

### **11.3 PROPOSED LOCAL AND SUBORDINATE LOCAL LAWS CONSOLIDATED DRAFT VERSIONS**

1. Proposed Draft Local Law 1 (Administration) 2011
2. Proposed Draft Local Law 2 (Animal Management) 2011
3. Proposed Draft Local Law 3 (Community and Environmental Management) 2011
4. Proposed Draft Local Law 4 (Local Government Controlled Areas, Facilities and Roads) 2011
5. Proposed Draft Local Law 5 (Parking) 2011
6. Proposed Draft Local Law 7 Aerodromes 2011
7. Proposed Draft Local Law 8 Waste Management 2017
8. Proposed Draft Subordinate Local Law 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011
9. Proposed Draft Subordinate Local Law 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011
10. Proposed Draft Subordinate Local Law 1.3 (Establishment or Occupation of a Temporary Home) 2011
11. Proposed Draft Subordinate Local Law 1.4 (Installation of Advertising Devices) 2017
12. Proposed Draft Subordinate Local Law 1.5 (Keeping of Animals) 2011
13. Proposed Draft Subordinate Local Law 1.6 (Operation of Accommodation Parks) 2017
14. Proposed Draft Subordinate Local Law 1.9 (Operation of Cemeteries) 2011
15. Proposed Draft Subordinate Local Law 1.12 (Operation of Temporary Entertainment Events) 2011
16. Proposed Draft Subordinate Local Law 1.13 (Undertaking Regulated Activities regarding Human Remains) 2011
17. Proposed Draft Subordinate Local Law 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas and Roads) 2011
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19. Proposed Draft Subordinate Local Law 1.16 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011
20. Proposed Draft Subordinate Local Law 1.17 (Gates and Grids) 2017
21. Proposed Draft Subordinate Local Law 1.18 (Use of a Vehicle on an Airside Area) 2011
22. Proposed Draft Subordinate Local Law 2 (Animal Management) 2011
23. Proposed Draft Subordinate Local Law 3 (Community and Environmental Management) 2011
24. Proposed Draft Subordinate Local Law 4 (Local Government Controlled Areas, Facilities and Roads) 2017
25. Proposed Draft Subordinate Local Law 5 (Parking) 2011
26. List of Likely Anti-Competitive Provisions

# Local Law No. 1 (Administration) 2011

**Comment [KB1]:** S Turner provided available Councillors with an overview of changes to this LL1 at workshop 6/12/17.

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 1 (Administration) 2011*.

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### 2 Purposes and how they are to be achieved

- (1) The purposes of this local law are to provide a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and specified regulatory powers under legislation, and to provide for miscellaneous administrative matters.
- (2) The purposes are to be achieved by providing for—
  - (a) consistent and comprehensive processes for the local government to grant and regulate approvals to undertake prescribed activities; and
  - (b) authorised persons for enforcing local laws; and
  - (c) review of certain decisions made under local laws; and
  - (d) enforcement of local laws; and
  - (e) matters relating to legal proceedings; and
  - (f) miscellaneous administrative matters relating to meetings, fees, abandoned goods and seized and impounded items.

### 3 Definitions—the dictionary

The dictionary in schedule 1 defines particular words used in this local law.

### 4 Relationship with other laws<sup>1</sup>

This local law is—

- (a) in addition to, and does not derogate from, laws regulating land use planning and development assessment; and
- (b) applies to each of the local government's local laws subject to any specific provision in a local law that expresses a contrary intention.

## Part 2 Approvals for prescribed activities

### 5 Meaning of *prescribed activity*

*Prescribed activity* means—

- (a) an activity prescribed in part 1 of schedule 2 and defined in part 2 of schedule 2; or

<sup>1</sup> This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

- (b) an activity for which a Local Government Act authorises the local government to grant an approval but does not make any other provision, except provision that is consistent with this part, about the process for the local government to grant the approval.

## 6 Offence to undertake local law prescribed activity without approval

- (1) This section applies to a prescribed activity mentioned in—
- section 5(a); or
  - section 5(b) if the Local Government Act that authorises the local government to grant the approval is a local law.<sup>2</sup>
- (2) A person must not undertake the prescribed activity without a current approval granted by the local government.

Maximum penalty for subsection (2)—

- for an activity for which no category has been declared by subordinate local law—50 penalty units; or
  - for a category 1 activity—50 penalty units; or
  - for a category 2 activity—200 penalty units; or
  - for a category 3 activity—500 penalty units.
- (3) However, a local government may, by subordinate local law, declare that subsection (2) does not apply to a prescribed activity or a particular activity that is within the category of a prescribed activity.

*Examples—*

- A subordinate local law may declare that subsection (2) does not apply to installation of a specified type of advertising device (for example, a device prescribed as a ‘permitted advertising device’). These permitted advertising devices would not require an approval under this part but other types of advertising devices would continue to require an approval.
- A subordinate local law may declare that subsection (2) does not apply to the operation of a camping ground that meets certain criteria (for example, less than a certain size or in a particular location) or complies with certain conditions. A person operating such a camping ground would therefore not require an approval under this part.
- A subordinate local law may declare that subsection (2) does not apply to the establishment or operation of a temporary home in a particular part of the local government’s area.

- (4) In this section—

**category 1 activity** means a prescribed activity that is declared as a category 1 activity by a subordinate local law for this definition.

**category 2 activity** means a prescribed activity that is declared as a category 2 activity by a subordinate local law for this definition.

**category 3 activity** means a prescribed activity that is declared as a category 3 activity by a subordinate local law for this definition.

<sup>2</sup> For the offence for undertaking a prescribed activity mentioned in section 5(b) without a current approval if the Local Government Act is not a local law, see the relevant Local Government Act that provides for the approval.

**current approval** means an approval that is in force and has not been suspended at the time the prescribed activity is being undertaken.

## 7 Approvals for prescribed activities to be obtained under this part

An approval required for a prescribed activity must be obtained under this part.

## 8 Form of application

- (1) An application for the local government's approval of a prescribed activity must be made in a form approved by the local government.

*Examples of a form approved by the local government—*

A written form or an online application process.

- (2) The application must be accompanied by—
- (a) documents and materials required under a subordinate local law for this paragraph; and
  - (b) proof that the applicant currently holds any separate approval relating to the prescribed activity that is required under another law; and
  - (c) the prescribed fee.

*Example for paragraph (a)—*

The local government may require an application to include site plans, management plans, relevant consents, evidence of public liability insurance etc.

*Example for paragraph (b)—*

A prescribed activity may require approvals under another Act in relation to development, building, liquor, carriage of goods, business licensing etc.

- (3) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.
- (4) The notice under subsection (3) must state—
- (a) the grounds on which the request is made; and
  - (b) an outline of the facts and circumstances forming the basis for the grounds; and
  - (c) a detailed description of the information requested; and
  - (d) the date, not less than 7 days after the applicant receives the notice, by which the applicant must provide the information.
- (5) If the applicant does not, without reasonable excuse, provide the further information by the stated date—
- (a) the application lapses; and
  - (b) the local government must give the applicant written notice stating that—
    - (i) under this section the application lapses; and
    - (ii) the applicant may make a new application.
- (6) However, the local government may extend the period for the applicant to provide the further information.

- (7) A person must not provide information in or in connection with an application that is, to the person's knowledge, false or misleading in a material particular.

Maximum penalty for subsection (7)—20 penalty units.

## 9 Local government's discretion in granting approvals

- (1) The local government may grant an approval for an applicant to undertake a prescribed activity only if it is satisfied that—
- (a) if the prescribed activity requires a separate approval under an Act, a law of the Commonwealth or the local government's planning scheme—the separate approval has been granted; and
  - (b) the proposed operation and management of the prescribed activity is adequate to protect public health, safety and amenity and prevent environmental harm; and
  - (c) the grant of the approval would be consistent with the purpose of any relevant local law; and
  - (d) the proposed operation and management of the prescribed activity would be consistent with any additional criteria prescribed for the activity under a subordinate local law for this paragraph; and
  - (e) if the application relates to trust land—the grant of the approval would be consistent with the terms and conditions of the trust; and
  - (f) if the application relates to a prescribed activity mentioned in section 5(b)—the grant of the approval would be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and
  - (g) if the prescribed activity is the commercial use of a local government controlled area or road—the grant of the approval is consistent with the objective of the local government of restriction of the commercial use of local government controlled areas and roads, where such activities are permitted, in recognition of the fact that the activities may otherwise enjoy an unfair commercial advantage over competitive activities conducted from fixed premises in the local government area for which rates and other charges are paid, and to which planning and other regulatory legislation applies.

*Example for paragraph (a)—*

An application for commercial use of a local government controlled area that is held in trust by the local government under the *Land Act 1994* may require registration of a trustee lease or issue of a trustee permit prior to the approval being granted for commercial use of the area.

- (2) The local government may, by written notice to the applicant—
- (a) grant the approval unconditionally; or
  - (b) grant the approval subject to conditions determined in accordance with section 10; or
  - (c) refuse to grant the approval.

*Examples for paragraph (b)—*

- If an application for which the local government's approval is required may result in damage to property, the local government may, as a condition of giving its approval,

**Comment [KB2]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit required. Explanatory comments – Regulates the process for the grant of approval by constraining the Council's discretion.

**Comment [KB3]:** NEW – similar to Redlands Council. RRC stakeholders opted to include this section to cater for businesses who display stock on footpath outside of their premises. A number of CBD business do this.

require the applicant to give reasonable security (which may include a deposit of money, a guarantee or an insurance bond) to ensure that the damage is made good.

- The local government may grant an approval subject to the standard conditions imposed on the approval pursuant to a subordinate local law made under section 10(3) of this law.
- (3) However, the local government's powers in deciding the application are subject to the provisions of any relevant local law.
- (4) The local government must give the applicant an information notice if the local government—
- (a) refuses to grant the approval; or
  - (b) grants the approval subject to a non-standard condition.
- (5) In this section—
- non-standard condition*** means a condition that is not prescribed under section 10(3) as a condition that must be imposed on an approval or that will ordinarily be imposed on an approval.

## 10 Conditions of approval

- (1) An approval may be granted on conditions the local government considers appropriate.
- (2) However, the conditions must—
- (a) be reasonably necessary to ensure that the operation and management of the prescribed activity will be adequate to protect public health, safety and amenity and prevent environmental harm; and
  - (b) be consistent with the purpose of any relevant local law; and
  - (c) if the approval is for a prescribed activity mentioned in section 5(b)—be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and
  - (d) not conflict with the conditions of any other relevant approval issued under an Act; and
  - (e) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the prescribed activity under an Act within 3 days of the relevant approval being suspended or cancelled.
- (3) Subject to subsection (2), the local government may, by subordinate local law, prescribe conditions that must be imposed on an approval or that will ordinarily be imposed on an approval.
- (4) To remove any doubt, it is declared that a condition of an approval may authorise an act or omission that—
- (a) contravenes a noise standard; or
  - (b) causes an environmental nuisance.<sup>3</sup>

*Example for paragraph (a)—*

A condition of an approval for operation of a temporary entertainment event may authorise the

<sup>3</sup> See *Environmental Protection Act 1994*, schedule 1, section 3(b).



operation of an amplifier device at specified times that would otherwise be a contravention of the noise standard in the *Environmental Protection Act 1994*, section 440Y.

(5) In this section—

**environmental nuisance** see *Environmental Protection Act 1994*, section 15.

**noise standard** see *Environmental Protection Act 1994*, section 440K.

## 11 Compliance with conditions of approval

(1) A holder of an approval must ensure each condition of the approval is complied with.

Maximum penalty for subsection (1)—50 penalty units.

(2) For a prescribed activity mentioned in section 5(b), this section does not apply if the Act that provides for the local government to grant an approval stipulates a penalty for contravening a condition of the approval.

## 12 Third party certification

(1) In deciding an application under this part, the local government may accept the certificate of a third party certifier as evidence about any application requirement that is mentioned in a subordinate local law for this subsection.

*Example—*

A subordinate local law under section 9(1)(d) might specify that a criterion to be met by applicants for approval to operate a public swimming pool is a management plan that complies with the Royal Life Saving Society's *Guidelines for Safe Pool Operation*. A subordinate local law under the current section could state that compliance with this requirement is a matter about which a third party certifier may provide certification. In deciding an application, the local government may then accept a certificate of a third party certifier (approved under a subordinate local law pursuant to subsection (2) – e.g. the Royal Life Saving Society) as evidence that this requirement has been met.

(2) In this section—

**third party certifier** means—

- (a) an individual or organisation declared under a subordinate local law for this paragraph as a third party certifier for particular application requirements; or
- (b) an individual or organisation that has the qualifications prescribed under a subordinate local law for this paragraph as necessary to provide a certificate about particular application requirements.

**application requirement** means a matter that the local government must be satisfied about, or have regard to, before granting an application for approval for a prescribed activity.

## 13 Term of approval

Unless sooner cancelled or suspended, an approval remains in force for—

- (a) the term provided for the prescribed activity under a subordinate local law for this paragraph; or
- (b) if there is no term provided for under a subordinate local law—the term specified in the approval.

**Comment [KB4]:** Amended from 1yr from the date the approval is granted.

## 14 Renewal of approval

- (1) An approval holder may, before the end of the term of the approval, apply to the local government to renew or extend the approval for—
  - (a) a further term provided for the prescribed activity under a subordinate local law for this paragraph; or
  - (b) if there is no term provided for under a subordinate local law—a further term equal to the current term of the approval.
- (2) However, an approval holder may not apply to renew or extend the approval where the local government has given the approval holder reasonable written notice that the approval is one of a class of approvals that the local government does not intend to renew or extend.

*Example—*

The local government might give notice to the approval holder that, in order to prevent environmental harm to an endangered ecosystem, it does not intend to grant, renew or extend any approvals for the prescribed activity in a specified part of the local government area.

- (3) The application under subsection (1) must be—
  - (a) made in a form approved by the local government; and
  - (b) accompanied by the prescribed fee.
- (4) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.
- (5) Section 8(4) to (7) applies to the notice as if it was a notice under section 8(3).
- (6) The local government may, by written notice to the applicant—
  - (a) grant the application; or
  - (b) grant the application and amend the conditions of the approval; or
  - (c) refuse the application.
- (7) In deciding under subsection (6), the local government may have regard to—
  - (a) the matters mentioned in section 9(1); and
  - (b) whether the conditions of the approval are being complied with by the applicant.
- (8) The local government must give the applicant an information notice if the local government—
  - (a) refuses the application; or
  - (b) grants the application and amends the approval to include non-standard conditions; or
  - (c) grants the application for a term less than the current term of the approval.
- (9) The local government may amend the conditions of the approval under subsection (6)(b) without following the procedure in section 18.

**Comment [KB5]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit required. Explanatory comments – Regulates the process for renewal of an approval by constraining the Council's discretion.

**Comment [KB6]:** NEW

- (10) If an approval holder applies to renew or extend the approval, the approval remains in force until—
- (a) if the application is granted, with or without amendment of the conditions—the date the application is granted; or
  - (b) if the application is refused and the applicant applies for a review of the decision under part 4—the date the applicant is given notice of the review decision; or
  - (c) if the application is refused and the applicant has not applied for a review of the decision under part 4—14 days after the applicant is given an information notice under subsection (8).

## 15 Transfer of approval

- (1) The holder of an approval together with another person may apply to the local government for transfer of the approval to the other person (the *proposed transferee*).<sup>4</sup>
- (2) However, an approval cannot be transferred under this section if it is of a category declared as non-transferable under a subordinate local law for this subsection.
- (3) The application under subsection (1) must be—
  - (a) made in a form approved by the local government; and
  - (b) accompanied by the prescribed fee.
- (4) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.
- (5) Section 8(4) to (7) applies to the notice as if it was a notice under section 8(3).
- (6) The local government may grant an application to transfer an approval only if it is satisfied about the matters mentioned in section 9(1).
- (7) The local government may, by written notice to the approval holder and the proposed transferee—
  - (a) grant the application to transfer the approval; or
  - (b) refuse the application to transfer the approval.
- (8) If the local government decides to grant the application to transfer the approval, the local government may amend the existing conditions of the approval.
- (9) The local government may amend the conditions of the approval under subsection (8) without following the procedure in section 18.
- (10) The local government must state, in the notice given under subsection (7)(a), any amendments to the conditions of the approval and the day that they take effect.
- (11) The local government must give the approval holder and the proposed transferee an information notice if the local government—
  - (a) refuses the application; or
  - (b) grants the application and amends the approval to include non-standard conditions.

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<sup>4</sup> See the Act, section 97, for the power of a local government to fix cost-recovery fees for approvals.

## 16 Amending conditions at request of approval holder

- (1) An approval holder may apply to the local government to amend the conditions of the approval.
- (2) The application must—
  - (a) be in writing and state—
    - (i) the proposed amendment; and
    - (ii) the reasons for it; and
  - (b) be accompanied by the prescribed fee.
- (3) The local government must consider and decide whether to grant or refuse the application.
- (4) If the local government decides to amend the conditions as requested, the local government must, within 14 days of the decision, give the approval holder written notice of the amended conditions and the day that they take effect.
- (5) If the local government refuses to amend the conditions, the local government must give the approval holder an information notice.
- (6) The local government may amend the conditions of the approval under this section without following the procedure in section 18.

**Comment [KB7]:** (b) is NEW

**Comment [KB8]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit required. Explanatory comments – An approval holder may apply to the LG to amend the conditions of an approval and this section constrains the Council’s discretion when considering the application of the approval holder.

## 17 Grounds for amending, suspending or cancelling approval

Each of the following is a ground for amending, suspending or cancelling an approval—

- (a) amendment, suspension or cancellation is necessary—
  - (i) for the protection of public health or safety; or
  - (ii) to prevent environmental harm; or
  - (iii) to prevent property damage or loss of amenity; or
  - (iv) to allow for works on roads or local government controlled areas; or
  - (v) to improve access to a road; or
  - (vi) to improve the efficiency of vehicle or pedestrian traffic.
- (b) another approval required for the prescribed activity under an Act has been suspended or cancelled;
- (c) in undertaking the prescribed activity, the approval holder has failed to comply with a local law or an Act;
- (d) the approval holder has failed to comply with a condition of the approval;
- (e) the approval holder has failed to comply with a notice under sections 26 or 27 that relates to the conduct of the prescribed activity or has failed to comply with a stop order under section 29;

- (f) the approval was granted because of a document or representation that was—
  - (i) false or misleading; or
  - (ii) obtained or made in another improper way.

## 18 Procedure for amending, suspending or cancelling approval

- (1) This section applies if the local government considers there is a ground under section 17 to amend, suspend or cancel an approval (the *proposed action*).
- (2) Before taking the proposed action, the local government must give the approval holder a written notice (the *show cause notice*) stating—
  - (a) the proposed action; and
  - (b) the grounds for the proposed action; and
  - (c) an outline of the facts and circumstances that are the basis of the grounds; and
  - (d) if the proposed action is suspension of the approval, the proposed suspension period; and
  - (e) that the approval holder may make written submissions, within a stated reasonable time of at least 21 days after the notice is given, why the proposed action should not be taken.
- (3) If, after considering all submissions made within the stated time, the local government decides that a ground no longer exists to cancel, amend or suspend the approval, the local government must take no further action about the show cause notice and give written notice to the approval holder about the decision.
- (4) If, after considering all submissions made within the stated time, the local government still considers there is a ground to take the proposed action, the local government may—
  - (a) if the proposed action was to amend the approval—amend the approval; or
  - (b) if the proposed action was to suspend the approval—suspend the approval for no longer than the period stated in the notice; or
  - (c) if the proposed action was to cancel the approval—amend the approval, suspend it for a period or cancel it.
- (5) If the local government decides to amend, suspend or cancel the approval, the local government must give the approval holder an information notice.
- (6) The decision takes effect on the day the written notice mentioned in subsection (3) or (5) is given to the approval holder, or if a later day of effect is stated in the notice, the later day.
- (7) This section does not limit the power a local government may have apart from this section to amend, suspend or cancel an approval.

## 19 Procedure for immediate suspension of approval

- (1) Despite section 18, the local government may immediately suspend an approval if the local government believes that continuation of the prescribed activity by the approval holder poses—

- (a) an urgent and serious threat to public health or safety; or
  - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity.
- (2) The suspension—
- (a) can be effected only by the local government giving a notice to the approval holder about the decision to immediately suspend the approval, together with a show cause notice about proposed action under section 18; and
  - (b) operates immediately the notices are given to the approval holder; and
  - (c) continues to operate until the earliest of the following happens—
    - (i) the local government cancels the suspension;
    - (ii) the local government gives the approval holder notice under section 18(3) or (5) of its decision about the show cause notice;
    - (iii) 14 days have passed since the expiry of the stated time for the making of written submissions regarding the show cause notice;
    - (iv) 14 days have passed since the approval holder notifies the local government that it has made its final written submissions regarding the show cause notice.

## Part 3 Authorised persons

### 20 Appointment

An authorised person's instrument of appointment<sup>5</sup> must state the local laws, or the provisions of local laws, for which the person is appointed as an authorised person.

### 21 Threatening etc an authorised person<sup>6</sup>

A person must not threaten, insult or use abusive language to an authorised person.  
Maximum penalty—20 penalty units.

## Part 4 Review of decisions

### 22 Application for review

- (1) A person who is given, or is entitled to be given, an information notice for a decision under a local law (an *original decision*) may apply to the chief executive officer<sup>7</sup> for a review of the decision under this part.<sup>8</sup>

<sup>5</sup> See the Act, chapter 6, part 6, for the power to appoint authorised persons.

<sup>6</sup> See also the Act, section 149, in relation to obstructing a person enforcing a local government Act and section 150 in relation to impersonating an authorised person.

<sup>7</sup> See definition of *chief executive officer* in the Act, schedule 4.

<sup>8</sup> Persons who are aggrieved by a local government decision for which they do not receive, and are not entitled to receive, an information notice may seek redress under the local government's complaints process, which is

- (2) The application (a **review application**) must be made within 14 days of—
  - (a) if the person is given an information notice for the decision—the day the person is given the notice; or
  - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the original decision.
- (3) However, the local government may, at any time, extend the time for making a review application.
- (4) The review application must be in writing and—
  - (a) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and
  - (b) supported by enough information to enable the local government to decide the application.

### 23 Review decision

- (1) The local government must review the original decision within 28 days after receiving a review application and make a decision (the **review decision**) to—
  - (a) confirm the original decision; or
  - (b) amend the original decision; or
  - (c) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
  - (a) the person who made the original decision; or
  - (b) a person in a less senior office than the person who made the original decision, unless the original decision was made by the chief executive officer.
- (3) The local government must, within 5 days of making the review decision, give the applicant notice of the decision (the **review notice**).
- (4) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.
- (5) If the local government does not give the review notice within the 5 days, the local government is taken to have made a review decision confirming the original decision.

### 24 Stay of operation of original decision

- (1) A review application does not stay the original decision that is the subject of the application.
- (2) However, the applicant may, immediately after being given the information notice about the original decision, apply to the Magistrates Court for a stay of the original decision.
- (3) The court may stay the original decision to secure the effectiveness of the review.
- (4) A stay may be granted on conditions the court considers appropriate.

## Part 5 Enforcement

### 25 Production of records

- (1) This section applies where an authorised person has entered a property under the Act to find out whether the conditions of an approval have been complied with.<sup>9</sup>
- (2) The authorised person may require the occupier of the property or another relevant person to produce for inspection records that are required by the conditions of an approval.
- (3) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

- (4) In this section—

**relevant person**, for an approval mentioned in subsection (1) or (2) includes—

- (a) the approval holder for the approval; and
- (b) an employee or agent of the approval holder who is currently conducting the prescribed activity the subject of the approval on the property.

Comment [KB9]: NEW

Comment [KB10]: NEW

### 25A Compliance directions

- (1) If a person engages in conduct that is, or is preparatory to, a contravention of this local law, an authorised person may orally direct the person to do 1 or more of the following—
  - (a) stop the conduct;
  - (b) take specified action to remedy the contravention.
- (2) A direction may be given under this section in addition to any other enforcement action prescribed by this local law.
- (3) A person must comply with a direction given under subsection (1), unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

Comment [KB11]: NEW, similar to Redlands Council.

### 26 Compliance notice for contravention of local law or approval condition

- (1) Subsection (2) applies if an authorised person is satisfied on reasonable grounds that—
  - (a) a person—
    - (i) is contravening a local law or a condition of an approval; or
    - (ii) has contravened a local law or a condition of an approval in circumstances that make it likely the contravention will continue or be repeated; and
  - (b) a matter relating to the contravention can be remedied; and

<sup>9</sup> See the Act, section 132.



(c) it is appropriate to give the person an opportunity to remedy the matter.

*Examples for paragraph (b) of matters relating to a contravention that can be remedied—*

- If the contravention relates to a person's failure to take action that is required under a local law or a condition of an approval, then the matter can be remedied by the person taking that action.
  - If the contravention relates to a person taking action that is prohibited under a local law or a condition of an approval, then the matter can be remedied by the person stopping that action.
- (2) The authorised person may give<sup>10</sup> a written notice (a **compliance notice**) to the person (the **recipient**) requiring the person to remedy the contravention.<sup>11</sup>
- (3) The compliance notice must state the following—
- (a) the particular provision of the local law or condition of an approval the authorised person believes is being, or has been, contravened; and
  - (b) briefly, how it is believed the provision of the local law or condition of an approval is being, or has been, contravened; and
  - (c) the time by which the recipient must remedy the contravention; and
  - (d) that it is an offence to fail to comply with the compliance notice; and
  - (e) the maximum penalty for failing to comply with the compliance notice.
- (4) The time under subsection (3)(c) must be reasonable having regard to—
- (a) the action required to remedy the contravention; and
  - (b) the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm posed by the contravention; and
  - (c) how long the recipient has been aware of the contravention.
- (5) The compliance notice may also state the reasonable steps the authorised person considers necessary to remedy the contravention or avoid further contravention.

*Examples of reasonable steps to avoid further contravention—*

- The repetition of a specified action at stated intervals for a certain period.
  - Stopping taking an action that is prohibited by a local law or condition of an approval.
- (6) The compliance notice must include, or be accompanied by, an information notice.
- (7) The recipient must comply with the compliance notice.<sup>12</sup>
- Maximum penalty for subsection (7)—50 penalty units.

## 27 Compliance notice authorised by local law

- (1) This section applies if—
- (a) a local law provides that an authorised person may give a compliance notice

<sup>10</sup> See the *Acts Interpretation Act 1954*, sections 39 and 39A, regarding the service of documents on a person.

<sup>11</sup> Where a compliance notice is given to the owner of a property and requires action to be taken in relation to that property, then it will constitute a **remedial notice** under the Act, section 138(2).

<sup>12</sup> See also sections 17(e) and 18 regarding the local government's power to amend, suspend or cancel an approval where a notice is not complied with, and the Act, section 142, regarding the local government's power to enter property and take action that is required under a remedial notice.

- to a person;<sup>13</sup> and
- (b) the authorised person gives<sup>14</sup> a compliance notice to the person (the *recipient*).<sup>15</sup>
- (2) The compliance notice must state the following—
- (a) the provision of the local law that authorises the authorised person to give a compliance notice; and
  - (b) the specified action that the recipient must take to comply with the notice; and
  - (c) the time by which the recipient must comply with the notice; and
  - (d) that it is an offence to fail to comply with the notice; and
  - (e) the maximum penalty for failing to comply with the notice.
- (3) The specified action in subsection (2)(b) must not be inconsistent with action required, by a remedial notice, to be taken under another Local Government Act.
- (4) The time under subsection (2)(c) must be reasonable having regard to the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm that may result from failure to comply with the notice.
- (5) The compliance notice must include, or be accompanied by, an information notice.
- (6) The recipient must comply with the compliance notice.<sup>16</sup>
- Maximum penalty for subsection (6)—50 penalty units.

### **27A Power to require information**

- (1) For monitoring or enforcing compliance with this local law an authorised person may, subject to subsection (2), require an occupier of a place, or a person at the place to give the authorised person information to help the authorised person ascertain whether the local law is being complied with.
- (2) When making a requirement under subsection (1), the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

### **27B Failure to give information**

- (1) A person of whom a requirement is made under section 27A(1) must comply with the requirement, unless the person has a reasonable excuse.  
Maximum penalty—50 penalty units.
- (2) It is not a reasonable excuse for a person to fail to comply with the requirement because giving the information might tend to incriminate the person.

<sup>13</sup> For example, see *Local Law No.4 (Local Government Controlled Areas, Facilities & Roads) 2011*, section 9(2) (Power to require owner of land adjoining road to fence land) and *Local Law No. 3 (Community & Environmental Management) 2011*, section 10(1) (Pest control notices), section 13(2) (Overgrown allotments), section 14(2) (Accumulation of objects and materials on allotments), section 16(2) (Fire hazards), section 19(2) (Community safety hazards).

<sup>14</sup> See also footnote 10.

<sup>15</sup> See also footnote 11.

<sup>16</sup> See also footnote 12.

- (3) However, if the person is a natural person, evidence of, or evidence directly or indirectly derived from, the information that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.

Comment [KB12]: NEW. Similar to Redlands

## 28 Power to remove, remediate and cost recovery

Comment [KB13]: NEW

- (1) This section applies where—
- a structure or other material thing, other than a vehicle, has been brought onto a road in contravention of a local law; or
  - a structure or other material thing has been brought onto a local government controlled area in contravention of a local law; or
  - a structure has been erected or installed in, on, across, under or over a road in contravention of a local law; or
  - damage, alteration or improvement has occurred to a local government controlled area or road in contravention of a local law.
- (2) Where this section applies, an authorised person may do 1 or more of the following—
- seize (by dismantling if necessary) and impound the structure, thing or improvement;
  - remediate the damage to the local government controlled area or road.
- (3) An authorised person may exercise a power under subsection (2) immediately if the immediate seizure, removal or remediation is necessary—
- in the interests of public health or safety; or
  - to prevent environmental harm, property damage or loss of amenity; or
  - to prevent the structure, thing or damage hindering the operation of the local government controlled area or road.
- (4) Where subsection (3) does not apply, an authorised person may exercise a power under subsection (2) if—
- the—
    - owner, or person in possession, of the structure, thing or improvement has not complied with a compliance notice requiring the owner or person to remove it; or
    - person responsible for the damage, alteration or improvement has not complied with a compliance notice requiring the person to remediate the damage, alteration or improvement; and
  - the time for making an application for review of the compliance notice under section 22 has expired.
- (5) The local government may recover the cost of action taken under this section as a debt from the person responsible for the activity mentioned in subsection (1).
- (6) In this section—  
**thing** does not include an animal.

Comment [KB14]: NEW. NB: this is the same as (b) below, however excludes the words "other than a vehicle"

Comment [KB15]: NEW

Comment [KB16]: NEW

Comment [KB17]: NEW

Comment [KB18]: NEW

## 29 Stop orders

- (1) An authorised person may give a relevant person an order to immediately stop a prescribed activity if the authorised person believes that continuation of the activity poses—
  - (a) an urgent and serious threat to public health or safety; or
  - (b) an urgent and serious risk of environmental harm, property damage or loss of amenity.
- (2) An order under this section—
  - (a) may be given orally or in writing; and
  - (b) operates until the earliest of the following happens—
    - (i) the expiry of the period, of no more than 3 days, specified by the authorised person when the order is given;
    - (ii) the local government immediately suspends the approval for the prescribed activity under section 19.
- (3) An authorised person must confirm an oral order in writing by the next business day following the giving of the order.
- (4) A person who receives an order under this section must comply with the order.  
Maximum penalty for subsection (4)—50 penalty units.
- (5) This section does not affect the local government's powers under another law.
- (6) In this section—  
*relevant person* means the approval holder for the prescribed activity or an employee or agent of the approval holder currently conducting the prescribed activity.

## Part 6 Legal proceedings

### 30 Defence of reasonable excuse

If a person is charged with an offence involving a contravention of a local law, it is a defence to prove that the person had a reasonable excuse for the contravention.

### 31 General defence for owners or occupiers of land

In a proceeding under a local law against the owner or occupier of land for an offence relating to an act or omission with respect to the land, it is a defence for the owner or occupier to prove that—

- (a) the act or omission occurred without the owner's or occupier's knowledge or consent; and
- (b) the owner or occupier could not, by reasonable diligence, have prevented the act or omission.

### 32 Joint and several liability

- (1) If a local law imposes a liability on an owner or occupier of property, or a person

engaged in a particular activity, and 2 or more persons are the owners or occupiers of the relevant property, or are jointly engaged in the relevant activity, the liability is joint and several.

- (2) This section applies both to civil liabilities and liabilities enforced by summary proceedings under the *Justices Act 1886*.

### 33 Rewards

- (1) The local government may, by public notice, offer a reward for information leading to the conviction of a person for—
  - (a) an offence involving damage to, or theft of, property of the local government or under the local government's control; or
  - (b) an offence against a local law.
- (2) The amount of the reward, and the conditions on which it is payable, must be decided by resolution of the local government.

## Part 7 Miscellaneous

### 34 Maintenance of good order at meetings

- (1) A person who is not a member of the local government or a local government committee must not obstruct the proper conduct of a meeting of the local government or committee.

Maximum penalty for subsection (1)—20 penalty units.

- (2) If a person (other than a member) obstructs the proper conduct of a meeting of the local government or committee, the chairperson may ask the person to withdraw from the meeting place.
- (3) A person asked to withdraw from a meeting place under subsection (2) must immediately withdraw from the place and remain away until the end of the meeting or for a lesser period fixed by the chairperson.

Maximum penalty for subsection (3)—20 penalty units.

- (4) If a person contravenes subsection (3), an authorised person may, at the request of the chairperson, exercise reasonable force to remove the person, and keep the person away, from the meeting place.

### 35 Fees

- (1) If a local law provides for payment of a fee, and does not itself fix the amount of the fee, the fee is to be fixed by resolution under the Act, chapter 4, part 2.
- (2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.

*Example—*

Suppose that a person pays an approval fee appropriate to an approval of 1 year's duration but, because of unforeseen circumstances, surrenders the approval within 3 months after it is granted. A resolution might provide that, in such a case, the former approval holder is to receive a partial reimbursement of the approval fee.

- (3) Unless specific provision to the contrary is made in the local law or resolution fixing a fee, the local government may, in an appropriate case, waive or partially remit a fee.

### 36 Abandoned goods

- (1) This section applies where an authorised person considers on reasonable grounds that goods have been abandoned in a local government controlled area or on a road.
- (2) However, this section does not apply if the local government or an authorised person considers on reasonable grounds that a vehicle has been—
- (a) abandoned on a road as described in section 37A(1)(a); or
  - (b) left on a road as described in section 37A(1)(b)(i)(A); or
  - (c) found on a road as described in section 37A(1)(b)(i)(B).
- (3) The authorised person may seize and impound the goods.

Comment [KB19]: NEW

### 37 Dealing with seized and impounded items

- (1) This section applies where—
- (a) an authorised person has exercised a power under a local law to seize, confiscate, remove or impound a structure, thing or goods (an *impounded item*);<sup>17</sup> or
  - (b) the local government has impounded an item that has been delivered into its custody pursuant to a local law (also an *impounded item*) and the local law states that this section is to apply.
- (2) However, this section does not apply to—
- (a) an impounded item that is an animal; or<sup>18</sup>
  - (b) a vehicle if the local government or an authorised person considers on reasonable grounds that the vehicle has been —
    - (i) abandoned on a road as described in section 37A(1)(a); or
    - (ii) left on a road as described in section 37A(1)(b)(i)(A); or
    - (iii) found on a road as described in section 37A(1)(b)(i)(B).
- (3) If the impounded item is perishable, it may be immediately disposed of as the chief executive officer directs and the proceeds applied in accordance with subsection (7).
- (4) If the impounded item has no commercial value or has a value that would not cover the costs of sale of the item, it may be disposed of—as the chief executive officer directs, including by private sale, destruction, restoring or giving away and the proceeds applied in accordance with subsection (7).

Comment [KB20]: NEW

Comment [KB21]: NEW

Comment [KB22]: NEW

<sup>17</sup> See, for example, section 28 in relation to structures or things brought onto a local government controlled area or road in contravention of a local law and section 36 in relation to abandoned goods.

<sup>18</sup> See *Local Law No. 2 (Animal Management) 2014*, part 4, in relation to the seizure of animals. See the *Animal Management (Cats and Dogs) Act 2008* in relation to the seizure of regulated dogs.

- (5) A person may reclaim the impounded item if—
- (a) written application is made to the chief executive officer; and
  - (b) proof is produced to the satisfaction of the chief executive officer that the applicant is the owner of the item; and
  - (c) the applicant pays the prescribed fee for the impounding of the item.
- (6) At the expiry of 1 month since the date of impounding, the impounded item is forfeited to the local government, which may dispose of the item—
- (a) by sale through—
    - (i) public auction or tender, following an advertisement published at least 14 days before the date of the proposed sale; or
    - (ii) an agent of the local government; or
    - (iii) an enterprise owned by the local government; or
  - (b) if it has been offered for sale under paragraph (a) but has not been sold within a reasonable period—as the chief executive officer directs.
- (7) The proceeds of the sale or disposal of the impounded item must be applied in the following order—
- (a) in payment of the reasonable expenses incurred in selling or disposing of the impounded item;
  - (b) in payment of the prescribed fee for seizing and holding the impounded item;
  - (c) if there is an amount owing to an entity under a security interest registered for the impounded item under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;
  - (d) the balance to the owner of the impounded item.
- (8) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (7)(d) within 1 year of the date of the sale or disposal, the amount becomes the property of the local government.

**Comment [KB23]:** DELETED from immediately after s6 was:-  
(a)if it has no commercial value or has a value that would not cover the costs of sale of the item-as the CEO directs, or

**Comment [KB24]:** NEW

**Comment [KB25]:** NEW

### 37A Removal of vehicles from roads

- (1) This section applies where the local government or an authorised person considers on reasonable grounds—
- (a) that a vehicle in the local government's area has been abandoned on a road, other than a busway, by the person who last drove or used it; or
  - (b) that—
    - (i) a vehicle in the local government's area has been—
      - (A) left on a road unattended whether temporarily or otherwise for a time or in a place, condition, way or circumstances where its presence is hazardous; or
      - (B) found on a road in a place, condition, way or circumstances where its presence is—
        - (a) hazardous; or
        - (b) in contravention of the *Transport Operations (Road Use Management) Act 1995*; or

- (c) in contravention of a local law; and
- (ii) the driver of the vehicle—
- (A) can not readily be located; or
  - (B) has failed to immediately remove the vehicle when required by an authorised person to do so.
- (2) For subsection (1), the presence of a vehicle on a road is *hazardous* if it is causing, or is likely to cause, danger, hindrance or obstruction to traffic or is preventing, hindering or obstructing, or likely to prevent, hinder or obstruct the use of the road or a part of the road for a lawful purpose.
- (3) Where this section applies, the local government or an authorised person may do 1 or more of the following—
- (a) remove the vehicle from the road;
  - (b) impound the vehicle at a place for safe keeping;
  - (c) dispose of the vehicle under this section.
- (4) Subsection (5) applies to a vehicle (a *no commercial value vehicle*) if—
- (a) the vehicle is removed or impounded under subsection (3); and
  - (b) the vehicle is deemed by the local government or an authorised person to—
    - (i) have no commercial value; or
    - (ii) have a value that would not cover the cost to the local government of the total of the following—
      - (A) if the vehicle is removed from a road—the cost of removal of the vehicle from the road; and
      - (B) if the vehicle is impounded—the cost of impounding the vehicle; and
      - (C) if the vehicle is sold at a public auction— the costs of the sale.

*Examples for paragraph (b)—*

- a burnt out vehicle; or
  - a vehicle without an engine; or
  - a vehicle from which 1 or more wheels have been removed; or
  - a vehicle that has been severely damaged; or
  - a vehicle that has been stripped of parts or wrecked; or
  - a vehicle that is dilapidated or rusted throughout.
- (5) Where subsection (4) applies to a vehicle—
- (a) the local government or an authorised person is not required to follow the procedures specified in subsections (6) to (10) inclusive in respect of the vehicle; and
  - (b) property in the vehicle vests in the local government; and
  - (c) the vehicle may be disposed of as the chief executive officer directs, including by private sale, destruction, restoring or giving away and the proceeds (if any) applied in accordance with subsection (11).



- (6) Subsections (7) to (10) apply to a vehicle if—
- (a) the vehicle is removed or impounded under subsection (3); and
  - (b) the local government or an authorised person does not deem the vehicle to be a no commercial value vehicle under subsection (4).
- (7) Where subsection (6) applies to a vehicle, a written notice (a *vehicle impounding notice*) complying with subsection (8) must be—
- (a) where the local government or the authorised person who removed or impounded the vehicle knows, or can readily find out, the name and address of the owner of the vehicle—given to the owner within 14 days of the removal or impounding of the vehicle; or
  - (b) where the local government or the authorised person who removed or impounded the vehicle does not know, and cannot readily find out, the name and address of the owner of the vehicle—published on the local government’s website within 14 days of the removal or impounding of the vehicle.
- (8) For the purposes of subsection (7), a vehicle impounding notice for a vehicle must state—
- (a) a description of the vehicle; and
  - (b) if the vehicle is registered—the registration number of the vehicle; and
  - (c) if the vehicle was removed and impounded—
    - (i) the date of removal or impounding of the vehicle; and
    - (ii) a description of the location from which the vehicle was removed or impounded; and
    - (iii) the place at which the vehicle is impounded; and
  - (d) the reasons for the removal or impounding of the vehicle; and
  - (e) a statement that the owner of the vehicle, or a person acting on the owner’s behalf, may apply for the release of the vehicle; and
  - (f) a statement that an applicant for release of the vehicle must furnish proof to the satisfaction of the chief executive officer of the applicant’s ownership or of the applicant’s right to possession of the vehicle and, in the case of the applicant being a person acting on behalf of the owner, must furnish proof to the satisfaction of the chief executive officer of the applicant’s authority to act on behalf of the owner; and
  - (g) a statement that if a successful claim is not made for the return of the vehicle within 1 month of the date on which the vehicle impounding notice for the vehicle is given to the owner or published on the local government’s website, then the vehicle may be disposed of by the local government or an authorised person in accordance with subsection (10).
- (9) Subsection (10) applies to a vehicle if—
- (a) a vehicle impounding notice for the vehicle has been—
    - (i) given to the owner of the vehicle under subsection (7)(a); or
    - (ii) published on the local government’s website under subsection (7)(b); and
  - (b) a successful claim for the return of the vehicle is not made in accordance with

the time period specified in the vehicle impounding notice.

(10) Where this subsection applies to a vehicle—

- (a) property in the vehicle vests in the local government; and
- (b) the local government or an authorised person may dispose of the vehicle—
  - (i) as the chief executive officer directs, including by private sale, destruction, restoring or giving away if—
    - (A) the vehicle has no commercial value; or
    - (B) the vehicle has a value that would not cover the cost to the local government of the total of the following—
      - (a) if the vehicle is removed from a road—the cost of removal of the vehicle from the road; and
      - (b) if the vehicle is impounded—the cost of impounding the vehicle; and
      - (c) if the vehicle is sold at a public auction—the costs of the sale; or
    - (C) the vehicle cannot be sold at a public auction pursuant to paragraph (b)(ii); or
    - (D) the keeping of the vehicle is causing, or is likely to cause, a nuisance or a hazard; or
  - (ii) by sale through public auction or tender, following an advertisement published at least 14 days before the date of the proposed sale; or
  - (iii) if the vehicle has been offered for sale under paragraph (b)(ii) but has not been sold within a reasonable period—as the chief executive officer directs.

(11) The proceeds of the sale or disposal of the vehicle must be applied in the following order—

- (a) in payment of the reasonable expenses incurred in selling or disposing of the vehicle;
- (b) in payment of the prescribed fee for removal and impounding of the vehicle and the service or publication of the vehicle impounding notice for the vehicle under subsection (7);
- (c) if there is an amount owing to an entity under a security interest registered for the vehicle under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;
- (d) the balance to the owner of the vehicle or, if after reasonable inquiry, the owner cannot be ascertained, into the general fund of the local government.

(12) A secured party cannot enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (11)(a) or (b).

(13) The local government or an authorised person may deal with any goods, equipment or thing contained in, on or about the vehicle at the time of its removal in the same manner as the local government or an authorised person may deal with the vehicle pursuant to this section.

(14) However, any perishable goods in or on the vehicle at the time of its removal may be

disposed of in the way the chief executive officer shall direct and the proceeds (if any) of the disposal shall be applied in accordance with the provisions of subsection (11).

- (15) The chief executive officer must not deliver possession of the vehicle to the owner thereof, or to another person acting on the owner's behalf, or to any other person claiming a right to the possession of the vehicle unless the following provisions have been complied with—
- (a) the owner, or person acting on the owner's behalf, or other person claiming a right to possession of the vehicle, shall have applied in writing signed by the applicant to the chief executive officer for the release of the vehicle;
  - (b) the applicant shall have furnished proof to the satisfaction of the chief executive officer of the applicant's ownership or of the applicant's right to possession of the vehicle and, in the case of the applicant being a person acting on behalf of the owner, shall have furnished proof to the satisfaction of the chief executive officer of the applicant's authority to act on behalf of the owner;
  - (c) the applicant shall have paid all expenses incurred by the local government concerned in connection with each of —
    - (i) the removal and impounding of the vehicle; and
    - (ii) the service, or publication, of any vehicle impounding notice in relation to the removal and impounding of the vehicle; and
    - (iii) the intended sale of the vehicle;
  - (d) the applicant has signed a receipt for the delivery of the vehicle to the applicant.
- (16) Any person who takes delivery, or obtains possession of or removes or attempts to remove from the detention of the local government a vehicle removed and impounded pursuant to the provisions of subsection (3) except in accordance with the provisions of subsection (15) shall be guilty of an offence.

Maximum penalty—40 penalty units.

- (17) In this section—
- (a) **chief executive officer** means the chief executive officer of the local government;
  - (b) **vehicle** includes any part of a vehicle;
  - (c) **secured party** has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth), section 10.

Comment [KB26]: NEW

## Part 8 Subordinate local laws

### 38 Subordinate local laws

The local government may make subordinate local laws about—

- (a) prescribed activities in respect of which the requirement for an approval does

- not apply;<sup>19</sup> and
- (b) the categories of prescribed activities for the purposes of maximum penalties;<sup>20</sup>
  - (c) the documents and materials that must accompany an application for an approval;<sup>21</sup> and
  - (d) additional criteria for the granting of approvals for prescribed activities;<sup>22</sup> and
  - (e) the conditions that must be imposed on an approval or that will ordinarily be imposed on an approval;<sup>23</sup> and
  - (f) application requirements for which a third party certifier's certificate may be accepted by the local government;<sup>24</sup> and
  - (g) the individuals or organisations that are declared as third party certifiers for particular application requirements;<sup>25</sup>
  - (h) the qualifications that are necessary for an individual or organisation to provide a third party certificate about particular application requirements;<sup>26</sup> and
  - (i) the term for which an approval for a prescribed activity remains in force;<sup>27</sup> and
  - (j) the further term for which an approval for a prescribed activity may be renewed or extended;<sup>28</sup> and
  - (k) categories of approvals that are non-transferable;<sup>29</sup> and
  - (l) complementary accommodation prescribed as appropriate for accommodation parks;<sup>30</sup> and
  - (m) a State-controlled road to which this local law applies;<sup>31</sup> and
  - (n) public place activities prescribed as regulated activities on local government controlled areas and roads.<sup>32</sup>

Comment [KB27]: Amended from "caravan" to align with amendments in SLL

<sup>19</sup> See section 6(3).

<sup>20</sup> See section 6(4).

<sup>21</sup> See section 8(2)(a).

<sup>22</sup> See section 9(1)(d).

<sup>23</sup> See section 10(3).

<sup>24</sup> See section 12(1).

<sup>25</sup> See section 12(2), definition of *third party certifier*, paragraph(a).

<sup>26</sup> See section 12(2), definition of *third party certifier*, paragraph(b).

<sup>27</sup> See section 13(a).

<sup>28</sup> See section 14(1)(a).

<sup>29</sup> See section 15(2).

<sup>30</sup> See schedule 1, definition of *complementary accommodation*, paragraph (b).

<sup>31</sup> See schedule 1, definition of *road*, subparagraph (b)(i).

<sup>32</sup> See schedule 2, part 2, definition of *regulated activities on local government controlled areas and roads*, paragraph (c).

## Schedule 1 Dictionary

### Section 3

**accommodation park** includes—

- (a) a place for parking and residing in caravans; and
- (b) a camping ground; and
- (c) a place that provides for complementary accommodation.

Comment [KB28]: NEW.

**amend** for an approval, includes varying a condition, removing a condition or adding a condition.

**approval** includes a consent, permission, licence, permit or authorisation.

**authorised person** see the Act, schedule 4<sup>33</sup>.

**business day** see *Acts Interpretation Act 1954*, schedule 1.

**caravan** see *Residential Tenancies and Rooming Accommodation Act 2008*, section 7.

**complementary accommodation** means—

- (a) accommodation in an on-site caravan, a cabin, a manufactured home or a tent or other structure that can be readily assembled and disassembled; or
- (b) other accommodation prescribed under a subordinate local law for this paragraph as appropriate to an accommodation park.

Comment [KB29]: NEW

Comment [KB30]: Previously “caravan parks”. Amended to align with new SLL.

**compliance notice** means a compliance notice given under—

- (a) section 26; or
- (b) another local law that authorises the giving of a compliance notice.

**day** includes—

- (a) a business day; and
- (b) a day other than a business day.

**disturbance**, of human remains, includes interfering with remains, removal of remains and opening of a site of burial

**DOGIT land** means land that is DOGIT land under the *Aboriginal Land Act 1991*, section 11, or the *Torres Strait Islander Land Act 1991*, section 12.

**entertainment** includes recreation and amusement.

**entertainment event** means an event that is open to the public for entertainment whether or not a charge for admission is made and whether or not the person who controls admission to the place reserves a right to refuse admission.

**environmental harm** see *Environmental Protection Act 1994*, section 14.

**footpath** means an area open to the public that is designated for, or has as 1 of its main uses, use by pedestrians.

Comment [KB31]: NEW

**goods** does not include animals.

**hazardous** see section 37A(2).

<sup>33</sup> See also section 20.

**human remains** means the body or part of the body of a deceased person.

**information notice**, for a decision, means a written notice stating the following—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person to whom the notice is given may apply for a review of the decision within 14 days after the notice is given; and
- (d) how to apply for a review.

**local government** means Rockhampton Regional Council.

**Local Government Act** see the Act, schedule 4.

**local government area** means the local government area of the local government.

**local government cemetery** means a cemetery under the control of the local government, including a cemetery located on land owned by the local government or on land for which the local government is the trustee.

**local government controlled area**—

- 1 A *local government controlled area* means land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road.

*Examples of local government controlled areas—*

- land held by the local government in freehold or leasehold, or as trustee of a reserve
- parks, reserves and gazetted foreshores
- camping grounds or accommodation parks on land owned or controlled by the local government
- local government swimming pools
- cemeteries
- Council Chambers and local government offices
- jetties.

- 2 A *local government controlled area* includes part of a local government controlled area.

- 3 A *local government controlled area* does not include a residential lot on DOGIT land.

**manufactured home** see the *Manufactured Homes (Residential Parks) Act 2003*, section 10.

**network connection** see the Act, section 35(2).

**no commercial value vehicle** see section 37A(4).

**non-standard condition** see section 9(5).

**prescribed activity** see section 5.

**prescribed fee** means a cost-recovery fee fixed by the local government, by local law or by resolution, under the Act<sup>34</sup>.

**property** see *Acts Interpretation Act 1954*, schedule 1.

Comment [KB32]: NEW

Comment [KB33]: Previously caravan parks, refer previous comments

Comment [KB34]: NEW

<sup>34</sup> See the Act, section 97.

**proposed transferee** see section 15(1).

**public notice** means a notice published in a newspaper circulating in the local government's area.

**public place** see the Act, section 125(5).

**residence** means human habitation on a short-term or long-term basis.

**review decision** see section 23(1).

**road** means—

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road—
  - (i) prescribed under a subordinate local law for this subparagraph as a road to which this local law applies unless otherwise provided; and
  - (ii) in respect of which the chief executive has given written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b).

**shared facility accommodation** 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—

- (a) dormitories or bedrooms;
- (b) toilets;
- (c) bathrooms, showers or other bathing facilities;
- (d) laundries;
- (e) dining facilities;
- (f) cooking facilities;
- (g) recreation facilities.

**show cause notice** see section 18(2).

**the Act** means the *Local Government Act 2009*.

**vehicle** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

**vehicle impounding notice** see section 37A(7).

## Schedule 2 Prescribed activities

### Section 5

#### Part 1 Prescribed activities

alteration or improvement to local government controlled areas and roads

commercial use of local government controlled areas and roads

establishment or occupation of a temporary home

installation of advertising devices

keeping of animals

operation of accommodation parks

operation of cemeteries

operation of public swimming pools

operation of shared facility accommodation

operation of temporary entertainment events

undertaking regulated activities regarding human remains

undertaking regulated activities on local government controlled areas and roads

**Comment [KB35]:** Operation of Camping Grounds and Operation of Cane Railways both DELETED as these SLL's will be repealed.

**Comment [KB36]:** Query for K&C (parked amendment): New Gates & Grids SLL not mentioned as prescribed activity in this LL1, it is instead referred to in LL4. K&C error?

**Comment [KB37]:** Amended from "caravan parks" to align with new SLL

#### Part 2 Definitions of prescribed activities

*alteration or improvement to local government controlled areas and roads*<sup>35</sup>  
means—

- 1 *Alteration or improvement to local government controlled areas and roads*  
means—
  - (a) installing, changing, damaging or removing a structure in a local government controlled area or on a road; or
  - (b) planting, clearing or damaging of vegetation in a local government controlled area or on a road.

<sup>35</sup> Where a local government controlled area comprises land held on trust by the local government under the *Land Act 1994*, the local government must take account of, and give precedence to, its rights, powers and responsibilities as a trustee under that Act.



2 *Alteration or improvement to local government controlled areas and roads* does not include an alteration or improvement—

- (a) that constitutes development under the Planning Act<sup>36</sup>; or
- (b) for which a tree clearing permit is required under the *Vegetation Management Act 1999*; or
- (c) that involves a network connection; or
- (d) for which written approval of the local government is required under section 75 of the Act.

***commercial use of local government controlled areas<sup>37</sup> and roads*** means the use of a local government controlled area or road for soliciting or carrying on the supply of goods and services (including food or drink) for profit, but does not include the following—

- (a) the provision of a public passenger service under the *Transport Operations (Passenger Transport) Act 1994*;
- (b) a business on part of a road if the person carrying on the business is authorised by a permit under the *Land Act 1994* to occupy the relevant part of the road for carrying on the business;
- (c) a business that a person is authorised to carry on under the *Transport Infrastructure Act 1994*;
- (d) using a road for a particular purpose if the use constitutes development under the Planning Act;
- (e) operation of a temporary entertainment event;
- (f) undertaking a regulated activity on a local government controlled area or road where the activity is the holding of a public place activity.

***establishment or occupation of a temporary home*** means the erection, construction, installation, positioning or placement of a structure used or intended for temporary use as a place of residence but does not include—

- (a) a structure for erection which is constituted as development under the Planning Act; or
- (b) the establishment or the occupation of a temporary home on or in an accommodation park.

***installation of advertising devices*** means the installation, erection or display of an advertisement or sign that is visible from a road or other public place.<sup>38</sup>

***keeping of animals*** means the keeping of an animal or animals for which an approval is required under *Local Law No.2 (Animal Management) 2011*.

***operation of accommodation parks*** means to operate, on a commercial basis, an accommodation park.

Comment [KB38]: Previously “camping ground or caravan park”

Comment [KB39]: NEW

<sup>36</sup> See the definition of *Planning Act* in the Act, schedule 4.

<sup>37</sup> See footnote 36.

<sup>38</sup> See the Act, section 37(5), regarding the relationship between a local law about advertising devices and the local government’s planning scheme.

**operation of cemeteries** means to operate a place for disposing of human remains by—

- (a) burial; or
- (b) cremation; or
- (c) placement in a columbarium, mausoleum or vault.

**operation of public swimming pools** means the operation of a swimming pool that is made available for use to—

- (a) members of the public or a section of the public; or
- (b) participants in organised swimming or diving competitions or in training for organised swimming or diving competitions; or
- (c) persons who have a commercial relationship with the owner of the pool.

**operation of shared facility accommodation** means the provision of shared facility accommodation to holiday makers or travellers, but does not include accommodation in a hotel or motel.

**operation of temporary entertainment events** means the opening to the public, or the preparation for opening to the public, of an entertainment event and for which the opening to the public does not constitute development under the Planning Act.

**undertaking regulated activities regarding human remains** means undertaking one of the following activities—

- (a) disturbance of human remains buried outside a cemetery; or
- (b) burial or disposal of human remains (excluding cremated remains) outside a cemetery; or
- (c) disturbance of human remains in a local government cemetery.

**undertaking regulated activities on local government controlled areas<sup>39</sup> and roads** means undertaking one of the following activities on a local government controlled area or road—

- (a) driving or leading of animals to cross a road; or
- (b) depositing of goods or materials; or
- (c) holding of a public place activity prescribed under a subordinate local law for this paragraph, excluding the operation of a temporary entertainment event.

*Example for paragraph (c)*— A subordinate local law may prescribe that a display or information booth in a public park or on a footpath is a regulated activity.

This and the preceding 32 pages bearing my initials is a certified copy of the consolidated version of *Local Law No. 1 (Administration) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the \_\_\_\_\_ day of \_\_\_\_\_ (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

LL1242502-1

<sup>39</sup> See footnote 36.

# Local Law No. 2 (Animal Management) 2011

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## Part 1 Preliminary

### 1 Short title

This model local law may be cited as *Local Law No. 2 (Animal Management) 2011*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to regulate and manage the keeping and control of animals in the local government's area in a way that—
  - (a) balances community expectations with the rights of individuals; and
  - (b) protects the community against risks to health and safety; and
  - (c) prevents pollution and other environmental damage; and
  - (d) protects the amenity of the local community and environment.
- (2) The purpose is to be achieved by providing for—
  - (a) the regulation of the keeping of animals in terms of how many, what type, how, and where animals can be kept; and
  - (b) the prescription of minimum standards for keeping animals; and
  - (c) the proper control of animals in public places and koala conservation areas; and
  - (d) the management of dangerous or aggressive animals other than dogs;<sup>1</sup> and
  - (e) the seizure and destruction of animals in certain circumstances; and
  - (f) the establishment and administration of animal pounds.

### 3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

### 4 Relationship with other laws<sup>2</sup>

This local law is—

- (a) in addition to, and does not derogate from—
  - (i) laws regulating the use or development of land; and
  - (ii) other laws about the keeping or control or welfare of animals; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

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<sup>1</sup> The *Animal Management (Cats and Dogs) Act 2008* provides for the management of **regulated dogs**, comprising declared dangerous dogs, declared menacing dogs and restricted dogs.

<sup>2</sup> This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or Commonwealth. See the Act, section 27.

## Part 2 Keeping of animals

### Division 1 Prohibition on keeping animals

#### 5 Prohibition on keeping animals in prescribed circumstances

- (1) The local government may, by subordinate local law, prohibit the keeping of animals in prescribed circumstances.
- (2) The circumstances in which the keeping of animals is prohibited may be specified by reference to 1 or more of the following factors—
  - (a) species;
  - (b) breed;
  - (c) sex;
  - (d) age;
  - (e) number;
  - (f) whether an animal is a restricted dog;<sup>3</sup>
  - (g) the locality in which the animal would be kept;
  - (h) the nature of the premises in which the animal would be kept, including the size of the enclosure or the size of the allotment.<sup>4</sup>

*Example for subsection (2)—*

A prohibition may be imposed in relation to keeping certain species or a prescribed number of animals of a certain species in an urban locality.

- (3) A person must not keep an animal in contravention of a prohibition under this section.

Maximum penalty for subsection (3)—50 penalty units.

### Division 2 Animals for which approval is required

#### 6 Requirement for approval

- (1) Subject to subsections (3) and (4), the local government may, by subordinate local law, require an approval<sup>5</sup> for keeping an animal or animals in prescribed circumstances.

---

<sup>3</sup> Section 72(3) of the *Animal Management (Cats and Dogs) Act 2008* provides: “A permit application may be made for more than 1 restricted dog for the same place only if the keeping of more than 1 restricted dog and more than 1 dog of any breed is permitted under a local law.”

<sup>4</sup> See the *Animal Management (Cats and Dogs) Act 2008*, chapter 4, regarding particular conditions on keeping regulated dogs, including requirements about enclosures.

<sup>5</sup> Keeping an animal for which an approval is required under this local law is a *prescribed activity* under schedule 2 of *Local Law No. 1 (Administration) 2011*. The process for obtaining an approval for a prescribed activity is set out in part 2 of that local law and section 6 creates an offence for a person undertaking a prescribed activity without a current approval.

- (2) The circumstances in which an approval is required may be specified by reference to 1 or more of the following factors—
  - (a) species;
  - (b) breed;
  - (c) sex;
  - (d) age;
  - (e) number;
  - (f) the locality in which the animal is to be kept, including whether it is an urban or non-urban locality;
  - (g) the nature of the premises in which the animal is to be kept, including the size of the enclosure or the size of the allotment.<sup>6</sup>
- (3) An approval under this section is not required for the keeping of animals on land if the keeping of the animals on the land is authorised by a development approval under the Planning Act<sup>7</sup>.
- (4) Under this section, the local government may not require an approval for keeping a restricted dog.<sup>8</sup>

### Division 3            Animals for which desexing is required

#### 7    Requirement to desex an animal

- (1) The local government may, by subordinate local law, require—
  - (a) an animal of a particular species or breed to be desexed; and
  - (b) a menacing dog to be desexed.
- (2) The subordinate local law may—
  - (a) specify that the requirement for desexing only applies once an animal reaches a certain age; and
  - (b) exempt animals under particular circumstances.

*Example for paragraph (b)—*

Exemption might be provided for an animal that is owned by a member of a recognised breeders' association for the purposes of breeding or showing.

- (3) A person must not keep an animal that is required to be desexed unless the animal has been desexed.

Maximum penalty for subsection (3)—20 penalty units.

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<sup>6</sup> See note 4.

<sup>7</sup> See the definition of *Planning Act* in the Act, schedule 4.

<sup>8</sup> Section 71 of the *Animal Management (Cats and Dogs) Act 2008* requires a permit issued by the local government for a person to own or be responsible for a restricted dog. The processes for the granting of restricted dog permits are set out under chapter 4, part 3 of that Act.

## Division 4 Minimum standards

### 8 Minimum standards for keeping animals

(1) The local government may, by subordinate local law, specify minimum standards for the keeping of animals or a particular species or breed of animal.

(2) A person who keeps an animal must ensure that the relevant minimum standards prescribed by a subordinate local law are complied with.<sup>9</sup>

Maximum penalty for subsection (2)—20 penalty units.

(3) If a person is required to hold an approval to keep an animal, the obligation to comply with the minimum standards prescribed by a subordinate local law is in addition to an obligation imposed by a condition of the approval.

Field Code Changed

## Division 5 Identification of registered cats and dogs

### 9 Identification for cats and dogs in certain circumstances

The local government may, by subordinate local law, prescribe the identification required by the *Animal Management (Cats and Dogs) Act 2008* for a cat or dog that is at a place other than the address stated in the registration notice for the cat or dog.<sup>10</sup>

## Part 3 Control of animals

### Division 1 Animals in public places

#### 10 Exclusion of animals

(1) The local government may, by subordinate local law, specify public places where animals, or animals of a particular species or breed, are prohibited.

(2) The owner or responsible person for an animal must ensure that the animal is not in a public place in contravention of a prohibition specified under subsection (1).

Maximum penalty for subsection (2)—20 penalty units.

(3) The local government must take reasonable steps to provide notice to members of the public regarding the animals that are prohibited in a particular public place.

(4) In this section—

*reasonable steps* include, as a minimum, the display of a notice at a prominent place within the particular public place, stating—

<sup>9</sup> See also *Animal Management (Cats and Dogs) Act 2008*, schedule 1, sections 4 to 5, regarding the requirements about enclosures for declared dangerous dogs, declared menacing dogs and restricted dogs.

<sup>10</sup> Section 45 of the *Animal Management (Cats and Dogs) Act 2008* requires a person who keeps a cat or dog at a place other than the address in the registration notice to ensure it bears the identification prescribed by the local government under a local law.



- (a) the animals that are prohibited in the place; and
- (b) in general terms, the provisions of subsection (2).

## 11 Dog off-leash areas

- (1) The local government may, by subordinate local law, designate an area within a public place as an area where a dog is not required to be on a leash (a *dog off-leash area*).
- (2) The local government must take reasonable steps to provide notice to members of the public regarding the designation of an area as a dog off-leash area.
- (3) In this section—  
*reasonable steps* include, as a minimum, the display of a notice at a prominent place within the dog off-leash area indicating the extent of the area.

## 12 Control of animals in public places<sup>11</sup>

- (1) The owner or responsible person for an animal must ensure that the animal is not in a public place—
  - (a) unless the animal is under the effective control of someone; and
  - (b) if the animal is a declared dangerous animal<sup>12</sup>—unless the animal is securely restrained to prevent it from—
    - (i) attacking a person or animal; or
    - (ii) acting in a way that causes fear to a person or animal; or
    - (iii) causing damage to property.

Maximum penalty for subsection (1)—20 penalty units.

- (2) The owner or responsible person for a dog that is on heat must ensure that the animal is not in a public place.

Maximum penalty for subsection (2)—20 penalty units.

- (3) An animal is under the *effective control* of someone only if—
  - (a) a person who is physically able to control the animal—
    - (i) is holding it by an appropriate leash, halter or rein which has a length of not more than 2m; or
    - (ii) has appropriately tethered it to an object fixed to a place from which the object can not be moved by the animal and is continuously supervising the animal; or
    - (iii) has corralled it in a temporary enclosure adequate to contain the animal and is continuously supervising the animal; or

Comment [KB2]: NEW

<sup>11</sup> See also *Animal Management (Cats and Dogs) Act 2008*, schedule 1, section 3, regarding the requirement for muzzling and effective control of regulated dogs in public and section 93, which applies this requirement where a dog is subject to a proposed declaration notice.

<sup>12</sup> See the definition of *declared dangerous animal* in the schedule.

- (b) the animal is tethered in or on a vehicle and unable to reach beyond the vehicle extremities; or
- (c) the animal is a dog in a dog off-leash area and under the supervision of a person who is able to control the animal by voice command; or
- (d) the animal is participating in, or being exhibited or trained at, an exhibition or an obedience trial supervised by a body recognised for this section by the local government; or
- (e) the animal is a working animal actually engaged in moving livestock and under the supervision of a person who is able to control the animal by voice command.

### 13 Person in control of dog or prescribed animal to clean up faeces

- (1) If a dog or any other animal prescribed by subordinate local law defecates in a public place, the person who has control of the dog or animal must immediately remove and dispose of the faeces in a sanitary way.

Maximum penalty—20 penalty units.

- (2) When a dog or any other animal prescribed by subordinate local law is in a public place, the responsible person for the dog or other animal must carry a bag, implement or container suitable to pick up and dispose of the dog's, or animal's, excrement if the dog, or animal, defecates.

Maximum penalty—0.5 penalty units.

Comment [KB3]: NEW

Comments from mtg with Mayor 19/12/17  
– Discuss this further at the Council table as this may be unreasonable and Council should perhaps provide.

## Division 2 Restraint of animals

### 14 Duty to provide proper enclosure and prevent animal from wandering

- (1) A person who keeps an animal must maintain a proper enclosure to prevent the animal from wandering or escaping from the person's land.<sup>13</sup>

Maximum penalty for subsection (1)—20 penalty units.

- (2) The local government may, by subordinate local law, prescribe requirements for a proper enclosure for an animal or species or breed of animal.
- (3) The owner of the animal must ensure that it is not wandering at large.<sup>14</sup>

Maximum penalty for subsection (3)—20 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that—
  - (a) the defendant maintained a proper enclosure for the animal and could not, by the exercise of reasonable diligence, have prevented the escape of the animal; or
  - (b) the animal was wandering at large in circumstances authorised by the

<sup>13</sup> See also *Animal Management (Cats and Dogs) Act 2008*, schedule 1, sections 4 to 5, regarding the requirements about enclosures for declared dangerous dogs, declared menacing dogs and restricted dogs.

<sup>14</sup> See the definition of *wandering at large* in the schedule.

conditions of an approval granted under a local law.

