

12 December 2019

The Hon Cameron Dick MP
Minister for State Development, Manufacturing, Infrastructure and Planning
PO Box 15009
CITY EAST QLD 4002

Dear Minister,

ADOPTION OF NOOSA COUNCIL PLANNING SCHEME – NEW NOOSA PLAN

In accordance with step 15 of the Chief Executive Notice Pursuant to section 18 of the Planning Act 2016 Noosa Council at a Special Meeting held 11 December 2019, endorsed the New Noosa Plan and now provides this letter as notice to request your endorsement for Council to adopt its new Planning Scheme.

Council has worked with Department staff in the making of Noosa Council's new Planning Scheme. Council appreciates the support and approach the Department has taken to assist Council in the development of its scheme. Your continued support in finalising our scheme as a priority is greatly appreciated.

Council has undertaken extensive community engagement in the development of the New Noosa Plan over the past 3 years, including two statutory public notification and consultation processes for 40 business days. The first round on the draft Noosa Plan following state interest review and the second round in response to submissions and resulting 'significant changes'. Council has now considered all submissions and made changes in response to those submissions in preparing its final planning scheme for your endorsement.

To assist in your consideration the following has been provided to Department officers via the Planning Portal and attached as marked for your consideration:

- Council report endorsing the final Noosa Plan for Ministerial approval, dated 11 December 2019. (attached)
- New Noosa Plan incorporating all changes following two rounds of submissions – PDF and tracked change version. Uploaded to portal and provided on USB. Including the LGIP and background material.
- Summary of changes table, including assessment of whether the change is considered a significant change or not and if relating to State Interest.
- Consultation Report – Summary of submissions, activities undertaken and how or if submissions resulted in changes to the Noosa Plan. (attached)
- Consultation and Communication Plan that supported the process and evidence of achievement of activities as planned. (attached)
- Statement of assessment against State Interest. (attached)

Council is of the view that significant and comprehensive engagement has occurred across a number of years in the development of its new Planning Scheme. Noosa Council has a highly engaged community evidenced by the level of engagement during all public processes during

the scheme's preparation and the receipt of approximately 1500 submissions across the two formal public notification periods.

The issue of short-term accommodation and holiday letting of single dwelling houses or units dominated the community and Council conversation and resulted in a high number of submissions. Submitters were divided in their views; either objecting to the level of regulation, given this land use had not effectively been regulated under Noosa Planning Schemes previously, or stressing regulation of the industry was overdue and the more the scheme did to address it the better.

The other significant considerations during the plan making process has been Coastal Hazards, Climate adaptation, erosion prone areas and integration of State Interest for Coastal erosion.

Noosa Council intends to implement a proposed Coastal Protection Overlay as part of its new planning scheme. Alongside this Council is currently in the process of preparing a Coastal Hazards Adaptation Plan (CHAP) under the State's QCoast2100 program. The State is contributing \$490,000 to the development of CHAP. On completion of the CHAP there may well be amendments to the Planning Scheme which may constitute a planning change under Section 30 of the Planning Act.

In accordance with the Act and the MGR Chapter 4, part 1, section 3.13 Council will develop a Feasible Alternatives Assessment Report (FAAR) to support any planning change which will document Council's preferred approach to managing coastal erosion risks through the planning scheme. Completion of Council's CHAP is a fundamental process in informing the development of a FAAR.

Until these important planning documents and risk assessments are complete, Council does not wish to proceed with further policy changes to the current planning scheme for coastal erosion matters. Following this process will allow the community opportunity to properly consider any future planning scheme changes and the FAAR in conjunction with the detailed risk assessment and cost benefit analysis in the draft CHAP.

The draft CHAP and FAAR are expected to be completed mid next year. The FAAR will be submitted to the State for approval along with relevant amendments to the new planning scheme.

Council requests that you give consideration to this appropriate and considered sequence of planning in your consideration to endorse Council to adopt its new Planning Scheme. Council is also open to the Minister including a condition of approval acknowledging this and outlining a requirement for Council to complete this work then submit to the Minister for incorporation into its Planning Scheme.



