate local law are now presented to Council for adoption with a proposed commencement date of 1 February 2022.

The adoption of a local law is a legal process. As a result, Council’s solicitors have assisted with the drafting of the resolution to ensure that it is compliant with the relevant legislation.

Also, submitted to Council, for formal adoption, by resolution, are consolidated versions of *Noosa Shire Council Local Law No. 1 (Administration) 2015* and *Subordinate Local Law No. 1 (Administration) 2015* incorporating:

- (a) the amendments detailed in each of the proposed amending local law (Attachment 3) and the amendment to the proposed amending local law detailed in Recommendation A below; and
- (b) the amendments detailed in the proposed amending subordinate local law (Attachment 4) and the amendments to the proposed amending subordinate local law detailed in Recommendation B below.

RECOMMENDATION

That Council note the report by the Principal Strategic Planner to the Planning & Environment Committee Meeting dated 12 October 2021 and resolve to:

- A. Proceed with the making of, and make, Administration (Amendment) Local Law (No. 1) 2021 (see Attachment 3) as advertised, but amended as follows:
1. after section 1 —
insert—
‘1A. **Commencement**
Part 2 commences on 1 February 2022.’.
- B. Proceed with the making of, and make, Administration (Amendment) Subordinate Local Law (No. 1) 2021 (see Attachment 4), as advertised, but amended as follows:
1. after section 1—
insert—
‘1A. **Commencement**
Part 2 commences on 1 February 2022.’.
 2. amendments to Subordinate Local Law, section 5 (Insertion of new sch21A — Operation of short stay letting or home hosted accommodation) —
 - (a) section 2(b)(v) —
omit.
 - (b) section 2(b)(vi) to (xii)—
renumber as section 2(b)(v) to (xi).
 - (c) section 3(d)(i) —
omit, insert—
‘(i) a site plan showing the location of all buildings, including any outdoor entertainment area, swimming pool or spa, vehicle parking area and the location of each window and door opening of any adjoining residence; and’.
 - (d) section 3(g) —
omit, insert—
‘(g) written confirmation that, under the *Building Act 1975—*
 - (i) the premises are lawfully constructed; and
 - (ii) the use of the premises for the prescribed activity is authorised by the classification attributable to the premises; and’.
 - (e) section 3(h) after ‘inspector’—
insert—
‘and that a current pool safety certificate will be maintained at all times’.
 - (f) section 3(j)(iii), ‘20 minutes travel time (by vehicle)’—
omit, insert—
‘a 20 kilometre radius’.
 - (g) section 4(e)(ii), ‘residents in the vicinity of the premises’—
omit, insert—
‘residents adjoining, or in the vicinity of, the premises’.
 - (h) section 4(f), after ‘property manager’—
insert—
‘, security firm’.
 - (i) section 4(f)(ii), ‘20 minutes travel time (by vehicle)’—
omit, insert—

- 'a 20 kilometre radius'.
- (j) section 6(2)(a), after 'manager'—
insert—
' , security firm'.
- (k) section 6(2)(a)(ii), '20 minutes travel time (by vehicle)'—
omit, insert—
'a 20 kilometre radius'.
- (l) section 6(2)(b)(i), '**contact person**'—
omit, insert—
'**approval**'.
- (m) section 6(2)(b)(ii), 'contact person'—
omit, insert—
'approval'.
- (n) section 6(2)(b)(iii)—
omit, insert—
'(iii) the size of the approval notice must be a minimum and maximum size of 0.2m²; and'.
- (o) section 6(2)(b)(iv)—
omit, insert—
'(iv) the approval notice must specify, in letters and numbers not less than 50mm in height—
(A) the current, and up to date, contact details for a complaint; and
(B) the approval number allocated by the local government to the approval for the undertaking of the prescribed activity at the premises; and'.
- (p) section 6(2)(c), from 'make available' to 'scheme'—
omit, insert—
'display an approval notice which complies with the requirements specified in subsection (2)(b)(i) to (iv) inclusive'.
- (q) section 6(3)(a), 'residents in the vicinity of the premises'—
omit, insert—
'residents adjoining, or in the vicinity of, the premises'.
- (r) section 6(3)(d), 'vehicles on the premises'—
omit, insert—
'vehicles, including boats, trailers, jet skis and the like, on the premises'.
- (s) after section 6(3)(h)(ii)—
insert—
'(iii) if the premises are not provided with a kerb side frontage general waste collection service — ensure that general waste from the premises is removed from the premises and disposed of at a general waste facility; and'.
- (t) section 6(3)(j), after 'minimum,'—
insert—
'and for a period of not less than 2 years,'.
- (u) section 6(3)(k)—
(i) after ' , must'—
insert—
' , for a period of not less than 2 years,';
(ii) 'premises for short stay letting'—
omit, insert—

-
- (iii) 'premises';
'for short stay letting on'—
omit, insert—
'on'.
 - (v) section 6(3)(m)(i)(B), 'if parking facilities are provided at the premises'—
omit.
 - (w) section 6(3)(m)(ii), after 'outdoor'—
insert—
'entertainment area,'.
 - (x) section 6(3)(m)(ii)(A), 'residents in the vicinity of the premises'—
omit, insert—
'residents adjoining, or in the vicinity of, the premises'.
 - (y) section 7(1), '12 months from the date of the approval'—
omit, insert—
'on the next 30th day of June, unless otherwise specified in the approval'.
 - (z) section 9, definition **contact person**, 'section 4(g)'—
omit, insert—
'section 4(f)'.
 - (aa) section 9, '**contact person**'—
omit, insert—
'**approval**'.
- C. Note that each of Administration (Amendment) Local Law (No. 1) 2021 and Administration (Amendment) Subordinate Local Law (No. 1) 2021 contain anti-competitive provisions;
- D. Having considered the content of the public interest test report in relation to anti-competitive provisions contained in each of Administration (Amendment) Local Law (No. 1) 2021 and Administration (Amendment) Subordinate Local Law (No. 1) 2021, in Attachment 7, note the content of the report and implement the recommendations of the report;
- E. Adopt, pursuant to section 32 of the Local Government Act 2009:
- (a) a consolidated version of Noosa Shire Council Local Law No. 1 (Administration) 2015 in the form in Attachment 8; and
 - (b) a consolidated version of Subordinate Local Law No. 1 (Administration) 2015 in the form in Attachment 9;
- with a commencement date of 1 February 2022;
- F. Fund the additional costs for 2021/22 year for implementation, administration and resource requirements of the short stay letting and home hosted accommodation local law through budget review, including:
- (a) two additional (2) temporary full time local laws assessment and compliance officers for a term of 3 years (including one vehicle);
 - (b) establishment of an external 24/7 complaints hotline; and
 - (c) engagement of after-hours security services to observe and record activity at properties when required;
- G. Waive application fees for the 2021/2022 financial year and refer the review of funding options and fee structure to the 2022/23 budget process;
- H. Prepare a dedicated Council webpage including a local laws approval register and prepare a "good management of short stay letting" guide;
- I. Authorise the CEO to make minor amendments to the documents.
-

REPORT

The purpose of this report is to present final amendments to Noosa Shire Council Local Law No. 1 (Administration) 2015 and Subordinate Local Law No. 1 (Administration) 2015 for adoption to introduce a new prescribed activity for short stay letting and home hosted accommodation. For the purpose of this report, these amendments are collectively referred to as “the proposed local law”.

For the purpose of clarity, the local law does not address where short stay accommodation activities can occur. That is the role of the planning scheme. The local law addresses how the impacts of short term accommodation properties can be better managed.

1. Background

During October – November 2019, Council undertook public consultation regarding a first draft of the proposed local law for a period of three (3) weeks. 574 submissions were received which identified a range of issues relevant to both the proposed local law and the then draft Noosa Plan 2020.

The proposed local law was put on hold following public consultation pending the outcome of a State wide approach to managing short stay letting by the State government. With the advent of Covid-19 however, the government’s priorities changed and the matter continues to be on hold.

As part of Council’s adoption of Noosa Plan 2020, Council again resolved to complete and introduce the proposed local law.

At its meeting on 18 March 2021, Council resolved to undertake a second round of public consultation on a revised version of the proposed local law, introducing a new prescribed activity for short stay letting and home hosted accommodation.

The revised version of the proposed local law responded to a number of key issues raised during the first round of public consultation as well as legal advice, stakeholder engagement and staff review.

2. Proposed local law

2.1 Proposed local law purpose

The purpose of the proposed local law is to regulate the ongoing operation of short stay letting and home hosted accommodation to manage the negative impacts on residential amenity and guest safety.

The proposed local law requires all properties undertaking short stay letting or home hosted accommodation to obtain a one-off approval which will be the subject of annual renewal. Properties must be lawful under accepted development requirements under Noosa Plan 2020, have a development approval or lawful existing use rights.

Exemptions from the proposed local law are limited to sites identified in Noosa Plan 2020 as visitor only, Hastings Street Mixed Use Precinct, hotels, motels, backpackers and traditional holiday homes used by its owners and not short term let for commercial gain.

A local contact person must manage the short stay let property, be available 24/7, be located within 20 minutes travel time and respond to complaints within 30 minutes. A guest and complaints register must be maintained.

Conditions of approval include a code of conduct for guest behaviour and use of the premises must not detrimentally affect residential amenity including noise, overlooking and light spill and public liability insurance is required. Under the code of conduct, guests must not display unacceptable behaviour, vehicles must be stored to not cause a nuisance, pets and waste must be managed, grounds kept tidy and sleeping or camping in a tent or caravan on site is not permitted.

The procedure for making complaints requires a complainant to call the contact person responsible for the property and the contact person must respond to the complaint within 30 minutes and keep a complaints register.

Complaints are elevated to Council where there are ongoing issues or there are breaches against the local law approval conditions. Investigation and enforcement action is undertaken in accordance with the provisions under Local Law No.1 (Administration) 2015.

2.2 Public consultation about the proposed local law

The proposed local law, together with the public interest test plan (about anti-competitive provisions), was initially made available for public consultation for a 5 week period from 9 April until 14 May 2021. In response to resident requests and a petition, the consultation period was extended for another 2 weeks until 28 May 2021 for a total 7 week period.

During the consultation period, public notification and information was provided through a number of means including a public notice, advertisements, media releases, static displays, Yoursay Noosa webpage, social media, radio announcements, emails, letter notifications and a community / resident group stakeholder meeting. Section 10.3 to this report provides additional information regarding the public consultation process.

2.3 Public consultation results

The public consultation process resulted in a large number of enquiries and actions including:

- 110 emails enquiries;
- 150 telephone enquiries;
- 5700 visits to Yoursay page;
- 4021 visits to at least one page in Yoursay;
- 1174 persons downloaded documents;
- 594 visited FAQs;
- 979 downloads of Fact Sheet on short stay letting;
- 445 downloads of Plain English version;
- 443 downloads of Fact Sheet on home hosted accommodation; and
- 37,284 people were reached from social media posts.

A total of 615 written submissions were received from a range of stakeholders including:

- 300 resident submissions;
- 2 resident petitions:
 - Witta Circle -22 properties
 - Extension request-52 signatures;
- 6 resident / community group submissions;
- 66 home hosted accommodation operator submissions;
- 163 short stay let operator submissions:
 - 1 legal submission for 54 properties / owners;
- 23 letting agents / property manager submissions;
- 8 onsite manager submissions;
- 1 short stay letting industry association submission;
- 2 online booking platform provider submissions;
- 37 site/area specific submissions:
 - 7 Parkridge
 - 12 Boreen Pt
 - 18 Teewah; and
- 7 other submissions.

3. Key issues from submissions

The key issues raised in the written submissions are summarised by stakeholder group with a response in Attachment 5. Issues raised in the submissions have resulted in a number of recommendations, including minor changes to the proposed local law and a number of actions outside of the local law with regard to complaints management, public information and operator education.

4. Summary of changes and other actions

A summary of the recommended changes are outlined below.

4.1 Changes to proposed local law

The following changes are proposed to the proposed subordinate local law in response to a range of stakeholder issues. Changes are shown as tracked changes in Attachment 2 and summarised below:

- remove the exemption from Parkridge;
- require additional information on the site plan to include adjoining windows and door openings, outdoor entertainment areas and vehicle parking;
- amend the contact person location to be within a 20km radius of the property;
- include security firms as a contact person option;
- rename the contact person notice to a standardised approval notice sign including complaints number and approval number;
- include boats, trailers, jet skis and the like as part of vehicle management;
- include reference to amenity impacts on adjoining dwellings;
- require confirmation the building is lawfully constructed and classified for its purpose under the Building Act 1975;
- include a 2 year time frame for keeping of registers;
- clarify waste management where no kerbside collection exists; and
- make other minor editorial and clarification changes.

4.2 Changes to complaints process

Overwhelmingly, resident and resident / community groups (and some short stay let operators) requested greater involvement by Council in the complaints management process including requests for a 24/7 complaints hotline, centralised complaints register and security services.

4.2.1 Centralised 24/7 complaint hotline and register

It is recommended Council establish a centralised 24/7 complaints hotline and register of complaints to remove any interaction or contact between the complainant and contact person. This approach will have a number of benefits for all stakeholders including:

- privacy, anonymity and security for resident / complainant to make a complaint;
- privacy for the contact person's details;
- a clear process for complaints management controlled by Council;
- an independent and centralised method of complaints recording to be cross checked with contact person records;
- a record of non-compliance where the contact person does not respond or manage a complaint.