*Example for paragraph (b)—*

The conditions of an approval to keep racing pigeons might authorise the approval holder to release the pigeons from their enclosure for a certain amount of time each day and during official pigeon racing events.

## 15 Koala conservation requirements

- (1) The local government may, by subordinate local law, prescribe requirements for keeping a dog on land that is within a koala area.
- (2) The prescribed requirements may relate to—
  - (a) the enclosure in which the dog must be kept between sunset and sunrise; or
  - (b) tethering the dog between sunset and sunrise to prevent it from attacking a koala; or
  - (c) fencing that must be in place to separate dogs from koalas on the land or on a part of the land; or
  - (d) other measures that will be likely to prevent an attack by the dog on a koala between sunset and sunrise.
- (3) A person who keeps a dog on land that is within a koala area must comply with requirements prescribed under this section.

Maximum penalty for subsection (3)—20 penalty units.

- (4) In this section—

***koala area*** means—

- (a) a koala habitat area; or
- (b) an area designated by subordinate local law as a koala area.

***koala habitat area*** means an area designated as a koala habitat by—

- (a) a conservation plan made under the *Nature Conservation Act 1992*; or
- (b) a State planning instrument.

## Division 3 Aggressive behaviour by animals other than dogs

### 16 Limited application of division to dogs<sup>15</sup>

- (1) Unless otherwise indicated, this division does not apply in relation to aggressive behaviour by a dog.
- (2) In this section—

***aggressive behaviour*** means attacking, or acting in a way that causes fear to, someone else or another animal.

<sup>15</sup> Aggressive behaviour by dogs is covered by the *Animal Management (Cats and Dogs) Act 2008*, sections 194 to 196.

## 17 Animals not to attack or cause fear to persons or animals

- (1) A responsible person for an animal must take reasonable steps to ensure the animal does not attack, or act in a way that causes fear to, someone else or another animal.

Maximum penalty for subsection (1)—

- (a) if the attack causes the death of or grievous bodily harm to a person—300 penalty units; or
  - (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units; or
  - (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
  - (d) otherwise—20 penalty units.
- (2) A person must not allow or encourage an animal to attack, or act in a way that causes fear to, a person or another animal.

Maximum penalty for subsection (2)—

- (a) if the attack causes the death of or grievous bodily harm to a person—300 penalty units; or
  - (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units; or
  - (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
  - (d) otherwise—20 penalty units.
- (3) In this section—

***allow or encourage***, without limiting the *Criminal Code*, sections 7 and 8, includes cause to allow or encourage.

***another animal*** does not include vermin that are not the property of anyone.

*Examples of vermin that are someone's property—*

- a pet mouse or guinea pig
- vermin that are protected animals under the *Nature Conservation Act 1992*.<sup>16</sup>

## 18 Defences for offence against s 17

It is a defence to a prosecution for an offence against section 17 for the defendant to prove that the animal attacked, or acted in a way that caused fear to, the person or other animal—

- (a) as a result of the animal being attacked, mistreated, teased, or provoked by the person or other animal, including a dog; or
- (b) to protect the responsible person, or a person accompanying the responsible person (the ***accompanying person***), or the responsible person's or accompanying person's property.

<sup>16</sup> See section 83 of that Act.

## Division 4 Dangerous animals other than dogs<sup>17</sup>

### 19 Declaration of dangerous animal other than a dog

- (1) A local government may, by subordinate local law, specify criteria for an authorised person to declare an animal other than a dog to be a declared dangerous animal.
- (2) An authorised person may declare an animal other than a dog to be a declared dangerous animal if the animal meets the criteria prescribed by subordinate local law.
- (3) A declaration under subsection (2) takes effect at the time the local government gives the responsible person for the animal an information notice<sup>18</sup> about the declaration.

### 20 Power to require responsible person for declared dangerous animal to take specified action

An authorised person may, by giving a compliance notice,<sup>19</sup> require the responsible person for a declared dangerous animal to take specified action—

- (a) to warn persons who enter land on which the animal is kept of the presence of a declared dangerous animal on the land; and
- (b) to ensure that the animal remains in secure custody and is unable to attack or cause fear to persons or other animals or cause damage to another person's property.

## Part 4 Seizure, impounding or destruction of animals

### Division 1 Seizure of animals

#### 21 Seizure of animals

- (1) An authorised person may seize<sup>20</sup> an animal, other than a dog,<sup>21</sup> in the following circumstances—
  - (a) the animal is found wandering at large; or

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<sup>17</sup> Dangerous dogs are dealt with in the *Animal Management (Cats and Dogs) Act 2008*.

<sup>18</sup> See the definition of **information notice** in *Local Law No.1 (Administration) 2011*, schedule 1.

<sup>19</sup> See *Local Law No.1 (Administration) 2011*, section 27 regarding the requirements for compliance notices and the offence for not complying with a compliance notice.

<sup>20</sup> See the *Local Government Act 2009*, chapter 5, part 2, division 1 in relation to authorised persons' enforcement powers, including entry to land.

<sup>21</sup> See the *Animal Management (Cats and Dogs) Act 2008*, section 125, for seizure of a dog.

- (b) if a compliance notice has been given to the responsible person for the animal in relation to compliance with a requirement of this local law—the authorised person has entered a property, including private property, under chapter 5, part 2, division 1 of the Act, and reasonably believes the responsible person for the animal has not complied with the compliance notice; or
- (c) the authorised person reasonably believes the animal—
- (i) has attacked, threatened to attack or acted in a way that causes fear to, a person or another animal; or
  - (ii) is, or may be, a risk to community health or safety; or
- (d) the animal is being kept in contravention of section 5 or section 6 of this local law and the authorised person reasonably believes there is a risk the animal may be concealed or moved to avoid a requirement of section 5 or section 6 of this local law; or
- (e) the authorised person considers on reasonable grounds that the animal has been abandoned, left or found on a road in the circumstances mentioned in section 100(12) of the *Transport Operations (Road Use Management) Act 1995*.
- (2) An authorised person may seize a dog in the following circumstances—
- (a) the dog is found wandering at large; or
  - (b) if a compliance notice has been given to the responsible person for the dog in relation to compliance with a requirement of this local law—the authorised person has entered a property, including private property, under chapter 5, part 2, division 1 of the Act, and reasonably believes the responsible person for the dog has not complied with the compliance notice; or
  - (c) the dog is being kept in contravention of section 5 or section 6 of this local law and the authorised person reasonably believes there is a risk the dog may be concealed or moved to avoid a requirement of section 5 or section 6 of this local law; or
  - (d) the authorised person considers on reasonable grounds that the dog has been abandoned, left or found on a road in the circumstances mentioned in section 100(12) of the *Transport Operations (Road Use Management) Act 1995*.
- (3) The authorised person may seize an animal under subsection (1)(a) or a dog under subsection (2)(a) where—
- (a) another person has found the animal or dog wandering at large and delivered it to the authorised person; or
  - (b) an occupier of private land has found the animal or dog wandering at large on the land, taken it under effective control and requested the authorised person to enter the land to seize it.
- (4) However, an authorised person is not obliged to accept the custody of an animal

**Comment [KB4]:** NEW wording, however effectively states the same as current law, with the addition of stating an authorised person has entered the property.

**Comment [KB5]:** NEW

**Comment [KB6]:** NEW

**Comment [KB7]:** NEW

**Comment [KB8]:** NEW wording, however effectively states the same as current law, with the addition of stating an authorised person has entered the property.

**Comment [KB9]:** NEW

under this section.

- (5) For the purposes of seizing an animal, an authorised person may take any action, including the use of force, which is reasonable in the circumstances to capture or control the animal.

## Division 2 Destruction of animal without notice

### 22 Power to immediately destroy seized animal

- (1) This section applies where an authorised person has seized an animal, other than a regulated dog,<sup>22</sup> under this local law or another law.
- (2) The authorised person may, without notice, immediately destroy the animal if—
- (a) the authorised person reasonably believes the animal is dangerous and the authorised person can not control it; or
  - (b) the animal is suffering as a result of disease, severe infection, severe emaciation or serious injury; or
  - (c) an owner of the animal has requested the authorised person to destroy it.

**Comment [KB10]:** Reworded to remove the word “significantly” (before suffering) and add “sever infection”

## Division 3 Return or impounding of animals

### 23 Immediate return of animal seized wandering at large

- (1) This section applies where—
- (a) an animal has been seized under section 21(1)(a) or section 21(2)(a); and
  - (b) the authorised person who seizes the animal knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) The authorised person may return the animal to the owner or responsible person.

### 24 Impounding of seized animal

An authorised person who seizes an animal under this local law or another law may impound the animal at a place of care for animals operated by—

- (a) the local government; or
- (b) another organisation or local government prescribed by subordinate local law.

*Example for paragraph (a)—*

An animal pound.

*Example for paragraph (b)—*

A veterinary surgery or an animal refuge.

<sup>22</sup> See the *Animal Management (Cats and Dogs) Act 2008*, section 127, for power to destroy a seized regulated dog.

## 25 What is a notice of impounding

- (1) A **notice of impounding** means a written notice, given to the owner or responsible person for an animal, stating that—
- (a) the animal has been impounded; and
  - (b) the animal may be reclaimed within the prescribed period provided that—
    - (i) the cost-recovery fee is paid; and
    - (ii) if an approval or registration is required for the keeping of the animal and the owner or responsible person does not have the approval or registration— the approval or registration is obtained; and
    - (iii) if the animal has been seized under section 21(1)(b) or 21(2)(b)— the owner or responsible person has complied with the relevant compliance notice; and
    - (iv) continued retention of the animal is not needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; and
    - (v) no destruction order has been made for the animal; and
    - (vi) if the animal has been seized under section 21(1)(c)—the owner of the animal agrees, in writing, to permanently remove the animal from the local government area not later than 14 days after the animal is reclaimed by the owner.
- (2) In this section—
- relevant compliance notice** means the compliance notice mentioned in section 21(1)(b) or 21(2)(b).
- (3) Subsection (4) applies if—
- (a) an animal is reclaimed within the prescribed period under subsection (1)(b)(iv); and
  - (b) the animal is not permanently removed from the local government area not later than 14 days after the animal is reclaimed by the owner.
- (4) An authorised person may, by giving a compliance notice to the owner of the animal, require the owner to permanently remove the animal from the local government area.

Comment [KB11]: NEW

Comment [KB12]: NEW

## 26 Dealing with animal seized and impounded for wandering at large

- (1) Subsection (2) applies where—
- (a) an authorised person has impounded an animal seized under section 21(1)(a) or 21(2)(a); and
  - (b) the animal was not a declared dangerous animal at the time of being seized; and
  - (c) the authorised person knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) The authorised person must give the owner or responsible person a notice of



impounding.

- (3) Subsection (4) applies where—
  - (a) an authorised person has impounded a declared dangerous animal seized under section 21(1)(a); or
  - (b) an authorised person has impounded an animal that has been seized more than 3 times during a 12 month period.
- (4) The authorised person may—
  - (a) give the owner or responsible person for the animal a notice of impounding; or
  - (b) make a destruction order for the animal under section 30.

## **27 Dealing with animal seized and impounded for non-compliance with local law**

- (1) This section applies where an authorised person has impounded an animal seized under section 21(1)(b) or 21(2)(b).
- (2) The authorised person may—
  - (a) give the owner or responsible person for the animal a notice of impounding; or
  - (b) if the animal was being kept in contravention of section 5 of this local law or is an animal for which an approval cannot be granted under this local law or is an animal for which an application for approval under this local law has been rejected— dispose of the animal under division 5.

## **28 Dealing with animal seized and impounded for attacking etc a person or another animal**

- (1) This section applies where an authorised person has impounded an animal seized under section 21(1)(c).
- (2) The authorised person may<sup>23</sup>—
  - (a) make a destruction order for the animal under section 30; or
  - (b) give the owner or responsible person a notice of impounding.

## **29 Reclaiming an impounded animal**

- (1) This section applies where—
  - (a) the owner or responsible person for an animal has been given a notice of impounding; or
  - (b) an authorised person does not know, and cannot readily find out, the name and address of an owner or responsible person for the animal.
- (2) The animal may be reclaimed by an owner or responsible person if the owner or

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<sup>23</sup> An authorised person may also declare an animal as a declared dangerous animal under section 19 if specified criteria are met.

- responsible person—
- (a) reclaims the animal within the prescribed period; and
  - (b) pays the cost-recovery fee; and
  - (c) if an approval or registration is required for the keeping of the animal and the owner or responsible person does not have the approval or registration— obtains the approval or registration; and
  - (d) if the responsible person has not complied with a current compliance notice that has been issued in relation to compliance with this local law—complies with the compliance notice; and
  - (e) if the animal is a cat or a dog that is not implanted with a PPID and the owner of the animal must ensure the animal is implanted with a PPID— agrees, in writing, to ensure that the owner of the animal has the animal implanted with a PPID under the *Animal Management (Cats and Dogs) Act 2008*, chapter 2 (Identification of cats and dogs) not later than 14 days after the animal is reclaimed.
- (3) However, the animal may not be reclaimed by an owner or responsible person if—
- (a) continued retention of the animal is needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; or
  - (b) a destruction order has been made for the animal.
- (4) The animal may be reclaimed by an owner or responsible person for the animal if an event as follows happens—
- (a) if subsection (3)(a) applies—
    - (i) an authorised person advises the owner or responsible person that the animal’s continued retention as evidence is no longer required; and
    - (ii) the owner or responsible person has satisfied subsection (2)(b)-(d);
  - (b) if subsection (3)(b) applies—
    - (i) an application for a review or an appeal is made relating to the destruction order and, as a result of the review or appeal, the order is no longer in force; and
    - (ii) the owner or responsible person has satisfied subsection (2)(b)-(d).

Comment [KB13]: NEW

## Division 4            Destruction of animal following notice

### 30    Destruction orders

- (1) An authorised person may make an order (a *destruction order*) stating the person proposes to destroy an animal 14 days after the order is served.
- (2) A destruction order may only be made in 1 or more of the following circumstances—

- (a) the animal has attacked, threatened to attack, or acted in a way that causes fear to, a person or another animal; or
  - (b) the animal is a declared dangerous animal and was found wandering at large; or
  - (c) the animal has been seized more than 3 times during a 12 month period.
- (3) The destruction order must—
- (a) be served on a person who owns, or is a responsible person for, the animal; and
  - (b) include or be accompanied by an information notice.<sup>24</sup>
- (4) If a destruction order is made for the animal, the person may destroy the animal 14 days after the order is served if no review application has been made relating to the decision to make the order.
- (5) If an application for review has been made relating to the decision to make the order, the person may destroy the animal if—
- (a) the review is finally decided or is otherwise ended; and
  - (b) the order is still in force; and
  - (c) the time allowed for filing a notice of appeal has expired and no notice of appeal has been filed.
- (6) If an appeal is made relating to the decision to make the order, the person may destroy the animal if—
- (a) the appeal is finally decided or is otherwise ended; and
  - (b) the order is still in force.
- (7) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if—
- (a) a review relating to the decision to make the order is finally decided or is otherwise ended; and
  - (b) no application for an appeal has been made against the order; and
  - (c) the order is no longer in force; and
  - (d) the owner or responsible person has satisfied section 29(2)(b)-(d).
- (8) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if—
- (a) an appeal relating to the decision to make the order is finally decided or is otherwise ended; and
  - (b) the order is no longer in force; and
  - (c) the owner or responsible person has satisfied section 29(2)(b)-(d).
- (9) In this section—

**review** means a review conducted under the process mentioned in part 4 of *Local Law No.1 (Administration) 2011*.

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<sup>24</sup> See note 17.

*appeal* means an appeal under part 4 of this local law.

## **Division 5            Disposal of impounded animals**

### **31 Application of this division**

This division applies where—

- (a) an impounded animal has not been reclaimed within the prescribed period under section 29(2); or
- (b) if section 29(3)(a) applies— the impounded animal has not been reclaimed within 3 days of an authorised person’s advice to the owner or responsible person that the animal’s continued retention as evidence is no longer required; or
- (c) if section 29(3)(b) applies—the impounded animal has not been reclaimed within 3 days of the completion of a review or appeal that caused a destruction order to no longer be in force; or
- (d) an authorised person has seized an animal mentioned in section 27(2)(b); or
- (e) the owner of an animal has surrendered the animal to the local government.

### **32 Sale, disposal or destruction of animals**

- (1) The local government may—
  - (a) offer the animal for sale by public auction or by tender; or
  - (b) if the animal is an animal mentioned in section 27(2)(b) or is of a species, breed or class specified by subordinate local law for this paragraph—
    - (i) sell the animal by private agreement; or
    - (ii) dispose of the animal in some other way without destroying it, for example, by giving the animal to an animal welfare agency for disposal by the animal welfare agency; or
    - (iii) destroy the animal.

*Example for paragraph (b)—*

The subordinate local law might specify dogs, cats and other small domestic animals, for which a public auction or tender might not be practicable.

- (2) An animal may only be sold or disposed of under subsection (1) if the local government is satisfied that this will not result in the animal being kept in contravention of the requirements of this local law.

*Examples—*

- A pig that has been seized because it is being kept in an urban area in contravention of a prohibition under a subordinate local law could be sold to a person outside the urban area but not to another person in an urban area.
- An animal that a subordinate local law has prohibited in any part of the local government area could not be sold to a person who resides within the local government area.
- A declared dangerous animal could only be sold to a person who has complied with any

specified requirements for keeping such an animal.

- (3) If an animal is to be offered for sale at a public auction under this section, notice of the time and place of the auction must be exhibited at the local government's public office for at least 2 days before the date of the auction.
- (4) An amount realised on sale of an impounded animal must be applied—
  - (a) first, towards the costs of the sale; and
  - (b) second, towards the cost-recovery fee for impounding; and
  - (c) third, in payment of the remainder to the former owner of the animal, unless the owner had surrendered the animal to the local government.
- (5) If no person establishes a valid claim to the amount to which the former owner is entitled under subsection (4)(c) within 1 year of the date of the sale, the amount becomes the property of the local government.
- (6) If an animal that is offered for sale by public auction or tender is not sold through the auction or tender process, the local government may dispose of the animal as it considers appropriate.

*Examples—*

- The local government may give the animal away.
- The local government may have the animal destroyed.

## Division 6 Other impounding matters

### 33 Register of impounded animals

- (1) The local government must ensure that a proper record of impounded animals (the *register of impounded animals*) is kept.
- (2) The register of impounded animals must contain at least the following information about each impounded animal—
  - (a) the species, breed and sex of the animal; and
  - (b) the brand, colour, distinguishing markings and features of the animal; and
  - (c) if applicable—the registration number of the animal; and
  - (d) if known—the name and address of the responsible person; and
  - (e) the date and time of seizure and impounding; and
  - (f) the name of the authorised person who impounded the animal; and
  - (g) the reason for the impounding; and
  - (h) a note of any order made by an authorised person relating to the animal; and
  - (i) the date and details of whether the animal was sold, released, destroyed or disposed of in some other way.
- (3) Subject to the *Information Privacy Act 2009*, the register of impounded animals must be kept available for public inspection at the place of care for animals or, if the place has no public office, at an office prescribed by subordinate local law.

Comment [KB14]: NEW refer to act included.

- (4) However, a person may not inspect the register unless the person satisfies the local government that the person is the owner of, or responsible person for, an impounded animal by, for example, providing to the local government a statutory declaration detailing the facts and circumstances of the seizure or impounding of the impounded animal.
- (5) The owner of, or responsible person for, an impounded animal may only inspect that part of the information on the register that relates to the impounding of the impounded animal.

Comment [KB15]: NEW

### 34 Access to impounded animal

- (1) This section applies to an animal impounded under section 24.
- (2) The local government must allow the owner of the animal to inspect it at any reasonable time, from time to time.
- (3) Subsection (2) does not apply if—
- it is impracticable or would be unreasonable to allow the inspection; or
  - in the opinion of an authorised person acting reasonably, allowing the owner of the animal to inspect it would be likely to create a significant risk of injury or damage to a local government employee.’
- (4) The inspection must be provided free of charge.

Comment [KB16]: NEW

NB: Notes from Shane's presentation 6/12/17 – Mayor does not like that we are being more restrictive on owners, we should allow access. Mayor does not want that discretion for our RRC officers, such decisions should be made by CEO. Mayor doesn't like 3b. There should be a process for this. Mayor doesn't like decisions sitting with officers on the ground. There needs to be an objective bar.

### 35 Unlawful removal of seized or impounded animal

- (1) A person must not, without the authority of an authorised person, remove or attempt to remove—
- a seized animal from the custody or control of an authorised person; or
  - an impounded animal from the local government's facility for keeping impounded animals.
- Maximum penalty for subsection (1)—50 penalty units.
- (2) Any costs arising from damage or loss caused by a person contravening subsection (1) are recoverable by the local government as a debt.

## Part 5 Appeals against destruction orders

### 36 Who may appeal

An owner or responsible person for an animal the subject of a destruction order may appeal to the Magistrates Court against the decision to make the destruction order.

### 37 Starting appeal

- (1) An appeal must not be started unless a review of the decision to make the destruction order has been finally decided or otherwise ended.

- (2) An appeal is started by—
  - (a) filing notice of appeal with the Magistrates Court; and
  - (b) serving a copy of the notice of appeal on the local government; and
  - (c) complying with rules of court applicable to the appeal.
- (3) The notice of appeal must be filed within 14 days after the appellant is given notice by the local government about the finalisation of the review of the decision to make a destruction order.
- (4) However, the court may, at any time, extend the time for filing the notice of appeal.
- (5) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

### **38 Stay of destruction order**

Upon filing the notice of appeal, the destruction order is stayed until the court decides the appeal.

### **39 Hearing procedures**

- (1) In deciding an appeal, the Magistrates Court—
  - (a) has the same powers as the local government; and
  - (b) is not bound by the rules of evidence; and
  - (c) must comply with natural justice.
- (2) An appeal is by way of rehearing, unaffected by the decision appealed against.

### **40 Court's powers on appeal**

- (1) In deciding an appeal, the Magistrates Court may—
  - (a) confirm the decision appealed against; or
  - (b) set aside the decision and substitute another decision; or
  - (c) set aside the decision and return the matter to the local government with directions the court considers appropriate.
- (2) If the court substitutes another decision, the substituted decision is, for the purposes of this local law, other than this part, taken to be the decision of the local government.
- (3) An order for the costs of an appeal may only be made against the local government if the court is satisfied that the animal was unlawfully seized or there was no reasonable basis for making the decision subject to the appeal.

### **41 Appeal to District Court**

An appeal lies to a District Court from a decision of the Magistrates Court, but only on a question of law.

## Part 6                      Miscellaneous

### 42 Sale of animals

- (1) The local government may, by subordinate local law, specify conditions to be complied with by persons who offer animals, or a particular species of animal, for sale.
- (2) Conditions specified under subsection (1) are in addition to requirements of the *Animal Management (Cats and Dogs) Act 2008* in relation to the supply of cats and dogs.
- (3) A person must not offer or display animals for sale in the area unless the person complies with conditions specified under subsection (1).

Maximum penalty for subsection (3)—50 penalty units.

### 43 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the circumstances in which the keeping of animals is prohibited;<sup>25</sup> or
- (b) the circumstances in which an approval is required for the keeping of animals;<sup>26</sup> or
- (c) the circumstances in which desexing of an animal is required;<sup>27</sup> or
- (d) minimum standards for keeping animals generally or animals of a particular species or breed;<sup>28</sup> or
- (e) the identification for cats and dogs required under the *Animal Management (Cats and Dogs) Act 2008*;<sup>29</sup> or
- (f) the exclusion of animals, or animals of a specified species, from public places;<sup>30</sup> or
- (g) designated dog off-leash areas;<sup>31</sup> or
- (h) animals whose faeces in public places must be removed and disposed of;<sup>32</sup> or
- (i) proper enclosure requirements;<sup>33</sup> or

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<sup>25</sup> See section 5(1).

<sup>26</sup> See section 6(1).

<sup>27</sup> See section 7(1).

<sup>28</sup> See section 8(1).

<sup>29</sup> See section 9.

<sup>30</sup> See section 10(1).

<sup>31</sup> See section 11(1).

<sup>32</sup> See section 13.

<sup>33</sup> See section 14(2).



- (j) requirements for keeping a dog within a koala area;<sup>34</sup> or
- (k) designation of an area as a koala area;<sup>35</sup> or
- (l) the criteria for declaring an animal other than a dog to be a declared dangerous animal;<sup>36</sup> or
- (m) the organisation or local government that operates a place or care for impounded animals;<sup>37</sup> or
- (n) the species, breed or class of animal that may be disposed of other than by public auction or tender;<sup>38</sup> or
- (o) the office at which the register of impounded animals is available for public inspection;<sup>39</sup> or
- (p) the conditions to be complied with by persons who offer animals, or a particular species of animal, for sale;<sup>40</sup> or
- (q) the exclusion of animals of a particular species from the application of this local law;<sup>41</sup> or
- (r) the declaration of a species of animal as a declared dangerous animal;<sup>42</sup> or
- (s) the period within which an impounded animal may be reclaimed.<sup>43</sup>

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<sup>34</sup> See section 15(1).

<sup>35</sup> See section 15(4).

<sup>36</sup> See section 19(1).

<sup>37</sup> See section 24(b).

<sup>38</sup> See section 32(1)(b).

<sup>39</sup> See section 33(3).

<sup>40</sup> See section 42(1).

<sup>41</sup> See the definition of *animal* in the schedule.

<sup>42</sup> See the definition of *declared dangerous animal* in the schedule.

<sup>43</sup> See the definition of *prescribed period* in the schedule.

## Schedule Dictionary

### Section 3

**animal** includes a mammal, fish, bird, reptile, amphibian or insect but does not include an animal of a species excluded by subordinate local law from the application of this local law.

**animal welfare agency** means—

- (a) the Royal Society for the Prevention of Cruelty to Animals (Queensland); and
- (b) the Animal Welfare League of Queensland; and
- (c) another incorporated association which—
  - (i) has objects similar to the objects of the corporation referred to in paragraph (a) or the incorporated association referred to in paragraph (b); and
  - (ii) is recognised as an animal welfare agency by the local government.

Comment [KB17]: NEW

**attack**, by an animal, means—

- (d) aggressively rushing at or harassing any person or animal; or
- (e) biting, butting, kicking, or otherwise causing physical injury to, a person or an animal; or
- (f) tearing clothing on, or otherwise causing damage to the property in the immediate possession of, a person.

**compliance notice** means a compliance notice mentioned in *Local Law No.1 (Administration) 2011*, section 27.

**cost-recovery fee** means the fee fixed by the local government to cover the costs associated with impounding an animal.<sup>44</sup>

**declared dangerous animal** means an animal—

- (a) of a species declared by subordinate local law as a declared dangerous animal; or
- (b) declared under section 19 of this local law to be a declared dangerous animal.

**destroy**, an animal, includes causing it to be destroyed.

**destruction order** see section 30(1).

**dog off-leash area** see section 11(1).

**effective control** see section 12(3).

**menacing dog** has the meaning given in the *Animal Management (Cats and Dogs) Act 2008*.

Comment [KB18]: NEW

**notice of impounding** see section 25(1).

**owner**, of an animal, means

- (a) its registered owner;
- (b) a person who owns the animal, in the sense of it being the person's personal property;
- (c) a person who usually keeps the animal, including through an agent, employee or anyone else;

<sup>44</sup> See the Act, section 97 for the power of a local government to fix a cost recovery fee.

- (d) if a person mentioned in paragraphs (a) to (c) is a minor—a parent or guardian of the minor.

**PPID** has the meaning given in the *Animal Management (Cats and Dogs) Act 2008*.

Comment [KB19]: NEW

**prescribed period** means the period, fixed by subordinate local law, of not less than—

- (a) if the animal is registered with the local government—5 days; or  
 (b) if the animal is not registered with the local government—3 days;

and commencing on the day a notice of impounding is given to a person or, if no notice is given to a person, on the day of the seizure.

**registered owner**, of an animal, means a person recorded as being the owner of the animal in a registry kept by a local government.

**responsible person**, for an animal, means—

- (a) the person, or the person's employee acting within the scope of the employment, who has immediate control or custody of the animal; or  
 (b) the parent or guardian of a minor who has immediate control or custody of the animal; or  
 (c) the person who occupies the place at which the animal is usually kept,

but does not include—

- (a) a person who occupies the place at which the animal is usually kept, if someone else who is an adult and lives at the place keeps the animal; or  
 (b) a person who has the control or custody of or keeps the animal as an employee of someone else, if the person is acting within the scope of the employment.

**restricted dog** see *Animal Management (Cats and Dogs) Act 2008*, section 63.

**State planning instrument** see *Sustainable Planning Act 2009*, schedule 3.

**the Act** means the *Local Government Act 2009*.

**wandering at large** means—

- (a) the animal is not under the effective control of someone; and  
 (b) the animal is in either—  
     (iii) a public place; or  
     (iv) a private place without the consent of the occupier.

This and the preceding 24 pages bearing my initials is a certified copy of the consolidated version of *Local Law No. 2 (Animal Management) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the \_\_\_\_\_ day of \_\_\_\_\_ (*insert the date of the relevant resolution of Council*) 2017.

.....  
 Chief Executive Officer

~~LL2658576-LL2-Animal Mment Consol NO-MARK-UP~~

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# Local Law No. 3 (Community and Environmental Management) 2011

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 3 (Community and Environmental Management) 2011*.

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to protect the environment and public health, safety and amenity within the local government's area.
- (2) The purpose is to be achieved by providing for the elimination or reduction of risks and threats to the environment and public health, safety and amenity resulting from—
  - (a) inadequate protection against animal and plant pests; and
  - (b) vegetation overgrowth; and
  - (c) visual pollution resulting from accumulation of objects and materials; and
  - (d) fires and fire hazards not regulated by State law; and
  - (e) community safety hazards; and
  - (f) noise that exceeds noise standards.

### 3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

### 4 Relationship with other laws<sup>1</sup>

This local law is—

- (a) in addition to and does not derogate from laws for pest management, regulation of fires and environmental protection; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

## Part 2 Declared local pests

Comment [KB1]: Legislative references within this Part 2 have been updated.

### Division 1 Application

#### 5 Application of part

Subject to section 48(3) of the *Biosecurity Act 2014*, this part does not apply to a biosecurity matter<sup>2</sup> that is, under the *Biosecurity Act 2014*—

- (a) mentioned as a prohibited matter<sup>3</sup>; or
- (b) declared to be a prohibited matter; or

<sup>1</sup> This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

<sup>2</sup> See the *Biosecurity Act 2014*, section 15.

<sup>3</sup> See the *Biosecurity Act 2014*, section 19.

- (c) prescribed by regulation as a prohibited matter; or
- (d) mentioned as a restricted matter<sup>4</sup>; or
- (e) declared to be a restricted matter; or
- (f) prescribed by regulation as a restricted matter; or
- (g) a controlled biosecurity matter; or
- (h) a regulated biosecurity matter.

## Division 2 Declaration of local pests

### 6 Declaration of local pests

- (1) The local government may, by subordinate local law, declare an invasive animal or an invasive plant of a specified species to be a local pest.
- (2) Before the local government makes a declaration under this section, it must consult with the chief executive about the desirability of the declaration.
- (3) A declaration under this section—
  - (a) must be published in a newspaper circulating generally in the local government's area; and
  - (b) comes into force on the date of publication.
- (4) In this section—

*chief executive* means the chief executive of the department in which the *Biosecurity Act 2014* is administered.

**Comment [KB2]:** Amended, previously only "an animal or plant"

### 7 Emergency declarations

- (1) This section applies if the local government is satisfied urgent action is needed because—
  - (a) a species of animal has, or is likely to have, a significant adverse impact on a biosecurity consideration because of the introduction, spread or increase in population size of the species in an area; or
  - (b) a plant species has, or is likely to have, a significant adverse impact on a biosecurity consideration because of the introduction, spread or increase in the population size of the species in an area.
- (2) The local government may, by resolution, declare to be a local pest—
  - (a) an animal which satisfies the criteria specified in subsection (1)(a);
  - (b) a plant which satisfies the criteria specified in subsection (1)(b).
- (3) A declaration under this section—
  - (a) must be published in a newspaper circulating generally in the local government's area; and
  - (b) comes into force on the date of publication; and

**Comment [KB3]:** Amended, however not substantially different from current.

**Comment [KB4]:** Amended, however not substantially different from current.

<sup>4</sup> See the *Biosecurity Act 2014*, section 21.

- (c) must be reviewed by the local government within 3 months of the date of publication; and
- (d) comes to an end—
  - (i) on the date a revocation notice is published in a newspaper circulating generally in the local government’s area; or
  - (ii) if no revocation notice is published sooner—6 months after the date the declaration came into force.

**Comment [KB5]:** Amended. Currently only states (d) comes to an end 3mths after the date of publication.

## 8 Application of declaration

A declaration may apply—

- (a) to the whole of the local government’s area or in a specified part or parts of the area; and
- (b) generally or only in specified circumstances.

## Division 3 Control of local pests

### 9 Power to search for declared local pests

- (1) This section applies if an authorised person wants to enter a property to search for declared local pests.
- (2) After giving reasonable written notice to the owner and the occupier of the property, the authorised person may—
  - (a) enter the property without the permission of the occupier; and
  - (b) take reasonable action to search for declared local pests.
- (3) However, the authorised person—
  - (a) must, as soon as the authorised person enters the property, inform any occupier of the property—
    - (i) of the reason for entering the property; and
    - (ii) that the authorised person is authorised under this local law to enter the property, excluding a home on the property, without the permission of the occupier; and
  - (b) may enter a home that is on the property only with the permission of the occupier of the relevant part of the property.
- (4) If the occupier gives permission under subsection (3)(b), the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission.

**Comment [KB6]:** Amended from Pest Control Notices.

**Comment [KB7]:** K&C advice rcd 22/11/17 states this clause is likely to contain anti-competitive provisions. Relevant Criteria 5 – prescribed standard, and, 7 – business restriction. Explanatory notes - A compliance notice may require the owner of land to take specified action to control declared local pests. Compliance with the requirements of the notice may have an impact on the conduct of a business activity.

### 10 Local pest control notices

- (1) An authorised person may, by compliance notice<sup>5</sup> given to the owner or occupier

**Comment [KB8]:** Occupier was not included previously.

<sup>5</sup> See *Local Law No.1 (Administration) 2011*, section 27, regarding the requirements for compliance notices and



of land, require the owner<sup>6</sup> or occupier to take specified action to control declared local pests.

- (2) The specified action may include action to—
- (a) destroy declared local pests on the land; or
  - (b) minimise the risk of an outbreak of declared local pests on the land; or
  - (c) prevent or minimise seeding or reproduction by declared local pests; or
  - (d) contain infestation by declared local pests within a localised area; or
  - (e) reduce the density or extent of infestation by declared local pests; or
  - (f) remove harbour provided to declared local pests; or
  - (g) surrender the declared local pests to an authorised person for destruction.
- (3) The notice may require the repetition of a specified action at stated intervals or on the reappearance of the declared local pest within a specified period.

Comment [KB9]: NEW

## Division 4 Prohibition of sale and propagation

### 11 Prohibition on sale

A person must not—

- (a) sell or supply a declared local pest; or
- (b) offer or display a declared local pest for sale or supply.

Maximum penalty—50 penalty units.

### 12 Prohibition on introducing, propagating etc a declared local pest

- (1) A person must not—
- (a) introduce, propagate or breed a declared local pest; or
  - (b) provide harbour to a declared local pest.

Maximum penalty for subsection (1)—50 penalty units.

- (2) However, subsection (1) does not apply to a person who has been prescribed under a subordinate local law for this subsection as exempt from the offence in subsection (1) in relation to a specified pest.

*Example of persons that might be exempted from subsection (1) in relation to specified pests—*

- Staff of research organisations such as universities or the CSIRO who require a particular pest for research purposes.
- An employee of a circus using a particular pest to provide entertainment to the public.
- Staff of an organisation using a particular pest as part of an education program.
- An employee of a zoo that keeps a particular pest.

the offence for not complying with a compliance notice.

<sup>6</sup> See the Act, section 140, in relation to the owner's right to enter property where the owner is not the occupier to take action to comply with a remedial notice, and section 141, in relation to an occupier's right to recover amounts incurred to satisfy an owner's obligations.

- (3) In this section—

*introduce* means to introduce, or cause to introduce, into the local government's area.

## Part 3 Overgrown and unsightly allotments

### 13 Unsightly objects, materials or vegetation

- (1) The responsible person for an allotment must not—

- (a) bring onto the allotment; or
- (b) allow to remain on the allotment; or
- (c) allow to accumulate on the allotment; or
- (d) place on the allotment,

any objects, materials or vegetation which, in the opinion of an authorised person, is unsightly or not in accordance with the amenity of the locality in which the allotment is located.

*Examples of objects or materials which may be unsightly or not in accordance with the amenity of the locality—*

- Broken down or dilapidated vehicles and car bodies;
- Broken down or dilapidated boats, boat trailers and boat parts;
- Scrap machinery or machinery parts;
- Discarded bottles, containers or packaging;
- Dilapidated or unsightly building hoardings;
- Shopping trolleys;
- Overgrown vegetation that seriously affects the visual amenity of the allotment or is likely to attract or harbour reptiles.

**Maximum penalty—20 penalty units.**

- (2) An authorised person may, by compliance notice<sup>6</sup> given to the responsible person for the allotment, require the responsible person to—
- (a) remove objects, materials or vegetation that is causing the circumstance mentioned in subsection (1); or
  - (b) take other specified action to remedy the circumstance mentioned in subsection (1).
- (3) A notice issued under subsection (2) may also require the repetition of the specified action at stated intervals or on the reappearance of the accumulation of objects, materials or vegetation on the allotment within a specified period.
- (4) However, the notice cannot prevent a use of land authorised under the Planning Act<sup>7</sup> or the *Environmental Protection Act 1994*.

**Comment [KB10]:** 6/12/17 - Mayor wishes to include 'multiple' here. TO AMEND

**Comment [KB11]:** This s13 previously only related to **overgrown** allotments to such an extent that it has seriously affected the visual amenity of the allotment, or, is likely to attract or harbour reptiles. The inclusion of unsightly objects and materials is not new to this LL, however is new to this section as it was previously addressed separately within this LL.

**Comment [KB12]:** K&C advice rcd 22/11/17 states this clause is likely to contain anti-competitive provisions. Relevant Criteria 5 – prescribed standard, and, 7 – business restriction. Explanatory notes - A compliance notice may require a responsible person for an allotment to take specified action to remove objects, materials or vegetation, or take other specified action to remedy a nuisance. Compliance with the requirements of the notice may have an impact on the conduct of a business activity.

**Comment [KB13]:** NEW

**Comment [KB14]:** NEW.

<sup>6</sup> See footnote 5.

<sup>7</sup> See definition of *Planning Act* in the Act, schedule 4.

(5) In this section—

*vegetation* includes a tree, bush, shrub, plant or grass, but does not include vegetation that is protected under a law<sup>8</sup> of the State or Commonwealth or under the local government's planning scheme.

**Comment [KB15]:** Currently s14 "Accumulation of objects and materials on allotments" is included after s13. This has been DELETED as it has been effectively merged into s13 above.

## Part 4 Fires and fire hazards

### 14 Regulation of lighting and maintaining fires in the open

- (1) This section does not apply to the lighting or maintaining of a fire that is authorised under the *Fire and Emergency Services Act 1990*.<sup>9</sup>
- (2) The local government may, by subordinate local law, prohibit or restrict the lighting or maintaining of fires in the open in the whole, or designated parts, of the local government's area.

*Example—*

The subordinate local law might prohibit the lighting of fires, or a particular type of fire, in the open, unless 1 or more of the following conditions is met—

- the fire is contained in an approved incinerator;
  - the fire is established in a specified way and specified precautions are taken to prevent the spread of fire;
  - the fire is lit and extinguished within a specified time.
- (3) A person must comply with a prohibition or restriction imposed under this section.  
Maximum penalty for subsection (3)—50 penalty units.
  - (4) A person must not light or maintain a fire if the fire exposes property to the risk of damage or destruction by fire.  
Maximum penalty for subsection (4)—50 penalty units.
  - (5) However, a person does not commit an offence under subsection (3) or (4) if the person is authorised or required to light or maintain the fire in the performance of duties under another Act.

### 15 Fire hazards

- (1) This section applies where an authorised person forms the opinion that a fire hazard exists on an allotment.
- (2) The authorised person may, by compliance notice<sup>10</sup> given to the responsible person

<sup>8</sup> For example, vegetation may be protected under the *Nature Conservation Act 1994*, the *Vegetation Management Act 1999*, the *Planning Act*, the *Queensland Heritage Act 1992*, the *Fisheries Act 1994* and the *Environment Protection and Biodiversity Conservation Act 1999 (Cwlth)*.

<sup>9</sup> See the *Fire and Emergency Services Act 1990*, section 63, regarding fires authorised by notification, section 65 regarding fires authorised by permit and section 69, regarding notices requiring occupiers to take measures to reduce the risk of fire. For fires authorised by notification under section 63, see the Notification by the Commissioner of the Queensland Fire and Rescue Service published in the gazette on 6 August 2004.

<sup>10</sup> See footnote 5.

for the allotment, require the responsible person to take specified action to reduce or remove the fire hazard.<sup>11</sup>

(3) In this section—

**fire hazard** means—

- (a) anything that, because of its flammable nature, its position or its quantity, exposes property to significant risk of damage or destruction by fire; or
- (b) a thing that is declared to be a fire hazard under a subordinate local law for this paragraph.

*Examples of fire hazards for paragraph (a)—*

- Live cinders or hot ash that is not enclosed in a fireplace so constructed as to prevent the escape of cinders or ash.
- A substantial accumulation of grass clippings that is liable to spontaneous combustion.
- Dry vegetation that could be easily ignited or other flammable materials.

## Part 4A Community amenity

Comment [KB16]: NEW

### 16 Releasing helium balloons

A person must not release an unsecured balloon containing helium unless the balloon is—

- (a) released unintentionally and without negligence; or
- (a) released inside a building or structure and does not make its way into the open air; or
- (b) released for scientific, including meteorological, purposes; or
- (c) a balloon aircraft that is recovered after landing.

Maximum penalty—20 penalty units.

## Part 5 Community safety hazards

### 17 What is a community safety hazard

A **community safety hazard** is—

- (a) a fence or structure on land that, because of its nature or its position, poses a significant risk of causing injury to a person or damage to property; or
- (b) objects or materials on land, including roof sheeting, guttering or sheet metal, that are likely to become airborne in periods of high wind in a way

Comment [KB17]: NEW

<sup>11</sup> See also the *Fire and Emergency Services Act 1990*, section 69, under which the Fire Services Commissioner can publish a general notification in the gazette requiring occupiers of land to take measures to reduce the risk of fire occurring or the risk to persons, property or environment in the event of fire occurring.

that poses a significant risk of causing injury to a person or damage to property; or

- (c) a thing that is declared to be a community safety hazard under a subordinate local law for this paragraph.

*Examples of a fence or structure that may be a community safety hazard for paragraph (a)—*

- Barbed wire fencing adjoining a public park or reserve or located in an urban area.
- Electric fences adjoining public land.
- An unfenced dam adjacent to a public park or reserve.

## **18 Power to enter property to inspect for community safety hazards**

- (1) This section applies if an authorised person wants to enter a property to inspect it to identify any community safety hazards.
- (2) After giving reasonable written notice to the owner and the occupier of the property, the authorised person may—
  - (a) enter the property without the permission of the occupier; and
  - (b) take reasonable action to inspect the property for community safety hazards.
- (3) However, the authorised person—
  - (a) must, as soon as the authorised person enters the property, inform any occupier of the property—
    - (i) of the reason for entering the property; and
    - (ii) that the authorised person is authorised under this local law to enter the property, excluding a home on the property, without the permission of the occupier; and
  - (b) may enter a home that is on the property only with the permission of the occupier of the relevant part of the property.
- (4) If the occupier gives permission under subsection (3)(b), the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission.

## **19 Removal or reduction of community safety hazards**

- (1) This section applies where an authorised person forms the opinion that a community safety hazard exists on an allotment.
- (2) The authorised person may, by compliance notice<sup>12</sup> given to the responsible person for the allotment, require the responsible person to take specified action in relation to the community safety hazard to—
  - (a) remove the hazard; or
  - (b) reduce the level of risk to persons or property.

*Example of specified action that might be required under paragraph (b) to reduce the risk to the community from a community safety hazard—*

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<sup>12</sup> See footnote 5.

Securing objects or materials that may become airborne in periods of high wind.

## 20 Prescribed requirements

- (1) The local government may, by subordinate local law, prescribe requirements that must be met by responsible persons relating to specified types of community safety hazards located on the owner's land.

*Example of prescribed requirements—*

- A requirement to place signs on electric fences or barbed wire fences adjoining public land to warn persons of the risk of injury.
  - A requirement to install and maintain an electric fence in accordance with appropriate standards.
- (2) A responsible person must comply with requirements prescribed under this section.

Maximum penalty for subsection (2)—50 penalty units.

## Part 6 Noise standards

### 21 Prescribed noise standards

- (1) This section applies if the local government is the administering authority for the *Environmental Protection Act 1994*, chapter 8, part 3B.<sup>13</sup>
- (2) The local government may, by subordinate local law, prescribe a noise standard in the whole, or designated parts, of the local government's area by—
  - (a) prohibiting the making of a stated noise (for example, by reference to the activity making the noise and the time at which the noise is made),<sup>14</sup> and
  - (b) stating the section, in the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3, for which the subordinate local law provision is prescribing a noise standard.<sup>15</sup>

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<sup>13</sup> See the *Environmental Protection Act 1994*, section 514, for the making of a regulation to devolve the administration and enforcement of parts of the Act to local governments as the administering authority. The *Environmental Protection Regulation 2008*, section 99, devolves the administration and enforcement of noise standards to local governments. Section 109 of the Regulation declares local government authorised persons to be authorised persons under the *Environmental Protection Act 1994*, section 445(1)(c). Chapter 9 of that Act provides for the investigation and enforcement powers of authorised persons.

<sup>14</sup> See, however, *Local Law No.1 (Administration) 2011*, section 10(4)(a), regarding conditions of approvals that may authorise an act or omission that contravenes a noise standard.

<sup>15</sup> Section 440(3) provides that a local law that prescribes a noise standard replaces the nominated default noise standard in the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3.

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## Part 7                      Miscellaneous

### 22 Subordinate local laws

The local government may make subordinate local laws about—

- (a) declaring animals or plants of specified species to be local pests;<sup>16</sup> or
- (b) lighting and maintaining of fires in the open;<sup>17</sup> or
- (c) fire hazards;<sup>18</sup> or
- (d) community safety hazards;<sup>19</sup> or
- (e) prescribed requirements relating to community safety hazards;<sup>20</sup> or
- (f) prescribed noise standards for the *Environmental Protection Act 1994*.<sup>21</sup>

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<sup>16</sup> See section 6(1).

<sup>17</sup> See section 15(2).

<sup>18</sup> See section 16(3)(b).

<sup>19</sup> See section 17(c).

<sup>20</sup> See section 20(1).

<sup>21</sup> See section 21(2).

## Schedule

## Dictionary

## Section 3

Comment [KB18]: Legislative references within this schedule have been updated

**aircraft** has the meaning given in the *Civil Aviation Act 1988 (Cwlth)*.

**allotment** means an individual parcel or piece of land.

**animal** means an organism (other than a human being) that is not a plant and includes eggs and semen.

**biosecurity consideration** has the meaning given in the *Biosecurity Act 2014*.

**biosecurity matter** has the meaning given in the *Biosecurity Act 2014*.

**compliance notice** means a compliance notice mentioned in *Local Law No.1 (Administration) 2011*, section 27.

**controlled biosecurity matter** has the meaning given in the *Biosecurity Act 2014*.

**declared local pest** means a plant or animal declared to be a pest under section 6 or 7.

**invasive animal** has the meaning given in the *Biosecurity Act 2014*.

**invasive plant** has the meaning given in the *Biosecurity Act 2014*.

**plant** means vegetation of any type, including its flowers, roots, seeds and other parts.

**prohibited matter**, in relation to biosecurity matter, has the meaning given in the *Biosecurity Act 2014*.

**reasonable written notice** means a written notice given at least 7 days before a property is to be entered, that informs the owner and the occupier of the property of—

- (a) the local government's intention to enter the property; and
- (b) the reason for entering the property; and
- (c) the days and times when the property is to be entered.

**regulated biosecurity matter** has the meaning given in the *Biosecurity Act 2014*.

**responsible person** means the person who has control or management of the place and includes a person in charge of activities or structures in the place that may result in contravention of this local law.

**restricted matter**, in relation to biosecurity matter, has the meaning given in the *Biosecurity Act 2014*.

**the Act** means the *Local Government Act 2009*.

This and the preceding 12 pages bearing my initials is a certified copy of the consolidated version of *Local Law No. 3 (Community and Environmental Management) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the \_\_\_\_\_ day of \_\_\_\_\_ (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

~~LL3657380-1~~

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# Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011

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## Part 1 Preliminary

### 1 Short title

This local law may be cited as *Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*.

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to—
  - (a) protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads; and
  - (b) preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and roads.
- (2) The purpose is to be achieved by providing for—
  - (a) the regulation of access to local government controlled areas; and
  - (b) the prohibition or restriction of particular activities on local government controlled areas or roads; and
  - (c) miscellaneous matters affecting local government controlled areas and roads.

Comment [KB1]: NEW

### 3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

### 4 Relationship with other laws<sup>1</sup>

This local law is—

- (a) in addition to and does not derogate from laws<sup>2</sup> regulating the use of trust land and roads; and
- (b) is to be read with *Local Law No. 1 (Administration) 2011*.

<sup>1</sup> This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

<sup>2</sup> Other legislation that may be relevant in the application of this local law includes the *Land Act 1994*, the *Land Regulation 2009* and the *Land Protection (Pest and Stock Route Management) Act 2002*.

## Part 2 Use of local government controlled areas, facilities and roads<sup>3</sup>

### 5 Prohibited and restricted activities

- (1) The local government may, under a subordinate local law, declare an activity to be—
- prohibited in a local government controlled area or road (a *prohibited activity*); or
  - restricted in a local government controlled area or road (a *restricted activity*).

*Example for paragraph (a)—*

The local government may declare that the lighting of fires is a prohibited activity in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

*Example for paragraph (b)-*

The local government may declare that the playing of sport generally, or the playing of certain sports, is a restricted activity in that it is restricted to particular times of the day, week, month or year in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

- (2) The local government must take reasonable steps to provide notice to members of the public regarding restricted activities declared for local government controlled areas or roads.
- (3) In this section —

*reasonable steps* may include each of the following—

- the display of a notice at a prominent place within each local government controlled area for which a declaration under subsection (1)(b) has been made, stating —
  - if the declaration relates to the whole area — the restricted activities for the area; and
  - if the declaration relates to a part of the area — the restricted activities and a description of the part of the area to which the declaration applies; and
  - in general terms, the provisions of subsection (4);
- the display of a notice on the local government's website which—
  - identifies each local government controlled area for which a declaration under subsection (1)(b) has been made; and
  - in general terms, states the information specified in paragraph (a).

**Comment [KB2]:** K&C advice rcd 22/11/17 states this clause is likely to contain anti-competitive provisions. Relevant Criteria 5 – prescribed standard, 7 – business restriction, and, 10 – permit requirement. Explanatory notes - The local government may, under a subordinate local law, declare an activity to be a prohibited activity or a restricted activity. In respect of various restricted activities, a subordinate local law imposes a requirement to obtain an approval in respect of the undertaking of the activity, a prescribed activity, and may have an impact on the conduct of a business activity, and in particular, the prescribed activity. If an activity is identified as a prescribed activity, Local Law No. 1 (Administration) 2011 and the subordinate local law made under the local law provide a legal and procedural framework for the administration and regulation of the grant of approvals to undertake the prescribed activity.

**Comment [KB3]:** NEW

<sup>3</sup> Local Law No. 1 (Administration) 2011 deals with activities on local government controlled areas and roads that require the local government's approval, such as commercial use of local government controlled areas and roads, alterations or improvements to local government controlled areas, and other miscellaneous regulated activities.

- (4) A person must not engage in a prohibited activity or a restricted activity.

Maximum penalty - 20 penalty units

## 6 Motor vehicle access to local government controlled areas

- (1) A **motor vehicle access area** is an area within a local government controlled area that is—

- (a) a car park or roadway for which there is no sign or traffic control device indicating that vehicles owned by members of the public are excluded; or
- (b) declared under a subordinate local law for this paragraph as a motor vehicle access area.

- (2) For the purposes of *Local Law No.1 (Administration) 2011*, section 5(b), it is a prescribed activity<sup>4</sup> to bring a motor vehicle onto or drive a motor vehicle on any part of a local government controlled area that is not a motor vehicle access area.

- (3) The local government may, by subordinate local law, declare a specific type of motor vehicle (a **prohibited vehicle**) as prohibited in a specified motor vehicle access area.

- (4) For the purposes of *Local Law No.1 (Administration) 2011*, section 5(b), it is a prescribed activity<sup>5</sup> to bring a prohibited vehicle onto or drive a prohibited vehicle on the specified motor vehicle access area.

- (5) However, subsections (2) and (4) do not apply for an emergency vehicle.

- (6) The local government must take reasonable steps to provide notice to members of the public regarding—

- (a) declarations of motor vehicle access areas under subsection (1)(b); and
- (b) declarations of prohibited vehicles under subsection (3).

- (7) In this section—

**emergency vehicle** includes the following—

- (a) an ambulance;
- (b) a fire-engine;
- (c) a police vehicle;
- (d) a vehicle operated by a volunteer of the State Emergency Service which is helping the community to prepare for, respond to or recover from a natural disaster, for example, a cyclone or flood.
- (e) another vehicle, including a tow truck, helicopter or mobile crane, if used in circumstances of an emergency.

**reasonable steps** include, as a minimum, the display of a notice at a prominent place within each declared motor vehicle access area stating—

<sup>4</sup> *Local Law No.1 (Administration) 2011*, section 6, creates an offence for a person to undertake a prescribed activity without a current approval granted by the local government. Section 7 requires that the approval be obtained under part 2 of that local law.

<sup>5</sup> See footnote 3.

- (a) a description of the declared motor vehicle access area; and
- (b) a description of prohibited vehicles for the area; and
- (c) in general terms, the provisions of subsections (2) and (4).

## 7 Opening hours of local government controlled areas

- (1) The local government may, by subordinate local law, declare the times when a local government controlled area is open to the public (the *opening hours*).
- (2) A person must not enter or remain in a local government controlled area outside the opening hours unless the person is authorised to do so by the chief executive officer<sup>6</sup>.

Maximum penalty for subsection (2)—20 penalty units.

- (3) If the local government declares the opening hours for a local government controlled area under subsection (1), it must place a notice showing the opening hours at each public entrance to the area.

## 8 Power of closure of local government controlled areas

- (1) An authorised person may temporarily close a local government controlled area to public access—
  - (a) to carry out construction, maintenance, repair or restoration work; or
  - (b) to protect the health and safety of a person or the security of a person's property; or
  - (c) because of a fire or other natural disaster; or
  - (d) to conserve or protect the cultural or natural resources of the area or native wildlife; or
  - (e) for the purpose of the undertaking of an activity authorised by the authorised person.
- (2) A closure under subsection (1)—
  - (a) must state a period, not greater than 6 months, during which the area will be closed; and
  - (b) must be revoked by the authorised person as soon as practicable after the authorised person becomes satisfied that the reason for the closure no longer exists.
- (3) The local government may, by subordinate local law, permanently close a local government controlled area to public access for any of the following reasons—
  - (a) the conservation of the cultural or natural resources of the area, including, for example—
    - (i) to protect significant cultural or natural resources; or
    - (ii) to enable the restoration or rehabilitation of the area; or

**Comment [KB5]:** Previously "The LG may, by resolution,..."

**Comment [KB6]:** NEW

**Comment [KB7]:** Previously the "LG"

<sup>6</sup> See definition of *chief executive officer* in the Act, schedule 4.

- (iii) to protect a breeding area for native wildlife; or
  - (iv) to manage a significant Aboriginal area in the area in a way that is consistent with Aboriginal tradition; or
  - (v) to manage a significant Torres Strait Islander area in the area in a way that is consistent with Island custom;
  - (b) protection of the health and safety of members of the public;
  - (c) protection of a facility or service in the area, including, for example, infrastructure, water supply facilities or power generating equipment;
  - (d) protection of the amenity of an area adjacent to the area;
  - (e) the orderly or proper management of the area;
  - (f) if the local government determines that the permanent closure of the local government controlled area to public access is necessary or convenient for the good rule and local government of its local government area.
- (4) If the local government closes a local government controlled area under subsections (1) or (3), it must place at each public entrance to the area a notice of the closure, including a statement of the duration of the closure.

Comment [KB8]: NEW

*Example—*

If the local government closes an area that is part of a wider local government controlled area, it must place notices at each public entrance to the closed area.

- (5) A person must not enter or remain in a local government controlled area while it is closed to public access under this section, unless the person is authorised to do so by the chief executive officer.

Maximum penalty for subsection (5)—20 penalty units.

- (6) In this section—

**significant Aboriginal area** see the *Aboriginal Cultural Heritage Act 2003*, section 9.

**significant Torres Strait Islander area** see the *Torres Strait Islander Cultural Heritage Act 2003*, section 9.

## Part 3 Matters affecting roads

### 9 Power to require owner of land adjoining road to fence land

- (1) This section applies if, in the opinion of an authorised person, it is necessary for land adjoining a road to be fenced to prevent the risk of—
- (a) animals escaping from the land onto the road; or
  - (b) interference with the safe movement of traffic or the safe use of the road.
- (2) The authorised person may, by giving a compliance notice<sup>7</sup> to the owner—
- (a) if the land is not currently fenced—require the owner to fence the land; or

Comment [KB9]: Previously the “LG’s opinion”

Comment [KB10]: Previously the “LG”

Comments from mtg with Mayor 19/12/17 - happy for authorised person to decide, however if we want to get owner to INSTALL NEW fence that should be council decision. Some of this will need to be in policy. Councillors to further discuss.

<sup>7</sup> See *Local Law No.1 (Administration) 2011*, section 27, regarding the requirements for compliance notices.

- (b) if a current fence on the land is in disrepair—require the owner to repair or replace the fence.
- (3) The local government may, by subordinate local law, set out the minimum standards with which the fence must comply.
- (4) In this section—
  - animal* does not include a native animal, feral animal or pest animal.
  - feral animal* see *Animal Care and Protection Act 2001*, section 42.
  - pest animal* see *Animal Care and Protection Act 2001*, section 42.

## 10 Numbering of premises and allotments adjoining a road<sup>8</sup>

- (1) An owner of land must not adopt a number for a building or allotment that is inconsistent with a numbering system adopted by the local government under this section.
 

Maximum penalty for subsection (1)—10 penalty units.
- (2) An owner of land (other than vacant land) must display the number allocated so as to be easily identified from the adjoining road.
 

Maximum penalty for subsection (2)—10 penalty units.

## 11 Compliance notice about a road or footpath crossing

- (1) An authorised person may give a compliance notice to—
  - (a) the owner of land adjoining or adjacent to a road to perform work on the land or the road if the work to be carried out is required as a direct result of the actions of the owner or occupier of the land or will confer a direct benefit on the owner or occupier and, in the opinion of the authorised person, the work should be performed to—
    - (i) protect public health, safety or amenity; or
    - (ii) prevent environmental harm or environmental nuisance; or
    - (iii) prevent interference with the safe movement of traffic or the safe use of a road; or
  - (b) the owner of land adjoining or adjacent to a road to—
    - (i) construct a vehicle crossing to provide vehicular access between the road and the land to a standard specified in the compliance notice; or
    - (ii) if a vehicle crossing provides vehicular access between the land and the road — maintain, repair or alter the vehicle crossing, or construct a new or modified vehicle crossing, to a standard specified in the compliance notice if, in the opinion of the authorised person, the vehicle crossing—
      - (A) is not effective for its intended purpose; or
      - (B) is causing a nuisance or poses a risk of a nuisance; or

**Comment [KB11]:** 11(1) has been shuffled and reworded, however effectively remains the SAME, except where noted in comment below.

**Comment [KB12]:** Previously the “LG”

<sup>8</sup> See the Act, section 60, regarding control of roads by a local government.

- (C) constitutes an actual or potential safety hazard; or
- (iii) alter a vehicle crossing, or construct a new or modified vehicle crossing between the land and the road to a standard specified in the compliance notice if, in the opinion of the authorised person, the vehicle crossing is no longer adequate having regard to—
  - (A) the volume or nature of traffic using the vehicle crossing; or
  - (B) the manner in which the vehicle crossing is used by traffic; or
  - (C) changes in the use of the land to which the vehicle crossing provides access; or
  - (D) changes in the usual or expected standard of vehicle crossing provision in the relevant locality.
- (2) The local government may recover the amount that the local government properly and reasonably incurs in taking the action required by the compliance notice as a debt payable by the person who failed to take the action.
- (3) Interest is payable on the debt at the same rate that interest is payable on overdue rates levied by the local government.
- (4) The local government must give the person who failed to take the action written notice of the amount of the debt.
- (5) Subsection (6) applies if the person who failed to take the action is the owner of the land.
- (6) If the debt is not paid within 30 days after the date of the written notice, the local government may recover the debt as if the debt were overdue rates.

Comment [KB13]: NEW

## Part 4 Miscellaneous

### 12 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the declaration of prohibited activities or restricted activities;<sup>9</sup> or
- (b) the declaration of motor vehicle access areas;<sup>10</sup> or
- (c) the declaration of prohibited vehicles;<sup>11</sup> or
- (d) the opening hours for a local government controlled area;<sup>12</sup> or
- (e) closing a local government controlled area to public access;<sup>13</sup> or
- (f) minimum standards for fences on land adjoining a road.<sup>14</sup>

<sup>9</sup> See section 5(1).

<sup>10</sup> See section 6(1).

<sup>11</sup> See section 6(3).

<sup>12</sup> See section 7(1).

<sup>13</sup> See section 8(3).

<sup>14</sup> See section 9(3).



## Schedule Dictionary

### Section 3

**environmental harm** see *Environmental Protection Act 1994*, schedule 4.

**environmental nuisance** see *Environmental Protection Act 1994*, schedule 4.

**land** see *Local Government Act 2009*, schedule 4.

**local government controlled area** see *Local Law No.1 (Administration) 2011*, schedule 1.

**occupier** see *Local Government Act 2009*, schedule 4.

**owner** see *Local Government Act 2009*, schedule 4.

**road** see *Local Law No.1 (Administration) 2011*, schedule 1.

**traffic** see *Transport Operations (Road Use Management) Act 1995*, schedule 4.

**trafficable surface**, of a road, means any part of a road which is open to, or used by, traffic.

**vehicle crossing** means facilities provided for the purpose of vehicles making entry or exit at, or substantially at, right angles between the trafficable surface of a road and land adjoining or adjacent to the road and may include an invert, pipe or driveway at, or adjacent to, the boundary of the land.

This and the preceding 8 pages bearing my initials is a certified copy of the consolidated version of *Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the                      day of                      (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

~~LL4658181-1~~

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# Local Law No. 5 (Parking) 2011

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## Part 1 Preliminary

### 1 Short title

This **local** law may be cited as *Local Law No. 5 (Parking) 2011*.

**Comment [KB1]:** The word 'MODEL' has been omitted; this sentence previously read –  
This model local law may be cited as *Local Law No. 5 (parking) 2011*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to complement the regulated parking provisions in chapter 5, part 6 of the TORUM Act by providing for the exercise of local government powers authorised under that Act.
- (2) The purpose is achieved by providing for—
  - (a) the establishment of traffic areas and off-street regulated parking areas; and
  - (b) lawfully parking contrary to an indication on an official traffic sign with a parking permit or in a loading zone with a commercial vehicle identification label; and
  - (c) the prescribing of infringement notice penalties for minor traffic offences.

### 3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

### 4 Relationship with other laws<sup>1</sup>

This local law is—

- (a) in addition to, and does not derogate from, the TORUM Act, chapter 5, part 6<sup>2</sup>; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

**Comment [KB2]:** S Gatt has suggested RRC officers should have the ability to enforce regulated parking on specified state-controlled (declared) roads. TORUM s101(1)(b) states that LG can enforce regulated parking on state-controlled (declared) roads provided written approval is obtained from the Chief Executive.

## Part 2 Declaration of parking areas for the TORUM Act

### 5 Declaration of traffic areas

- (1) The local government may, by subordinate local law, declare the whole or a part of its area to be a traffic area.<sup>3 4</sup>
- (2) The subordinate local law must define the boundaries of the traffic area.

At this stage, Steve is only interested in regulated parking enforcement as opposed to spanning wider to include advertising devices etc. A few of the state-controlled roads he mentioned were Lawrie Street, Wandal Rd and Lakes Creek Rd.

Should Councillors wish to include specified state controlled roads as per Steve's suggestion, officers will prepare a list of recommended roads and seek approval from the State in accordance with TORUM, and include relevant areas in Schedule 3 of SLL1.15

Comments from mtg with Mayor 19/12/17 – Yes, insert **only** Lawrie Street and Wandal Road into SLL1.15 for Council officers to regulate these two state controlled roads.

<sup>1</sup> This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

<sup>2</sup> A local government cannot regulate parking on a State-controlled road unless the written agreement of the chief executive has been obtained under the TORUM Act, section 101(1)(b).

<sup>3</sup> See the TORUM Act, sections 102(3)(a) and 102(2)(b).

<sup>4</sup> The TORUM Act, section 69(4), provides: “A local government may install or remove an official traffic sign that will result in a change to the management of a local government road, of a kind mentioned in the *Transport Planning and Coordination Act 1994*, section 8D(1), only if the chief executive has approved the proposed change under the *Transport Planning and Coordination Act 1994*, section 8D.”

## 6 Declaration of off-street regulated parking areas

- (1) The local government may, by subordinate local law, declare an area of land controlled<sup>5</sup> by the local government, including structures on the land, as an off-street regulated parking area.<sup>6</sup>
- (2) The subordinate local law must define the boundaries of the off-street regulated parking area.

## Part 3 Parking contrary to parking restriction

### 7 Parking permits<sup>7</sup>

- (1) The local government may issue a parking permit.<sup>8</sup>
- (2) The local government may prescribe, by subordinate local law, the persons that may be issued with a permit mentioned in subsection (1).
- (3) A vehicle may be parked contrary to an indication on an official traffic sign regulating parking by time or payment of a fee, if the vehicle displays—
  - (a) a parking permit for people with disabilities;<sup>9</sup> or
  - (b) a permit issued by the local government and valid for the place and time at which the vehicle is parked.

### 8 Commercial vehicle identification labels<sup>10</sup>

- (1) The local government may, on application, approve the issue a commercial vehicle identification label.<sup>11</sup>
- (2) The local government may, by subordinate local law, prescribe vehicles that may be issued with a commercial vehicle identification label.<sup>12</sup>
- (3) A vehicle displaying a current commercial vehicle identification label may be lawfully parked in a loading zone.<sup>13</sup>

**Comment [KB3]:** FURTHER POTENTIAL AMENDMENT - 14/12/17 – T Richardson email (saved in “parked amendments”) suggested the inclusion of provisions within the appropriate section of the LL (and any relevant SLL) to cover REGULATION OF PARKING IN PAID PARKING MACHINE ZONES for paid parking areas such as Pilbeam Theatre, etc. BSC and GCCC have provisions within their local laws in this regard. The inclusion of such provisions within this LL will allow SPER action to be taken for unpaid PINs issued within these parking areas under s106 TORUM and SLL1.15. Currently, SPER action is unable to be taken for offences under s106 TORUM, unless stated in a local law. To discuss with King and Company.

**Comment [KB4]:** “,on application, approve the” has been ADDED.

<sup>5</sup> See the TORUM Act, section 104(2).

<sup>6</sup> See the TORUM Act, sections 104(1)(b) and 101(1)(c).

<sup>7</sup> See the TORUM Act, section 103(4).

<sup>8</sup> *Local Law No. 1 (Administration) 2011*, section 5(b), provides that a **prescribed activity** includes “an activity for which a Local Government Act authorises the local government to grant an approval but does not make any other provision, except provision that is consistent with this part, about the process for the local government to grant the approval.” Section 7 of *Local Law No. 1 (Administration) 2011* provides that an approval required for a prescribed activity must be obtained under part 2 of *Local Law No. 1 (Administration) 2011*. As a result, an approval for a parking permit must be obtained under that part.

<sup>9</sup> Parking permits for people with disabilities are issued under the TORUM Act, section 111, by the chief executive of the department administering the TORUM Act.