Council is satisfied its new Planning Scheme has been developed in accordance with the Planning Act, Ministerial Guidelines and Chief Executive notice; that its planning scheme advances the purpose of the Planning Act and provides a contemporary, robust and balanced framework to guide development and landuse for Noosa Shire, while firmly and clearly enshrining the objectives of the Act, the regional plan, state planning policies and Noosa Shire sustainability values and principles.

Council is also satisfied that it has met all requirements and steps of the tailored process as outlined in the Chief Executive Notice Pursuant to section 18 of the Planning Act 2016.

Council is pleased to reach this important milestone and submits its new Planning Scheme – Noosa Plan and supporting documentation for your consideration and endorsement for Council to adopt.

Should you have any queries or wish to discuss any matters please contact Kim Rawlings Director Environment and Sustainable Development Ph: 53296122 or Rowena Skinner Principal Strategic Planner Ph: 532966360.

Yours sincerely

Brett de Chastel
CEO
Noosa Council

From: [Garth Nolan](#)
To: [Alinda Bryant](#); [Kim Rawlings](#); [Rebecca Leyslan](#); [Anita Lakeland](#)
Cc: [Caroline Plank](#); [Candace Canniffe](#); [Garth Nolan](#)
Subject: Pause Notice
Date: Monday, 23 December 2019 3:38:16 PM
Attachments: [image001.png](#)
[image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.jpg](#)
[image008.jpg](#)
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[image010.jpg](#)
[image011.png](#)

Hi Kim,

As discussed today:

- The department is advising that the planning scheme review is being paused as of 23 December 2019, to allow for a discussion seeking clarification and further detailed information to support the proposed amendments.
 - The information provided does not include sufficient reasoning or justification for decisions made relating to the proposed changes and the required significantly different test as per the s18 Notice (as per step 15 of the s18 Notice, the local government must provide **reasons why** the proposed amendment is not significantly different from the version for which public consultation has been undertaken).
 - Drafting and/or publishing errors are evident in the documentation provided to the department.
 - State agencies are likely to require further supporting information / justifications for some of the proposed changes.
- The department acknowledges today's meeting and the planned meetings with council officers in January in order to assist the council in providing further or updated information to support the review.

The pause will end once the information is provided. In the plan making portal we have set a date of 31 January 2020 for administrative purposes, this will be evident in any Plan Making Portal notifications.

Should you require any further information please do not hesitate in contacting me.

Regards,

Garth Nolan
Manager (Planning) SEQ North
Planning and Development Services
Department of State Development,
Manufacturing, Infrastructure and Planning

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LET'S CONNECT





RTI RELEASE - DSDMIP

SUBJECT: Request from the Noosa Shire Council (the council) for approval to adopt the proposed Noosa Plan 2020 (the proposed planning scheme)

APPROVED **NOT APPROVED**
 NOTED **COMMENTS**

RECOMMENDATION

It is recommended that you:

- **approve** the council's request (**Attachment 1**) to adopt the proposed planning scheme (**Attachment 2**), subject to conditions, having decided that the matters under step 16 of the Chief Executive Notice (the notice), given under section 18(3) of the *Planning Act 2016* (the Planning Act) (**Attachment 3**) have been satisfied
- **sign** the attached letter to Councillor Tony Wellington, Mayor of the council (**Attachment 4**), advising of your decision
- **sign** the attached Ministerial conditions (**Attachment 5**) to be enclosed with the letter to Councillor Wellington
- **note** the assessment report prepared by the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) (**Attachment 6**)
- **note** the council has sought a decision by 17 February 2020 to allow the proposed planning scheme to be adopted prior to the caretaker period commencing for the local government elections. Your decision, under the notice, is due by 19 March 2020.

Hon. Cameron Dick MP
 Minister for State Development, Manufacturing,
 Infrastructure and Planning