The complaints hotline will:

- be operated by an external trained call centre provider;

- be managed by the Short Stay Local Laws team within the Development Assessment branch;
- be available 24/7;
- receive and record complaints;
- notify the contact person responsible for the property of the complaint;
- record the action undertaken by the contact person;
- notify the complainant of action taken; and
- maintain a centralised register of complaints reported to the Short Stay Local Laws team for action.

Under the provisions of the proposed local law, the contact person must respond within 30 minutes of receiving the complaint. The complaint hotline will attempt to notify the contact person 3 times over a 30 minute period.

Where the contact person fails to be contacted within 30 minutes and / or no action is taken to remedy the complaint, this will be recorded and reported to Council for further compliance action.

Note: The contact person must still maintain their own register of complaints in accordance with the proposed local law requirements.

4.2.2 Security

When Council resolved to undertake public consultation about the proposed local law, Council also resolved to investigate incorporating a Council employed security firm replicating the Mornington Peninsula model.

Mornington Peninsula approach

Mornington Peninsula's local law requires registration of all short stay let and home hosted accommodation properties; a contact person to manage the property and deal with complaints; and guests to adhere to a code of conduct.

During the first three years of implementation of the local law, Mornington used security services to patrol, observe and take evidence of non-complying properties on Friday and Saturday nights between 10pm – 2am and during peak periods. Security did not enter a property nor take any intervention, reporting their observational findings the following business day to Council.

Rather than roaming security patrols, Mornington are now trialling the deployment of security on an as needs basis to 10-20 identified problem properties. Residents contact security directly 24/7 and security notify the contact person of the complaint and observe and take evidence only and report to Council for action the following business day.

Security options for Noosa

Two options have been considered for the use of after hours security service to support the proposed local law.

Option 1 - On-site intervention

The on-site intervention approach involves a 3rd party security firm responding to and resolving a complaint at the property in the absence of the nominated contact person dealing with it.

This approach requires substantial amendments to the proposed local law to authorise a 3rd party to act on Council's behalf, including required qualifications, extent and limitations of power and conditions in which they operate, identity cards, offences and matters of liability and insurance.

State agency referral and further public consultation would also be required.

There is potential for additional legal, state agency and community issues to be raised with the approach, potentially further delaying the process. Any further delays will likely result in some level of negative response from stakeholders and loss of trust in the local law making process.

In addition, scope to exercise powers under the local law are restricted by the rights of an occupier to not permit the security officer on site and the inability to enter a private property with a locked

gate. This limitation would reduce the effectiveness of onsite intervention. There is also a regulatory / compliance risk of security overstepping boundaries and limitations of the local law which may result in privacy and trespassing issues and other legal and liability concerns.

Council's normal enforcement policy is one of warning first then compliance action second. Security entry on a property may seem a heavy handed approach by operators and guests. This may lead to conflict and personal risk to the security guard.

Noosa's reputation as a tourist friendly place may be tarnished with a heavy handed onsite security intervention approach. There is also a risk 3rd party security may not meet resident / community expectations or standards of Council.

Whilst real time resolution of complaints is a desirable outcome, the potential risks associated with major delays in progressing the proposed local law, further State and public consultation and reputational and liability exposure to Council by using a 3rd party, far outweighs the benefits.

Option 2 - Off-site observation and reporting

Option 2 limits the use of security to off-site observation and reporting with no intervention at the property. This is a similar approach to Mornington Peninsula and requires no changes to the proposed local law. Notwithstanding this, being a 3rd party, the role and limitations of the security's service would need to be very clear.

The liability and reputational risks of this approach to Council and to Noosa as a holiday destination are low. With no onsite intervention or engagement with guests, any potential privacy, trespassing, liability or conflict is avoided.

Therefore the effectiveness of this approach should be trialled with the introduction of the proposed local law and complaints hotline to determine its effectiveness for a 12 month period.

It is proposed the security services would:

- be provided by an external security firm;
- be available after hours (between 9pm – 2am);
- be dispatched on an as needs basis at the request of Council or the complaints hotline;
- observe offsite and record evidence;
- provide a report on observations to the complaints hotline and Council.

Option 2 is the recommended approach.

4.3 Enforcement

For clarity, Council's enforcement powers and compliance process sits within Local Law No.1 (Administration) 2015. The following actions may be undertaken in any enforcement action.

A compliance notice can be issued for non-compliance with the local law being evidence of:

- operating without an approval;
- contact person requirements not met, including acting within 30 minutes of receiving a complaint;
- conditions of approval not met:
 - no approval notice sign;
 - residential amenity impacts;
 - causing a nuisance including noise nuisance and disturbance;
 - vehicles causing a nuisance;
 - camping on site;
 - public liability insurance;

- waste management;
- record keeping;
- code of conduct for guest behaviour not met:
 - detrimentally affecting residential amenity;
 - causing a nuisance including noise nuisance;
 - displaying unacceptable behaviour;
 - camping on site;
 - pet management;
 - waste management; and
 - untidy grounds.

Fines can be issued where the compliance notice is not complied with (5 penalty units) or when the contact person does not respond to a complaint more than once in one period of stay.

A show cause notice can be issued proposing a suspension or cancellation of the approval when a compliance notice is not complied with or for continuous unattended non-compliance issues.

In addition, an approval is only valid for 12 months and may not be renewed where there are recurring compliance matters.

4.4 Supporting information and education

There are a number of advisory and guidance matters that sit outside the scope of the proposed local law that will assist operators in meeting the local law requirements. A “good management of short stay letting and home hosted accommodation guide” and factsheets will be prepared. Training opportunities for operators could also be investigated with the REIQ. The guide will cover the following topics, as a minimum, below:

How to meet conditions of approval

- Choosing a suitable contact person
- Safety of property and guests and public liability insurance
- Liaising with neighbours and body corporates

Role of contact person / property manager

- Obligations and requirements under conditions of approval
- Meeting and greeting guests
- Code of Conduct for Guest Behaviour
- Keeping of guest register
- Eviction of problem guests and monetary bond options

Complaints management

- Responsibility and response by contact person
- Distance from property and response time
- Dealing with and resolving a complaint
- Complaints record keeping

Mitigating residential amenity impacts

- Location and orientation of outdoor areas
- Lighting and noise mitigation measures

- Limiting hours and use of outdoor areas and pools
- Limiting occupancy and avoiding overcrowding
- Environmental matters – rubbish and recycling, air-conditioning, protection of dunes, public access to beaches etc.
- Car parking and vehicle storage
- Pet management – pets left unattended

4.5 Public information, advocacy and ongoing consultation

A dedicated Council webpage on the proposed local law will be developed with information including an approvals register, complaints procedure, complaints hotline number, application forms, factsheets and the good management guide.

Staff will continue to liaise with the LGAQ and REIQ around short stay letting and advocate for training and regulation in the short stay letting industry.

A multi-interest stakeholders group will be setup following a period of implementation.

5. Implementation – resources requirements and costs

A number of new resources and tasks will be required to implement the proposed local law. It is estimated approximately 3600+ applications for short stay letting and 150+ applications for home hosted accommodation will be lodged under the proposed local law.

A 3-month preparation phase following Council's adoption of the proposed local law, and prior to its commencement, is required to ensure the necessary new internal team resources, external call centre and security resources, systems and processes are in place.

A start date of 1 February is proposed following the peak tourist period. This will allow for a smoother transition for both the short stay let industry and home hosts, allowing for the necessary applications to be made under the proposed local law and adjustments to the new requirements. 3 months is necessary to achieve the greatest success for the local law's implementation and change management processes to take place.

5.1 Internal resource requirements

The first 3 years will require the greatest resource requirements to manage the one-off applications and change management process. Resource requirements are expected to decrease after this initial 3 year period for the ongoing implementation and administration of the local law.

The initiation and implementation phase will require new internal Council systems, processes and webpage setup and staff training. External communications, media and promotion of the commencement of the proposed local law will also be required.

A dedicated Council short stay local laws team will need to be trained and established to administer the proposed local law. Staff resource requirements are:

- one (1) full time administration officer;
- one (1) full time local laws assessment and compliance officer;
- two (2) temporary (for 3 years) full time local laws assessment and compliance officers;

Both full time positions are already funded in the 2021/22 budget, with additional resource funding only required for the two (2) temporary positions.

It is also recognised that the timing of peak workloads for processing initial applications during the first three years of implementation may vary depending on time taken for property owners to submit applications. Consequently, to ensure timely processing of applications Council will require a degree of flexibility in engaging the two temporary positions over the identified three year period (i.e. more resource in first year and less in year three).

Supporting equipment including a vehicle, desks, computers and noise monitors will also be required. Estimated costs per annum average are:

- Years 1-3: \$340k
- Year 4 onwards: \$166k

5.2 External resource requirements

External resources will be required for the 24/7 complaints hotline and afterhours security services. Briefs will be drafted and services will be engaged consistent with Council's Procurement Policy.

24/7 complaints hotline

It is anticipated complaints will be highest during weekends and holiday peak periods and greater during the first 3 years of implementation, then will decrease over time. The 24/7 complaints hotline will require an ongoing funding commitment.

Estimated costs per annum, assuming higher demand during the first three-years of implementation, are:

- Years 1-3: \$78k
- Year 4 onwards: \$40k

Security services – 12 months trial

External security services will be engaged for afterhours 9pm-2am on a trial basis for 12 months. If the security services are effective in supporting compliance measures under the local law, the services may be extended requiring ongoing funding commitment.

Costs

- Year 1: \$79k
- Years 2 onwards: to be confirmed (TBC)

6. Finance and funding

Forecast Operating Costs

The table below summarises the forecast operating costs for the next five financial years, based on initial assumptions of peak demands during first three years for implementation and one-off applications.

Item (\$'000)	2022	2023	2024	2025	2026
Staff Resource	\$ 375	\$409	\$254	\$ 177	\$ 180
Plant Hire	\$ 11	\$ 11	\$ 11	\$ 11	\$ 11
Call Centre	\$ 76	\$ 78	\$ 55	\$ 40	\$ 41
Security Services	\$ 78	\$ 79	\$ 61	\$ 41	\$ 42
Marketing & Communications	\$ 15	\$ 5	\$ 5	\$ -	\$ -
Legal Fees	\$ 30	\$ 31	\$ 31	\$ 21	\$ 21
Equipment	\$ 7	\$ -	\$ -	\$ -	\$ -
Corporate Overheads	\$ 88	\$ 96	\$ 60	\$ 41	\$ 42
Total Costs	\$ 680	\$ 709	\$ 477	\$ 332	\$ 338

Funding Options

The current 2020/21 budget includes funding for two permanent staff and corporate overheads.

There are a number of options available to Council to recover any additional temporary staff resourcing, marketing, call centre and security costs associated with implementing the local law. This may include a combination of application fees, renewal fees, fines and general rating revenue.

However, no changes to fees and charges are proposed for the remainder of the 2021/22 year and as a result no charge will be applicable for any application submitted from commencement on 1 February 2022 through to 30 June 2022.

This approach promotes change management and proactive submission of applications by property owners, as well as recognising the current uncertain economic conditions with the COVID-19 pandemic.

7. Statutory process and obligations

The proposed local law has been prepared and made available for public consultation following *Council's Local Law Making Policy* and requirements under the *Local Government Act 2009*.

Consultation

Consultation on Administration (Amendment) Local Law (No.1) 2021 was undertaken with State agencies in accordance with the requirements of the *Local Government Act 2009* and *Council Local Law Making Policy*. Refer to section 10.1 of this report.

Consultation on Administration (Amendment) Local Law (No.1) 2021, Administration (Amendment) Subordinate Local Law (No.1) 2021 and the Public Interest Test Plan was undertaken for an extended period of 7 weeks.

A number of changes are recommended to the proposed local law in response to submissions. The proposed changes are not substantial and no further public consultation is warranted.

Adoption and commencement

Contemporaneously with, but immediately after, Council's adoption of the proposed local law, a consolidated version of each of Noosa Shire Council Local Law No. 1 (Administration) 2015 and Subordinate Local Law No. 1 (Administration) 2015 which incorporate, relevantly:

- (a) the amendments detailed in each of the amending local law in Attachment 3 and the amendment particularised in Recommendation A; and
- (b) the amendments detailed in each of the amending subordinate local law in Attachment 4 and the amendments particularised in Recommendation B,

should be adopted by Council.

Promptly after Council resolves to make each of the proposed local law and the proposed subordinate local law, a notice will be placed in the government gazette, on Council's website and in a local newspaper. The commencement date for each of the proposed local law and the proposed subordinate local law will be 1 February 2021. The Minister will also be notified and provided with a certified copy of each of the proposed local law and the proposed subordinate local law, together with consolidated versions of each of Noosa Shire Council Local Law No. 1 (Administration) 2015 and Subordinate Local Law No. 1 (Administration) 2015.

Local Government Regulation 2012 and the National Competition Policy -Public Interest Test Plan

The proposed local law contains anti-competitive provisions requiring compliance with the procedures under section 15 of the *Local Government Regulation 2012* and the *National Competition Policy*. A list of likely anti-competitive provisions was compiled and a Public Interest Test Plan was publicly notified during the consultation period.

Council is obliged to undertake a public interest test in relation to these anti-competitive provisions during the local law making process.

The public interest test report in Attachment 7 provides the results of the public interest test. It is informed by a detailed economic cost benefit analysis prepared by economic consultants AEC.

Council's public interest test plan identifies regulatory and non-regulatory alternatives which may achieve the purpose of the regulation of the prescribed activity of the operation of short stay letting and home hosted accommodation under the proposed local law. Of the identified alternatives, only 2 alternatives were chosen for further consideration, co-regulation and negative licensing.