<sup>10</sup> See the TORUM Act, section 103(5).

<sup>11</sup> *Local Law No. 1 (Administration) 2011*, section 5(b), provides that a **prescribed activity** includes “an activity for which a Local Government Act authorises the local government to grant an approval but does not make any other provision, except provision that is consistent with this part, about the process for the local government to grant the approval.” Section 7 of *Local Law No. 1 (Administration) 2011* provides that an approval required for a prescribed activity must be obtained under part 2 of *Local Law No. 1 (Administration) 2011*. As a result, an approval for a commercial vehicle identification label must be obtained under that part.

<sup>12</sup> The TORUM Act already defines certain vehicles designed for the carriage of goods as commercial vehicles – see schedule 4, definition, **commercial vehicle**.

<sup>13</sup> See also *Transport Operations (Road Use Management-Road Rules) Regulation 1999*, section 179, relating to drivers who are permitted to stop in a loading zone.

## **Part 4 Minor traffic offence infringement notice penalties**

### **9 Minor traffic offence infringement notice penalties**

- (1) The local government may prescribe, by subordinate local law, an amount (in penalty units) as the infringement notice penalty for a minor traffic offence.<sup>14</sup>
- (2) However, a subordinate local law under subsection (1) may not prescribe an amount greater than 5 penalty units.

## **Part 5 Miscellaneous**

### **10 Subordinate local laws**

The local government may make subordinate local laws about—

- (a) the declaration of traffic areas;<sup>15</sup> or
- (b) the declaration of off-street regulated parking areas;<sup>16</sup> or
- (c) the persons who may be issued with a permit to park a vehicle contrary to an indication on an official traffic sign;<sup>17</sup> or
- (d) vehicles that may be issued with a commercial vehicle identification label;<sup>18</sup> or
- (e) infringement notice penalty amounts that apply for minor traffic offences.<sup>19</sup>

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<sup>14</sup> See the TORUM Act, section 108(1). The maximum penalty for an offence relating to paid parking is 40 penalty units under the TORUM Act, section 106(1). The maximum penalty for other parking offences is 40 penalty units under the TORUM Act, section 74.

<sup>15</sup> See section 5(1).

<sup>16</sup> See section 6.

<sup>17</sup> See section 7(2).

<sup>18</sup> See section 8(2).

<sup>19</sup> See section 9(1).

**Schedule Dictionary**

Section 3

**commercial vehicle identification label** means a label of the type depicted in the Manual of Uniform Traffic Control Devices as a commercial vehicle identification label.

**indication**, on an official traffic sign, see TORUM Act, schedule 4.

**infringement notice penalty** means an infringement notice fine under the *State Penalties Enforcement Act 1999*.

**minor traffic offence** see TORUM Act, section 108(4).

**official traffic sign** see TORUM Act, schedule 4.

**off-street regulated parking area** see TORUM Act, schedule 4.

**parking permit for people with disabilities** see TORUM Act, schedule 4.

**traffic area** see TORUM Act, schedule 4.

**TORUM Act** means the *Transport Operations (Road Use Management) Act 1995*.

This and the preceding 4 pages bearing my initials is a certified copy of the consolidated version of *Local Law No. 5 (Parking) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the            day of            (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

[LL5658300-115-parking-2011-consolidated-04.10.17658300-1](#)

# Local Law No. 7 (Aerodromes) 2011

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## **Part 1 Preliminary**

### **1 Short title**

This local law may be cited as *Local Law No. 7 (Aerodromes) 2011*.

### **2 Purpose and how it is to be achieved**

- (1) The purpose of this local law is to regulate the use and operation of aerodromes controlled by the local government.
- (2) The purpose is to be achieved by—
  - (a) protecting the public against risk of injury and the community against damage; and
  - (b) ensuring that activities at the aerodromes are undertaken in an orderly and safe manner and do not create a hazard to public health or a threat to property; and
  - (c) controlling the public use of the aerodromes to the extent that the use is consistent with the rights, expectations and safety of the local community; and
  - (d) protecting the obstacle limitation surfaces (OLS) and minimising hazards to aircraft; and
  - (e) providing for—
    - (i) fees and charges for the rights described in paragraph (c); and
    - (ii) the powers and authority of persons authorised by the local government for the purposes of this local law; and
    - (iii) penalties for breaches of the local law; and
    - (iv) liability arising out of use of the aerodromes.

### **3 Definitions—the dictionary**

The dictionary in the schedule defines particular words used in this local law.

### **4 Application of local law**

- (1) This local law is in addition to, and does not derogate from—
  - (a) laws regulating the use or development of land in the area in which the local government has jurisdiction; or
  - (b) civil aviation laws; or
  - (c) civil aviation safety laws.
- (2) This local law is to be read with *Local Law No. 1 (Administration) 2011*.

## Part 2 Use and operation of an aerodrome

### 5 Use by aircraft

- (1) Subject to civil aviation laws and civil aviation safety laws the local government may, by means of signs, notices or markers placed on an aerodrome or a part of an aerodrome, regulate the use and operation of the aerodrome.
- (2) For example, under subsection (1), the local government may—
  - (a) exclude from the aerodrome, any particular aircraft or type or class of aircraft or activity where the local government is of the reasonable opinion that the operation of the aircraft or type or class of aircraft or activity is unduly noisy, dangerous or not in the public interest; and
  - (b) subject any activity on or based on the aerodrome to such conditions as the local government considers necessary and desirable including, but not restricted to, conditions about the hours and duration of operation of the activity; and
  - (c) designate a part of the aerodrome where a particular activity may or may not be carried on; and
  - (d) during specified periods or at specified times, restrict the use by aircraft of the aerodrome for—
    - (i) departures; or
    - (ii) landings; or
    - (iii) servicing; or
    - (iv) embarkment of passengers; or
    - (v) disembarkment of passengers; or
    - (vi) transport of freight; or
    - (vii) any combination of paragraphs (i) to (vi); and
  - (e) restrict the use by aircraft of the aerodrome for training operations on any night or on every night during hours prescribed by the local government; and
  - (f) prohibit access to, or the use of, the whole or part of the aerodrome by persons, aircraft or vehicles during specified periods or at specified times.
- (3) Where an aircraft is used, or an activity is carried on, in contravention of subsection (1), an authorised person may give a written notice to a person who is a relevant person in relation to the aircraft or activity, directing the person, within a time specified in the notice—
  - (a) to cease the use of the aircraft or activity; or
  - (b) to remove the aircraft from the aerodrome; or
  - (c) to remove the aircraft or activity to an area specified by the authorised person in the notice; or
  - (d) to pay prescribed fees; or
  - (e) to pay fees and charges imposed under section 14; or
  - (f) any combination of paragraphs (a) to (e).

- (4) A relevant person to whom a direction is given under subsection (3) must comply with the direction.

Maximum penalty for subsection (4) (other than where the direction is given under subsection (3)(d) or (e)) — 50 penalty units.

## 6 Aircraft parking

- (1) The local government may, by means of signs, notices or markers placed on an aerodrome—
- (a) designate a part of the aerodrome to be an area for the parking of aircraft; and
  - (b) if the part is not to be used for the parking of all aircraft —specify the kind of aircraft that may be parked in the part; and
  - (c) specify the conditions (if any), including conditions relating to the times and periods during which aircraft may be parked in the part.

- (2) A person must not park an aircraft on an aerodrome—
- (a) except in the part of the aerodrome designated under subsection (1) to be an area in which an aircraft, or a particular kind of aircraft, may be parked; and
  - (b) except in accordance with any conditions specified under subsection (1)(c).

Maximum penalty for subsection (2) — 50 penalty units.

- (3) Where an aircraft is parked in contravention of subsection (2), an authorised person may give a written notice to a person who is a relevant person in relation to the aircraft, directing the person to—
- (a) remove the aircraft from the aerodrome; or
  - (b) remove the aircraft to an area specified by the authorised person in the notice.

- (4) A relevant person to whom a direction is given under subsection (3) must comply with the direction.

Maximum penalty for subsection (4) — 50 penalty units.

- (5) If a person fails to comply with a direction given under subsection (3) without reasonable and lawful excuse, an authorised person may, with such assistance and reasonable force as is necessary, remove the aircraft as required by the direction.
- (6) An action does not lie against the local government, an authorised person or any other officer, employee or agent of the local government acting in the course of his or her employment, for or in respect of—
- (a) loss of, or damage to, an aircraft during its removal under subsection (5); or
  - (b) loss of, or damage to, an aircraft so removed while it is in the custody, possession or control of the local government, an authorised person or any other officer, employee or agent of the local government.
- (7) Subsection (6) does not apply to loss or damage wilfully or negligently caused by the local government, an authorised person or any other officer, employee or agent of the local government.

## 7 General use by vehicles within an aerodrome

- (1) The local government may determine and include or notify, by means of permanently displayed signs or notices, with or without reference to lanes or marked areas and positions within an aerodrome, areas in which a person is, or is not, permitted to park a vehicle or cause a vehicle to stand.
- (2) Where a sign or notice of a kind referred to in subsection (1) is displayed on an aerodrome, the sign or notice is, unless the contrary is proved, deemed to be in accordance with a determination under this local law and to be duly displayed in accordance with this local law.
- (3) A person must not park a vehicle, or cause a vehicle to stand, in contravention of the terms of a sign or notice displayed under subsection (1).

Maximum penalty for subsection (3) — 20 penalty units.

## 8 Use of vehicles on an airside area

- (1) A person must not use a vehicle on an airside area unless authorised by an approval (a *vehicle approval*).
- (2) This section does not apply to the use of an emergency vehicle on an airside area by emergency personnel who are—
  - (a) responding to an emergency; and
  - (b) taking reasonable care.
- (3) For the purposes of *Local Law No. 1 (Administration) 2011*, section 5(b), it is a prescribed activity to use a vehicle on an airside area.

## 9 Use of buildings and facilities

- (1) A person must not—
  - (a) use any building or other structure, convenience or amenity provided on an aerodrome for any purpose other than the purpose for which it is provided or intended; or
  - (b) destroy, remove, obliterate, deface, alter or otherwise interfere with any barrier, notice, sign or marking designed or intended for direction, guidance, warning or information of persons using an aerodrome; or
  - (c) deliberately or recklessly damage or destroy any building, fence, structure, ground work, improvement or other property of the local government at an aerodrome.

Maximum penalty for each of paragraphs (a), (b) and (c) — 50 penalty units.

- (2) The local government may, by subordinate local law, prescribe conditions for the use of buildings, facilities and amenities at an aerodrome.
- (3) A person must comply with a condition prescribed for the use of buildings, facilities or amenities at an aerodrome by subordinate local law under subsection (2).

Maximum penalty — 100 penalty units.

## 10 Safety requirements

- (1) The local government may, by subordinate local law, prescribe procedures to be complied with to preserve and enhance safety at an aerodrome.
- (2) For example, the local government may—
  - (a) prescribe procedures for—
    - (i) the protection of members of the public at the aerodrome; and
    - (ii) the protection of infrastructure at the aerodrome; and
    - (iii) ensuring aircraft which use the aerodrome are operated in compliance with civil aviation laws and civil aviation safety laws; and
  - (b) prescribe safety procedures for—
    - (i) the fuelling of aircraft; and
    - (ii) the movement of passengers to and from aircraft; and
    - (iii) aircraft servicing and the movement of aircraft on an aircraft stand.
- (3) A person must comply with a safety procedure prescribed by subordinate local law under subsection (1).

Maximum penalty for subsection (3) — 100 penalty units.

## 11 Conduct of persons on the airside area of an aerodrome

- (1) A person must not, without reasonable and lawful authority or excuse—
  - (a) enter or remain on an airside area; or
  - (b) bring or leave any property or dangerous goods or materials on an airside area.

Maximum penalty for each of paragraphs (a) and (b) — 100 penalty units.

- (2) An authorised person may, with such assistance and reasonable force as is necessary, remove a person, property, goods or materials from an aerodrome if —
  - (a) the person contravenes subsection (1); or
  - (b) the property, goods or materials are found in contravention of subsection (1)(b).

- (3) A person must not smoke or do any act to procure a naked flame on an airside area.

Maximum penalty for subsection (3)—20 penalty units.

- (4) A passenger or intending passenger of an aircraft must, whilst on an airside area, obey the directions of an authorised person as to the passenger's conduct and movements.

Maximum penalty for subsection (5) — 10 penalty units.

- (5) A person lawfully entering or being on an airside area must—
  - (a) behave in a proper manner and so as not to cause annoyance or inconvenience to any other person lawfully on the airside area; and
  - (b) obey any direction reasonably given to the person by an authorised person for the purpose of preserving order or promoting or facilitating the proper

**Comment [KB1]:** Amended, however essentially the same as current.

**Comment [KB2]:** Reduced from 100 units

use and enjoyment of the aerodrome.

Maximum penalty for each of paragraphs (a) and (b) — 10 penalty units.

## 12 Conduct of persons on any part of an aerodrome

- (1) For the purposes of this section a person is an *undesirable person* if the person, whether or not a passenger or intending passenger of an aircraft, is considered by an authorised person on reasonable grounds to be —
  - (a) intoxicated or so under the influence of intoxicants or drugs as to make the person's presence on an aerodrome dangerous to themselves or to other persons; or
  - (b) indulging in unruly, obscene, offensive or threatening behaviour towards another person.
- (2) An authorised person may direct an undesirable person—
  - (a) not to enter an aerodrome or a specified part of an aerodrome; or
  - (b) if already upon the aerodrome — to leave the aerodrome or a specified part of the aerodrome and not to return on the same day.
- (3) The person to whom a direction is given under subsection (2) must comply with the direction.

Maximum penalty for subsection (3) — 20 penalty units.

- (4) An authorised person may use reasonable force to —
  - (a) prevent an undesirable person from entering an aerodrome; or
  - (b) remove an undesirable person from an aerodrome.
- (5) A person must not, without the authority of an authorised person, discharge a firearm—
  - (a) on or over any part of an aerodrome; or
  - (b) adjacent to an aerodrome in such a manner that the projectile discharged from the firearm travels over, or is likely to travel over, any part of the aerodrome.

Maximum penalty for subsection (5) — 100 penalty units.

- (6) A person must not bring, or permit to stray, on to an aerodrome, an animal without the prior approval of an authorised person.<sup>1</sup>

Maximum penalty for subsection (6) — 20 penalty units.

- (7) An animal unlawfully on an aerodrome may be removed from the aerodrome by an authorised person, or by any person under the direction of an authorised person.
- (8) An animal removed from an aerodrome under subsection (7) may be impounded at an animal pound established by the local government.
- (9) Subject to compliance with section 11(3), a person must not light a fire on an aerodrome without the prior approval of an authorised person<sup>2</sup>.

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<sup>1</sup> This subsection is subject to the provisions of the *Guide, Hearing and Assistance Dogs Act 2009*.

<sup>2</sup> A person may smoke on an aerodrome other than in those areas mentioned in section 11(3).

Maximum penalty for subsection (9) — 50 penalty units.

### 13 Special events

The local government may, on any special occasion, special event or other event of public interest at an aerodrome—

- (a) make particular arrangements for the control of the aerodrome; and
- (b) charge fees for participation and admission to the occasion or event; and
- (c) impose conditions for the use of the aerodrome for the occasion or event as the local government considers appropriate in the circumstances.

## Part 3 Fees and charges

### 14 Fees and charges

- (1) The local government may impose fees and charges for each and every right of use of an aerodrome<sup>3</sup>, including charges for leasehold areas within an aerodrome.

*Examples—*

Charges may be imposed for landing at an aerodrome, or for parking or storing aircraft on the aerodrome, or for the number of embarking passengers (i.e. so-called “passenger charges”).

- (2) All persons who use an aerodrome in a manner for which a fee or charge is imposed under subsection (1) are jointly and severally liable for the payment of the fees and charges.
- (3) The persons who use an aerodrome in relation to an aircraft include, without limitation—
  - (a) the relevant person for the aircraft; and
  - (b) the operator of the aircraft; and
  - (c) the owner of the aircraft.
- (4) Where a fee or charge imposed by the local government under subsection (1) is calculated by reference to the number of passengers carried on an aircraft, the local government may permit the owner of the aircraft to furnish to the local government on a monthly basis particulars of the number of passengers carried on each flight of the aircraft together with the fee or charge imposed under subsection (1).
- (5) The information, fees and charges required to be furnished to the local government under subsection (4) must be furnished to the local government not later than 21 days after the end of the calendar month to which the particulars relate.
- (6) If the owner of an aircraft fails or neglects to furnish to the local government the particulars specified in subsection (4) then, for the purposes of the calculation of fees and charges payable to the local government, each aircraft shall be deemed to have carried a full complement of passengers.
- (7) The local government may, in an appropriate case, waive or partially remit a fee or charge imposed under subsection (1).

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<sup>3</sup> See section 262(3)(c) of the Act.

## Part 4 Prevention of hazards to aircraft

### 15 Application of part

This part applies to the removal of obstacles and hazards affecting, or likely to affect, the safe operation of aircraft in the vicinity of an aerodrome.

### 16 Notice to remove hazard

- (1) This section applies if there is, on any land (*relevant land*) adjoining, or in the vicinity of, an aerodrome—
- (a) a tree penetrating, or through further growth in a short period likely to penetrate, the OLS; or
  - (b) a structure or part of a vehicle penetrating the OLS; or
  - (c) a light exhibited which, by reason of glare or by causing confusion or by interfering with the operation of aircraft, is likely to endanger the safety of aircraft; or
  - (d) a presence of waste foodstuffs which constitute, or are likely to constitute, such an attraction to birds as to create a hazard, or a potential hazard, to aircraft using or operating in the vicinity of the aerodrome.
- (2) An authorised person may give a written notice (a *compliance notice*) to a person, being the owner or occupier of the relevant land or the person apparently in charge of a vehicle to which subsection (1)(b) refers, requiring the person to—
- (a) in the case of subsection (1)(a) — remove or lop that part of the tree penetrating, or likely to penetrate, the OLS; and
  - (b) in the case of subsection (1)(b) — remove or dismantle, to the extent necessary, the structure or part of the vehicle so that the structure or part does not penetrate the OLS; and
  - (c) in the case of subsection (1)(c) — extinguish the light or shield it to the extent necessary to remove any likely danger to the safety of aircraft operation and refrain from exhibiting the light, or any other light having similar effect, in the future; and
  - (d) in the case of subsection (1)(d) — remove or effectively cover the waste foodstuffs so that the waste foodstuffs do not constitute an attraction to birds.

*Examples of paragraph (b)—*

1. A structure includes a pole, or television or radio mast.
2. A part of a vehicle includes a crane, jib or height extension apparatus.

### 17 Application of Local Law No. 1 (Administration) 2011

Section 16 applies subject to section 27 of *Local Law No. 1 (Administration) 2011*.

### 18 Local government's power to carry out work

If a person to whom a compliance notice is given fails to comply with the notice

Comment [KB3]: Previously the LG



the local government may, in addition to any penalty imposed under section 27 of *Local Law No. 1 (Administration) 2011*, enter the relevant land under section 142 of the Act and perform the work specified in the notice and, in the case of a vehicle, remove the vehicle or carry out work on the vehicle to the extent necessary so that no part of the vehicle penetrates the OLS.

## 19 Recovery of local government's costs

If the person who failed to comply with a compliance notice—

- (a) is the owner of the relevant land, the amount properly and reasonably incurred by the local government in performing the work is recoverable (together with interest) by the local government under section 142 of the Act; or
- (b) is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable by the local government as a debt from the person in default (together with interest) under section 142 of the Act.

## 20 No compensation payable

- (1) The local government is not liable to pay compensation to a person —
  - (a) who is required to comply with a compliance notice and who complies with the notice; or
  - (b) who suffers loss or damage reasonably caused by the local government in performing work under section 18 because of the person's failure to comply with a compliance notice.
- (2) Subsection (1)(b) applies subject to section 147 of the Act<sup>4</sup>

## 21 Approval of temporary structures, etc.

- (1) The local government may permit a temporary structure or a part of a vehicle to penetrate the OLS for a limited period of time provided proper regard is given to the safe operation of aircraft in the vicinity of an aerodrome during the period for which the permit applies.
- (2) A permit may be granted subject to conditions the local government considers to be reasonably necessary so as not to endanger aircraft safety.
- (3) A person to whom a permit is granted must—
  - (a) not exceed the time limit for which the permit is granted; and
  - (b) ensure that the conditions of the permit are complied with.Maximum penalty for each of paragraphs (a) and (b) — 100 penalty units.
- (4) For the avoidance of doubt, the activity described in subsection (1) is not a prescribed activity for section 5(b) of *Local Law No. 1 (Administration) 2011*.

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<sup>4</sup> See *Local Government Act 2009*, section 147 (Compensation for damage or loss caused).

## Part 5 Authority of authorised person

### 22 Seizure and detention of dangerous objects

- (1) An authorised person may seize an object from a person on an aerodrome if—
  - (a) the object is dangerous; or
  - (b) the person uses or has used the object in a dangerous way.
- (2) If an authorised person seizes an object under subsection (1), the local government must deal with the object in accordance with section 37 of *Local Law No. 1 (Administration) 2011*.

### 23 Removal of persons from an aerodrome

- (1) Any person found on an aerodrome committing an offence against this local law may be directed by an authorised person to leave the aerodrome.
- (2) A person must comply with a direction given under subsection (1).  
Maximum penalty for subsection (2)—20 penalty units.
- (3) An authorised person may—
  - (a) remove or cause to be removed from an aerodrome any person who has failed to comply with a direction of an authorised person given under subsection (1); and
  - (b) for the purposes of the removal — use reasonable force.

### 24 Exclusion from aerodromes

A person who has been directed to leave an aerodrome under section 23(1) or who has been removed from an aerodrome under section 23(3) must not re-enter the aerodrome on the same day.

Maximum penalty—20 penalty units.

## Part 6 Miscellaneous

### 25 Aerodrome damage

Whether or not any person is prosecuted under section 9(1)(b) or (c), the local government may recover the cost of repair or replacement of a thing which is damaged, destroyed or interfered with contrary to section 9(1)(b) or (c) as a debt owing by the person who caused the damage, destruction or interference.

**Comment [KB4]:** Reworded, however ultimately the same as current.

### 26 Service of notices

- (1) If this local law requires or permits a notice which involves the use of an aircraft to be served on a person, the notice may be served—
  - (a) on an individual—
    - (i) by delivering it to the person personally; or
    - (ii) by leaving it at, or by sending it by post, facsimile or similar facility to, the address of the place of residence or business of the person last

- known to the person serving the notice; or
- (b) on a body corporate — by leaving it at, or sending it by post, facsimile or similar facility to, the head office, a registered office or a principal office of the body corporate; or
  - (c) if the person or body corporate cannot be found or the address of the person or body corporate is unknown to the person serving the notice — by securely placing or attaching the notice, addressed to the person or body corporate, as the case may be, without further description, on or to the aircraft in a conspicuous position.
- (2) If a notice is served under subsection (1)(c), it is taken to have been served on the person or body corporate, as the case may be, on the day it is placed on or attached to the aircraft.

## 27 Subordinate local laws

The local government may make subordinate local laws about —

- (a) the conditions for the use of buildings, facilities and amenities at an aerodrome<sup>5</sup>; and
- (b) the procedures to be complied with to preserve and enhance safety at an aerodrome<sup>6</sup> and
- (c) other matters about which this local law specifically provides for the making of subordinate local laws.

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<sup>5</sup> See section 9(2).

<sup>6</sup> See section 10(1).

## Schedule Dictionary

### section 3

**aerodrome** means any aerodrome within the meaning of the *Civil Aviation Act 1988 (Cwlth)*, section 3 but only if the aerodrome is—

- (a) located in the area; and
- (b) owned by or under the control of the local government.

**aircraft** has the meaning given in the *Civil Aviation Act 1988 (Cwlth)*, section 3.

**aircraft stand** means an area at an aerodrome designated by the local government for the parking of aircraft including, but not limited to, the parking of aircraft for the purposes of loading and unloading freight, mail and cargo, and for the embarkation or disembarkation of passengers.

**airside area** means any area of an aerodrome where aircraft movements are conducted, including—

- (a) all aprons and areas on the operational side of any security fencing; and
- (b) areas designated as such by any signage; and
- (c) any area provided for the storage of aviation fuel; and
- (d) any area set aside for radio navigation aids, communication, or ground equipment.

**area** means the local government area of the local government.

**authorised person** means a person appointed by the local government to be an authorised person for this local law.

**civil aviation laws** means a law made by or under an Act enacted by the Commonwealth Parliament in relation to the use and operation of an aerodrome.

**civil aviation safety laws** means a law made by or under an Act enacted by the Commonwealth Parliament in relation to aircraft safety at, or in the vicinity of, an aerodrome.

**compliance notice** see section 16(2).

**emergency personnel** means—

- (a) an employee, contractor or volunteer of an ambulance, rescue or fire service or a State or Territory emergency service who is responding to an emergency; or
- (b) an officer or employee of the Queensland Police Service; or
- (c) a member of the Defence Force who is responding to an event or threat of unlawful interference with aviation.

**emergency vehicle** means a vehicle driven by a person who is —

- (a) an emergency worker; and
- (b) driving the vehicle in the course of his or her duties as an emergency worker.

Comment [KB5]: new

**local government area** has the meaning given in the Act.

**obstacle limitation surface** or **OLS** —

- (a) means the series of surfaces established by the local government in the air space around an aerodrome which limit the height above ground level of objects surrounding the aerodrome; and
- (b) an object which projects through the OLS for an aerodrome becomes an obstacle to the operation of aircraft at the aerodrome.

**operator** means a person, organisation or enterprise engaged in, or offering to engage in, the operation of an aircraft, including all general movements of the aircraft.

**owner** in relation to—

- (a) a vehicle means—
  - (i) in the case of a vehicle registered under a law of a State or territory relating to the registration of vehicles — the person in whose name the vehicle is registered; or
  - (ii) in the case of any other vehicle — every joint owner or part owner of the vehicle and any person who has lawful possession and use of the vehicle under or subject to a hire–purchase agreement or a bill of sale at the material time; and
- (b) an aircraft includes—
  - (i) each lessee, lessor or charterer of the aircraft; and
  - (ii) the holder of a certificate of registration for the aircraft; and
  - (iii) any person who is or appears to be in control of the aircraft.

**prescribed fee** has the meaning given in *Local Law No. 1 (Administration) 2011*.

**relevant land** see section 16(1).

**relevant person** means—

- (a) in relation to an aircraft—
  - (i) the owner, operator, hirer or pilot in command of the aircraft; or
  - (ii) the person apparently in charge of the aircraft at the time a direction is given to the person under this local law; or
- (b) in relation to an activity, the person apparently in charge of organising the activity at the time a direction is given to the person under this local law.

**the Act** means the *Local Government Act 2009*.

**undesirable person** see section 12.

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

**vehicle approval** see section 8(1).

This and the preceding 15 pages bearing my initials is a certified copy of the consolidated version of *Local Law No. 7 (Aerodromes) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the            day of            (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

| [LL7658346-1](#)

# Local Law No. 8 (Waste Management) 2017

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## **Local Law No. 8 (Waste Management) 2017**

**Comment [KB1]:** FYI - This NEW local law was developed to replace the Environmental Protection Regulation 2008, Chapter 5A, due to its upcoming expiry. Therefore all provisions within this document are NEW and primarily replicate relevant sections of the abovementioned Regulation.

### **Part 1 Preliminary**

#### **1 Short title**

This local law may be cited as *Local Law No. 8 (Waste Management) 2017*.

#### **2 Objects**

The object of this local law is to protect the public health, safety and amenity related to waste management by—

- (a) regulating the storage, servicing and removal of waste; and
- (b) regulating the disposal of waste at waste facilities; and
- (c) ensuring that an act or omission does not result in—
  - (i) harm to human health or safety or personal injury; or
  - (ii) property damage or loss of amenity; or
  - (iii) environmental harm or environmental nuisance.

#### **3 Relationship to other laws**

- (1) This local law is—
  - (a) in addition to and does not derogate from laws about the management of waste; and
  - (b) to be read with *Local Law No. 1 (Administration) 2011*.
- (2) For the purposes of *Environmental Protection Regulation 2008*, section 81ZC, this local law replaces *Environmental Protection Regulation 2008*, chapter 5A (Waste management by local governments).

#### **4 Definitions**

The dictionary in the Schedule (Dictionary) of this local law defines the particular words used in this local law.

## Part 2            Waste management

### Division 1        Designation of areas for general or green waste collection

#### 5            Designation of areas

The local government may—

- (a)    by resolution, designate areas within its local government area in which the local government may conduct general waste or green waste collection; and
- (b)    decide the frequency of general waste or green waste collection in the designated areas.

### Division 2        General waste

#### Subdivision 1    Storage of general waste

#### 6            Owner or occupier of premises to supply waste containers

- (1)    The owner or occupier of premises must—
  - (a)    subject to subsection (2), supply standard general waste containers at the premises as—
    - (i)    are necessary to contain the general waste produced at the premises; or
    - (ii)   are prescribed by subordinate local law; or
  - (b)    supply at the premises, waste containers, other than standard general waste containers, as—
    - (i)    if required by the local government — are necessary to contain the general waste produced at the premises; or
    - (ii)   are prescribed by subordinate local law.

*Examples of ways the local government may require waste containers for paragraph 1(b)(i)—*

by a resolution of the local government or a development approval for the premises

Maximum penalty — 20 penalty units.

**Comment [KB2]:** Advice rcd from K&C 22/11/17 suggests this section is likely to contain anti-competitive provisions.  
Relevant criteria 5 – prescribed standard, and, 7 – business restriction.  
Explanatory notes - The local government may prescribe requirements about the supply of standard general waste containers and waste containers other than standard general waste containers. Compliance with the requirements may have an impact on the conduct of a business activity.

- (2) However, subsection (1)(a) does not apply if the local government supplies to the premises the number of standard general waste containers the local government reasonably considers is required at the premises.
- (3) If the local government supplies a standard general waste container to premises under subsection (2), the reasonable cost of supplying the container is a debt payable by the owner or occupier of the premises to the local government.
- (4) However, subsection (3) does not prevent the local government from supplying a standard general waste container to premises without cost to the owner or occupier of the premises.

## 7 Requirements for storing general waste in waste containers

- (1) The occupier of premises must—
  - (a) store general waste produced as a result of the ordinary use or occupation of the premises in—
    - (i) a standard general waste container; or
    - (ii) if another type of waste container is prescribed by subordinate local law — the other type of container; and
  - (b) keep each waste container clean and in good repair; and
  - (c) ensure that each waste container is securely covered, except when the waste is being placed in, or removed from, the container or the container is being cleaned.

Maximum penalty — 20 penalty units.

- (2) A person must not—
  - (a) place any of the following in a waste container—
    - (i) a liquid, semi-liquid or moist substance, unless the substance is securely wrapped or contained to prevent the substance leaking from the wrapper or container; or
    - (ii) material that is smouldering or aflame; or
    - (iii) matter or a thing that is alive; or
    - (iv) a thing stated in a subordinate local law; or
  - (b) remove or disturb the cover of a waste container, except when placing waste in or cleaning the container; or
  - (c) use or damage a waste container so that it is not weatherproof or serviceable or cannot be securely covered; or

Comment [KB3]: Craig Dungleison identified a FURTHER clause to be included here to prevent non-recyclable waste being placed in a Recyclable Waste Container. Craig specified the same maximum penalty units will apply.

(d) disturb or otherwise interfere with the contents of a waste container.

Maximum penalty — 20 penalty units.

(3) The occupier of the premises must not allow a person to place a thing in a waste container in contravention of subsection (2)(a).

Maximum penalty — 20 penalty units.

(4) It is a defence in a proceeding against a person for an offence under subsection (3) for the person to prove the contravention was due to causes over which the person had no control.

**Comment [KB4]:** Advice rcd from K&C 22/11/17 suggests this section is likely to contain anti-competitive provisions. Relevant criteria 5 – prescribed standard, and, 7 – business restriction. Explanatory notes - Requirements are prescribed for the storage of general waste in waste containers. Compliance with the requirements may have an impact on the conduct of a business activity.

## 8 General requirements for keeping waste containers at serviced premises

(1) Subject to subsection (2), the occupier of serviced premises must ensure that a waste container supplied for the premises is kept—

(a) if the local government requires the container to be kept at a particular place at the premises — at the place (the *waste container storage place*); or

*Examples of ways the local government may require waste containers to be kept at a particular place —*

by a resolution of the local government or a development approval for the premises

(b) if a subordinate local law requires the container to be kept at a particular place at the premises — at the place (also a *waste container storage place*); or

(c) if paragraphs (a) and (b) do not apply — at ground level close to the rear alignment of a building at the premises.

Maximum penalty — 20 penalty units.

(2) Subsection (1) does not prevent the occupier of the serviced premises from placing a waste container in a place outside the premises for the collection of general waste from the container, if—

(a) the local government has arranged to collect waste from the container at the place; and

(b) the container is in the place for no longer than—

(i) the period, if any, allowed under a local law of the local government; or

(ii) 24 hours before or after the scheduled collection day for the collection of the waste in the container.

*Example of a place outside serviced premises—*

the kerb adjacent to the serviced premises

**Comment [KB5]:** Advice rcd from K&C 22/11/17 suggests this section is likely to contain anti-competitive provisions. Relevant criteria 5 – prescribed standard, and, 7 – business restriction. Explanatory notes - Requirements are prescribed for the keeping of waste containers at serviced premises. Compliance with the requirements may have an impact on the conduct of a business activity.

- (3) If the local government has arranged for the collection of general waste from a waste container at serviced premises, the occupier of the premises must ensure there is unobstructed access to the container for removal of the waste.

Maximum penalty for subsection (3) — 20 penalty units.

- (4) It is a defence in the proceeding against a person for an offence under subsection (3) for the person to prove the contravention was due to causes over which the person had no control.

## 9 Other requirements for storing general waste at particular serviced premises

- (1) This section applies to any of the following persons (each a *prescribed person*) for serviced premises, other than a single detached dwelling—

- (a) the owner or occupier of the premises;
- (b) if a prescribed ERA is carried out at the premises — the holder of the environmental authority for the prescribed ERA.

- (2) The prescribed person must ensure that the waste container storage place for the premises is supplied with—

- (a) if required by the local government — each of the following—
- (i) either—
- (A) an elevated stand at a level required by the local government for holding all waste containers; or
- (B) an imperviously paved area, drained as required by the local government, where all waste containers can be placed;
- (ii) a hose cock and hose in the vicinity of the stand or paved area;
- (iii) a suitable enclosure for the area where the waste containers are kept; and

*Examples of ways the local government may require a prescribed person to comply with subsection (2)(a) —*

by a resolution of the local government or a development approval for the premises

- (b) if a requirement is prescribed by subordinate local law — facilities and structures for the placement, storage and cleaning of waste containers as prescribed by subordinate local law.

Maximum penalty for subsection (2) — 20 penalty units.

**Comment [KB6]:** Advice rcd from K&C 22/11/17 suggests this section is likely to contain anti-competitive provisions.  
Relevant criteria 5 – prescribed standard, and, 7 – business restriction.  
Explanatory notes - Requirements are prescribed for the storage of general waste at particular serviced premises and compliance with the requirements may have an impact on the conduct of a business activity.

## Subdivision 2 Removal of general waste

### 10 Local government may give notice about removal of general waste

- (1) This section applies where the local government has arranged for the removal of general waste produced at a premises.
- (2) The local government may give the occupier of the premises a written notice stating—
  - (a) the days (each a *scheduled collection day*) on which the waste is to be collected; and
  - (b) the location (*collection location*) where the waste container is to be placed for collection of the waste ; and
  - (c) the time by which the waste container is to be placed in the collection location for collection of the waste; and
  - (d) the time by which the waste container is to be removed from the collection location.

### 11 **Depositing or disposal of general waste from premises other than serviced premises**

- (1) This section applies if general waste is produced at a premises, other than serviced premises.
- (2) The local government may—
  - (a) give a written approval to the owner or occupier of the premises for depositing or disposing of the waste; and
  - (b) impose conditions on the approval, including, for example, conditions about—
    - (i) the place for depositing or disposing of the waste; or
    - (ii) the method of depositing or disposing of the waste.
- (3) A person must not deposit or dispose of the waste unless the person deposits or disposes of the waste—
  - (a) at a waste facility in accordance with part 3; or
  - (b) in accordance with—

**Comment [KB7]:** Advice rcd from K&C 22/11/17 suggests this section is likely to contain anti-competitive provisions.  
Relevant criteria 5 – prescribed standard, and, 7 – business restriction.  
Explanatory notes - Requirements may be prescribed for the depositing and disposal of general waste at premises other than serviced premises.  
Compliance with the requirements may have an impact on the conduct of a business activity

- (i) an approval under subsection (2) for disposal of the waste; and
- (ii) if the approval has been given on conditions — the conditions of the approval.

Maximum penalty for subsection (3) — 20 penalty units.

### Division 3 Storage and treatment of industrial waste

#### 12 Requirements for storing industrial waste

- (1) The occupier of premises where there is industrial waste must—
  - (a) if required by the local government—
    - (i) supply at the premises the number of industrial waste containers required by the local government for storing the waste at the premises safely, efficiently and without causing a nuisance; and
    - (ii) keep the waste containers at the particular place at the premises required by the local government; and
    - (iii) keep each waste container clean and in good repair; and

*Examples of ways the local government may require compliance with subsection 1(a) —*

by a resolution of the local government or a development approval for the premises

- (b) if a requirement is prescribed by subordinate local law — comply with each requirement prescribed by subordinate local law, about each of the following—
  - (i) the supply at the premises of industrial waste containers for storing the waste at the premises;
  - (ii) keeping the waste containers at a particular place at the premises;
  - (iii) keeping each waste container clean and in good repair.

Maximum penalty — 20 penalty units.

- (2) The local government may supply industrial waste containers at the premises if the occupier does not supply at the premises the number of industrial waste containers which are—
  - (a) required by the local government under subsection (1)(a); or
  - (b) prescribed by subordinate local law under subsection (1)(b).

**Comment [KB8]:** Advice rcd from K&C 22/11/17 suggests this section is likely to contain anti-competitive provisions. Relevant criteria 5 – prescribed standard, and, 7 – business restriction. Explanatory notes - Requirements are prescribed for the storage of industrial waste. Compliance with the requirements may have an impact on the conduct of a business activity.

- (3) If the local government supplies an industrial waste container to premises under subsection (2), the reasonable cost of supplying the container is a debt payable by the occupier of the premises to the local government.

**13 Requirement to treat industrial waste for disposal**

The occupier of premises where there is industrial waste must—

- (a) if required by the local government, treat the waste to a standard approved by the local government—
- (i) for disposal of the waste at a waste facility; or
  - (ii) for transport to, and disposal of the waste at, a waste facility; and

*Examples of ways the local government may require an occupier to treat industrial waste for disposal —*

by a resolution of the local government or a development approval for the premises

- (b) comply with requirements, as prescribed by subordinate local law, about the treatment of industrial waste—
- (i) for disposal of the waste at a waste facility; and
  - (ii) for transport to, and disposal of the waste at, a waste facility.

Maximum penalty — 40 penalty units.

**Comment [KB9]:** Advice rcd from K&C 22/11/17 suggests this section is likely to contain anti-competitive provisions.  
Relevant criteria 5 – prescribed standard, and, 7 – business restriction.  
Explanatory notes - Requirements may be prescribed about the treatment of industrial waste for disposal.  
Compliance with the requirements may have an impact on the conduct of a business activity.

## **Part 3 Waste receipt and disposal**

### **14 Unlawful disposal of waste at waste facility**

- (1) A person must not deposit the following waste at a waste facility—
- (a) liquid or semiliquid waste;
  - (b) hot ash;
  - (c) material that is smouldering or aflame;
  - (d) material that can spontaneously combust;
  - (e) material containing a substance that may be harmful to persons or property because, if it reacts with air or water, it may produce toxic gases or become corrosive or explosive;
  - (f) an explosive;
  - (g) ammunition, other than ammunition that no longer contains explosives, pyrotechnics or propellants apart from trace residues



that are no longer capable of supporting combustion or an explosive reaction;

- (h) waste prescribed by subordinate local law.

Maximum penalty — 20 penalty units.

- (2) Subsection (1) does not apply to waste deposited with the consent of—

- (a) the person who—
  - (i) is the registered suitable operator for the facility; or
  - (ii) holds an environmental authority for the facility; or
- (b) the person in charge of the facility.

#### **15 Restrictions on burning waste at waste facility**

A person must not set fire to, or burn, waste at a waste facility other than—

- (a) under an environmental authority; or
- (b) under a development condition of a development approval; or
- (c) under the *Fire and Emergency Services Act 1990*.

Maximum penalty — 20 penalty units.

#### **16 Restrictions on use of waste facility**

- (1) A person must not, without the consent of a waste facility's owner or operator—

- (a) enter the facility other than to deposit waste; or
- (b) remain on the facility after depositing waste; or
- (c) interfere with waste at, or remove waste from, the facility.

Maximum penalty — 10 penalty units.

- (2) Subsection (1) does not apply to—

- (a) the facility's owner or operator; or
- (b) an authorised person; or
- (c) a person who acquires from a waste facility, with the consent of the local government—
  - (i) recyclable waste, for example, mulch or green waste; or

- (ii) 1 or more items of waste which are made available for sale or disposal by the local government, for example, at a “tip shop”.

**17 Person to comply with directions and give information**

- (1) This section applies to a person who transports waste to a waste facility.
- (2) The person must—
  - (a) comply with all relevant and reasonable directions contained in any sign displayed at the facility by a facility person; and
  - (b) comply with all reasonable instructions about dealing with the waste at the waste facility which are given by—
    - (i) the person in charge of the facility; or
    - (ii) a facility person; and
  - (c) if asked by a facility person — give information to the facility person about the type and amount of waste being delivered to the facility; and
  - (d) if asked by a facility person — give information to the facility person that provides satisfactory evidence of the identity and residential address of the person.

Maximum penalty — 10 penalty units.

- (3) In this section, for a waste facility, facility person means each of the following—
  - (a) the operator of the waste facility;
  - (b) the owner of the waste facility;
  - (c) the local government.

**Part 4 Subordinate local laws**

**18 Subordinate local laws**

The local government may, by subordinate local law, specify—

- (a) a thing that is specified to be waste pursuant to the Schedule (Dictionary) of this local law; and

- (b) requirements about the necessity to supply standard general waste containers at premises under section 6(1)(a); and
- (c) requirements about the supply at premises of waste containers, other than standard general waste containers, to contain the general waste produced at the premises under section 6(1)(b); and
- (d) another type of waste container for the storage of general waste produced as a result of the ordinary use or occupation of premises under section 7(1); and
- (e) a thing that a person must not place in a waste container under section 7(2); and
- (f) requirements about the keeping of the waste container supplied for premises at a particular place at the premises under section 8(1)(b); and
- (g) requirements about the supply of facilities and structures for the placement, storage and cleaning of waste containers under section 9(2)(b); and
- (h) requirements about the supply at premises of industrial waste containers for storing industrial waste at the premises and other requirements about waste containers for the storage of industrial waste under section 12(1)(b); and
- (i) requirements about the treatment of industrial waste under section 13(b); and
- (j) waste that a person must not deposit at a waste facility under section 14(1).

## Part 5 Transitional provisions

### 19 Continuation of chapter 5A requirements

- (1) This section applies if a provision of *Environmental Protection Regulation 2008*, chapter 5A (Waste management by local governments), is replaced by a provision of this local law.
- (2) In this section, **prescribed provision** means a provision of *Environmental Protection Regulation 2008*, chapter 5A (Waste management by local governments) which is replaced by a provision of this local law.
- (3) If the local government has made a requirement under a prescribed provision prior to the commencement of this local law, the requirement applies for the provision of this local law which replaced the prescribed provision from the commencement of this local law.

*Example —*

The local government may require that a waste container supplied for serviced premises be kept at a particular place at the premises by development approval for the premises under *Environmental Protection Regulation 2008*, section 81ZH(1). *Environmental Protection Regulation 2008*, section 81ZH(1) is a prescribed provision which is replaced by section 8 (General requirements for keeping waste containers at serviced premises). A requirement under the prescribed provision made prior to the commencement of this local law would apply for section 8 of this local law from the commencement of this local law.

## Schedule Dictionary

### section 3

**authorised person** means a person appointed by the chief executive officer of the local government, pursuant to *Local Government Act 2009*, section 202, to exercise the powers of an authorised person under this local law.

**collection location** means a place at, or adjacent to, premises at which a standard general waste container associated with the premises can be easily accessed by a general waste collection vehicle without causing obstruction.

**commercial premises** means any of the following types of premises—

- (a) a hotel, motel, caravan park, cafe, food store or canteen;
- (b) an assembly building, institutional building, kindergarten, child minding centre, school or other building used for education;
- (c) premises where a sport or game is ordinarily played in public;
- (d) an exhibition ground, show ground or racecourse;
- (e) an office, shop or other premises where business or work, other than a manufacturing process, is carried out.

**commercial waste** means waste, other than green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of commercial premises.

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

**domestic premises** means any of the following types of premises—

- (a) a single unit private dwelling;
- (b) premises containing 2 or more separate flats, apartments or other dwelling units;
- (c) a boarding house, hostel, lodging house or guest house.

**domestic waste** means waste, other than domestic clean-up waste, green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of domestic premises.

**environmental authority** has the meaning given in the *Environmental Protection Act 1994*.

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*.

**general waste** means—

- (a) waste other than regulated waste; and
- (b) for part 2, any of the following—
  - (i) commercial waste;
  - (ii) domestic waste;
  - (iii) recyclable waste.

**green waste** means grass cuttings, trees, bushes, shrubs, loppings of trees, bushes or shrubs, or similar matter produced as a result of the ordinary use or occupation of premises.

**industrial waste** means—

- (a) interceptor waste; or
- (b) waste other than the following—
  - (i) commercial waste;
  - (ii) domestic clean-up waste;
  - (iii) domestic waste;
  - (iv) green waste;
  - (v) recyclable interceptor waste;
  - (vi) recyclable waste;
  - (vii) waste discharged to a sewer.

**industrial waste container** means a container of a type approved by the local government for storing industrial waste at premises in the local government's area.

**interceptor** means a device used to intercept a substance in sewage, waste water or trade waste and prevent its discharge into a sewer, septic tank, waste water disposal system or other treatment device.

*Examples of interceptors—*

- neutralising interceptors for neutralising acidic and alkaline substances
- grease interceptors for collecting and solidifying fat, grease and similar matter

- oil interceptors for collecting oil and petroleum products
- silt interceptors for collecting soil, sand, gravel and other sedimentary solids

**interceptor waste** means matter, other than recyclable interceptor waste, intercepted by, and held in, an interceptor.

**manufacturing process** means a handicraft or other process relating to adapting, altering, assembling, cleaning, finishing, making, ornamenting, preparing, renovating, repairing, washing, or wrecking goods for trade, sale or gain or otherwise in connection with a business.

**occupier** of premises means the person who has the control or management of the premises.

**owner** of premises means the person for the time being entitled to receive the rent for the premises or would be entitled to receive the rent for it if it were let to a tenant at a rent.

**premises** includes domestic premises, government premises, industrial premises and commercial premises.

**prescribed ERA** has the meaning given in the *Environmental Protection Act 1994*.

**prescribed person** see section 9(1).

**recyclable interceptor waste** means matter that is, or is intended to be, removed from a grease interceptor and taken elsewhere for processing into a non-toxic, non-hazardous and usable substance for sale.

**recyclable waste**, means clean and inoffensive waste that is declared by the local government to be recyclable waste for the area of the local government.

*Examples of waste that may be declared to be recyclable waste—*

glass bottles, plastic containers, paper, cardboard, steel and aluminium cans, and green waste

**regulated waste** has the meaning given in the *Environmental Protection Regulation 2008*.

**scheduled collection day** see section 10(2).

**serviced premises** means—

- (a) premises which are in an area designated by the local government as an area in which the local government may conduct general waste collection under—

- (i) *Waste Reduction and Recycling Regulation 2011*, section 7;  
or
- (ii) section 5; and
- (b) premises for which the local government has required the owner or occupier of the premises to arrange for removal of general waste from the premises.

***standard general waste container—***

- (a) means a container of a type approved by the local government for storing domestic waste, commercial waste or recyclable waste at premises in the local government’s area; and
- (b) for the avoidance of doubt, includes 1 or more containers each of which is approved by the local government for storing, at premises in the local government’s area—
  - (i) 1 or more or multiple types of commercial waste; or
  - (ii) 1 or more or multiple types of recyclable waste.

*Example for paragraph (b)—*

The local government may approve 1 container for storing recyclable waste which is green waste and 1 container for storing recyclable waste other than green waste.

***waste***, has the meaning given in the *Environmental Protection Act 1994*, and includes any thing that is specified to be waste under a subordinate local law.

***waste container storage place*** see section 8(1).

***waste facility—***

- (a) for part 2, means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste; and
- (b) for part 3, means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste, but only if the local government is the lessee, occupier, operator or owner of the facility.



This and the preceding 18 pages bearing my initials is a certified copy of *Local Law No. 8 (Waste Management) 2017* made in accordance with the provisions of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the                      day of                      2017.

.....

Chief Executive Officer

LL8

# Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011

**Comment [KB1]:** Verbal overview ONLY provided to Mayor and CEO at meeting 19/12/17 advising of the key changes to this document.

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011*.

Field Code Changed

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 4 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2

- of schedule 1.
- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 2 activity.
  - (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
  - (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
  - (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
  - (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
  - (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
  - (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
  - (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
    - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
    - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
    - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## **Part 3 Application to State-controlled roads**

### **7 State-controlled roads to which the local law applies—Authorising local law, schedule 1**

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are roads to which the authorising local law applies unless otherwise provided in the local law.

## Schedule 1      Alteration or improvement to local government controlled areas and roads

### Section 5

#### 1. Prescribed activity

Alteration or improvement to local government controlled areas and roads.

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

(1) Section 6(2) of the authorising local law does not apply to—

- (a) a person undertaking vegetation management on a footpath or nature strip immediately adjacent to the person's property provided the activity is not likely to create a risk to the safety of pedestrian or vehicular traffic; or
- (b) an alteration or improvement to a local government controlled area or road undertaken by, or on behalf of, the local government.

(2) In this section, *vegetation management* means—

- (a) mowing, slashing or edging grass; and
- (b) weeding or watering grass.

#### 3. Documents and materials that must accompany an application for an approval

- (1) If requested, full details of the proposed alteration or improvement including plans and specifications prepared by a RPEQ.
- (2) Details of all building work and other work to be carried out under the approval.
- (3) Details of the time and place at which the prescribed activity will be undertaken.
- (4) The proposed term of the approval.
- (5) The impact, if any, of the prescribed activity on pedestrian or vehicular traffic.
- (6) The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.
- (7) Plans and specifications detailing—
  - (a) the relevant part of the local government controlled area or road that is to be used for the undertaking of the prescribed activity; and
  - (b) the proposed location of each structure and item of equipment to be used in the undertaking of the prescribed activity; and

**Comment [KB2]:** NEW. Previously "no activities stated".

19/12/17 – Mayor queried at meeting if this SLL went down to the level of detail specifying removal of small branches etc. from nature strip trees, and, if girths were applicable. As can be seen in this document, such detail is not specified.

**Comment [KB3]:** Amended. Previously "full details of the proposed alteration or improvement including plans and specifications."

- (c) the type and location of any utility, service or infrastructure to be used in the undertaking of the prescribed activity.

#### 4. Additional criteria for the granting of an approval

The alteration or improvement must not—

- (a) result in—
  - (i) harm to human health or safety; or
  - (ii) property damage or loss of amenity; or
  - (iii) nuisance; or
  - (iv) undue obstruction of vehicular or pedestrian traffic; or
  - (v) environmental harm; or
  - (vi) environmental nuisance; or
  - (vii) interference with the proper maintenance of a road.
- (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken.

Comment [KB4]: NEW

Comment [KB5]: NEW. Originally inserted as part of the LL review process by to cater for gates/grids. QUERY WITH K&C IF THIS SHOULD NOW BE REMOVED, given new SLL1.17 for gates and grids developed.

#### 5. Conditions that must be imposed on an approval

No conditions prescribed.

#### 6. Conditions that will ordinarily be imposed on an approval

- (1) The conditions of an approval may—
  - (a) require compliance with specified safety requirements; and
  - (b) regulate the time within which the alteration or approval must be carried out; and
  - (c) specify standards with which the alteration or improvement must comply; and
  - (d) require the approval holder to—
    - (i) carry out specified additional work such as earthwork and drainage work; and
    - (ii) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before commencement of the alteration or improvement; and
    - (iii) give the local government specified indemnities; and
    - (iv) maintain structures erected or installed, or vegetation planted,

under the approval, in good condition including, for example, a requirement that the approval holder destroy noxious plants and weeds in a specified area; and

**Comment [KB6]:** NEW

- (v) remove a structure erected or installed, under the approval, at the end of a stated period; and
- (vi) exhibit specified signage warning about the conduct of the prescribed activity; and
- (vii) if the approval authorises the approval holder to use a specified part of a road for the undertaking of the prescribed activity—pay a licence fee to the local government at specified intervals.

**Comment [KB7]:** NEW. Originally inserted as part of the LL review process by to cater for gates/grids, if a licence fee is to be imposed for such things. QUERY WITH K&C IF THIS SHOULD NOW BE REMOVED, given new SLL1.17 for gates and grids developed.

- (2) The conditions of an approval may require the approval holder to take specified measures to—
  - (a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and
  - (b) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
  - (c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic; and
  - (d) if the undertaking of the prescribed activity includes the installation or erection of a structure —ensure that the structure does not prejudice the proper maintenance of a road.

**Comment [KB8]:** NEW. Originally inserted as part of the LL review process by to cater for gates/grids. QUERY WITH K&C IF THIS SHOULD NOW BE REMOVED, given new SLL1.17 for gates and grids developed.

**7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regarding to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 – Third party certification**

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirement stated		

**Schedule 2      Categories of approval that are non-transferable**

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.



**Schedule 3      State-controlled roads to which the local law applies**

Section 7

No State-controlled roads listed.

## Schedule 4 Dictionary

### Section 4

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

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*.

**RPEQ**, for a person, means the person is registered as a registered professional engineer under the *Professional Engineers Act 2002*.

**structure** has the meaning given in the *Local Government Act 2009*.

Comment [KB9]: NEW

This and the preceding 8 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the day of *(insert the date of the relevant resolution of Council)* 2017.

.....  
Chief Executive Officer

| [SLL1.1657193\\_1](#)

# Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*.

Field Code Changed

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 4 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## **Part 3 Application to State-controlled roads**

### **7 State-controlled roads to which the local law applies—Authorising local law, schedule 1**

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are roads to which the authorising local law applies unless otherwise provided in the local law.

## **Schedule 1 Commercial use of local government controlled areas and roads**

### Section 5

#### **1. Prescribed activity**

Commercial use of local government controlled areas and roads.

#### **2. Activities that do not require an approval under the authorising local law**

No activities stated.

#### **3. Documents and materials that must accompany an application for an approval**

- (1) Details of the nature, time and place of the prescribed activity for which the approval is sought.
- (2) If the applicant wants to use a particular part of a local government controlled area or road for serving food and drink or for other business purposes—a plan showing the relevant part of the local government controlled area or road.
- (3) If the prescribed activity is to be operated from a site, stall or vehicle—specifications for the site, stall or vehicle which is proposed to be used in the operation of the prescribed activity.
- (4) The name, Australian business number, street address and contact details of the person responsible for the operation of the prescribed activity.
- (5) Details of the operation of the prescribed activity including—
  - (a) if goods or services are to be supplied—the nature of the goods and services to be supplied; and
  - (b) if the goods or services are to be supplied at particular times—the times during which the goods or services will be supplied; and
  - (c) if goods or services are to be supplied—the method of sale of the goods or services; and
  - (d) a copy of each policy of insurance of the applicant which relates to the operation of the prescribed activity; and
  - (e) how the applicant proposes to dispose of waste generated by the operation of the prescribed activity; and
  - (f) if signage is intended to be displayed – details of the signage and how the signage will be secured whilst displayed.
- (6) Subsection (7) applies if—
  - (a) the prescribed activity is to be operated at a place on a local government controlled area or road; and

**Comment [KB1]:** K&C advised 22/11/17 the amendments contained within this Schedule 1 are likely anti-competitive provision. Relevant criteria 5 – prescribed standard, 7 – business restriction, and 10 – permit requirement.  
Explanatory comments – Regulates the process for the grant of approval by constraining the Council's discretion. The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business.

- (b) the place abuts, or is adjacent to, land other than a local government controlled area or road; and
  - (c) the operation of the prescribed activity may cause a nuisance, inconvenience or annoyance to the occupier of the land; and
  - (d) the prescribed activity is to encroach on the land.
- (7) The application must be accompanied by—
- (a) the written consent of the occupier of the land to the operation of the prescribed activity at the place; or
  - (b) a written statement from the occupier of the land in support of the operation of the prescribed activity at the place.
- (8) If the prescribed activity is a commercial fitness activity—
- (a) in addition to the details prescribed under subsection (4)— details of the estimated number of clients or customers who will participate in the prescribed activity at any one time, and from time to time; and
  - (b) details of any lighting or sound amplification proposed in respect of the undertaking of the prescribed activity.

#### 4. Additional criteria for the granting of an approval

- (1) The prescribed activity for which the approval is sought must not unduly interfere with the proper use of the local government controlled area or road.
- (2) There must be a public demand for the prescribed activity in respect of which the approval is sought.
- (3) The physical characteristics of the local government controlled area or road must be suitable for the prescribed activity.
- (4) The prescribed activity must not cause nuisance, inconvenience or annoyance to—
  - (a) the occupier of any land which adjoins the location of the prescribed activity; or
  - (b) vehicular traffic; or
  - (c) pedestrian traffic.
- (5) The prescribed activity must not have a detrimental effect on the amenity of the surrounding area.
- (6) If the prescribed activity is mobile roadside vending or stationary roadside vending—
  - (a) whether the prescribed activity for which the approval is sought is competitive with business activities operated from fixed premises in the local government area; and

**Comment [KB2]: NEW.**  
K&C advice received strongly recommended that provisions for these types of activities be included given they are run for profit. There will eventually be a policy for this also.

At present, trainers make bookings with customer service and submit insurances for these activities however no fees are charged, nor any forms completed. Officers advised this process seems to be working effectively.

Suggest to include as prescribed standards included as opposed to approval to ensure minimal red tape – this may be a point for discussion.

Mayor's comments from mtg 19/12/17 – Councillors to discuss. Seek previous council resolutions and reports. Mayor suggested to restrict only noise in parks and not specify commercial activities. Amplification is the main concern.

Previous resolutions and reports from 2013 (as requested above) have been obtained from the Snr Sports & Ed Advisor and can be accessed [here](#).

- (b) whether the business activities operated from the fixed premises are sufficient to meet public demand for the goods or services proposed to be sold as part of the operation of the prescribed activity; and
- (c) whether the grant of the approval will result in substantial competition between the applicant for the approval and operators of business activities operated from fixed premises in the local government area; and
- (d) whether the goods or services proposed to be sold as part of the operation of the prescribed activity, or similar goods or services, are available for sale from fixed premises near the location of the prescribed activity.

(7) If the prescribed activity is a commercial fitness activity—

- (a) whether the commercial fitness activity promotes health, including the physical or mental well-being of persons resident in the local government area; and
- (b) if the commercial fitness activity is to be undertaken on a local government controlled area which is a park or reserve —
  - (i) whether the commercial fitness activity will have, or be likely to have, an adverse impact on public access to, or the use by the public of, the park or reserve; and
  - (ii) whether the park or reserve, or a specified part of the park or reserve, has been set aside for use by 1 or more persons for the purpose of the undertaking of a commercial fitness activity other than the commercial fitness activity identified in the application; and
  - (iii) whether an approval has been granted by the local government for the undertaking of a commercial fitness activity in the park or reserve which is the same as, or similar in nature to, the commercial fitness activity identified in the application and the approval remains in force; and
- (c) whether, in the undertaking of the commercial fitness activity, any device or thing is to be used for the purpose of the creation or amplification of noise.

**5. Conditions that must be imposed on an approval**

No conditions prescribed.

**6. Conditions that will ordinarily be imposed on an approval**

- (1) The conditions of an approval may require that the approval holder—
  - (a) limit the activities authorised by the approval to 1 or more of—
    - (i) a single specified location;

**Comment [KB3]:** NEW

Refer comments from mtg with Mayor 19/12/17 above



- 
- (ii) a number of specified locations;
  - (iii) a specified area;
  - (iv) a number of specified areas; and
  - (b) limit the activities to specified days and times; and
  - (c) limit the activities to—
    - (i) a specified period of time; or
    - (ii) specified periods of time; and
  - (d) display the approval in a specified position, and produce the approval for inspection on demand by an authorised person; and
  - (e) take specified measures to protect the safety of persons who may be involved in, or affected by, the activities authorised by the approval; and
  - (f) give specified indemnities and take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the approval; and
  - (g) take specified measures to ensure that the activities authorised by the approval do not cause a nuisance; and
  - (h) if the approval authorises the approval holder to use a specified part of a local government controlled area or road for the operation of the activity — pay a specified rental to the local government at specified intervals; and
  - (i) submit the operation of the activity, including any vehicle or premises used in the operation of the activity, for inspection by an authorised person; and
  - (j) prominently and permanently display at a specified location each of—
    - (i) the approval number granted by the local government in numbers not less than 50mm in height; and
    - (ii) the name and address of the approval holder in letters not less than 75mm in height; and
  - (k) if the approval relates to an activity on a road—give a written indemnity to the State; and
  - (l) limit the activities authorised by the approval such that the activities may not be operated within a specified radius of—
    - (i) fixed premises which sell or offer for sale, the same or similar goods or services; or
    - (ii) the site of operation of another prescribed activity—

- (A) the operation of which is authorised by an approval granted by the local government; and
    - (B) at which the same or similar goods or services are sold or offered for sale; and
  - (m) limit the operation of the prescribed activity so that it does not—
    - (i) create a traffic nuisance; or
    - (ii) increase an existing traffic nuisance; or
    - (iii) detrimentally affect the efficiency of the road network in which the activity is undertaken; and
  - (n) limit the operation of the prescribed activity so that it does not detrimentally affect the amenity of the neighbourhood in which the prescribed activity is undertaken; and
  - (o) ensure that the operation of the prescribed activity does not create a road safety risk; and
  - (p) ensure that all facilities and equipment used in the operation of the prescribed activity are, at all times, maintained—
    - (i) in good working order and condition; and
    - (ii) in a clean and sanitary condition; and
  - (q) if the approval authorises the operation of a roadside vending activity on a local government controlled area or a road on specified days—remove the vehicle from the local government controlled area or road after the close of business each day unless otherwise specified by the local government.
- (2) If the prescribed activity is mobile roadside vending, the conditions of the approval may also require that the approval holder—
- (a) limit the operation of the activity to—
    - (i) a specified vehicle; or
    - (ii) a number of specified vehicles; and
  - (b) if the approval holder is selling or offering for sale, goods, for example, food, or services—not engage in mobile roadside vending on any local government controlled area or road within a specified radius of fixed premises which sell or offer for sale, the same or similar goods or services.
  - (c) not—
    - (i) unless authorised by an authorised person—park the vehicle used for the activity for a period longer than is necessary to

**Comment [KB4]:** K&C had proposed that the Rockhampton CBD area be specified here as well, however they misunderstood that we wished for **NO** radius to be specified for the R'ton CBD area. K&C therefore deleted their proposed provision and instead suggested that specified radius' applicable to certain areas within the region be included at policy document level.

- 
- serve a customer who has hailed down the vehicle; or
  - (ii) amplify, or cause to be made, any noise identifying or otherwise drawing attention to the vehicle, except in accordance with standards laid down under the *Environmental Protection Act 1994*; or
  - (iii) place a sign or device advertising the activity of the approval holder on any local government controlled area or road; and
  - (d) keep and maintain the vehicle in a clean, tidy and orderly condition at all times; and
  - (e) produce the vehicle for inspection by an authorised person—
    - (i) prior to commencement of the prescribed activity; and
    - (ii) when required by the authorised person; and
  - (f) limit the operation of the activity to vehicles having specified characteristics, appropriate for the operation of the activity; and
  - (g) only serve customers from the non-traffic or kerbside side of a vehicle used in the operation of the activity; and
  - (h) not operate the activity in a manner which is, or may be, a risk to road safety; and
  - (i) unless authorised by an authorised person—not permit or allow an animal in or about any vehicle used in the operation of the activity; and
  - (j) not discharge trade waste generated by the operation of the activity otherwise than in accordance with an approval under the *Water Supply (Safety and Reliability) Act 2008*; and
  - (k) for waste generated by the operation of the activity—
    - (i) only dispose of the waste—
      - (A) in a safe and sanitary manner; and
      - (B) in a manner which maintains the vehicle and its surrounds in a clean, tidy, sanitary and hygienic condition; and
    - (ii) not dispose of the waste—
      - (A) so as to attract pests; or
      - (B) into a water course; or
      - (C) at another location other than a location properly intended for the receipt of the waste.
- (3) If the prescribed activity is footpath dining, the conditions of the approval may

also require that the approval holder—

- (a) limit the operation of the activity to a specified area which is contiguous to, or in the vicinity of, a registered café, restaurant, takeaway food shop or similar premises which are operated by the approval holder (*principal premises*); and
- (b) if the approval holder has not obtained the written consent of the occupier of the land which abuts, or is adjacent to, both the principal premises and the footpath—~~limit the operation of the activity to the footpath immediately adjacent to the principal premises;~~ and
- (c) keep and maintain a clear unobstructed pedestrian corridor of a specified width depending on the density of pedestrian traffic; and
- (d) limit the operation of the activity to the normal business hours of the principal premises; and
- (e) remove all tables, chairs, fixtures and fittings from the area identified in the approval when the principal premises are not open for business; and
- (f) keep and maintain the area identified in the approval, including all tables, chairs, fixtures, fittings and equipment used in the operation of the activity at all times in a clean, sanitary and tidy condition; and
- (g) keep and maintain in and about the area identified in the approval, adequate waste disposal facilities, for example, bins, and be responsible for the removal of all waste from the waste disposal facilities at such intervals as an authorised person may direct; and
- (h) ~~if a sign or device advertising the prescribed activity is not a permitted advertisement—~~~~not place or display the sign or device in the area identified in the approval otherwise than in accordance with an approval of the local government which authorises the use of the footpath for that purpose;~~ and
- (i) not use an umbrella within the area identified in the approval unless the umbrella has not less than 2m clearance above ground level adjacent to the umbrella and is securely anchored to the satisfaction of an authorised person; and
- (j) only use furniture in the area identified in the approval which is—
  - (i) aesthetically acceptable to the local government; and
  - (ii) kept in a proper state of repair; and
- (k) provide, for use by patrons of each of the principal premises and the area identified in the approval, adequate toilet facilities; and
- (l) regularly clean the area identified in the approval—
  - (i) during business hours for the principal premises; and

**Comment [KB5]:** NEW  
Comments from mtg with Mayor 19/12/17 - AMEND to change the word "adjacent" to "contiguous"

**Comment [KB6]:** NEW

- (ii) daily, after the close of business of the principal premises.
- (4) If the prescribed activity is the display of goods for sale on a footpath, the conditions of the approval may also require that the approval holder—
- (a) limit the operation of the activity to a specified area which is contiguous to, or in the vicinity of, retail premises which are operated by the approval holder (also *principal premises*); and
  - (b) if the approval holder has not obtained the written consent of the occupier of the land which abuts, or is adjacent to, both the principal premises and the footpath—limit the operation of the activity to the footpath immediately adjacent to the principal premises; and
  - (c) keep and maintain a clear unobstructed pedestrian corridor of a specified width depending on the density of pedestrian traffic; and
  - (d) limit the operation of the activity to the normal business hours of the principal premises; and
  - (e) only use, for the purposes of display of the goods for sale, a structure which is—
    - (i) of safe construction; and
    - (ii) in good condition and repair; and
    - (iii) securely fixed to the footpath; and
  - (f) only display goods for sale if the goods are in an orderly and sightly condition; and
  - (g) only display goods for sale if the goods are the property of, or offered for sale by, the approval holder; and
  - (h) remove all goods, and any structure designed for the display of the goods for sale, when the principal premises are not open for business.
- (5) If the prescribed activity is a commercial fitness activity, the conditions of the approval may also require that the approval holder—
- (a) not erect any structure, to facilitate the undertaking of the prescribed activity, without the prior written approval of an authorised person; and
  - (b) in the undertaking of the prescribed activity, not use any device or thing for the purpose of the creation or amplification of noise; and
  - (c) ensure that each person responsible for the undertaking of the prescribed activity is appropriately qualified; and
  - (d) ensure that the number of persons engaged in the undertaking of the prescribed activity at any 1 time does not exceed the number (if any) specified by the local government in the approval; and

**Comment [KB7]: NEW**  
Comments from mtg with Mayor  
19/12/17 - AMEND to change the  
word "adjacent" to "contiguous"

- (e) if the local government specifies in the approval 1 or more persons who are to be responsible for the undertaking of the prescribed activity — ensure that the prescribed activity is undertaken by 1 or more of the responsible persons identified in the approval; and
- (f) ensure that the number of clients or customers engaged in the undertaking of the prescribed activity at any time, or from time to time, do not exceed the number specified by the local government in the approval; and
- (g) ensure that the prescribed activity is not undertaken at a local government controlled area, or on a road, if the area or road is closed for works, maintenance or any other purpose; and
- (h) if directed by the local government or an authorised person — not undertake the prescribed activity, or postpone the undertaking of the prescribed activity, if necessary, as a result of inclement weather conditions.