Date...../...../2020

KEY ISSUES

- The proposed planning scheme will replace the current *Noosa Plan 2006*, which was developed under the *Integrated Planning Act 1997*.
- As per steps 3 to 7 of the notice, the Chief Executive was responsible for undertaking the state interest review (SIR) and advising the council of the outcome. The SIR included assessment against the Planning Act, the Planning Regulation 2017 (Planning Regulation), the state interests contained in the State Planning Policy July 2017 (SPP), the South East Queensland Regional Plan 2017 (*ShapingSEQ*) and other relevant legislation. On 21 January 2019, the Chief Executive advised the council that the proposed planning scheme appropriately integrated relevant state interests (**Attachment 7**).
- The council undertook public consultation on the proposed planning scheme from 18 February to 20 May 2019, with a second round between 16 September to 11 November 2019. The additional consultation occurred because the council considered that changes it made to the proposed planning scheme, as a result of submissions, made the proposed planning scheme significantly different to the version that was on public consultation.
- The second round of public consultation was limited to the changes considered by the council to be significantly different, including:
 - the approach to short-term accommodation within various residential zones and other zones
 - provisions and mapping for the Coastal Protection overlay, now called Coastal Protection and Scenic Amenity overlay
 - zoning and overlays affecting a range of individual properties.
- The council received 940 submissions during the first round of public consultation and just over 600 submissions during the second round of public consultation. The council has considered the properly made submissions and made changes to the proposed amendment.
- The planning assessment report (**Attachment 6**) prepared by DSDMIP provides an assessment of the proposed planning scheme.

Endorsed by ED: Anna McGrath Business Group: Planning and Development Services Telephone: 3452 6741	Endorsed by DDG: Kerry Doss Business Group: Planning Telephone: 3452 7909	Approved by Director-General: Rachel Hunter Telephone: 3452 7029 /...../2020
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- This assessment includes consideration of:
 - the matters raised in the properly made submissions and how the council dealt with the matters
 - whether the changes made to the proposed planning scheme affect the state interests
 - whether the changes result in the adoption version being significantly different to the version that was released for public consultation.
- The key issues raised during public consultation and during DSDMIP's assessment, include:

Short-term accommodation

- The proposed planning scheme includes provisions to regulate short-term accommodation, in accordance with schedule 3 of the Planning Regulation.
- Short-term accommodation is impacting on the councils housing supply and affordability.
- While short-term accommodation is assessable under the current planning scheme, it does not adequately address the issue of short-term accommodation.
- The new provisions are considered a 'deregulation' compared to the existing provisions because:
 - existing use rights of existing premises used for short-term accommodation are recognised (approximately 3,000 premises in the shire)
 - new criteria makes it easier to determine when a planning approval may be required
 - no planning approval will be required for home hosted short-stay accommodation across the shire (the use currently requires council consent)
 - it will allow the use of an entire dwelling for short stay accommodation, without council consent, where meeting requirements about length and number of stays and the dwelling being a principal place of residence (the use currently requires council consent).
- The council's approach in the new planning scheme is generally consistent with other local authorities (e.g. Sunshine Coast, Gold Coast, Brisbane, Toowoomba councils).
- While the proposed scheme provides more opportunity and flexibility with respect to short-term accommodation, this matter has been highly divisive in the Noosa Shire community and still subject to considerable debate. DSDMIP is of the view that the long-term impacts of the changes require further consideration and consultation with the community. As a result, a condition has been recommended requiring the council to review the levels of assessment and regulation for short-term accommodation within the residential zones. This is to consider the provision of further information on the matter to the community and consideration of community feedback. This is to result in a report being provided that clearly articulates how the state interests of Tourism and Housing supply and diversity are, or can be, reflected. This report is to include recommendations regarding any changes required to the planning scheme as a result of the review. This review is to commence within three months of the adoption of the planning scheme.
- The council has agreed with the approach proposed by DSDMIP.

Overlay maps (natural hazards, risk and resilience and biodiversity)

- Since the SIR, the council has made changes to the overlay maps for Bushfire Hazard; Biodiversity, Waterways and Wetlands; and Coastal Protection and Scenic Amenity.
- DSDMIP's assessment found that the proposed planning scheme no longer integrates state interests.
- As a result, DSDMIP recommends a Ministerial condition (**Attachment 5**) to ensure the council reflects relevant state mapping, as shown on the SPP interactive mapping system (IMS), as required by the SPP, for bushfire hazards and erosion prone areas.
- For the coastal protection provisions a condition is recommended (**Attachment 5**) that calls up the assessment benchmarks in the SPP for relevant development applications. This process will remain in place until such time council completes an amendment to the planning scheme to integrate the state interest.
- This approach balances both the state and council interests.
- The council has agreed with the approach proposed by DSDMIP.