Under co-regulation, the “rules” are drafted in close consultation and cooperation with affected parties. The advantage of this approach is that a higher level of compliance with the rules can be expected because those who are affected by the rules have agreed to them.

Under the negative licensing alternative, there is no requirement to first obtain an approval to enter the relevant market. The presumption in this regime is that operators are prepared to play by the rules if they know what the rules are and whilst operators are charged a token fee for certification that their operations comply with standards, the expectation is that operators who wilfully fail to comply are fined heavily and immediately, and that complaints are responded to swiftly and forcefully.

Under a negative licensing regime, the local law would be amended to remove the requirement to hold an approval. The local law would specify a range of generic standards which must be complied with in relation to the conduct of the prescribed activity.

The public interest test report in Attachment 7:

- (a) identifies positive and negative impacts on stakeholders from moving to the alternatives (which were chosen for further consideration) identified in the public interest test plan; and
- (b) contains an analysis of the costs and benefits of moving to the identified alternatives; and
- (c) concludes that, overall, the analysis of the costs and benefits of moving to the co-regulation alternative has determined that there would be a negligible net benefit in moving to a co-regulation regime;
- (d) concludes that, overall, the analysis of costs and benefits of moving to the alternative of negative licensing has determined that there would be a net cost in moving to a negative licensing regime.

The public interest test report concludes that the identified anti-competitive provisions should be retained in full in the public interest, because:

- (a) the benefit of these provisions to the community as a whole outweighs the cost; and
- (b) the most appropriate way of achieving the objectives of the proposed local law is by restricting competition in the way provided in the provisions, having regard to Council’s duty of good rule and local government in its local government area.

Human Rights Act 2019

In developing the proposed local law, the subject matter has been considered in accordance with the requirements of the *Queensland Human Rights Act 2019*. It is considered that the proposed local law justifiably limits certain property rights, right to liberty and right to privacy for the following reasons.

Property rights

As the local government authority, Council is authorised to make local laws under the *Local Government Act 2009* to regulate the use of land including limiting a property owner’s use of a premises and the behaviour of its occupants to protect the safety of occupants, rights of other property owners, residential amenity, community standards and values.

Right to liberty

A code of conduct for guest behaviour is justified to establish acceptable behaviours and parameters for use of the property to reduce the impacts on residential amenity and the right for residents to quiet enjoyment of their home.

Right to privacy

A nominated contact person’s details are required to ensure any complaints are dealt with in a timely manner to ensure the residential amenity is maintained for residents.

Investigations and gathering of evidence is required to ensure both property owners and resident complaints regarding compliance are fairly addressed. A public register of approvals provides transparency within the community regarding lawful use of properties.

8. Previous Council Consideration

Ordinary Meeting Minutes 18 March 2021, Item 5, Page 14

PROPOSED LOCAL LAW AMENDMENT – SHORT STAY LETTING – REVISED VERSION FOLLOWING PUBLIC CONSULTATION

That Council note the report by the Principal Strategic Planner to the Planning & Environment Committee Meeting dated 9 March 2021 and:

- A. *Resolve to make:*
 - 1. *Administration (Amendment) Local Law (No. 1) 2021 as contained in Attachment 1; and*
 - 2. *Administration (Amendment) Subordinate Local Law (No.1) 2021 as contained in Attachment 2;*
- B. *In accordance with Council's Local Law Making Policy, further consult with the public about the revised versions of Administration (Amendment) Local Law (No.1) 2021 and Administration (Amendment) Subordinate Local Law (No.1) 2021;*
- C. *Pursuant to section 257 of the Local Government Act 2009, delegate to the Chief Executive Officer its powers under section 38 of the Act and section 15 of the Local Government Regulation 2012 to decide—*
 - 1. *how the public interest test of Administration (Amendment) Local Law (No. 1) 2021 contained in Attachment 1 and Administration (Amendment) Subordinate*
 - 2. *Local Law (No. 1) 2021 contained in Attachment 2 is to be conducted; and*
 - 3. *the matters with which the public interest test report in relation to the local law and subordinate local law must deal; and*
 - 4. *the consultation process for the public interest test and how the process is to be used in the public interest test;*
- D. *Approve the complaints procedure contained in Attachment 4 for the purpose of providing a plain English explanation of the process for dealing with complaints;*
- E. *Refer the resource requirements for implementing the local law and proposed fees structure for applications and annual renewals to the FY2021/22 budget process;*
- F. *Allow resident letting agents for on-site managed complexes the ability to submit one application form for their entire letting pool, with the fees applied per property within the letting pool;*
- G. *Authorise the CEO to make minor amendments to the documents prior to public notification;*
- H. *That the CEO investigate incorporating a Council employed security firm replicating the Mornington Peninsula model.*

Special Meeting Minutes 16 July 2020, Item 1, Page 7

NOOSA PLAN 2020 – PRESENTED FOR ADOPTION AND IMPLEMENTATION FOLLOWING MINISTERIAL APPROVAL

That Council note the report by the Director Environment & Sustainable Development to the Special Meeting dated 16 July 2020; and

- A. *Adopt the Noosa Plan 2020 as amended as a result of State Interest Review and Ministerial Conditions, as per attachments 2 – 22 of the report;*
- B. *Set a date of 31 July 2020 for commencement of the new scheme;*

- C. *Authorise the CEO to make any minor amendments necessary to the Noosa Plan 2020 prior to commencement;*
- D. *Publicly notify adoption of the scheme in accordance with requirements of the Planning Act;*
- E. *Provide the Chief Executive of Department State Development, Manufacturing, Infrastructure and Planning a copy of the public notice;*
- F. *Initiate a process to monitor over a two year period the effectiveness of the provisions in the Noosa Plan 2020 with regard to industrial land and industry precincts to ensure the provisions meet the objective of enabling the changing nature of businesses including increased diversity in key sectors and provision for multi-purpose flexible work;*
- G. *Provide a report back to Council on this monitoring program including any associated recommended amendments to the Noosa Plan;*
- H. *Monitor over the next 2 years the effectiveness of the provisions of the Noosa Plan 2020 in enabling the delivery of housing choice and affordability to meet the diverse needs of the community, specifically housing for those in our community on low incomes, with special needs or in identified groups in need of community and affordable housing;*
- I. *Provide a report back to Council on this monitoring program including any associated recommended amendments to the Noosa Plan to strengthen the provisions towards these outcomes; and*
- J. *Complete and introduce a Local Law for Short term letting, including the associated code of conduct to regulate short term letting.*

Special Meeting Minutes 12 September 2019, Item 2, Page 6

PROPOSED LOCAL LAW AMENDMENTS – SHORT STAY LETTING

That Council note the report by the Planner to the Special Meeting dated 12 September 2019 regarding Proposed Local Law Amendments – Short Stay Letting and:

- A. *Propose to make:*
 - 1. *Administration (Amendment) Local Law (No. 2) 2019 as provided at Attachment 1; and*
 - 2. *Administration (Amendment) Subordinate Local Law (No. 2) 2019 as provided at Attachment 2;*
- B. *In accordance with Council's Local Law Making Policy:*
 - 1. *Consult with relevant government entities about the overall State interest in Administration (Amendment) Local Law (No. 2) 2019 in accordance with the Local Government Act 2009 ("the Act"), section 29A(3) and delegate authority to the Chief Executive Officer to make changes in response to State comments; and*
 - 2. *Consult with the public about Council's proposal to make Administration (Amendment) Local Law (No. 2) 2019 and Administration (Amendment) Subordinate Local Law (No. 2) 2019;*
- C. *Pursuant to section 257 of the Act, delegate to the Chief Executive Officer its powers under section 38 of the Act and section 15 of the Local Government Regulation 2012 to decide—*
 - 1. *How the public interest test of Administration (Amendment) Local Law (No. 2) 2019 contained in Attachment 1 and Administration (Amendment) Subordinate Local Law (No. 2) 2019 contained in Attachment 2 is to be conducted; and*
 - 2. *The matters with which the public interest test report in relation to the local law and subordinate local law must deal; and*
 - 3. *The consultation process for the public interest test and how the process is to be used in the public interest test;*

- D. *Waiver the proposed application fee for a short stay letting approval under the proposed Local Law for a period of 6 months starting from the date of commencement of the Local Law for short stay letting.*
- E. *Authorise the CEO to make minor amendments to the documents prior to public notification.*

9. Risks & Opportunities

The proposed local law provides an opportunity to better manage the ongoing operation of short stay letting and home hosted accommodation with a standard set of rules for the safety of guests, management of the property, complaints resolution and guest behaviour. Should the proposed local law not proceed, the ongoing operation of short stay letting and home hosted accommodation will continue unregulated with further risk of impacting the residential amenity of permanent residential areas and guest safety.

The proposed local law has undergone 2 rounds of public consultation. Specific legal matters identified in submissions have been addressed and changes made where required. Additional changes are proposed to the proposed subordinate local law and the complaints management approach in response to additional public submissions. The proposed local law has undergone extensive legal review and is consistent with the legislative principles and local law making requirements under the *Local Government Act 2009*.

Notwithstanding this, there is a risk short stay let and home hosted accommodation operators will respond negatively to the introduction of the proposed local law and may not voluntarily respond to the approval requirements and continue to operate contrary to the local law requirements.

This may also place an additional financial burden on Council in the initial 2-3 years of implementation until costs to Council are fully covered.

10. Consultation

10.1 State government consultation

Consultation with 23 State government agencies was undertaken on Administration (Amendment) Local Law (No.1) 2021 for a period just over of 3 weeks from 21 January until 13 February 2021. The outcomes of this consultation was discussed in the Planning & Environment Committee Meeting Report of 9 March 2021.

Whilst Council was not obliged to consult with state agencies on the content of the subordinate local law, it was forwarded to SDILGP and Building Services for comment during the public consultation period. No comments were received.

10.2 Stakeholder consultation on revised draft local law

Prior to public notification, consultation was undertaken with a targeted stakeholder group of six industry representatives including holiday letting agents, onsite managers and the Noosa Short Term Accommodation Association (NSTAA).

During the public consultation period relevant resident /community groups were invited to a stakeholder meeting. Representatives from the following groups accepted the invitation and attended:

- Noosa Waters Residents Association
- Noosa Residents and Rate Payers Association
- Cootharaba & Community Association
- Residents Against Unregulated Short Term Rental Accommodation
- Hastings Street Association

10.3 Public consultation

As noted in section 2.2, public consultation was undertaken for a 7 week period. The results of the consultation are outlined in section 2.3. Key issues and responses are outlined in Attachment 5 and the proposed changes summarised in section 4. The following table outlines the extent of public consultation activities undertaken.

Consultation activity	Extent
Public consultation period	7 weeks - 9 April – 28 May 2021
Formal public notice	Noosa Today 9 April 2021
Advertisements	Noosa Today 5 x weekly advertisements; Cooroy rag 1 x advertisement; Your Lifestyle 1 x advertisement
Static displays Tewanin Chambers & Pelican Place	Draft local laws; plain English version; FAQs & 3 x factsheets; Public Interest Test Plan; complaints procedure flowchart; Short Term Accommodation guide & Home Hosted Accommodation NP2020 guide.
Yoursay webpage	Draft local laws, plain English version, FAQs & 3 x factsheets, Public Interest Test Plan, complaints procedure flowchart, Council Report, Short Term Accommodation guide & Home Hosted Accommodation NP2020 guide.
Media Releases	Noosa Today, Council eNews – 3500 subscribers, Economic Development eNews
Mayoral columns	Mayor weekly video x 2 & Mayor monthly columns –Eastern Beaches News, Cooroy Rag, Noosa Today
Social media	Facebook x 5 posts, boosted and location targeted 4 days, Instagram x 1, LinkedIn x 2
Radio campaign	Hot 91, & Zinc – 15 seconds over 2 weeks
Factsheets	Home hosted accommodation; Short stay letting; Contact person, complaints and enforcement; Frequently asked Questions; Complaints Procedure Flowchart.
Email / letter notification	20 community /resident groups; 46 real-estate / property managers; 51 development industry; 50 onsite resort managers; 25 business associations; 819 former submitters; 4300 properties paying tourism levy; 800 properties suspected of STL
Community / resident stakeholder meeting	Attendees: Noosa Waters Residents Association; Noosa Residents & Rate Payers Association; Cootharaba & Community Association; Residents Against Unregulated Short Term Rental Accommodation; Hastings St Associations

10.4 Internal Consultation

Consultation has been undertaken internally across Council departments with Local Laws, Development Assessment, Economic Development, Strategic Planning, Governance, Customer Service, Community Engagement, Building & Plumbing Services, Financial Services, ICT, Revenue Services and the Chief Executive Officer in the preparation and finalisation of the proposed local law.

Four Councillor workshops were held, two prior to public consultation and two following public consultation. An online meeting was also held for Councillors with the Local Laws officer from Mornington Peninsula Council.

Departments/Sections Consulted:

Chief Executive Officer
Executive Officer
Executive Support

Community Services
Director
Community Development
Community Facilities
Libraries & Galleries
Local Laws
Waste & Environmental Health

Corporate Services
Director
Financial Services
ICT
Procurement & Fleet
Property
Revenue Services

Executive Services
Director
Community Engagement
Customer Service
Governance
People and Culture

Environment & Sustainable Development
Director
Building & Plumbing Services
Development Assessment
Economic Development
Environmental Services
Strategic Land Use Planning

Infrastructure Services
Director
Asset Management
Buildings and Facilities
Civil Operations
Disaster Management
Infrastructure Planning,
Design and Delivery

Attachment 1



Noosa Shire Council

Administration (Amendment) Local Law (No. 1) 2021



*Noosa Shire Council
Administration (Amendment) Local Law (No. 1) 2021
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Noosa Shire Council Administration (Amendment) Local Law (No. 1) 2021

Part 1 Preliminary

1. Short title

This local law may be cited as *Administration (Amendment) Local Law (No. 1) 2021*

1A Commencement

Part 2 commences on 1 February 2022.