**Comment [KB8]: NEW**  
Refer previous comments from mtg with Mayor 19/12/17

**7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 – Third party certification**

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirement stated.		

**Schedule 2      Categories of approval that are non-transferable**

Section 6

Each approval for the prescribed activity named in schedule 1, section 1 is transferable.

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**Schedule 3      State-controlled roads to which the local  
law applies**

Section 7

No State-controlled roads listed.



## Schedule 4 Dictionary

### Section 4

#### **commercial fitness activity**—

- (a) means a business or commercial activity involving the supply of a personal or group fitness training activity; and
- (b) includes, for example—
  - (i) circuit training; and
  - (ii) resistance training; and
  - (iii) fitness training involving self-defence or the use of boxing gloves and boxing pads; and
  - (iv) organised aerobic activity; and
  - (v) fitness activities involving yoga, tai chi, pilates, meditation and similar activities; but
- (c) does not include any 1 or more, or any combination, of the activities identified in paragraph (b), undertaken in the following circumstances—
  - (i) the activities are conducted by an association incorporated under the *Associations Incorporation Act 1981* and the right to participate in the activities is limited to the bona fide members of the association and their guests; or
  - (ii) the activities are conducted by an educational institution which is a kindergarten, primary school or secondary school and the right to participate in the activities is limited to the students, parents and carers of the students, and the staff of the educational institution; or
  - (iii) the activities are conducted by a government entity, for example, a Commonwealth or State department or agency and the primary purpose of the conduct of the activities is the promotion of community health and fitness; or
  - (iv) the activities are conducted by a religious entity which is registered with the Australia Charities and Not-for-profits Commission and the primary purpose of the conduct of the activities is religious or charitable works which promote health and fitness.

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

**goods** includes wares, merchandise, chattels, money, stone, timber, metal, fluid and any other article, substance or material whatsoever and also includes an animal.

**mobile roadside vending** means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where—

- (a) the operator travels from place to place; and
- (b) the operator supplies the goods or services to a customer in response to the customer waiving down the operator.

**permitted advertisement** has the meaning given in *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2011*.

**principal premises** has the meaning given in schedule 1, section 6(3)(a) and (4)(a).

**Rockhampton CBD area** means the area within the Rockhampton Central Business District bounded by Quay Street, Bolsover Street, Fitzroy Street and Derby Street

**sale** includes —

- (a) to sell; and
- (b) sell for resale; and
- (c) offer, or expose for sale; and
- (d) agree or attempt to sell; and
- (e) receive, keep or have in possession for sale; and
- (f) cause or permit to be sold or offered or exposed for sale; and
- (g) provide a sample; and
- (h) barter; and
- (i) auction; and
- (j) supply or have available for supply; and
- (k) suffer or permit any of the above acts.

**stationary roadside vending** means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where—

- (a) the operator carries on the activity from—
  - (i) a specified place; or
  - (ii) a number of specified places; but
- (b) the activity is not footpath dining.

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

**waste** has the meaning given in the *Environmental Protection Act 1994*.

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This and the preceding 16 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the day of ***(insert the date of the relevant resolution of Council)*** 2017.

.....  
Chief Executive Officer

| [SLL1.2657227\\_sll1.2-commercial657227\\_1](#)

# Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011

## Contents

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011*.

Field Code Changed

Field Code Changed

Field Code Changed

Field Code Changed

Field Code Changed

Field Code Changed

Field Code Changed

Field Code Changed

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 2 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## Schedule 1 Establishment or occupation of a temporary home

### Section 5

#### 1. Prescribed activity

Establishment or occupation of a temporary home

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

The establishment of a temporary home on land, if the owner of the temporary home or, when the owner of the temporary home cannot be located, the owner of the land upon which the temporary home is established, proves to the satisfaction of an authorised person that the temporary home—

**Comment [KB1]:** “upon which exists a permanent residence” DELETED.

- (a) is merely being stored on the land; and
- (b) is not being used as a place of residence for more than 3 months cumulatively in a 12 month period.

**Comment [KB2]:** NEW

#### 3. Documents and materials that must accompany an application for an approval

(1) A drawing showing the design and dimensions of the proposed temporary home, including the location on the land at which the temporary home is proposed to be situated.

**Comment [KB3]:** NEW

(2) Details of the materials out of which the temporary home is (or is to be) constructed and other structural details of the temporary home.

(3) Details of the physical location of the temporary home.

(4) If the applicant is not the owner of the land on which the temporary home is (or is to be) located—the written consent of the owner.

(5) Details of the name of each person who is to occupy the temporary home.

**Comment [KB4]:** NEW

(6) Details of the operation of the proposed temporary home including toilet, bathing, laundry, water storage, refuse facilities, waste water and sewerage disposal.

(7) If a permanent residence is proposed to be constructed, altered or extended on the land the subject of the application—a copy of the development approval for—

**Comment [KB5]:** NEW

(a) if a permanent residence is to be constructed—the permanent residence;

(b) if the permanent residence is to be altered or extended—the building work the subject of the alteration or extension.

(8) A progress chart or similar timetable showing significant milestones for the works proposed to be undertaken on the land so as to enable the term of the

**Comment [KB6]:** “If the applicant is an owner/builder—evidence that the applicant is registered as an owner/builder with the Queensland Building Services Authority” has been DELETED

proposed approval to be fixed by the local government.

**4. Additional criteria for the granting of an approval**

- (1) The temporary home will not be occupied as a place of residence permanently or for an indefinite period.
- (2) The applicant proposes, within the period for which the approval is granted—
  - (a) to erect, or convert an existing structure into, a permanent residence; or
  - (b) to carry out building work on a permanent residence that will make the residence temporarily unfit for occupation as a place of residence.
- (3) An adequate source of water will be available to the proposed temporary home.
- (4) Adequate means of waste disposal and sanitation will exist to ensure that reasonable standards of health and hygiene can be maintained.
- (5) The temporary home must be located on the land in such a way as to not impact adversely on the amenity of the owner or occupier of any adjoining land.
- (6) The local government may refuse an application for an approval on the ground that—
  - (a) the applicant has not made a genuine application for a development approval for—
    - (i) the proposed erection of, or conversion of an existing structure into, a permanent residence; or
    - (ii) the proposed building work on a permanent residence that will make the residence temporarily unfit for occupation as a place of residence; or
  - (b) a development approval has been granted but is likely to expire before building work to be carried out under the approval has been completed.

**5. Conditions that must be imposed on an approval**

No conditions prescribed.

**6. Conditions that will ordinarily be imposed on an approval**

- (1) The conditions of an approval may—
  - (a) regulate the design, dimensions, construction, and external appearance of the temporary home; and
  - (b) require the approval holder to provide, prior to the occupation of the temporary home as a place of residence—
    - (i) specified facilities for personal hygiene and sanitation, and for



washing and drying clothes; and

(ii) specified equipment or facilities to as to ensure that—

(A) the temporary home is adequately supplied with water; and

(B) waste water and refuse from the temporary home are disposed of properly; and

(c) require the approval holder to dismantle and remove the temporary home by a specified date;

(d) require the approval holder to keep the temporary home in good order and repair; and

(e) require the approval holder to ensure that the temporary home is not unsightly or unhygienic; and

(f) restrict the number of persons who may occupy the temporary home; and

(g) require the approval holder to advise the local government of any change of the name of the persons who are occupying the temporary home; and

(h) require the approval holder to install smoke alarms in the temporary home in accordance with the requirements of the *Building Fire Safety Regulation 2008*, part 5A (Smoke alarms for domestic dwellings); and

(i) require the approval holder to prepare, and display, at the temporary home, a fire and evacuation plan for the temporary home.

Comment [KB7]: NEW

(2) All water supplied for domestic purposes to the temporary home must be potable water.

(3) All sewerage and waste water from the temporary home must be discharged safely to a septic or sewer system or other place approved by an authorised person.

Comment [KB8]: NEW

## 7. Term of an approval

(1) The term of an approval may be assessed by an authorised person having regard to the information submitted by the applicant.

Comment [KB9]: Current s7(1) states an approval may be granted for a term of up to 18mths – this has been DELETED.

(2) The term of an approval must not exceed the lawful period of the development approval for—

(a) if the development approval authorises the construction of a permanent residence—the construction of the permanent residence;

(b) if the development approval authorises the alteration or extension of a permanent residence—the alteration or extension of the permanent residence.

- (3) The term of the approval must be specified in the approval.
- (4) In any event, the term of an approval comes to an end on the earlier of—
- (a) the date on which the term of the approval ends; and
  - (b) if the approval relates to the construction of a permanent residence—the date on which the permanent residence becomes fit for occupation as a place of residence; and
  - (c) if the approval relates to the alteration or extension of a permanent residence—the date on which the alterations or extensions to the permanent residence have progressed to an extent that the permanent residence becomes fit for occupation as a place of residence.

#### 8. Term of renewal of an approval

- (1) An approval cannot be renewed.
- (2) However, the local government may extend the term of an approval to coincide with the expected completion date of the building work for the erection or alteration of, or conversion of an existing structure into, a permanent residence that is, when the application for extension is made, and likely to be completed within a reasonable time.

**Table 1 – Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
Consistency of the proposed operation and management of the activity with the criteria in section 4(3) and (4) of this schedule.		A builder's licence (of the class BLR, BMR, BO or BPMS) issued by the Queensland Building and Construction Commission  OR A plumber's license issued by the Plumbers and Drainers Board

**Schedule 2      Categories of approval that are non-transferable**

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## Schedule 3 Dictionary

### Section 4

*development approval* see the *Sustainable Planning Act 2009*, schedule 3.

*structure* has the meaning given in the *Local Government Act 2009*.

Comment [KB10]: NEW

This and the preceding 8 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the \_\_\_\_\_ day of *(insert the date of the relevant resolution of Council)* 2017.

.....  
Chief Executive Officer

| [SLL1.3657240-1](#)

# Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2017

## Contents

Comment [KB1]: Mayor commented at mtg 19/12/17 that this needs to be discussed with all Councillors and a detailed explanation of each sign type and criteria provided at the council meeting by officers.

<b>Part 1</b>	<b>Preliminary.....</b>	<b>2</b>	Field Code Changed
1	Short title .....	2	Field Code Changed
2	Purpose and how it is to be achieved .....	2	Field Code Changed
3	Authorising local law .....	2	Field Code Changed
4	Definitions .....	2	Field Code Changed
<b>Part 2</b>	<b>Approval for prescribed activity.....</b>	<b>2</b>	Field Code Changed
5	Matters regarding the prescribed activity—Authorising local law, ss 6(3), 6(4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a).....	2	Field Code Changed
6	Approvals that are non-transferable—Authorising local law, s15(2).....	3	Field Code Changed
<b>Part 3</b>	<b>Application to State-controlled roads.....</b>	<b>3</b>	Field Code Changed
7	State-controlled roads to which the local law applies—Authorising local law, schedule 1 .....	3	Field Code Changed
<b>Part 4</b>	<b>Repeal .....</b>	<b>3</b>	Field Code Changed
8	Repeal .....	3	Field Code Changed
<b>Schedule 1</b>	<b>Installation of advertising devices .....</b>	<b>4</b>	Field Code Changed
<b>Schedule 2</b>	<b>Categories of approval that are non-transferable .....</b>	<b>9</b>	Field Code Changed
<b>Schedule 3</b>	<b>Definitions and prescribed criteria for installation, erection and display of advertising devices .....</b>	<b>10</b>	Field Code Changed
<b>Schedule 4</b>	<b>General criteria for installation, erection and display of advertising devices .....</b>	<b>23</b>	Field Code Changed
<b>Schedule 5</b>	<b>Zone categorisation criteria for installation, erection and display of advertising devices .....</b>	<b>25</b>	Field Code Changed
<b>Schedule 6</b>	<b>State-controlled roads to which the local law applies.....</b>	<b>27</b>	Field Code Changed
<b>Schedule 7</b>	<b>Dictionary.....</b>	<b>28</b>	Field Code Changed

## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2017.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 7 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), 6(4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

**Comment [KB2]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit requirement, 5 – prescribed standard, and 7 – business restriction.

Explanatory comments – The LG may declare that the authorising LL does not apply to particular activities and impose requirements or conditions which must be complied with if the authorising LL does not apply to the particular activities. The requirements and conditions may have an impact on the conduct of a business activity, and in particular, a prescribed activity identified in the subordinate LL.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.

**Comment [KB3]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit requirement.  
Explanatory comments – Regulates the process for the grant of an approval by constraining the Council’s discretion.

**Comment [KB4]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit requirement.  
Explanatory comments – The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.

## 6 Approvals that are non-transferable—Authorising local law, s15(2)

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

**Comment [KB5]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit requirement.  
Explanatory comments – The LG may declare that a category of approval for a prescribed activity is non-transferable, which may have an impact on the conduct of a business activity, and in particular, that part of the prescribed activity which a business activity.

## Part 3 Application to State-controlled roads

### 7 State-controlled roads to which the local law applies—Authorising local law, schedule 1

For the purposes of the definition of road in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 6 are roads to which the authorising local law applies unless otherwise provided in the local law.

Note

The display of an advertising device which is placed on, or visible from, a State-controlled road may—

- (a) be regulated under the Roadside Advertising Guide of the Department of Transport and Main Roads; and
- (b) also require an approval from the Department.

## Part 4 Repeal

### 8 Repeal

This subordinate local law repeals *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2011*.

## Schedule 1 Installation of advertising devices

Section 5

Field Code Changed

### 1 Prescribed activity

Installation of advertising devices.

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

- (1) An approval is not required under the authorising local law for the prescribed activity if the activity is the installation, erection or display of a permitted advertisement.
- (2) A *permitted advertisement* is an advertising device that is visible from a road or other public place which is—
  - (a) defined in schedule 3; and
  - (b) installed, erected and displayed in accordance with—
    - (i) the prescribed criteria specified in schedule 3; and
    - (ii) the general criteria specified in schedule 4; and
    - (iii) the zone categorisation criteria specified in schedule 5.
- (3) Also, an approval is not required under the authorising local law for the prescribed activity if—
  - (a) under the planning scheme of the local government, the prescribed activity is identified as—
    - (i) development which is accepted development or prohibited development; or
    - (ii) assessable development which is subject to code assessment or impact assessment; or
  - (b) the installation, erection or display of the advertising device is undertaken by, or on behalf of, the local government.
- (4) Also, an approval is not required under the authorising local law for the prescribed activity if the activity is the installation, erection or display of an election sign that is visible from a road or other public place.
- (5) However, the activity of the installation, erection or display of an election sign that is visible from a road or other public place may be undertaken by a person only if the person complies with the following requirements—
  - (a) the election sign must be kept in good order and repair; and
  - (b) the election sign must not be exhibited on a local government controlled area, or any plant, equipment or facility of the local government; and
  - (c) the election sign must not be exhibited so as to constitute a risk to public health or safety, road safety or obstruct the use of a road (including a footpath); and

Examples of paragraph (c) — an election sign is exhibited so as to constitute a risk to public health or safety, road safety or obstruct the use of a road, if the election sign—

  - is unsecured or unattended on the carriageway of a road (the carriageway of a road is the sealed section of the road between the unsealed shoulders of the road);

**Comment [KB6]:** No application/approval required if sign meets all criteria



- obstructs, or is likely to obstruct, pedestrian or bicycle movement on a paved footpath, walkway or bikeway;
  - is positioned in a way that obstructs or hinders access to private property when exiting a road, or obstructs or hinders access to a road when exiting private property;
  - is positioned in a way that does not provide clear sight lines for drivers of vehicles or pedestrians at a road junction, vehicle access way or pedestrian crossing;
  - creates a traffic problem, or increases an existing traffic problem;
  - is not weighted, anchored or affixed so as to ensure stability and avoid falling or blowing into the path of pedestrian or vehicular traffic;
  - is exhibited on a traffic island, a median strip or the centre of a roundabout;
  - is exhibited within an intersection controlled by traffic lights or within the intersections of one or more major roads;
  - is exhibited at a bus stop or in a school zone in a way that interferes with passengers entering or exiting a bus or another vehicle;
  - obstructs a pedestrian crossing or a school crossing;
  - is rotating, audible or illuminated and likely to cause a distraction to a driver;
  - is exhibited in close proximity to an official traffic sign in a way which is likely to hinder or obstruct a driver from seeing, reading or understanding the official traffic sign whilst driving;
  - is exhibited on a road in a rural area with a speed limit of 80 km/h or less, and is located less than 3.5m from the edge of the nearest traffic lane;
  - is exhibited on a road in a rural area with a speed limit greater than 80km/h and is located less than 6m from the edge of the nearest traffic lane;
  - is exhibited on street furniture, a light pole, guard rail, tree, plant, landscaped area or other local government asset.
- (d) the election sign must not have a surface area exceeding 1.1m<sup>2</sup>, unless the sign is exhibited on an approved advertisement; and
- (e) the election sign must be made of a material that is designed to be easily broken, for example, a corflute sign on a timber stake.

### **3 Documents and materials that must accompany an application for an approval**

- (1) An application for an approval must be made to the local government on the approved form required under *Local Law No. 1 (Administration) 2011* as detailed on the local government's website.
- (2) Full details of the proposed advertising device including—
  - (a) the location at which the proposed advertising device will be installed, erected or displayed; and
  - (b) the name, address and contact details of the person responsible for the installation, erection or display of the advertising device; and
  - (c) the name and address of any business which will be advertised on the advertising device.
- (3) Details of all building work and other work to be carried out under the approval.
- (4) Details of the time and place at which the prescribed activity will be undertaken.

- (5) The proposed term of the approval.
- (6) The impact, if any, of the prescribed activity on pedestrian or vehicular traffic.
- (7) The materials, equipment and vehicles (if applicable) to be used in the undertaking of the prescribed activity.
- (8) If requested, evidence that the applicant currently holds any separate approval relating to the prescribed activity that is required under another law, for example, a certification, that the sign complies with the requirements of the Manual of Uniform Traffic Control Devices.
- (9) Plans and specifications detailing—
  - (a) the location of the proposed advertising device; and
  - (b) particulars of the content, design, dimensions and construction of the proposed advertising device; and
  - (c) a site plan and elevation, to scale, of the proposed advertising device; and
  - (d) if the applicant is not the owner of the premises on which the proposed advertising device is to be installed, erected or displayed, the consent of the owner of the premises to the installation, erection and display of the advertising device; and
  - (e) a copy of each development approval required for the installation, erection and display of the proposed advertising device; and
  - (f) if the proposed advertising device is to be installed, erected or displayed at a place which is registered as a State heritage place and an exemption certificate is required in respect of the undertaking of the prescribed activity at the place— a copy of the exemption certificate; and
  - (g) a pictorial representation of the proposed advertising device.

#### **4 Additional criteria for the granting of an approval**

- (1) The conduct of the prescribed activity must not—
  - (a) result in—
    - (i) harm to human health or safety; or
    - (ii) property damage or loss of amenity; or
    - (iii) nuisance; or
    - (iv) unsafe movement of pedestrian or vehicular traffic; or
    - (v) environmental harm; or
    - (vi) environmental nuisance; or
    - (vii) a potential road safety risk; or
  - (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken; or
  - (c) significantly obstruct the view of any premises.
- (2) Where an advertising device is to be displayed at a State heritage place, more favourable consideration will normally be given to an advertising device which is in keeping with the original character and period of the State heritage place.

## 5 Conditions that must be imposed on an approval

No conditions prescribed.

## 6 Conditions that will ordinarily be imposed on an approval

- (1) The conditions of an approval may—
  - (a) require compliance with specified safety requirements; and
  - (b) regulate the time within which the prescribed activity must be carried out; and
  - (c) specify standards with which the undertaking of the prescribed activity must comply; and
  - (d) require the approval holder to—
    - (i) carry out specified additional work such as earthwork and landscaping; and
    - (ii) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before commencement of the prescribed activity; and
    - (iii) give the local government specified indemnities; and
    - (iv) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
    - (v) remove a structure erected or installed, under the approval, at the end of a stated period; and
    - (vi) construct the advertising device from specified materials; and
    - (vii) maintain the advertising device in good order and repair; and
    - (viii) install the advertising device at a specified location, or in a specified manner; and
    - (ix) take specified measures to illuminate, or control the illumination of, the advertising device; and
    - (x) restrict the dimensions of the advertising device.
- (2) The conditions of an approval may require the approval holder to take specified measures to—
  - (a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and
  - (b) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
  - (c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of pedestrian or vehicular traffic.
- (3) The conditions of an approval may require the approval holder to take specified measures to ensure that the advertising device is installed, erected and displayed in accordance with—
  - (a) the prescribed criteria in schedule 3; and
  - (b) the general criteria specified in schedule 4; and
  - (c) the zone categorisation criteria specified in schedule 5.

**Comment [KB7]:** Cameron Wyatt advised 31/10/17 that the below provisions were agreed upon at the Councillor workshop (31/10/2017) for the planning scheme:

- Where the advertising device incorporates a digital display, the advertising device:
  - has a minimum dwell time of eight (8) seconds between advertisements;
  - where the image changes it must happen in under 0.5 seconds; and
  - Each change of advertisement is to be completed instantaneously (i.e. within 0.1 of a second)

Suggest that Cameron's provisions be some of the standards that would ordinarily be imposed on approval. Perhaps they don't need to be specified here; a document subordinate to the SLL (eg. policy/procedure?) may be best.

**7 Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**8 Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

## Schedule 2 Categories of approval that are non-transferable

Section 6

Field Code Changed

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## Schedule 3 Definitions and prescribed criteria for installation, erection and display of advertising devices

Schedule 1, section 2(2)(a) and (b)

### 1 Animated sign



Image 1- Example of a fixed Animated Sign.

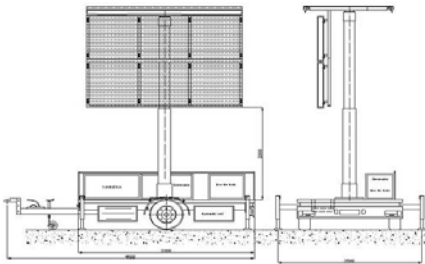


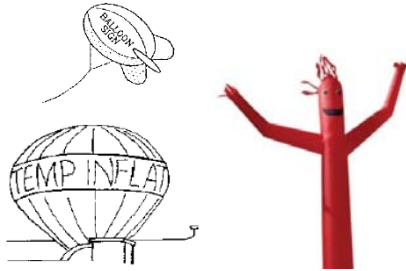
Image 2 – Example of a mobile Animated Sign.

- (1) **An *animated sign*—**
  - (a) is a sign with a changing display, including flashing, chasing fibre optic or LED lights, scrolling illuminated images and any other non-static illuminated displays; and
  - (b) may be static or mobile.
- (2) **The criteria prescribed for an animated sign are that the sign must—**
  - (a) when visible from a road (State-controlled or local government road) — be sited and displayed in accordance with the Queensland Government Roadside Advertising Guide; and
  - (b) be placed so as to minimise visual clutter; and
  - (c) if the sign is an animated sign which is mobile—
    - (i) not interfere with access to any premises; and
    - (ii) not occupy a vehicle parking space or other dedicated utility service area, for example, an area normally used for the purpose of waste collection, or a delivery bay; and
    - (iii) not be visible from premises used for a residential purpose; and
    - (iv) not display orange coloured text or images unless the device is erected or utilised by, or on behalf of, a governmental authority or an emergency services agency for the purpose of relaying information about roadworks, an emergency, vehicular traffic or the like.

- (3) Also, the number of animated signs that may be displayed on premises is limited to the greater of—
- if the sign is a static sign — 2 signs per shop; and
  - if the sign is a mobile sign — 1 sign per full 12m of the linear street front boundary of the shop on the premises.

**Comment [KB8]:** Recent amendments (parked) red from S Gatt 11/12/17 which proposes to amend 'Animated Sign' to **remove** mobile animated signs. Steve commented mobile devices, both temporary and permanent, would require approval. Steve also wished to specify that fixed animated signs cannot be 3<sup>rd</sup> party signs. Steve's proposed NEW criteria is as follows:

## 2 Balloon, blimp, kite or cold air inflatable sign

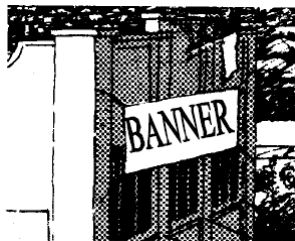


- Balloon, blimp, kite or cold air inflatable sign** means any fixed or captive envelope, balloon, blimp, kite, or waving tube inflatable character, whether a cold air inflatable or lighter than air device.
- The criteria prescribed for a balloon, blimp, kite or cold air inflatable sign at premises are that the sign must—
  - only be displayed for a maximum period of 14 days in any 90 day period; and
  - not have a height in excess of 8m or a diameter in excess of 6m; and
  - only be inflated with cold air or non-flammable or non-toxic gas.
- Also—
  - the advertiser must have in effect and maintain a public liability insurance policy in an amount not less than \$20,000,000.00 against claims for personal injury and property damage resulting from the display of the sign; and
  - the number of balloon, blimp, kite or cold air inflatable signs that may be displayed on premises is limited to 1 sign per premises; and
  - when the sign is inflated, the highest point of the sign must not rise in excess of 15m above ground level.

- (1) An **animated sign** is a sign with fibre optic or LED lights,
- (2) The criteria prescribed for an animated sign are that the sign must—
  - when visible from a road (State-controlled or local government road) — be sited and displayed in accordance with the Queensland Government Roadside Advertising Guide; and
  - Is not a third party advertising device
  - be placed so as to minimise visual clutter; and
  - does not project beyond the boundaries of the window or door head to which the advertising device is fixed;

Comments from mtg with Mayor 19/12/17 - MORE DISCUSSION REGARDING MOBILE ANIMATED SIGNS NECESSARY AMONGST COUNCILLORS. MAY NEED TO INCLUDE GIVEN THEY ARE PRESENT WITHIN OUR REGION.

## 3 Banner sign

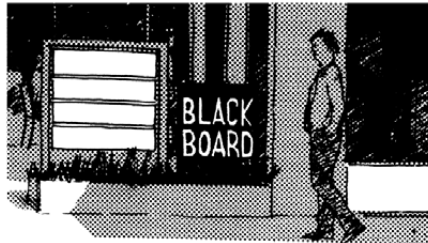


- A **banner sign** is a temporary sign intended to be suspended from a structure or

pole with or without supporting framework displaying a sign applied or painted to fabric or similar material of any kind.

- (2) The criteria prescribed for a banner sign are that the sign must—
  - (a) not have a face area in excess of 2.4m<sup>2</sup>; and
  - (b) only be displayed for a maximum period of 14 days within any 90 day period; and
  - (c) be affixed flat to a structure that will accommodate wind loadings for the area; and
  - (d) not be erected above the roof gutter line, or on the roof, of a building.
- (3) Also, for any premises, a limit of only 1 banner sign per street front boundary of the premises may be displayed.

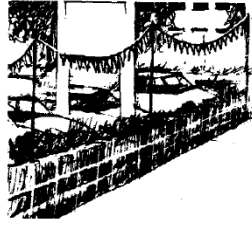
#### 4 Blackboard sign



- (1) A **blackboard sign** is a blackboard, whiteboard or the like with a hand written message.
- (2) The criteria prescribed for a blackboard sign are that the sign must not have a face area in excess of 2.0m<sup>2</sup>.
- (3) Also, the number of blackboard signs that may be displayed on premises is limited to the greater of—
  - (a) 1 sign per shop; and
  - (b) 1 sign per full 12m of the linear street front boundary of the shop on the premises.



## 5 Bunting

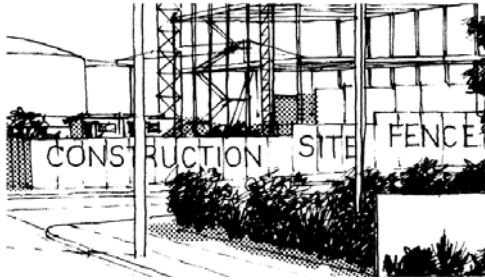


- (1) **Bunting** includes decorative flags, pennants and streamers and is typically displayed in association with vehicle showroom, auction or sale premises, or a short-term event such as a discount sale, sporting event, market or fete.
- (2) The criteria prescribed for bunting are that the device must—
  - (a) be securely affixed to a structure that will accommodate wind loadings in the area; and
  - (b) not be placed on premises more than 6m above ground level directly adjacent to the bunting and not hang less than 2.4m above ground level directly adjacent to the bunting; and
  - (c) be placed wholly within the premises and not beyond the street front boundary of the premises; and
  - (d) be arranged on the premises in an orderly manner and without proliferation; and
  - (e) consist of high quality material and be maintained to a high standard; and
  - (f) for a short-term event—
    - (i) be erected not more than 2 weeks prior to the event; and
    - (ii) be removed not later than the day following the event.
- (3) Also, if requested by an authorised person, the advertiser must provide an engineer's certification for any structure dedicated for the support of the bunting.

## 6 Construction project sign

- (1) **Construction project sign** is a sign which conveys information relating to the nature of the development project proposed for a site as well as the name and contact details of the developer and their principal consultants.
- (2) The criteria prescribed for a construction project sign are that the sign must—
  - (a) not have a face area in excess of—
    - (i) 5m<sup>2</sup> in an industry zone or a centre zone category; or
    - (ii) 2.5m<sup>2</sup> in all remaining zone category areas; and
  - (b) relate to a current development permit; and
  - (c) be removed upon completion of construction at the site.
- (3) Also, for any premises, a limit of only 1 construction project sign per street front boundary of the premises may be displayed.

## 7 Construction site fence sign



- (1) A **construction site fence sign** is a sign painted or otherwise affixed parallel with and confined to the limits of a temporary safety fence of a construction site, along the boundary or boundaries of the site.
- (2) The criteria prescribed for a construction site fence are that the sign must—
  - (a) only contain information related to the project under construction, for example, the project name, project slogan, project developer, construction company, proposed uses and completion date; and
  - (b) not be affixed to a fence unless the fence is constructed to withstand the consequent wind or other loads; and
  - (c) relate to a construction site where there is a current building development permit and construction works have commenced; and
  - (d) be removed within 7 days of a successful final building inspection or the issue of a certificate of classification; and
  - (e) only be displayed for a maximum period of 12 months in a residential zone.

## 8 Community organisation site sign



- (1) A **community organisation site sign** is a sign which is displayed at the site of a fete, fair, festival or other similar event for the primary purpose of advertising the fete, fair, festival or other similar event.
- (2) The criteria prescribed for a community organisation site sign are that the sign must—
  - (a) only be displayed for a maximum period of 30 days prior to the event advertised; and
  - (b) not have a face area in excess of—
    - (i) 2.5m<sup>2</sup> in a residential zone; or

- (ii) 5m<sup>2</sup> in all remaining zone category areas; and
  - (c) be removed within 2 days of the event finishing.
- (3) Also, for any premises, a limit of 2 community organisation signs per street front boundary of the premises may be displayed.

## 9 Temporary directional community organisation sign

- (1) A *temporary directional community organisation sign* is a sign which while not displayed at the site of a fete, fair, festival or other similar event, has the primary purpose of directing the public to the fete, fair, festival or other similar event.
- (2) The criteria prescribed for a temporary directional community organisation sign are that the sign must—
- (a) not have a face area in excess of 0.6m<sup>2</sup> when placed on a road or public place; and
  - (b) not have a face area in excess of 2.4m<sup>2</sup> when placed on private property; and
  - (c) only be displayed for a maximum period of 7 days prior to the event advertised on the sign and be removed within 2 days of the event finishing.
- (3) Also—
- (a) for signs placed on a road or public place, the advertiser must have in effect and maintain a public liability insurance policy in an amount not less than \$20,000,000.00 against claims for personal injury and property damage resulting from the display of the sign; and
  - (b) a maximum of 15 signs may be displayed on private properties; and
  - (c) a maximum of 10 signs may be displayed on roads and public places.

## 10 Display home sign

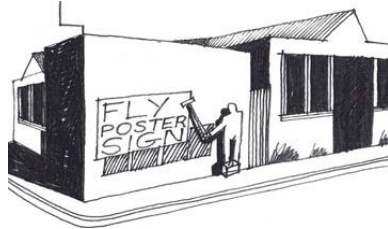


- (1) A *display home sign* is a sign which advertises a display home.
- (2) The criteria prescribed for a display home sign are that the sign must—
- (a) only be displayed for a maximum period of 24 months; and
  - (b) not have a face area in excess of 2.4m<sup>2</sup>; and
  - (c) only be located on the premises of the display home advertised on the

sign; and

- (d) not exceed, in number, 1 display home sign per premises.

## 11 Fly poster sign



- (1) A **fly poster sign** is a non-rigid, printed paper sign, multiple copies of which are glued to walls and other fixtures or structures in public places.
- (2) A fly poster sign may only be installed on a surface at a public place which is specifically provided by the local government for the installation of fly poster signs.

## 12 Footway sign

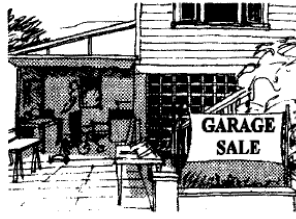
- (1) **Footway sign** is a portable, free-standing sign, normally supported by an 'A' or inverted 'T' frame, and typically displayed on a footway.
- (2) The criteria prescribed for a footway sign are that the sign must—
  - (a) not have a width in excess of 0.75m or a height in excess of 1m; and
  - (b) be positioned immediately adjacent to the shop frontage of the shop advertised on the sign; and
  - (c) be positioned to ensure a minimum 1.5m wide pedestrian corridor is kept clear along the footway; and
  - (d) be clear of any vehicle accessway across the footway; and
  - (e) not be positioned to obstruct or clutter the footway, street landscaping, furniture or artwork; and
  - (f) not have moving, rotating or animated parts; and
  - (g) not be displayed other than during the trading hours of the shop; and
  - (h) not be used for the display of merchandise; and
  - (i) be secured so as not to cause a pedestrian or vehicular hazard in windy conditions; and
  - (j) not have more than 2 face areas.
- (3) Also—
  - (a) the advertiser must have in effect and maintain a public liability insurance policy in an amount not less than \$20,000,000.00 against claims for personal injury and property damage resulting from the display of the sign; and

- (b) the number of footway signs that may be displayed on premises is limited to the greater of—
- (i) 1 sign per shop; and
  - (ii) 1 sign per full 6m of the linear street front boundary of the shop on the premises.

*Example-*

*A shop with over 12m of linear street front boundary is permitted 2 footway signs, a shop with over 18m of linear shop front boundary is permitted 3 footway signs etc.*

### 13 Garage sale sign



- (1) A **garage sale sign** is a temporary advertisement which—
  - (a) is displayed for directional purposes; and
  - (b) advertises a household garage sale.
- (2) The criteria prescribed for a garage sale sign are that the sign must—
  - (a) when sited on a footway — not exceed, in number, 3 signs; and
  - (b) when sited on a footway—be sited in front of the property at which the garage sale will occur; and
  - (c) when sited on a footway—not be affixed to public infrastructure, for example, street signage, a power pole, street furniture or an official traffic sign; and
  - (d) when sited on private property—not have a face area in excess of 1.2m<sup>2</sup>; and
  - (e) only be displayed for a maximum period of 2 days prior to the garage sale; and
  - (f) be removed within 1 day of the garage sale closing; and
  - (g) not be displayed on more than 4 days in a calendar year.

### 14 Illuminated sign

- (1) An **illuminated sign** is a sign that has internal and/or external means of illumination of the whole or a portion of the sign.
- (2) The criteria prescribed for an illuminated sign are that the sign must—
  - (a) not be situated within 100m of a residential zone, unless the sign is not visible from any premises used for a residential purpose; and
  - (b) not have luminance in excess of 350 candelas per square metre; and

- (c) not be located within 30m of a set of traffic signals or 20m of an intersection; and
- (d) not be flashing or moving.

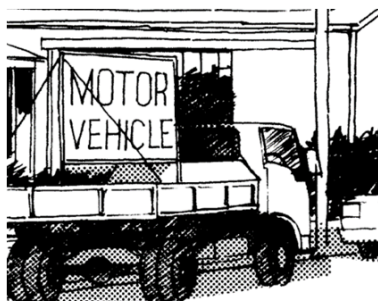
## 15 Mobile sign



- (1) A mobile sign —
  - (a) is a temporary portable self supporting sign which is free-standing and may be mounted on wheels to facilitate movement; but
  - (b) does not include a footway sign or a real estate sign.
- (2) The criteria prescribed for a mobile sign are that the sign must—
  - (a) not have a face area in excess of 2.5m<sup>2</sup> per side; and
  - (b) only be placed on the premises of the shop or business it is advertising or promoting; and
  - (c) be placed so as to minimise visual clutter; and
  - (d) be secured so as not to cause a pedestrian or vehicular hazard in windy conditions; and
  - (e) not have more than 2 face areas; and
  - (f) not occupy a vehicle parking space; and
  - (g) not damage landscaping.
- (3) Also, the number of mobile signs that may be displayed on premises is limited to the greater of—
  - (a) 1 sign per shop front; and
  - (b) 1 sign per full 12m of the linear street front boundary of the shop on the premises.

**Comment [KB9]:** Additional amendments (parked) rcd from S Gatt 11/12/17 – include the following to add surety that the device is NOT illuminated or electronic in any way and only advertises what is on the site:

- (h) is not illuminated or animated;
- (i) is not a third party advertising device

**16 Mobile vehicle sign**

**Comment [KB10]:** Previously 'Mobile Motor Vehicle Sign' – changed to delete the word 'motor' as we wish for this sign type to be applicable to trailers that are detached from a vehicle. Jon advised TORUM definition for motor vehicle does not accommodate this, therefore change to state only "vehicle"

- (1) A **mobile vehicle sign** is an advertising device displayed on a vehicle which is driven or stopped on premises (including a road) in circumstances where the primary purpose for which the vehicle is being driven or stopped at the material time is business advertising, including advertising for a single event, financial venture, fete, stall or sale.
- (2) The criteria prescribed for a mobile vehicle sign are that—
  - (a) the sign must not have—
    - (i) a length in excess of 3.5m; or
    - (ii) a height in excess of 2m; or
    - (iii) an area in excess of 7m<sup>2</sup>; and
  - (b) if the sign is on a vehicle which is driven or stopped on a road — the vehicle must not remain stationary on the road for more than whichever is the lesser of—
    - (i) 5 minutes; and
    - (ii) longer than is necessary due to prevailing traffic conditions.

**Comment [KB11]:** Additional criteria added from S Gatt 11/12/17 (parked) to include:

- (a) the sign is not illuminated or animated;

**17 Real estate signs**

- (1) A **real estate sign**—
  - (a) is a temporary sign which promotes the sale, auction, lease or letting of premises; and
  - (b) includes a real estate directional sign and a real estate flag sign.
- (2) The criteria prescribed for a real estate sign (other than a real estate directional

sign and real estate flag sign) are that the sign must—

- (a) be located along the street front boundary; and
  - (b) if located on a public place or road—be located within 1m of the fence line or boundary line of the premises; and
  - (c) not have a face area in excess of 1.2m<sup>2</sup>, but may be double-sided; and
  - (d) not exceed, in number, 1 real estate sign for each agent marketing the premises up to a maximum of 3 signs; and
  - (e) be removed within 14 days after the sale of the premises advertised on the sign; and
  - (f) be kept erect and maintained in a good state of repair at all times.
- (3) As an alternative to subsection (2)(d), an advertiser may display 1 sign having a face area not exceeding 2.4m<sup>2</sup> at the premises.

*Note*

*In this alternative no other real estate signage is to be displayed other than signage associated with open for inspection or auction day.*

- (4) A **real estate directional sign** is a temporary orientation sign erected on a road for the purpose of directing persons to real estate which is being—
- (a) offered for sale by auction; or
  - (b) open for public inspection.
- (5) The criteria prescribed for a directional real estate sign are that the sign must—
- (a) not exceed, in number, 4 signs per premises advertised; and
  - (b) not have a face area in excess of 0.6m<sup>2</sup>; and
  - (c) only be displayed on the day on which the premises are open for public inspection or offered for sale by auction; and
  - (d) be located within a 2km radius of the premises.
- (6) Also, the advertiser must have in effect and maintain a public liability insurance policy in an amount not less than \$20,000,000.00 against claims for personal injury and property damage resulting from the display of a sign.
- (7) A **real estate flag sign** is a temporary flag that is erected for the purposes of identifying real estate when—
- (a) the real estate is open for public inspection; or
  - (b) an auction of the real estate is occurring.
- (8) The criteria prescribed for a real estate flag sign are that the sign must—
- (a) not exceed, in number, 2 signs per premises; and
  - (b) not have a face area in excess of 1.5m<sup>2</sup>; and
  - (c) only be displayed during the times when the premises are open for public inspection or being auctioned.
- (9) Also—



- (a) the sign may be displayed on the verge between the premises and the road pavement providing—
  - (i) the sign is affixed securely to remain safe in the prevailing weather conditions; and
  - (ii) if secured by the wheel of a registered vehicle, the sign must not be placed on the road side of the vehicle and the vehicle must be lawfully parked.

## 18 Trade sign



- (1) A *trade sign* is a temporary sign which displays a trade person's activity on premises, (e.g. the activities of a painter or a tiler).
- (2) The criteria prescribed for a trade sign are that—
  - (a) a maximum of 1 sign may be displayed on any premises; and
  - (b) the sign—
    - (i) must only advertise the trade person's name, contact details and other mandatory information (for example, QBCC licence number); and
    - (ii) must not have a face area in excess of 0.6m<sup>2</sup>; and
    - (iii) may only be displayed at premises for the duration of the trade person's activity on the premises.

## 19 Unclassified/special case sign

- (1) An *unclassified/special case sign* is a sign which—
  - (a) may or may not be illuminated, but is visible from a road or other public place; and
  - (b) does not fall within any of the other sign definitions listed in this schedule; and
  - (c) under the planning scheme of the local government, is not identified as—
    - (i) development which is accepted development or prohibited development; or
    - (ii) assessable development which is subject to code assessment or impact assessment.

- (2) A person must not install, erect or display an unclassified/special case sign without a current approval granted by the local government.

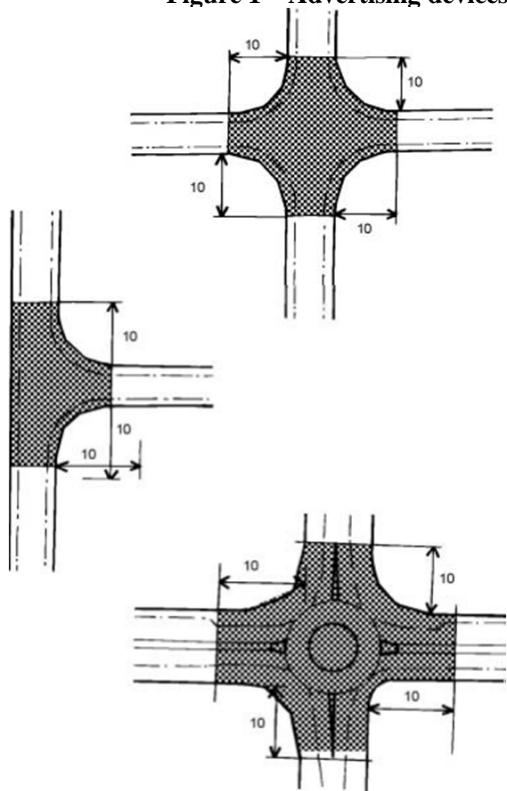
## **Schedule 4      General criteria for installation, erection and display of advertising devices**

Schedule 1, section 2(2)(b)(ii)

- 1**      This schedule specifies general criteria for the installation, erection and display of advertising devices.
- 2**      The advertising device must not be erected on a road, community infrastructure or a public place unless otherwise permitted by this subordinate local law.
- 3**      An advertising device must not be installed, erected or displayed at a place which is registered as a State heritage place unless an exemption certification has been granted in respect of the undertaking of the prescribed activity at the place.
- 4**      The advertising device must—
  - (a)      not cause a nuisance as reasonably determined by the local government; and
  - (b)      not incorporate beacon lights or revolving lights, excluding emergency vehicles and other emergency devices authorised under a State Act; and
  - (c)      not be illuminated, unless the illumination is permitted under this subordinate local law; and
  - (d)      be kept and maintained at all times in good order and repair, and free of graffiti.
- 5**      The activity being advertised on the advertising device must be able to be lawfully conducted.
- 6**      The display of the advertising device must not cause—
  - (a)      a safety hazard; or
  - (b)      unsafe movement or obstruction of, or distraction to, pedestrian or vehicular traffic.
- 7**      An advertising device mounted over a road or other place where vehicles are able to pass, must provide a clearance of not less than 5.7m above ground level directly adjacent to the advertising device.
- 8**      This schedule also specifies the criteria that the local government must have regard to when deciding whether to approve the display of a free-standing advertising device by reference to the size of the advertising device.
- 9**      The face area of any advertising device is the area bounded by the framework of a manufactured panel, hoarding or illuminated advertising device case and is calculated by multiplying the advertising device face area height and width parameters.
- 10**     However, in the case of lettering, logos or designs applied to a lesser area than the panel parameters, or individual lettering, the area is calculated by drawing a rectangle around the advertising device lettering, logos or designs.

- 11 In the case of irregular shaped advertising devices, including words with ascending or descending upper or lower case letter strokes, or replicas or shapes, the face area is calculated by not more than 2 abutting and non-overlapping rectangles added together.
- 12 Decorative lines, stripes and architectural trims of an advertising device, whether illuminated or not, form part of the face area of the advertising device.
- 13 In calculating the size of an advertising device, v-shaped advertising devices are classed as 2 advertising devices unless otherwise determined by this subordinate local law.
- 14 Unless otherwise permitted or determined under this subordinate local law, an advertising device must not to be installed, erected or displayed on any of the following locations—
- (a) within an intersection or roundabout shown on figure 1;
  - (b) within, or on, a median strip, traffic island or roundabout;
  - (c) upon any tree, shrub, pole or traffic sign support, unless on private property;
  - (d) within 10m of a traffic warning or direction sign;
  - (e) within 3m from the bitumen edge of a road (where no kerb and channel exists); and
  - (f) outside the footpath area of a road (where kerb and channel exists).

**Figure 1 – Advertising devices not to be located in shaded areas**



All measurements in figure 1 are in shown in metres.

## **Schedule 5      Zone categorisation criteria for installation, erection and display of advertising devices**

Schedule 1, section 2(2)(b)(iii)

- 1**      The local government has divided the local government area into six zone categories as follows—
  - (a)      the industry zones category; and
  - (b)      the centre zones category; and
  - (c)      the environmental zones category; and
  - (d)      the recreation zones category; and
  - (e)      the residential zones category; and
  - (f)      the other zones category.
- 2**      For the purpose of this subordinate local law, the zone categories are further categorised and defined in the planning scheme for the local government area of the local government.
- 3**      If an advertising device is identified as a permitted sign in a specified zone in the table in this schedule, a person may install, erect or display the advertising device in the specified zone, without a current approval granted by the local government.
- 4**      If an advertising device is identified as an approval required sign in a specified zone in the table in this schedule, a person must not install, erect or display the advertising device in the specified zone, without a current approval granted by the local government.
- 5**      If an advertising device is identified as a prohibited sign in a specified zone in the table in this schedule, a person must not install, erect or display the advertising device in the specified zone.
- 6**      For roads in the local government area of the local government, the table in this schedule specifies whether, for a specified zone, an advertising device is—
  - (a)      a permitted sign which a person may install, erect or display in the specified zone without a current approval granted by the local government; or
  - (b)      an approval required sign which a person must not install, erect or display in the specified zone without a current approval granted by the local government; or
  - (c)      a prohibited sign which a person must not install, erect or display in the specified zone.

## Zone categorisation for advertising devices

Advertising Device Description	Zone Category						
	Industry Zones	Centre Zones	Environmental Zones	Recreation Zones	Residential Zones	Other Zones	Road
1 Animated Sign	✓	✓	×	✓	●	✓	×
2 Balloon, blimp, kite or cold air inflatable Sign	✓	✓	×	●	×	●	×
3 Banner Sign	✓	✓	●	✓	●	✓	×
4 Blackboard Sign	✓	✓	✓	✓	●	✓	×
5 Bunting	✓	✓	×	✓	×	✓	×
6 Construction Project Sign	✓	✓	✓	✓	✓	✓	×
7 Construction Site Fence Sign	✓	✓	✓	✓	✓	✓	×
8 Community Organisation Site Sign	✓	✓	✓	✓	✓	✓	×
9 Temporary Directional Community Organisation Sign	✓	✓	✓	✓	✓	✓	✓
10 Display Home Sign	✓	●	×	×	✓	✓	×
11 Fly Poster Sign	✓	✓	×	✓	●	●	Refer Schedule 3
12 Footway Sign	✓	✓	●	✓	●	●	✓
13 Garage Sale Sign	✓	✓	✓	✓	✓	✓	✓
14 Illuminated Sign	✓	✓	●	●	●	●	●
15 Mobile Sign	✓	●	●	●	×	●	×
16 Mobile Vehicle Sign	✓	✓	✓	✓	✓	✓	✓
17 Real Estate Signs	✓	✓	✓	✓	✓	✓	✓
18 Trade Sign	✓	✓	✓	✓	✓	✓	×
19 Unclassified/Special Case Sign	●	●	●	●	●	●	●

Permitted Sign = ✓

Approval Required Sign = ●

Prohibited Sign = ×

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**Schedule 6      State-controlled roads to which the local law  
applies**

Section 7

The authorising local law does not apply to the installation of an advertising device on any State-controlled road in the local government area of the local government.

## Schedule 7 Dictionary

### Section 4

**accepted development** see *Planning Act 2016, schedule 2*.

**advertiser** means a person—

- (a) by whom a sign is installed, erected or displayed; or
- (b) whose business or place of business is advertised by a sign; or
- (c) who manages and controls, or has power to manage and control, the place at which a sign is installed, erected or displayed; or
- (d) who is—
  - (i) the owner of premises or a place on which a sign is installed, erected or displayed; or
  - (ii) the occupier of premises or a place on which a sign is installed, erected or displayed; or
  - (iii) the owner of a vehicle on which a sign is installed, erected or displayed.

**advertising device** means a structure or device which is visible from a road or other public place and which conveys information or directions of any kind (other than a structure or device displayed pursuant to the authority or requirements of an Act) and the term includes any structure forming part of the advertising device or to which the advertising device is attached or on which it is displayed.

**animated sign** see schedule 3, section 1.

**approved advertisement** means an advertisement that is—

- (a) approved by a development approval; or
- (b) deemed acceptable development under the planning scheme of the local government; or
- (c) approved in accordance with *Local Law No. 1 (Administration) 2011* and this subordinate local law; or
- (d) lawfully carried out under another local law.

**assessable development** see *Planning Act 2016, schedule 2*.

**balloon, blimp, kite or cold air inflatable sign**, see schedule 3, section 2.

**banner sign** see schedule 3, section 3.

**blackboard sign** see schedule 3, section 4.

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

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

**bunting** see schedule 3, section 5.

**centre zones** see schedule 5, sections 1 and 2.

**code assessment** see *Planning Act 2016, schedule 2*.

**community infrastructure** means infrastructure prescribed by regulation under the *Planning*



*Act 2016*, section 35.

**community organisation site sign** see schedule 3, section 8.

**construction project sign** see schedule 3, section 6.

**construction site fence sign** see schedule 3, section 7.

**development** see *Planning Act 2016*, schedule 2.

**display home sign** see schedule 3, section 10.

**election sign** see *Local Government Act 2009*, section 36.

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental zones** see schedule 5, sections 1 and 2.

**exemption certificate** has the meaning given in the *Queensland Heritage Act 1992*.

**exhibit** includes, in relation to an election sign, the painting, writing, drawing, depiction, making, erection, installation, display, affixing, putting out, operation or transport of an election sign.

**face area** see schedule 4, sections 8 to 13 inclusive.

**fly poster sign** see schedule 3, section 11.

**footway sign** see schedule 3, section 12.

**free-standing sign** —

- (a) means a sign which does not form part of a building or other structure which is erected on a solid, free-standing structure; and
- (b) includes—
  - (i) a footway sign; and
  - (ii) a mobile sign.

**garage sale sign** see schedule 3, section 13.

**height** (of an advertising device) means the distance measured between the top of the advertising device and ground level directly adjacent to the advertising device.

**illuminated sign** see schedule 3, section 14.

**impact assessment** see *Planning Act 2016*, schedule 2.

**industry zones** see schedule 5, sections 1 and 2.

**land** has the meaning given in the *Planning Act 2016*.

**mobile sign** see schedule 3, section 15.

**mobile vehicle sign** see schedule 3, section 16.

**occupier**, of premises—

- (a) means the person who has the control or management of the premises; and
- (b) includes the owner of the premises where there is no person in apparent occupation of the premises.

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

**other zones** see schedule 5, sections 1 and 2.

**owner**, of premises, means the registered owner of the premises as defined in the *Land Title Act 1994*, schedule 2.

**permitted advertisement** see schedule 1, section 2.

**premises** means any land, building or structure and includes any part thereof.

**prohibited development** see *Planning Act 2016*, schedule 2.

**public place** has the meaning given in the Act.

**real estate sign** see schedule 3, section 17.

**recreation zones** see schedule 5, sections 1 and 2.

**residential zones** see schedule 5, sections 1 and 2.

**road** has the meaning given in the Act.

**roof** means the protective covering, that covers or forms the top of a building.

**sign** see advertising device.

**State heritage place** has the meaning given in the *Queensland Heritage Act 1992*.

**street front boundary** —

- (a) of premises, means the length, measured in metres, along the alignment of the premises abutting a road or abutting an access restriction strip directly between the premises and a road; and
- (b) if premises continuously abut more than 1 road or access restriction strip directly between the premises and a road, the street front boundary dimensions shall be the total length of those boundaries added together; and
- (c) if premises have more than 1 street front boundary that is not continuous, each street front boundary is to be considered separately.

**structure** has the meaning given in the Act.

**temporary directional community organisation sign** see schedule 3, section 9.

**trade sign** see schedule 3, section 18.

**unclassified/special case sign** see schedule 3, section 19.

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

**zone** means an area identified as a zone in the planning scheme of the local government.

### **Certification**

This and the preceding 29 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2017* made in accordance with the provisions of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the            day of            , 2017.

.....  
Chief Executive Officer

Advertising Devices

[SLL1.4SLL1.4](#)

# Subordinate Local Law No. 1.5 (Keeping of Animals) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.5 (Keeping of Animals) 2011*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

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- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

**Schedule 1 Keeping of animals**

## Section 5

**1. Prescribed activity**

Keeping of animals.

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

The keeping of animals at an animal entertainment park or an animal sanctuary.

**3. Documents and materials that must accompany an application for an approval**

- (1) An application detailing—
  - (a) the species, breed, age and gender of each animal for which the approval is sought; and
  - (b) the number of animals to be kept; and
  - (c) the nature of the premises at which the animal or animals are to be kept; and
  - (d) the area, or the part of the area, in which the animal or animals are to be kept; and
  - (e) the materials out of which any enclosure in which the animal or animals to be kept is (or is to be) constructed and any other details of the enclosure; and
  - (f) the location of the enclosure on the premises; and
  - (g) the name of each person who is to occupy any residence located on the premises on which the animal or animals are to be kept.
- (2) Proof that the applicant currently holds any development approval relating to the prescribed activity that is required under the Planning Act.
- (3) If the applicant is not the owner of the premises on which the animal or animals are to be kept — the written permission of the owner of the premises to the keeping of the animal or animals on the premises.
- (4) Where the animal or animals are to be kept on multi-residential premises and the keeper of the animal or animals is entitled to make use of an area used in common with others (a *common area*) for the purpose of keeping the animal or animals — the written permission of the person or body which manages or controls the common area to use the common area for the purpose of keeping the animal or animals.
- (5) If an animal the subject of the application is required to be registered under the Animal Management Act — evidence that the animal is currently registered with the local government.

**Comment [KB1]:** K&C advised 22/11/17 this Schedule 1 contains likely anti-competitive provisions. Relevant criteria 5 – prescribed standard, 7 – business restriction, and 10 – permit requirement.  
Explanatory comments – Regulates the process for the grant of an approval by constraining the Council's discretion. The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.

- (6) A drawing showing the design and dimensions of any enclosure in which the animal or animals are to be kept.

**4. Additional criteria for the granting of an approval**

- (1) Whether the premises on which the animal or animals are to be kept is appropriately sized so that the animal or animals can be effectively and comfortably kept on the premises.
- (2) Whether a residence exists on the premises.
- (3) Whether a proper enclosure is maintained on the premises in accordance with the requirements of *Local Law No. 2 (Animal Management) 2011*.
- (4) Whether the applicant for the approval of some other suitable person to supervise the animal or animals will be resident on the premises on which the animal or animals are to be kept.
- (5) Whether the animal or animals will be properly supervised.
- (6) If the application relates to the keeping of dogs or cats — whether the animals identified in the application are registered with the local government.
- (7) If section 14 of the Animal Management Act applies to the applicant for the approval — whether the applicant has complied with the requirements of the section.
- (8) Whether the applicant is a suitable person to hold the approval.
- (9) Whether the grant of the approval for the prescribed activity on the premises is likely to —
- (a) cause nuisance, inconvenience or annoyance to occupiers of adjoining land; or
  - (b) affect the amenity of the surrounding area; or
  - (c) have a deleterious effect on the local environment or cause pollution or other environmental damage.
- (10) If the application relates to the keeping of cats —
- (a) whether the cats have been desexed; and
  - (b) whether the cats have been fitted with an approved microchip.
- (11) If the application relates to the keeping of an animal or animals on multi-residential premises —
- (a) whether the applicant is entitled to make use of a common area; and
  - (b) whether the applicant has exclusive possession and control of the whole or a part of the common area for the purpose of keeping the animal or animals; and



- (c) whether the applicant has the written permission of the person or body which manages or controls the common area to use the common area, or a part of the common area, for the purpose of keeping the animal or animals.
- (12) Where the animal or animals are to be kept on premises other than multi-residential premises and the applicant is not the owner of the premises — whether the applicant has the written permission of the owner of the premises to keep the animal or animals on the premises.
- (13) Whether the applicant has been refused a similar type of approval by the local government or another local government.
- (14) If the application relates to a multiple cat approval or a multiple dog approval—whether compassionate grounds exist for granting the approval.

Comment [KB2]: NEW

*Example—*

Compassionate grounds for the grant of an approval exist if—

- (a) 2 dogs are registered with the local government as kept by a person (the *first person*) on the premises; and
- (b) another person (the *second person*) is the keeper of another dog (the *third dog*); and
- (c) the second person is, due to the occurrence of an event (the *intervening event*) which is beyond the reasonable control of the second person, for example, a serious injury, sickness or the death of the second person, unable to keep the third dog; and
- (d) the first person, as a result of, or after the occurrence of, the intervening event, wishes to keep the third dog on the premises.

## 5. Conditions that must be imposed on an approval

No conditions prescribed.

## 6. Conditions that will ordinarily be imposed on an approval

- (1) The conditions that will ordinarily be imposed on an approval to keep dogs on premises are—
  - (a) a condition requiring that the approval holder take all reasonable steps to prevent the dogs from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of other premises; and
  - (b) a condition requiring that the approval holder ensure that any enclosure in which the dogs are kept is properly drained and that run-off is kept off adjoining premises; and
  - (c) a condition requiring that the approval holder ensure that excreta, food scraps and other material that is, or is likely to become, offensive is collected daily and, if not immediately disposed of, is kept in a waste container of a kind approved by an authorised person; and
  - (d) a condition requiring that the approval holder ensure that any enclosure in which the dogs are kept is maintained in—
    - (i) a clean and sanitary condition and disinfected regularly; and

- (ii) an aesthetically acceptable condition; and
  - (e) a condition limiting the approval to the dogs identified in the approval; and
  - (f) a condition limiting the approval to the premises identified in the approval; and
  - (g) subject to compliance with the requirements of the Animal Management Act, section 14, a condition requiring that each dog be implanted with an approved microchip.
- (2) The conditions that will ordinarily be imposed on an approval to keep cats on premises are—
  - (a) a condition limiting the approval to the cats identified in the approval; and
  - (b) a condition requiring the approval holder to—
    - (i) desex each cat within 3 months of the issue of the approval if the cat is aged 6 months or over; and
    - (ii) otherwise, desex each cat within 3 months after the cat reaches 6 months of age; and
    - (iii) produce to the local government evidence, by way of, for example, a statutory declaration, that the cat has been desexed; and
  - (c) a condition requiring that each cat be implanted with an approved microchip.
- (3) The conditions that will ordinarily be imposed on an approval to keep an animal (other than a dog or a cat) are—
  - (a) if minimum standards for the keeping of the species or breed of the animal are prescribed in schedule 5 of *Subordinate Local Law No. 2 (Animal Management) 2011*—the animal must be kept in accordance with the minimum standards for the species or breed of animal prescribed in schedule 5 of *Subordinate Local Law No. 2 (Animal Management) 2011*; and
  - (b) if the approval relates to the keeping of 1 or more animals and the animal or animals are identified in the approval—a condition limiting the approval to the animal or animals identified in the approval; and
  - (c) a condition limiting the approval to the premises identified in the approval.
- (4) The conditions that will ordinarily be imposed on each of a cattery approval and a kennel approval are—
  - (a) the operation of the prescribed activity must not detrimentally affect the

Comment [KB3]: NEW

Comment [KB4]: NEW

- amenity of neighbouring premises; and
- (b) the cattery or kennel must be suitably and continuously ventilated to ensure that all areas on which animals are kept are free of dampness, nuisance odours and dust emissions; and
  - (c) only rain from uncontaminated areas may drain directly into the storm water system; and
  - (d) all spillages of waste, contaminants and other materials must be cleaned up immediately and must not be cleaned up by hosing, sweeping or otherwise releasing such waste, contaminants or material to any storm water system or waters; and
  - (e) the operation of a prescribed activity must not attract fly breeding or vermin infestation; and
  - (f) all fixtures, fittings, equipment and facilities used in the operation of the prescribed activity must be maintained in a clean, tidy, sanitary and hygienic condition; and
  - (g) waste containers sufficient to accommodate the collection and storage of all waste generated as part of the operation of the prescribed activity must be provided in the manner, and at locations, approved by an authorised person; and
  - (h) all waste containers must be regularly cleaned and maintained in a clean, tidy, sanitary and hygienic condition; and
  - (i) animal feed must be stored in insect and vermin proof containers; and
  - (j) all enclosures which form part of the operation of the prescribed activity must be provided and maintained in a manner so as to—
    - (i) be clean and in a sanitary condition; and
    - (ii) prevent the escape of any animal kept in the enclosure; and
    - (iii) be in a state of good order and repair; and
    - (iv) avoid injury to any animal kept in the enclosure; and
    - (v) be impervious and able to be effectively cleaned and sanitised.
- (5) The conditions that will ordinarily be imposed on a pet shop approval are—
- (a) the holder of the approval must ensure that each animal kept at the premises receives all necessary vaccinations, inoculations and treatments which are appropriate according to the age of the animal; and
  - (b) no animal may be sold from the premises unless all necessary vaccinations, inoculations and treatments which are appropriate according to the age of the animal have been implemented; and

- (c) the premises must be maintained in a clean and sanitary condition at all times; and
- (d) all excreta, offensive material and food scraps must be collected at least once each day and placed in a fly proof approved waste container for disposal; and
- (e) all animal food must be stored in a sealed vermin proof container; and
- (f) waste waters from the premises must be drained in a nuisance free manner or as directed by an authorised person; and
- (g) if a code of practice for the operation of a pet shop has been approved by the local government—the holder of the approval must operate the pet shop in accordance with the requirements of the code of practice.

Comment [KB5]: NEW

## 7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

Comment [KB6]: Current law also states 7(3) "An approval may be granted for a term of up to 1 year". This has been DELETED.

## 8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

Comment [KB7]: Current law states 7(2) "The term for which an approval may be renewed or extended must not exceed 1yr". This has been DELETED.

**Table 1 – Third party certification**

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirements stated.		

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**Schedule 2      Categories of approval that are non-transferable**

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## Schedule 3 Dictionary

### Section 4

**animal entertainment park** means a public place which includes, as part of its entertainment, the exhibiting of animals for the amusement or entertainment of the public.

**Animal Management Act** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**animal sanctuary** means a park, reserve or other place used for the preservation, protection or rehabilitation of animals.

**approved microchip** (for an animal)—

- (a) means a microchip which—
  - (i) is capable of being read by the local government’s microchip reader; and
  - (ii) bears an electronic code which permanently identifies the animal for identification purposes; and
- (b) includes a permanent identification device.

**cattery approval** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

Comment [KB8]: NEW

**common area** has the meaning given in schedule 1, section 3(4).

**development approval** has the meaning given in the *Sustainable Planning Act 2009*.

**kennel approval** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**multiple cat approval** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**multiple dog approval** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

Comment [KB9]: NEW

**multi-residential premises** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**owner** (of an animal) has the meaning given in *Local Law No. 2 (Animal Management) 2011*.

**owner** (of land) includes—

- (a) the registered proprietor of freehold land; and
- (b) the purchaser of land to be held as freehold land that is being purchased from the State under an Act; and
- (c) the holder of a leasehold interest from the State; and
- (d) the holder of a mining claim or a mining lease to which the *Mineral Resources Act 1989* applies; and
- (e) another person who is entitled to receive the rent for the land.

**owner** (of premises) means the person for time being entitled to receive the rent for the premises or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

**permanent identification device** has the meaning given in the *Animal Management Act*.

**pet shop approval** has the meaning given in *Subordinate Local Law No. 2 (Animal*

Management) 2011.

**PPID** has the meaning given in the *Animal Management (Cats and Dogs) Act 2008*.

Comment [KB10]: NEW

**premises** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**proper enclosure** has the meaning given in *Local Law No. 2 (Animal Management) 2011*.

**public place** has the meaning given in *Local Law No. 1 (Administration) 2011*.

**registered** has the meaning given in the *Animal Management Act*.

**residence** has the meaning given in *Subordinate Local Law No. 2 (Animal Management) 2011*.

**suitable person**, to hold an approval, means a person who, in the local government’s opinion, is acceptable as a keeper of an animal having regard to the following—

- (a) the nature of any offence committed by the person under the authorising local law or another law about the keeping of animals; and
- (b) whether the person has been the keeper of an animal and an approval of the person about the keeping of the animal has been cancelled under the authorising local law or another law; and
- (c) whether the person has committed an offence involving cruelty to an animal; and
- (d) any unsatisfactory past conduct of the person in relation to the keeping of an animal; and
- (e) whether the person has complied with the criteria prescribed for the keeping of an animal.

Comment [KB11]: NEW

**waste** has the meaning given in the *Environmental Protection Act 1994*.

This and the preceding 11 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.5 (Keeping of Animals) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the \_\_\_\_\_ day of \_\_\_\_\_ (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

# Subordinate Local Law No. 1.6 (Operation of Accommodation Parks) 2017

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**Comment [KB1]:** This SLL is NEW and repeals current SLL1.6 Camping and SLL1.8 Caravan Parks, both of which are currently silent. This new SLL will cover caravans, cabins, tents, etc. EXCLUDES temporary events.

FYI - accommodation means—  
(a) a caravan; or  
(b) a complementary accommodation.  
(i) an on-site caravan;  
(ii) a cabin;  
(iii) a manufactured home;  
(iv) a tent or other structure that can be readily assembled and disassembled.