Social housing

- The proposed planning scheme includes performance outcomes (POs) requiring social housing to be provided at a rate of 1 in 10 dwellings at no cost to the council or a social housing provider.
- The POs apply to three sites: one at Noosa Junction (zoned High density residential) and two sites at the Noosa Business Centre (zoned Major centre – High density residential precinct).

- DSDMIP considers that the stipulation of such a requirement does not advance the purpose of the Planning Act, and that the provisions would exceed the powers conferred under the Planning Act.
- As a result, DSDMIP recommends a Ministerial condition (**Attachment 5**) to amend the PO and include an Acceptable Outcome to encourage, rather than mandate the provision of social housing.
- The council has agreed with the approach proposed by DSDMIP.

Noosa Business Centre

- The proposed planning scheme includes many uses as impact assessable, in the Noosa Business Centre, that are typically considered appropriate uses in a Major Centre (e.g. shops, offices and food and beverage outlets).
- This is not an efficient or effective outcome and places unnecessary burden on new development in the centre.
- Therefore, a Ministerial condition (**Attachment 5**) is recommended requiring the council to commence a process to review the provisions for the Noosa Business Centre to provide more detailed planning guidance within 12 months of the date of adoption of the planning scheme. This process will include a review of the levels of assessment and regulation and a subsequent amendment to the planning scheme to integrate the outcomes of the process.

Regulation of dwelling houses in residential zones

- The proposed planning scheme conflicts with section 43(5)(b) of the Planning Act and schedule 6, part 2, section 2(2) of the Planning Regulation 2017. The proposed planning scheme incorrectly states that a dwelling house within a residential zone is assessable development.
- DSDMIP has worked closely with council officers to develop a Ministerial condition (**Attachment 5**) which ensures the proposed planning scheme appropriately regulates a dwelling house in residential zones as accepted development subject to requirements.

New koala conservation protections in South East Queensland

- On 7 February 2020, the Nature Conservation and Other Legislation (Koala Protection) Amendment Regulation commenced, amending the Environmental Offsets Regulation 2014, Planning Regulation, Nature Conservation (Koala) Conservation Plan 2017 and Vegetation Management Regulation 2012, to provide increased protection to koala habitat areas in South East Queensland.
- This new framework applies in the Noosa region and implements strict new clearing restrictions, including prohibiting clearing of koala habitat areas within koala priority areas.
- As the proposed planning scheme was drafted prior to the release of the new koala framework, it has included a koala habitat area map based on the State's previous koala habitat mapping, with local refinements, and planning scheme provisions which do not completely align with the new framework.
- A Ministerial condition (**Attachment 5**) is recommended to reflect the new koala conservation mapping, along with changes to the associated planning scheme provisions, to ensure the proposed planning scheme is consistent with the new framework.
- Your approval for the council to adopt, is subject to your consideration of the proposed planning scheme against the requirements set out in step 16 of the notice.
- DSDMIP is of the view that the proposed planning scheme satisfies the relevant requirements of step 16 of the notice, because:
 - sufficient information has been provided by the council with the request
 - there were no conditions imposed with the SIR that need to be complied with
 - the adoption version of the proposed planning scheme is not significantly different to the version released for public consultation
 - the proposed planning scheme:
 - advances the purposes of the Planning Act
 - is consistent with section 16(1) of the Planning Act
 - is consistent with the regulated requirements prescribed in the Planning Regulation
 - is well drafted and clearly articulated
 - accords with the result of the council's review required under section 25(1) of the Planning Act.

- As per section 18(7) of the Planning Act, you may approve the proposed planning scheme if you consider that it appropriately integrates state, regional and local planning and development assessment policies, including policies under an applicable state planning instrument.
- DSDMIP's assessment (**Attachment 6**) recommends that you approve the proposed planning scheme subject to conditions (**Attachment 5**), to ensure the proposed planning scheme satisfies the requirements of the Planning Act (section 43(5)(b)), the Planning Regulation (Schedule 6) and the SPP state interests and guiding principles.
- DSDMIP considers your consideration of this matter does not interfere with or limit any identified human rights under the *Human Rights Act 2019* on the basis that you are not making a decision at this point that might impact on the human rights identified in that Act.

Sch. 3(7) - Legal professional privilege

Minister's comments

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RTI RELEASED - DSDMIP