2. Purpose

The purpose of this local law is to amend *Noosa Shire Council Local Law No. 1 (Administration) 2015*.

Part 2 Amendment of Noosa Shire Council Local Law No. 1 (Administration) 2015

3. Local law amended

This part amends *Noosa Shire Council Local Law No. 1 (Administration) 2015*.

4. Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definition *shared facility accommodation*—

omit, insert—

'shared facility accommodation—

- (a) means accommodation occupied or available for occupation by residents, in return for payment, on the basis of residents sharing 1 or more of the following facilities—
- (i) dormitories or bedrooms;
 - (ii) toilets;
 - (iii) bathrooms, showers or other bathing facilities;
 - (iv) laundries;
 - (v) dining facilities;
 - (vi) cooking facilities;
 - (vii) recreation facilities; but
- (b) does not include any of the following—

*Noosa Shire Council
Administration (Amendment) Local Law (No. 1) 2021*

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-
- (i) short stay letting;
 - (ii) home hosted accommodation;
 - (iii) accommodation in a hotel;
 - (iv) accommodation in a motel.’.
- (2) Schedule 1—
- insert—*
- ‘*short stay letting* —
- (a) means the provision, or making available, of premises for use by 1 or more persons, other than the owner of the premises, for less than 3 consecutive months; but
 - (b) does not include any of the following—
 - (i) shared facility accommodation;
 - (ii) home hosted accommodation;
 - (iii) accommodation in a hotel;
 - (iv) accommodation in a motel;
 - (v) backpacker accommodation.
- home hosted accommodation* means the provision, or making available, of premises—
- (a) for use by 1 or more persons (each an *occupant*), other than the owner of the premises, for less than 3 consecutive months; and
 - (b) which comprise—
 - (i) a habitable room at residential premises, for example, a bedroom, studio or cabin; or
 - (ii) bed and breakfast style accommodation; and
 - (c) where the person in charge of the premises resides at the premises whilst the occupant uses the premises.’.
5. Amendment of sch2 (Prescribed activities)
- (1) Schedule 2 part 1, after ‘undertaking regulated activities on local government controlled areas and roads’—
- insert—*
- ‘operation of short stay letting or home hosted accommodation’.
- (2) Schedule 2, part 2, definition *operation of shared facility accommodation*—
- omit, insert—*
- ‘*operation of shared facility accommodation* means the provision of shared facility accommodation to holiday makers or travellers, but does not include any of the following—
- (a) short stay letting;
 - (b) home hosted accommodation;

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Administration (Amendment) Local Law (No. 1) 2021
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- (c) accommodation in a hotel;
- (d) accommodation in a motel.’
- (3) Schedule 2, part 2, after the definition for the prescribed activity ‘*undertaking regulated activities on local government controlled areas and roads*’—
insert—
‘*operation of short stay letting or home hosted accommodation* means the provision, or making available, on a commercial basis, of short stay letting or home hosted accommodation.’.

This and the preceding 4 pages bearing my initials is a certified copy of *Administration (Amendment) Local Law (No. 1) 2021* made in accordance with the provisions of the *Local Government Act 2009* by Noosa Shire Council by resolution dated the 21 day of October 2021.

.....
Chief Executive Officer

1118862_1

Attachment 2



Noosa Shire Council

Administration (Amendment) Subordinate Local Law (No. 1) 2021

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Noosa Shire Council Administration (Amendment) Subordinate Local Law (No. 1) 2021

Part 1 Preliminary

1. Short title

This subordinate local law may be cited as *Administration (Amendment) Subordinate Local Law (No. 1) 2021*.

1A Commencement

Part 2 commences on 1 February 2022.

2. Purpose

The purpose of this subordinate local law is to amend *Subordinate Local Law No 1 (Administration) 2015*.

3. Authorising local law

The making of the provisions of this subordinate local law is authorised by *Noosa Shire Council Local Law No.1 (Administration) 2015*.

Part 2 Amendment of Subordinate Local Law No. 1 (Administration) 2015

4. Subordinate local law amended

This part amends *Subordinate Local Law No. 1 (Administration) 2015*.

5. Insertion of new sch 21A —Operation of short stay letting or home hosted accommodation

After schedule 21—

insert —

'Schedule 21A Operation of short stay letting or home hosted accommodation

Section 11

1 Prescribed activity

Operation of short stay letting or home hosted accommodation.

2 Activities that do not require approval under the authorising local law

An approval is not required in respect of the undertaking of the prescribed activity if the prescribed activity is undertaken at any of the following

premises —

- (a) all premises located within the Hastings Street Mixed Use Precinct as identified in the planning scheme of the local government; or
- (b) premises located at any of the following sites—
 - (i) lot 1 on SP286680, 215 David Low Way, Peregian Beach;
 - (ii) SP190823 and SP151409, 3-5 Morwong Drive, Noosa Heads, (Viridian Noosa Resort);
 - (iii) lot 10 and lot 11 on SP195871, 3-7 Serenity Close, Noosa Heads (Settlers Cove resort site);
 - (iv) lot 203 on SP267424 and lot 3 on SP126203, 94 or 142 Noosa Drive, Noosa Heads (RACV Resort and adjoining land);
 - ~~(v) lots 201 and 8000 and common property on SP200680, 75 Resort Drive, Noosa Heads (Parkridge Noosa);~~
 - ~~(vi)(v)~~ GTP102758, 73 Hilton Terrace, Noosaville (Ivory Palms Resort);
 - ~~(vii)(vi)~~ SP115731, 3 Hilton Terrace, Tewantin (Noosa Lakes Resort);
 - ~~(viii)(vii)~~ lot 2 on RP135678, 1 Beach Road, Noosa North Shore;
 - ~~(ix)(viii)~~ lot 2 on SP186169, 30 Beach Road, Noosa North Shore;
 - ~~(x)(ix)~~ lot 500 on SP215779 and lot 500 on SP186174 and any of the Beach Road Holiday Homes, 90 Beach Road, Noosa North Shore;
 - ~~(xi)(x)~~ lot 2 on RP865533, 2 Halse Lane, Noosa Heads (Halse Lodge);
 - ~~(xii)(xi)~~ lot 4 on SP178340, 61 Noosa Springs Drive, Noosa Heads.

3 Documents and materials that must accompany applications for approval

The following documents and materials must accompany an application for an approval for the operation of short stay letting or home hosted accommodation at premises—

- (a) application form; and
- (b) the appropriate fees as determined in the local government's schedule of fees and charges; and
- (c) the documents, information and materials identified in the application form for the prescribed activity; and
- (d) a plan of the premises and specifications for the operation of the short stay letting or home hosted accommodation including—
 - ~~(i) a site plan showing the location of all buildings, including~~

- ~~(i) any swimming pool or spa; and~~
- ~~(i) a site plan showing the location of all buildings, including any outdoor entertainment areas, swimming pool or spa, vehicle parking areas and the location of windows and door openings of adjoining dwellings; and~~
- (ii) a floor plan; and
- (iii) the use proposed in respect of each room and the maximum number of persons to be accommodated in each bedroom; and
- (e) written confirmation that—

 - (i) the use of the premises for the operation of short stay letting or home hosted accommodation is authorised—

 - (A) by a development approval granted by the local government; or
 - (B) as accepted development or accepted development subject to requirement provisions of the local government’s planning scheme; or
 - (C) by lawful use rights in existence on the date the application is made to the local government; and
 - (ii) the operation of short stay letting or home hosted accommodation at the premises complies with—

 - (A) if development approval conditions apply to the operation of the prescribed activity at the premises — the development approval conditions; or
 - (B) if development approval conditions do not apply to the operation of the prescribed activity at the premises — the planning scheme of the local government which applied at the time the operation of the prescribed activity commenced at the premises; and
- (f) written confirmation that the premises will not be used for the purposes of a party house as defined in the *Planning Act 2016*, section 276; and
- ~~(g) written confirmation that, under the Building Act 1975—~~

 - ~~(i) the premises are lawfully constructed; and~~
 - ~~(ii) the use of the premises for the prescribed activity is authorised by the classification attributable to the premises; and~~
- ~~(g) written confirmation that the premises are structurally sound and in good repair; and~~
- (h) if a pool is situated on the premises — written confirmation that a current pool safety certificate has been issued by a QBCC licensed pool safety inspector and that a current pool safety certificate will be maintained at all times; and
- (i) written confirmation that a current electrical safety certificate of

compliance has been issued by a licensed electrical contractor for each smoke alarm at the premises; and

- (j) if the application is for an approval to operate short stay letting — a written statement that —
 - (i) identifies the name and telephone number of the contact person (which may include the name and contact details of an individual, letting agency, property manager, security firm or the like) for the purposes of the operation of the short stay letting at the premises; and
 - (ii) confirms that the contact person is available 24 hours a day, 7 days a week; and
 - (iii) confirms that the contact person resides, or has a place of business, within a 20 ~~minutes travel time (by vehicle)~~ kilometer radius of the premises; and
 - (iv) confirms that the contact person is to be responsible for the supervision and management of the premises, including addressing complaints about the use of the premises for short stay letting and visitor queries.

4 Additional criteria for the granting of approval

The local government may only grant an approval (or renew an approval) for the operation of short stay letting or home hosted accommodation at premises if it is satisfied the proposed operation and management of the activity would be consistent with each of the following additional criteria—

- (a) the applicant is the owner of the premises, or is authorised in writing by the owner of the premises, used for the short stay letting or home hosted accommodation;
- (b) the operation of the short stay letting or home hosted accommodation can be lawfully conducted on the premises;
- (c) the matters which are the subject of the conditions specified in section 6 of this schedule which are relevant to the operation of the short stay letting or home hosted accommodation at the premises can be adequately addressed by the imposition of conditions;
- (d) the applicant's history in respect of the operation of short stay letting or home hosted accommodation at the premises or other premises and any suspensions or cancellations pursuant to section 17 or 19 of the authorising local law;
- (e) the operation of the short stay letting or home hosted accommodation must comply with the following criteria—
 - (i) the operation of the short stay letting or home hosted accommodation must comply with—
 - (A) any relevant development approval; or
 - (B) accepted development or accepted development subject to requirement provisions of the local

- government's planning scheme; or
- (C) for premises with lawful use rights — the local government's planning scheme which applied at the date the lawful use commenced;
- (ii) the operation of the short stay letting or home hosted accommodation at the premises must not detrimentally affect the residential amenity (including, but not limited to, noise, overlooking or light spill) enjoyed by ~~residents adjoining, or in the vicinity of, the premises~~ residents in the vicinity of the premises;
- (iii) adequate on-site vehicular parking facilities must be provided at the premises;
- (f) if the application is for an approval to operate short stay letting at premises — the applicant must provide to the local government up to date details of a person (*contact person*) (which may include the name and contact details of an individual, letting agent, property manager, security firm or the like) being a person who—
- (i) is available 24 hours a day, 7 days a week; and
- (ii) resides, or has a place of business, within ~~20 minutes travel time (by vehicle)~~ a 20 kilometer radius of the premises; and
- (iii) will be responsible for the supervision and management of the premises, including addressing complaints about the use of the premises for short stay letting and visitor queries.

5 Conditions that must be imposed on approvals

No condition must be imposed on an approval for the operation of short stay letting or home hosted accommodation at premises.