NB: s2(2) provides exclusion for access to or use of accommodation park on LG controlled area for no consideration (this is relevant for Kershaw Gardens activities)

Comments from meeting with Mayor 19/12/17 – To discuss further with councillors



## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.6 (Operation of Accommodation Parks) 2017*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) For the purposes of the definition of **complementary accommodation** in schedule 1 of the authorising local law, the accommodation listed in schedule 3 is prescribed as appropriate to accommodation parks.
- (3) The dictionary in schedule 4 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.

- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.
- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 2 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
- column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## 6 Approvals that are non-transferable—Authorising local law, s 15(2)

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## Part 3 Repeal

### 7 Repeal of subordinate local law

This subordinate local law repeals—

- Subordinate Local Law No. 1.6 (Operation of Camping Grounds) 2011*; and
- Subordinate Local Law No. 1.8 (Operation of Caravan Parks) 2011*.

**Comment [KB2]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit requirement, 5 – prescribed standard, and 7 – business restriction.  
Explanatory comments – The LG may declare that the authorising LL does not apply to particular activities and impose requirements or conditions which must be complied with if the authorising LL does not apply to the particular activities. The requirements and conditions may have an impact on the conduct of a business activity, and in particular, a prescribed activity identified in the SLL.

**Comment [KB3]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit requirement.  
Explanatory comments – Regulates the process for the grant of an approval by constraining the Council's discretion.

**Comment [KB4]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit requirement.  
Explanatory comments – The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.

**Comment [KB5]:** K&C advised 22/11/17 this is a likely anti-competitive provision. Relevant criteria 10 – permit requirement.  
Explanatory comments – The LG may declare that a category of approval for a prescribed activity is non-transferable, which may have an impact on the conduct of a business activity, and in particular, that part of the prescribed activity which is a business activity.

## Schedule 1      Operation of accommodation parks

### Section 5

#### 1.      Prescribed activity

Operation of accommodation parks.

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

- (1)      Section 6(2) of the authorising local law does not apply to the undertaking of the prescribed activity if—
  - (a)      the prescribed activity is undertaken contemporaneously with the operation of a temporary entertainment event; and
  - (b)      the operation of the temporary entertainment event is undertaken in compliance with the requirements of the authorising local law.
- (2)      For the avoidance of doubt, section 6(2) of the authorising local law does not apply if the local government permits access to, or use of, an accommodation park on a local government controlled area for no consideration.
- (3)      Also, section 6(2) of the authorising local law does not apply to the undertaking of the prescribed activity on premises if the undertaking of the prescribed activity on the premises complies with the minimum standards prescribed subsection (4).
- (4)      The person undertaking the prescribed activity at the premises must –
  - (a)      allow an authorised person to have reasonable access to the premises during normal business hours; and
  - (b)      ensure that the undertaking of the prescribed activity at the premises does not detrimentally affect the amenity of land adjoining the premises; and
  - (c)      ensure that any premises, building, structure, vehicle, facility, equipment or fixture used in the undertaking of the prescribed activity is maintained in—
    - (i)      good working order and condition; and
    - (ii)     a clean, safe and tidy condition; and
  - (d)      ensure that people, vehicles and caravans may enter and exit the premises used in the undertaking of the prescribed activity safely; and
  - (e)      provide and maintain an adequate supply of water to the premises, including water suitable for drinking, cooking and personal hygiene purposes; and
  - (f)      ensure that—
    - (i)      hot and cold reticulated water is available for every shower and

- bath which is made available for use by patrons of the premises;  
and
- (ii) reticulated water is available for every hand basin which is made available for use by patrons of the premises; and
- (g) ensure that the water supplied for drinking purposes at the premises is potable water; and
- (h) if water supplied from a particular water outlet at the premises is unsuitable for drinking—ensure that a sign is prominently displayed at the outlet stating "unsuitable for drinking"; and
- (i) ensure that all materials of a hazardous or dangerous nature which are used in the undertaking of the prescribed activity are stored and used in a safe manner; and
- (j) ensure that the facilities provided at the premises for the disposal of solid waste are—
  - (i) sufficient to accommodate the collection and storage of all solid waste generated as part of the undertaking of the prescribed activity at the premises; and
  - (ii) provided in the manner, and at the locations, as specified by an authorised person from time to time; and
- (k) not locate accommodation, or permit the accommodation to be located, at any place within the premises other than on a site which is designated for a single accommodation; and
- (l) not locate, or permit to be located, at any 1 time, more than 1 accommodation, on a site which is designated for a single accommodation; and
- (m) not permit accommodation to be occupied by more persons than the accommodation is designed to accommodate; and
- (n) keep and maintain a register which details—
  - (i) the name and address of each person who hires a site or complementary accommodation at the premises; and
  - (ii) an identifying number for the site or accommodation; and
  - (iii) if a caravan is brought onto a site—the registration number of the caravan and (if applicable) the vehicle towing it; and
  - (iv) the dates when the hiring of the site or accommodation begins and ends; and
- (o) produce the register for inspection on demand by an authorised person;  
and

- (p) not permit or allow a person to bring onto a site a caravan or other type of accommodation that is not fit for human habitation; and
- (q) in the undertaking of the prescribed activity, not use an extension telephone bell, open air address system or similar device if the bell, system or device causes a nuisance or annoyance to any person; and
- (r) ensure that the undertaking of the prescribed activity does not attract fly breeding or vermin infestation; and
- (s) dispose of all solid waste generated as part of the undertaking of the prescribed activity in a manner which maintains the undertaking of the prescribed activity at the premises and its surrounds in a clean, tidy, sanitary and hygienic condition; and
- (t) ensure that the undertaking of the prescribed activity does not result in an accumulation, aggregation or proliferation of—
  - (i) discarded or disused machinery, goods or wares; or
  - (ii) solid waste, refuse, scrap, bottles or second hand materials of any description; or
  - (iii) dead, overgrown or untended trees or vegetation on any part of the premises; and
- (u) promptly remove from the premises any accommodation which is dilapidated, unsightly or overcrowded; and
- (v) not allow the disposal of greywater or blackwater on any part of the premises unless the premises contains an approved dump point; and
- (w) not erect or locate an accommodation, or suffer or permit an accommodation to be erected or located, closer than 3m to any other accommodation; and
- (x) not erect an accommodation, or suffer or permit an accommodation to be erected, unless and until the accommodation is weatherproof, in good repair, fit for human habitation and in a clean and sanitary condition; and
- (y) provide ground anchor points designed to withstand heavy wind loads to enable the tie down of caravans and complementary accommodation; and
- (z) maintain adequate recreational facilities at the premises; and
- (aa) provide and maintain buffer zones between sites and roads, external boundaries and other facilities at the premises; and
- (ab) provide and maintain adequate lighting at the premises; and

- (ac) provide and maintain adequate toilet, bathing and showering facilities for persons of both sexes (including disabled persons) using the premises for accommodation park purposes.

**3. Documents and materials that must accompany an application for approval**

- (1) If the applicant is not the owner of the place at which the accommodation park is to be operated—the written consent of the owner to the application.
- (2) The name, address and contact details of the proposed resident manager of the accommodation park and the proposed resident manager's written agreement accepting the responsibilities of resident manager of the accommodation park.
- (3) A plan of the proposed accommodation park which must be drawn to scale showing—
  - (a) the location and real property description of the place at which the accommodation park is to be operated; and
  - (b) the boundaries of the accommodation park; and
  - (c) the division of the accommodation park into sites, including the location and number of potential sites, with each site clearly defined and bearing a distinguishing mark or number; and
  - (d) the location of each road and building situated within the accommodation park; and
  - (e) details of the water supply system, including the position of all water points; and
  - (f) the position of all waste containers; and
  - (g) details of the sewerage system including the position of each sanitary convenience, ablution and laundry building; and
  - (h) details of the on-site sewerage facilities; and
  - (i) the position of all fire places; and
  - (j) the nature and position of all fire alarms and fire fighting equipment; and
  - (k) the nature and position of all electrical installations.
- (4) Details of the facilities for sanitation, washing and laundry to be provided for users of the accommodation park.
- (5) Details of water quality, reticulation and drainage facilities to be provided for users of the accommodation park.
- (6) Details of the maximum number of persons who can be accommodated at—
  - (a) the accommodation park; and

- (b) each site within the accommodation park.
- (7) Details of the rules which will govern the use of the accommodation park, including rules which prohibit or restrict the keeping of dogs at the accommodation park.
- (8) A current certificate of compliance issued under the *Fire and Emergency Services Act 1990*.
- (9) A current certificate of testing and safety issued under the *Electrical Safety Act 2002*.

**4. Additional criteria for the granting of an approval**

- (1) The operation of the accommodation park must be lawfully conducted on the premises.
- (2) The operation of the accommodation park must not produce—
  - (a) environmental harm; or
  - (b) environmental nuisance; or
  - (c) inconvenience or annoyance to the occupiers of any adjoining land.
- (3) All facilities at the accommodation park must be—
  - (a) of an acceptable standard; or
  - (b) able to be brought to an acceptable standard, for use by residents of the accommodation park.

**5. Conditions that must be imposed on an approval**

No conditions stated.

**6. Conditions that will ordinarily be imposed on an approval**

- (1) The operation of the accommodation park must not detrimentally affect the amenity of adjoining land.
- (2) The operation of the accommodation park, including any premises, building, structure, vehicle, facility, equipment or fixture must be maintained in—
  - (a) good working order and condition; and
  - (b) a clean, safe and tidy condition.
- (3) Provision must be made for people, vehicles and caravans to enter and exit the accommodation park safely.
- (4) The approval holder must—
  - (a) provide and maintain an adequate supply of water to the

- 
- accommodation park, including water suitable for drinking, cooking and personal hygiene; and
- (b) cause hot and cold water to be reticulated to every shower, bath and hand basin.
- (5) The water supply for drinking purposes must be potable water.
- (6) The approval holder must ensure that, if water obtained from a particular water outlet in the accommodation park may be unsuitable for drinking, a sign is prominently displayed at the outlet stating "Unsuitable for Drinking".
- (7) The approval holder must provide and maintain adequate toilet, bathing and showering facilities for persons of both sexes (including disabled persons) using the accommodation park, including—
- (a) at least 2 showers or baths (in separate cubicles) for each sex, for every 15 individual sites (within the accommodation park); and
  - (b) at least 1 handbasin for every 4 shower cubicles (or baths) for each sex; and
  - (c) shower (or bath) cubicles must be constructed so as to totally conceal a person within the cubicle from persons who may be outside the cubicle; and
  - (d) for water closets—for every 12 individual sites (within the accommodation park)—
    - (i) for males—at least 2 water closet pedestals and 0.9 metres of urinal stall; and
    - (ii) for females—at least 4 water closet pedestals.
- (8) If bed linen is supplied—
- (a) keep it in a clean and sanitary condition; and
  - (b) replace it with clean bed linen after each change of occupation of the accommodation.
- (9) All materials of a hazardous or dangerous nature which are used in the operation of the accommodation park must be stored and used in a safe manner.
- (10) Facilities for the disposal of solid waste must be—
- (a) sufficient to accommodate the collection and storage of all solid waste generated as part of the operation of the accommodation park; and
  - (b) provided in the manner, and at the locations, specified by the local government.



- 
- (11) The local government may limit the number of persons who may occupy a site and require the approval holder to—
- (a) ensure that the limit is displayed on a notice erected in a prominent position at the accommodation park; and
  - (b) take appropriate action to ensure that the limit is not contravened.
- (12) The approval holder must—
- (a) not locate or permit accommodation to be located at any place within the accommodation park other than on a site approved by the local government under this subordinate local law; and
  - (b) not locate or permit to be located more than 1 accommodation, on a site at any 1 time; and
  - (c) not permit accommodation to be occupied by more persons than the accommodation is designed to accommodate.
- (13) The approval holder must—
- (a) unless an accommodation is fitted with a set of twin wash tubs and a clothes washing machine or washing boiler— provide for the exclusive use of the occupants of the accommodation, laundry facilities in the ratio of 1 set of twin wash tubs and 1 clothes washing machine or washing boiler and 1 clothes hoist or an equivalent length of clothes line for every 20 sites or part of a site; and
  - (b) not erect or locate an accommodation or suffer or permit an accommodation to be erected or located, closer than 3m to any other accommodation; and
  - (c) if the local government has approved a site layout plan for the accommodation park— cause each site to be clearly defined and legibly marked in accordance with the plan; and
  - (d) not erect an accommodation or suffer or permit an accommodation to be erected, unless and until the accommodation is weatherproof, in good repair, fit for human habitation and in a clean and sanitary condition; and
  - (e) provide ground anchor points designed to withstand heavy wind loads to enable the tie-down of caravans and complementary accommodation; and
  - (f) cause sanitary conveniences and ablutionary facilities to be located—
    - (i) not more than 100 m from any site; and
    - (ii) at least 6 m from any site; and
  - (g) provide and maintain specified recreational facilities; and

- 
- (h) provide and maintain buffer zones between sites and roads, external boundaries and other facilities of the accommodation park; and
  - (i) provide and maintain lighting at the accommodation park—
    - (i) to a specified standard; and
    - (ii) during specified hours.
- (14) If the local government gives written notice to the approval holder that the local government is not satisfied that the resident manager of the accommodation park is a suitable person to be the resident manager— replace the resident manager with an alternate resident manager who is acceptable to the local government within a time stated in the notice.
- (15) The approval holder must keep and maintain a register which details—
- (a) the name and address of each person who hires a site or complementary accommodation at the accommodation park; and
  - (b) an identifying number for the site or accommodation; and
  - (c) if a caravan is brought onto the site—the registration number of the caravan and (if applicable) the vehicle towing it; and
  - (d) the dates when the hiring of the site or accommodation begins and ends.
- (16) The approval holder or the resident manager must, at the request of an authorised person, produce the register for inspection.
- (17) The approval holder must not permit or allow a person to bring onto a site a caravan or other type of accommodation that is not fit for human habitation.

*Example—a caravan that is not weather proof*

- (18) The approval holder must not, unless the local government agrees in writing, change the sites at the accommodation park by—
- (a) adding to the existing sites; or
  - (b) changing the position or boundaries of a site.
- (19) The approval holder must not change any building, structure or facility at the accommodation park by—
- (a) adding new buildings, structures or facilities; or
  - (b) removing existing buildings, structures or facilities; or
  - (c) changing the position of any building, structure or facility.
- (20) However, subsections (18) and (19) do not apply if the proposed change constitutes development under the *Planning Act 2016*.

- 
- (21) The operation of the accommodation park must not—
    - (a) create a traffic problem; or
    - (b) increase an existing traffic problem; or
    - (c) detrimentally affect the efficiency of an existing road network.
  - (22) The approval holder must not use an extension telephone bell, open air address system or similar device as part of the operation of the accommodation park if the bell, system or device causes a nuisance or annoyance to any person.
  - (23) The operation of the accommodation park must not attract fly breeding or vermin infestation.
  - (24) The approval holder must dispose of all solid waste generated as part of the operation of the accommodation park in a manner which maintains the operation of the accommodation park and its surrounds in a clean, tidy, sanitary and hygienic condition.
  - (25) Signage used in the operation of the accommodation park must be exhibited in a manner, and at the locations, specified by the local government.
  - (26) The local government may—
    - (a) prescribe rules which govern the use of the accommodation park and require the approval holder to ensure compliance with the rules by each user of the accommodation park; and
    - (b) require that the rules which govern the use of the accommodation park must be displayed in the manner, and at the locations, specified by the local government so that the rules can be viewed by users of the accommodation park.
  - (27) The approval holder must comply with specified standards for the painting, paving and internal and external treatment of buildings, structures and sites.
  - (28) The approval holder must ensure that no accumulation, aggregation or proliferation of—
    - (a) discarding or disused machinery, goods or wares; or
    - (b) solid waste, refuse, scrap, bottles or second hand materials of any description; or
    - (c) dead, overgrown or untended trees or vegetation,occurs on any part of the accommodation park.
  - (29) The approval holder must not permit a person who occupies a place at an accommodation park, including a site or complementary accommodation at the accommodation park, to engage in a business, trade or occupation if the undertaking of the activity at the place—

- (a) causes a nuisance or annoyance to any person; or
  - (b) has, or may have, an adverse impact on the safety or amenity of users of the accommodation park.
- (30) The local government may specify conditions applying to the operation of the accommodation park including—
- (a) times and days for administration of the arrival and departure of hirers of accommodation at the accommodation park; and
  - (b) conditions of stay; and
  - (c) minimum requirements for condition and maintenance of caravans and complementary accommodation; and
  - (d) conditions applying to the use of any facilities or services of the accommodation park; and
  - (e) the prohibition of specified activities.
- (31) The local government may require that the approval holder direct a person to leave the accommodation park forthwith, or within a specified time, where the person is found to be—
- (a) acting in a disorderly or objectionable manner; or
  - (b) contravening a requirement of this local law or a Local Government Act, which contravention will, in the opinion of an authorised person, adversely impact on the safety or amenity of other accommodation park users.
- (32) The local government may require that the approval holder remove from the accommodation park a caravan which, in the opinion of an authorised person, is dilapidated, unsightly or overcrowded within a specified time.

## **7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

## **8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 — Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
No application requirement stated.		

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**Schedule 2      Categories of approval that are non-transferable**

Section 6

Each approval for the prescribed activity named in schedule 1, section 1 is transferable.

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## **Schedule 3      Prescribed complementary accommodation**

### Section 4

The other accommodation that is prescribed as appropriate to accommodation parks is accommodation in any of the following—

- (a) an on-site caravan;
- (b) a cabin;
- (c) a manufactured home;
- (d) a tent or other structure that can be readily assembled and disassembled.

## Schedule 4 Dictionary

### Section 4

**accommodation** means—

- (a) a caravan; or
- (b) a complementary accommodation.

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

**cabin** means a relocatable home, building or fixed structure (other than a building or structure used exclusively as the residence or office of a resident manager).

**electrical installation** has the meaning given in the *Electricity Act 1994*.

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*.

**facilities** includes—

- (a) toilets; and
- (b) bathing and showering facilities; and
- (c) facilities for washing and drying clothes; and
- (d) facilities for cooking and food preparation; and
- (e) sporting and other recreational facilities; and
- (f) the facilities for the use or convenience of people using an accommodation park.

**manufactured home** has the meaning given in the *Manufactured Homes (Residential Parks) Act 2003*.

**occupant** (of accommodation) means a person who resides at the accommodation.

**on-site sewerage facility** has the meaning given in the *Plumbing and Drainage Act 2002*.

**potable water** means water that is free from pollution, harmful organisms and impurities.

**premises** means the premises used for the operation of the accommodation park.

**relocatable home** means a Class 1 or Class 3 building under the Building Code of Australia (or its equivalent) which is—

- (a) constructed away from the site at which it is erected; and
- (b) designed to be moved from 1 location to another; and
- (c) ordinarily able to be moved within 24 hours of commencement of work associated with the move.

**resident** (of an accommodation park) means a person who resides in a caravan or complementary accommodation at the accommodation park.

**resident manager** (of an accommodation park) means —

- (a) a person nominated by the approval holder and accepted by the local government from time to time who—
  - (i) is responsible for the management and supervision of the accommodation park; and
  - (ii) resides on or near the accommodation park; and



- (iii) is present or available at all reasonable times to ensure the operation of the accommodation park; and
- (b) if that person cannot be located, or if no such person is nominated and accepted, the approval holder.

**sanitary convenience** has the meaning given in the *Environmental Protection Act 1994*.

**sewerage system** has the meaning given in the *Plumbing and Drainage Act 2002*.

**site** means a part of an accommodation park which is designated for a single accommodation of a particular type.

**structure** has the meaning given in the *Local Government Act 2009*.

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

**waste** has the meaning given in the *Environmental Protection Act 1994*.

**water supply system** has the meaning given in the *Standard Plumbing and Drainage Regulation 2003*.

This and the preceding 17 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.6 (Operation of Accommodation Parks) 2017* made in accordance with the provisions of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the                      day of                      (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

# Subordinate Local Law No. 1.9 (Operation of Cemeteries) 2011

## Contents

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.9 (Operation of Cemeteries) 2011*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

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- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 2 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 2 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## Schedule 1      Operation of cemeteries

### Section 5

#### 1.      Prescribed activity

Operation of cemeteries.

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

No activities stated.

#### 3.      Documents and materials that must accompany an application for an approval

- (1)      Details of the proposed cemetery including—
  - (a)      a site plan; and
  - (b)      the proposed number of grave sites; and
  - (c)      the proposed hours of operation.
- (2)      Details of the proposed administration and management of the proposed cemetery.
- (3)      If a development approval for the cemetery is required under the *Sustainable Planning Act 2009* — a copy of the development approval.
- (4)      If the application for an approval does not relate to a local government cemetery and the applicant is not the owner of the premises on which the prescribed activity is to be undertaken — the written consent of the owner of the premises.

#### 4.      Additional criteria for the granting of an approval

- (1)      The operation of the prescribed activity must not result in—
  - (a)      harm to—
    - (i)      human health; or
    - (ii)      safety; or
  - (b)      personal injury; or
  - (c)      a loss of amenity; or
  - (d)      a nuisance.
- (2)      The proposed administration and management of the cemetery must be appropriate.

#### 5.      Conditions that must be imposed on an approval

- (1) The approval holder must—
  - (a) keep the cemetery open to the public during particular hours as specified by the local government; and
  - (b) keep and maintain records as prescribed by the local government about each burial and cremation.
- (2) A burial, cremation or other disposal at the cemetery must not be carried out outside the hours during which the cemetery is open to the public.
- (3) All remains in the cemetery must be enclosed in a coffin or other form of container appropriate to the form of disposal.
- (4) Subsection (3) does not apply to ashes scattered after the cremation of human remains.

**Comment [KB1]:** Current law also includes (1)(c) ensure that an appropriate identifying plaque is placed on or adjacent to the place of each disposal until an appropriate memorial to the deceased is erected or installed – this has been MOVED to s6 below.

**Comment [KB2]:** Current law also includes (3) A person must not reopen a grave, or exhume a body or the remains of a body buried in the cemetery other than—  
 (a) under the authority of an approval under the *Coroner's Act 2003* and on the production of the approval; and  
 (b) with the approval of the local government (under the subordinate local law regulating activities regarding human remains, if applicable).  
 -THIS HAS BEEN DELETED.

## 6. Conditions that will ordinarily be imposed on an approval

- (1) The approval holder must take specified measures to—
  - (a) prevent harm to the health and safety of persons who may be involved in, or affected by, the undertaking of the prescribed activity; and
  - (b) prevent personal injury, property damage or a loss of amenity resulting from the undertaking of the prescribed activity.
- (2) The approval holder must—
  - (a) take out and maintain specified insurance indemnifying a person who may suffer personal injury, loss or damage as a result of the undertaking of the prescribed activity; and
  - (b) give the local government specified indemnities.
- (3) The local government may regulate—
  - (a) the position of grave sites; and
  - (b) periods of leases for grave sites; and
  - (c) requirements for the proper maintenance of memorials and other buildings and structures in the cemetery; and
  - (d) the hours when the cemetery may be open to the public; and
  - (e) the hours when a burial, cremation or disposal may take place in the cemetery; and
  - (f) standards for the minimum depth, size and other dimensions of graves and grave sites; and
  - (g) standards for coffins; and
  - (h) the number of bodies which may be buried in a single grave.

- (4) The approval holder must ensure that an appropriate identifying plaque is placed on or adjacent to the place of each disposal until an appropriate memorial to the deceased is erected or installed.

### 7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**Comment [KB3]:** Current law also includes 7(3) An approval may be granted for a term of up to 1 year. – this has been DELETED.

### 8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Comment [KB4]:** Current law also includes 8(2) The term for which an approval may be renewed or extended must not exceed 1 year. – this has been DELETED.

**Table 1 – Third party certification**

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirement stated.		

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**Schedule 2      Categories of approval that are non-transferable**

Section 6

Each approval for the prescribed activity named in schedule 1, section 1 is transferable.



## Schedule 3 Dictionary

### Section 4

**development approval** has the meaning given in the *Sustainable Planning Act 2009*.

**memorial** includes—

- (a) a headstone; and
- (b) an inscribed plaque or commemorative plate; and
- (c) monumental, ornamental or other structures erected on a grave site; and
- (d) anything else erected or placed to mark the site where human remains have been buried or placed, or to commemorate a deceased person.

This and the preceding 7 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.9 (Operation of Cemeteries) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the \_\_\_\_\_ day of \_\_\_\_\_ (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

# Subordinate Local Law No. 1.12 (Operation of Temporary Entertainment Events) 2011

## Contents

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.12 (Operation of Temporary Entertainment Events) 2011*.

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 4 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 2 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## **Part 3 Application to State-controlled roads**

### **7 State-controlled roads to which the local law applies—Authorising local law, schedule 1**

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are roads to which the authorising local law applies unless otherwise provided in the local law.

## Schedule 1 Operation of temporary entertainment events

### Section 5

#### 1. Prescribed activity

Operation of temporary entertainment events.

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

- (1) Section 6(2) of the authorising local law does not apply if—
- (a) the opening to the public of the temporary entertainment event constitutes development under the Planning Act, for example, the use of an indoor recreation facility under the planning scheme of the local government; or
  - (b) the operation of the temporary entertainment event is undertaken by, or on behalf of, the local government; or
  - (c) the operation of the temporary entertainment event complies with the minimum standards prescribed in subsection (3).
- (2) Despite subsection (1), and for the avoidance of doubt, an approval is required under the authorising local law if—
- (a) the place at which the temporary entertainment event is operated includes a local government controlled area or a road; or
  - (b) the operation of the temporary entertainment event—
    - (i) occurs more than once in any 12 month period; or
    - (ii) includes the playing of music or the use of a microphone through an amplifier device; or
  - (c) the temporary entertainment event includes the operation, for entertainment purposes, of 1 or more of the following—
    - (i) a motorbike;
    - (ii) a motorised scooter;
    - (iii) a motor vehicle.
- (3) The person who operates the temporary entertainment event must—
- (a) take all necessary action to maintain the place of the temporary entertainment event; and
  - (b) provide all necessary equipment, and to take all necessary measures, for the safety of the public; and

**Comment [KB1]:** K&C advised rcd 22/11/17 states this schedule contains likely **anti-competitive provisions**. Relevant criteria 5 – prescribed standard, 7 – business restriction, and 10 permit requirement.  
 Explanatory comments - The local government may declare that the authorising local law does not apply to particular activities and impose requirements or conditions which must be complied with if the authorising local law does not apply to the particular activities. The requirements and conditions may have an impact on the conduct of a business activity, and in particular, the prescribed activity identified in the subordinate local law. Regulates the process for the grant of an approval by constraining the Council's discretion.  
 The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.

**Comment [KB2]:** FYI definitions in LLI:  
*operation of temporary entertainment events* means the opening to the public, or the preparation for opening to the public, of an entertainment event and for which the opening to the public does not constitute development under the Planning Act.

*entertainment* includes recreation and amusement.

*entertainment event* means an event that is **open to the public** for entertainment whether or not a charge for admission is made and whether or not the person who controls admission to the place reserves a right to refuse admission.

FYI definitions in RRC's Guidelines for Completing Application for a Temporary Event:

**Temporary** - an event that is *not* conducted on a regular basis (that is weekly or monthly at a fixed venue).

Generally speaking, this SLL deals with temporary entertainment events open to the public (whether on private or public land).

**Comment [KB3]:** NEW

- (c) provide all necessary facilities and amenities for the temporary entertainment event; and
- (d) limit the hours of operation of the temporary entertainment event; and
- (e) provide all necessary equipment, and take all necessary measures, to reduce the adverse effect of activities at the temporary entertainment event on the surrounding neighbourhood to acceptable levels; and
- (f) take out and maintain public liability insurance, and, if requested by an authorised person, produce documentary evidence of the insurance to the local government before the event commences—
  - (i) if the event occurs on a local government controlled area or a road— in an amount not less than \$20,000,000.00 per occurrence;
  - (ii) if the event occurs on land other than a local government controlled area or a road—in an amount not less than \$10,000,000.00 per occurrence; and
- (g) minimise noise emission from the temporary entertainment event to an acceptable level; and
- (h) ensure that the design and construction of the place of the temporary entertainment event is safe and appropriate having regard to the nature of the entertainment proposed and the number of people expected to attend the place; and
- (i) if the event includes an activity on a road—give a written indemnity to each of the State and the local government; and
- (j) ensure that the place of the temporary entertainment event and its operation do not unreasonably detract from the amenity of the area in which the place is located; and
- (k) provide adequate toilets and sanitary conveniences for the use of members of the public attending the temporary entertainment event; and
- (l) adequately provide for the collection and disposal of waste generated by the temporary entertainment event; and
- (m) adequately provide for people and (if applicable) vehicles to enter and leave the place of the temporary entertainment event; and
- (n) ensure that any premises, building, structure, vehicle, facility or equipment used in the operation of the temporary entertainment event are maintained at all times—
  - (i) in good working order; and
  - (ii) in a good state of repair; and
  - (iii) in a clean and sanitary condition; and

Comment [KB4]: NEW

Comment [KB5]: NEW

Comment [KB6]: NEW

Comments from meeting with Mayor 19/12/17 – Consider further these insurance provisions at the Council table.

Comment [KB7]: NEW

Comments from meeting with Mayor 19/12/17 – Query with K&C at final drafting stage – is 'AND' relevant here? Should it be one or the other (ie. 'OR' or 'AND/OR' depending on where the temporary event is to be held?

- (o) adequately provide for—
  - (i) crowd, traffic and parking control; and
  - (ii) security measures to be implemented; and
  - (iii) evacuation procedures to be implemented as part of the operation of the temporary entertainment event; and
  - (iv) the public display of evacuation plans and procedures as part of the operation of the temporary entertainment event; and
  - (v) the exhibition of signage as part of the operation of the temporary entertainment event; and
  - (vi) the removal of structures erected, and equipment used, as part of the operation of the temporary entertainment event at the completion of the event.

### 3. Documents and materials that must accompany an application for an approval

- (1) A site plan of the place of the temporary entertainment event which details the proposed location of, where applicable—
  - (a) the stage and direction of amplified noise; and
  - (b) each emergency response station; and
  - (c) each liquor consumption area; and
  - (d) all litter/refuse facilities; and
  - (e) the sewerage system for the place, including the position of each sanitary convenience at the place; and
  - (f) the nature and position of each installation at the place which is to be used for the preparation or sale of food; and
  - (g) each entry and exit point; and
  - (h) each registration and marshalling area.
- (2) Details and drawings of buildings and other structural elements of the place of the temporary entertainment event.
- (3) A detailed statement of the nature of the entertainment to be provided at the place of the temporary entertainment event and when the place is to be open to the public.
- (4) If the applicant is not the owner of the place of the temporary entertainment event—the written consent of the owner of the place.
- (5) The dates and times during which the temporary entertainment event is to be undertaken.

**Comment [KB8]:** Amended. Details of water supply and advertising devices deleted. Additional requirements include (a), (b), (c), (g) and (h)

Comments from meeting with Mayor 19/12/17 – Councillors to consider further, specifically in relation to the site management plan mandatory requirements, and the requirement for this section. Mayor wishes to reduce “red tape”

- (6) The expected attendance rate for the temporary entertainment event.
- (7) The street address, real property description and details of the owner of the place where the temporary entertainment event is to be undertaken.
- (8) The name, street address and contact details of each person and business who will operate the temporary entertainment event.
- (9) A copy of each policy of insurance of the applicant which is applicable to the undertaking of the prescribed activity including, without limitation, a public liability insurance policy which provides indemnity for each individual occurrence in an amount not less than—
  - (a) \$10,000,000.00 for an event on land other than a local government controlled area or a road;
  - (b) \$20,000,000.00 for an event on a local government controlled area or a road.
- (10) If requested—details of proposed arrangements for each of the following which may include, but is not limited to—
  - (a) consultation with key stakeholders; and
  - (b) notification of the event to the surrounding residents and businesses, including contact details for the person or business who operates the temporary entertainment event; and
  - (c) cleaning and sanitation; and
  - (d) noise management, including audio equipment; and
  - (e) waste and recycling; and
  - (f) catering services with each food business licence issued under the *Food Act 2006*; and
  - (g) toilet and wash basin facilities; and
  - (h) drinking water quality and supply; and
  - (i) security services; and
  - (j) emergency response; and
  - (k) traffic management and road closure arrangements; and
  - (l) risk assessment and management strategy; and
  - (m) fire response; and
  - (n) camping controls, including shower and ablution facilities and medical response.



- (11) Copies of applicable approvals and certifications, for example—
- (a) a permit under the *Liquor Act 1992* if the consumption of liquor is to be permitted ; and
  - (b) a fire safety audit report conducted in accordance with AS 4655 – Fire Safety Audits, taking into account—
    - (i) AS 2444 – Portable fire extinguishers and fire blankets – selection and location; and
    - (ii) AS 2293 – Emergency escape lighting and exit signs; and
    - (iii) AS 1851 – Maintenance of fire protection system and equipment; and
  - (c) a report from an approved electrical contractor, taking into account—
    - (i) AS/NZS 3760 - In-service safety inspection and testing of electrical equipment; and
    - (ii) AS/NZS 3001 - Transportable structures and vehicles including their sites; and
  - (d) a certified structural safety report for all temporary construction work; and
  - (e) if applicable—a fireworks licence issued by the Department of Natural Resources and Mines; and
  - (f) a certificate for each amusement ride (if any) issued by Workplace Health and Safety Queensland; and
  - (g) a temporary food business licence issued under the *Food Act 2006*; and
  - (h) a traffic control permit; and
  - (i) a special event permit issued under the *Transport Operations (Road Use Management – Accreditation and Other Provisions) Regulation 2015*.

*Note: An application for an approval for the prescribed activity, and all documents and materials that must accompany the application for the approval, must be made to the local government at least 12 weeks prior to the date of commencement of the proposed entertainment event identified in the application.*

*Note: Rockhampton Regional Council's website provides guidance on application processes for temporary entertainment events and compliance with this subordinate local law.*

#### 4. Additional criteria for the granting of an approval

- (1) The design and construction of the place of the temporary entertainment event must be safe and appropriate to the nature of the entertainment proposed and

**Comment [KB9]:** K Moody advised 3/11/17 she would like to remove this word 'temporary' from within this section. Amendment "parked" until final drafting stage.

**Comment [KB10]:** NEW  
Comments from meeting with Mayor 19/12/17 – Please discuss with Karen Moody and Chris Ireland regarding RRC's level of involvement, as, Mayor would like to reduce red tape for temporary events; not impose more.

the number of people expected to attend the place.

- (2) Entertainment of the kind proposed must not unreasonably detract from the amenity of the area in which the entertainment is, or is proposed to be, situated.
- (3) Entertainment provided at the place must not generate significant noise, dust or light pollution or other significantly adverse effects on the surrounding neighbourhood.
- (4) There must be enough toilets and sanitary conveniences, complying with standards and requirements imposed by the local government, for the use of the public.
- (5) Adequate provision must exist for the disposal of waste generated by the use of the place for the temporary entertainment event.
- (6) Adequate provision must exist for people and (if relevant) vehicles to enter and leave the place of the temporary entertainment event.
- (7) The applicant for the approval must nominate a person who is responsible for —
  - (a) ensuring compliance with the authorising local law before, during and after the event; and
  - (b) handling general complaints which may be received; and
  - (c) liaising and communicating with the local government or an authorised person.
- (8) The operation of the temporary entertainment event must be lawfully conducted on the place identified in the application.
- (9) If the temporary entertainment event involves the use of 1 or more animals and is to be held on a local government controlled area or road, the use of the animals must be in accordance with any applicable guideline or policy of the Royal Society for the Prevention of Cruelty to Animals (RSPCA) Australia.

**Comment [KB11]:** NEW

## 5. Conditions that must be imposed on an approval

The approval holder must produce the approval for inspection by an authorised person on demand.

**Comment [KB12]:** Amended.  
Previously the approval holder was also required to display the approval in the manner, and locations specified by the LG

## 6. Conditions that will ordinarily be imposed on an approval

The conditions of an approval may —

- (a) require specified action to maintain or improve the place of the temporary entertainment event; and
- (b) require the approval holder to provide specified equipment, and to take specified measures, for the safety of the public; and

- (c) require the approval holder to provide specified facilities and amenities; and
- (d) regulate the hours of operation of the temporary entertainment event; and
- (e) require the approval holder to provide specified equipment, or take specified measures, to reduce adverse effects of activities at the temporary entertainment event on the surrounding neighbourhood to acceptable levels; and
- (f) require the approval holder to take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before the event commences; and
- (g) regulate noise emission from the temporary entertainment event; and
- (h) require the design and construction of the place of the temporary entertainment event to be safe and appropriate having regard to the nature of the entertainment proposed and the number of people expected to attend the place; and
- (i) if the approval relates to an activity on a road – require the approval holder to indemnify each of the State and the local government; and
- (j) require the approval holder to ensure that the place of the temporary entertainment event and its operation do not unreasonably detract from the amenity of the area in which the place is located; and
- (k) prescribe requirements for adequate toilets and sanitary conveniences for the use of members of the public attending the temporary entertainment event; and
- (l) prescribe requirements for the collection and disposal of waste generated by the temporary entertainment event; and
- (m) prescribe requirements for people and (if applicable) vehicles to enter and leave the place of the temporary entertainment event; and
- (n) require that any premises, building, structure, vehicle, facility or equipment used in the operation of the temporary entertainment event be maintained at all times—
  - (i) in good working order; and
  - (ii) in a good state of repair; and
  - (iii) in a clean and sanitary condition; and
- (o) prescribe requirements about—
  - (i) crowd, traffic and parking control; and
  - (ii) security measures to be implemented; and
  - (iii) evacuation procedures to be implemented as part of the operation of the temporary entertainment event; and
  - (v) the public display of evacuation plans and procedures as part of the

**Comment [KB13]: NEW**

Comments from meeting with Mayor 19/12/17 – Query with K&C at final drafting stage – is ‘AND’ relevant here? Should it be one or the other? Refer comment KB7 above.

operation of the temporary entertainment event; and

- (iv) the exhibition of signage as part of the operation of the temporary entertainment event; and
- (vi) the removal of structures erected, and equipment used, as part of the operation of the temporary entertainment event at the completion of the event.

## 7. Term of an approval

- (1) The term of an approval must be determined by an authorised person having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**Comment [KB14]:** Amended.  
Previously by the LG.

## 8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

## Schedule 2 Categories of approval that are non-transferable

### Section 6

Each approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

**Comment [KB15]:** K&C advised rcd 22/11/17 states this schedule contains likely **anti-competitive provisions**. Relevant criteria 7 – business restriction, and 10 permit requirement. Explanatory comments - The local government may declare that a category of approval for a prescribed activity is non-transferable, which may have an impact on the conduct of a business activity, and in particular, that part of the prescribed activity which is a business activity.

**Comment [KB16]:** Amended. Previously was transferrable.

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**Schedule 3      State-controlled roads to which the local  
law applies**

Section 7

No State-controlled roads listed.

## Schedule 4 Dictionary

### Section 4

**amplifier device** has the meaning given in the *Environmental Protection Act 1994*.

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

**land** has the meaning given in the *Sustainable Planning Act 2009*.

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

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

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

**premises** means any land, building or structure and includes any part thereof.

**sanitary convenience** has the meaning given in the *Environmental Protection Act 1994*.

**sewerage system** has the meaning given in the *Plumbing and Drainage Act 2002*.

**structure** has the meaning given in the Act.

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

**waste** has the meaning given in the *Environmental Protection Act 1994*.

This and the preceding 13 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.12 (Operation of Temporary Entertainment Events) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the \_\_\_\_\_ day of *(insert the date of the relevant resolution of Council)* 2017.

.....  
Chief Executive Officer

# Subordinate Local Law No. 1.13 (Undertaking Regulated Activities regarding Human Remains) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.13 (Undertaking Regulated Activities regarding Human Remains) 2011*.

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 2 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## Schedule 1 Undertaking regulated activities regarding human remains

### Section 5

#### 1. Prescribed activity

Undertaking regulated activities regarding human remains, including undertaking 1 or more of the following activities—

- (a) disturbance of human remains buried outside a cemetery; and
- (b) burial or disposal of human remains outside a cemetery; and
- (c) disturbance of human remains in a local government cemetery.

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

Section 6(2) of the authorising local law does not apply to—

- (a) the burial or disposal of cremated human remains outside a cemetery; or
- (b) the disturbance of human remains in a local government cemetery.

**Comment [KB1]:** NEW. Previously no activities stated.

#### 3. Documents and materials that must accompany an application for an approval

- (1) Details of the burial site, niche or other place or proposed burial site, niche or other place at which the human remains are buried or placed, or are proposed to be buried or placed, including GPS coordinates or similar location particulars.
- (2) Evidence of the applicant's relationship (if any) with the deceased.
- (3) A certified copy of each approval required (including authority under the *Coroners Act 2003* (if applicable)) for the undertaking of the prescribed activity.
- (4) Details of how and when the prescribed activity is to be undertaken.
- (5) Evidence of the identity of the deceased person.
- (6) Evidence of the wishes of the deceased and the relatives of the deceased.
- (7) If the prescribed activity is the disturbance of human remains buried outside a cemetery—
  - (a) a written statement of the reasons for the proposed disturbance; and
  - (b) the written agreement of the owner of, and anyone else with a registered interest in, the land on which the remains are buried.
- (8) If the prescribed activity is the burial or disposal of human remains outside a

**Comment [KB2]:** NEW

cemetery—

- (a) a written statement of how and when the remains are proposed to be disposed of or buried; and
- (b) the written agreement of the owner of, and anyone else with a registered interest in, the land on which the remains are to be buried or placed to the disposal of the remains on the land; and
- (c) details of the nature of the ceremony (if any) to be conducted at the time of the burial or disposal; and
- (d) written confirmation that the burial is to be undertaken by an appropriately qualified person, for example, a funeral director or qualified undertaker; and
- (e) details of how the applicant proposes to secure ongoing access to the place at which the human remains are to be buried or disposed of if the owner of the land on which the place is located, disposes of the owner's interest in the land; and
- (f) details of any other human remains buried or disposed of on the land and the family relationship, if any, of the deceased person the subject of the human remains to the applicant.

#### 4. Additional criteria for the granting of an approval

- (1) The undertaking of the prescribed activity must—
  - (a) not result in—
    - (i) harm to health or safety; or
    - (ii) personal injury; or
    - (iii) nuisance; or
    - (iv) a loss of amenity; and
  - (b) comply with the expressed wishes of each of the deceased and the relatives of the deceased; and
  - (c) if the prescribed activity involves the opening of a grave in order to bury another deceased person in the grave—comply with the expressed wishes of all of the deceased persons who are buried or will be buried in the grave.
- (2) If the prescribed activity is the burial or disposal of human remains outside a cemetery—
  - (a) the applicant must secure ongoing access to the place at which the human remains are to be buried or disposed of if the owner of the land on which the place is located disposes of the owner's interest in the land; and

**Comment [KB3]:** NEW

Comments from meeting with Mayor 19/12/17 – Council does not want to be regulating the permission of access to plots, should ownership of land change. To be discussed with Councillors.

**Comment [KB4]:** Current law also includes s3(9) as follows:

If the prescribed activity is the disturbance of human remains in a local government cemetery—  
(a) a written statement of the reasons for the proposed disturbance; and  
(b) the written approval of the sexton.  
This has been DELETED given this law has been amended to exclude LG cemeteries.

- (b) the land on which the human remains are to be buried or disposed of must have an area not less than 20,000m<sup>2</sup>; and
- (c) human remains of the forebears of the applicant's family are lawfully buried or disposed of on the land.

Comment [KB5]: NEW

Refer comment KB3 above.

## 5. Conditions that must be imposed on an approval

No conditions stated.

## 6. Conditions that will ordinarily be imposed on an approval

- (1) The approval holder must undertake the prescribed activity at a particular time, or during a particular period.
- (2) Any spillage of waste, a contaminant or another material must—
  - (a) be cleaned up immediately; and
  - (b) not be cleaned up by hosing, sweeping or otherwise releasing the waste, contaminant or material to any stormwater system or other waters.
- (3) The approval holder must take specified measures to—
  - (a) prevent harm to the health or safety of persons who may be involved in, or effected by, the undertaking of the prescribed activity; and
  - (b) prevent personal injury, property damage or loss of amenity resulting from the undertaking of the prescribed activity; and
  - (c) ensure that there is compliance with the provisions of each local government Act which regulates the undertaking of the prescribed activity.
- (4) If the prescribed activity is the disturbance of human remains buried outside a cemetery—
  - (a) the approval holder must permit an authorised person to inspect the site at any time either before or after the disturbance; and
  - (b) the approval holder must prepare the site in accordance with particular standards as directed by the local government; and
  - (c) the prescribed activity must be undertaken by a qualified undertaker.
- (5) If the prescribed activity is the burial or disposal of human remains outside a cemetery—
  - (a) the approval holder must ensure that an appropriate identifying memorial is placed on or adjacent to the place of the burial or disposal; and
  - (b) if a development approval is required under the *Sustainable Planning Act 2009* to erect or install a memorial—the approval holder must not

erect or install the memorial without the required development approval; and

- (c) and an approval for the undertaking of the prescribed activity on land is granted—a condition that the grant of the approval does not imply that the local government will grant any other approval for the undertaking of the prescribed activity on the land; and
- (d) the local government may regulate—
  - (i) the number of bodies which may be buried in a single grave; and
  - (ii) the frequency with which bodies may be buried in a single grave; and
  - (iii) the position of the grave site; and
  - (iv) standards for the minimum depth, size and other dimensions of the grave site; and
  - (v) the manner in which the applicant secures ongoing access to the place at which the human remains are buried or disposed of if the owner of the land on which the place is located disposes of the owner’s interest in the land.

**Comment [KB6]:** NEW

Refer comment KB3 above in relation to (d)(v)

**7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 – Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
No application requirement stated		

**Schedule 2      Categories of approval that are non-transferable**

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## Schedule 3 Dictionary

### Section 4

**development approval** has the meaning given in the *Sustainable Planning Act 2009*.

**memorial** includes—

- (a) a headstone; and
- (b) an inscribed plaque or commemorative plate; and
- (c) monumental, ornamental or other structures erected on a grave site; and
- (d) anything else erected or placed to mark the site where human remains have been buried or placed, or to commemorate a deceased person.

**qualified undertaker** means a person who carries on the business of disposing of human remains.

This and the preceding 8 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.13 (Undertaking Regulated Activities Regarding Human Remains) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the day of *(insert the date of the relevant resolution of Council)* 2017.

.....  
Chief Executive Officer

| [SLL1.13657245\\_1](#)



# Subordinate Local Law No. 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas and Roads) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas and Roads) 2011*.

Field Code Changed

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 4 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 2 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## **Part 3 Application to State-controlled roads**

### **7 State-controlled roads to which the local law applies—Authorising local law, schedule 1**

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are roads to which the authorising local law applies unless otherwise provided in the local law.

## Schedule 1 Undertaking regulated activities on local government controlled areas and roads

### Section 5

#### 1. Prescribed activity

- (1) Undertaking regulated activities on local government controlled areas and roads, and in particular, undertaking 1 of the following activities on a local government controlled area or road—
  - (a) driving or leading of animals to cross a road;
  - (b) depositing of goods or materials;
  - (c) holding of a public place activity prescribed under a subordinate local law but excluding the operation of a temporary entertainment event.
- (2) For the purposes of subsection (1)(c), provided the activity on the local government controlled area or road is not the use of the local government controlled area or road for soliciting or carrying on the supply of goods or services (including food or drink) for profit, public place activity means each of the following activities—
  - (a) the placing of a display or information booth;
  - (b) conducting a social gathering or meeting of more than 50 people;
  - (c) conducting or taking part in—
    - (i) an organised sporting activity of regional, State or national significance; or
    - (ii) a street parade; or
    - (iii) a vintage car display; or
    - (iv) a novelty vehicle race, for example, a go-cart race; or
    - (v) an invitation-only ceremony, party or celebration attended by more than 50 people; or
    - (vi) a sausage sizzle, car wash or similar fundraiser held on no more than 1 day; or
    - (vii) a training event held on no more than 1 day; or
    - (viii) a training event held on more than 1 day without payment of a fee; or
    - (ix) street performing;
  - (d) exercising a right of occupation and use of a specified part of a local

**Comment [KB1]:** “or festival” was deleted from (ii)

**Comment [KB2]:** “cake stall” was deleted from (vi)

**Background FYI:**

On 13/10/2015 council adopted not to set a prescribed fee nor require an application for approval to conduct or take part in a cake stall, sausage sizzle, car wash or similar fundraiser held on no more than 1 day which does not form part of a temporary entertainment event if the applicant is constituted for religious, charitable or educational purposes, or any not-for-profit organisation.

K Moody and C Hayes provided comment 29/3/17 that cake stalls, sausage sizzles, car washes and the like would be managed through policy, hence they agree with proposed amendment to this SLL which sees these activities excluded from any application/approval process.

B Brill advised 21/3/17 – car washes usually held in stapleton park car park area, no approval needed, first in best dressed. Sausage sizzles - as long as they are basic snag on bread, no approvals needed as health have advised they are low risk and not a concern.

**Comment [KB3]:** Amended. Previously “a musical or theatrical performance...”

government controlled area by an incorporated association;

- (e) film and television production.

Comment [KB4]: NEW

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

Section 6(2) of the authorising local law does not apply to each of the following activities—

- (a) any activity undertaken by, or on behalf of, the local government;
- (b) a picnic, day outing, walk or the like undertaken by not more than 50 persons;
- (c) an invitation only gathering of friends or family, including, for example, a barbecue or birthday party, undertaken by not more than 50 persons, provided the undertaking of the activity does not include the placing of temporary entertainment equipment, for example, a jumping castle or an inflatable water side, on a local government controlled area or road;
- (d) a cake stall, sausage sizzle, car wash or similar fundraising event provided—
- (i) the event is held on no more than 1 day; and
- (ii) the person responsible for the undertaking of the event is an organisation which is constituted for a religious, charitable, educational or not for profit purpose;
- (e) an authorised public assembly undertaken in compliance with the requirements of the *Peaceful Assembly Act 1992*.

Comment [KB5]: NEW. Relaxing approval requirements for low risk activities.

Comments from mtg with Mayor 19/12/17 - Review "organisation" wording to ensure it covers low scale sporting club members etc.

10/1/18 – Definition of organisation, or Community Organisation is provided below FYI. It is suggested to discuss with K&C to amend this provision in line with Mayor's comments.

## 3. Documents and materials that must accompany an application for an approval

- (1) Details of the nature, time and place of the prescribed activity for which the approval is sought.
- (2) If the applicant wants to use a particular part of a local government controlled area or road for the prescribed activity— if requested, a site plan showing the relevant part of the local government controlled area or road.
- (3) If the prescribed activity is to be undertaken at or in close proximity to a site, stall or vehicle—specifications for the site, stall or vehicle which is proposed to be used in the undertaking of the prescribed activity.
- (4) Details of the name, street address, and contact details, together with proof of identity, of the person responsible for the undertaking of the prescribed activity.

### Aust Govt. Definition -

The *Guide to Regulation* defines 'community organisation' as 'any organisation engaged in charitable or other community-based activity operating under Australian law and not established for the purpose of making a profit'. This definition can include not-for-profit entities pursuing a range of 'for-profit' commercial activities. It can also include organisations engaged in advocacy or other activities that may not be primarily charitable in nature.

The ATO provides a definition of non-profit organisations that can also be considered when assessing impacts on COs:

A non-profit organisation is one which is not operating for the profit or gain of its individual members, whether these gains would have been direct or indirect. This applies both while the organisation is operating and when it winds up.

- (5) If requested—a traffic management plan which details—
- (a) anticipated pedestrian and vehicular traffic which will be created by the undertaking of the prescribed activity; and
  - (b) anticipated impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken; and
  - (c) how the applicant will minimise the impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken.
- (6) Details of the undertaking of the prescribed activity including—
- (a) if requested—a copy of each policy of insurance of the applicant which is applicable to the undertaking of the prescribed activity including, without limitation, a public liability insurance policy which provides indemnity for each individual occurrence in an amount not less than \$20,000,000.00; and
  - (b) how the applicant proposes to dispose of waste generated by the undertaking of the prescribed activity; and
  - (c) if signage is intended to be displayed – details of the signage and how the signage will be secured whilst displayed.
- (7) If requested—details of proposed arrangements for each of the following which may include, but is not limited to—
- (a) consultation with key stakeholders; and
  - (b) notification of the event and, if applicable, road closure information, to the surrounding residents and/or businesses, including contact details for the person or business who will be undertaking the prescribed activity; and
  - (c) cleaning and sanitation; and
  - (d) noise management, including audio equipment; and
  - (e) waste and recycling; and
  - (f) catering services with each food business licence issued under the *Food Act 2006*; and
  - (g) toilet and wash basin facilities; and
  - (h) drinking water quality and supply; and
  - (i) security services; and
  - (j) emergency response; and

**Comment [KB6]:**

FYI – the inclusion of provisions here relating to traffic management plans and notification to surrounding residents/businesses was also recommended by King and Co in their letter to RRC (Damon Morrison) dated 13/1/17

**Comment [KB7]:** NEW

**Comment [KB8]:** NEW

**Comment [KB9]:** NEW

**Comment [KB10]:** FYI

These additions are similar to SLL 1.12 (Operation of Temporary Events) and have been inserted to cater for non-profit events such as weddings with more than 50 ppl, sporting events, etc. on LG controlled areas or roads.

- (k) road closure arrangements; and
  - (l) risk assessment and management strategy; and
  - (m) fire response; and
  - (n) camping controls, including shower and ablutions facilities and medical response.
- (8) Copies of applicable approvals and certifications, for example—
- (a) a permit under the *Liquor Act 1992* if the consumption of liquor is to be permitted; and
  - (b) a certified electrical safety report of a qualified electrician; and
  - (c) a certified structural safety report for all temporary construction work; and
  - (d) if applicable—a fireworks licence issued by the Department of Natural Resources and Mines; and
  - (e) a fire and emergency evacuation plan certified and approved by the Queensland Fire and Emergency Services Authority; and
  - (f) a certificate for each amusement ride (if any) issued by Workplace Health and Safety Queensland; and
  - (g) a temporary road closure approval; and
  - (h) a special event permit issued under the *Transport Operations (Road Use Management – Accreditation and Other Provisions) Regulation 2015*.
- (9) If the person undertaking the prescribed activity is a child—the written consent of the parent or guardian of the child, to the undertaking of the prescribed activity by the child.

Comment [KB11]: NEW

#### 4. Additional criteria for the granting of an approval

- (1) The prescribed activity for which the approval is sought must not unduly interfere with the proper use of the local government controlled area or road.
- (2) There must be a public demand for the prescribed activity in respect of which the approval is sought.
- (3) The physical characteristics of the local government controlled area or road must be suitable for the prescribed activity.
- (4) The prescribed activity must not cause undue nuisance, inconvenience or annoyance to—
  - (a) the occupier of any land which adjoins the location of the prescribed activity; or

Comment [KB12]: NEW

- (b) vehicular traffic; or
  - (c) pedestrian traffic.
- (5) The prescribed activity must not have a detrimental effect on the amenity of the surrounding area.
- (6) If the prescribed activity is the driving or leading of animals to cross a road—the driving or leading of the animals to cross the road must not unduly interfere with the proper use of the road or create a safety hazard for users of the road.
- (7) If the prescribed activity is the depositing of goods or materials on a local government controlled area or road—the depositing of the goods or materials on the local government controlled area or road must not unduly interfere with the usual use or the amenity of the local government controlled area or road.
- (8) If the prescribed activity is the holding of a public place activity on a local government controlled area or road—
- (a) the undertaking of the prescribed activity must not generate significant noise, dust or light pollution or other significantly adverse effects on the surrounding area; and
  - (b) there must be enough toilets and sanitary conveniences, complying with standards and requirements imposed by the local government, for the use of the public; and
  - (c) adequate provision must exist for the disposal of waste generated by the undertaking of the prescribed activity; and
  - (d) adequate provision must exist for people and (if relevant) vehicles to enter and leave the site of the prescribed activity.
- (9) In addition, if the prescribed activity is the holding of the public place activity of street performing on a local government controlled area or road, the undertaking of the prescribed activity—
- (a) must contribute to a sense of place, or provide entertainment and thought provoking experiences to tourists and members of the public; and
  - (b) make a contribution to the cultural life of the local government area by reflecting styles, values and the issues of society at large; and
  - (c) not interfere with pedestrian or vehicular traffic, or the conduct of business; and
  - (d) must not occur within a 10m radius of premises which incorporate a footpath dining facility, or licensed premises, during the business hours of the premises, except with the prior written consent of the person responsible for the operation of the premises.



## 5. Conditions that must be imposed on an approval

No conditions prescribed.

## 6. Conditions that will ordinarily be imposed on an approval

- (1) The conditions of an approval may require that the approval holder—
  - (a) limit the activities authorised by the approval to 1 or more of—
    - (i) a single specified location;
    - (ii) a number of specified locations;
    - (iii) a specified area;
    - (iv) a number of specified areas; and
  - (b) limit the activities to specified days and times; and
  - (c) limit the activities to—
    - (i) a specified period of time; or
    - (ii) specified periods of time; and
  - (d) produce the approval for inspection on demand by an authorised person; and
  - (e) take specified measures to protect the safety of persons who may be involved in, or affected by, the activities authorised by the approval; and
  - (f) give the local government specified indemnities and take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the approval; and
  - (g) take specified measures to ensure that the activities authorised by the approval do not cause environmental harm or environmental nuisance; and
  - (h) if the approval authorises the approval holder to use a specified part of a local government controlled area or road for the undertaking of the activity — pay a specified rental to the local government at specified intervals; and
  - (i) submit the undertaking of the activity, including any vehicle or premises used in the undertaking of the activity, for inspection by an authorised person; and
  - (j) prominently and permanently display at a specified location each of—
    - (i) the approval number granted by the local government in numbers not less than 50mm in height; and

**Comment [KB14]:** Amended.  
Previously stated: “display the approval in a specified position and produce...”

- (ii) the name and address of the approval holder in letters not less than 75mm in height; and
- (k) if the approval relates to an activity on a road—give a written indemnity to each of the State and the local government; and
- (l) display specified warning notices for the safety of users of the local government controlled area or road; and
- (m) limit the undertaking of the prescribed activity so that it does not—
  - (i) create a traffic nuisance; or
  - (ii) increase an existing traffic nuisance; or
  - (iii) detrimentally affect the efficiency of the road network in which the activity is undertaken; and
- (n) limit the undertaking of the prescribed activity so that it does not detrimentally affect the amenity of the neighbourhood in which the prescribed activity is undertaken; and
- (o) ensure that the undertaking of the prescribed activity does not create a safety risk; and
- (p) at all times keep and maintain all facilities and equipment used in the undertaking of the prescribed activity—
  - (i) in good working order and condition; and
  - (ii) in a clean and sanitary condition; and
- (q) if the undertaking of the prescribed activity involves a temporary road closure—
  - (i) give public notice of the temporary road closure, for example, by the publication of notice of the temporary road closure in a newspaper circulating generally in the local government area of the local government; and
  - (ii) at least 7 days prior to the temporary road closure, inform persons residing, occupying or operating a business adjacent to the place at which the prescribed activity is to be undertaken or road to be closed, in writing, by letterbox drop, of the approximate prescribed activity/road closure date and time, the nature and scale of the prescribed activity, and (if applicable) adequate arrangements for the persons to enter or exit their property by vehicle for the duration of the prescribed activity or road closure.

**Comment [KB15]:** NEW

Comments from mtg with Mayor 19/12/17 – is “and” correct here? Should it be one or the other, or, and/or? Query with K&C prior to final drafting.

**Comment [KB16]:** Amendment suggested by King and Co in a letter to Damon Morrison dated 13/1/17. (NB: King and Co reworded this slightly, as marked up, in their review of this SLL returned 8/6/17)

**Comment [KB17]:** NEW

- (2) If the prescribed activity is the driving or leading of animals to cross a road, the conditions of the approval may also require that the approval holder—
- (a) restrict the number of animals that may be driven or led across the road; and
  - (b) not conduct the prescribed activity in a manner which is, or may be, a risk to road safety.
- (3) If the prescribed activity is the depositing of goods or materials on a local government controlled area or road, the conditions of the approval may also require that the approval holder—
- (a) deposit the goods or materials—
    - (i) in a specified manner; and
    - (ii) for only 1 or more specified periods; and
  - (b) limit the deposit of the goods or materials to—
    - (i) a specified area; and
    - (ii) only 1 or more specified periods; and
  - (c) if the goods or materials are deposited on a footpath—keep and maintain a clear unobstructed pedestrian corridor—
    - (i) of a specified width depending on the density of pedestrian traffic; and
    - (ii) during 1 or more specified periods; and
  - (d) only use, for the purposes of the deposit of the goods or materials, a structure which is—
    - (i) of safe construction; and
    - (ii) in good condition and repair; and
    - (iii) securely fixed to the land on which the prescribed activity is undertaken; and
  - (e) remove the goods or materials, and any structure used for the purposes of the depositing of the goods or materials, at a specified time, or after a specified period.
- (4) If the prescribed activity is the holding of a public place activity prescribed under a subordinate local law, the conditions of the approval may also require that the approval holder—
- (a) provide specified facilities and amenities; and
  - (b) provide specified illumination for the purposes of the undertaking of

Comment [KB18]: NEW

Comment [KB19]: NEW

Comment [KB20]: NEW

- the prescribed activity and take specified measures to reduce light spillage from the undertaking of the prescribed activity; and
- (c) take specified measures to reduce noise emission from the undertaking of the prescribed activity; and
  - (d) provide specified equipment, or take specified measures, to reduce adverse effects of the undertaking of the prescribed activity on the surrounding neighbourhood to acceptable levels; and
  - (e) not discharge trade waste generated by the undertaking of the prescribed activity otherwise than in accordance with an approval under the *Water Supply (Safety and Reliability) Act 2008*; and
  - (f) for waste generated by the undertaking of the prescribed activity—
    - (i) only dispose of the waste—
      - (A) in a safe and sanitary manner; and
      - (B) in a manner which maintains the site of the prescribed activity and its surrounds in a clean, tidy, sanitary and hygienic condition; and
    - (ii) not dispose of the waste—
      - (A) so as to attract pests; or
      - (B) into a water course; or
      - (C) at another location other than a location properly intended for the receipt of the waste; and
  - (g) keep and maintain in and about the area identified in the approval, adequate waste disposal facilities, for example, bins, and be responsible for the removal of all waste from the waste disposal facilities at such intervals as an authorised person may direct; and
  - (h) not place or display any sign or device advertising the undertaking of the prescribed activity in the area identified in the approval otherwise than in accordance with an approval of the local government for example, under *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2011* which authorises the use of the area for that purpose.
- (5) In addition, if the prescribed activity is the holding of the public place activity of street performing, the conditions of the approval may also require that the approval holder—
- (a) limit the undertaking of the prescribed activity to specified days and times; and
  - (b) limit the duration of each street performance; and

- (c) schedule a minimal interval between each street performance; and
- (d) not undertake the prescribed activity in front of premises which are used for the undertaking of a business activity during the business hours of the premises, except with the prior written consent of the person responsible for the operation of the premises; and
- (e) ensure that the undertaking of the prescribed activity does not cause undue obstruction to pedestrian or vehicular traffic, for example, by obstructing pedestrian or vehicular traffic at the entrance to a shop or building; and
- (f) remove specified goods or materials, and any structure, which are used for the purposes of the undertaking of the prescribed activity at a specified time, or after a specified period, for example, daily; and
- (g) in the undertaking of the prescribed activity—not use any device or thing as a means of amplification of the street performing without the prior written consent of the local government; and
- (h) if the local government has granted an approval in respect of the undertaking of a specific event or activity on a local government controlled area or road, for example, a street festival—not undertake the prescribed activity for the duration of the event or activity in the vicinity of the place at which the event or activity is being undertaken, without the prior written consent of the local government; and
- (i) not sell, or offer or expose for sale, any goods or services which are directly or indirectly related to the undertaking of the prescribed activity unless authorised under the conditions of an approval for a prescribed activity.

Comment [KB21]: NEW.

## 7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

## 8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 – Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
No application requirement stated.		

**Schedule 2      Categories of approval that are non-transferable**

Section 6

Each approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

**Schedule 3      State-controlled roads to which the local  
law applies**

Section 7

No State-controlled roads listed.



## Schedule 4 Dictionary

### Section 4

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*.

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

**goods** includes wares, merchandise, chattels, money, stone, timber, metal, fluid and any other article, substance or material whatsoever and also includes an animal.

**premises** means the premises used in the undertaking of the prescribed activity.

**public place activity** see schedule 1, section 1(2).

Comment [KB22]: NEW

**road** has the meaning given in the authorising local law.

**sanitary convenience** has the meaning given in the *Environmental Protection Act 1994*.

**street performance** see street performing.

**street performing**—

- (a) means a musical, theatrical or other type of performance undertaken by a person to entertain the public; and
- (b) includes both a performance undertaken by the person for voluntary reward and a performance undertaken by the person in circumstances where no reward, either voluntary or otherwise, is sought by the person.

Comment [KB23]: NEW. Aligns with new Street Performing Policy

**structure** has the meaning given in the *Local Government Act 2009*.

**trade waste** has the meaning given in the *Water Supply (Safety and Reliability) Act 2008*.

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

**waste** has the meaning given in the *Environmental Protection Act 1994*.

This and the preceding 16 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the day of *(insert the date of the relevant resolution of Council)* 2017.

.....  
Chief Executive Officer

# Subordinate Local Law No. 1.15 (Parking Contrary to an Indication on an Official Traffic Sign Regulating Parking by Time or Payment of a Fee) 2011

## Contents

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.15 (Parking Contrary to an Indication on an Official Traffic Sign Regulating Parking by Time or Payment of a Fee) 2011*.

Field Code Changed

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

- (1) The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).
- (2) The activity named in schedule 1, section 1 is a prescribed activity for the purposes of section 5(b) of the authorising local law.

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 4 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and

- (b) prescribes the matters specified in this section for the prescribed activity.<sup>1</sup>
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.
  - (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
  - (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
  - (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
  - (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
  - (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
  - (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
  - (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

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<sup>1</sup> Section 103(4) of the TORUM Act relevantly provides that under a local law, a local government may—

- (a) allow a vehicle to park contrary to an indication on an official traffic sign regulating parking by time or payment of a fee, if the vehicle displays a permit issued by the local government; and
- (b) define the persons that may be issued with a permit (as distinct from an approval).

The local government has defined the persons that may be issued with a permit (as distinct from an approval) under *Local Law No. 5 (Parking) 2011*. *Local Law No. 1 (Administration) 2011* is a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws and provides for miscellaneous administrative matters. *Local Law No. 1 (Administration) 2011* provides for consistent and comprehensive processes for the local government to grant and regulate approvals (as distinct from permits) to undertake prescribed activities. The activity identified in schedule 1, section 1 is a prescribed activity. *Local Law No. 1 (Administration) 2011*, schedule 1 defines approval to include, relevantly, a permit. Each category of permit identified under *Local Law No. 5 (Parking) 2011* is an approval for the purposes of *Local Law No. 1 (Administration) 2011*.

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## **Part 3                      Application to State-controlled roads**

### **7      State-controlled roads to which the local law applies – authorising local law, schedule 1**

For the purposes of the definition of *road* in schedule 1 of the authorising local law, the State-controlled roads listed in schedule 3 are the roads to which the authorising local law applies unless otherwise provided in the local law.

## Schedule 1 Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee

### Section 5

#### 1. Prescribed activity

Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee.

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

No activities stated.

#### 3. Documents and materials that must accompany an application for an approval

- (1) The name and contact details of the applicant.
- (2) A description of the type and make of the vehicle.
- (3) The registration number of the vehicle and the date of expiry of the registration.
- (4) Details of the registered owner of the vehicle.
- (5) Details of why the applicant requires the approval.
- (6) The period during which the applicant requires the approval.
- (7) If the application is for a works zone parking permit—
  - (a) details of the specified part of the road adjacent to the site of the proposed building or construction work which the applicant proposes will be declared as a works zone; and
  - (b) evidence that the applicant intends undertaking the building or construction work at the site during the term of the permit.
- (8) If a community service organisation is applying for a community service organisation parking permit—details of off-street parking that is, or could reasonably be, made available for use by persons undertaking activities for or on behalf of the community service organisation on land of which the community service organisation is the owner or the occupier.
- (9) If the application is for a tourist vehicle parking permit—
  - (a) details of—
    - (i) if the tourist vehicle is a horse drawn vehicle—the horses to be used in the undertaking of the prescribed activity, including the condition and fitness of the horses and the address where the

**Comment [KB1]:** NEW words 'and contact details' added.

horses are normally stabled; and

- (ii) the passenger carrying capacity of the tourist vehicle; and
- (iii) lighting and warning devices attached to the tourist vehicle; and
- (iv) the proposed hours of operation of the prescribed activity; and
- (v) the name, address and telephone number of each person who will be driving the tourist vehicle, including details of their experience in operating such tourist vehicles; and

- (b) a statement by the owner of the tourist vehicle that the tourist vehicle complies with the *Transport Operations (Road Use Management Act) 1995*.

