

Fact Sheet 19: Existing use rights for short-term accommodation 15 October 2020

This information sheet provides information on existing use rights for short-term accommodation.

What are existing use rights for short-term accommodation?

Many properties already used for *short-term accommodation* may have existing use rights where a history of the use has been lawfully established prior to the commencement of Noosa Plan 2020.

Lawfully established means the property being used for *short-term accommodation*, had approval for visitor accommodation or in the case of a dwelling house, where no approval was required, had commenced being used for *short-term accommodation*.

Where properties have existing use rights, the use of the property for *short-term accommodation* can continue without further planning approval, however a further approval for the ongoing management and operation of the use may be required under a proposed local law. Evidence to show the *short-term accommodation* use or pattern of the dwelling being used or available for use for *short-term accommodation* prior to the commencement of Noosa Plan 2020¹, may need to be provided.

Should the use of the dwelling for *short-term accommodation* cease and be abandoned or change

in scale and intensity, then the existing use rights may also cease.

If there is a compliance matter that raises questions regarding the legitimacy of a property being used for *short-term accommodation*, evidence will need to be provided to demonstrate the property has lawful existing use rights.

How long did the short-term accommodation use have to be established to have existing use rights?

The *short-term accommodation* use must have commenced, and cannot rely on an intention to commence the use. Similarly, a one-off use of a house for short term letting purposes is unlikely to create an existing lawful use right. Such a one-off use would be more in the nature of a temporary use.

A more consistent pattern of conduct involving the house being generally available for short term letting would need to be demonstrated.

Where required, Council will assess existing lawful use rights and whether they exist on a case by case basis.

Existing use rights as they relate to each dwelling type and zone are further explained in **Factsheets 21-25**.

¹ Noosa Plan 2020 commenced 31 July 2020.

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How do I confirm I have existing use rights?

A property owner wishing to confirm, or who is unsure, if a property has existing use rights can seek written advice from Council by completing and submitting the “**Existing Use Short-Term Accommodation – Written Advice Application Form**” (which can be downloaded from www.noosa.qld.gov.au/downloads/file/2461/existing-use-rights-application-form) and making payment of \$631 as per the Fees and Charges Schedule 2020-21.

The application must be accompanied by the required evidence demonstrating the property has a history of *short-term accommodation*. Evidence includes for example, letter head property management agreements, letter head online booking platform agreements, commencement dates, advertised property listings, booking history etc.

In determining whether or not the property has existing use rights, Council will consider the evidence provided and other sources as required.

Written advice will be issued to the property owner following Council review confirming whether the property has existing use rights.

Does my second home / holiday home have existing use rights?

A detached house used as a holiday home for yourself, family and friends while you were in residence, prior to the commencement of Noosa Plan 2020, is not considered *short-term accommodation* and does not have existing use rights for *short-term accommodation*.

If your holiday home was short-term let for visitors and travellers, paying or otherwise, including family and friends while you were not in residence, prior to the commencement of Noosa Plan 2020, this is considered *short-term accommodation*.

If there has been a consistent pattern of the house being generally available for *short-term accommodation* then the property may be considered to have existing use rights. If the use continues substantially in the same form then it continues to be protected, despite the commencement of Noosa Plan 2020.

Information sheets are designed to assist in interpretation of the Noosa Plan 2020. Before proceeding with development proponents should review the planning scheme and/or engage professional advice.

Noosa Plan 2020 can be accessed online at www.noosa.qld.gov.au/noosa-plan-2020.

For further information on development under Noosa Plan 2020 contact Council’s Development Services on (07) 5329 6500 or email planning@noosa.qld.gov.au.