6 Conditions that will ordinarily be imposed on approvals

- (1) This section specifies the conditions that will ordinarily be imposed on an approval for the operation of short stay letting or home hosted accommodation at premises.
- (2) If the approval is for the operation of short stay letting —
- (a) an up to date contact person must be identified for the premises at all times (which may include an individual, letting agent, property manager, security firm or the like), who —
- (i) is available 24 hours a day, 7 days a week; and
- (ii) resides, or has a place of business, within ~~20 minutes travel time (by vehicle)~~ a 20 kilometer radius of the premises; and
- (iii) ~~is~~ responsible for the supervision and management of the premises, including addressing complaints about the use of the premises for short stay letting and visitor queries; and
- (iv) is responsible for responding to each complaint —

- (A) within 30 minutes of receipt of notification of the complaint; or
 - (B) if the premises forms part of the letting pool within an on-site managed complex — within the time frame specified by the letting agreement for the complex, or 30 minutes, whichever is the lesser; or
 - (C) if the premises forms part of a community titles scheme and does not form part of the letting pool within an on-site managed complex — within the time frame specified by the body corporate bylaws or 30 minutes, whichever is the lesser and if a time frame is not specified in the body corporate bylaws, within 30 minutes; and
- (v) is responsible for resolving each complaint at the premises, including ensuring compliance with the requirements of the code of conduct for guest behavior; and
- (b) if the premises does not form part of a community titles scheme —
- (i) the holder of the approval must prominently and permanently display a current, and up to date, written notice (~~contact person approval notice~~) at the front of the premises; and
 - (ii) the ~~contact person approval~~ notice must be visible to members of the public at all times; and
 - ~~(iii) the size of the contact person notice must not exceed 0.2m²; the size of the approval notice must be a minimum and maximum size of 0.2m²; and~~
 - ~~(iv) the approval notice must specify, in letters and numbers not less than 50mm in height—~~
 - ~~(A) the current, and up to date, contact details for a complaint; and~~
 - ~~(B) the approval number allocated by the local government to the approval for the undertaking of the prescribed activity at the premises; and~~
 - ~~(iii) the contact person notice must specify, in letters and numbers not less than 50mm in height—~~
 - ~~(A) the current, and up to date, contact person details for the premises; and~~
 - ~~(B) the telephone number of the contact person; and~~
 - ~~(C) a statement that the contact person is responsible for the supervision and maintenance of the premises; and~~
- (c) if the premises forms part of a community titles scheme, the holder of the approval must notify the body corporate of the approval and display an approval notice which complies with the requirements specified in subsection (2)(b)(i) to (iv) inclusive, make available the contact person details for the premises at a location which complies

~~with the by-laws for the community titles scheme.~~

- (3) If the approval is for the operation of short stay letting or home hosted accommodation at premises—
- (a) the operation of the short stay letting or home hosted accommodation must not detrimentally affect the residential amenity (including but not limited to noise, overlooking or light spill) enjoyed by ~~residents in the vicinity of the premises~~ residents adjoining, or in the vicinity of, the premises; and
 - (b) the operation of the short stay letting or home hosted accommodation at the premises must not constitute a nuisance (including a noise nuisance); and
 - (c) adequate provision must be made at the premises for occupants to enter and leave the premises without causing disturbance to adjoining residents; and
 - (d) adequate provision must be made for the parking of ~~vehicles on the premises, vehicles, including boats, trailers, jet skis and the like, on the premises~~ including a vehicle used by a person occupying the premises, and all vehicles must—
 - (i) be stored in a manner that does not cause a nuisance or inconvenience to adjoining premises; and
 - (ii) be parked within the parking facilities at the premises where provided; and
 - (e) the operation of short stay letting or home hosted accommodation must not make provision for any occupant of the premises to sleep or camp on the premises in a tent, caravan, campervan or similar facility; and
 - (f) the holder of the approval must, at all times, hold and maintain a broadform public liability insurance policy which provides indemnity—
 - (i) in an amount not less than \$10,000,000.00 or another amount specified by the local government; and
 - (ii) in respect of the use of the premises for the operation of short stay letting or home hosted accommodation; and
 - (g) waste containers that are provided as part of the operation of the short stay letting or home hosted accommodation must, at all times, be regularly cleaned and maintained in a clean, tidy, sanitary and hygienic condition; and
 - (h) if the premises does not form part of a community titles scheme where waste containers are managed by the body corporate — each of the approval holder and, if the contact person is not the approval holder, the contact person, must—
 - (i) place the waste container for the premises on the kerb side frontage of the premises, for the collection of general waste from the container; and
 - (ii) ensure that the container is placed on the kerb side frontage

for no longer than 24 hours before or after the scheduled collection day for the collection of waste in the container; ~~and~~

~~(iii) if the premises are not provided with a kerb side frontage general waste collection service — ensure that general waste from the premises is removed from the premises and disposed of at a general waste facility; and~~

- (i) the code of conduct for guest behavior for the use, or occupation, of the premises must be—
 - (i) displayed in a manner, and in a prominent location within the premises, so that it can be viewed by persons using, or occupying, the premises; and
 - (ii) made available by the holder of the approval, or the contact person, to all users and occupants of the premises, including on any website or social media used to promote the use of the premises for short stay letting or home hosted accommodation; and
- (j) each of the approval holder and, if the contact person is not the approval holder, the contact person, must keep and maintain a written record of each complaint received by the contact person, ~~including, as a minimum~~ and for a period of not less than 2 years, the following information about each complaint —
 - (i) details of the complaint; and
 - (ii) the date and time of receipt of the complaint; and
 - (iii) details of how the complaint was resolved or addressed; and
- (k) each of the approval holder and, if the contact person is not the approval holder, the contact person, must for a period of not less than 2 years keep and maintain a register of the use of the ~~premises for short stay letting; premises~~ and record in the register, each of the following —
 - (i) on each occasion on which the premises are used, or occupied, ~~for short stay letting on on~~ a commercial basis —
 - (A) the number of adults who are occupants of the premises; and
 - (B) the number of minors, an individual who is under 18, who are occupants of the premises; and
 - (ii) the dates when each person's use, or occupation, of the premises for short stay letting began and ended; and
 - (iii) the number of guests of each person who uses, or occupies, the premises for short stay letting; and
- (l) each of the approval holder and, if the contact person is not the approval holder, the contact person, must make available, for inspection by the local government, within 5 business days of receipt of a written request given at any time, each of—

-
- (i) the written record of complaints referred to in paragraph (j); and
- (ii) the register referred to in paragraph (k); and
- (m) each of the approval holder and, if the contact person is not the approval holder, the contact person, must require each occupant of the premises to comply with each of the following conditions (collectively the *code of conduct for guest behaviour*)—
- (i) each vehicle used by an occupant of the premises must—
- (A) be stored in a manner that does not cause a nuisance or inconvenience to adjoining premises; and
- (B) ~~if parking facilities are provided at the premises—~~ be parked within the parking facilities at the premises;
- (ii) each occupant of the premises who enters, uses or occupies the premises, including any outdoor area of the premises, for example, an outdoor entertainment area, ~~—~~deck, balcony, swimming pool or spa, must not—
- (A) detrimentally affect the residential amenity (including but not limited to noise, overlooking or light spill) enjoyed by ~~residents in the vicinity of the premises~~ residents adjoining, or in the vicinity of, the premises; or
- (B) cause a nuisance (including a noise nuisance); or
- (C) display unacceptable behavior, for example—
- loud aggressive behaviour;
 - yelling, screaming, arguing;
 - excessively loud cheering, clapping or singing;
- or
- (D) create a level of noise which is in excess of the acceptable levels described by Queensland Government legislation for environmental protection (noise);
- (iii) an occupant of the premises must not sleep or camp on the premises in a tent, caravan, campervan or similar facility;
- (iv) pets occupying the premises must be managed and not cause a nuisance (including a noise nuisance);
- (v) each occupant of the premises must store general waste (including the separation of recyclable waste) produced as a result of the ordinary use or occupation of the premises in a waste container;
- (vi) each occupant of the premises must ensure that the premises, including the grounds of the premises, are kept in a safe and tidy condition.

7 Term of approval

- (1) The term of an approval commences on the date the approval is granted and expires on the next 30th day of June, unless otherwise specified in the approval ~~12 months from the date of the approval.~~
- (2) An approval expires at the end of the day for expiry specified in subsection (1).

8 Term of renewal of approval

An approval that is renewed expires on the next 30th day of June, unless otherwise specified in the renewal.

9 Definitions for schedule

In this schedule —

body corporate has the meaning given in the *Body Corporate and Community Management Act 1997*.

building has the meaning given in the *Building Act 1975*.

code of conduct for guest behaviour has the meaning given in section 6(3)(m).

community titles scheme has the meaning given in the *Body Corporate and Community Management Act 1997*.

contact person has the meaning given in section ~~4(g)~~ section 4(f).

~~*contact person approval notice*~~ has the meaning given in section 6(2)(b).

development approval has the meaning given in the *Planning Act 2016*.

general waste has the meaning given in *Local Law No. 7 (Waste Management) 2018*.

occupant, of premises, means a person who uses, or occupies, the premises, including a visitor to the premises.

planning scheme means the planning scheme of the local government.

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

waste container see *Local Law No. 7 (Waste Management) 2018*.

This and the preceding 11 pages bearing my initials is a certified copy of *Administration (Amendment) Subordinate Local Law (No. 1) 2021* made in accordance with the provisions of the *Local Government Act 2009* by Noosa Shire Council by resolution dated the ~~—21st~~ 21st day of October 2021.

.....
Chief Executive Officer

Attachment 3



Noosa Shire Council

Administration (Amendment) Local Law (No. 1) 2021

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*Noosa Shire Council
Administration (Amendment) Local Law (No. 1) 2021
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REVISED DRAFT

*Noosa Shire Council
Administration (Amendment) Local Law (No. 1) 2021
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Noosa Shire Council Administration (Amendment) Local Law (No. 1) 2021

Part 1 Preliminary

1. Short title

This local law may be cited as *Administration (Amendment) Local Law (No. 1) 2021*

2. Purpose

The purpose of this local law is to amend *Noosa Shire Council Local Law No. 1 (Administration) 2015*.

Part 2 Amendment of Noosa Shire Council Local Law No. 1 (Administration) 2015

3. Local law amended

This part amends *Noosa Shire Council Local Law No. 1 (Administration) 2015*.

4. Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definition *shared facility accommodation*—
omit, insert—

'shared facility accommodation—

- (a) means accommodation occupied or available for occupation by residents, in return for payment, on the basis of residents sharing 1 or more of the following facilities—
- (i) dormitories or bedrooms;
 - (ii) toilets;
 - (iii) bathrooms, showers or other bathing facilities;
 - (iv) laundries;
 - (v) dining facilities;
 - (vi) cooking facilities;
 - (vii) recreation facilities; but
- (b) does not include any of the following—
- (i) short stay letting;
 - (ii) home hosted accommodation;
 - (iii) accommodation in a hotel;

-
- (iv) accommodation in a motel’.
- (2) Schedule 1—
insert—
‘short stay letting —
- (a) means the provision, or making available, of premises for use by 1 or more persons, other than the owner of the premises, for less than 3 consecutive months; but
- (b) does not include any of the following—
- (i) shared facility accommodation;
 - (ii) home hosted accommodation;
 - (iii) accommodation in a hotel;
 - (iv) accommodation in a motel;
 - (v) backpacker accommodation.
- home hosted accommodation* means the provision, or making available, of premises—
- (a) for use by 1 or more persons (each an *occupant*), other than the owner of the premises, for less than 3 consecutive months; and
- (b) which comprise—
- (i) a habitable room at residential premises, for example, a bedroom, studio or cabin; or
 - (ii) bed and breakfast style accommodation; and
- (c) where the person in charge of the premises resides at the premises whilst the occupant uses the premises.’.

5. Amendment of sch2 (Prescribed activities)

- (1) Schedule 2 part 1, after ‘undertaking regulated activities on local government controlled areas and roads’—
insert—
‘operation of short stay letting or home hosted accommodation’.
- (2) Schedule 2, part 2, definition *operation of shared facility accommodation—*
omit, insert—
‘operation of shared facility accommodation means the provision of shared facility accommodation to holiday makers or travellers, but does not include any of the following—
- (a) short stay letting;
 - (b) home hosted accommodation;
 - (c) accommodation in a hotel;
 - (d) accommodation in a motel’.

Noosa Shire Council
Administration (Amendment) Local Law (No. 1) 2021
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- (3) Schedule 2, part 2, after the definition for the prescribed activity '*undertaking regulated activities on local government controlled areas and roads*'—

insert—

'operation of short stay letting or home hosted accommodation means the provision, or making available, on a commercial basis, of short stay letting or home hosted accommodation.'

This and the preceding 4 pages bearing my initials is a certified copy of *Administration (Amendment) Local Law (No. 1) 2021* made in accordance with the provisions of the *Local Government Act 2009* by Noosa Shire Council by resolution dated the day of 2021.

.....
Chief Executive Officer

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REVISED DRAFT

Attachment 4



Noosa Shire Council

Administration (Amendment) Subordinate Local Law (No. 1) 2021



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Noosa Shire Council Administration (Amendment) Subordinate Local Law (No. 1) 2021

Part 1 Preliminary

1. Short title

This subordinate local law may be cited as *Administration (Amendment) Subordinate Local Law (No. 1) 2021*.

2. Purpose

The purpose of this subordinate local law is to amend *Subordinate Local Law No 1 (Administration) 2015*.

3. Authorising local law

The making of the provisions of this subordinate local law is authorised by *Noosa Shire Council Local Law No.1 (Administration) 2015*.

Part 2 Amendment of Subordinate Local Law No. 1 (Administration) 2015

4. Subordinate local law amended

This part amends *Subordinate Local Law No. 1 (Administration) 2015*.

5. Insertion of new sch 21A—Operation of short stay letting or home hosted accommodation

After schedule 21—

insert —

Schedule 21A Operation of short stay letting or home hosted accommodation

Section 11

1 Prescribed activity

Operation of short stay letting or home hosted accommodation.

2 Activities that do not require approval under the authorising local law

An approval is not required in respect of the undertaking of the prescribed activity if the prescribed activity is undertaken at any of the following premises —

- (a) all premises located within the Hastings Street Mixed Use Precinct as identified in the planning scheme of the local government; or

- (b) premises located at any of the following sites—
- (i) lot 1 on SP286680, 215 David Low Way, Peregrin Beach;
 - (ii) SP190823 and SP151409, 3-5 Morwong Drive, Noosa Heads, (Viridian Noosa Resort);
 - (iii) lot 10 and lot 11 on SP195871, 3-7 Serenity Close, Noosa Heads (Settlers Cove resort site);
 - (iv) lot 203 on SP267424 and lot 3 on SP126203, 94 or 142 Noosa Drive, Noosa Heads (RACV Resort and adjoining land);
 - (v) lots 201 and 8000 and common property on SP290680, 75 Resort Drive, Noosa Heads (Parkridge Noosa);
 - (vi) GTP102758, 73 Hilton Terrace, Noosaville (Ivory Palms Resort);
 - (vii) SP115731, 3 Hilton Terrace, Tewantin (Noosa Lakes Resort);
 - (viii) lot 2 on RP135678, 1 Beach Road, Noosa North Shore;
 - (ix) lot 2 on SP186169, 30 Beach Road, Noosa North Shore;
 - (x) lot 500 on SP215779 and lot 500 on SP186174 and any of the Beach Road Holiday Homes, 90 Beach Road, Noosa North Shore;
 - (xi) lot 2 on RP865533, 2 Halse Lane, Noosa Heads (Halse Lodge);
 - (xii) lot 4 on SP178340, 61 Noosa Springs Drive, Noosa Heads.