#### 4. Additional criteria for the granting of an approval

The local government may only grant a community service organisation parking permit to a community service organisation if it is satisfied that off-street parking that is, or could reasonably be, made available for use by persons undertaking activities for or on behalf of the community service organisation at the premises of the community service organisation is not adequate.

#### 5. Conditions that must be imposed on an approval

No conditions prescribed.

#### 6. Conditions that will ordinarily be imposed on an approval

- (1) The conditions of an approval may require the approval holder to—
  - (a) affix the approval to, or exhibit the approval on, a specified part of the vehicle identified in the approval facing outwards so that it is clearly visible to a person outside the vehicle; and
  - (b) if the approval holder requests the issue of a replacement approval—complete a statutory declaration detailing the facts and circumstances of the loss, destruction or damage of the original approval; and
  - (c) enter into an agreement with the local government to indemnify the local government against claims (including claims made against the approval holder by the local government) for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the use of a vehicle under the approval; and
  - (d) if the approval holder is a business—take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the approval; and
  - (e) take specified measures to reduce the impact of the activities authorised by the approval so that the activities do not—

**Comment [KB2]:** NEW

Comments from mtg with Mayor 19/12/17 – this section should be removed (Mayor has also noted her preference to remove relevant section within SLL5 relating to these types of vehicles), however remain for now until the Council table has reviewed.

**Comment [KB3]:** AMENDED. This section previously only stated “No additional criteria prescribed”

**Comment [KB4]:** NEW. Previously this section 1(a) referred to the approval being affixed near the registration label, which no longer exist for most vehicles.

- 
- (i) create a traffic nuisance; or
  - (ii) increase an existing traffic nuisance; or
  - (iii) detrimentally affect the efficiency of the road network in which the activity is undertaken.
- (2) Also, the conditions of a resident parking permit may require that the approval holder—
- (a) only use the permit in respect of the parking of a vehicle identified in the permit at the location identified in the permit which must be—
    - (i) the road adjacent to the residence identified in the permit; or
    - (ii) the one or more segments of road in close proximity to the residence identified in the permit; and
  - (b) only use the permit whilst the holder resides at the residence identified in the permit.
- (3) Also, the conditions of a works zone parking permit may—
- (a) specify the part of the road to which the permit relates; and
  - (b) require the approval holder to pay a prescribed fee, as determined by the local government, for the installation of official traffic signs, or other signs and markings, as determined by the local government to be appropriate, to identify the boundaries of the works zone identified in the permit; and
  - (c) require that the approval holder not park a vehicle within the works zone except while the vehicle is being loaded or unloaded in connection with the building or construction work to which the permit relates; and
  - (d) require that materials of any kind not be stacked, placed or otherwise left on the road or footpath (either within or outside of the works zone); and
  - (e) require that a vehicle not be parked, loaded or unloaded or that other operations be carried out, in a manner which obstructs pedestrian movement along a footpath within or adjacent to the works zone.
- (4) The conditions of a visitor parking permit may—
- (a) require that the approval holder only use the permit in respect of the parking of a vehicle at the locations identified in the permit which must be—
    - (i) the road adjacent to the residence identified in the permit; or
    - (ii) the one or more segments of road in close proximity to the residence identified in the permit; and



- (b) require that the permit must only be used by a person visiting or attending at the residence identified in the permit; and
- (c) specify that the visitor parking permit is not specific to any particular vehicle.

(5) The conditions of a tourist vehicle parking permit may—

- (a) require that the tourist vehicle used in the undertaking of the prescribed activity must be kept in a condition which is clean, safe and fit for the conveyance of passengers; and
- (b) require that the person driving the tourist vehicle must be in a clean and presentable condition; and
- (c) limit the operation of the prescribed activity by reference to specified hours and specified days; and
- (d) require that the name, address and telephone number of the holder of the permit is prominently and permanently displayed on both sides of the tourist vehicle; and
- (e) if the tourist vehicle is a horse drawn vehicle—
  - (i) require that the driver of the horse drawn vehicle undertaking the prescribed activity must, at all times, be close enough to the vehicle to be able to maintain adequate control over the vehicle and the horse; and
  - (ii) require that the driver of the horse drawn vehicle ensure that appropriate measures are taken to—
    - (A) prevent manure dropping onto a road; and
    - (B) remove any manure that drops onto a road; and
    - (C) ensure that no overloading of the vehicle occurs; and
- (f) require the holder of the permit to give specified indemnities and take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the permit.

**7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.

**Comment [KB5]:** NEW

Comments from mtg with Mayor 19/12/17 – Refer comments KB2 above.

**Comment [KB6]:** AMENDED to simplify. Previously/currently separate terms were/are stated here for individual permit types.

- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Comment [KB7]:** Refer comment above as same applies here.

**Schedule 2      Categories of approval that are non-  
transferable**

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## Schedule 3 State-controlled roads to which the local law applies

### Section 7

No State-controlled roads listed.

**Comment [KB8]:** S Gatt has suggested RRC officers should have the ability to enforce regulated parking on specified state-controlled (declared) roads. TORUM s101(1)(b) states that LG can enforce regulated parking on state-controlled (declared) roads provided written approval is obtained from the Chief Executive.

At this stage, Steve is only interested in regulated parking enforcement as opposed to spanning wider to include advertising devices etc. A few of the state-controlled roads he mentioned were Lawrie Street, Wandal Rd and Lakes Creek Rd.

Should Councillors wish to include specified state controlled roads as per Steve's suggestion, officers will prepare a list of recommended roads and seek approval from the State in accordance with TORUM, and include relevant areas in Schedule 3 of SLL1.15

Comments from mtg with Mayor 19/12/17 – Lawrie Street and Wandal Rd to be included here to allow officers the ability to undertake enforcement action on those two state controlled roads.

**Schedule 4 Dictionary**

Section 4

**community service organisation parking permit** see Subordinate Local Law No. 5 (Parking) 2011, schedule 4.

**resident parking permit** see Subordinate Local Law No. 5 (Parking) 2011, schedule 4.

**tourist vehicle** see Subordinate Local Law No. 5 (Parking) 2011, schedule 4.

**tourist vehicle parking permit** see Subordinate Local Law No. 5 (Parking) 2011, schedule 4.

**visitor parking permit** see Subordinate Local Law No. 5 (Parking) 2011, schedule 4.

**works zone parking permit** see Subordinate Local Law No. 5 (Parking) 2011, schedule 4.

**Comment [KB9]:** Temporary Parking Permit was DELETED from within this Schedule 4.

**Comment [KB10]:** Both are NEW  
Comments from mtg with Mayor 19/12/17 – Refer comment KB2 above.

This and the preceding 11 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.15 (Parking Contrary to an Indication on an Official Traffic Sign Regulating Parking by Time or Payment of a Fee) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the                      day of                      (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

# Subordinate Local Law No. 1.16 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.16 (Carrying out Works on a Road or Interfering with a Road or its Operation) 2011.*

Field Code Changed

Field Code Changed

Field Code Changed

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (4) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (5) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (7) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (8) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (9) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.



## Schedule 1 Carrying out works on a road or interfering with a road or its operation

### Section 5

#### 1. Prescribed activity

Carrying out works on a road or interfering with the road or its operation (*Local Government Act 2009*, section 75(2)).

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

No activities stated.

#### 3. Documents and materials that must accompany an application for an approval

- (1) Full details of the proposed works or interference including plans and specifications prepared by a RPEQ.
- (2) Details of all building work and other work to be carried out under the approval.
- (3) Details of the time and place at which the prescribed activity will be undertaken.
- (4) The proposed term of the approval.
- (5) The impact, if any, of the prescribed activity on pedestrian or vehicular traffic.
- (6) The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.
- (7) Plans and specifications detailing—
  - (a) the relevant part of the road that is to be used for the undertaking of the prescribed activity; and
  - (b) the proposed location of each structure and item of equipment to be used in the undertaking of the prescribed activity; and
  - (c) the type and location of any utility, service or infrastructure to be used in the undertaking of the prescribed activity.
- (8) A copy of each policy of insurance of the applicant which is applicable to the undertaking of the prescribed activity including, without limitation, a public liability insurance policy which provides indemnity for each individual occurrence in an amount not less than \$20,000,000.00.

#### 4. Additional criteria for the granting of an approval

The carrying out of the work or interference with the road or its operation must not—

**Comment [KB1]:** Comments from mtg with Mayor 19/12/17 - Confusion as to what this SLL actually covers? How far does this go? Mayor mentioned a personal example of using a ladder on a footpath to paint a privately owned building and the number of approvals required to do such a small activity. Procedures will be needed for this relevant to high risk vs low risk activities and council's approach for these. Mayor is concerned over too much red tape. Query from CEO - does it need to be 'specified' in the SLL, or can we be 'specific' in a subordinate policy? Shane to seek advice from K&C in this regard. The decision making process needs to be in a policy. Mayor expressed concerns about officers being heavy handed.

**Comment [KB2]:** FYI road is defined within the *LGA 2009* as  
(2)A road is—  
(a)an area of land that is dedicated to public use as a road; or  
(b)an area of land that—  
(i)is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; and  
(ii)is open to, or used by, the public; or  
(c)a footpath or bicycle path; or  
(d)a bridge, culvert, ford, tunnel or viaduct.  
(3)However, a road does not include—  
(a) a State-controlled road; or  
(b) a public thoroughfare easement.

**Comment [KB3]:**  
Section 75(2) of the LGA allows for a LG to grant written approval to carry out works on a road or to interfere with a road or its operation. The provision does not provide a process for approving an application for this activity. Therefore, the activity is considered a prescribed activity under the Administration Model LL1. As it is a requirement under the LGA to have an approval to carry out works on a road or interfere with its operation, this is not a prescribed activity where a local government can declare an approval is not required.

FYI extract from LGA s75(2):  
(2)A person must not, without lawful excuse (including under another Act, for example), or the written approval of the local government—  
(a) carry out works on a road; or  
(b) interfere with a road or its operation.  
Maximum penalty—200 penalty units.  
(3)Works do not include the maintenance of ancillary works and encroachments, or landscaping, that does not interfere with the road or its operation  
**ancillary works and encroachments** means—  
(a)cellars; or  
(b)gates; or  
(c)temporary rock anchors for building support; or  
(d)ancillary works and encroachments under the *Transport Infrastructure Act 1994*

**Comment [KB4]:** NEW, however CEO requested 21/11/17 that this be AMENDED to state "plans certified by the LG" or similar wording.

**Comment [KB5]:** NEW

- (a) result in—
  - (i) harm to human health or safety; or
  - (ii) property damage or loss of amenity; or
  - (iii) nuisance; or
  - (iv) obstruction of vehicular or pedestrian traffic; or
  - (v) environmental harm; or
  - (vi) environmental nuisance; or
- (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken.

**5. Conditions that must be imposed on an approval**

No conditions prescribed.

**6. Conditions that will ordinarily be imposed on an approval**

- (1) The conditions of an approval may—
  - (a) require compliance with specified safety requirements; and
  - (b) regulate the time within which the prescribed activity must be carried out; and
  - (c) specify standards with which the prescribed activity must comply; and
  - (d) require the approval holder to—
    - (i) carry out specified additional work such as earthwork and drainage work; and
    - (ii) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before commencement of the prescribed activity; and
    - (iii) give the local government specified indemnities; and
    - (iv) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
    - (v) remove a structure erected or installed, under the approval, at the end of a stated period; and
    - (vi) exhibit specified signage warning about the conduct of the prescribed activity; and
    - (vii) provide a bond to the local government.

Comment [KB6]: NEW

- (2) The conditions of an approval may require the approval holder to take specified measures to—
- (a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and
  - (b) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
  - (c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic; and
  - (d) ensure that the works are carried out strictly in accordance with the information submitted to the local government; and
  - (e) minimise obstruction or inconvenience to the public by, for example, carrying out the work during a specified period or in a specified manner so as to avoid undue inconvenience to the public; and
  - (f) locate existing services, including utility services, situated in the vicinity of the area which is the subject of the work, prior to the commencement of the work and comply with the requirements of service providers; and
  - (g) ensure that pedestrian and vehicular traffic is controlled in accordance with the requirements of part 3 of the Manual of Uniform Traffic Control Devices; and
  - (h) give notice to emergency services, bus and taxi operators and garbage collection service providers, as appropriate, prior to the commencement of the works; and
  - (i) if required by the local government—install scaffolding at the site of the works in a specified manner; and
  - (j) ensure that scaffolding is located as required by the local government and, generally, located so as not to detrimentally impact on the safety and movement of vehicles on any road; and
  - (k) install 1 or more barriers adjacent to the site of the works which are capable of—
    - (i) safely containing all building materials within the site of the works; and
    - (ii) preventing public use and access; and
  - (l) ensure pedestrian and vehicular safety including, but not limited to, the installation and use of barricades, safety lighting, warning devices and other approved measures for providing for adequate pedestrian and vehicular access; and
  - (m) ensure that access to all services, including local government services, for example water valves, fire hydrants, manholes and access pits is

maintained at all times; and

- (n) if the prescribed activity requires the temporary closure of a road—give prior notice to adjoining and affected owners and occupiers of land and maintain the access of affected and adjoining owners and occupiers of land; and
- (o) monitor and restrict water usage associated with the undertaking of the prescribed activity; and
- (p) ensure the cleaning of each area of road, and adjacent buildings and land which are affected by the undertaking of the prescribed activity; and
- (q) ensure that the approval for the undertaking of the prescribed activity is available for inspection on demand by an authorised person; and
- (r) in the undertaking of the prescribed activity, ensure that all plant and equipment is used strictly in accordance with relevant manufacturers' specifications; and
- (s) ensure the removal of all hoardings and footpath closure devices and the resumption of normal road and footpath conditions; and
- (t) reinstate the site at which the prescribed activity is undertaken to its original condition at no cost to the local government within a specified period; and
- (u) reimburse the local government in respect of all costs and expenses associated with repairs and reinstatement work which are a direct or indirect consequence of the undertaking of the prescribed activity in accordance with the requirements of the approval; and
- (v) ensure that an unobstructed pedestrian corridor or footpath having a width of not less than 1.5m is maintained at all times for pedestrian access and that no barrier or construction materials encroach onto the corridor or footpath area at any time whilst the prescribed activity is being undertaken; and
- (w) if the work relates to the installation of bait stations within the footpath—
  - (i) ensure that the bait stations are flush with the surface of the footpath and that any surface breakage or chipping around any bait station is reinstated; and
  - (ii) deliver to the local government an as constructed plan of a specified size which accurately details the location of each bait station; and
- (x) if the prescribed activity is to be undertaken on a State-controlled road—obtain relevant approvals from the State in respect of the undertaking of the prescribed activity prior to the commencement of the prescribed activity; and

- (y) record, and deliver to the local government on a daily basis, details of—
  - (i) the location and time of erection and removal of road work signage; and
  - (ii) the occurrence of any adverse incident incidental to the undertaking of the prescribed activity; and
- (z) ensure that the prescribed activity is not undertaken during peak periods on high volume roads in urban areas and, if works continue overnight, measures to ensure that appropriate long term signage and delineation layout is implemented; and
- (aa) prepare a traffic control management plan for the undertaking of the prescribed activity, obtain the approval of the local government for the plan and, subject to approval of the plan, implement the plan in accordance with the conditions of the approval; and
- (ab) ensure the installation of specified hoardings adjacent to the site of the prescribed activity; and
- (ac) if the prescribed activity is to be undertaken over an awning—ensure that the structural integrity of the awning is assessed and certified by an engineer as capable of supporting or containing plant, workers, tools and materials used above the awning and produce a copy of the engineer’s certification prior to the commencement of the prescribed activity; and
- (ad) if the undertaking of the prescribed activity involves a temporary road closure—
  - (i) give public notice of the temporary road closure, for example, by the publication of notice of the temporary road closure in a newspaper circulating generally in the local government area of the local government; and
  - (ii) at least 7 days prior to the temporary road closure, inform persons residing, occupying or operating a business adjacent to the prescribed activity location or road to be closed, in writing, by letterbox drop, of the approximate prescribed activity/road closure date and time, the nature and scale of the proposed activities, and (if applicable) adequate arrangements for them to enter or exit their property by vehicle for the duration of the activity or road closure; and
- (ae) reimburse the local government all costs and expenses incurred by the local government which directly or indirectly relate to damage sustained to any road or footpath paving or underlying footpath slab which are a direct or indirect consequence of the undertaking of the prescribed activity; and
- (af) ensure that all trees, shrubs and other vegetation which are affected, or

**Comment [KB7]:** FYI - Inclusion of this provision was also recommended by King and Co in their letter to RRC (Damon Morrison) dated 13/1/17.

**Comment [KB8]:** FYI - Inclusion of this provision was also recommended by King and Co in their letter to RRC (Damon Morrison) dated 13/1/17.

may be affected, by the prescribed activity are retained and not damaged; and

- (ag) ensure that no chemical type material, oil, paint, bituminous product, fuel, cement, concrete or the like is placed or dumped on any tree, shrub or other vegetation as a direct or indirect consequence of the undertaking of the prescribed activity; and
- (ah) ensure that in the undertaking of the prescribed activity, no tree, shrub or other vegetation on a local government controlled area or road is removed, modified or disturbed, including the disturbance of any root system within the drip line, in the absence of an approval of the local government; and
- (ai) if any tree, shrub or other vegetation is damaged as a direct or indirect consequence of the undertaking of the prescribed activity—ensure the replacement of the damaged tree, shrub or other vegetation; and
- (aj) if the undertaking of the prescribed activity affects a designated parking space—prior to the commencement of the prescribed activity, obtain from the local government an approval in respect of the use of the designated parking space; and
- (ak) ensure that the undertaking of the prescribed activity complies with erosion and sediment control requirements of the local government, for example—
  - (i) the construction of sediment fences, earth berms and temporary drainage designed to prevent sediment being transported to any adjoining land, road or drainage system; and
  - (ii) all disturbed areas must be mulched or turfed and grassed as soon as practicable during the undertaking of the prescribed activity; and
  - (iii) measures must be put in place to prevent vehicles used in the undertaking of the prescribed activity tracking sediment and other pollutants onto any road during the undertaking of the prescribed activity; and
  - (iv) any road or drainage system affected by the undertaking of the prescribed activity must be reinstated; and
  - (v) stockpiles of topsoil, sand, aggregate, spoil and other material capable of being moved by the action of wind or running water must be stored clear of any drainage path, with appropriate measures to prevent entry onto any road or drainage system; and
- (al) if the approval authorises the approval holder to use a specified part of a road for the undertaking of the prescribed activity — pay a licence fee to the local government at specified intervals.

Comment [KB9]: NEW.

**7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 – Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
No application requirement stated		

**Schedule 2      Categories of approval that are non-transferable**

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.



## Schedule 3 Dictionary

### Section 4

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

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*.

**RPEQ**, for a person, means the person is registered as a registered professional engineer under the *Professional Engineers Act 2002*.

**structure** has the meaning given in the *Local Government Act 2009*.

**Comment [KB10]:** NEW, however to be DELETED given CEO comments as stated in KB1 above.

This and the preceding 11 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.16 (Carrying Out Works on a Road or Interfering With a Road or its Operation) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the day of *(insert the date of the relevant resolution of Council)* 2017.

.....  
Chief Executive Officer

| [SLL1.16657307-1](#)

# Subordinate Local Law No. 1.17 (Gates and Grids) 2017

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.17 (Gates and Grids) 2017*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), 4, 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## **Schedule 1      Gates and grids**

### **Section 5**

#### **1.      Prescribed activity**

- (1)      Installing a gate or a grid, or a gate and a grid, across a road.
- (2)      Being a responsible person for a gate or a grid, or a gate and a grid, installed across a road.

#### **2.      Activities that do not require an approval under the authorising local law**

No activities stated.

#### **3.      Documents and materials that must accompany an application for an approval**

- (1)      If the installation of a gate or a grid, or a gate and a grid, are proposed—
  - (a)      a plan detailing the design of the proposed gate or grid, or gate and grid, including all dimensions, alignments and structural elements; and
  - (b)      a plan identifying the location within the road of the proposed gate or grid, or gate and grid; and
  - (c)      particulars of all warning or similar signage proposed to be erected by the applicant.
- (2)      If a gate or a grid, or a gate and a grid, are installed across a road—
  - (a)      a plan detailing the design of the gate or grid, or gate and grid, including all dimensions, alignments and structural elements; and
  - (b)      a plan identifying the location within the road of the gate or grid, or the gate and the grid; and
  - (c)      details of all warning or similar signage erected about the gate or grid, or the gate and the grid.
- (3)      If the gate or grid, or the gate and the grid, are proposed to be installed across a road—details of the time when the prescribed activity will be undertaken.
- (4)      The proposed term of the approval.
- (5)      The impact, if any, of the prescribed activity on pedestrian or vehicular traffic.
- (6)      The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.

#### **4.      Additional criteria for the granting of an approval**

- (1)      The prescribed activity must not—

- (a) result in—
    - (i) harm to human health or safety, including the safety of vehicular or pedestrian traffic; or
    - (ii) property damage or loss of amenity; or
    - (iii) nuisance; or
    - (iv) the unreasonable obstruction, or disruption, of vehicular or pedestrian traffic; or
    - (v) unreasonable prejudice to the proper maintenance of a road; or
    - (vi) environmental harm; or
    - (vii) environmental nuisance; or
  - (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken.
- (2) If the prescribed activity is the installation of a gate—the prescribed activity must not be undertaken unless the installation of the gate is to be undertaken—
- (a) contemporaneously with the installation of a grid and the grid is identified in a current approval of the local government; or
  - (b) to complement the use, by a responsible person, of a grid, and the grid is identified in a current approval granted by the local government to the responsible person.
- (3) If the prescribed activity is being a responsible person for a gate or a grid, or a gate and a grid, installed across a road—the prescribed activity must not be undertaken if the removal of the gate or the grid, or the gate and the grid, identified in the application is, or is likely to become, necessary—
- (a) because the gate or the grid, or the gate and the grid, on the road results in—
    - (i) harm to human health or safety, including the safety of vehicular or pedestrian traffic; or
    - (ii) property damage or loss of amenity; or
    - (iii) nuisance; or
    - (iv) the unreasonable obstruction, or disruption, of vehicular or pedestrian traffic; or
    - (v) unreasonable prejudice to the proper maintenance of a road; or
    - (vi) environmental harm; or
    - (vii) environmental nuisance; or

- (b) otherwise in the public interest.

**5. Conditions that must be imposed on an approval**

No conditions prescribed.

**6. Conditions that will ordinarily be imposed on an approval**

- (1) The conditions of an approval may require the approval holder to take specified measures to—
  - (a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and
  - (b) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
  - (c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic.
- (2) If the approval relates to the installation of a gate or a grid; or a gate and a grid — the conditions of the approval may—
  - (a) require compliance with specified safety requirements; and
  - (b) regulate the time within which the installation of the gate or the grid, or the gate and the grid, must be carried out; and
  - (c) specify standards with which the installation of the gate or the grid, or the gate and the grid, must comply; and
  - (d) require the approval holder to—
    - (i) carry out specified additional work such as earthwork and drainage work; and
    - (ii) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before the installation of the gate or the grid, or the gate and the grid; and
    - (iii) give the local government specified indemnities; and
    - (iv) construct the gate or the grid, or the gate and the grid, in accordance with standard plans and specifications which the local government may develop or adopt from time to time; and
    - (v) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
    - (vi) clear and maintain the road in the vicinity of the gate or the grid, or the gate and the grid, (including the destruction of plants and vegetation); and
    - (vii) remove a gate, grid or structure erected or installed, under the

- approval, at the end of a stated period; and
  - (viii) remove a gate, grid or structure erected or installed, under the approval, if the gate, grid or structure—
    - (A) is not effective for its intended purpose; or
    - (B) is causing a nuisance, or poses a risk of a nuisance; or
    - (C) constitutes an actual, or potential safety hazard; and
  - (ix) if the approval relates to the installation of a grid—also erect a gate at the location of the grid to a standard, and in accordance with the requirements of, the local government; and
  - (x) maintain the road, for a distance of 5m on each side of the gate or the grid, or the gate and the grid, as the case may be, in good and sufficient repair —
    - (A) so that vehicular and pedestrian traffic is not impeded or obstructed; and
    - (B) to prevent or minimise the risk of personal injury or damage to property; and
  - (xi) exhibit specified signage warning about the conduct of the prescribed activity on the road; and
  - (xii) take specified measures to ensure the unrestricted movement of vehicular and pedestrian traffic along the road during construction and installation of the gate or the grid, or the gate and the grid, as the case may be, and minimise obstruction of vehicular or pedestrian traffic or the risk of personal injury or damage to property.
- (3) If the approval relates to being a responsible person for a gate or a grid, or a gate and a grid, installed across a road—the conditions of the approval may—
- (a) require compliance with specified safety requirements; and
  - (b) require the approval holder to—
    - (i) carry out specified work such as earthwork and drainage work; and
    - (ii) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government within a stated period; and
    - (iii) give the local government specified indemnities; and
    - (iv) maintain the gate or the grid, or the gate and the grid, in accordance with standard plans and specifications; and



- (v) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
- (vi) clear and maintain the road in the vicinity of the gate or the grid, or the gate and the grid (including the destruction of plants and vegetation); and
- (vii) remove a gate, grid or structure identified in the approval, at the end of a stated period; and
- (viii) remove a gate, grid or structure identified in the approval if the gate, grid or structure—
  - (A) is not effective for its intended purpose; or
  - (B) is causing a nuisance, or poses a risk of a nuisance; or
  - (C) constitutes an actual, or potential safety hazard; and
- (ix) if the approval relates to a grid—also erect a gate at the location of the grid to a standard, and in accordance with the requirements of, the local government; and
- (x) maintain the road, for a distance of 5m on each side of the gate or the grid, or the gate and the grid, as the case may be, in good and sufficient repair—
  - (A) so that vehicular and pedestrian traffic is not impeded or obstructed; and
  - (B) to prevent or minimise the risk of personal injury or damage to property; and
- (xi) exhibit specified signage warning about the conduct of the prescribed activity on the road.

**7. Term of an approval**

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

**8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 – Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
The structural adequacy of the design of the grid to accommodate anticipated vehicle loadings.		A professional engineer who is registered under the <i>Professional Engineers Act 2002</i> .

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**Schedule 2      Categories of approval that are non-transferable**

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is transferable.

## Schedule 3      Dictionary

### Section 4

*environmental harm* has the meaning given in the *Environmental Protection Act 1994*.

*environmental nuisance* has the meaning given in the *Environmental Protection Act 1994*.

*gate* means a hinged or sliding barrier used to close an opening in a wall, fence or hedge.

*grid* has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2017*.

*responsible person* has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2017*.

*structure* has the meaning given in the *Local Government Act 2009*.

This and the preceding 10 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.17 (Gates and Grids) 2017* made in accordance with the provisions of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the day of                      2017.

.....  
Chief Executive Officer

SLL1.17

# Subordinate Local Law No. 1.18 (Use of a Vehicle on an Airside Area) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.18 (Use of a Vehicle on an Airside Area) 2011*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

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- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **6 Approvals that are non-transferable—Authorising local law, s 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## Schedule 1 Use of a vehicle on an airside area

### Section 5

#### 1. Prescribed activity

Use of a vehicle on an airside area

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

No activities stated.

#### 3. Documents and materials that must accompany an application for an approval

- (1) If the application relates to an **airside driving authority**—
- (a) applicant details; and
  - (b) driver's licence details, and a copy of the licence; and
  - (c) aviation security identification card details, and a copy of the card;
  - (d) company endorsement; and
  - (e) applicant declaration; and
  - (f) **ADR category details**; and
  - (g) **radio telephone licence** details, and a copy of the licence; and
  - (h) airside driver training evidence; and
  - (i) completed airside driver training questionnaire.
- (2) If the application relates to an **airside vehicle permit**—
- (a) applicant details; and
  - (b) company endorsement; and
  - (c) vehicle details (including registration number, make, model, year, GVM and tonne); and
  - (d) AVP category details; and
  - (e) AVP requirements; and
  - (f) insurance details and proof of coverage; and
  - (g) completed indemnity and release in the form required by the local government.

**Comment [KB1]:** NEW. The application requirements for both airside driving authorities and airside vehicle permits (3(2)) have been separated as differing information is necessary for each.

**Comment [KB2]:** 7/11/17 - Late error identified by D McKee-Hegarty. TO BE AMENDED to state ADA.

**Comment [KB3]:** 7/11/17 - D McKee-Hegarty has requested a further amendment to this to instead state:

"Aeronautical Radio Operator Certificate"

**Comment [KB4]:** NEW. The application requirements for both airside driving authorities and airside vehicle permits (3(2)) have been separated as differing information is necessary for each.



#### 4. Additional criteria for the granting of an approval

- (1) The grant of the approval must be consistent with the objects of *Local Law No. 7 (Aerodromes) 2011*.
- (2) An approval must not be granted for the use of a vehicle on an airside area unless a current airside vehicle permit for the vehicle is produced to the local government.
- (3) An approval must not be granted for the use of a vehicle on an airside area by a person unless the person is the holder of a current airside driving authority and the authority is produced to the local government.

**Comment [KB5]:** Reworded, however essentially remains the same with the exception that we no longer require the applicant “and each driver” to produce the permit/authority.

#### 5. Conditions that must be imposed on an approval

The approval holder must, whilst undertaking the prescribed activity, comply with the requirements of the aerodrome manual prepared by the local government for the aerodrome under the *Civil Aviation Safety Regulations 1998 (Commonwealth)*, part 139.

#### 6. Conditions that will ordinarily be imposed on an approval

- (1) The conditions of an approval may require the approval holder to—
  - (a) affix the approval to, or exhibit the approval on, a specified part of the vehicle identified in the approval facing outwards so that the approval is clearly visible to a person outside the vehicle; and
  - (b) if the approval holder requests the issue of a replacement approval—complete a statutory declaration detailing the facts and circumstances of the loss, destruction or damage of the original approval; and
  - (c) enter into an agreement with the local government to indemnify the local government against claims (including claims made against the approval holder by the local government) for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the use of a vehicle under the approval; and
  - (d) if the approval holder is a business—take out and maintain insurance against personal injury and property damage resulting from the activities authorised by the approval; and
  - (e) take specified measures to reduce the impact of the activities authorised by the approval so that the activities do not—
    - (i) create a traffic nuisance; or
    - (ii) increase an existing traffic nuisance; or
    - (iii) detrimentally affect the efficiency of the airside area on which the activity is undertaken.

**Comment [KB6]:** Previously stated that the approval must be placed near the registration label.

- (2) The conditions of an approval may require that the approval holder—
- (a) limit the activities authorised by the approval to—
    - (i) a specified area; or
    - (ii) a number of specified areas; and
  - (b) limit the activities to specified days and times; and
  - (c) limit the activities to—
    - (i) a specified period of time; or
    - (ii) specified periods of time; and
  - (d) take specified measures to protect the safety of persons who may be involved in, or affected by, the activities authorised by the approval; and
  - (e) take specified measures to ensure that the activities authorised by the approval do not cause a nuisance; and
  - (f) ensure that the vehicle used in the operation of the prescribed activity is, at all times, maintained—
    - (i) in good working order and condition; and
    - (ii) in a clean and sanitary condition; and
  - (g) produce to an authorised person on demand—
    - (i) a current airside vehicle permit; and
    - (ii) a current airside driving authority.

## 7. Term of an approval

- (1) The term of an approval may be assessed by an authorised person having regard to the information submitted by the applicant.
- (2) However, an authorised person may fix the term for an approval if it is desirable to do so—
  - (a) to provide common expiry dates for approvals; or
  - (b) for some other reason.
- (3) The term of the approval must be specified in the approval.

## 8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.

**Comment [KB7]:** (h) has been deleted from here which states: "limit the activities authorised by the approval to 1 or more specified drivers." This is not considered necessary.

**Comment [KB8]:** Previously the local government.

- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

**Table 1 – Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
No application requirements stated		

**Schedule 2      Categories of approval that are non-transferable**

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is non-transferable.

## Schedule 3 Dictionary

### Section 4

**aerodrome manual** has the meaning given in the *Civil Aviation Safety Regulations 1998 (Commonwealth)*, part 139.

**airside area** has the meaning given in *Local Law No. 7 (Aerodromes) 2011*.

**airside driving authority** has the meaning given in the civil aviation safety laws (including the aerodrome manual).

**airside vehicle permit** has the meaning given in the civil aviation safety laws (including the aerodrome manual).

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

This and the preceding 8 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 1.18 (Use of a Vehicle on an Airside Area) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the                      day of                      (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

# Subordinate Local Law No. 2 (Animal Management) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 2 (Animal Management) 2011*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 2 (Animal Management) 2011*, which provides for regulation of the keeping and control of animals within the local government's area.
- (2) The purpose is to be achieved by providing for—
  - (a) the circumstances in which the keeping of animals is prohibited or requires approval; and
  - (b) requirements for keeping animals, including minimum standards, mandatory desexing, proper enclosures, koala conservation and identification; and
  - (c) the control of animals in public places; and
  - (d) matters regarding the impounding of animals and the sale or disposal of impounded animals; and
  - (e) the conditions to be complied with by persons who offer animals, or a particular species of animal, for sale; and
  - (f) the declaration of a species of animal as a declared dangerous animal and the criteria for declaration of a specific animal as a declared dangerous animal.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 2 (Animal Management) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 13 defines particular words used in this subordinate local law.

## Part 2 Keeping of animals

### 5 Circumstances in which keeping animals prohibited—Authorising local law, s 5(1)

For section 5(1) of the authorising local law, keeping an animal or animals



mentioned in column 1 of schedule 1 is prohibited in the circumstances described in column 2 of schedule 1.

**6 Circumstances in which keeping animals requires approval—Authorising local law, s 6(1)**

For section 6(1) of the authorising local law, keeping an animal or animals of the species or breed mentioned in column 1 of schedule 2 requires approval in the circumstances described in column 2 of schedule 2.

**7 Animals that must be desexed—Authorising local law, s 7**

For section 7 of the authorising local law, an animal of the species or breed mentioned in column 1 of schedule 3 must be desexed once it reaches the age specified in column 2 of schedule 3 except in the circumstances described in column 3 of schedule 3.

**8 Minimum standards for keeping animals—Authorising local law, s 8(1)**

- (1) For section 8(1) of the authorising local law, the minimum standards for the keeping of animals are set out in schedule 4.
- (2) For section 8(1) of the authorising local law, column 2 of schedule 5 sets out the minimum standards for keeping an animal of the species or breed mentioned in column 1 of schedule 5.

**9 Identification for cats and dogs in certain circumstances—Authorising local law, s 9**

For section 9 of the authorising local law, the identification required for a cat or dog that is at a place other than the address stated in the registration notice for the cat or dog is the registration device mentioned in section 12(3) of the *Animal Management (Cats and Dogs) Act 2008*.

**Part 3 Control of animals**

**10 Public places where animals are prohibited—Authorising local law, s 10(1)**

For section 10(1) of the authorising local law, the species or breeds of animals mentioned in column 2 of schedule 6 are prohibited in the public places described in column 1 of schedule 6.

**11 Dog off-leash areas—Authorising local law, s 11(1)**

For section 11(1) of the authorising local law, the areas described in schedule 7 are designated as dog off-leash areas.

**12 Animal faeces in public places—Authorising local law, s 13**

For section 13 of the authorising local law, no other species of animal is prescribed as an animal whose faeces must be removed from a public place and disposed of in a sanitary way.

**13 Requirements for proper enclosures for keeping animals—Authorising local law, s 14(2)**

For section 14(2) of the authorising local law, column 2 of schedule 8 sets out the requirements for proper enclosures for an animal of the species or breed mentioned in column 1 of schedule 8.

**14 Koala conservation—Authorising local law, s 15**

- (1) For section 15(1) of the authorising local law, schedule 9 sets out the requirements for keeping a dog on land that is within a koala area.
- (2) For section 15(4) of the authorising local law, each area described in schedule 10 is designated as a koala area.

**15 Criteria for declared dangerous animals—Authorising local law, s 19(1)**

For section 19(1) of the authorising local law, the criteria for declaring an animal as a declared dangerous animal are set out in schedule 11.

**Part 4 Seizure, impounding or destruction of animals****16 Place of care for impounded animals—Authorising local law, s 24**

For section 24 of the authorising local law, the place of care for animals impounded by the local government will be operated by the local government.

**17 Animals that may be disposed of without auction or tender—Authorising local law, s 32(1)(b)**

For section 32(1)(b) of the authorising local law, the species, breeds or classes of animal that may be sold by private agreement, destroyed or disposed of in some other way are the following—

- (a) dogs; and
- (b) cats; and
- (c) other domestic animals; and
- (d) stock.

Comment [KB1]: NEW

**18 Register of impounded animals—Authorising local law, s 33(3)**

For section 33(3) of the authorising local law, the register of impounded animals

will be kept at the local government's public office.

## **Part 5 Appeals against destruction orders**

*This part in the authorising local law does not contain any matters to be provided for by subordinate local law.*

## **Part 6 Miscellaneous**

### **19 Conditions regarding sale of animals—Authorising local law, s 42(1)**

For the purposes of section 42(1) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of schedule 12 must comply with the conditions set out in column 2 of schedule 12.

### **20 Animals excluded from application of the local law—Authorising local law, schedule**

For the purposes of the definition of "*animal*" in the schedule to the authorising local law, animals of the fish species are excluded from the application of the authorising local law.

### **21 Species that are declared dangerous animals—Authorising local law, schedule**

For the purposes of the definition of "*declared dangerous animal*" in the schedule to the authorising local law, no species of animal is declared to be a declared dangerous animal.

### **22 Prescribed period for reclaiming animals—Authorising local law, schedule**

For the purposes of the definition of "*prescribed period*" in the schedule to the authorising local law, the period within which an animal may be reclaimed is—

- (a) if the animal is a horse, cow, registered cat, registered dog or other identifiable animal—5 days; and
- (b) if the animal is an unregistered cat, unregistered dog or an animal which is not an identifiable animal—3 days.

**Schedule 1 Prohibition on keeping animals****Section 5**

	<b>Column 1 Animal</b>	<b>Column 2 Circumstances in which keeping of animal or animals is prohibited</b>
1	Dog	<p>(a) More than 2 dogs over the age of 12 weeks on premises unless the local government has granted, in respect of the keeping of the dogs on the premises—</p> <ul style="list-style-type: none"> <li>(i) a multiple dog approval; or</li> <li>(ii) a kennel approval; or</li> <li>(iii) a pet shop approval.</li> </ul> <p>(b) However, the prohibition in paragraph (a) does not apply to the keeping of a working dog on an allotment if the allotment—</p> <ul style="list-style-type: none"> <li>(i) is rural land or is in the rural zone in the planning scheme of the local government; and</li> <li>(ii) has an area not less than 80,000m<sup>2</sup>.</li> </ul> <p>(c) Any of the following breeds, and a cross breed of any of the following breeds, anywhere in the local government area—</p> <ul style="list-style-type: none"> <li>(i) American pit bull terrier or pit bull terrier;</li> <li>(ii) dogo Argentino;</li> <li>(iii) fila Brasileiro;</li> <li>(iv) Japanese tosa;</li> <li>(v) Perro de Presa Canario or Presa Canario.</li> </ul>
2	Cat	<p>More than 2 cats over the age of 12 weeks on premises unless the local government has granted, in respect of the keeping of the cats on the premises—</p> <ul style="list-style-type: none"> <li>(a) a multiple cat approval; or</li> <li>(b) a cattery approval; or</li> <li>(c) a pet shop approval.</li> </ul>
3	Horse or donkey (other than a racehorse or a stallion)	A horse or donkey (other than a racehorse or a stallion) on an allotment with an area less than 2,000m <sup>2</sup> .

**Comment [KB2]:** K&C advice red 22/11/17 states this schedule contains likely anti-competitive provisions. Relevant criteria 5 – prescribed standard, and 7 – business restriction  
Explanatory comments - The keeping of an animal or animals may be prohibited in specified circumstances. The prohibition may have an impact on the conduct of a business activity.

**Comment [KB3]:** Previously 3 dogs

**Comment [KB4]:** NEW. Please note the approval conditions are included in SLL1.5.

**Comment [KB5]:** (i) and (ii) Sub sections are NEW

**Comment [KB6]:** Previously 3 cats.

**NB:** Mayor's comments from Shane's presentation 6/12/17 – Mayor requested when formally presenting to Council highlight this is a big change from 3 to 2 cats and that she wishes to remain as 3. Mayor was happy to leave dogs at 2 (ie. need permit for more than 2). Cats you need permit for more than 3.

**Comment [KB7]:** NEW.

4	Cow	A cow on an allotment with an area less than 2,000m <sup>2</sup> .
5	Bull	A bull on an allotment with an area less than 40,000m <sup>2</sup> .
6	Birds	More than 5 birds of the same or different species on an allotment with an area less than 20,000m <sup>2</sup> .
7	Pig (including a miniature pig)	A pig (including a miniature pig) on an allotment with an area less than 8,000m <sup>2</sup> .
8	Ostrich or emu	An ostrich or emu on an allotment with an area less than 4,000m <sup>2</sup> .
9	Racing pigeons	1 or more racing pigeons on an allotment with an area less than 800m <sup>2</sup> .
10	Bees	A hive on an allotment with an area less than 800m <sup>2</sup> ; (see Code of Practice for Urban Bee Keeping in Queensland 1998).
11	Racing greyhound	More than 2 racing greyhounds over the age of 12 weeks on an allotment with an area less than 800m <sup>2</sup> .
12	Racehorse	A racehorse on an allotment with an area less than 800m <sup>2</sup> .
13	Stallion	A stallion on an allotment with an area less than 40,000m <sup>2</sup> .
14	European rabbit	A European rabbit on premises in the local government area.

- (1) A prohibition prescribed in this schedule does not apply to the keeping of an animal or animals (each an *exempt animal*) on premises if—
- the animal or animals were kept on the premises before the commencement of *Animal Management (Amendment) Subordinate Local Law (No. 1) 2017*; and
  - the keeping of the animal or animals on the premises immediately before the commencement of *Animal Management (Amendment) Subordinate Local Law (No. 1) 2017* did not contravene any provision of the authorising local law.
- (2) For the avoidance of doubt, if an exempt animal dies or is permanently removed from the premises, subsection (1) does not exempt, from the prohibition prescribed in this schedule, the keeping of any animal which is a replacement for the exempt animal.

**Comment [KB8]:** Previously cow or bull.

**Comment [KB9]:** Previous reference to 'town common' area has been deleted.

**Comment [KB10]:** Increased from 2,000m<sup>2</sup>

NB: Notes from Shane's presentation 6/12/17 – Bull at meatworks was discussed. Mayor queried the reasoning for the increase in allotment size here. Do we know if we have bulls on small blocks? Is this a sensitive issue? Mayor interested to ascertain what is a reasonable size for a bull and is keen to understand more about this.

12/12/17 – Mtg with S Gatt – TO BE REDUCED TO 10,000m<sup>2</sup>.

**Comment [KB11]:** Reduced from 20 birds.

NB: Notes from Shane's presentation 6/12/17 – AMEND to any sized allotment and delete 20,000m<sup>2</sup>. Increase from 5 to 10 birds.

12/12/17 – Mtg with S Gatt – TO BE AMENDED to 10 birds on up to 800m<sup>2</sup> 20 birds between 801m<sup>2</sup> – 2,500m<sup>2</sup> Unlimited birds for allotments greater than 25,000m<sup>2</sup>.

(for reference 2000m<sup>2</sup> is ½ acre. Approx. 4,000m<sup>2</sup> is 1 acre)

**Comment [KB12]:** The inclusion of allotment size is NEW

**Comment [KB13]:** NEW

**Comment [KB14]:** Increased from 4,000m<sup>2</sup>

**Comment [KB15]:** Increased from 400m<sup>2</sup>

**Comment [KB16]:** NEW. Previously stated only "greyhound"

**Comment [KB17]:** NEW

12/12/17 – Mtg with S Gatt – TO BE AMENDED - Reduce to 10,000m<sup>2</sup> for prohibition ONLY. Silent on approval (schedule 2); you can have as many stallions as you want as long as you have 10,000m<sup>2</sup>.

**Comment [KB18]:** NEW

**Comment [KB19]:** NEW

**Comment [KB20]:** NEW

## Schedule 2 Requirement for approval to keep animal

### Section 6

**Comment [KB21]:** K&C advice rcd 22/11/17 states this schedule contains likely anti-competitive provisions. Relevant criteria 10 permits requirement. Explanatory comments - Imposes a requirement to obtain an approval in respect of the undertaking of a prescribed activity and may have an impact on the conduct of a business activity, and in particular, the prescribed activity of the keeping of animals.

**Comment [KB22]:** NEW

**Comment [KB23]:** NEW

**Comment [KB24]:**

Comments from mtg with Mayor 19/12/17 - To be AMENDED to "More than 3" to align with amendments to prohibitions in Schedule above (refer comment KB6)

**Comment [KB25]:** NEW

**Comment [KB26]:** NEW. Therefore if resident is seeking to keep 15 horses/donkeys they would require an allotment with an area greater than 30,000m<sup>2</sup>.

**Comment [KB27]:** Previously cow or bull.

**Comment [KB28]:** Previously more than 1 cow (or bull) could not be kept on an allotment with an area less than 20,000m<sup>2</sup>. This amendment sees a density now applicable. Therefore, you can have 5 cows as of right, provided you have at least 10,000m<sup>2</sup>. Should you not meet the density requirement you would need to obtain approval.

**Comment [KB29]:** Increased from 20,000m<sup>2</sup>. Previously "town common" (urban) areas were excluded.

12/12/17 - Mtg with S Gatt - TO BE AMENDED to see approval of bull to be SILENT for requirement for permit. You can have as many as you want as long as you have 10,000m<sup>2</sup> minimum.

	Column 1 Species or breed of animal	Column 2 Circumstances in which keeping of animal or animals requires approval <sup>1</sup>
1	Dog	(a) 3 dogs over the age of 12 weeks (other than a working dog or a racing greyhound) on any premises. (b) 1 or more dogs on non-residential premises. (c) A guard dog on any premises. (d) A dog kept on residential premises— (i) temporarily; but (ii) for longer than 1 month. (e) 1 or more dogs kept in circumstances which require the grant of a kennel approval. (f) 1 or more dogs kept in circumstances which require the grant of a pet shop approval.
2	Cat	(a) 3 cats over the age of 12 weeks on any premises. (b) 1 or more cats kept in circumstances which require the grant of a cattery approval. (c) 1 or more cats kept in circumstances which require the grant of a pet shop approval.
3	Horse or donkey (other than a racehorse or a stallion)	(a) More than 1 animal to which this item 3 applies on an allotment with an area less than 20,000m <sup>2</sup> . (b) Subject to paragraph (a), if the density of the animals to which this item 3 applies kept on the allotment is greater than 1 animal per 2,000m <sup>2</sup> .
4	Cow	More than 1 cow on an allotment, but excluding an allotment within an urban area, unless the density of the cows kept on the allotment is less than 1 cow per 2,000m <sup>2</sup> .
5	Bull	More than 1 bull on an allotment with an area not less than 40,000m <sup>2</sup> .

<sup>1</sup> See *Local Law No.1 (Administration) 2011* and *Subordinate Local Law No.1.5 (Administration) 2011* in relation to the requirements and processes for approvals (e.g. form of application for approval, documents and materials that must accompany applications, criteria for granting approval, conditions that must be imposed on approvals, conditions that will ordinarily be imposed on approvals, term of approval, third party certification of applications).

6	Birds other than nuisance birds	More than 5, but not more than 10, birds on an allotment with an area not less than 20,000m <sup>2</sup> .
7	Nuisance bird	1 or more nuisance birds on an allotment with an area less than 20,000m <sup>2</sup> .
8	Pig (including a miniature pig)	(a) More than 1 pig on an allotment with an area less than 20,000m <sup>2</sup> unless— (i) the keeping of the pigs on the allotment is authorised by a development approval; or (ii) the allotment is situated on rural land and the responsible person for the pigs is a primary producer. (b) Subject to paragraph (a), unless the density of the pigs kept on an allotment is less than 1 pig per 4,000m <sup>2</sup> .
9	Sheep, goat, or camelid	(a) More than 1 animal to which this item 9 applies on an allotment with an area less than 20,000m <sup>2</sup> . (b) Subject to paragraph (a), if the density of the animals to which this item 9 applies kept on the allotment is greater than 1 animal per 2,000m <sup>2</sup> .
10	Racing pigeons	1 or more racing pigeons on an allotment with an area of 800m <sup>2</sup> or more.
11	Bees	(a) More than 2 hives on an allotment with an area between 800m <sup>2</sup> and 1,000m <sup>2</sup> . (b) More than 5 hives on an allotment with an area between 1,001m <sup>2</sup> and 2,000m <sup>2</sup> (see Code of Practice for Urban Bee Keeping in Queensland 1998).
12	Racing greyhound and whippet	(a) 3, 4 or 5 dogs to which this item 12 applies over the age of 12 weeks on an allotment with an area less than 10,000m <sup>2</sup> . (b) 6,7 or 8 dogs to which this item 12 applies over the age of 12 weeks on an allotment with an area between 10,000m <sup>2</sup> and 100,000m <sup>2</sup> . (c) More than 8 dogs to which this item 12 applies over the age of 12 weeks on an allotment with an area of more than 100,000m <sup>2</sup> .
13	Racehorse	1 or more racehorses on premises in an urban area.
14	Stallion	1 or more stallions on an allotment with an area not less than 40,000m <sup>2</sup> .

**Comment [KB30]:** Reduced from 20

12/12/17 – Mtg with S Gatt – TO BE AMENDED to DELETE this entirely from Schedule 2. As long as you meet prohibitions in schedule 1, we are not concerned.

**Comment [KB31]:** Amended from Alpaca or Llama

**Comment [KB32]:** Increased from 800m<sup>2</sup>

**Comment [KB33]:** Increased from 400m<sup>2</sup>

**Comment [KB34]:** Amended from "Greyhound"

**Comment [KB35]:** Previously "A stallion on an allotment within a 50 kilometre radius of the public office of the local government unless the stallion is a racehorse kept pursuant to an approval granted by the local government under the authorising local law."

12/12/17 – Mtg with S Gatt – TO BE AMENDED – stallions restrictions to be silent and deleted completely. Refer comments against Stallions prohibitions in schedule 1 above.

## Schedule 3 Requirement to desex animal

### Section 7

	Column 1 Species or breed of animal	Column 2 Age at which animal must be desexed	Column 3 Exemptions to the requirement for desexing
1	Dog (other than a menacing dog).	Refer to the exemption in column 3.	<p>The requirement for desexing of dogs does not apply if—</p> <ul style="list-style-type: none"> <li>(a) more than 2 dogs over the age of 12 weeks are kept on premises; and</li> <li>(b) the keeping of the dogs on the premises complies with the requirements of the authorising local law; and</li> <li>(c) the owner of the dogs is— <ul style="list-style-type: none"> <li>(i) a registered breeder; or</li> <li>(i) a recognised animal carer; or</li> <li>(ii) a recognised show keeper.</li> </ul> </li> </ul>
2	Menacing dog.	The requirement for desexing applies once the menacing dog reaches 12 weeks of age.	No menacing dog is exempt from the requirement to be desexed.
3	Cat.	Refer to exemption in column 3.	<p>The requirement for desexing of cats does not apply if—</p> <ul style="list-style-type: none"> <li>(a) more than 2 cats over the age of 12 weeks are kept on premises; and</li> <li>(b) the keeping of the cats on the premises complies with the requirements of the authorising local law; and</li> <li>(c) the owner of the cats is— <ul style="list-style-type: none"> <li>(i) a recognised breeder; or</li> <li>(ii) a recognised animal</li> </ul> </li> </ul>

Comment [KB36]: NEW

Comment [KB37]: Amended, however effectively the SAME outcome.

Comment [KB38]: NEW

Comment [KB39]: Amended, however effectively the SAME outcome.



			carer; or (iii) a recognised show keeper.
4	An animal of a species or breed, if the animal is declared to be a dangerous animal under the authorising local law, section 19.	The animal must be desexed by whichever is the later of— (a) the age of 12 weeks; and (b) within 1 month after the animal is declared as a dangerous animal.	The requirement for desexing of the animal does not apply if— (a) desexing is likely to be a serious risk to the health of the animal; and (b) the owner of the animal delivers to the local government, a signed veterinary surgeon's certificate for the animal stating that desexing the animal is likely to be a serious risk to the health of the animal.

Comment [KB40]: NEW

## Schedule 4 Minimum standards for keeping animals generally

### Section 8(1)

- (1) A person who keeps an animal on premises must —
- (a) ensure that the animal is adequately identified so that the owner's name, address and telephone number are readily ascertainable; and
  - (b) ensure that waste waters from enclosures are drained in a nuisance free manner and that run-off is kept off adjoining premises or as otherwise directed by an authorised person; and
  - (c) ensure that excreta, food scraps and other material that is, or is likely to become, offensive is collected at least daily and, if not immediately removed from the premises, is kept in a waste container of a kind approved by an authorised person; and
  - (d) ensure that any enclosure in which the animal is kept is properly maintained in—
    - (i) a clean and sanitary condition; and
    - (ii) an aesthetically acceptable condition; and
  - (e) take all reasonable steps to prevent the keeping of the animal on the premises from making a noise or disturbance that, in the opinion of an authorised person, causes a community nuisance to occupiers of—
    - (i) adjoining premises; or
    - (ii) 3 or more premises in the vicinity of the premises on which the animal is ordinarily kept; and
  - (f) ensure that the area available to the animal kept on the premises is appropriately sized so that the animal can be effectively and comfortably kept; and
  - (g) if the animal is a cat or a dog and the animal is required to be implanted with a PPID—ensure that the cat or dog is implanted with a PPID as required by section 14 of the Animal Management Act; and
  - (h) if the animal is a dog and the dog is required to be registered by the person in the local government area of the local government—comply with section 46 of the Animal Management Act to register the dog in the local government area as required by section 44 of the Animal Management Act; and
    - (i) if the animal is a dog and section 57 of the Animal Management Act applies to the person—comply with section 57(2) of the Animal Management Act to renew the registration for the dog.
- (2) For the purposes of subsection (1)(e), an authorised person may consider a noise or disturbance to be a *community nuisance* if—
- (a) the noise is made for more than a total of 8 minutes in any hour from 7a.m. to 7p.m. on any day; or

**Comment [KB41]:** K&C advice rcd 22/11/17 states this schedule contains likely anti-competitive provisions. Relevant criteria 5 – prescribed standard, and 7 – business restriction. Explanatory comments - The local government may prescribe minimum standards for the keeping of animals which must be complied with. The requirement for compliance with the prescribed standards may have an impact on the conduct of a business activity.

**Comment [KB42]:** NEW

**Comment [KB43]:** NEW. Previously stated only "nuisance"

**Comment [KB44]:** NEW

- (b) the noise is made for more than a total of 3 minutes in any 30 minute period on any day after 7p.m. or before 7a.m.
- (3) A person who keeps a dog on premises must, if the dog is on heat—
  - (a) for the keeping of the dog on the premises, comply with the requirements for a proper enclosure for the dog mentioned in schedule 8, item 1, column 2; and
  - (b) in any event, ensure that the proper enclosure prevents any dog going within a radius of 100m of the dog on heat.

**Comment [KB45]: NEW.**

Discuss timeframes? Are they reasonable? Also consider 1hr and 30min periods given that officers will need to attend to monitor for these entire periods.

Consider, for example, kids walking to/from school for which (a) would apply. If, between 7.45am-8.45am 20 kids walk past a house near a school, the dog barks as they pass for approx. 15secs. Therefore if 20 kids pass by, the dog will have barked for a total of 5mins which would NOT be deemed community nuisance.

Comments from mtg with Mayor 19/12/17 – TO REMOVED the time aspects from this SLL and instead place in subordinate policy document. The number of persons complaining to however remain in this SLL.

## Schedule 5 Minimum standards for keeping particular animals

### Section 8(2)

	Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
1	Racing greyhound	Each owner of, and responsible person for, a racing greyhound must— <ul style="list-style-type: none"> <li>(a) ensure that the racing greyhound is kept—               <ul style="list-style-type: none"> <li>(i) without nuisance; and</li> <li>(ii) if a code of practice for the keeping of racing greyhounds has been approved by the Greyhound Racing Authority of Queensland—in accordance with the requirements of the code of practice; and</li> </ul> </li> <li>(b) not bring into, or permit the racing greyhound to be in, a public place unless the racing greyhound is muzzled so as to prevent the racing greyhound from biting.</li> </ul>
2	Horse, donkey, cow, bull, ox, deer and other domesticated animals of a similar size and sheep, goat, camel, pig and other animals of a similar size or type	Each owner of, and responsible person for, an animal specified in column 1, item 2 which is kept on premises must ensure that any enclosure in which the animal is kept is not located within a radius of 10m of— <ul style="list-style-type: none"> <li>(a) a residence on adjoining premises; or</li> <li>(b) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the animal; or</li> <li>(c) a place used for the storage of food (other than food kept in hermetically sealed packages).</li> </ul>
3	Budgerigar, canary and other birds of a similar size and cockatiel and other birds of a similar size and cockatoo, galah and other birds of a similar size	Each owner of, and responsible person for, a bird specified in column 1, item 3 must ensure that— <ul style="list-style-type: none"> <li>(a) the bird is kept without nuisance; and</li> <li>(b) the bird is contained within an enclosed cage or aviary; and</li> <li>(c) the bird's food is kept in a properly sealed, vermin proof container; and</li> <li>(d) the cage or aviary in which the bird is kept is thoroughly cleaned at least once each week; and</li> </ul>

**Comment [KB46]:** K&C advice rcd 22/11/17 states this schedule contains likely anti-competitive provisions. Relevant criteria 5 – prescribed standard, and 7 – business restriction. Explanatory comments - The local government may prescribe minimum standards for the keeping of animals which must be complied with. The requirement for compliance with the prescribed standards may have an impact on the conduct of a business activity

**Comment [KB47]:** Previously stated "greyhound"

**Comment [KB48]:** NEW

**Comment [KB49]:** NEW

		<p>(e) if a code of practice for the keeping of birds of a relevant species has been approved by the local government—the bird is kept in accordance with the requirements of the code of practice; and</p> <p>(f) the enclosure in which the bird is kept is not located less than 2m from the side and rear boundaries of the premises.</p>
4	Racing pigeons	<p>Each owner of, and responsible person for, racing pigeons which are kept on premises must ensure that—</p> <p>(a) the racing pigeons are kept without nuisance; and</p> <p>(b) the racing pigeons are contained within an enclosed cage or aviary; and</p> <p>(c) the racing pigeon’s food is kept in a properly sealed, vermin proof container; and</p> <p>(d) the cage or aviary in which the racing pigeons are kept is—</p> <p>(i) thoroughly cleaned at least once each week; and</p> <p>(ii) located at the rear of, and behind, any residence situated on the premises; and</p> <p>(e) if a code of practice for the keeping of racing pigeons has been approved by the local government—the racing pigeons are kept in accordance with the requirements of the code of practice; and</p> <p>(f) the enclosure in which the racing pigeons are kept is not located less than 2m from the side and rear boundaries of the premises.</p>
5	Bees	<p>Each owner of, and responsible person for, bees which are kept on premises must ensure that—</p> <p>(a) the bees are kept without nuisance; and</p> <p>(b) any beehive constructed for the purpose of keeping the bees is not located within a radius of 10m of—</p> <p>(i) a residence on adjoining premises; or</p> <p>(ii) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the bees; or</p> <p>(iii) a place used for the storage of food (other than food kept in hermetically sealed packages); and</p> <p>(c) each beehive constructed for the purpose of keeping bees is adequately identified so that the owner’s name, address and telephone number are readily</p>

Comment [KB50]: NEW

Comment [KB51]: Previously “pigeons”

Comment [KB52]: NEW

		ascertainable; and (d) if a code of practice for the keeping of bees has been approved by the local government — the bees are kept in accordance with the requirements of the code of practice.
6	Duck, drake, peahen, a nuisance bird, ostrich, emu, guinea fowl and poultry	Each owner of, and responsible person for, a bird identified in column 1 item 6 which is kept on premises must ensure that— (a) the bird is kept without nuisance; and (b) the bird is contained within an enclosure; and (c) the bird’s food is stored in a properly sealed, vermin proof container; and (d) the enclosure in which the bird is kept is— (i) thoroughly cleaned at least once each week; and (ii) if the bird is a domestic chicken, duck, drake, goose or turkey and the bird is kept on premises with an area less than 2,000m <sup>2</sup> —located at the rear of, and behind, any residence situated on the premises; and (e) the enclosure in which the bird is kept is not located within a radius of 10m of— (i) a residence on adjoining premises; or (ii) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the bird; or (iii) a place used for the storage of food (other than food kept in hermetically sealed packages); and (f) the enclosure in which the bird is kept is not located less than 2m from the side or rear boundaries of the premises.

Comment [KB53]: NEW

Comment [KB54]: NEW. Please note Turkey has been deleted and replaced with “poultry”. Poultry is defined in the dictionary as: *domestic fowl, such as chickens, turkeys, ducks, and geese* Therefore, chickens are also new inclusions here.

Comment [KB55]: NEW

Comment [KB56]: Increased from 1M

## Schedule 6 Prohibition of animals in public places

### Section 10

	<b>Column 1 Public place</b>	<b>Column 2 Species or breed of animals prohibited</b>
1	<p>Within 5m of—</p> <p>(a) any playground apparatus which is provided for the use of minors in a public place which is a local government controlled area; or</p> <p>(b) a designated playground area in a public place which is a local government controlled area; or</p> <p>(c) a barbecue or other cooking facility in a public place which is a local government controlled area; or</p> <p>(d) a public place which is a botanical garden or a zoo.</p>	Dogs

Comment [KB57]: Reduced from 10M

Comment [KB58]: NEW

**Schedule 7 Dog off-leash areas**

## Section 11

1. Ted Price Park, Gracemere (access via Breakspear Street and Holgate Close) but limited to the area designated as a dog off-leash area by signpost.
2. Duthie Park, North Rockhampton (access via Thozet Road, Marsh Avenue, Lawrence Avenue and Wigginton Street) but limited to the area and times designated by signpost and, in any event, not while the area is being used by animals participating in an obedience trial supervised by a body recognised for section 12(3)(d) of the authorising local law by the local government.
3. Rosel Park, 504 Quay Street, Depot Hill (access via Quay Street).
4. Victoria Park, 1A Lion Creek Road, Wandal (access via Sir Raymond Huish Drive) but limited to the area designated as a dog off-leash area by signpost.
5. Eddie Baker Park, North Rockhampton (access via Currawong Street and Rosella Court) but limited to the area designated as a dog off-leash area by signpost.
6. Part of 291 Lakes Creek Road, Koongal, but limited to the area designated as a dog off-leash area by signpost.
7. Part of Number 7 Dam, Byrnes Parade, Mount Morgan, but limited to the area designated as a dog off-leash area by signpost.

**Comment [KB59]:** References to LSC areas have been deleted from within this schedule.

**Comment [KB60]:** NEW. Please note that item 6 is All Blacks Parks which was recently endorsed by PSR Committee Nov 2017



## Schedule 8 Requirements for proper enclosures for animals

Section 13

	Column 1 Species or breed of animal	Column 2 Requirements for proper enclosures
1	All animals regardless of species or breed	<p>(1) A proper enclosure is an area of the land on which the animal is kept, appropriately sized so as to be capable of effectively and comfortably housing the animal.</p> <p>(2) The area must be suitably fenced—</p> <p>(a) appropriate to the species and breed of the animal to be enclosed; and</p> <p>(b) so as to effectively enclose the animal on the land on which it is kept at all times; and</p> <p>(c) so as to effectively enclose the animal on the land so that the animal cannot reach over or through the fence to adjoining land or any public place.</p> <p>(3) Subsection (2)(c) does not apply to the fence of a proper enclosure on land if—</p> <p>(a) the fence abuts a road; and</p> <p>(b) the land is rural land; and</p> <p>(c) the animal is kept by a primary producer on the land for primary production purposes.</p> <p>(4) If the animal is a dog—the area of the land on which the dog is enclosed by a suitable fence must not include any area that is—</p> <p>(a) a swimming pool; or</p> <p>(b) an area surrounding a swimming pool.</p> <p>(5) For the purposes of this item 1 <i>suitably fenced</i> means enclosed by a fence —</p> <p>(a) constructed of materials which are of sufficient strength to prevent the animal from escaping over, under or through the fence; and</p> <p>(b) of a height which is sufficient to prevent the animal jumping or climbing over the fence; and</p> <p>(c) where the animal has the ability to dig — which includes a barrier installed directly below the fence to prevent the animal digging its way out; and</p> <p>(d) where the animal has the ability to climb —</p>

**Comment [KB61]:** NEW

Comments from mtg with Mayor 19/12/17  
– Are pools necessary? Shane to discuss  
with Council officers prior to Council mtg.

		<p>designed and constructed in such a way as to prevent the animal from climbing over the fence; and</p> <p>(e) of which all gates are kept closed and latched except when in immediate use by a person entering or leaving the land on which the animal is kept.</p>
2	Horse	<p>(1) A proper enclosure for the keeping of a horse must, in addition to the requirements specified in item 1 —</p> <p>(a) effectively enclose the horse so that the horse can not reach over or through the fence to adjoining land or any public place; and</p> <p>(b) where the animal is a stallion—the enclosure must be constructed within an additional or second suitable and adequate fence or enclosure that is provided at the land on which the stallion is kept to a standard approved by an authorised person.</p>

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**Schedule 9      Requirements for keeping a dog in a koala  
area**

Section 14(1)

No requirements prescribed.

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**Schedule 10 Koala areas<sup>2</sup>**

Section 14(2)

No area designated.

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<sup>2</sup> “Koala areas” under section 15(4) of the authorising local law comprise the areas designated in this schedule plus “koala habitat areas” designated by a State planning instrument or a conservation plan made under the *Nature Conservation Act 1992*.

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## **Schedule 11    Criteria for declared dangerous animals**

### Section 15

There is a high likelihood of the animal causing injury to a person or animal or damage to property, taking into account—

- (a) its prior history of attacking or causing fear to persons or animals or damaging property; and
- (b) the extent of injury or damage that could potentially be inflicted by an animal of its size and species or breed.

## Schedule 12 Conditions for sale of animals

### Section 19

	<b>Column 1 Species or breed of animal</b>	<b>Column 2 Conditions that must be complied with when offering animal for sale</b>
1	A dog or a cat	<p>(1) A person who offers an animal of a species specified in column 1 item 1 for sale must keep and maintain a written register detailing —</p> <ul style="list-style-type: none"> <li>(a) the particulars and description of each animal offered for sale including breed, name, date of birth, identifying tag and any other form of identification; and</li> <li>(b) a medical history for each animal listing vaccinations, inoculations and treatments that have been carried out; and</li> <li>(c) if the animal is sold or otherwise disposed of — the name and address of the new owner of the animal and the date of sale or disposal of the animal.</li> </ul> <p>(2) If section 44 of the Animal Management Act applies to an animal which is offered for sale by the person—the person must comply with the requirements of the section before the sale of the animal by the person.</p> <p>(3) If section 44 of the Animal Management Act does not apply to the animal offered for sale by the person—the person must supply a register to the local government, at least monthly, giving full details of —</p> <ul style="list-style-type: none"> <li>(a) all animals sold or otherwise disposed of including the name and address of the new owner of the animal; and</li> <li>(b) a full description of each animal sold or otherwise disposed of; and</li> <li>(c) the date of sale or disposal of each animal.</li> </ul> <p>(4) A person must not offer an animal of a species specified in column 1 item 1 for sale unless the animal has received all necessary vaccinations, inoculations and treatments which are appropriate according to the age of the animal.</p>

## Schedule 13 Dictionary

### Section 4

**Animal Management Act** see *Animal Management (Cats and Dogs) Act 2008*.

**animal welfare agency** means—

- (a) the Royal Society for the Prevention of Cruelty to Animals Queensland Incorporated; and
- (b) the Animal Welfare League of Queensland Incorporated.