3 Documents and materials that must accompany applications for approval

The following documents and materials must accompany an application for an approval for the operation of short stay letting or home hosted accommodation at premises—

- (a) application form; and
- (b) the appropriate fees as determined in the local government's schedule of fees and charges; and
- (c) the documents, information and materials identified in the application form for the prescribed activity; and
- (d) a plan of the premises and specifications for the operation of the short stay letting or home hosted accommodation including—
 - (i) a site plan showing the location of all buildings, including any swimming pool or spa; and
 - (ii) a floor plan; and
 - (iii) the use proposed in respect of each room and the maximum number of persons to be accommodated in each bedroom; and

- (e) written confirmation that—
 - (i) the use of the premises for the operation of short stay letting or home hosted accommodation is authorised—
 - (A) by a development approval granted by the local government; or
 - (B) as accepted development or accepted development subject to requirement provisions of the local government's planning scheme; or
 - (C) by lawful use rights in existence on the date the application is made to the local government; and
 - (ii) the operation of short stay letting or home hosted accommodation at the premises complies with—
 - (A) if development approval conditions apply to the operation of the prescribed activity at the premises — the development approval conditions; or
 - (B) if development approval conditions do not apply to the operation of the prescribed activity at the premises — the planning scheme of the local government which applied at the time the operation of the prescribed activity commenced at the premises; and
- (f) written confirmation that the premises will not be used for the purposes of a party house as defined in the *Planning Act 2016*, section 276; and
- (g) written confirmation that the premises are structurally sound and in good repair; and
- (h) if a pool is situated on the premises — written confirmation that a current pool safety certificate has been issued by a QBCC licensed pool safety inspector; and
- (i) written confirmation that a current electrical safety certificate of compliance has been issued by a licensed electrical contractor for each smoke alarm at the premises; and
- (j) if the application is for an approval to operate short stay letting — a written statement that —
 - (i) identifies the name and telephone number of the contact person (which may include the name and contact details of an individual, letting agency, property manager, security firm or the like) for the purposes of the operation of the short stay letting at the premises; and
 - (ii) confirms that the contact person is available 24 hours a day, 7 days a week; and
 - (iii) confirms that the contact person resides, or has a place of business, within 20 minutes travel time (by vehicle) of the premises; and
 - (iv) confirms that the contact person is to be responsible for the

supervision and management of the premises, including addressing complaints about the use of the premises for short stay letting and visitor queries.

4 Additional criteria for the granting of approval

The local government may only grant an approval (or renew an approval) for the operation of short stay letting or home hosted accommodation at premises if it is satisfied the proposed operation and management of the activity would be consistent with each of the following additional criteria—

- (a) the applicant is the owner of the premises, or is authorised in writing by the owner of the premises, used for the short stay letting or home hosted accommodation;
- (b) the operation of the short stay letting or home hosted accommodation can be lawfully conducted on the premises;
- (c) the matters which are the subject of the conditions specified in section 6 of this schedule which are relevant to the operation of the short stay letting or home hosted accommodation at the premises can be adequately addressed by the imposition of conditions;
- (d) the applicant's history in respect of the operation of short stay letting or home hosted accommodation at the premises or other premises and any suspensions or cancellations pursuant to section 17 or 19 of the authorising local law;
- (e) the operation of the short stay letting or home hosted accommodation must comply with the following criteria—
 - (i) the operation of the short stay letting or home hosted accommodation must comply with—
 - (A) any relevant development approval; or
 - (B) accepted development or accepted development subject to requirement provisions of the local government's planning scheme; or
 - (C) for premises with lawful use rights — the local government's planning scheme which applied at the date the lawful use commenced;
 - (ii) the operation of the short stay letting or home hosted accommodation at the premises must not detrimentally affect the residential amenity (including, but not limited to, noise, overlooking or light spill) enjoyed by residents in the vicinity of the premises;
 - (iii) adequate on-site vehicular parking facilities must be provided at the premises;
- (f) if the application is for an approval to operate short stay letting at premises — the applicant must provide to the local government up to date details of a person (*contact person*) (which may include the name and contact details of an individual, letting agent, property manager or the like) being a person who—

- (i) is available 24 hours a day, 7 days a week; and
- (ii) resides, or has a place of business, within 20 minutes travel time (by vehicle) of the premises; and
- (iii) will be responsible for the supervision and management of the premises, including addressing complaints about the use of the premises for short stay letting and visitor queries.

5 Conditions that must be imposed on approvals

No condition must be imposed on an approval for the operation of short stay letting or home hosted accommodation at premises.

6 Conditions that will ordinarily be imposed on approvals

- (1) This section specifies the conditions that will ordinarily be imposed on an approval for the operation of short stay letting or home hosted accommodation at premises.
- (2) If the approval is for the operation of short stay letting —
 - (a) an up to date contact person must be identified for the premises at all times (which may include an individual, letting agent, property manager or the like), who —
 - (i) is available 24 hours a day, 7 days a week; and
 - (ii) resides, or has a place of business, within 20 minutes travel time (by vehicle) of the premises; and
 - (iii) is responsible for the supervision and management of the premises, including addressing complaints about the use of the premises for short stay letting and visitor queries; and
 - (iv) is responsible for responding to each complaint —
 - (A) within 30 minutes of receipt of notification of the complaint; or
 - (B) if the premises forms part of the letting pool within an on-site managed complex — within the time frame specified by the letting agreement for the complex, or 30 minutes, whichever is the lesser; or
 - (C) if the premises forms part of a community titles scheme and does not form part of the letting pool within an on-site managed complex — within the time frame specified by the body corporate bylaws or 30 minutes, whichever is the lesser and if a time frame is not specified in the body corporate bylaws, within 30 minutes; and
 - (v) is responsible for resolving each complaint at the premises, including ensuring compliance with the requirements of the code of conduct for guest behavior; and
 - (b) if the premises do not form part of a community titles scheme —

-
- (i) the holder of the approval must prominently and permanently display a current, and up to date, written notice (*contact person notice*) at the front of the premises; and
 - (ii) the contact person notice must be visible to members of the public at all times; and
 - (iii) the size of the contact person notice must not exceed 0.2m²; and
 - (iv) the contact person notice must specify, in letters and numbers not less than 50mm in height—
 - (A) the current, and up to date, contact person details for the premises; and
 - (B) the telephone number of the contact person; and
 - (C) a statement that the contact person is responsible for the supervision and maintenance of the premises; and
 - (c) if the premises forms part of a community titles scheme, the holder of the approval must notify the body corporate of the approval and make available the contact person details for the premises at a location which complies with the by-laws for the community titles scheme.
- (3) If the approval is for the operation of short stay letting or home hosted accommodation at premises—
- (a) the operation of the short stay letting or home hosted accommodation must not detrimentally affect the residential amenity (including but not limited to noise, overlooking or light spill) enjoyed by residents in the vicinity of the premises; and
 - (b) the operation of the short stay letting or home hosted accommodation at the premises must not constitute a nuisance (including a noise nuisance); and
 - (c) adequate provision must be made at the premises for occupants to enter and leave the premises without causing disturbance to adjoining residents; and
 - (d) adequate provision must be made for the parking of vehicles on the premises, including a vehicle used by a person occupying the premises, and all vehicles must—
 - (i) be stored in a manner that does not cause a nuisance or inconvenience to adjoining premises; and
 - (ii) be parked within the parking facilities at the premises where provided; and
 - (e) the operation of short stay letting or home hosted accommodation must not make provision for any occupant of the premises to sleep or camp on the premises in a tent, caravan, campervan or similar facility; and
 - (f) the holder of the approval must, at all times, hold and maintain a broadform public liability insurance policy which provides indemnity—

- (i) in an amount not less than \$10,000,000.00 or another amount specified by the local government; and
 - (ii) in respect of the use of the premises for the operation of short stay letting or home hosted accommodation; and
- (g) waste containers that are provided as part of the operation of the short stay letting or home hosted accommodation must, at all times, be regularly cleaned and maintained in a clean, tidy, sanitary and hygienic condition; and
- (h) if the premises do not form part of a community titles scheme where waste containers are managed by the body corporate — each of the approval holder and, if the contact person is not the approval holder, the contact person, must—
 - (i) place the waste container for the premises on the kerb side frontage of the premises, for the collection of general waste from the container; and
 - (ii) ensure that the container is placed on the kerb side frontage for no longer than 24 hours before or after the scheduled collection day for the collection of waste in the container; and
- (i) the code of conduct for guest behavior for the use, or occupation, of the premises must be—
 - (i) displayed in a manner, and in a prominent location within the premises, so that it can be viewed by persons using, or occupying, the premises; and
 - (ii) made available by the holder of the approval, or the contact person, to all users and occupants of the premises, including on any website or social media used to promote the use of the premises for short stay letting or home hosted accommodation; and
- (j) each of the approval holder and, if the contact person is not the approval holder, the contact person, must keep and maintain a written record of each complaint received by the contact person including, as a minimum, the following information about each complaint —
 - (i) details of the complaint; and
 - (ii) the date and time of receipt of the complaint; and
 - (iii) details of how the complaint was resolved or addressed; and
- (k) each of the approval holder and, if the contact person is not the approval holder, the contact person, must keep and maintain a register of the use of the premises for short stay letting, and record in the register, each of the following —
 - (i) on each occasion on which the premises are used, or occupied, for short stay letting on a commercial basis —
 - (A) the number of adults who are occupants of the premises; and
 - (B) the number of minors, an individual who is under 18,

- who are occupants of the premises; and
- (ii) the dates when each persons use, or occupation, of the premises for short stay letting began and ended; and
 - (iii) the number of guests of each person who uses, or occupies, the premises for short stay letting; and
- (l) each of the approval holder and, if the contact person is not the approval holder, the contact person, must make available, for inspection by the local government, within 5 business days of receipt of a written request given at any time, each of—
- (i) the written record of complaints referred to in paragraph (j); and
 - (ii) the register referred to in paragraph (k); and
- (m) each of the approval holder and, if the contact person is not the approval holder, the contact person, must require each occupant of the premises to comply with each of the following conditions (collectively the *code of conduct for guest behaviour*)—
- (i) each vehicle used by an occupant of the premises must—
 - (A) be stored in a manner that does not cause a nuisance or inconvenience to adjoining premises; and
 - (B) if parking facilities are provided at the premises — be parked within the parking facilities at the premises;
 - (ii) each occupant of the premises who enters, uses or occupies the premises, including any outdoor area of the premises, for example, an outdoor deck, balcony, swimming pool or spa, must not—
 - (A) detrimentally affect the residential amenity (including but not limited to noise, overlooking or light spill) enjoyed by residents in the vicinity of the premises; or
 - (B) cause a nuisance (including a noise nuisance); or
 - (C) display unacceptable behavior, for example—
 - loud aggressive behaviour;
 - yelling, screaming, arguing;
 - excessively loud cheering, clapping or singing;or
 - (D) create a level of noise which is in excess of the acceptable levels described by Queensland Government legislation for environmental protection (noise);
 - (iii) an occupant of the premises must not sleep or camp on the premises in a tent, caravan, campervan or similar facility;
 - (iv) pets occupying the premises must be managed and not cause a nuisance (including a noise nuisance);

- (v) each occupant of the premises must store general waste (including the separation of recyclable waste) produced as a result of the ordinary use or occupation of the premises in a waste container;
- (vi) each occupant of the premises must ensure that the premises, including the grounds of the premises, are kept in a safe and tidy condition.

7 Term of approval

- (1) The term of an approval commences on the date the approval is granted and expires 12 months from the date of the approval.
- (2) An approval expires at the end of the day for expiry specified in subsection (1).

8 Term of renewal of approval

An approval that is renewed expires on the next 30th day of June, unless otherwise specified in the renewal.

9 Definitions for schedule

In this schedule —

body corporate has the meaning given in the *Body Corporate and Community Management Act 1997*.

building has the meaning given in the *Building Act 1975*.

code of conduct for guest behaviour has the meaning given in section 6(3)(m).

community titles scheme has the meaning given in the *Body Corporate and Community Management Act 1997*.

contact person has the meaning given in section 4(g).

contact person notice has the meaning given in section 6(2)(b).

development approval has the meaning given in the *Planning Act 2016*.

general waste has the meaning given in *Local Law No. 7 (Waste Management) 2018*.

occupant, of premises, means a person who uses, or occupies, the premises, including a visitor to the premises.

planning scheme means the planning scheme of the local government.

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

waste container see *Local Law No. 7 (Waste Management) 2018*.

*Noosa Shire Council
Administration (Amendment) Subordinate Local Law (No. 1) 2021*

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This and the preceding 11 pages bearing my initials is a certified copy of *Administration (Amendment) Subordinate Local Law (No. 1) 2021* made in accordance with the provisions of the *Local Government Act 2009* by Noosa Shire Council by resolution dated the day of 2021.

.....
Chief Executive Officer
1023095_1

REVISED DRAFT

Attachment 5**ATTACHMENT 5 - SUMMARY OF KEY ISSUES**

The key issues raised in the written submissions are summarised below by stakeholder group.

1. Residents and resident / community groups***Planning scheme and other legislative matters***

Resident and resident / community groups both identified similar concerns with short stay letting in residential areas and the impacts on permanent residents, particularly in relation to impacts on their amenity, health, wellbeing and lifestyle. Broader issues around housing supply and affordability, over tourism and impacts on infrastructure were also identified as well as concerns around existing use rights continuation and superseded planning scheme applications.

Requests were made for the installation of acoustic monitors; maximum numbers of guests; minimum night stays; no short stay letting in residential areas; and a cap on short stay letting.

Response

Whilst the broader issues around short stay letting and housing supply, affordability, tourism and infrastructure are recognised, the key purpose of the local law is to manage the ongoing operation of lawful short stay letting and home hosted accommodation to minimise the impacts on permanent residents.

A number of issues raised by submitters however, are outside the proposed local law's purpose and legal jurisdiction and are matters for the planning scheme. In particular, the location of short stay letting, capping, occupancy and minimum night stays are matters for the planning scheme.

It is not considered reasonable to require the installation of acoustic monitors in properties which is beyond the local law.

Existing use rights and superseded planning scheme applications are matters regulated by the *Planning Act 2016* and not the proposed local law.

Complaints procedure and enforcement

The most significant concerns were around the complaints procedure with regard to complainants having direct interaction with the contact person, their lack of anonymity, dealing with conflict, resolving issues and keeping of complaint registers.

Submitters strongly requested Council not abrogate its responsibility for complaints management onto residents but instead have a centralised 24/7 complaints hotline and security call outs to deal with complaints at problem properties. Calls were also made for strong enforcement measures and the implementation of the local law to be funded by short stay let properties and not resident rate payers.

Response

To remove potential conflict for both the contact person and complainant and deal with matters of privacy and personal safety, a centralised 24/7 complaints hotline to be the intermediary between complainant and contact person is recommended.

It is also recommended Council trial, on a 12 months basis, a call out security service for off-site observation and evidence gathering at problem properties or where the contact person fails to respond or act on a complaint.

Funding should be cost recoverable from application fees and the Transitory Accommodation rate base.

Compliance and enforcement action will be undertaken in accordance with the provisions of Local Law No. 1 (Administration) 2015 which are adequate for enforcement of the proposed local law.

Council has the power to issue a compliance notice and fines, a show cause notice for suspension, amendment or cancellation of an approval. Approvals may also not be renewed where there are ongoing compliance issues.

Applications & clarifications

Requests were made for more information to be provided on site plans; greater pet management; approval numbers on signs; amenity impacts to include on adjoining dwellings; vehicle management to include boats, trailers and jet skis; building compliance; and a publicly available approvals register.

Response

It is reasonable to make minor amendments to the proposed local law in response to the submitter issues as follows:

- require site plans to show the location of outdoor entertainment areas and adjoining property windows and door openings;
- include boats, trailers, jet skis and the like as part of the vehicle management provisions;
- include reference to amenity impacts on adjoining dwellings; and
- include the approval number on the sign; and
- require confirmation the building is lawfully constructed and classified for its purpose under the *Building Act 1975*.

A public register of all approvals will also be available on Council's website for transparency.

Matters outside the scope of the local law's legal framework will be provided as further information advice within a "good management of short stay letting guide".

2. Home hosted accommodation providers

Home hosted accommodation providers were largely under the misconception the local law was going to stop them operating. Many felt the local law was invasion of privacy; they should be able to use their home as they like; and home hosting supports their income. Submitters requested exemption from the local law. Some submitters admitted to using secondary dwellings, granny flats or other self-contained spaces for home hosted accommodation contrary to Noosa Plan 2020.

Response

Providing home hosted accommodation complies with Noosa Plan 2020, the proposed local law does not prevent the use continuing.

The local law requires compliance with the planning scheme, fire and pool safety standards, public liability insurance, building compliance and code of conduct for guest behaviour which are all relevant to home hosting, and therefore the use should not be exempt.

It should be noted, hosts must remain in residence when they have guests and secondary dwellings, granny flats and the like are for permanent occupancy and cannot be used for short term accommodation or home hosted accommodation. Guests may have a small area with a kettle, toaster and bar fridge to prepare hot beverages, a light snack or continental breakfast, but no kitchen.

3. Short stay letting operators / letting agents / property managers

Local management framework

Submitters generally oppose the proposed local law, citing it is an invasion of privacy, affects use of their property, is discriminatory, and will result in vexatious complaints. Submitters opposed any application process, regulation or fees, contact person requirements, 24/7 availability, responding within 30 minutes, being located 20 minutes and contact person signage.

Many operators suggested the local law was discriminatory and short stay lets could be managed remotely and Council should deal with complaints management.

Response

The local management framework and local contact person is central to managing the negative impacts on residents and deal with complaints within 30 minutes. The proposed local law will provide an avenue for complaints resolution. Any suspected vexatious complaints will be investigated. A centralised 24/7 complaints hotline to be the intermediary between complainant and contact person is recommended.

It is reasonable to include security firms as a nominated contact person to respond to complaints after hours who perform the contact person duties outlined in the local law, including responding to complaints within 30 minutes.

Planning schemes and local laws have always lawfully controlled what properties can and cannot be used for and set different requirements for different landuses. This is not discriminatory.

Existing local laws and other legislation

A legal submission made on behalf of a number of properties claim the proposed local law requirements:- are beyond power and for ulterior purpose; duplicate the development assessment process; cannot regulate existing use right properties; has no economic impact assessment; duplicates existing local laws and could be managed by party house legislation and Council's existing local laws. The submission called for the abandonment of the local law.

Response

In brief, the local law does not duplicate the development assessment process nor does it duplicate any matters the planning scheme should address. The local law is not beyond power nor for ulterior purpose and has undergone lengthy legal review and State government consultation. Issues regarding the legality and enforcement of the local law have been previously addressed in a report to Planning & Environment Committee meeting on 9 March 2021 and subsequently addressed with changes to the proposed local law.

Council's existing local laws and other State legislation are not relevant to, nor regulate, the day to day operation of short stay letting or home hosted accommodation, hence the introduction of the proposed local law.

Council's existing local laws are not appropriate or fit for purpose as they do not address the specific matters in the proposed local law or require an approval for short stay letting or home hosted accommodation as a prescribed activity.

Noosa Shire is already identified as a "party house" restriction area which is a separately defined use under the *Planning Act 2016*, different to a short term accommodation or home hosted accommodation uses.

The Public Interest Test Report is informed by a specific economic cost benefit analysis undertaken by economic consultants AEC.

Other

Letting agents said there is little evidence of issue or complaints, however called for mandatory licencing for all short stay let operators, the tourism levy to fund security patrols and compliance and want clarification on timeframe for keeping registers.

Submitters called for Council to take responsibility for complaints; no signage due to privacy and security reasons; no annual renewals, mandating licencing for short stay operators and guests to pay fines not owners.

Response

To remove potential conflict for both the contact person and complainant and deal with matters of privacy and personal safety, a centralised 24/7 complaints hotline to be the intermediary between complainant and contact person is recommended. It is also recommended Council trial, on a 12 months basis, a call out security service for off-site observation and evidence gathering

Changes to the contact person sign to remove the contact person details and instead include the complaints hotline will be made in the local law.

A 2 year time frame for the keeping of registers will be included in the local law.

The local law cannot mandate licencing for the management of short stay letting as this is regulated under State legislation.

Fines can only be issued to the approval holder under the local law. Operators may seek to recoup that cost from guests.

4. On-site managers***Bylaws and other legislation***

On-site managers are concerned about the increase in red tape, citing they already have letting agent licences, pay fees, insurances, have an industry code of conduct and the local law conflicts with other legislation and bylaws.

Response

Concerns regarding potential conflict between the local law and bylaws and other legislation were previously addressed and resulted in some changes to the local law prior to its public notification. Letting agent licencing requirements for on-site managers and external letting agents do not overlap or duplicate any matters in the local law or the code of conduct.

Exemptions

Some submitters stated the exemptions were discriminatory, with no application, fee, contact person or code of conduct required for exempt properties. Submitters stated the conditions of approval were unreasonable but supported the safety certificate requirements for operators.

Some onsite managers requested exemption for onsite managed resorts, others requested one application for the entire onsite letting pool.

Response

The proposed exemptions include Noosa's main tourist / mixed use area of Hastings Street and other specific resort, hotel and backpacker sites where their location, landuses activities and noise is consistent with a tourist precinct, not a residential neighbourhood. No permanent residents are either permitted or intended in these locations which is consistent with the landuse outcomes sought by Noosa Plan 2020.

As previously resolved by Council, to streamline and simplify the application process for on-site managers a single application for all properties within their onsite letting pool will be permitted.

Permanent residents

Concerns were raised with permanent residents living in resorts affecting holiday rental stock and businesses turnover and may result in a rise in vexatious complaints. Some submitters see short stay let houses as being detrimental to traditional holiday resorts.

Response

The majority of resorts / units complexes in Noosa were approved prior to Noosa Plan 2006 allowing for both permanent occupation and short stay letting. As a result, there is a mix of permanent residents and visitors in these properties. Any complaints by permanent residents should be addressed, and any vexatious complaints will be investigated.

The use of houses for short stay letting being detrimental to traditional holiday resorts is noted.

5. Online booking platforms

Airbnb

Airbnb's submission focussed on their contribution to the economy. The submitter also stated:- hosting would be unworkable under the local law; the application is a financial burden; is contrary to not requiring planning approval for home hosted accommodation; signage is a safety risk; contact person requirements unreasonable; and Airbnb already deal with complaints through their hotline.

Response

The local law requires compliance with the planning scheme, fire and pool safety standards, public liability insurance, building compliance and code of conduct for guest behaviour which are all relevant to home hosting.

Changes to the contact person sign to remove the contact person details and instead include the complaints hotline will be made in the local law.

The contact person requirements are fundamental to the local management framework for the local law and are considered reasonable for the operation of short stay letting.

The Airbnb complaints hotline is an international hotline, contains no details on timeframes for a response and no standard compliance measures to be met by hosts to resolve complaints, if at all. It also only applies to properties booked through the Airbnb platform.

Expedia / Stayz

Expedia / Stayz submission supports home hosted accommodation being included in the local law and should specifically require the host stay overnight. The submitter stated requirements should be low cost to short stay letting operators; the 20 minutes locational requirements are arbitrary; and requested a state wide approach, Council work with stakeholders and an economic assessment be undertaken.

Response

Support for the inclusion of home hosted accommodation is noted. Home hosts must reside overnight under the requirements of the definition in the local law and provisions in Noosa Plan 2020.

In late 2019 / early 2020, in consultation with local governments and stakeholders, the Queensland State government were proposing a State wide approach to manage short stay letting. With the advent of Covid-19 however, the State government's priorities changed and the matter has been put on hold and referred back to local government.

Ongoing consultation will be undertaken with stakeholders following introduction of the local law.

As part of the Public Interest Test Reporting a specific economic cost benefit analysis was undertaken by economic consultants AEC.

A change to the local law to alter the 20 minute travel time for the contact person to a 20 km radius will be made.

6. Short stay industry association

The Noosa short stay letting industry group are concerned the exemptions are discriminatory and create a two tiered market, calling for no exemptions. They support home hosted accommodation being included in the proposed local law also raising concerns some hosts don't stay overnight.

Issues regarding the legality of the local law were raised including that it- is beyond power; is incompatible with bylaws; duplicates the planning scheme; is unreasonable and not enforceable; cannot hold a person accountable for the behaviour which it has no control; and cannot further regulate existing use rights.

Response

The proposed local law is specifically targeted at managing the impacts of short stay letting on permanent residents. Where no permanent residents are permitted or intended, or where the mix of landuse activities create late night noise and other disturbances which are acceptable – such as the Hastings St Mixed use precinct, the local law does not apply. Planning scheme have different requirements for different landuses in different zones, the local law applies the same philosophy and is consistent with the landuse outcomes sought by Noosa Plan 2020. It is not discriminatory.

Concerns regarding potential conflict between the local law and body corporate bylaws have been previously addressed and resulted in some changes to the local law prior to its public notification. Issues regarding the legality and enforcement of the local law have been previously addressed in a report to Planning & Environment Committee meeting on 9 March 2021.

Support for the inclusion of home hosted accommodation is noted. Home hosts must reside overnight under the requirements of the definition in the local law and provisions in Noosa Plan 2020.

7. Site specific locations

Teewah

A number of submissions were received from short stay letting operators at Teewah requesting an exemption from the proposed local law due to the distance to attend to complaints; that it is a holiday village; complaints are rare; and they have no waste service.

Response

Despite the distance, short stay letting of properties in Teewah should still have a local management framework, minimum safety standards and avenue for complaints to be made. First response to a complaint within 30 minutes may be a phone call to the guests if resolved or to a local contact person as their nominated person. If the complaint is not resolved and

site visit required, consideration will be given to whether the contact person acted in accordance with the local law in responding to a complaint and whether extreme circumstances prevented attendance at the property – such as the ferry had ceased operating or tide was high.

A change to the local law is considered reasonable to alter the 20 minute travel time for the contact person. A 20 km radius for the contact person is more measurable and takes in the greater urban and hinterland areas of Noosa providing greater locational flexibility for properties in more remote locations such as Teewah.

For clarification, where no kerb side waste service is provided, a provision that waste must be removed from the property and disposed of at a general waste facility will be included in the local law.