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

**cat**—

- (a) has the meaning given in section 11 of the Animal Management Act; and
- (b) includes a kitten regardless of age.

**cattery**—

- (a) means premises used for boarding, breeding or training cats; but
- (b) does not include the keeping of cats as domestic pets.

**cattery approval** means an approval required to operate a cattery on premises.

**community nuisance** see schedule 4, section 2.

**decommissioned greyhound** has the meaning given in the Animal Management Act.

Comment [KB62]: NEW

**designated playground area** means an area which is—

- (a) physically defined; and
- (b) constructed by the local government for recreational use by minors; and
- (c) provided with 1 or more items of playground apparatus.

**Example**—

A designated playground area may be an area which is—

- (a) enclosed by a fence or some other barrier; and
- (b) covered by bark chips or similar material; and
- (c) equipped with a swing, see-saw or similar playground apparatus.

**destroy**, an animal, includes causing it to be destroyed.

**dog**—

- (a) has the meaning given in section 11 of the Animal Management Act; and
- (b) includes a puppy regardless of age.

**domestic purposes** means the purposes of—

- (a) human consumption; or
- (b) food preparation; or
- (c) washing; or
- (d) other normal domestic duties.

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*.

**exempt animal** see schedule 1.

Comment [KB63]: NEW

**fence**—

- (a) means a barrier enclosing an area, consisting of, for example, posts connected by wire or wood; but
- (b) if the animal to be enclosed in an area by a fence is a dog—does not include an electric fence, for example, a fence through which an electric current can be passed, giving an electric shock to any person or animal touching the fence.

Comment [KB64]: NEW

Comments from mtg with Mayor 19/12/107 – “hidden” barrier fences and electric fences were discussed. Shane to discuss with Council officers and obtain reasoning for this new definition prior to Council meeting as currently we allow these types of fences.

**guard dog**—

- (a) means a dog which is released by a person on residential premises or non-residential premises in the area of the local government without a handler for the primary purpose of acting as a deterrent to intruders; and
- (b) includes a dog which has been released by a person on residential premises or non-residential premises in the area of the local government without a handler in circumstances where the dog has been trained to attack for the purpose of guarding either persons or property; and
- (c) in the absence of evidence in rebuttal thereof, if a person releases a dog on non-residential premises in the area of the local government without a handler, the person is presumed to have released the dog for the primary purpose of acting as a deterrent to intruders; but
- (d) does not include a police dog or a regulated dog.

Comment [KB65]: NEW

**horse** includes a pony and a miniature horse.

**identifiable animal** means an animal—

- (a) wearing an identifying tag issued by the local government; or
- (b) otherwise identified so that the local government is able to ascertain the owner of the animal.

**keep** (an animal)—

- (a) includes board, breed and train; and
- (b) in the absence of evidence to the contrary, a person is presumed to keep an animal on land if the person —
  - (i) feeds and cares for the animal on the land; and
  - (ii) the animal is observed by an authorised person on the land on more than 1 occasion during a month.

**kennel**—

- (a) means premises used for boarding, breeding or training dogs; but
- (b) does not include the keeping of dogs as domestic pets.

**kennel approval** means an approval required to operate a kennel on premises.

Comment [KB66]: NEW

**land** has the meaning given in the *Sustainable Planning Act 2009*.

**multiple cat approval**, for the keeping of cats on premises, means an approval to keep 3 cats over the age of 12 weeks on the premises.

Comment [KB67]:

Comments from meeting with Mayor 19/12/17 – Refer comments KB6 and KB24 above– TO BE AMENDED to “more than three”



**multiple dog approval**, for the keeping of dogs on premises, means an approval to keep 3 dogs over the age of 12 weeks (other than a working dog or a racing greyhound) on the premises.

Comment [KB68]: NEW

**multi-residential premises** means each of—

- (a) a residence which forms part of a group of 2 or more residences in circumstances where 2 or more of the residences of the group are directly adjacent to each other and share—
  - (i) a common wall; or
  - (ii) a ceiling in circumstances where 1 residence is directly under the floor of another residence; and
- (b) a residence situated on a lot which forms part of a community titles scheme as defined in the *Body Corporate and Community Management Act 1997*.

*Examples of multi-residential premises —*

Flats, boarding houses, tenement buildings, home units, townhouses and duplexes.

**non-residential premises** means premises other than residential premises.

**nuisance bird** means—

- (a) a rooster, goose, cockatoo, galah or peacock; and
- (b) another bird kept on premises which makes an audible noise which causes environmental harm or environmental nuisance to an occupier of other premises.

**occupier**, of premises—

- (a) means the person who has the control or management of the premises; and
- (b) includes the owner of the premises where there is no person in apparent occupation of the premises.

**pet shop** means a shop or a stall at a market at which animals are offered for sale.

**pet shop approval** means an approval required to operate a pet shop on premises.

**PPID** has the meaning given in the Animal Management Act.

Comment [KB69]: NEW

**premises** means—

- (a) a building or other structure; or
- (b) land, whether or not a building or other structure is on the land.

**primary producer** has the meaning given in the Animal Management Act.

Comment [KB70]: NEW

**racehorse** means a horse bred and trained for racing.

**racing greyhound** —

- (a) means a greyhound registered with the Queensland Racing Integrity Commission under the rules for racing, as enforced from time to time, of a control body for a code of racing, as required under the *Racing Act 2002*, or registered with a control body of another State responsible pursuant to the law of that State for the registration of racing greyhounds; and
- (b) for the avoidance of doubt, does not include a decommissioned greyhound.

**racing pigeon** means a class of pigeon which is—

- (a) primarily kept for the purpose of racing or breeding for racing; and
- (b) kept by a person who is a registered member of the Queensland Racing Pigeon Federation Incorporated; and
- (c) kept in accordance with the terms of membership of the Queensland Racing Pigeon Federation Incorporated.

Comment [KB71]: NEW

**recognised animal carer** means a person who holds a document or registration issued by an animal welfare agency in which the animal welfare agency approves the holder of the document or registration keeping 1 or more animals primarily to protect or preserve the health or welfare of the animal.

Comment [KB72]: AMENDED

**recognised breeder**, of cats, means a person who—

- (a) breeds cats; and
- (b) is registered as a breeder of cats with—
  - (i) the Queensland Feline Association Inc; or
  - (ii) another association recognised by the local government for the purposes of this definition.

Comment [KB73]: NEW

**recognised show keeper**, for an animal, means a person who—

- (a) if the animal is a cat—
  - (i) keeps the cat for show purposes; and
  - (ii) has registered the cat with—
    - (A) the Queensland Feline Association Inc; or
    - (B) another association recognised by the local government for the purposes of this definition; or
- (b) if the animal is a dog—
  - (iii) keeps the dog for show purposes; and
  - (iv) has registered the dog with—
    - (A) the Canine Control Council (Queensland); or
    - (B) another association recognised by the local government for the purposes of this definition.

Comment [KB74]: NEW

**registered** has the meaning given in the Animal Management Act.

**registered breeder**, of dogs, has the meaning given in the Animal Management Act.

Comment [KB75]: AMENDED

**residence** means a building, or part of a building, that is—

- (a) fixed to land; and
- (b) a self-contained unit used by, or intended for the exclusive residential use of, one household.

**residential premises** means premises used, or intended to be used, predominantly as a place of residence.

**rural land** has the meaning given in the Animal Management Act.

Comment [KB76]: NEW

**sale** includes—

- (a) to sell; and
- (b) offer, or expose for sale; and
- (c) agree or attempt to sell; and
- (d) dispose of for negligible or no consideration; and
- (e) barter.

**stallion** means an uncastrated adult male horse.

**stock** has the meaning given in the Animal Management Act.

Comment [KB77]: NEW

**structure** has the meaning given in the Local Government Act 2009.

**urban area**—

- (a) means an area that is used for urban purposes; and
- (b) includes an area that is used for residential (other than rural residential), retail, commercial, industrial, community or government related purposes.

Comment [KB78]: AMENDED

**working dog** has the meaning given in the Animal Management Act.

This and the preceding 29 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 2 (Animal Management) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the \_\_\_\_\_ day of \_\_\_\_\_ (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

~~SLL2661814\_sll2-animal-mgmt-Consol~~ NO MARKUP

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# Subordinate Local Law No. 3 (Community and Environmental Management) 2011

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 3 (Community and Environmental Management) 2011*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 3 (Community and Environmental Management) 2011*, which provides for protecting the environment and public health, safety and amenity within the local government's area.
- (2) The purpose is to be achieved by providing for—
  - (a) declaration of local pests; and
  - (b) prohibition of lighting or maintaining certain fires; and
  - (c) declaration of fire hazards; and
  - (d) declaration of community safety hazards; and
  - (e) prescribed requirements for owners of land containing community safety hazards; and
  - (f) declaration of noise standards.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 3 (Community and Environmental Management) 2011* (the **authorising local law**).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 6 defines particular words used in this subordinate local law.

## Part 2 Declared local pests

### 5 Declaration of local pests—Authorising local law, s 6(1)

For section 6(1) of the authorising local law, the animal or plant prescribed in column 2 of schedule 1 is a declared pest in the corresponding part of the local government's area mentioned in column 1 of schedule 1.

## **6 Persons exempted from introducing etc a declared local pest— Authorising local law, s 12(2)**

For section 12(2) of the authorising local law, a person mentioned in column 1 of schedule 2 is exempt from section 12(1) of the authorising local law in relation to introducing, propagating, breeding or providing harbour to a declared local pest mentioned in the corresponding part of column 2 of schedule 2.

## **Part 3 Overgrown and unsightly allotments**

*This part in the authorising local law does not contain any matters to be provided for by subordinate local law.*

## **Part 4 Fires and fire hazards**

### **7 Prohibition on lighting or maintaining fires—Authorising local law, s 15(2)**

- (1) This section applies to the following fires<sup>1</sup>—
- (a) a fire in which neither the height, width nor length of the material to be consumed exceeds 2 metres;
  - (b) a fire lit for the purpose of burning the carcass of a beast;
  - (c) a fire lit at a sawmill for the purpose of burning sawdust or other residue resulting from the operation of a sawmill;
  - (d) a fire lit out-doors, if enclosed in a fireplace so constructed as to prevent the escape of fire or any burning material therefrom.
- (2) For section 15(2) of the authorising local law, lighting or maintaining a fire described in column 2 of schedule 3 is declared to be prohibited in the corresponding part of the local government's area mentioned in column 1 of schedule 3.

### **8 Fire hazards—Authorising local law, s 16(3)(b)**

For section 16(3)(b) of the authorising local law, the following are declared to be fire hazards—

- (a) live cinders or hot ash that is not enclosed in a fireplace so constructed as to prevent the escape of cinders or ash; and
- (b) a substantial accumulation of grass clippings that is liable to spontaneous combustion; and
- (c) dry vegetation that could be easily ignited or other flammable materials.

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<sup>1</sup> Pursuant to a notification by the Fire and Rescue Services Commissioner published in the gazette on 6 August 2004 under section 63 of the *Fire and Emergency Services Act 1990*, the listed fires can generally be lit without a permit issued by a fire warden, provided adequate precautions are taken to prevent the spread of fire and the fire confirms with any local law. Local laws can therefore regulate these types of fire, which is the purpose of this subordinate local law.

## Part 5 Community safety hazards

### 9 Community safety hazards—Authorising local law, s 17(c)

For section 17(c) of the authorising local law, the following are declared to be community safety hazards—

- (a) a plant on premises which—
  - (i) is dangerous or attracts vermin; or
  - (ii) has caused, or is, in the opinion of an authorised person, likely to cause—
    - (A) personal injury or property damage; or
    - (B) a negative impact on the amenity of the surrounding area; and
- (b) an act or omission on premises which—
  - (i) is dangerous or attracts vermin; or
  - (ii) has caused, or is, in the opinion of an authorised person, likely to cause—
    - (A) personal injury or property damage; or
    - (B) a negative impact on the amenity of the surrounding area; and
- (c) a dead animal on premises which—
  - (i) is dangerous or attracts vermin; or
  - (ii) has caused, or is, in the opinion of an authorised person, likely to cause—
    - (A) personal injury or property damage; or
    - (B) a negative impact on the amenity of the surrounding area.

### 10 Prescribed requirements for community safety hazards—Authorising local law, s 20(1)

For section 20(1) of the authorising local law, a responsible person for a community safety hazard listed in column 1 of schedule 4 must meet the requirements prescribed in the corresponding part of column 2 of schedule 4.

## Part 6 Noise standards

### 11 Prescribed noise standards—Authorising local law, s 21(2)

- (1) For section 21(2) of the authorising local law, the noise standard in column 2 of schedule 5 is prescribed for the section of the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3 stated in column 1 of schedule 5.
- (2) For section 21(2) of the authorising local law, the noise standard in column 2 of schedule 5 applies in the corresponding part of the local government's area mentioned in column 3 of schedule 5.

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**Part 7                      Miscellaneous**

*This part in the authorising local law does not contain any matters to be provided for by subordinate local law.*



**Schedule 1 Declared local pests**

## Section 5

Column 1 Applicable part of local government's area		Column 2 Declared local pest
1.	The whole of the local government area.	<p>Castor-oil Plant (<i>Ricinus communis</i>)</p> <p>Devil's Apple (<i>Solanum aculeatissimum</i>)</p> <p>Devil's Fig (<i>Solanum torvum</i>)</p> <p>Elephant Grass (<i>Penisetum purpurem</i>)</p> <p>Feral Leucaena (<i>Leucaena leucocephala</i>)</p> <p>Grey-leaved Cordia (<i>Cordia sinensis</i>)</p> <p>Indian Myna (<i>Acridothera fuscus</i>)</p> <p>Lion Tail (<i>Leonotis nepetifolia</i>)</p> <p>Log Wood (<i>Haematoxylon campechianum</i>)</p> <p>Maltese Cockspur (<i>Centaurea melitensis</i>)</p> <p>Mexican Poppy (<i>Argemone ochroleuca</i>)</p> <p>Sisal (<i>Agave vivipara</i> (var. <i>vivipara</i> and cv. <i>Marginate</i> (sisal)), <i>Agave sisalana</i> (sisal/sisal hemp))</p> <p>Snake Weed (<i>Stachytarphets spp</i>)</p> <p>Sweet subsp (<i>Ochroleuca</i>)</p> <p>Wild Sisal (<i>Furcraea selloa</i>)</p>

**Comment [KB1]:** K&C advice rcd 22/11/17 states this schedule is likely to contain anti-competitive provisions. Relevant Criteria 5 – prescribed standard, and, 7 – business restriction. Explanatory notes - Animals and plants may be declared as a local pest and a compliance notice may require an owner of land to take specified action to control the declared local pest. Compliance with the requirements of the notice may have an impact on the conduct of a business activity

**Comment [KB2]:** NEW

**Comment [KB3]:** NEW

**Comment [KB4]:** NEW

**Comment [KB5]:** NEW

**Schedule 2      Persons exempted from offence of  
introducing etc declared local pest**

Section 6

<b>Column 1</b> <b>Exempt person</b>	<b>Column 2</b> <b>Declared local pest</b>
Each responsible person for land who grows leucaena ( <i>Leucaena leucocephala</i> ) on the land in compliance with the requirements of the Leucaena Growers Code of Conduct.	Leucaena ( <i>Leucaena leucocephala</i> ).

### Schedule 3 Prohibited fires

Section 7(2)

	<b>Column 1</b> <b>Applicable part of local government's area</b>	<b>Column 2</b> <b>Prohibited fire</b>
1	The whole of the local government area	A fire lit out-doors, unless the fire is enclosed in a fireplace so constructed as to prevent the escape of fire or any burning material therefrom.
2	Local government controlled areas	A fire that is not in a fireplace, barbeque or incinerator constructed by the local government.

## Schedule 4 Prescribed requirements for community safety hazards

Section 10

	<b>Column 1 Community safety hazard</b>	<b>Column 2 Prescribed requirements to be met by responsible person</b>
1	Barbed wire fencing	<ul style="list-style-type: none"> <li>(a) Fencing not to be installed along a boundary adjoining a public park;</li> <li>(b) Barbed wire to be used in urban areas only in a security fence with the barbed wire to be more than 2 metres off the ground.</li> </ul>
2	Electric fencing	<ul style="list-style-type: none"> <li>(a) Fencing installed in an urban area that adjoins any road or public land to have warning signs of a size that can be read from a distance of 5 metres and fixed at 5 metre intervals along the fence;</li> <li>(b) Fencing installed in an urban area must be situated at least 1500mm from a fence located on or within the boundary of the premises OR such that if the fencing is installed on the boundary of the premises the lowest point of the fencing capable of imparting an electric shock when touched is at least 2000 mm in height;</li> <li>(c) Fencing must be installed, operated and maintained in accordance with AS/NZS 3014:2003;</li> <li>(d) Fencing for security must be installed, operated and maintained in accordance with AS/NZS 3016:2002.</li> </ul>
3	Roof sheeting, guttering, and sheet metal	Any materials not fixed to a structure to be weighted down or tied down to prevent them from becoming airborne during high winds.

## Schedule 5 Prescribed noise standards

Section 11

<b>Column 1</b> Section of the <i>Environmental Protection Act 1994</i> , chapter 8, part 3B, division 3	<b>Column 2</b> Prescribed noise standard	<b>Column 3</b> Applicable part of local government's area
No noise standard is prescribed.		

## Schedule 6 Dictionary

### Section 4

*local government public health risk* has the meaning given in the *Public Health Act 2005*.

*plant* has the meaning given in the *Biosecurity Act 2014*.

*urban area* means an area that is used for an urban purpose as that expression is defined in the planning scheme of the local government and includes residential (other than rural residential), retail, commercial, industrial, community and government related purposes.

Comment [KB6]: NEW

*vermin* means—

- (a) reptiles, bed bugs, lice, fleas, parasites and cockroaches; and
- (b) guinea pigs and other rodents capable of carrying or transmitting a notifiable disease; but
- (c) does not include—
  - (i) a protected animal within the meaning of the *Nature Conservation Act 1992*; or
  - (ii) a local government public health risk.

This and the preceding 10 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 3 (Community and Environmental Management) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the                      day of                      (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

SLL3658095-1

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# Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2017

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2017*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No.4 (Local Government Controlled Areas, Facilities and Roads) 2011* in order to protect the health and safety of persons using local government controlled land, facilities, infrastructure and roads and preserve features of the natural and built environment and other aspects of the amenity of local government controlled land, facilities, infrastructure and roads.
- (2) The purpose is to be achieved by providing for—
  - (a) the regulation of access to local government controlled areas; and
  - (b) the prohibition or restriction of particular activities in local government controlled areas or roads.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No.4 (Local Government Controlled Areas, Facilities and Roads) 2011* (the *authorising local law*).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 7 defines particular words used in this subordinate local law.

## Part 2 Use of local government controlled areas, facilities and roads

### 5 Prohibited and restricted activities—Authorising local law, s 5(1)

- (1) For section 5(1)(a) of the authorising local law, the activities prescribed in column 2 of schedule 1 are declared to be prohibited in the corresponding local government controlled area or road (or part thereof) mentioned in column 1 of schedule 1.
- (2) For section 5(1)(b) of the authorising local law, the activities prescribed in column 2 of schedule 2 are declared to be restricted in the corresponding local government controlled area or road (or part thereof) mentioned in column 1 of schedule 2, to the extent described in column 3 of schedule 2.

**Comment [KB1]:** Advice rcd from K&C 22/11/17 suggests this clause is likely to contain anti-competitive provisions.  
Relevant criteria 5 – prescribed standard, 7 – business restriction, and, 10 – permit requirement.  
Explanatory notes - The local government may, under a subordinate local law, declare an activity to be a prohibited activity or a restricted activity. In respect of various restricted activities, a subordinate local law imposes a requirement to obtain an approval in respect of the undertaking of the activity, a prescribed activity, and may have an impact on the conduct of a business activity, and in particular, the prescribed activity. If an activity is identified as a prescribed activity, Local Law No. 1 (Administration) 2011 and the subordinate local law made under the local law provide a legal and procedural framework for the administration and regulation of the grant of approvals to undertake the prescribed activity.



**6 Motor vehicle access in local government controlled areas—Authorising local law, s 6(1)(b)**

For section 6(1)(b) of the authorising local law, the areas prescribed in column 1 of schedule 3 are declared to be motor vehicle access areas.

**7 Prohibited vehicles—Authorising local law, s 6(3)**

For section 6(3) of the authorising local law, the specific types of motor vehicle prescribed in column 2 of schedule 3 are declared to be prohibited vehicles in the corresponding specified motor vehicle access area in column 1 of schedule 3.

**8 Opening hours for local government controlled areas—Authorising local law, s 7(1)**

- (1) For section 7(1) of the authorising local law, the times prescribed in column 2 of schedule 4 are declared to be the opening hours for the local government controlled areas mentioned in column 1 of schedule 4.
- (2) However, the local government may, from time to time, by resolution, declare other times when a local government controlled area is open to the public.

**9 Permanent closure of local government controlled area—Authorising local law, s 8(3)**

For section 8(3) of the authorising local law, the local government controlled areas described in schedule 5 are permanently closed to public access.

## **Part 3 Matters affecting roads**

**10 Notice requiring owner of land adjoining road to fence land—Authorising local law, s 9(3)**

For section 9(3) of the authorising local law, the minimum standards for a fence that is the subject of a compliance notice under section 9(2) of the authorising local law are as follows—

- (a) the fence must be constructed of materials which are of sufficient strength to—
  - (i) restrain the types of animals to be contained in the area adjacent to the fence; and
  - (ii) stop the animals from escaping over, under or through the fence; and
- (b) the height of the fence must be sufficient to restrain the types of animals to be contained in the area adjacent to the fence from jumping or climbing over the fence; and
- (c) if an animal to be contained in the area adjacent to the fence has the ability to dig — the fence must include a barrier installed directly below the fence to prevent the animal digging its way underneath the fence; and
- (d) if the fence includes a gate — the gate must be kept closed and latched

except when in immediate use by a person entering or leaving the area adjacent to the fence.

## **Part 4                    Repeal**

### **11    Repeal of subordinate local law**

This subordinate local law repeals *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities, and Roads) 2011*.

**Comment [KB2]:** NEW as current SLL to be repealed, given the extent of changes proposed.

## Schedule 1 Prohibited activities for local government controlled areas or roads

Section 5(1)

	Column 1 Local government controlled area or road	Column 2 Prohibited activity
1	All local government controlled areas within the local government area.	<p>(a) Riotous, disorderly, indecent, offensive, threatening or insulting behaviour;</p> <p>(b) Carrying or displaying a placard or other sign bearing an offensive or threatening message or image;</p> <p>(c) Injuring, misusing, defacing, marking or otherwise damaging a building or structure which is owned, held in trust or otherwise controlled by the local government;</p> <p>(d) Entering or interfering with a building or structure associated with the water supply system, stormwater drain system or sewerage system of the local government unless the person entering or interfering with the building or structure is an emergency services officer entering or interfering with the building or structure in the course of his or her duties as an emergency services officer;</p> <p>(e) Parking or standing a vehicle bearing a sign or advertisement that the vehicle is offered for sale or hire;</p>

Comment [KB3]: 'Taking part in a protest' deleted

Comment [KB4]: '(e)Camping, sleeping, occupying or remaining overnight unless the local government controlled area is a park or reserve.' has been deleted from here so as to not interfere with the Kershaw Gardens activity.

		<p>(f) Parking, leave standing, or operating an unregistered vehicle;</p> <p>(g) If land adjoins, or is adjacent to, a local government controlled area – the occupier of the land leaving, or causing to be left, a standard general waste container on the local government controlled area—</p> <p>(i) outside of the time frame specified in the local government’s relevant policy and procedure about the scheduled collection day for the standard general waste container; or</p> <p>(ii) in a manner that is likely, in an authorised person’s opinion, to cause—</p> <p>(A) harm to human health or safety, or personal injury; or</p> <p>(B) property damage or a loss of amenity; or</p> <p>(C) an environmental nuisance;</p> <p>(h) Disposing of any waste of any kind other than in a waste container provided for that purpose;</p> <p>(i) Depositing, storing, dumping or leaving unattended a shopping trolley.</p>
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Comment [KB5]: NEW

2	All roads within the local government area.	<ul style="list-style-type: none"><li>(a) Causing an offensive liquid, sediment or substance to be discharged onto a road;</li><li>(b) Intentionally or negligently damaging a road or a structure associated with a road;</li><li>(c) Creating a nuisance on a road;</li><li>(d) Camping, sleeping, occupying or remaining overnight in a vehicle stopped on a footpath, shared path, water-channel or gutter;</li><li>(e) Parking or standing a vehicle bearing a sign or advertisement that the vehicle is offered for sale or hire;</li><li>(f) Parking, leave standing or operating an unregistered vehicle on a road;</li><li>(g) If land adjoins, or is adjacent to, a road — the occupier of the land leaving, or causing to be left, a standard general waste container on the road—<ul style="list-style-type: none"><li>(i) outside of the time frame specified in the local government’s relevant policy and procedure for the scheduled collection day for the standard general waste container; or</li><li>(ii) in a manner that is likely, in an authorised person’s opinion, to cause —</li></ul></li></ul>
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		<p>(A) harm to human health or safety, or personal injury; or</p> <p>(B) property damage or a loss of amenity; or</p> <p>(C) an environmental nuisance;</p> <p>(h) Disposing of any waste of any kind other than in a waste container provided for that purpose;</p> <p>(i) Depositing, storing, dumping or leaving unattended a shopping trolley.</p>
3	Each area of land which is declared, under <i>Local Law No. 5 (Parking) 2011</i> , as an off-street regulated parking area.	Parking or leave standing, an unregistered vehicle.
4	All local government cemeteries within the local government area, including each local government cemetery identified in schedule 6.	<p>(a) Interfering with a funeral or commemorative service lawfully conducted in a local government cemetery;</p> <p>(b) Selling or buying any article or thing;</p> <p>(c) Distributing or putting up any handbill, card, circular or advertisement;</p> <p>(d) Interfering with any tree, shrub or plant unless the activity is undertaken by, or on behalf of, the local government;</p> <p>(e) Taking part in any meeting other than a meeting of a religious or commemorative nature;</p> <p>(f) Discharging a firearm, except at a military or police funeral or other recognised type of funeral service ordinarily involving such discharge;</p>

Comment [KB6]: NEW

Comment [KB7]: NEW

		<p>(g) Damaging or disturbing or interfering with any memorial, inscription plaque, epitaph or inscription, or any flowers or tokens placed on or adjacent to a grave or niche, unless the activity is undertaken by, or on behalf of, the local government for maintenance, health or safety purposes;</p> <p>(h) Riding or driving or permitting to be ridden or driven, any vehicle of any description or any horse otherwise than on a paved roadway or path;</p> <p>(i) Engaging in conduct which is dangerous or creates a risk to the safety of members of the public;</p> <p>(j) Deliberately or recklessly damaging or destroying any building, fence, structure, improvement or other property;</p> <p>(k) Bringing an animal (other than a certified guide, hearing or assistance dog) into or allowing an animal (other than a certified guide, hearing or assistance dog) to be within a local government cemetery (other than for the purposes of a funeral or commemorative service);</p> <p>(l) Entering or being within a local government cemetery except for the purpose of visiting a grave or memorial, attending a funeral or religious celebration, for example a wedding or a christening, or maintaining or repairing a grave or memorial in</p>
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Comment [KB8]: NEW

Comment [KB9]: NEW

		accordance with a written authorisation of the chief executive officer.
5	All parks and reserves within the local government area.	<p>(a) Entering or being within a park or reserve after sunset on a day or before sunrise on a day unless the local government has installed lighting at the park or reserve to facilitate the use of the park or reserve by the public during the hours from sunset to sunrise and the lighting is operational;</p> <p>(b) Damaging or interfering with vegetation unless the activity is being undertaken for maintenance, health or safety purposes by, or on behalf of, the local government;</p> <p>(c) Throwing a stone, projectile or other missile;</p> <p>(d) Using or carrying a trap, snare or net;</p> <p>(e) Hitting a golf ball;</p> <p>(f) Riotous, disorderly, indecent, offensive, threatening or insulting behaviour;</p> <p>(g) Carrying out an activity or behaving in a manner reasonably likely to injure, endanger, obstruct, inconvenience or cause fear or excessive annoyance to another person;</p> <p>(h) Interfering with a plant or any turf, sand, clay, soil or other material unless the activity is undertaken by, or on behalf of, the local government;</p> <p>(i) Interfering with any facility or equipment located at the park or reserve unless the</p>

Comment [KB10]: NEW

Comment [KB11]: NEW

Comment [KB12]: . (B) "Discharging or carrying a firearm or other weapon or any kind of explosive device;" was DELETED due to such activities being conducted at the heritage village

Comment [KB13]: NEW



		<p>activity is undertaken by, or on behalf of, the local government;</p> <ul style="list-style-type: none"> <li>(j) Disposing of any waste of any kind other than in a waste container provided for that purpose;</li> <li>(k) Depositing, storing or abandoning any goods;</li> <li>(l) Bathing in any ornamental pond or lake;</li> <li>(m) Using a boat, canoe, craft, surf ski, surf board or other recreational floating device in an ornamental pond or lake;</li> <li>(n) Any activity which fouls, litters, pollutes or interferes with a park or reserve or a facility in a park or reserve;</li> <li>(o) Permitting or allowing a water tap in a park or reserve to run water to waste;</li> <li>(p) Propagating or cultivating any plant, vegetation or vegetative matter;</li> <li>(q) Driving a motor bike (as defined in section 11A of the <i>Summary Offences Act 2005</i>) on public land forming part, or the whole, of a park or reserve.</li> </ul>
6	All local government accommodation parks within the local government area.	<ul style="list-style-type: none"> <li>(a) Disposing of liquid waste other than at a drainage point provided for that purpose;</li> <li>(b) Disposing of waste other than in a waste container provided for that purpose;</li> <li>(c) Using facilities in a way that makes them unclean or insanitary;</li> <li>(d) Riotous, disorderly, indecent, offensive,</li> </ul>

Comment [KB14]: NEW

		<p>threatening or insulting behaviour;</p> <p>(e) Carrying out an activity or behaving in a manner reasonably likely to injure, endanger, obstruct, inconvenience or cause fear or excessive annoyance to another person;</p> <p>(f) Interfering with a plant or any turf, sand, clay, soil or other material unless the activity is being undertaken by, or on behalf of, the local government;</p> <p>(g) Interfering with any facility or equipment located at the local government accommodation park unless the activity is being undertaken by, or on behalf of, the local government;</p> <p>(h) Depositing, storing, dumping or leaving unattended a shopping trolley.</p>
7	The boat ramps and landings within the local government area identified in schedule 6.	<p>(a) Carrying out maintenance or repairs to a ship on a boat ramp;</p> <p>(b) The activity of a person carrying out maintenance or repairs to a ship in the water around a boat ramp or landing unless the person has a reasonable excuse;</p> <p>(c) Wilfully breaking, destroying, damaging, defacing, disfiguring or writing upon a boat ramp, landing or a notice erected or displayed by the local government at a boat ramp or landing;</p> <p>(d) Wilfully damaging any lighting upon a boat ramp or a landing;</p>

Comment [KB15]: NEW

Comment [KB16]: NEW

Comment [KB17]: NEW

		<ul style="list-style-type: none"> <li>(e) Riding an animal on a boat ramp or a landing;</li> <li>(f) Fishing from a boat ramp or a landing in a manner that obstructs or impedes, or is likely to obstruct or impede, ship, vehicular or pedestrian traffic on the boat ramp or landing;</li> <li>(g) Carrying a loaded or cocked spear gun on a boat ramp or a landing;</li> <li>(h) Lighting a fire on a boat ramp or a landing, whether in a container or otherwise;</li> <li>(i) Diving off a boat ramp or a landing;</li> <li>(j) A person causing themselves or any other person or object to fall or be projected into waters surrounding a boat ramp or a landing;</li> <li>(k) Obstructing another person's use of a boat ramp or landing;</li> <li>(l) Using a boat ramp or landing in a manner which is inconsistent with —             <ul style="list-style-type: none"> <li>(i) the safe, secure and efficient operation of the boat ramp or landing; or</li> <li>(ii) the protection of the environment at the boat ramp or landing; or</li> <li>(iii) the maintenance or improvement of the convenience of users of the boat ramp or landing;</li> </ul> </li> <li>(m) Cleaning or gutting a fish on or near a boat ramp or landing;</li> </ul>
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		<p>(n) Disposing of fish scraps or other waste other than in a waste container provided by the local government for the purpose of the collection of waste;</p> <p>(o) Behaving in a manner which is likely to encourage a crocodile or shark attack.</p>
8	All local government swimming pools within the local government area, including each local government swimming pool identified in schedule 6.	<p>(a) Bringing any glass or any item made from glass into the swimming pool;</p> <p>(b) Bringing any animal onto the land on which the swimming pool is situated unless the animal is a certified guide, hearing or assistance dog;</p> <p>(c) Engaging in conduct which is dangerous or which creates a risk to the safety of other users of the swimming pool;</p> <p>(d) Causing wilful damage to the swimming pool or any facilities at the swimming pool;</p> <p>(e) Behaving in a way that endangers the safety of, or causes a nuisance to, other users of the swimming pool;</p> <p>(f) If a person is more than 5 years of age — entering any part of the facilities at the swimming pool which is set apart for the exclusive use of the opposite sex, other than for the purpose of rendering emergency assistance;</p> <p>(g) Entering the swimming pool whilst intoxicated or under the influence of a stupefying drug;</p>

**Comment [KB18]:** Examples previously listed here (such as fishing whilst standing in knee deep water) were deleted.

**Comment [KB19]:** NEW

**Comment [KB20]:** NEW

		<ul style="list-style-type: none"> <li>(h) Entering the swimming pool whilst carrying or having possession of any alcohol or a stupefying drug;</li> <li>(i) Disposing of waste other than in a waste container provided by the local government or the operator of the swimming pool for the purpose of the collection of waste;</li> <li>(j) Entering into the swimming pool if the person has an infectious or contagious disease or illness or a skin complaint;</li> <li>(k) Interfering with the property of another person at the swimming pool other than with the consent of the other person;</li> <li>(l) Entering the swimming pool unless the person has paid the entrance fee prescribed by the local government from time to time for entry to the swimming pool;</li> <li>(m) Behaving in a threatening, abusive or insulting manner to another person at the swimming pool;</li> <li>(n) Leaving a child or children under the age of 10 at the land on which the swimming pool is located otherwise than under the direct supervision of a person who is a parent or guardian of the child or children and aged at least 16.</li> </ul>
9	<p>All local government offices, libraries and depots within the local government area, including each local government office, library and depot identified in schedule 6.</p>	<ul style="list-style-type: none"> <li>(a) Obstructing or interfering with a person who is a local government employee or a contractor of the local</li> </ul>

**Comment [KB21]:** "(M) Using a season ticket for the swimming pool otherwise than in accordance with the rules of the local government for the use of a season ticket for the swimming pool;" was deleted as no longer relevant.

**Comment [KB22]:** NEW

**Comment [KB23]:** Provisions in current SLL that previously sat here for "All local government camping grounds within the local government area" were deleted.

**Comment [KB24]:** NEW

		<p>government in the performance of the duties of the person;</p> <p>(b) Disposing of waste other than in a waste container provided for that purpose;</p> <p>(c) Using facilities in a way that makes them unclean or insanitary;</p> <p>(d) Riotous, disorderly, indecent, offensive, threatening or insulting behaviour;</p> <p>(e) Carrying out an activity or behaving in a manner reasonably likely to injure, endanger, obstruct, inconvenience or cause fear or excessive annoyance to another person;</p> <p>(f) Interfering with any facility or equipment located at the local government office, library or depot;</p> <p>(g) Depositing, storing or abandoning any goods;</p> <p>(h) Any activity which fouls, litters, pollutes or interferes with the local government office, library or depot or a facility in the local government office, library or depot;</p> <p>(i) Wilfully breaking, destroying, damaging, defacing, disfiguring or writing upon any part of the local government office, library or depot or a notice erected or displayed by the local government at the office, library or depot;</p> <p>(j) Using any part of the local government office, library or depot in a manner which</p>
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		is inconsistent with—  (i) the safe, secure and efficient operation of the local government office, library or depot; or  (ii) the maintenance or improvement of the convenience of users of the local government office, library or depot.
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**Comment [KB25]:** Current LL also contains in prohibited activities (column 2) for a number of other LG controlled areas and roads (column 1) that were deleted as were only relevant to LSC. As were provisions for FR Barrage.

## Schedule 2 Restricted activities for local government controlled areas or roads

Section 5(2)

	Column 1 Local government controlled area or road	Column 2 Restricted activity	Column 3 Extent of restriction
1	All local government controlled areas within the local government area.	<p>(a) Street performing.</p> <p>(b) The installation, erection or display of an advertisement or sign that is visible from a road or other public place.</p> <p>(c) Camping, sleeping, occupying or remaining overnight.</p>	<p>(a) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p> <p>(b) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p> <p>(c) Permitted only if—</p> <p>(i) the local government controlled area is an accommodation park; or</p> <p>(ii) the undertaking of the restricted activity is authorised by a notice erected by the local government on or near the local government controlled area.</p>

Comment [KB26]: Previously 'busking'

Comment [KB27]: NEW



2	All roads within the local government area.	<p>(a) The washing or cleansing, painting, repairing, alteration or maintenance of vehicles on a road' (see s.66(3)(b) of the <i>Transport Operations (Road Use Management) Act 1995</i>, which permits local laws to regulate these activities on roads).</p> <p>(b) Installing a gate or a grid, or a gate and a grid, across a road.</p> <p>(c) Being a responsible person for a gate or a grid, or a gate and a grid, installed across a road.</p> <p>(d) Street performing.</p> <p>(e) The installation, erection or display of an advertisement or sign that is visible from a road or other public place.</p>	<p>(a) Permitted only if the vehicle is temporarily disabled with a minor fault and the driver of the vehicle stops for no longer than is necessary for the performance of maintenance work limited to the minimum necessary to allow the vehicle to be moved from the road.</p> <p>(b) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p> <p>(c) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p> <p>(d) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p> <p>(e) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p>
3	All local government cemeteries within the local government area including each local government cemetery identified in schedule 6.	<p>(a) Carrying out a burial outside the hours during which burials may be performed as fixed by the local government.</p> <p>(b) Disposing of human remains in a local government cemetery.</p>	<p>(a) Permitted only—</p> <p>(i) between the hours of 9am and 4pm; or</p> <p>(ii) with the written authorisation of an authorised person.</p> <p>(b) Permitted only with the written authorisation of an authorised person.</p>

**Comment [KB28]:** NEW – to discuss with King and Co as unsure if reference to gates and grids within this SLL is necessary given that new SLL1.17 gates and grids created. Shane to follow up.

**Comment [KB29]:** NEW – Refer comment KB28 above.

**Comment [KB30]:** Previously busking

**Comment [KB31]:** NEW

**Comment [KB32]:** Previously CEO

**Comment [KB33]:** Previously CEO

		<p>(c) Digging or preparing a grave in a local government cemetery.</p> <p>(d) After a burial — reopening a grave for a further burial.</p> <p>(e) Exhuming a body or the remains of a body which has been buried in a local government cemetery.</p>	<p>(c) Permitted only if the grave is dug or prepared by a person employed by the local government.</p> <p>(d) Permitted only with the written authorisation of an authorised person.</p> <p>(e) Permitted only with the written authorisation of the chief executive officer of an local government.</p>	<p><b>Comment [KB34]:</b> “with the written authorisation of the sexton.” was deleted from here.</p> <p><b>Comment [KB35]:</b> Previously sexton</p> <p><b>Comment [KB36]:</b> NEW</p>
		<p>(f) Bringing human remains into a local government cemetery.</p> <p>(g) Erecting or installing a memorial to a deceased person in a local government cemetery.</p> <p>(h) Reserving a niche or site in a local government cemetery.</p> <p>(i) Carrying out maintenance or repair work on a memorial to a deceased person in a local government cemetery.</p>	<p>(f) Permitted only—</p> <p>(i) with the written authorisation of an authorised person; and</p> <p>(ii) if the remains are enclosed in a coffin or other form of approved container appropriate to the proposed form of disposal.</p> <p>(g) Permitted only with the written authorisation of an authorised person.</p> <p>(h) Permitted only under the conditions of a written authorisation of an authorised person.</p> <p>(i) Permitted only—</p> <p>(i) by a member of the family of the deceased person, or another person who has a proper interest in the maintenance of the memorial to the deceased person; and</p> <p>(ii) with the written</p>	<p><b>Comment [KB37]:</b> Previously CEO</p> <p><b>Comment [KB38]:</b> Previously CEO</p> <p><b>Comment [KB39]:</b> Previously CEO</p>

			<p>approval of the holder of the burial rights for the memorial; and</p> <p>(iii) subject to conditions about how the work is to be carried out as are included in the written authorisation of an authorised person.</p>
4	All parks and reserves within the local government area.	(a) Bringing a motor vehicle onto , or driving a motor vehicle on, a park or reserve	<p>(a) Permitted only if the part of the park or reserve on which the motor vehicle is brought or driven is —</p> <p>(i) physically defined and constructed by the local government as a road; or</p> <p>(ii) constructed by the local government as a carpark.</p>
		(b) Lighting or maintaining a fire.	<p>(b) Permitted only if the fire is—</p> <p>(i) lit and maintained in a fireplace established by the local government for the purpose; or</p> <p>(ii) lit and maintained in accordance with the written authorisation of the chief executive officer of the local government.</p>
		(c) Sleeping, occupying or remaining overnight in a park or reserve.	<p>(c) Permitted only with the written authorisation of the chief executive officer of the local government.</p>
		(d) Conducting a social gathering or meeting of more than 50 people.	<p>(d) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p>

**Comment [KB40]:** Previously the sexton

**Comment [KB41]:** Previously the sexton

		<p>(e) Erecting or installing a building, structure or facility in, on, across or over a park or reserve.</p> <p>(f) Conducting or taking part in an organised sporting activity of regional, State or national significance.</p>	<p>(e) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p> <p>(f) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p>
		<p>(g) Operating a model aircraft propelled by a motor.</p>	<p>(g) Permitted only if —</p> <p>(i) the place at which the activity is to be undertaken is a place at which the local government has approved the undertaking of the activity; and</p> <p>(ii) authorised under the conditions of an approval for a prescribed activity.</p>
		<p>(h) Using a megaphone, loud speaker, or other similar amplification device.</p>	<p>(h) Permitted only —</p> <p>(i) with the written authorisation of the chief executive officer of the local government; or</p> <p>(ii) if authorised under the conditions of an approval for a prescribed activity.</p>
		<p>(i) The installation, erection or display of an advertisement or sign that is visible from a road or other public place.</p>	<p>(i) Permitted only if authorised under the conditions of an approval for a prescribed activity.</p>

Comment [KB42]: Amended.

Comment [KB43]: (g) Using, Storing or Possessing Fireworks – was deleted as covered under alternate legislation.

Comment [KB44]: Definition expanded for clarity

Comment [KB45]: NEW

5	All local government accommodation parks within the local government area.	(a) Lighting or maintaining a fire in the open.	(a) Permitted only —  <del>(i) if the fire is in a fireplace or incinerator approved for the purpose by the local government; or</del>  (ii) with the written authorisation of an authorised person.
		(b) Camping, sleeping, occupying or remaining overnight in a caravan or complementary accommodation at an accommodation site at a local government accommodation park.	(b) Permitted only if—  (i) the person undertaking the activity maintains the accommodation site and any caravan or complementary accommodation on the accommodation site in a clean and sanitary condition; and  (ii) the person deposits all waste in a waste container, or a waste disposal system, provided by the local government for the purpose; and  (iii) the person does not use facilities at the local government accommodation park in a way that makes them unclean or unsanitary; and  (iv) the person who occupies the accommodation site allows onto the site no more persons than the limit fixed under a relevant approval or as notified by notice displayed by the local government at the local government accommodation park;

**Comment [KB46]:** Previously Caravan Parks

			<p>and</p> <ul style="list-style-type: none"><li>(v) the person pays all fees, if applicable, for use of the accommodation site in advance to the local government; and</li><li>(vi) if required by the local government or an Act—the person enters into a written agreement with the local government about undertaking the activity at the local government accommodation park; and</li><li>(vii) at the end of the period of occupation of the accommodation site — the person vacates and leaves the accommodation site in a clean and tidy condition; and</li><li>(viii) the person ensures that the caravan or complementary accommodation is not let or hired to another person; and</li><li>(ix) the person ensures that the accommodation site is kept and maintained in good repair and clean, tidy and sanitary condition; and</li><li>(x) the person ensures that the accommodation site is not left unoccupied for more than 2 days; and</li><li>(xi) the person ensures that not more than 1 tent or other accommodation occupies an accommodation site at the accommodation</li></ul>
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			<p>park; and</p> <p>(xii) the person ensures that the activity does not cause a nuisance, annoyance, disturbance or inconvenience to other persons using the local government accommodation park.</p>
6	The boat ramps and landings within the local government area identified in schedule 6.	<p>(a) Driving or standing a vehicle on a boat ramp.</p> <p>(b) Launching or retrieving a ship at a boat ramp.</p> <p>(c) Anchoring, mooring or placing a ship in the water around a boat ramp or a landing.</p> <p>(d) Carrying out the rigging of a sailing ship on a boat ramp or landing.</p> <p>(e) Taking or driving a vehicle onto a boat ramp.</p>	<p>(a) Permitted only to launch or retrieve a ship from the boat ramp.</p> <p>(b) Permitted only if the person launching or retrieving the ship does so as quickly as is reasonably possible.</p> <p>(c) Permitted only if the anchoring, mooring or placing of the ship is not likely to obstruct another person's use of the boat ramp or landing.</p> <p>(d) Permitted only if the carrying out of the rigging does not, or is not likely to, impede access to the boat ramp or landing.</p> <p>(e) Permitted only if the mass of the vehicle and its load (if any), together with any trailer that the vehicle is towing and its load (if any), is not more than—</p> <p>(i) 5 tonnes; or</p> <p>(ii) if the local government erects on or near the boat ramp a notice approved by the local government and displaying a greater mass—the greater mass.</p>

Comment [KB47]: NEW

		<p>(f) Taking or driving a vehicle onto a landing.</p> <p>(g) Taking or driving a vehicle onto a boat ramp or landing.</p>	<p>(f) Permitted only if—</p> <p>(i) the local government erects on or near the landing a notice that—</p> <p>(A) is approved by the local government; and</p> <p>(B) authorises the taking or driving of a vehicle on the landing for the purpose mentioned in paragraph (ii); and</p> <p>(C) states the maximum mass of the vehicle and its load (if any) together with any trailer that the vehicle is towing and its load (if any) that may be taken or driven on the landing; and</p> <p>(ii) the vehicle is taken or driven on the landing only to take goods or passengers to, or pick up goods or passengers from, a ship moored at the landing.</p> <p>(g) Permitted only if the vehicle moves on wheels fitted with pneumatic or rubber tyres.</p>
7	<p>All local government offices, libraries and depots within the local government area, including each local government office, library and depot identified in schedule</p>	<p>(a) The activity of a person bringing onto, or permitting or allowing an animal to remain on, the local government office, library or depot.</p>	<p>(a) Permitted only if—</p> <p>(i) the animal is a certified guide, hearing or assistance dog; and</p> <p>(ii) the person is the handler of the certified guide, hearing or assistance dog.</p>

**Comment [KB48]:** Previous #7; A"ll local government swimming pools within the local government area, including each local government swimming pool identified in schedule 6" was deleted as were associated provisions (eg. conducting an inter-school swimming comp) as they were deemed no longer relevant.

Previous #8 "All local government camping grounds within the local government area" and associated provisions was deleted from Schedule 2.



6.		<p>(b) Entering or remaining at a local government office, library or depot, or a part of a local government office, library or depot.</p>	<p>(b) Permitted if—</p> <ul style="list-style-type: none"> <li>(i) the local government office, library or depot, or relevant part of the local government office, library or depot, is a public place; and</li> <li>(ii) if the local government erects on or near the local government office, library or depot, or the relevant part of the local government office, library or depot, a notice that is approved by the local government which authorises entry to the local government office, library or depot, or the relevant part of the local government office, library or depot—the person complies with the requirements of the notice.</li> </ul>
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**Comment [KB49]:** Previous #10 after this for FR Barrage was deleted, as were bathing reserves, beaches and foreshores that related to LSC.

**Schedule 3      Motor vehicle access areas in local government controlled areas**

Sections 6 and 7

<b>Column 1</b> <b>Motor vehicle access areas</b>	<b>Column 2</b> <b>Prohibited vehicles</b>
No motor vehicle access area declared.	

## Schedule 4      **Opening hours for local government controlled areas**

Section 8

<b>Column 1</b> <b>Local government controlled area</b>	<b>Column 2</b> <b>Opening hours<sup>1</sup></b>
All parks and reserves in the local government area.	Between the hours of sunrise and sunset, unless the local government has installed lighting at the park or reserve to facilitate the use of the park or reserve by the public during the hours from sunset to sunrise and the lighting is operational.

Comment [KB50]: NEW

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<sup>1</sup> Public holidays excepted.

**Schedule 5      Permanent closure of local government  
                         controlled areas**

Section 9

No local government controlled area described.

## Schedule 6 Identification of local government controlled areas

### Section 5

**Comment [KB51]:** LG Controlled Areas within each table of this Schedule 6 were amended to exclude LSC areas.

#### Local government cemeteries

Facility Common Name	Description	Street Address	Real Property Description	
			Lot	Plan
Bajool Cemetery	Operating Cemetery	18 School Street, Bajool	2	SP163920
Gracemere Cemetery	Operating Cemetery	Corner Fisher and Bland Streets, Gracemere	326 1	LN2897 SP163921
North Rockhampton Cemetery	Operating Cemetery	Yaamba Road, Norman Gardens	235	LN2505
Mt Morgan Cemetery	Operating Cemetery	Burnett Highway, Mt Morgan	184	C8190
Rockhampton Memorial Gardens	Operating Cemetery	21 Hartington Street, Lakes Creek	62	CP891377
South Rockhampton Cemetery	Closed Cemetery	113-171 Upper Dawson Road, Allentown	1	RP604898

#### Boat ramps and landings

**Comment [KB52]:** The new boat ramp being constructed has been included here.

Facility Common Name	Description	Street Address	Real Property Description	
			Lot	Plan
North bank of Fitzroy River	Boat Ramp	Reaney Street, Berserker		
North bank of Fitzroy River	Boat Ramp	Reaney Street, The Common		
North bank of Fitzroy River	Boat Ramp	Larcombe Street		
South bank of Fitzroy River	Boat Ramp	Rockhampton Ski Gardens via Huet Street, Wandal		
South bank of Fitzroy River	Jetty	Rockhampton, Derby Street		
South Side of Dee River Dam	Boat Ramp	Mount Morgan, Dee River		
South bank of Fitzroy River	Boat Ramp	Rockhampton, Quay Street		
South bank of Fitzroy River	Floating Walkway	Rockhampton, Quay Street		
Port Alma	Boat Ramp	Port Alma, Port Alma Road		

#### Local government swimming pools

Facility Common Name	Description	Street Address	Real Property Description	
			Lot	Plan
Gracemere Swimming Pool	Swimming Pool	Cedric Archer Sports Complex Fisher Street, Gracemere	1	LN837879
Mount Morgan Swimming Pool	Swimming Pool	Thompson Avenue, Mt Morgan	1	SP187981
World War II Memorial Aquatic Centre	Swimming Pool	Lion Creek Road, Wandal	41	SP240869

Facility Common Name	Description	Street Address	Real Property Description	
			Lot	Plan
42nd Battalion Memorial Pool	Swimming Pool	330-360 Berserker Street, Frenchville	2	SP175995

**Local government office**

**Comment [KB53]:** Only the "main" public office is required to be listed here.

Facility Common Name	Description	Street Address	Real Property Description	
			Lot	Plan
Local government public office	Public office	232 Bolsover Street, Rockhampton	3 11	R2616 SP254998

## Schedule 7 Dictionary

### Section 4

**Comment [KB54]:** Definitions within this schedule updated where necessary. A number of definitions and maps were also deleted as they only related to LSC

**accommodation**, at a local government accommodation park, means—

- (a) a caravan; or
- (b) a complementary accommodation.

**accommodation park** means a place for parking and residing in caravans, including a place that provides also for complementary accommodation.

**accommodation site**, at a local government accommodation park, means a part of the local government accommodation park which is designated for a single accommodation of a particular type.

**animal** has the meaning given in *Local Law No. 2 (Animal Management) 2011*.

**authorised person** has the meaning given in *Local Law No. 1 (Administration) 2011*.

**boat ramp**—

- (a) means a ramp or other device or structure used or capable of use or designed or intended for use for the purpose of launching and retrieving a trailable vessel and which is the property of, or under the control of, the local government; and
- (b) includes any area of foreshore used or capable of use, for the purpose of launching and retrieving a trailable vessel and which is the property of, or under the control of, the local government.

*Example—*

The slope of an area of foreshore may make the area capable of use for the purpose of launching and retrieving trailable vessels despite the fact that no device or structure has been constructed on the area of foreshore for the purpose of the launching and retrieving of trailable vessels.

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

**camping**, at a place, includes sleeping, occupying or remaining overnight at the place.

**caravan** has the meaning given in *Local Law No. 1 (Administration) 2011*.

**certified guide, hearing or assistance dog**, has the meaning given in the *Guide, Hearing and Assistance Dogs Act 2009*.

**complementary accommodation** has the meaning given in *Subordinate Local Law No. 1.8 (Operation of Accommodation Parks) 2011*.

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

**emergency services officer** means—

- (a) an officer of the Queensland Ambulance Service or an Ambulance Service of another State; or
- (b) an officer of the Queensland Fire and Emergency Services or a Fire and Emergency Services of another State; or
- (c) an officer or employee of another entity with the written permission of the Commissioner of the Police Service; or
- (d) an officer of the State Emergency Service or a State Emergency Service of another State; or
- (e) an officer or employee of an authority permitted by law to conduct utility installation or utility maintenance; or
- (f) an officer of Disaster Management Queensland.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*.

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

**goods** includes wares, merchandise, chattels, money, stone, timber, metal, fluid and any other article, substance or material whatsoever.

**grid** means a structure designed to —

- (a) permit the movement of pedestrian or vehicular traffic along a road; but
- (b) prevent the passage of livestock.

**handler** has the meaning given in the *Guide, Hearing and Assistance Dogs Act 2009*.

**holder**, of burial rights—

- (a) means the lawful holder of the right to inter human remains or ashes within a local government cemetery; and
- (b) a holder of burial rights has the right to be buried or interred and be identified or allocated a site and to authorise the burial or interment of others in the site; and
- (c) a holder of burial rights may transfer the rights with the consent of the local government.

**interfere** means prevent from continuing or being carried out properly, get in the way of, or handle or adjust without permission, and **interference** has a corresponding meaning.

**land** has the meaning given in the *Planning Act 2016*.

**landing** includes jetty, pontoon and wharf.

**local government accommodation park** means an accommodation park under the control of the local government, including an accommodation park located on land owned by the local government or on land for which the local government is the trustee.



**local government cemetery** has the meaning given in *Local Law No. 1 (Administration) 2011*.

**local government employee** has the meaning given in the *Local Government Act 2009*.

**local government office** includes—

- (a) the public office of the local government; and
- (b) each place used by the local government for local government administration or management purposes.

**local government swimming pool** means a swimming pool under the control of the local government, including a swimming pool located on land owned by the local government or on land for which the local government is the trustee.

**memorial** includes—

- (a) a headstone; and
- (b) an inscribed plaque or commemorative plate; and
- (c) monumental, ornamental or other structures erected on a grave site; and
- (d) anything else erected or placed to mark the site where human remains have been buried or placed, or to commemorate a deceased person.

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

**non-public place** means—

- (a) the whole or any part of a local government office that is not a public place; and
- (b) the whole or any part of a local government office, including a public place, that is designated as a non-public place by—
  - (i) an authorised person; or
  - (ii) a notice displayed at a prominent place at—
    - (A) if the whole of the local government office is a non-public place—the local government office; or
    - (B) if a part of the local government office is a non-public place—the part of the local government office.

**occupier**, of land, means the person who reasonably appears to be the occupier of, or in charge of, the land.

**park** —

- (a) means a public place which the local government has set apart for park, recreational or environmental purposes; and
- (b) includes land designated as a park in the planning scheme of the local government.

**plant** has the meaning given in the *Biosecurity Act 2014*.

**public office** has the meaning given in the *Local Government Act 2009*.

**public place** —

- (a) has the meaning given in the *Local Government Act 2009*; but
- (b) does not include a non-public place.

**reserve**—

- (a) means —
  - (i) land dedicated as a reserve, or granted in trust, under the *Land Act 1994* and for which the local government is a trustee under that Act; and
  - (ii) other land held in trust by the local government which the local government has set apart for recreational or environmental purposes; and
- (b) includes land designated as a reserve in the planning scheme of the local government.

**responsible person**, for a gate or grid installed across a road, means each of the following persons—

- (a) the person who installed the gate or grid, or the gate and the grid;
- (b) the person for whose use or benefit the gate or grid, or the gate and the grid, were installed;
- (c) the person who has the benefit of the gate or grid, or the gate and the grid installed across the road.

**Comment [KB55]:** One of the new definitions. Refer comment KB28 above.

**road** has the meaning given in the *Local Law No. 1 (Administration) 2011*.

**scheduled collection day**, for a standard general waste container, means the day of the week on which the local government has arranged for the collection of waste from the standard general waste container.

**sewerage system** has the meaning given in the *Plumbing and Drainage Act 2002*.

**ship** has the meaning given in the *Transport Operations (Marine Safety) Act 1994*.

**shopping trolley** means a wheeled basket or frame used for transporting purchases from a supermarket or shop.

**standard general waste container** means a container of a type approved by the local government for storing domestic waste, commercial waste or recyclable waste at premises in the local government area.

**stormwater drain** has the meaning given in the *Local Government Act 2009*.

**street performing**—

- (a) means a musical, theatrical or other type of performance undertaken by a person to entertain the public; and
- (b) includes both a performance undertaken by the person for voluntary reward and a performance undertaken by the person in circumstances where no reward, either voluntary or otherwise, is sought by the person.

Comment [KB56]: One of the new definitions

**structure** has the meaning given in the *Local Government Act 2009*.

**swimming pool** has the meaning given in the *Building Act 1975*.

**unregistered**, for a vehicle that is required to be registered under the *Transport Operations (Road Use Management – Vehicle Registration) Regulation 2010*, means that the vehicle is not a registered vehicle.

**utility installation** means—

- (a) the supply of water, hydraulic power, electricity or gas; or
- (b) the provision of sewerage or drainage services; or
- (c) the provision of telecommunications services.

**utility maintenance** means the maintenance of—

- (a) water, hydraulic power, electricity or gas services; or
- (b) sewerage or drainage services; or
- (c) telecommunications services.

**vegetation** means trees, plants and all other organisms of vegetable origin (whether living or dead).

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

**waste** has the meaning given in the *Environmental Protection Act 1994*.

**water supply system** has the meaning given in the *Standard Plumbing and Drainage Regulation 2003*.

This and the preceding 36 pages bearing my initials is a certified copy of *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2017* made in accordance with the provisions of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the        day of        2017.

.....  
Chief Executive Officer

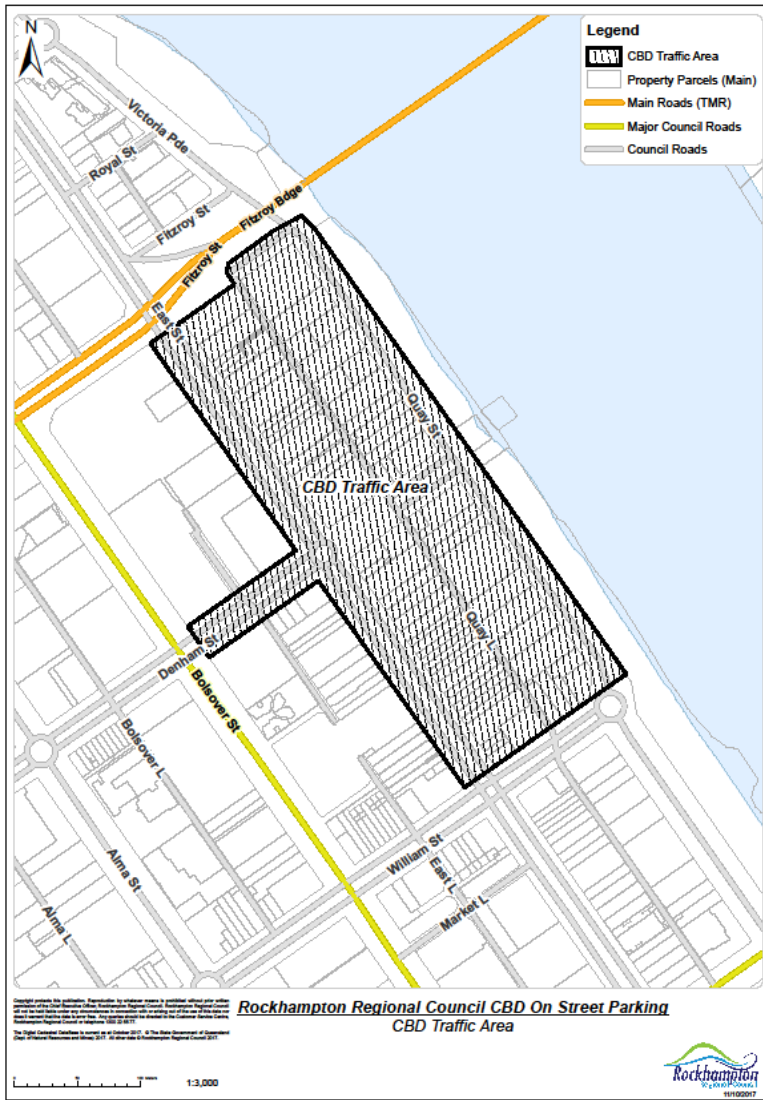
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# Subordinate Local Law No. 5 (Parking) 2011

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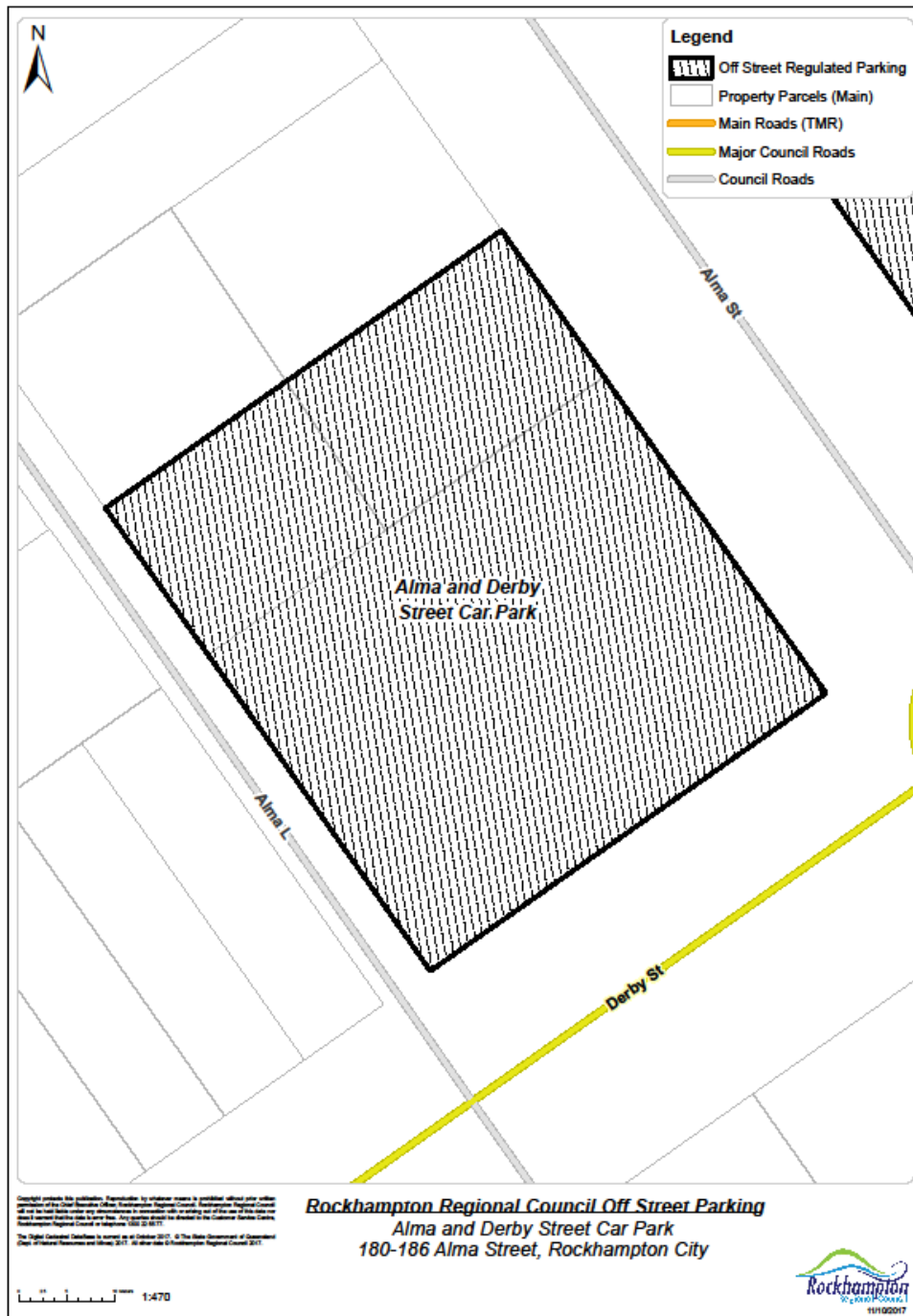
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Schedule 3      **Infringement notice penalty amounts for certain minor traffic offences**      Sch

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<b>16</b>	
<b>Schedule 4 Dictionary .....</b>	<b>22</b>

## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 5 (Parking) 2011*.

Field Code Changed

Field Code Changed

Field Code Changed

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### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 5 (Parking) 2011*, which provides for the exercise of local government powers authorised under the TORUM Act.
- (2) The purpose is to be achieved by providing for—
  - (a) the establishment of traffic areas and off-street regulated parking areas; and
  - (b) the persons that may be issued with a parking permit; and
  - (c) the vehicles that may be issued with a commercial vehicle identification label; and
  - (d) the infringement notice penalty amounts for minor traffic offences.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 5 (Parking) 2011* (the *authorising local law*).

### 4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 4 defines particular words used in this subordinate local law.

## Part 2 Declaration of parking areas for the TORUM Act

### 5 Declaration of traffic areas—Authorising local law, s 5

For section 5 of the authorising local law—

- (a) a traffic area is declared, the area shown hatched in black on the map titled “Rockhampton Regional Council CBD On Street Parking CBD Traffic Area” in schedule 1; and



- (b) the boundaries of the traffic area are indicated by a bold black line circumscribing the hatched area on the map in schedule 1.

**Comment [KB1]:** Insignificant changes have been made to the wording within this Section 5. The new wording is displayed here.

## 6 Declaration of off-street regulated parking areas—Authorising local law, s 6

- (1) For section 6(1) of the authorising local law, each area of land identified in schedule 2 is declared to be an off-street regulated parking area.
- (2) For section 6(2) of the authorising local law, the boundaries of each off-street regulated parking area are the boundaries of the land identified in schedule 2.

## Part 3 Parking contrary to parking restriction

### 7 Parking permits issued by local government—Authorising local law, s 7(2)

**Comment [KB2]:** Comments from mtg with Mayor 19/12/17 - This will be a discussion at the table regarding business parking permits.

- (1) This section prescribes—
  - (a) the persons that may be issued with a parking permit mentioned in section 7(1) of the authorising local law; and
  - (b) the circumstances in which the parking permits may be issued.
- (2) A parking permit (a *resident parking permit*) may be issued to a person whose circumstances are as follows—
  - (a) the person resides in a residence<sup>1</sup> situated on a section of road and parking immediately adjacent to the residence is regulated by time; and
  - (b) the issue of the parking permit would not unduly impede the flow of traffic either on the road or in the area; and
  - (c) the residence does not have, and cannot reasonably be provided with, adequate off-street parking; and
  - (d) if the parking permit is granted — there would not be in force more than 1 resident parking permit for the same residence; and
  - (e) the residence of the person is not situated on a section of road within a no permit parking area.
- (3) A parking permit (a *community service organisation parking permit*) may be issued to a person whose circumstances are as follows—
  - (a) the person is a community service organisation<sup>2</sup>; and
  - (b) the person will use the parking permit for an activity which is consistent with the objects of the community service organisation; and
  - (c) the activity is undertaken on a section of road where —

**Comment [KB3]:** This section 7 (e) is a NEW addition to cater for the new 'no permit parking area'

Comments from mtg with Mayor 19/12/17 —Remove No Parking Permit Area completely.