Boreen Point

The majority of submissions for Boreen Point were from residents supporting the local law or wanting a high level of control to deal with issues they were experiencing. Two submissions however, one from the community association and the other from a short stay let property manager were calling for Boreen Point to be exempt from the local law citing it being a holiday area; there was no evidence of complaints; and requirements for 24/7 availability, 20 minute location and code of conduct were unreasonable.

Response

Despite Boreen Point having short stay let properties, it is also a permanent residential community and residents should be afforded the same provisions under the local law as other residential neighbourhoods, and therefore remain under the local law.

Parkridge

A number of submissions from residents, the body corporate and developer at Parkridge requested removal of its exemption and to be included under the local law. One short stay let operator requested the exemption remain.

Response

The planning intent for Parkridge was for a resort / visitor accommodation only, however the original approval did not exclude permanent residency. Subsequent approvals and a marketing strategy focussed on permanent living has further eroded the original visitor only intent for the site. As a result, whilst there is some short stay letting occurring, there is primarily permanent residents at Parkridge. Therefore, the local law should apply to existing and future short stay let or home hosted accommodation properties and the exemption be removed.

Attachment 7

PUBLIC INTEREST TEST REPORT**ADMINISTRATION (AMENDMENT) LOCAL LAW (NO. 1) 2021 AND
ADMINISTRATION (AMENDMENT) SUBORDINATE LOCAL LAW (NO. 1) 2021**

A public interest test has been conducted as part of the National Competition Policy reforms on anti-competitive provisions identified in the local law and subordinate local law identified in schedule 1. The public interest test has been conducted against the principles and objectives set by the Competition Principles Agreement which were outlined in the public interest test plan.

The public interest test report has been prepared in accordance with guidelines issued by the Department of Local Government and called up by regulation under the *Local Government Act 2009*.

RESULTS OF CONSULTATION PROCESS

Consultation with the public and key stakeholders occurred over a seven week period. An advertisement was placed in the local paper at the commencement of the consultation period advising of the review and calling for submissions. During the consultation period, public notification, and other information was provided through a number of means, including public notice, advertisements, media releases, static displays, webpage consultation, social media, radio announcements, direct email, letter notification and a community/resident group stakeholder meeting.

The public consultation process resulted in a large number of enquiries and actions as particularised in the report to Council of which this public interest test report forms part. A total of 615 written submissions were received from a range of stakeholders, as particularised in the report to Council, of which this public interest test report forms part.

Particulars of submissions received and arguments presented during the public consultation process are detailed in the report to Council of which this public interest test report forms part, for the consideration of Council.

The cost benefit analysis undertaken by AEC Group Pty Ltd, a copy of which forms part of the report to Council, of which this public interest test report forms part, relevantly states the following:-

- (a) the operation of short stay letting and home hosted accommodation in Council's local government area has a significant impact on traditional residential neighbourhoods much of which is focussed on noise disturbances, amenity, safety and security;
- (b) placing effective local controls on activity and behaviour will reduce the extent and type of adverse effects on permanent residents in locations where short stay letting and home hosted accommodation are provided;
- (c) much of these impacts relate to resident health and residential amenity, with amenity referring to the ability for residents to enjoy their homes in a peaceful manner with feelings of community and safety;
- (d) residential homes should allow their occupants the ability to wind down, relax and sleep with minimal disturbance;

- (e) potential beneficiaries within the local government area of Council from the proposed local law include 10,610 residential properties consisting of an estimated 26,525 persons, and as such represent a significant portion of the local community;
- (f) the benefits of the proposed local law on residential health and residential amenity are estimated as \$9.56 million per annum;
- (g) it is not anticipated that the supply of, nor the demand for, short stay accommodation in the local government area of Council would be impacted by the proposed local law based on assessed financial impacts on property owners and the potential impact of passing through increased costs to visitors, and in particular, users of short stay accommodation and home hosted accommodation.

POSITIVE AND NEGATIVE IMPACTS ON STAKEHOLDERS FROM MOVING TO ALTERNATIVES

Positive and negative impacts on stakeholders from moving to alternatives are particularised in the schedules to this report as follows:-

Short Stay Letting and Home Hosted Accommodation — See Schedule 2

SUMMARY OF NET IMPACTS ASSOCIATED WITH ALTERNATIVES

An analysis of the costs and benefits of moving to an identified alternative is detailed in the following schedules.

Short Stay Letting and Home Hosted Accommodation — See Schedule 2

PUBLIC INTEREST TEST REPORT RECOMMENDATION

For each of the local law and subordinate local law identified in schedule 1, each possible anti-competitive provision reviewed is an anti-competitive provision and should be retained in its current form in the public interest.

SCHEDULE 1 — LOCAL LAW AND SUBORDINATE LOCAL LAW IN WHICH POSSIBLE ANTI-COMPETITIVE PROVISIONS IDENTIFIED

Administration (Amendment) Local Law (No. 1) 2021

Administration (Amendment) Subordinate Local Law (No. 1) 2021

SCHEDULE 2 — SHORT STAY LETTING AND HOME HOSTED ACCOMMODATION

POSITIVE AND NEGATIVE IMPACTS ON STAKEHOLDERS FROM MOVING TO ALTERNATIVE

Co-regulation

Stakeholder	Impact	Weighting
Local government	Developing new local law - consulting with stakeholders, negotiating standards for new local law.	Low negative -1
	Implementing/establishing new local law - ie. amending or replacing existing local law, training staff, advising industry etc.	Low negative -1
	A reduction in the administrative and/or enforcement requirements is likely to result from agreement between Council and industry representative bodies responsible for the supervision of short stay letting and home hosted accommodation. Compliance is more likely because those affected by the local law are involved in its development - Council is likely to receive less complaints.	Moderate positive +2
		Overall - Neutral
Existing operators	Better relations with Council through local law development process ie. Council will have a better understanding and appreciation of problems faced by persons undertaking short stay letting and home hosted accommodation on a commercial basis.	Low positive +1
	More appropriate standards in new local law.	Low positive +1
		Overall - Low positive
Potential operators	Better relations with Council through local law development process ie. Council will have a better understanding and appreciation of problems faced by persons undertaking short stay letting and home hosted accommodation on a commercial basis.	Low positive +1
	More appropriate standards in new local law.	Low positive +1
		Overall - Low positive
Residents/tenants	Better outcomes for residents through being able to input into the development of a new local law.	Low positive +1
		Overall - Low positive
Immediate neighbours	Better outcomes for residents through being able to input into the development of a new local law.	Low positive +1
		Overall - Low positive

Stakeholder	Impact	Weighting
Tourist operators	There is potential for an increase in business as a result of agreement between stakeholders. That is, less complaints/problems in the short stay letting and home hosted accommodation business sector, a good reputation for the short stay letting and home hosted accommodation business sector should result and be a boost to tourism in the local government area.	Low positive +1 Overall - Low positive
Representative bodies (Real Estate Agents)	Establishment of links with operators and Council.	Low positive +1 Overall - Low positive
Travellers' Associations	Establishment of links with operators and Council.	Low positive +1 Overall - Low positive

Negative licensing

Stakeholder	Impact	Weighting
Local government	Development and implementation of new regulatory regime.	Low negative -1
	Loss of fees to cover administrative costs.	Low negative -1
	Reduction in administrative processes, ie. no permit applications.	Low positive +1
	Possibility of lack of knowledge of when new operators enter the market.	Low negative -1
	Loss of ability to set site specific conditions - may result in lowering of standards and as a result increase complaints. Also, to change the standards, the local law will need to be amended, whereas under the permit system Council could simply change the conditions in a permit.	Low negative -1
	Higher fines.	Low positive +1
		Overall - Low negative
Existing operators	Reduction in operating costs ie. no permit renewal applications required and no fees.	Low positive +1
	Increase in competition through removal of barrier to entry.	Low negative -1
	Higher fines for non-compliance.	Low negative -1
	Standards apply to all operators equally.	Low positive +1
	Greater onus on short stay letting and home hosted accommodation operators to ensure compliance with standards in local law.	Low negative -1
	Overall - Low negative	
Potential operators	Removal of barrier to entry.	Low positive +1
	Rules are know prior to entry.	Low positive +1
	Higher fines for non-compliance.	Low negative -1
	Greater onus on short stay letting and home hosted accommodation operators to ensure compliance with standards in local law.	Low negative -1
	Overall - Neutral	

Stakeholder	Impact	Weighting
Residents/ tenants	Possibility of decrease in standards due to loss of Council power to assess short stay letting and home hosted accommodation operators prior to entering the market and loss of power to set site specific conditions.	Low negative -1
	Potential for improved short stay letting and home hosted accommodation services, lower prices and greater differentiation between short stay letting and home hosted accommodation service providers as a result of greater competition from removal of the barrier to entry to the market.	Low positive +1 Overall - Neutral
Immediate neighbours	Possibility of decrease in amenity due to loss of Council power to set site specific conditions.	Low negative -1 Overall - Low negative
Tourist operators	Removal of barrier to entry should be a boost to competition in the market and impact in a positive way on tourist operators.	Low positive +1 Overall - Low positive
Representative bodies (Real Estate Agents)	As Council approval is removed (ie. no permit required) the representative bodies may become the focus of any complaints from residents/tenants.	Low negative -1 Overall - Low negative
Travellers' Associations	As Council approval is removed (ie. no permit required) the Association may become the focus of any complaints from residents/tenants.	Low negative -1 Overall - Low negative

SUMMARY OF NET IMPACTS ASSOCIATED WITH ALTERNATIVES

In summary, analysis of the alternatives provides the following information:

Co-regulation

Local government	Existing operators	Potential operators	Residents/tenants	Immediate neighbours	Tourist operators	Representative bodies (Real Estate Agents)	Travellers' Associations
<p>Neutral</p> <p>Overall the impact is neutral. While there are costs involved in establishing a new system, the long term benefits may outweigh these costs.</p>	<p>Low positive impact</p> <p>Overall the impact on existing short stay letting and home hosted accommodation operators would be positive. Benefits should flow from the opportunity to develop a new local law in consultation with other stakeholders.</p>	<p>Low positive impact</p> <p>Overall the impact on existing short stay letting and home hosted accommodation operators would be positive. Benefits should flow from the opportunity to develop a new local law in consultation with other stakeholders.</p>	<p>Low positive impact</p> <p>Residents may benefit from the opportunity to input into development of new local law.</p>	<p>Low positive impact</p> <p>Residents may benefit from the opportunity to input into development of new local law.</p>	<p>Low positive impact</p> <p>There is potential for local tourism industry to gain a benefit from better relations between stakeholders.</p>	<p>Low positive impact</p> <p>Benefits may result from involvement in process of developing new local law.</p>	<p>Low positive impact</p> <p>Benefits may result from involvement in process of developing new local law.</p>

Overall, the analysis of costs and benefits has determined there would be a negligible net benefit in moving to a co-regulation regime. There would be some costs initially in developing and implementing a new local law. Long term benefits may accrue from the process of bringing stakeholders together to develop the new local law such as, establishment of links between stakeholders and fostering better relations between stakeholders, greater compliance by short stay letting and home hosted accommodation operators and reduced administration for Council.

Negative licensing

Local government	Existing operators	Potential operators	Residents/tenants	Immediate neighbours	Tourist operators	Representative bodies (Real Estate Agents)	Travellers' Associations
<p>Low negative impact</p> <p>Some benefits accrue from reduction in administrative burden but these are offset by the potential for increased complaints and loss of fees.</p>	<p>Low negative impact</p> <p>A small reduction in operating costs would result from removal of fees but this is offset by higher fines for non-compliance and a greater onus on short stay letting and home hosted accommodation operators to ensure compliance.</p>	<p>Neutral</p> <p>Potential short stay letting and home hosted accommodation operators benefit from removal of barrier to entry and knowledge of "rules" prior to entry. However, higher fines apply for non-compliance and there is a greater onus on operators to ensure compliance.</p>	<p>Neutral</p> <p>Two scenarios are possible. On one hand standards could decline through removal of Council in assessing new short stay letting and home hosted accommodation operators prior to entering the market and loss of power to set site specific conditions. On the other hand, residents could benefit from increased competition in the market with improved product/service, greater choice and differentiation between short stay letting and home hosted accommodation providers</p>	<p>Low negative impact</p> <p>Potential for a decrease in amenity through loss of Council power to set site specific conditions.</p>	<p>Low positive impact</p> <p>Tourism industry should benefit through greater competition in the market.</p>	<p>Low negative impact</p> <p>Potential for an increase in complaints from residents.</p>	<p>Low negative impact</p> <p>Potential for an increase in complaints from residents.</p>

Overall, the analysis of costs and benefits has determined there would be a net cost in moving to a negative licensing regime. While some benefits would accrue to short stay letting and home hosted accommodation operators, these are offset by higher fines for non-compliance. Other stakeholder groups would be negatively impacted as a result of loss of Council power to set site specific conditions.

Summary and conclusions

The analysis has showed that there would be a net cost to the community in moving to a negative licensing regime. This alternative is not viable and should be set aside.

The analysis has also determined there would be only a limited benefit to the community as a whole in moving to a co-regulation regime.

In conclusion, the identified anti-competitive provisions should be retained in full in the public interest, because:-

- (a) the benefit of these provisions to the community as a whole outweighs the cost; and
- (b) the most appropriate way of achieving the objectives of the relevant local law (about the regulation of the prescribed activity of the operation of short stay letting or home hosted accommodation) is by restricting competition in the way provided in these provisions,

having regard to the local government duty of good rule and local government of its local government area.