<sup>1</sup> See definition of *residence* in the dictionary.

<sup>2</sup> See definition of *community service organisation* in the dictionary.

- 
- (i) parking is regulated by time; and
  - (ii) the issue of the parking permit would not unduly impede the flow of traffic either on the road or in the area.
- (4) A parking permit (a **temporary parking permit**) may be issued to allow the holder of the parking permit to park 1 or more vehicles in a designated parking space or spaces for a period specified in the parking permit despite an indication on an official traffic sign to the contrary and despite the fact that paid parking would otherwise apply to the space or spaces.
- (5) A temporary parking permit may only be granted if the local government is satisfied that—
- (a) the applicant is engaged in some temporary activity affecting premises immediately adjacent to the designated parking space or spaces to which the application relates; and
  - (b) it is not reasonably practical for the applicant to carry out the activity unless the designated parking space or spaces to which the application relates are allocated to the applicant's exclusive use for the duration of the activity.
- (6) A parking permit (a **works zone parking permit**) may be issued to a person if the local government is satisfied that—
- (a) the part of the road to which the application relates is adjacent to a site at which the person is proposing to undertake building or construction work; and
  - (b) the carrying out of the building or construction work is lawful; and
  - (c) having regard to the nature of the building or construction work and the characteristics of the site, it is not reasonably practical for all work activity involving vehicle loading and unloading and associated vehicle movements to be confined within the site.
- (7) A parking permit (a **visitor parking permit**) may be issued to a person whose circumstances are as follows—
- (a) the person (the **resident**) resides in a residence situated on a section of road and parking immediately adjacent to the residence is regulated by time; and
  - (b) the parking permit is to be made available by the resident for use by another person who —
    - (i) is visiting or attending at the residence identified in the parking permit; and
    - (ii) intends parking on the section of road immediately adjacent to the residence; and
  - (c) the issue of the parking permit would not unduly impede the flow of traffic either on the road or in the area; and
  - (d) the residence does not have and cannot reasonably be provided with adequate off-street parking; and

- (e) if the parking permit is granted — there would not be in force more than 1 visitor parking permit for the same residence; and
- (f) the residence of the person is not situated on a section of road within a no permit parking area.
- (8) A parking permit (a *local government works parking permit*) may be issued to allow a person to park 1 or more vehicles in a designated parking space or spaces, despite an indication on an official traffic sign regulating parking by time or payment of a fee to the contrary, if the person is—
- (a) an employee, contractor or agent of the local government; and
- (b) parking the vehicle or vehicles in the space or spaces—
- (i) for the purpose of carrying out work for or on behalf of the local government; and
- (ii) in the course of carrying out the person’s duties for or on behalf of the local government.
- (9) A parking permit (a *tourist vehicle parking permit*) may be issued to allow a person to park a tourist vehicle which is used for the purpose of carrying passengers on a commercial basis in a designated parking space or spaces, despite an indication on an official traffic sign regulating parking by time or payment of a fee to the contrary.

**Comment [KB4]:** This section 7 (e) is a NEW addition to cater for the new 'no permit parking area'

Comments from mtg with Mayor 19/12/17  
–Remove No Parking Permit Area completely.

**Comment [KB5]:** These sections 8 and 9 are NEW.

Comments from mtg with Mayor 19/12/17  
–S8 should be removed, however remain for now until the Council table has reviewed.

## Part 4 Minor traffic offence infringement notice penalties

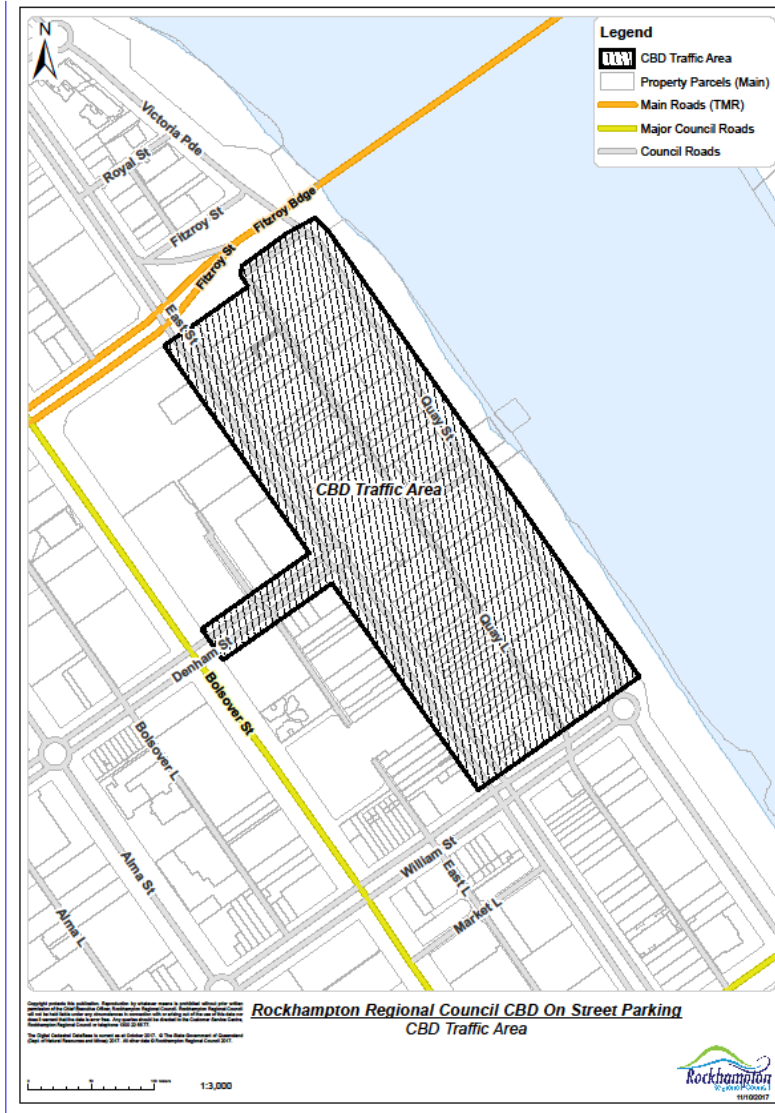
### 8 Infringement notice penalty amounts—Authorising local law, s 9

For section 9 of the authorising local law, the infringement notice penalty amount<sup>3</sup> for an offence mentioned in column 1 of schedule 3 is the corresponding amount stated in column 2 of schedule 3.

<sup>3</sup> See section 5 of the *Penalties and Sentences Act 1992*. The value of a penalty unit is, for a local law, or an infringement notice under the *State Penalties Enforcement Act 1999* for an offence against a local law—the amount, not more than \$100.00, prescribed under a regulation. See section 2A of the *Penalties and Sentences Regulation 2005*. The value of the penalty unit for a local law made by a local government mentioned in schedule 2 of the Regulation, or an infringement notice under the *State Penalties Enforcement Act 1999* for an offence against a local law made by a local government mentioned in schedule 2 of the Regulation is \$75.00. The value of a penalty unit for a local law made by a local government not mentioned in schedule 2 of the Regulation, or an infringement notice under the *State Penalties Enforcement Act 1999* for an offence against a local law made by a local government not mentioned in schedule 2 of the Regulation, is \$100.00.

# Schedule 1 Declaration of traffic area

## Section 5



**Comment [KB6]:** This is a NEW map depicting NEW declared traffic area. Previous/current SLL states "no traffic area declared".

## Schedule 2 Declaration of off-street regulated parking areas

## Section 6

Facility Common Name	Street Address	Real Property Description	
		Lot	Plan
Heritage Village	296 Boundary Road, Parkhurst, but limited to the area shown hatched in black on the map in this schedule 2.	Lot 220	LN2565
Rockhampton Airport Terminal Parking	Part of Lot 6, Canoona Road, West Rockhampton, but limited to the area shown hatched in black on the map in this schedule 2.	Lot 6	CP906611
Pilbeam Theatre Car Park, Rockhampton	62 Victoria Parade, Rockhampton City (parking at 67 Bolsover Street, Rockhampton City), but limited to the area shown hatched in black on the map in this schedule 2.	Lot 68 Lot 3 Lot 1 Lot 2 Lot 3 Lot 4 Lot 1	SP268488 RP600027 RP601155 RP601155 RP601155 RP601155 RP600889
Riverside Car Park (North)	Victoria Parade, Rockhampton City, but limited to the area shown hatched in black on the map in this schedule 2.	Lot 1	LN844289
Riverside Car Park (South)	215 Quay Street, Rockhampton City, but limited to the area shown hatched in black on the map in this schedule 2.	Lot 7	SP289445
Rockhampton City Hall	232 Bolsover Street, Rockhampton City, but limited to the area shown hatched in black on the map in this schedule 2.	Lot 11 Lot 3	SP254998 R2616
Customs House	208 Quay Street, Rockhampton City, but limited to the area shown hatched in black on the map in this schedule 2.	Lot 3	RP619454
East St Post Office	150 East Street, Rockhampton City, but limited to the area shown hatched in black on the map in this schedule 2.	Lot 4	RP892686
Corner Alma Street and Derby Street, Rockhampton	180-186 Alma Street, Rockhampton City, but limited to the area shown hatched in black on the map in this schedule 2.	Lot 2 Lot 3 Lot 211	RP602014 RP615771 R1675

**Comment [KB7]:** Some minor insignificant amendments have been made within the table to update some incorrect RPD's, re-name some facility common names, etc. The order of the facilities listed has also been reshuffled to align with the maps on proceeding pages. NEW MAPS for all parking areas listed within this table are included on the proceeding pages.

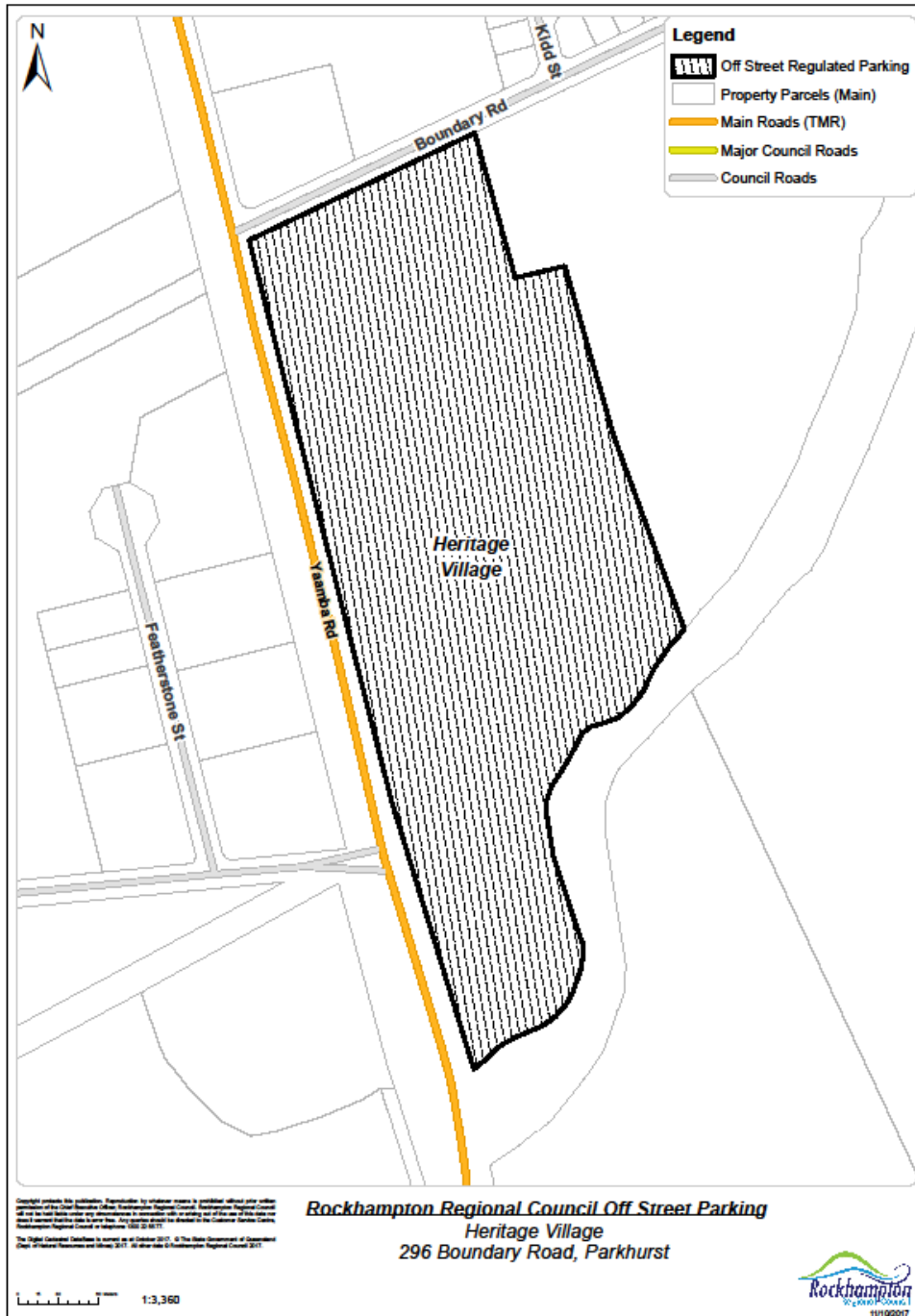
Significant changes to note:

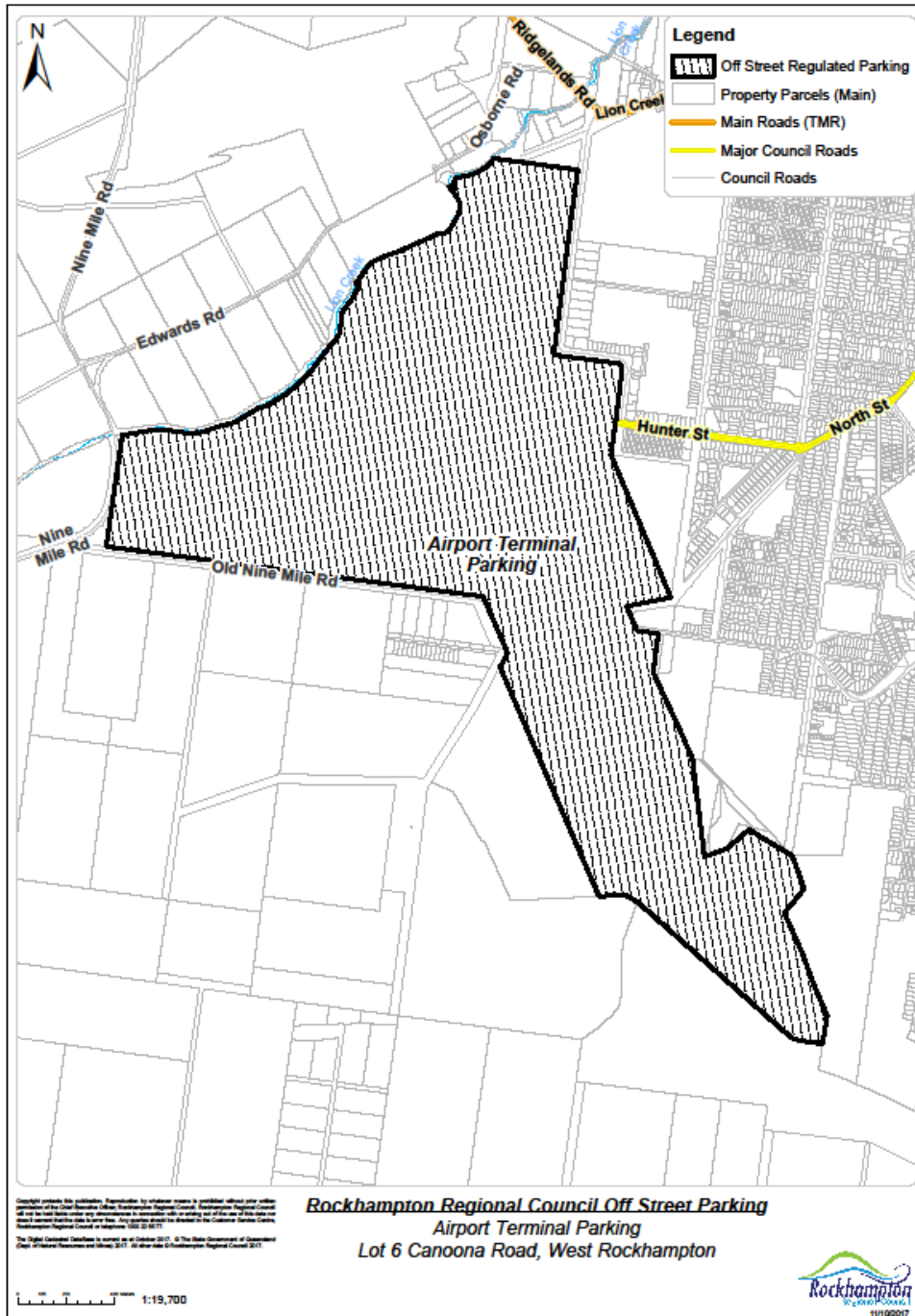
1. **Schotia Place, 199 Bolsover Street was DELETED** from within this table and from the proceeding maps. It appears this was a late change made by Shane Turner and, as Shane is currently on leave, I'm unable to ascertain exactly why this deletion occurred. **TO FOLLOW UP WITH SHANE.**
2. Pilbeam Theatre 62 Victoria Parade, **Lot 20/SP217271 was DELETED** as this parcel of land is the parcel that the theatre itself sits on (between Quay Ln and Victoria Pde). The paid car parking behind the theatre will remain to be regulated and is still listed within this table.

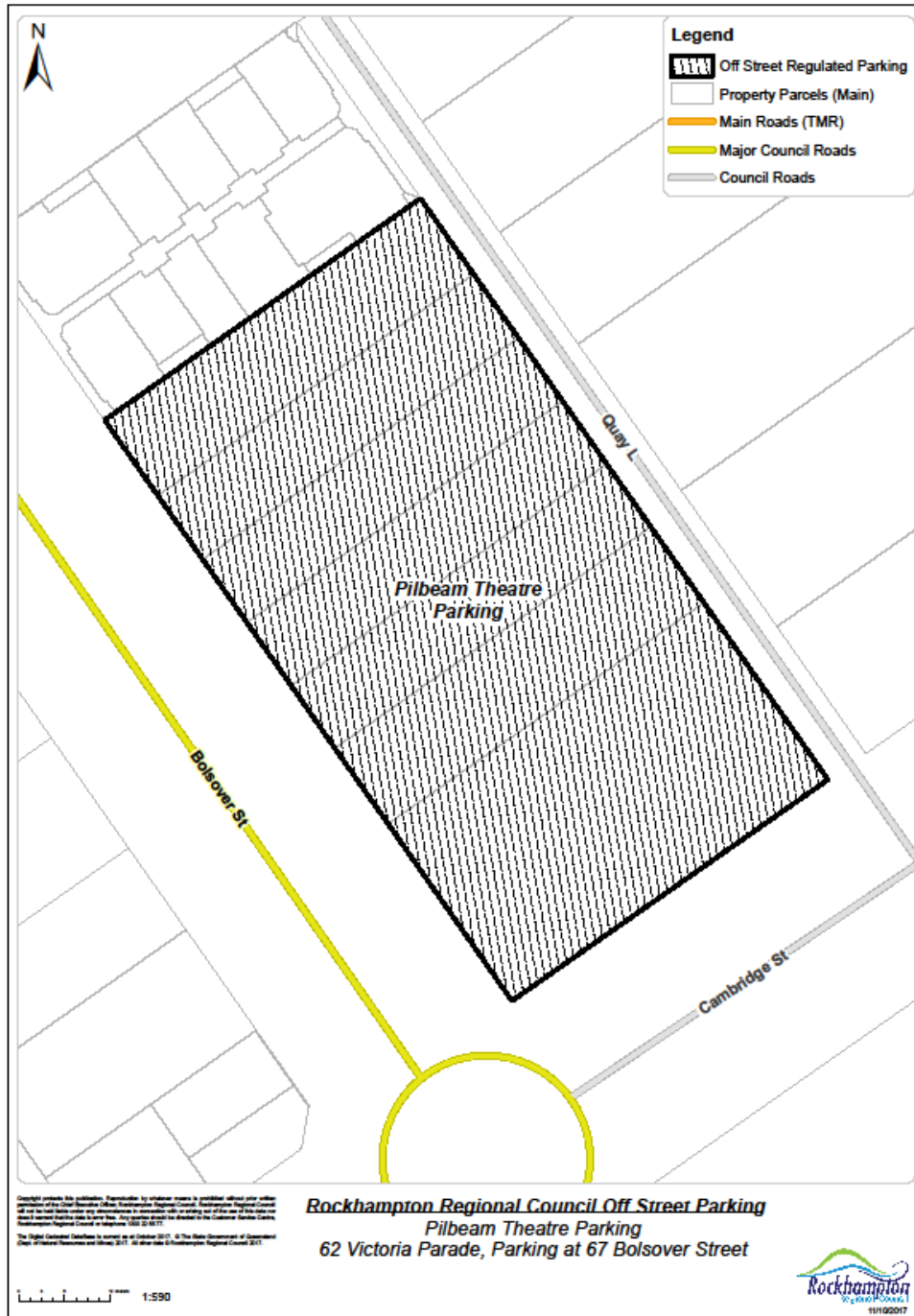
**Comment [KB8]:**

**NEW**  
11/10/17 – Inserted at the request of the CEO as discussed at meeting. CEO commented that this area is not yet regulated, however will be in future.

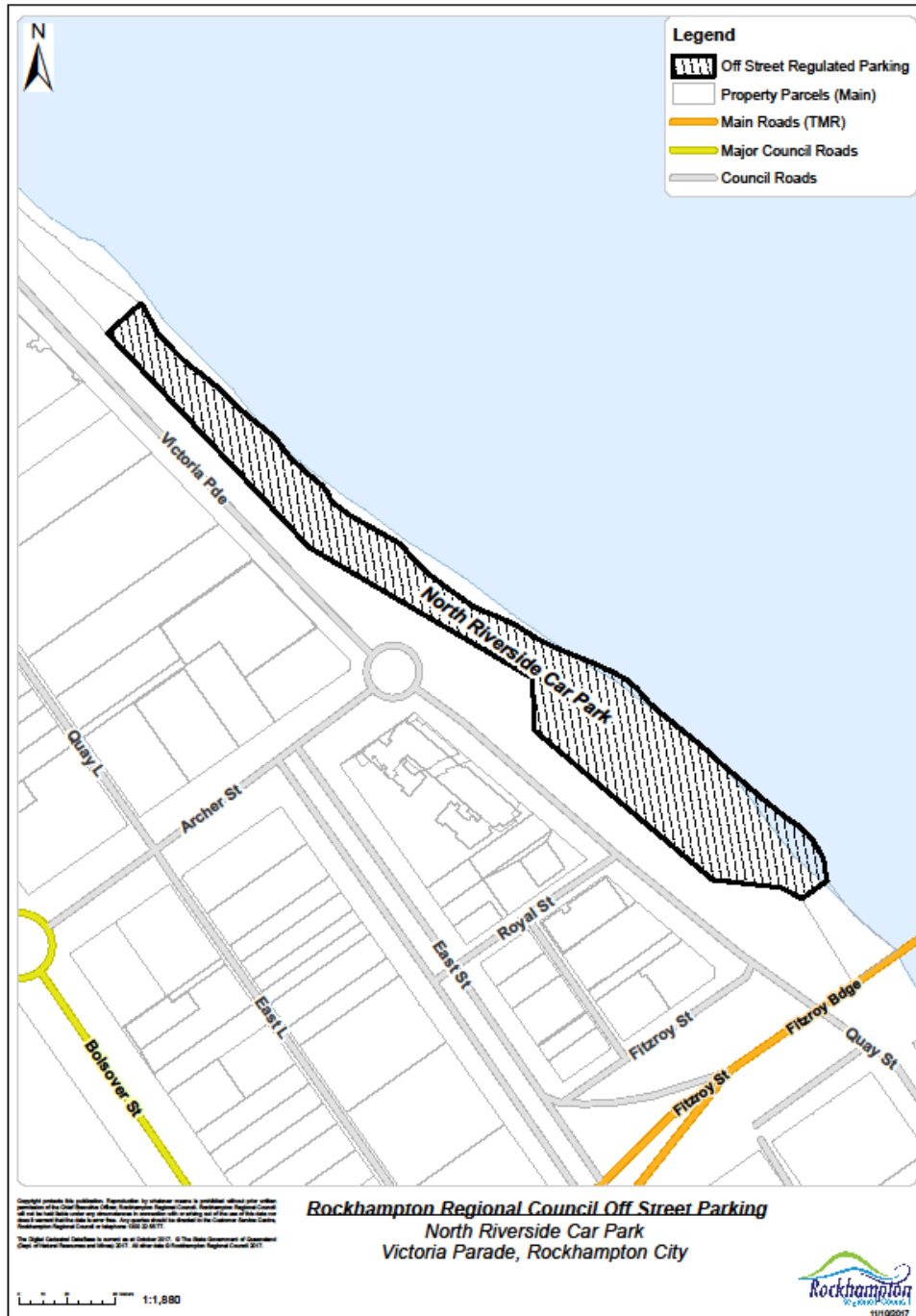
**NEW MAP INCLUDED BELOW.**

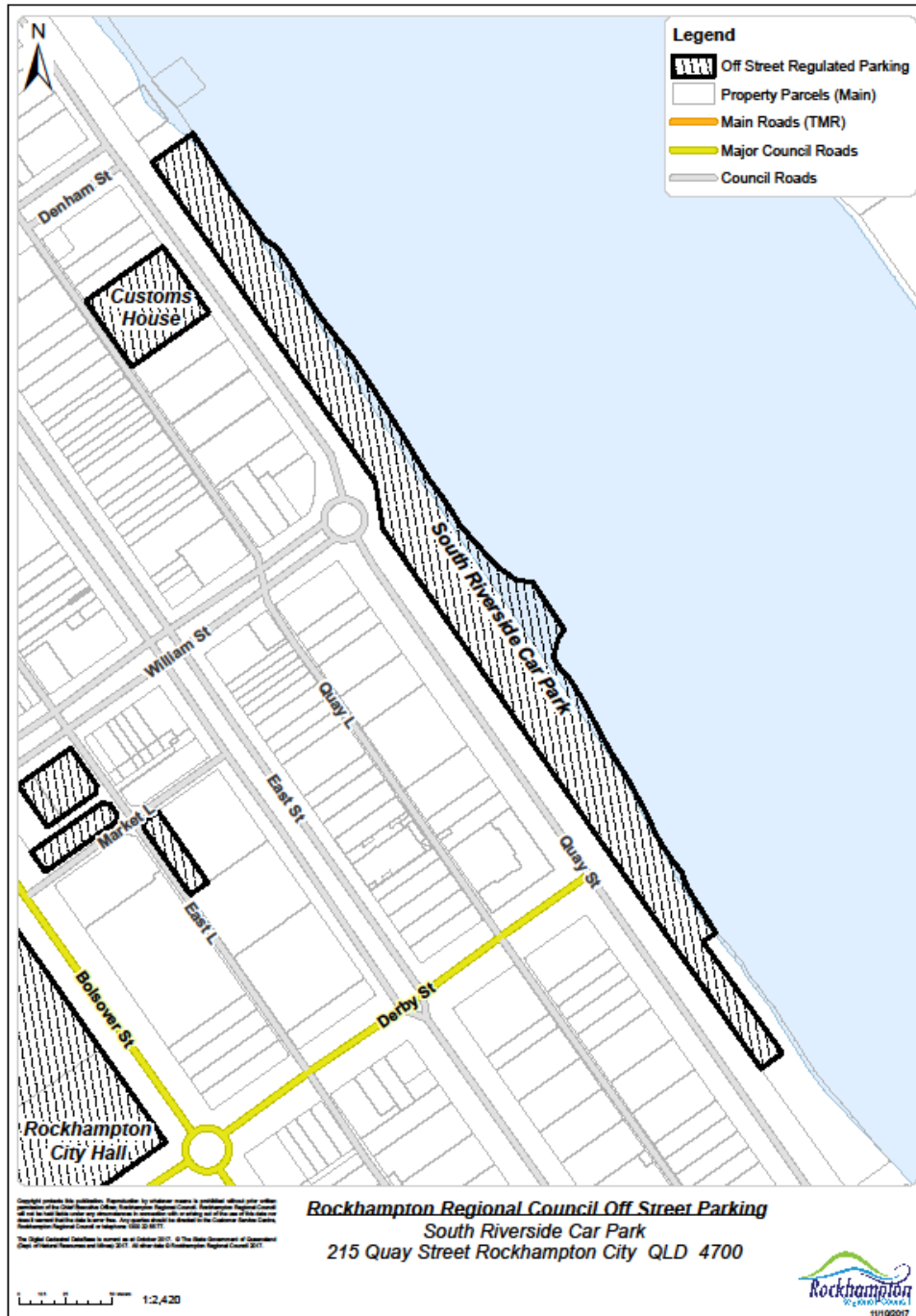


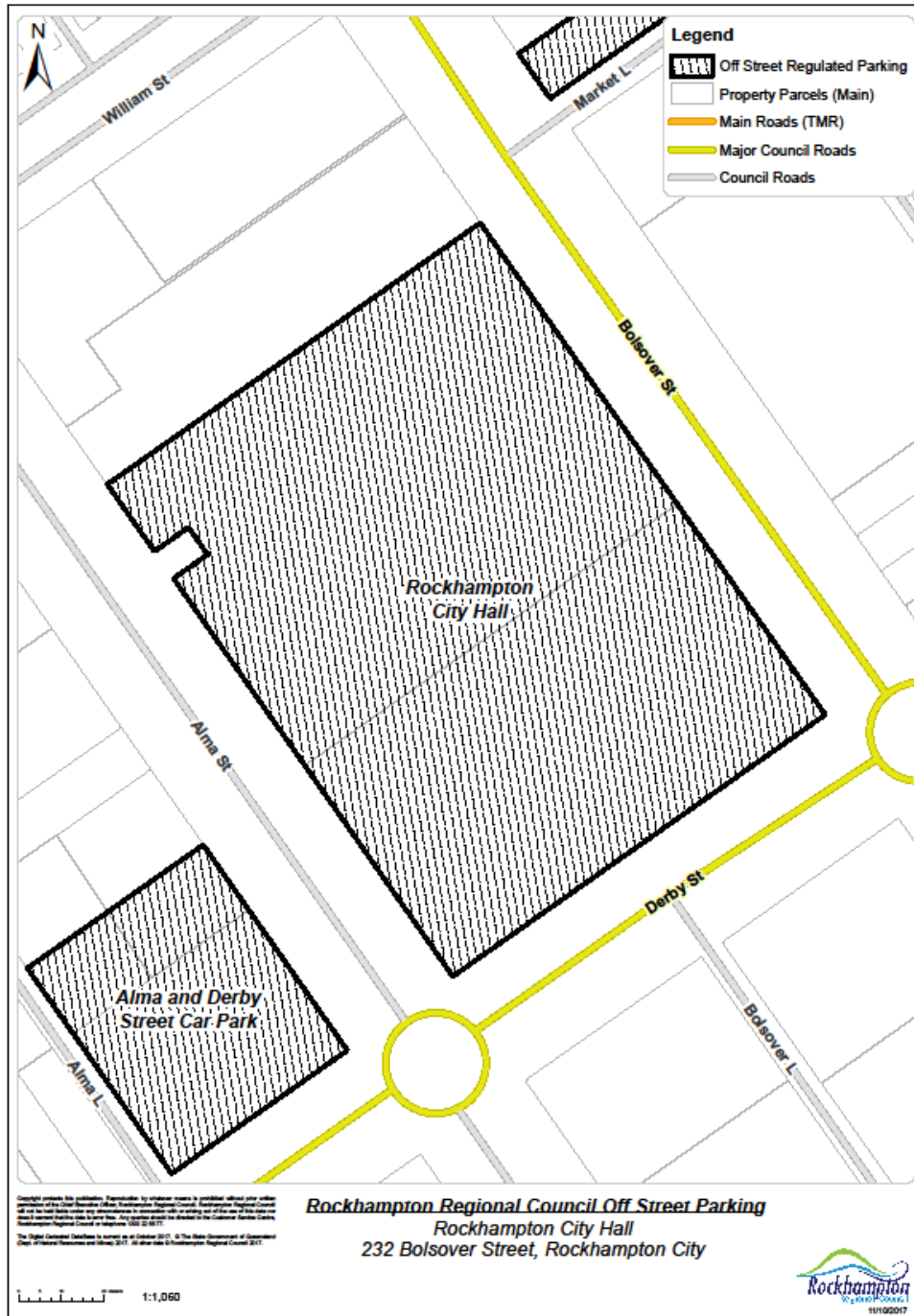


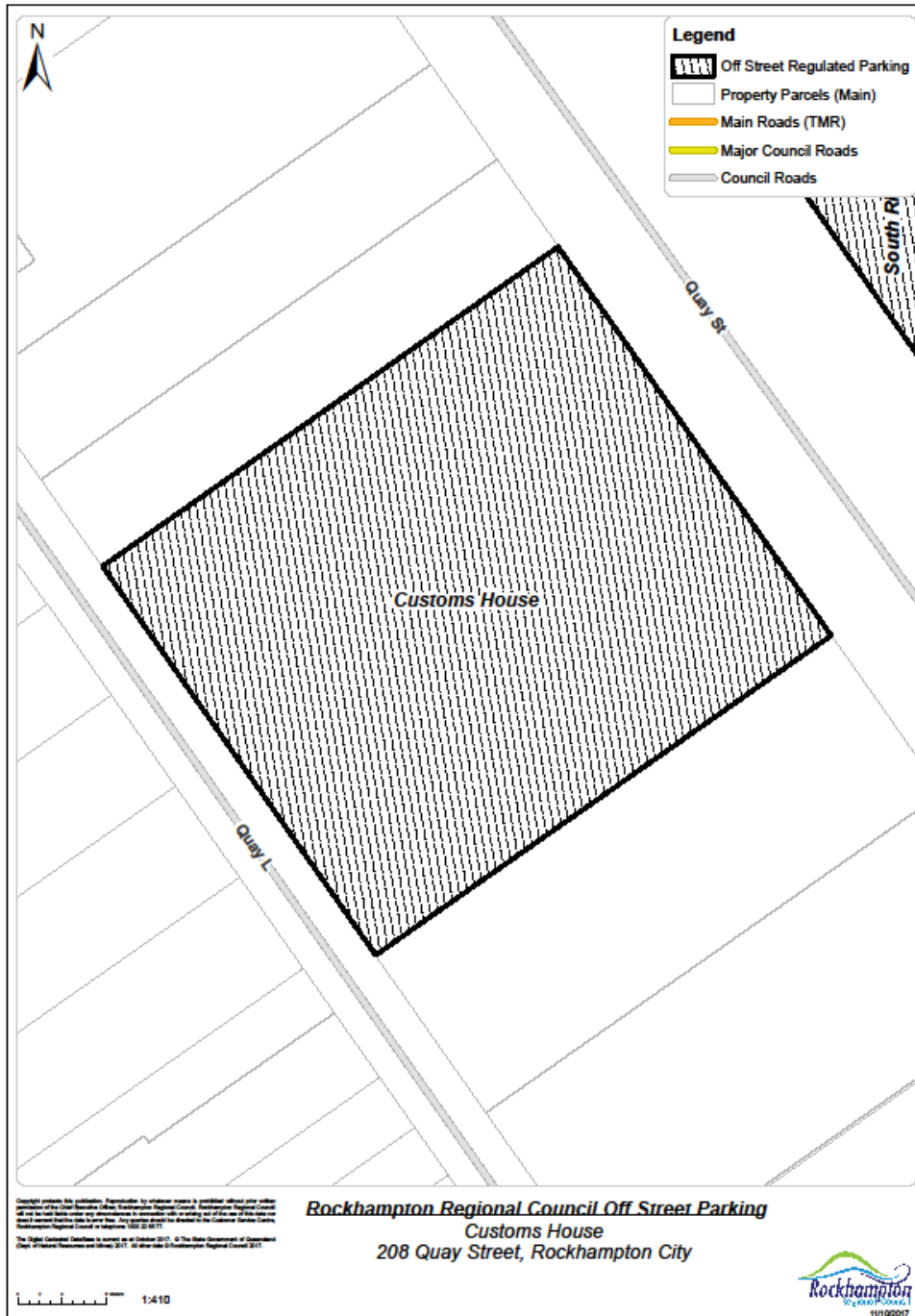


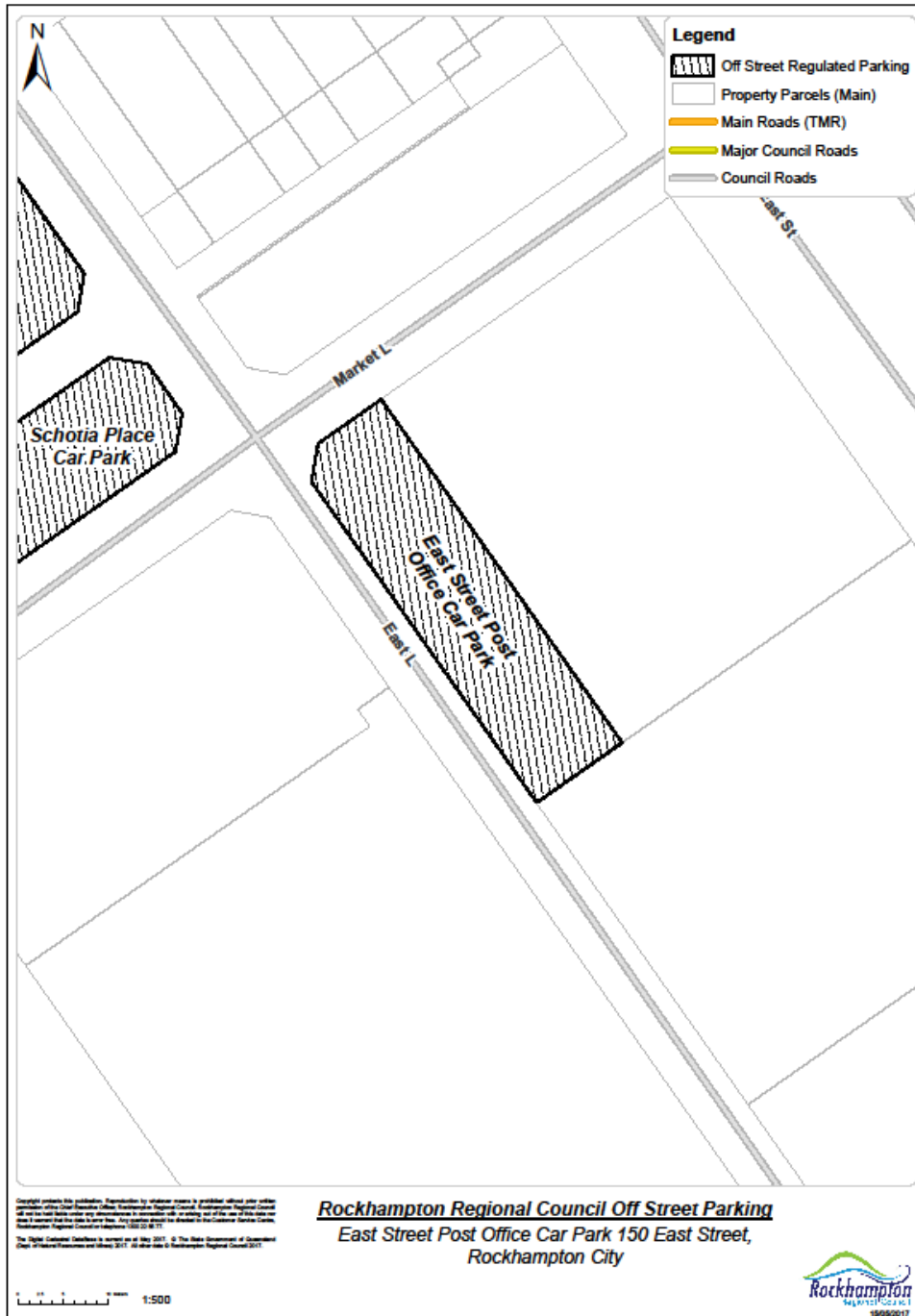


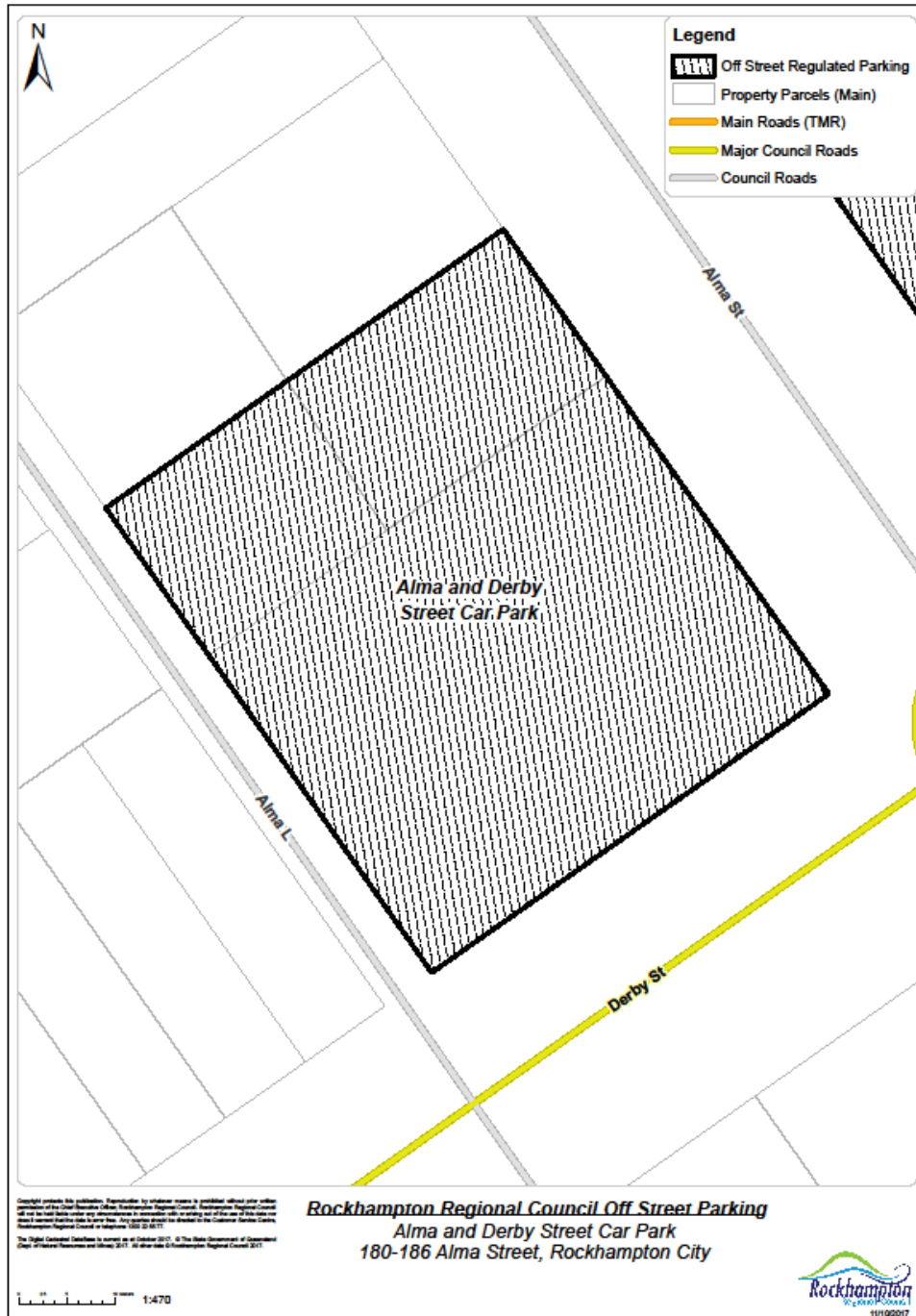












### Schedule 3 Infringement notice penalty amounts for certain minor traffic offences

Section 9

**Comment [KB9]:** Comments from mtg with Mayor 19/12/17 – Increase of penalty unit amounts as states in comments below will need to be a table discussion.

Column 1		Column 2
<i>Transport Operations (Road Use Management) Act 1995 provision</i>	Minor Traffic Offence	Infringement notice penalty amount
106(1)(a)(i)	Parking a vehicle in a designated parking space unless a parking meter or park at area installed for the space indicates that the parking fee has been paid	0.5 penalty units
106(1)(a)(ii)	Parking a vehicle in a designated parking space unless the person has done what is required by an authorised system that applies in relation to the space	0.5 penalty units
106(1)(b)	Parking a vehicle in a designated parking space for a time longer than the maximum time indicated on the official traffic sign installed for the space	0.5 penalty units
106(1)(c)	Parking a vehicle in a designated parking space if another vehicle is parked in the space	0.5 penalty units
106(1)(d)	Parking a vehicle in a designated parking space so that the vehicle is not wholly within the space	0.5 penalty units

**Comment [KB10]:** Penalty units have been increased from 0.4 to 0.5 for each provision listed within this table. Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.

Column 1		Column 2
<i>Transport Operations (Road Use Management – Road Rules) Regulation 2009 provision</i>	Minor Traffic Offence	Infringement notice penalty amount
167	Stopping on a length of road or in an area to which a no stopping sign applies	1 penalty unit

**Comment [KB11]:** Increased from 0.4 penalty units. Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.

Column 1		Column 2	
<i>Transport Operations (Road Use Management – Road Rules) Regulation 2009 provision</i>	Minor Traffic Offence	Infringement notice penalty amount	
169	Stopping at the side of a road marked with a continuous yellow edge line	1 penalty unit	<b>Comment [KB12]:</b> Increased from 0.4 penalty units Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.
170(1)	Stopping in an intersection	1 penalty unit	<b>Comment [KB13]:</b> Increased from 0.4 penalty units Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.
170(2)	Stopping within 20m of an intersection with traffic lights unless permitted by a sign	0.5 penalty unit	<b>Comment [KB14]:</b> Increased from 0.4 penalty units Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.
170(4)(a)	Stopping within 10m of an intersection without traffic lights unless permitted by a sign	0.5 penalty units	<b>Comment [KB15]:</b> Increased from 0.4 penalty units Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.
172(1)	Stopping within 20m before a pedestrian crossing that is not at an intersection otherwise than as permitted by a sign	0.5 penalty units	<b>Comment [KB16]:</b> Increased from 0.4 penalty units Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.
172(1)	Stopping within 10m after a pedestrian crossing that is not at an intersection otherwise than as permitted by a sign	0.5 penalty units	<b>Comment [KB17]:</b> Increased from 0.4 penalty units Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.
173	Stopping on a marked foot crossing that is not at an intersection, or on a road within 10m before the traffic lights pole nearest to the driver at the crossing and 3m after the crossing unless permitted by a sign	1 penalty unit	<b>Comment [KB18]:</b> NEW
175	Stopping on a level crossing, or on a road within 20m before the nearest rail or track to the driver approaching the crossing and 20m after the nearest rail or track to the driver leaving the crossing unless permitted by a sign	1 penalty unit	<b>Comment [KB19]:</b> NEW
176(1)	Stopping on a road contrary to a clearway	0.5 penalty units	<b>Comment [KB20]:</b> Increased from 0.4 penalty units Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.



Column 1		Column 2
<i>Transport Operations (Road Use Management – Road Rules) Regulation 2009 provision</i>	Minor Traffic Offence	Infringement notice penalty amount
	sign	
179(1)	Stopping an unauthorised vehicle in a loading zone	0.5 penalty units
179(2)(a)	Authorised driver stopping in a loading zone for longer than 30 mins	0.5 penalty units
179(2)(b)	Authorised driver stopping in a loading zone for longer than permitted by a sign	0.5 penalty units
181	Unauthorised driver stopping in a works zone	0.5 penalty units
182(1)	Stopping an unauthorised vehicle in a taxi zone	0.5 penalty units
183(1)	Stopping an unauthorised vehicle in a bus zone	0.5 penalty units
183(1)	Stopping a bus in a bus zone contrary to a bus zone sign	0.5 penalty units
185(1)	Stopping an unauthorised vehicle in a permit zone	0.5 penalty units
186(1)	Stopping in a mail zone	0.5 penalty units
189(1)(a)	Stopping on a two way road between the centre of the road and another vehicle parked at the side of the road	0.5 penalty units
191	Stopping on a road so as to obstruct traffic	0.5 penalty units

**Comment [KB21]:** Increased from 0.4 penalty units.

And, all provisions from hereon in included within this table (which continues over the next 2pgs) were **increased** from 0.4 penalty units

Comments from mtg with Mayor 19/12/17 – refer comment KB9 above.

<b>Column 1</b>		<b>Column 2</b>
<i>Transport Operations (Road Use Management – Road Rules) Regulation 2009 provision</i>	<b>Minor Traffic Offence</b>	<b>Infringement notice penalty amount</b>
195(1)	Stopping within 20m before a bus stop unless permitted by a sign	0.5 penalty units
195(1)	Stopping within 10m after a bus stop unless permitted by a sign	0.5 penalty units
197(1)	Stopping on a bicycle path, footpath, shared path or dividing strip or a nature strip adjacent to a length of road in a built-up area unless permitted by a sign	0.5 penalty units
198(2)	Stopping on or across a driveway unless dropping off or picking up, passengers	0.5 penalty units
199	Stopping near a postbox	0.5 penalty units
202	Stopping contrary to a motorbike parking sign	0.5 penalty units
203(1)	Stopping contrary to a people with disabilities parking sign	1 penalty unit
205(1)(a)	Parking for longer than the period indicated on a permissive parking sign	0.5 penalty units
208(1)	Parking on a two way road other than parallel and as near as practicable to the far left side of the road	0.5 penalty units
208(1)	Parking on a one way road other than to the far left or far right of the road unless permitted by a sign	0.5 penalty units
208(1)	Parking within 3m of a continuous dividing line or dividing strip unless	0.5 penalty units

<b>Column 1</b>		<b>Column 2</b>
<b><i>Transport Operations (Road Use Management – Road Rules) Regulation 2009 provision</i></b>	<b>Minor Traffic Offence</b>	<b>Infringement notice penalty amount</b>
	permitted by a sign.	
210(1)	Angle parking - failing to properly position the vehicle.	0.5 penalty units
211(2)	Parking otherwise than completely within the confines of a parking bay	0.5 penalty units
Part 12	Other parking offences provided for in Part 12 (Restrictions on stopping and parking)	0.5 penalty units

## Schedule 4 Dictionary

### Section 4

**community service organisation** means an association incorporated under the *Associations Incorporation Act 1981* which has as the main purpose of its objects, making financial gain for community service, charitable or similar purposes.

**community service organisation parking permit** see section 7(3).

**local government works parking permit** see section 7(8).

Comment [KB22]: NEW

**no permit parking area—**

- (a) means the part of the local government area which is declared to be a no permit parking area being the area shown hatched in red on the map titled “Rockhampton Regional Council CBD On Street Parking No Permit Parking Area” in this schedule; and
- (b) the boundaries of the no permit parking area are indicated by a bold red line circumscribing the hatched area on the map in this schedule.

Comment [KB23]: NEW

**residence** means a building, or part of a building, that is —

- (a) fixed to land; and
- (b) designed, or approved by a local government, for human habitation by a single family unit; and
- (c) used for residential purposes.

**resident** see section 7(7)(a).

**resident parking permit** see section 7(2).

**temporary parking permit** see section 7(4).

**tourist vehicle** means a horse drawn vehicle or a pedicab which is used for the purpose of carrying passengers on a commercial basis.

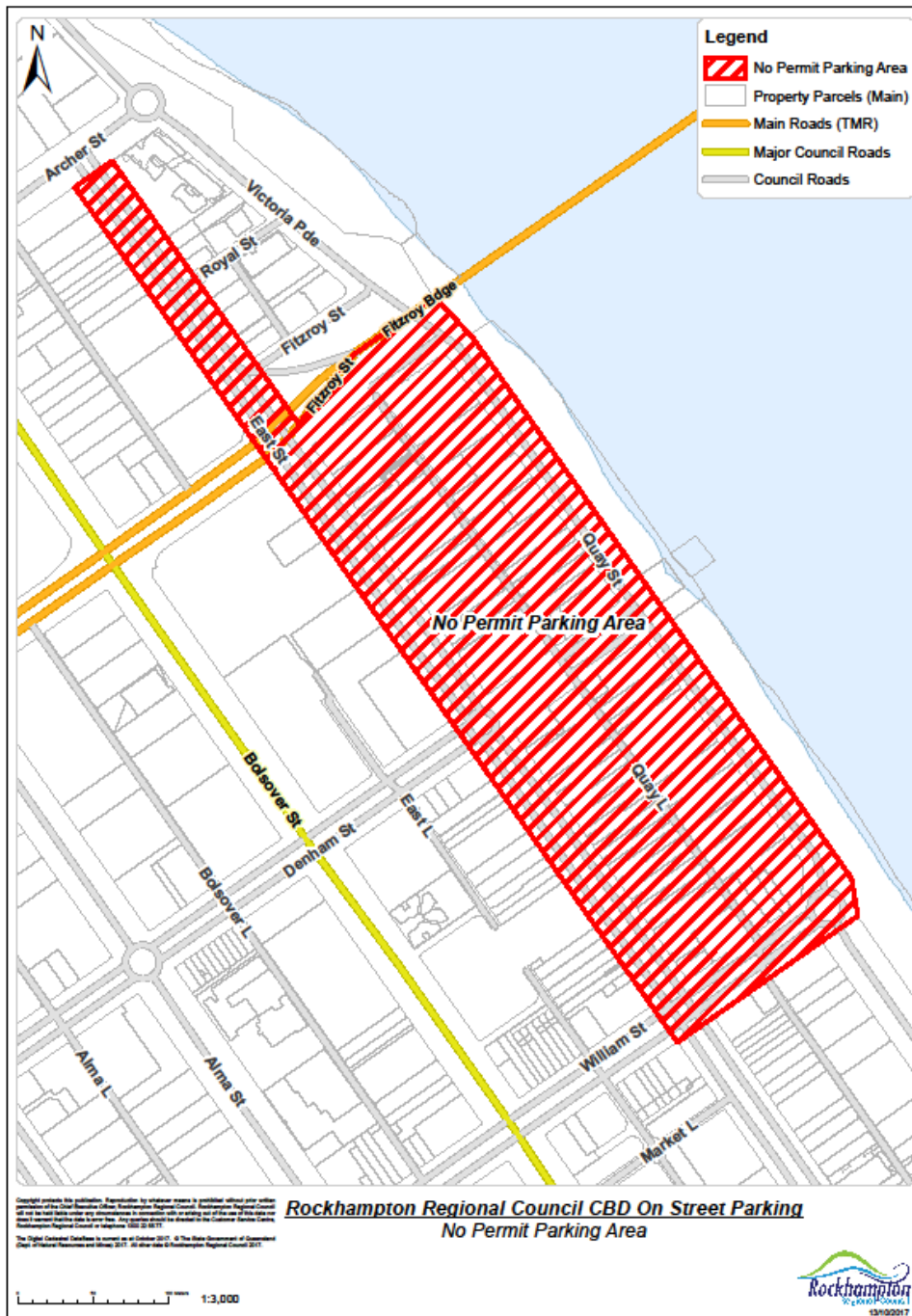
Comment [KB24]: NEW

**tourist vehicle parking permit** see section 7(9).

Comment [KB25]: NEW

**visitor parking permit** see section 7(7).

**works zone parking permit** see section 7(6).



Comment [KB26]: NEW

Comments from mtg with Mayor 19/12/17  
-Remove No Parking Permit Area  
completely.

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This and the preceding 23 pages bearing my initials is a certified copy of the consolidated version of *Subordinate Local Law No. 5 (Parking) 2011* adopted in accordance with the provisions of section 32 of the *Local Government Act 2009* by Rockhampton Regional Council by resolution dated the            day of            (*insert the date of the relevant resolution of Council*) 2017.

.....  
Chief Executive Officer

| ~~[SLL5SH5 parking 2011 consolidated 21.11.17 with shanes changes](#)~~

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Local Law:** Administration (Amendment) Local Law (No. 1) 2017

**Purpose:** The purpose of the local law is to amend Local Law No. 1 (Administration) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Local law section 4 (Amendment of section 9)	10 – permit requirement	Regulates the process for the grant of an approval by constraining the Council's discretion.
Local law section 6 (Amendment of section 14)	10 – permit requirement	Regulates the process for the renewal of an approval by constraining the Council's discretion.
Local law section 7 (Amendment of section 16)	10 – permit requirement	An approval holder may apply to the local government to amend the conditions of an approval and this section constrains the Council's discretion when considering the application of the approval holder.

**Subordinate Local Law:** Alteration or Improvement to Local Government Controlled Areas and Roads (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

**Subordinate Local Law:** Commercial Use of Local Government Controlled Areas and Roads (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law section 3	5 – prescribed standard	Regulates the process for the grant of an approval by constraining the Council's

List of likely anti-competitive provisions

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
(Amendment of schedule 1)	7 – business restriction 10 – permit requirement	discretion. The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.

**Subordinate local Law:** Establishment or Occupation of a Temporary Home (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.3 (Establishment or Occupation of a Temporary Home) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

**Subordinate Local Law:** Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2017

**Purpose:** The purpose of the subordinate local law is to regulate the installation of advertising devices.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law section 5(2)	10 – permit requirement 5 – prescribed standard 7 – business restriction	The local government may declare that the authorising local law does not apply to particular activities and impose requirements or conditions which must be complied with if the authorising local law does not apply to the particular activities. The requirements and conditions may have an impact on the conduct of a business activity, and in particular, a prescribed activity identified in the subordinate local law.
Subordinate local law section 5(5)	10 – permit requirement	Regulates the process for the grant of an approval by constraining the Council's discretion.



## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law section 5(6) and (7)	10 – permit requirement	The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.
Subordinate local law section 6	10 – permit requirement	The local government may declare that a category of approval for a prescribed activity is non-transferrable, which may have an impact on the conduct of a business activity, and in particular, that part of the prescribed activity which is a business activity.

**Subordinate Local Law:** Keeping of Animals (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.5 (Keeping of Animals) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law section 3 (Amendment of schedule 1)	5 – prescribed standard 7 – business restriction 10 – permit requirement	Regulates the process for the grant of an approval by constraining the Council's discretion.  The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.

**Subordinate Local Law:** Subordinate Local Law No. 1.6 (Operation of Accommodation Parks) 2017

**Purpose:** The purpose of the subordinate local law is to regulate the operation of Accommodation Parks.

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law, section 5(2)	10 – permit requirement 5 – prescribed standard 7 – business restriction	The local government may declare that the authorising local law does not apply to particular activities and impose requirements or conditions which must be complied with if the authorising local law does not apply to the particular activities. The requirements and conditions may have an impact on the conduct of a business activity, and in particular, a prescribed activity identified in the subordinate local law.
Subordinate local law section 5(5)	10 – permit requirement	Regulates the process for the grant of an approval by constraining the Council's discretion.
Subordinate local law section 5(6) and (7)	10 – permit requirement	The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.
Subordinate local law section 6	10 – permit requirement	The local government may declare that a category of approval for a prescribed activity is non-transferrable, which may have an impact on the conduct of a business activity, and in particular, that part of the prescribed activity which is a business activity.

**Subordinate Local Law:** Operation of Cemeteries (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.9 (Operation of Cemeteries) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not Applicable

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Subordinate Local Law:** Operation of Temporary Entertainment Events (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.12 (Operation of Temporary Entertainment Events) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law section 4 (Amendment of schedule 1)	5 – prescribed standard 7 – business restriction 10 – permit requirement	The local government may declare that the authorising local law does not apply to particular activities and impose requirements or conditions which must be complied with if the authorising local law does not apply to the particular activities. The requirements and conditions may have an impact on the conduct of a business activity, and in particular, the prescribed activity identified in the subordinate local law.  Regulates the process for the grant of an approval by constraining the Council's discretion.  The power to impose conditions and examples of subject matter for conditions which form part of the process for the grant of an approval. The imposition of conditions may have an impact on the conduct of a business activity.
Subordinate local law section 5 (Amendment of schedule 2)	7 – business restriction 10 – permit requirement	The local government may declare that a category of approval for a prescribed activity is non-transferrable, which may have an impact on the conduct of a business activity, and in particular, that part of the prescribed activity which is a business activity.

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Subordinate Local Law:** Undertaking Regulated Activities regarding Human Remains (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.13 (Undertaking Regulated Activities regarding Human Remains) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

**Subordinate Local Law:** Undertaking Regulated Activities on Local Government Controlled Areas and Roads (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.14 (Undertaking Regulated Activities on Local Government Controlled Areas and Roads) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

**Subordinate Local Law:** Carrying Out Works on a Road or Interfering with a Road or its Operation (Amendment) Subordinate Local Law (No. 1) 2017.

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.16 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Subordinate Local Law:** Use of a Vehicle on an Airside Area (Amendment) Subordinate Local Law (No. 1) 2017.

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 1.18 (Use of a Vehicle on an Airside Area) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

**Subordinate Local Law:** Subordinate Local Law No. 17 (Gates and Grids) 2017.

**Purpose:** The purpose of the subordinate local law is to regulate the installation and maintenance of gates and grids.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

**Local Law:** Animal Management (Amendment) Local Law (No. 1) 2017

**Purpose:** The purpose of the local law is to amend Local Law No. 2 (Animal Management) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed local law	Not applicable	Not applicable

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Subordinate local Law:** Animal Management (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 2 (Animal Management) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law section 4 (Amendment of schedule 1)	5 – prescribed standard 7 – business restriction	The keeping of an animal or animals may be prohibited in specified circumstances. The prohibition may have an impact on the conduct of a business activity.
Subordinate local law section 5 (Amendment of schedule 2)	10 – permits requirement	Imposes a requirement to obtain an approval in respect of the undertaking of a prescribed activity and may have an impact on the conduct of a business activity, and in particular, the prescribed activity of the keeping of animals.
Subordinate local law section 7 (Amendment of schedule 4)	5 – prescribed standard 7 – business restriction	The local government may prescribe minimum standards for the keeping of animals which must be complied with. The requirement for compliance with the prescribed standards may have an impact on the conduct of a business activity.
Subordinate local law section 8 (Amendment of schedule 5)	5 – prescribed standard 7 – business restriction	The local government may prescribe minimum standards for the keeping of animals which must be complied with. The requirement for compliance with the prescribed standards may have an impact on the conduct of a business activity.

**Local Law:** Community and Environmental Management (Amendment) Local Law (No. 1) 2017

**Purpose:** The purpose of the local law is to amend Local Law No. 3 (Community and Environmental Management) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Local law section 7 (Amendment of section 10)	5 – prescribed standard 7 – business restriction	A compliance notice may require the owner of land to take specified action to control declared local pests. Compliance with the requirements of the notice may have an impact on the conduct of a business activity.
Local law section 8 (Amendment of section 13)	5 – prescribed standard 7 – business restriction	A compliance notice may require a responsible person for an allotment to take specified action to remove objects, materials or vegetation, or take other specified action to remedy a nuisance. Compliance with the requirements of the notice may have an impact on the conduct of a business activity.

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Subordinate Local Law:** Community and Environmental Management (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 3 (Community and Environmental Management) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law section 4 (Amendment of schedule 1)	5 – prescribed standard 7 – business restriction	Animals and plants may be declared as a local pest and a compliance notice may require an owner of land to take specified action to control the declared local pest. Compliance with the requirements of the notice may have an impact on the conduct of a business activity.

**Local Law:** Local Government Controlled Areas, Facilities and Roads (Amendment) Local Law (No. 1) 2017

**Purpose:** The purpose of the local law is to amend Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Local law section 5 (Amendment of section 5)	5 – prescribed standard 7 – business restriction 10 – permit requirement	The local government may, under a subordinate local law, declare an activity to be a prohibited activity or a restricted activity. In respect of various restricted activities, a subordinate local law imposes a requirement to obtain an approval in respect of the undertaking of the activity, a prescribed activity, and may have an impact on the conduct of a business activity, and in particular, the prescribed activity. If an activity is identified as a prescribed activity, Local Law No. 1 (Administration) 2011 and the subordinate local law made under the local law provide a legal and procedural framework for the administration and regulation of the grant of approvals to undertake the prescribed activity.

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Subordinate Local Law:** Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2017

**Purpose:** The purpose of the subordinate local law is to provide for matters prescribed under Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Subordinate local law section 5	5 – prescribed standard 7 – business restriction 10 – permit requirement	The local government may, under a subordinate local law, declare an activity to be a prohibited activity or a restricted activity. In respect of various restricted activities, a subordinate local law imposes a requirement to obtain an approval in respect of the undertaking of the activity, a prescribed activity, and may have an impact on the conduct of a business activity, and in particular, the prescribed activity. If an activity is identified as a prescribed activity, Local Law No. 1 (Administration) 2011 and the subordinate local law made under the local law provide a legal and procedural framework for the administration and regulation of the grant of approvals to undertake the prescribed activity.

**Local Law:** Parking (Amendment) Local Law (No. 1) 2017

**Purpose:** The purpose of the local law is to amend Local Law No. 5 (Parking) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed local law	Not applicable	Not applicable



## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Subordinate local Law:** Parking (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Subordinate Local Law No. 5 (Parking) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

**Subordinate Local Law:** Parking Contrary to an Indication on an Official Traffic Sign Regulating Parking by Time or Payment of a Fee (Amendment) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to amend Local Law No. 1.15 (Parking Contrary to an Indication on an Official Traffic Sign Regulating Parking by Time or Payment of a Fee) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law	Not applicable	Not applicable

**Local Law:** Aerodromes (Amendment) Local Law (No. 1) 2017

**Purpose:** The purpose of the local law is to amend Local Law No. 7 (Aerodromes) 2011.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed local law	Not applicable	Not applicable

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

**Local Law:**

Local Law No. 8 (Waste Management) 2017

**Purpose:**

The purpose of the local law is to protect the public health, safety and amenity related to waste management by:-

- (a) regulating the storage, servicing and removal of waste; and
- (b) regulating the disposal of waste at waste facilities; and
- (c) ensuring that an act or omission does not result in—
  - (i) harm to human health or safety or personal injury; or
  - (ii) property damage or loss of amenity; or
  - (iii) environmental harm or environmental nuisance.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Local law section 6(1)	5 – prescribed standard 7 – business restriction	The local government may prescribe requirements about the supply of standard general waste containers and waste containers other than standard general waste containers. Compliance with the requirements may have an impact on the conduct of a business activity.
Local law section 7(1) and (2)	5 – prescribed standard 7 – business restriction	Requirements are prescribed for the storage of general waste in waste containers. Compliance with the requirements may have an impact on the conduct of a business activity.
Local law section 8(1) and (2)	5 – prescribed standard 7 – business restriction	Requirements are prescribed for the keeping of waste containers at serviced premises. Compliance with the requirements may have an impact on the conduct of a business activity.
Local law section 9(1) and (2)	5 – prescribed standard 7 – business restriction	Requirements are prescribed for the storage of general waste at particular serviced premises and compliance with the requirements may have an impact on the conduct of a business activity.
Local law section 11	5 – prescribed standard 7 – business restriction	Requirements may be prescribed for the depositing and disposal of general waste at premises other than serviced premises. Compliance with the requirements may have an impact on the conduct of a business activity.
Local law section 12(1)	5 – prescribed standard 7 – business restriction	Requirements are prescribed for the storage of industrial waste. Compliance with the requirements may have an impact on the conduct of a business activity.

## LIST OF LIKELY ANTI-COMPETITIVE PROVISIONS

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
Local law section 13	5 – prescribed standard 7 – business restriction	Requirements may be prescribed about the treatment of industrial waste for disposal. Compliance with the requirements may have an impact on the conduct of a business activity.

**Local Law:** Local Law (Repealing) Local Law (No. 1) 2017

**Purpose:** The purpose of the local law is to repeal redundant local laws of Council.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed local law.	Not applicable	Not applicable.

**Subordinate Local Law:** Subordinate Local Law (Repealing) Subordinate Local Law (No. 1) 2017

**Purpose:** The purpose of the subordinate local law is to repeal a redundant subordinate local law of Council.

Anti-competitive Provisions	Relevant criteria	Explanatory Comments
No anti-competitive provision identified in the proposed subordinate local law.	Not applicable	Not applicable.